City of Pensacola

City Council Workshop

Agenda - Final

Wednesday, August 26, 2020, 4:00 PM **Council Chamber, 1st Floor**

City Code - Recodification •Members of the public may attend and participate only via live stream or phone cityofpensacola.com/428/Live-Meeting-Video •Citizens may submit an online form here https://www.cityofpensacola.com/

CALL TO ORDER

SELECTION OF CHAIR

DETERMINATION OF PUBLIC INPUT

DISCUSSION OF...

1. 20-00507 RECODIFICATION WORKSHOP

Sponsors: Jewel Cannada-Wynn

Attachments: *Chart of Repealed Sections*
Chapter 1
Chpt 2
Chpt 3
Chpt 4
Chpt 5
Chpt 6
Chpt 7
Chpt 8
Chpt 9
Chpt 10
Chpt 11
Chpt 13
Chpt 14
Chpt 12- LDC

ADJOURNMENT

If any person decides to appeal any decision made with respect to any matter considered at such meeting, he will need a record of the proceedings, and that for such purpose he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

The City of Pensacola adheres to the Americans with Disabilities Act and will make reasonable accommodations for access to City services, programs and activities. Please call 435-1606 (or TDD 435-1666) for further information. Request must be made at least 48 hours in advance of the event in order to allow the City time to provide the

City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 20-00507 City Council 8/26/2020

DISCUSSION ITEM

FROM: City Council President Jewel Cannada-Wynn

SUBJECT:

RECODIFICATION WORKSHOP

SUMMARY:

The City is currently in the process of conducting a recodification of the City Code. Recently staff, including City Council Staff, City Attorney Staff, City Clerk Staff and Department Directors have concluded a review of the existing code and are prepared for City Council to review the recommendations and proposals.

If needed, a conclusion workshop will be held on Friday, August 28, 2020 beginning at 4:00 p.m.

Once completed, an Ordinance will be presented to City Council regarding the recodification.

PRIOR ACTION:

Review of existing Code by staff

STAFF CONTACT:

Don Kraher

ATTACHMENTS:

1) Chart of Repealed Sections
2) Chapters 1-11
3) Chapters 13-14
4) Chapter 12- LDC

PRESENTATION: Yes

REPEALED SECTIONS CHART

REPEALED SECTION	REASON
TITLE I - IN GENERAL	
1-1-1(c)	Covered by Charter
1-1-7(15)	Provided by home rule and Florida Statutes
TITLE II - ADMINISTRATION	
2-1-1	Duplicates F.S. section 166.021(1) and Fla. Const. Art. VIII, §2(b).
2-2-2	Addressed in Charter sec. 4.03(a)
2-2-3	Charter, Section 4.03(a) and Council rules and procedures cover this topic
2-2-4	Transferred to 2-1-4
2-2-6	Addressed in Charter sec. 4.03(c)

REPEALED SECTION	**REASON**
2-2-7	Transferred to 2-1-5
2-2-8	Transferred to 2-1-6
2-2-9	Council has suspended this section for many years and has increased its compensation through additional code amendment specifying the increase
2-4-1	The Charter places authority to establish departments and organize the City with the Mayor in Sec. 4.01(a)(1) and (15), and Sec. 5.04
2-4-2	The Charter places authority to establish departments and organize the City with the Mayor in Sec. 4.01(a)(1) and (15), and Sec. 5.04
2-4-3	Outdated – some departments no longer exist, have been renamed, or have been combined; the Charter places authority to establish departments and organize the City with the Mayor in Sec. 4.01(a)(1) and (15) and Sec. 5.04
2-4-4	Charter places authority for determining supervision and control of each department with the Mayor in Sec. 4.01(a)(15)
2-4-7	Transferred to 2-1-7
2-4-8	Transferred to 2-1-8
Art. II - Legal Department	
2-4-21	Charter places authority for determining supervision and control of each department with the Mayor in Sec. 5.03 and 4.02 (a) (6)
2-4-51	The oath of office is mandatory under state statutes, F.S. section 876.05 through 876.10.

REPEALED SECTION	REASON
Ch. 2, Art. VI Sec. 2-4-81	Department of Housing and Community Development – The Charter places authority to establish departments and organize the City with the Mayor in Sec. 4.01(a)(1) and (15), and Sec. 5.04
2-5-1	Section is outdated and the referenced map is no longer used
2-5-2	Addressed in Charter Sec. 6.04(a) and (b).
2-5-3	Addressed in Charter Sec. 6.04(c)
2-5-4	Addressed in Charter Sec. 6.04(e)
2-5-5	The procedures for absentee and early voting are provided for in F.S. section 101.6105 through 101.662
TITLE III - FINANCE	
3-1-6	The budget process and the establishment of the fiscal year are provided by state statute, F.S. 166.241 and Ch. 200
3-1-10	Special act
3-2-2	Unnecessary and not followed
3-2-3	Authority now derived from home rule power, Chapter 166, F.S.
3-2-4	Authority now derived from home rule power, Chapter 166, F.S.
3-2-5	Authority now derived from home rule power, Chapter 166, F.S.

REPEALED SECTION	**REASON**
3-2-6	Authority now derived from home rule power, Chapter 166, F.S.
3-2-7	Authority now derived from home rule power, Chapter 166, F.S.
3-2-8(c)	This language was probably derived from the 1949 special act, but the city cannot, by ordinance, bind the state to an agreement. This concept does apply, however, through the prohibition on passing laws impairing the obligation of contracts.
3-3-1	Superseded by charter
3-3-16	Day-to-day maintenance of general stock is responsibility of city administrator per charter
3-3-17	Day-to-day maintenance of general stock is responsibility of city administrator per charter
3-3-18	Day-to-day maintenance of general stock is responsibility of city administrator per charter
3-3-19	Day-to-day maintenance of general stock is responsibility of city administrator per charter
ART. III - CONSULTANTS' COMPETITIVE NEGOTIATIONS ACT - Sections 3-2-25 through 3-2-26	The CCNA is provided by state statutes, F.S. Section 287.055

REPEALED SECTION	REASON
3-4-1	Home rule supersedes
3-4-132(4)	Enterprise zones have been abolished by Florida Statute
TITLE IV - HEALTH & SANITATION	
4-2-1	Recommend repeal of most of the City's current animal regulations in favor of allowing Escambia County Animal Control to enforce the County's animal regulations in the city limits; the remaining city regulations that are unique to the city are continued, with the clarification that city officers will enforce them
4-2-2	Recommend repeal of most of the City's current animal regulations in favor of allowing Escambia County Animal Control to enforce the County's animal regulations in the city limits; the remaining city regulations that are unique to the city are continued, with the clarification that city officers will enforce them
4-2-9	Recommend repeal of most of the City's current animal regulations in favor of allowing Escambia County Animal Control to enforce the County's animal regulations in the city limits; the remaining city regulations that are unique to the city are continued, with the clarification that city officers will enforce them
4-2-21 through 4-2-41	Propose regulation by Escambia County
4-5-2	Home rule power
4-5-3	Covered by Florida Litter Law, F.S. 403.413

REPEALED SECTION	REASON
4-5-11	F.S. Section 316.520 covers this
4-5-16	See 4-5-17
TITLE V - HUMAN RESOURCES	
5-2-24	Defer procedures to Human Relations Commission
5-2-25	Defer procedures to Human Relations Commission
TITLE VI - PARKS & RECREATION	
6-4	Transferred to Escambia County
TITLE VII - LICENSES AND BUSINESS REGULATIONS	
7-2-9(5)c.2-4	F.S. Section 205.063 exempts motor vehicles from local business taxes
7-3-71(i)	Expired
7-3-81(b)(vii)	Expired
7-3-115	Expired

REPEALED SECTION	**REASON**
7-5-1	The city no longer requires this
ART. I Ch. 7-6 sections 7-6-1 through 7-6-8	Since 1986, the state regulates auctions and auctioneers through the Florida Board of Auctioneers, F.S. section 468.381, et seq.
ART. II sections 7-6-21 through 7-6-26	Since 1986, the state regulates auctions and auctioneers through the Florida Board of Auctioneers, F.S. section 468.381, et seq.
7-7-46	Violates First Amendment
Ch. 7-8 sections 7-8-1 through 7-8-6	Pawnbrokers and secondhand dealers are now comprehensively regulated by state statutes, F.S. Ch. 538 and 539, providing for state and local law enforcement.
7-9-36 through 7-9-39	Florida law now regulates charitable solicitation, F.S. Ch. 496.
TITLE XIII - OFFENSES	
8-1-16(b)(9)(ii)	Outdated
Ch. 8-2 sections 8-2-1 through 8-2-8	Recommend repeal all of Chapter 8-2. F.S. section 775.13 requires felons to register with the sheriffs of the state and F.S. section 775.21 regulates the activities of sexual predators.

REPEALED SECTION	REASON
TITLE IX - PERSONNEL	
9-2-2	Superseded by charter
9-3-2(c)	Superseded by charter
9-3-4(b)(4)b.	Transferred to personnel manual
9-3-4(b)(5) - (8)	Transferred to personnel manual
9-3-5	Transferred to personnel manual
9-3-21(2)	Incorporated in budget
9-3-21(3)	There is no more classified service since repeal of the Civil Service Act.
9-3-21(4)	This provision has not been used since 2009
9-3-21(5)	Transferred to Mayor's employment policy
9-3-22	Transferred to Mayor's employment policy
9-3-23	Transferred to mayor's employment policy
9-3-24	Annual pay adjustments have not occurred since 2008
9-3-25	Transferred to mayor's employment policy
9-3-26	Transferred to mayor's employment policy

REPEALED SECTION	REASON
9-3-27(2)	Transferred to mayor's employment policy
9-3-27(3)	Transferred to mayor's employment policy
9-3-29	Transferred to Mayor’s employment policy
9-3-30	Transferred to Mayor’s employment policy
9-3-31	Transferred to Mayor’s employment policy
9-3-32	Transferred to Mayor’s employment policy
9-3-33	Transferred to Mayor’s employment policy
9-3-34	Transferred to Mayor’s employment policy
9-3-35	State and federal statutes prevail
9-3-36	Transferred to Mayor’s employment policy
9-3-40	Repealed by Ordinance 08-16, Sec 1 on March 17, 2016
Ch. 9, Art. III - Longevity Compensation	Longevity pay terminated in 2009
Ch. 9, Art. IV section 9-3-76 - section 9-3-77	Firefighter education compensation provided in collective bargaining agreement
9-3-78	Fire education incentive board was repealed by Ordinance No. 26-16, 8/11/16

REPEALED SECTION	**REASON**
9-3-79	Transferred to collective bargaining agreement.
9-3-80	Transferred to collective bargaining agreement..
9-3-81	Transferred to collective bargaining agreement.
9-3-82	Transferred to collective bargaining agreement.
Art. I - In General	
9-5-1	No longer applicable
9-5-2	No longer applicable
9-5-46	All benefits are now paid from pension plan funds
9-8-1	Superseded by provisions of the General Pension Plan and City participation in FRS
9-8-2	Superseded by provisions of the General Pension Plan and City participation in FRS
9-8-3	Superseded by provisions of the General Pension Plan and City participation in FRS
9-8-4	Superseded by provisions of the General Pension Plan and City participation in FRS
Ch. 9-10 - State-Mandated Pension Benefits sections 9-10-1 through 9-10-9	All provisions were incorporated into the Fire Pension Special Act in 2015
9-11-2(a) and (b)	Outdated

REPEALED SECTION	REASON
TITLE X - PUBLIC ENTERPRISES AND UTILITIES	
10-1-1	Superseded by home rule powers and state statutes, Ch. 366, Florida Statutes
10-1-2	Superseded by Florida Statutes
10-1-3	Public records law supersedes
10-1-4	Superseded by Communications Services regulation, Ch. 202, Florida Statutes
10-2-6(e)	FAA controls
10-2-7(a)	FAA controls
10-2-7(e)	FAA controls
10-2-8 (1) through (8)	FAA regulates flight operations
10-2-9	FAA regulates
10-2-12(d)	The authority is in section 10-2-4
10-2-12(i)	Airport follows FAA rules on this subject
10-2-27(7)	Controlled by state and federal regulations
10-3-1	Outdated

REPEALED SECTION	REASON
10-3-19	Copies are available at numerous locations and are maintained electronically
10-5-1	Regulated by federal and state legislation
10-5-2	Regulated by federal and state legislation
TITLE XI - TRAFFIC	
11-2-3(a)	Controlled by mayor's authority under charter
11-2-5	Public Records laws control
11-2-89	Topic covered by Sec. 4-6-1 and F.S. section 705.101
11-3-5	Preempted by state and federal law, F.S. section 351.03, et seq.
11-4-17	Outdated
11-4-41	Under Florida case law, the city is responsible for its sidewalks
11-4-44(b)	Under Florida case law, the city is responsible for its sidewalks
11-4-45	Under Florida case law, the city is responsible for its sidewalks
11-4-46	Under Florida case law, the city is responsible for its sidewalks
11-4-47	Under Florida case law, the city is responsible for its sidewalks
11-4-48	Under Florida case law, the city is responsible for its sidewalks

REPEALED SECTION	REASON
11-4-49	Under Florida case law, the city is responsible for its sidewalks
11-4-50	Under Florida case law, the city is responsible for its sidewalks
11-4-51	Under Florida case law, the city is responsible for its sidewalks
11-4-52	Under Florida case law, the city is responsible for its sidewalks
11-4-53	Under Florida case law, the city is responsible for its sidewalks
11-4-54	Under Florida case law, the city is responsible for its sidewalks
11-4-55	Under Florida case law, the city is responsible for its sidewalks
TITLE XII - LAND DEVELOPMENT CODE	
12-1-7(B)(1)	Obsolete and exempt from state law
12-1-7(D)(1)(2)	Obsolete and exempt from state law
12-2-3(B)(i)	Prohibited per sec. 4-2-8
12-2-4(B)(m)	Prohibited per sec. 4-2-8
12-2-5(B)(2)(h)	Deleted per sec. 4-2-8
12-2-5(C)(2)(h)	Deleted per sec. 4-2-8
12-2-6(B)(h)	Deleted per sec. 4-2-8

REPEALED SECTION	**REASON**
12-2-12(A)(4)(a)4.b.	Conform to current law
12-2-12(C)(4)(a)4.b.	Conform to current law
12-2-12(C)(5)(d)3.	Conform to current law
12-2-24(F)(2)(d)	Reed v. Town of Gilbert
12-2-81(A)(3)(h-m)	Redundant
12-12-3(F)(4)(d)	Deleting outdated procedure
12-12-3(F)(5)(i)	Outdated procedure

TITLE XIII -
CODE ENFORCEMENT

13-1-7(g)	State law covers this
13-1-3	No longer necessary
13-2-2(c)(11)	Unnecessary
13-2-2(o)	Covered by subsection (p)

REPEALED SECTION	REASON
BUILDING CONSTRUCTION AND FIRE CODES	
14-1-41(b)	Defer to Escambia County regulation - City no longer permits construction trades
14-1-41(i) - (l)	Defer to Escambia County regulation - City no longer permits construction trades
14-1-72	Covered by F.S. section 489.119(5)(c)
ART. V Sections 14-1-91 through 14-1-93	Defer to State law
14-1-139	Covered in section 14-1-122
14-1-164	This section is in section 12-2-40
14-1-165	Inspections recommended repeal
14-1-166(f)	Inspection recommended repeal
14-1-167	Regulated by Escambia County
14-1-196	Regulated by Escambia County
14-2-21	Provided by state law

CHAPTER 1-1. IN GENERAL

Sec. 1-1-1. - General provisions conforming code to ~~2010~~ Charter.

(a) The ordinances embraced in the following titles, chapters, articles, divisions and sections shall constitute and be designated ~~"The~~ the "Code of the City of Pensacola, Florida," and may be so cited.

(b) All references to the duties of mayor or other designated officer shall also be inclusive of the mayor's or officer's authority to execute the function described through a designee of his or her choice, unless the context of the provision clearly indicates the contrary.

(c) ~~Pursuant to Section 4.01(1), (7) and (15) of the 2010 Charter, commencing with the appointment of the mayor at noon on January 10, 2011, the mayor shall have exclusive authority to designate departments and to determine the scope of authority and responsibility of city employees and department heads.~~

(~~d~~) (c) Pursuant to the provisions of Section 4.02(a)(1) and (2) of the ~~2010~~ Charter, it shall be the responsibility and authority of the city council to determine all fees, rates and charges of the city.

(e)(d) All references to the positions of, actions and authority of the city manager and all interlocal agreements, contracts, resolutions and other documents reflecting city policy are hereby amended to refer to the position of mayor under the ~~2010~~ Charter unless otherwise expressly stated to the contrary.

(Code 1968, § 2-1; Ord. No. 16-10, § 1, 9-9-10)

Editor's note— Ord. No. 16-10, § 1, adopted Sept. 9, 2010, changed the title of § 1-1-1 from "how Code designated and cited" to "general provisions conforming code to 2010 Charter." See also the Code Comparative Table.

Sec. 1-1-2. - Seal.

The seal of the city shall have on its face, "The City of Pensacola, Florida," with a circle around a shield with a Latin-type cross in the upper central part of the shield, at the base of which shall be a helmet with plumes, and above the shield a hand with a pen in the act of signing, and on the left side of the shield the figures "1698," the year of the first settlement of Pensacola by the Spaniards, "1821," the year of the first city government under General Andrew Jackson, United States Army, and "1895," the date of the formation of the aldermanic government, and on the right side of the shield the figures "1913," the date of the formation of the commission form of government, "1931," the date of the institution of the council-manager form of government, and "2010," the date of the institution of the mayor-council form of government.

(Code 1968, § 2-8; Ord. No. 16-10, § 2, 9-9-10)

Sec. 1-1-3. - Section catchlines.

(a) The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of the sections nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of the sections, including the catchlines, are amended or re-enacted.

(b) No provision of this Code shall be held invalid by reason of deficiency in any such catchline or in any heading or title to any title, chapter, article or division.

Sec. 1-1-4. - History notes.

The history notes appearing in parentheses after sections of this Code are not intended to have any legal effect, but are merely intended to indicate the source of matter contained in the section.

Sec. 1-1-5. - Effect of repeal of ordinances.

(a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

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

(Code 1968, § 2-5)

Sec. 1-1-6. - Provisions considered as continuation of existing ordinances.

The provisions appearing in this and the following titles, chapters, articles, divisions and sections, so far as they are the same as those of the "Code of the City of Pensacola, Florida," adopted January 30, 1986 by ~~Pensacola~~ Ordinance No. 2-86 ~~18-70~~ or of ordinances existing at the time of the adoption of this Code, shall be considered as a continuation thereof and not as new enactments.

Sec. 1-1-7. - Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

(1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code;

(2) Any ordinance or resolution promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness, or any contract or obligation assumed by the city;

(3) Any administrative ordinances;

(4) Any right of franchise granted by any ordinance of the council to any person, firm or corporation;

(5) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, repairing, or establishing and describing street grades or traffic and parking regulations of any street or public way in the city;

(6) Any appropriation ordinance;

(7) Any ordinance levying or imposing taxes, assessments or other fees or charges not included herein;

(8) Any land use or zoning ordinance or map or any amendment thereto;

(9) Any ordinance or resolution relating to salaries of city officers or employees or other personnel matters;

(10) Any ordinance pertaining to water and sanitary sewer or other utilities;

(11) Any ordinance providing for local improvements and assessing taxes therefor;

(12) Any ordinance dedicating or accepting any plat or subdivision in the city;

(13) Any ordinance annexing territory or excluding territory or extending or otherwise redefining the boundaries of the city;

(14) Any temporary or special ordinances;

~~(15) Any ordinance giving the city the authority to regulate taxicabs or other for-hire vehicles;~~

(15) Any ordinance authorizing the purchase of real property;

And all such ordinances are hereby recognized as continuing in full force and effect as if set out at length herein.

(Ord. No. 1968, § 1-3)

Sec. 1-1-8. - Penalty for violations.

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

(Code 1968, §§ 1-7, 2-4)

Cross reference— Assessment by courts for criminal justice education and law enforcement training, § 8-1-1.

State Law reference— Fines and forfeitures in county court payable to municipality, F.S. § 34.191.

Sec. 1-1-9. - Severability.

It is hereby declared to be the intention of the council that if any of the sections, paragraphs, sentences, clauses and phrases of this Code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted by the council without the incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph or section.

(Code 1968, §§ 1-8, 2-6)

Sec. 1-1-10. - Altering or tampering with Code; penalties for violation.

It shall be unlawful for any person, firm or corporation to change or amend by additions or deletions, any part or portion of the Code, or to insert or delete pages, or portions thereof, or to alter or tamper with the Code in any manner whatsoever which will cause the law of the city to be misrepresented thereby.

(Code 1968, § 1-10)

State Law reference— Falsely making, altering or counterfeiting a public record with intent to injure or defraud any person, F.S. §§ 831.01 and 839.13.

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

In the construction of this Code and of all ordinances, the following definitions and rules of construction shall apply, unless the context clearly indicates otherwise, or unless the construction would be inconsistent with the manifest intent of the council:

Charter. The word "Charter" shall mean the Charter of the City of Pensacola, ~~approved by the electorate in a referendum on November 24, 2009, which became effective on January 1, 2010,~~ as printed in Part 1 of this volume.

City shall mean the City of Pensacola, Florida, and shall extend to and include its several officers, agents and employees.

Code. Reference to "this Code" or "the Code" shall mean the Code of the City of Pensacola, Florida, as designated in section 1-1-1.

Computation of time. Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the day on which the notice is given or the act is done shall be counted in computing the time, but the day on which the proceeding is to be had shall not be counted. If the last day of the period is a Saturday, Sunday or legal holiday, as defined by the city, the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday.

Council shall mean the city council of the City of Pensacola.

County shall mean the County of Escambia.

State Law reference— Boundaries of Escambia County, F.S. § 7.17.

Delegation of authority. Whenever a provision appears requiring the head of a department or officer of the city to do some act or make certain inspections, it is to be construed as authorizing the head of the department or officer to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designate otherwise.

F.S. The abbreviation "F.S." shall mean the latest edition or supplement of the Florida Statutes.

Gender. A word importing the masculine gender only shall be regarded as gender neutral and shall extend and be applied to all persons.

Mayor shall mean the independently elected position of mayor created in section 4.01 of the ~~2010~~ Charter.

Month shall mean a calendar month.

Number. A word importing the singular number only may be extended and be applied to several persons and things as well as to one person and thing.

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

Officer. Whenever any officer is referred to by title only, the reference shall be construed as if followed by the words "of the City of Pensacola, Florida." Whenever, by the provisions of this Code, any officer of the city is assigned any duty or empowered to perform any act or duty, reference to the officer shall mean and include the officer or his deputy or authorized subordinate.

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

Owner. As applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or a part of the building or land.

Person shall extend and be applied to associations, firms, partnerships and bodies politic and corporate as well as to individuals.

Personal property includes every species of property except real property, as herein defined.

Preceding, following means next before and next after, respectively.

Property shall include real and personal property.

Public place shall mean any park, cemetery, school yard or open space adjacent thereto and any lake or stream.

Real property shall include lands, tenements and hereditaments.

Shall, may. The word "shall" is mandatory; the word "may" is discretionary.

Sidewalk shall mean any portion of a street between the curbline and the adjacent property line, intended for the use of pedestrians, excluding parkways.

State shall be construed to mean the State of Florida.

Street shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other highways in the city.

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

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

Written, in writing shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year shall mean a calendar year.

(Code 1968, § 2-2; Ord. No. 16-10, § 3, 9-9-10)

CHAPTER 1-3. AMENDMENTS TO CODE

Sec. 1-3-1. - Effect of new ordinances, amendatory language.

(a) All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code of Ordinances, may be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any title, chapter, section or subsection or any portion thereof, such repealed portions may be excluded from said Code by omission from reprinted pages.

(b) Amendments to any of the provisions of this Code may be made by amending the provisions by specific reference to the section, subsection or paragraph number of this Code in substantially the following language: "Section _____ of the Code of the City of Pensacola, Florida, is hereby amended to read as follows: …." The new provisions shall then be set out in full as desired.

(c) If a new section not heretofore existing in the Code is to be added, the following language may be used: "Section _____ of the Code of the City of Pensacola, Florida, is created to read as follows: …." The new section may then be set out in full as desired.

(d) All sections, articles, chapters or provisions desired to be repealed shall be specifically repealed by section, article or chapter number, as the case may be.

Sec. 1-3-2. - Supplementation of Code.

(a) Supplements to this Code shall be prepared and printed whenever authorized or directed by the mayor. A supplement to the code shall include all substantive permanent and general parts of ordinances passed by the council or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the code, and shall also include all amendments to the Charter during the period. The pages of a supplement shall be so numbered that they will fit properly into the code and will, where necessary, replace pages which have become obsolete or partially

obsolete, and the new pages shall be so prepared that, when they have been inserted, the code will be current through the date of the adoption of the latest ordinance included in the supplement.

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

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

(1) Organize the ordinance material into appropriate subdivisions;

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

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

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

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but, in no case, shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

(Ord. No. 16-10, § 4, 9-9-10)

TITLE II. - ADMINISTRATION[1]

CHAPTERS

Footnotes:

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Cross reference— Garbage and refuse, Ch. 4-3; parks and recreation, Ch. 6-3; public library, Ch. 6-4; fire, liquidation and other sales, Ch. 7-7; pawnbrokers, junk and secondhand dealers, Ch. 7-8; peddlers and solicitors, Ch. 7-9; vehicles for hire, Ch. 7-10; wreckers and wrecker companies, Ch. 7-11; buildings and building regulations, Ch. 7-13; replacement benefit program, Ch. 9-6; airports and aircraft, Ch. 10-2; traffic, Ch. 11-2; railroads, Ch. 11-3; zoning, Ch. 12-2; airport zoning, Ch. 12-11; advertising and signs, Ch. 12-4; fees, Ch. 7-14; stormwater management and control of erosion, sedimentation and runoff, Ch. 12-9; floodplain management, 12-10; planning, Ch. 12-0; streets, sidewalks and other public places, Ch. 11-4; subdivisions, Ch. 12-8; trees, Ch. 12-6; buildings, construction and fire codes, Title XIV.

CHAPTER 2-1.

REPEAL SECTION 2-1-1.

Editor's note— Ord. No. 16-10, § 5, adopted Sept. 9, 2010, changed the title of § 2-1-1 from "powers of the city" to "general powers and corporate existence." See also the Code Comparative Table.

Cross reference— Ratification of power to levy and collect excise taxes, § 3-4-1.

Constitutional law reference— All forms of taxation, other than ad valorem taxes, are preempted to the state except as provided by general law, Fla. Const., § 1(a) of Art. VII.

Sec. 2-1-2. - Legal notices generally.

All legal notices not otherwise provided for in this Code or the manner of publication of which is not prescribed by some provisions of general state law, shall be published at least one time in a newspaper published in the city which meets the requirements of F.S. § 50.031. The city clerk shall place all legal notices pertaining to odinances, resolutions, elections and referenda.

(Code 1968, § 37-2(B))

Sec. 2-1-3. - Access to city officials.

To the extent consistent with due process of law:

(a) Any person not otherwise prohibited by statute, charter provision, or ordinance may discuss with any city official the merits of any matter on which action may be taken by the city council or any committee, board or agency of the city on which the city official is a member. As used in this section, the term "city official" means any elected or appointed public official holding a city office who recommends or takes quasi-judicial action as a member of the city council or a board or agency of the city.

(b) The substance of any *ex parte* communication with the city official which relates to quasi-judicial action pending before a city official is not presumed prejudicial to the action if the subject of the communication and the identity of the person, group, or entity with whom the communication took place is disclosed and made a part of the record before final action on the matter.

(c) The city official may read a written communication from any person. However, a written communication that relates to quasi-judicial action pending before a city official shall not be presumed prejudicial to the action and such written communication shall be made part of the record before final action on the matter.

(d) City officials may conduct investigations and site visits and may receive expert opinions regarding quasi-judicial action pending before them. Such activity shall not be presumed prejudicial to the action if the existence of the investigation, site visit, or expert opinion is made a part of the record before final action on the matter.

(e) Disclosure made pursuant to subsections (b), (c) and (d) must be made before or during the public meeting at which a vote is taken on such matters, so that persons who have opinions contrary to those expressed in the *ex-parte* communication are given a reasonable opportunity to refute or respond to the communication.

(Ord. No. 19-95, § 1, 7-13-9; F.S. section 285.0115)

Sec. 2-1-4. Introduction of ordinances and resolutions; enacting clause.

Ordinances and resolutions shall be introduced in the council only in written or printed form. The enacting clause of all ordinances shall be "BE IT ORDAINED BY THE CITY OF PENSACOLA."

Sec. 2-1-5. - Compensation of members and president.

(1) The city shall pay to each member of the council, except the president of the city council, twenty-one thousand five hundred dollars ($21,500.00), per year, payable in bi-weekly installments, as compensation for services rendered to the city. The council members shall be reimbursed for ~~the actual~~ expenses incurred in connection with his or her official duties while outside of and beyond the corporate limits of the city in accordance with city travel and expense reimbursement policies. No

member of the council shall receive any monthly compensation or expenses from the city, except as provided herein.

(2) The compensation to be paid to the president of the city council shall be twenty-eight thousand five hundred dollars ($28,500.00) per year, payable in equal bi-weekly installments as compensation for services rendered to the city. The president shall be reimbursed for ~~the actual~~ expenses incurred in connection with his or her official duties while outside of and beyond the corporate limits of the city in accordance with city travel and expense reimbursement policies.

(2010 Charter, Sec. 4.02(c); Ord. No. 24-16, Sec. 1.08-11-16)

Sec. 2-1-6. - Compensation of mayor.

The compensation to be paid to the mayor shall be one hundred thousand dollars ($100,000.00) per year, payable in equal bi-weekly installments as compensation for services rendered to the city. The mayor shall also be offered participation in the Florida Retirement System, and shall be entitled to such health, dental and life insurance benefits as are available to the city workforce at the premiums paid by the city workforce. The mayor shall be compensated for mileage on a vehicle which is incurred in connection with city business at the rate established by city policy. The mayor shall be reimbursed for ~~the actual~~ expenses incurred in connection with his or her official duties while outside of and beyond the corporate limits of the city in accordance with the city travel and expense reimbursement policies.

(2010 Charter, Sec. 4.01(c); Ord. No. 08-10, Sec. 1, 3/11/10)

Sec. 2-1-7. - Authority of mayor and council president to conform regulations and procedures.

The mayor and the city council president are hereby jointly conferred the authority to conform the provisions of any regulation or procedure mandated by any provision of the Code of the City of Pensacola, Florida, to the requirements of law as may be determined by statute, regulation or by applicable judicial determination. Upon the recommendation of the city attorney, when the mayor and the council president concur that a practice or procedure should be altered or amended to conform to the current state of the law as reflected by statute, regulation or controlling judicial precedent, they shall exercise that authority in writing and shall notify the city clerk and the city council. This authority shall continue in effect until such time as the city council shall have an opportunity to address the matter.

(Ord. No. 08-03, § 1, 3-27-03; Ord. No. 16-10, § 15, 9-9-10)

Sec. 2-1-8. - Authority of mayor during state of emergency.

(a) Upon declaration of a state of emergency by the president of the United States, by the governor of the State of Florida or by Escambia County for any area which includes the City of Pensacola, the mayor shall be authorized and directed to take such emergency measures as he determines necessary to protect the health, safety and welfare of the citizens and to ensure the timely reconstruction and repair of structural damage caused by the emergency event and the continued functioning of local government. The mayor shall further be authorized to exercise such emergency management powers granted to political subdivisions by Florida law and may alter normal work schedules and grant the nonessential work force time off with pay. The mayor will make the determination of which employees are deemed essential during each emergency. The mayor is authorized to pay essential employees, both non-exempt and certain ranges of exempt under the Fair Labor Standards Act, at overtime rates when required to report for duty during the time the remaining work force is not required to report. The mayor shall further be authorized to waive or suspend all ordinances, policies, procedures or customs of the city as the mayor determines

necessary for purchase of commodities and services, for contracts of no more than one (1) year duration, for the assignment of employees and for the facilitation of reconstruction and repair, both public and private, as the mayor determines necessary. The mayor is authorized to delegate such powers to staff as determined necessary to the effective administration of the government of the City of Pensacola. This authorization is subject to the limits of the Constitution and Laws of the United States and the State of Florida.

(b) The mayor's exercise of authority pursuant to this section shall exist for a period of thirty (30) days following declaration of a state of emergency unless extended or shortened by action of the city council.

(Ord. No. 08-05, § 1, 8-11-05; Ord. No. 16-10, § 16, 9-9-10)

CHAPTER 2-2. CITY COUNCIL[2]

Footnotes:

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Cross reference— Elections, Ch. 2-5; candidates for member of council qualifications, oath, § 2-5-6.

State Law reference— Code of ethics for public officers and employees, F.S. § 112.311 et seq.; public meetings, F.S. § 286.011; public records, F.S. Ch. 119.

Sec. 2-2-1. - Reserved.

REPEAL SECTION 2-2-2.

REPEAL SECTION 2-2-3.

REPEAL SECTION 2-2-4.

Sec. 2-2-5. - Reserved.

REPEAL SECTION 2-2-6.

REPEAL SECTION 2-2-7.

REPEAL SECTION 2-2-8.

REPEAL SECTION 2-2-9.

Sec. 2-2-1. - Office of the city council.

Pursuant to the requirements of Sec. 4.02(a)(6) of the Charter of the City of Pensacola, Florida, there is hereby created and established the office of the city council, with staffing, duties and responsibilities in accordance with the following criteria:

(1) The city council is authorized to employ staff to fill the following positions or discharge the following functions: Budget analyst, assistant city attorney, council executive, executive assistant, and such other staff as may be deemed warranted in the performance of council's legislative function.

(2) All positions filled by the city council shall conform to the requirements of the City Charter.

(3) Each approved position shall be filled by majority vote of the city council, and each employee so hired shall be regarded as an "at will" employee under Florida law and shall serve at the pleasure of the city council. A majority vote of city council shall be required to remove any employee so employed.

(4) The compensation and fringe benefits of each employee hired shall be fixed by council in accordance with the pay plan and employee benefits extended to comparably employed employees of the City of Pensacola. Each employment contract shall be executed by the council president.

(5) All employees of the office of city council shall be regarded as employees of the City of Pensacola, shall be responsible to the city council through the president of the council and shall be supervised by the council executive.

(6) In the performance of their duties, the staff of the office of city council shall be directed by the council president or by formal council action.

(Ord. No. 05-15, § 1, 3-12-15)

CHAPTER 2-3. CITY PROPERTY

Sec. 2-3-1. - Reserved.

Editor's note— Ord. No. 02-03, § 1, adopted Jan. 23, 2003, repealed § 2-3-1 in its entirety. Formerly, said section pertained to disposal of surplus lands and buildings authorized, as enacted by Laws of Fla., Ch. 57-1716, § 1.

Sec. 2-3-2. - Disposal of surplus tangible personal property.

Upon determination by the mayor that any tangible personal property owned by the city is surplus, obsolete, unrepairable, unnecessary, unsuitable, or otherwise no longer useful, the mayor may dispose of such property which has no substantial value or may sell the property, by auction, for fair consideration. If the item had an original purchase price of ten thousand dollars ($10,000.00) or a lesser amount, the mayor may dispose of such property by appropriate methods other than by auction.

(Ord. No. 53-89, § 1, 10-5-89; Ord. No. 43-98, § 1, 9-10-98; Ord. No. 16-10, § 8, 9-9-10)

Sec. 2-3-3. - Naming city property.

(a) *Intent of criteria.* The criteria provided herein are intended to provide an identifiable process which citizens may utilize to propose the recognition of individuals who have made a significant contribution to the city, region or nation and whose memory may be honored by the designation of their name and achievements associated with a structure, street, park or other public place in the City of Pensacola. Such individuals may be city residents, historic figures, former elected officials or former city employees whose work, actions or life has made a significant contribution to the community or society. Consideration of such recognition will be made by the city council without reference to such immutable characteristics as race, religion, ethnicity, gender, age or disability. These criteria are intended to be flexible so that there will be an opportunity for recognition of any individual deserving of such, who may not meet all of the objective criteria contained herein. In addition, the city council recognizes that many of the facilities of the city have established interest groups such as neighborhood associations or other affinity groups, and it is the intent of the council to solicit input from all such interest groups when appropriate.

(b) *Criteria.*

(1) Parks may be named after streets, geographical locations, historical figures, events, concepts or as otherwise determined by the city council.

(2) Parks may be named for individuals or groups that have made exceptional contributions to the Pensacola community.

(3) Parks may be named for an historical figure or an individual or family or organization that has made a significant land, monetary or service contribution to the acquisition of the property, park system or the community in general. These may include the names of early residents or citizens and/or events of significance to the area's history or development which have directly impacted the park's development.

(4) Current elected officials and currently employed city staff shall not be eligible for consideration until they are no longer in office or have been retired from city service for at least four (4) years.

(5) In order to accommodate the interest in recognizing or honoring individuals deserving such recognition or honor, the city council may elect to honor individuals by the erection of informational signage or plaques at a particular facility, structure or portion thereof, without naming the entire park, structure or facility after one individual or preempting the opportunity to recognize more than one person's achievements or contributions. However, the renaming of a park, structure or facility from one name to another will be discouraged and accepted only for exceptional reasons.

(c) *Procedure.*

(1) Members of council or other individuals or groups that propose to name or rename a park, structure, facility or portion thereof must submit a letter to the city clerk with sufficient information or evidence to support a naming or name change. The clerk shall forward a copy of the letter to the offices of the mayor and the city council president. If a renaming is being proposed, the letter must document why the existing name no longer holds any historical significance, or otherwise why the existing name is no longer appropriate.

(2) If the property or facility under review is within the purview of the parks and recreation board, that board will review such request and discuss the request at a meeting of the board. Following board consideration, the board will make its recommendations to the city council. If the property or facility under review is within the purview of another organization or board, that organization or board will be given the opportunity to consider the request for naming or renaming and make its recommendation to the city council.

(3) The city council will make the final decision on all naming or renaming requests.

(Ord. No. 34-14, § 1, 9-11-14)

Sec. 2-3-4. - Disposition of property south of Bayfront/Main Streets.

Real property owned by the city or by the Pensacola Community Redevelopment Agency, which is located south of Bayfront Parkway/Main Street between the Pensacola Bay Bridge and A Street shall not be declared surplus or disposed of by sale of such property, in the absence of any exigent circumstance expressly declared to exist by the city council, but such property may be leased or otherwise be put to beneficial use in the best public interests of the city.

(Ord. No. 14-15, § 1, 6-18-15)

CHAPTER 2-4. ADMINISTRATIVE ORGANIZATION

ARTICLE I. - IN GENERAL[3]

Footnotes:

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Cross reference— Finance and taxation, Title III; leisure services, Title VI; licenses and business regulations, Title VII; personnel, Title IX, public enterprises and utilities, Title X; zoning development and structures, Title XII; code enforcement, Title XIII, Art. XII; planning, Ch. 12-0; fire codes, Ch. 14-2.

REPEAL SECTION 2-4-1.

REPEAL SECTION 2-4-2.

REPEAL SECTION 2-4-3.

REPEAL SECTION 2-4-4.

Secs. 2-4-5, 2-4-6. - Reserved.

Editor's note— Ord. No. 16-10, §§ 13, 14, adopted Sept. 9, 2010, repealed § 2-4-5, which pertained to "appointment of directors, city clerk, administrative officials; compensation" and repealed § 2-4-6 which pertained to "authority of city manager, exceptions." See also the Code Comparative Table.

TRANSFER THIS SECTION TO SEC. 2-1 (GENERAL PROVISIONS)

TRANSFER THIS SECTION TO SEC. 2-1 (GENERAL PROVISIONS)

Secs. 2-4-9—2-4-20. - Reserved.

REPEAL ARTICLE II. LEGAL DEPARTMENT

Secs. 2-4-22—2-4-35. - Reserved.

ARTICLE III. - RESERVED[4]

Footnotes:

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Editor's note— Ord. No. 23-13, § 1, adopted September 26, 2013, repealed §§ 2-4-36—2-4-39, which pertained to West Florida Public Library Department. See Code Comparative Table for complete derivation.

Secs. 2-4-36—2-4-50. - Reserved.

ARTICLE IV. - OFFICERS AND EMPLOYEES[5]

Footnotes:

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Cross reference— Code of Ethics, Ch. 2-6; Employer-employee relations, Ch. 9-4.

State Law reference— Code of ethics for public officers and employees, F.S. § 112.311 et seq.; workers compensation, F.S. Ch. 440; unemployment compensation, F.S. Ch. 443; oath, F.S. § 876.05.

REPEAL SECTION 2-4-51.

Sec. 2-4-52. - Budget analyst.

(a) *Legislative findings.* The city council is authorized to create the position of budget analyst in accordance with section 4.02(6) of the City Charter.

(b) *Establishment.* There is hereby created the position of budget analyst whose designated function is to assist the city council in the conduct of budgetary inquiries, analyses and making budgetary decisions.

(c) *Qualifications.* Appointees serving as the budget analyst shall have the professional qualifications of a college degree in accounting, finance, or budget analysis and one (1) year of experience in accounting, finance and budget analysis. Two (2) years of pertinent experience may be substituted for each year of college lacking.

(d) *Classification and salary.* The city's position classification code classifies the positon of budget analyst as C-03. This classification carries a salary range of $40,456.00—$82,742.40 as set forth in the city's pay scale summary.

(e) *Duties.* The duties of the budget analyst shall include:

(1) Providing a formal, comprehensive review and analysis of the proposed annual budget.

(2) Gathering, organizing, and analyzing data and information relative to budgetary issues.

(3) Providing comparative studies of other cities as they relate to municipal finance.

(4) Engaging in fiscal forecasting and planning.

(5) Analyzing the city's past, current, and proposed revenues and expenditures.

(6) Reviewing existing and potential tax revenues.

(7) Analyzing federal, state, and local programs to determine sources of funding and appropriate expenditure options.

(8) Reviewing the economic effects of proposed legislation.

(9) Preparing fiscal and economic project analysis as directed by the city council.

(10) Providing policy research and fiscal analysis on proposed legislation.

(11) Preparing such other reports relating to budgetary and legislative policy concerns directed by the city council.

(12) Making recommendations to the city council in connection with the analysis, studies, and reports described herein.

(f) *Appointment and removal.* The city council shall appoint and may remove the budget analyst from office by a majority vote of the members of the city council at any time, with or without cause.

(Ord. No. 10-16, § 1, 4-14-16; Ord. No. 14-17, § 1, 6-8-17)

Secs. 2-4-53—2-4-65. - Reserved.

Editor's note— Ordinance No. 17-98, § 2, adopted May 28, 1998, deleted § 2-4-53. Formerly, such section pertained to liability of comptroller for unauthorized warrants and derived from Laws of Fla. 1931, Ch. 15425, § 45. Ord. No. 16-10, § 19, adopted Sept. 9, 2010, repealed § 2-4-52, which pertained to "Bonds." See also the Code Comparative Table.

ARTICLE V. - RESERVED[6]

Footnotes:

--- (**6**) ---

Editor's note— Ordinance No. 17-98, § 4, adopted May 28, 1998, deleted § 2-4-66. Formerly, such section pertained to advertisements for competitive bidding and derived from § 37-2(A) of the 1968 Code.

Secs. 2-4-66—2-4-80. - Reserved.

REPEAL ARTICLE VI. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

CHAPTER 2-5. ELECTIONS[7]

REPEAL CHAPTER 2-5

Footnotes:

--- (**7**) ---

Charter reference— Elections, § 9 et seq.

Cross reference— City council, Ch. 2-2.

State Law reference— Florida Election Code, F.S. Chs. 97—106.

REPEAL SECTION 2-5-1.

REPEAL SECTION 2-5-2.

REPEAL SECTION 2-5-3.

REPEAL SECTION 2-5-4.

REPEAL SECTION 2-5-5.

Secs. 2-5-6—2-5-9. - Reserved.

Editor's note— Ord. No. 16-10, §§ 22—25, adopted Sept. 9, 2010, repealed § 2-5-6—2-5-9, which pertained to "candidate qualifying period," "same—ballots," "same—runoff elections," and "alternative method of qualifying." See also the Code Comparative Table.

CHAPTER 2-6. CODE OF ETHICS

Sec. 2-6-1. - Created.

There is hereby created a Code of Ethics for the City of Pensacola, which shall be applicable to all elected and appointed officials of the city, including all city employees, regardless of capacity of employment.

(Ord. No. 07-11, § 1, 4-7-11; Charter, Sec. 8.02(a))

Sec. 2-6-2. - Definitions.

Appear or *appear before* means to communicate in any form, including, without limitation, personally, through another person, by letter, or by telephone. This definition also applies to the noun form, "appearance."

Appearance of a conflict of interest means objective circumstances that would lead a reasonable person to conclude that a proposed decision by an individual official or employee may be reasonably criticized on the basis of bias, favoritism, or partiality, regardless of whether the circumstances meet the definition of a conflict of interest in F.S. Ch. 112, Pt. III.

Commission on ethics means the Florida Commission on Ethics established and created by Article II, § 8(f) of the Florida Constitution, and F.S. §§ 112.3191—112.3241.

Consultant means an independent contractor or professional person or entity engaged by the city or advising a city official, and in a position to influence a city decision or action, or have access to confidential information.

Financial benefit includes any money, service, license, permit, contract, authorization, loan, travel, entertainment, hospitality, gratuity, or any promise of any of these, or anything else of value. This term does not include campaign contributions authorized by law. A "financial interest" is a relationship to something such that a direct or indirect financial benefit has been, will be, or might be received as a result of it.

A *gift* is a financial benefit as defined in F.S. Ch. 112, Pt. III.

Household includes anyone whose primary residence is in the official or employee's home, including non-relatives who are not rent payers or domestic employees.

An *interest in a contract* is a relationship to a contract such that a direct or indirect financial or other material benefit has been or will be received as a result of that contract. The official or employee does not need to be a party to the contract to have an interest in it. Indirect benefit includes a benefit to the official's family or outside business or employer.

Ministerial act means an action performed in a prescribed manner without the exercise of judgment or discretion as to the propriety of the act.

Official or *employee* means any elected or appointed official or employee of the city, whether paid or unpaid, and includes all members of a board, body, advisory board, council, commission, agency, department, district, administration, division, bureau, committee, or subcommittee of the city. This definition includes members of council and the mayor.

Personal benefit includes benefits other than those that are directly financially advantageous. These include financial benefits to relatives and business associates, as well as non-financial benefits to these people and to oneself, including such intangible matters as reputation and the success of one's career. A "personal interest" means a relationship to something such that a personal benefit has been, will be, or might be obtained by action or inaction with respect to it.

Relative means a spouse, child, step-child, brother, sister, parent or step-parent, or a person claimed as a dependent on the official or employee's latest individual federal income tax return.

State Code of Ethics means F.S. §§ 112.311—112.326, as those provisions are interpreted and applied by the Florida Commission on Ethics, and as those provisions may be amended from time to time.

Subordinate means another official or employee over whose activities an official or employee has direction, supervision, or control.

(Ord. No. 07-11, § 1, 4-7-11)

Sec. 2-6-3. - Prohibitions.

(a) All provisions of the State Code of Ethics are hereby adopted and incorporated by reference into the Code of the City of Pensacola, Florida, as they currently exist upon the effective date and as they may be modified or amended from time to time.

(b) The code of ethics adopted by the city council in its rules and procedures of the city council, effective at noon, January 10, 2011, applying to the members of council and incorporating the council's regulations of council travel policies and procedures, as that code of ethics may be altered or amended by council from time to time, is hereby adopted and incorporated by reference into this chapter.

(c) The code of ethics, adopted by the mayor and applicable to all city employees within the mayor's employment, as provided in the City of Pensacola Employment Manual, as that code of ethics may be altered or amended by the mayor from time to time, is hereby adopted and incorporated by reference into the provisions of this chapter.

(d) All members of council shall abstain from casting their vote and shall so declare upon the record and execute the appropriate form to be filed with the city clerk, whenever they have established that they would have an appearance of a conflict of interest by casting such vote.

(e) The mayor shall refrain from taking any action or conferring any benefit upon any person, group of persons or entity, when to do so would create a conflict of interest or circumstances establishing the appearance of a conflict of interest. In lieu of taking such action, the mayor shall designate an alternative decision-maker who shall have no interest in the transaction, no conflict of interest and no appearance of a conflict of interest, to execute the responsibility of the office of the mayor in that matter.

(f) An official or employee must refrain from acting upon or participating in, formally or informally, a decision-making process with respect to any matter before the city, if acting on the matter, or failing to act upon the matter, may personally or financially be of personal benefit to himself, herself or a relative or business associate.

(g) An official or employee of the City of Pensacola may not, directly or indirectly, treat anyone, including himself or herself and his or her family or business associates, preferentially or in any other manner that is not generally accorded to city residents.

(h) An official or employee of the City of Pensacola, or a former official or employee, a contractor or a consultant, may not disclose any confidential information obtained formally or informally as part of his or her work for the city or due to his or her position with the city, or use any such confidential information to further his or her own or any other person or entity's personal or financial interests.

(i) No official or employee may promise an appointment or use his or her influence to obtain an appointment to any position as a reward for any political activity or contribution.

(j) No official or employee of the City of Pensacola may use, or permit others to use, any property owned by the city for profit or personal convenience or benefit, except (i) when such use is available to the public generally, or to a class of residents, on the same terms or conditions, (ii) when permitted by policies approved by the city's legislative body or executive, or (iii) when, in the conduct of official business, used in a purely incidental way for personal convenience. This applies not only to property such as vehicles, computers, office equipment, telephones and other tangible and intangible city property, but also to travel and other expense reimbursements, which may not be requested or spent on anything other than official business of the city.

(k) No official or employee in his or her official capacity may publicly endorse products or services in any manner that associates that official or employee with the City of Pensacola. A consultant retained by the city may not represent a person or entity other than the city in any matter, transaction, action, or proceeding in which the consultant participated personally and substantially as a consultant to the city; nor may a consultant represent a person or entity in any matter, transaction, action, or proceeding against the interest of the city unless the city provides a written waiver of any such conflict.

(l) No person seeking to become an official or employee, consultant or contractor of the City of Pensacola may make any false statement, submit any false document, or knowingly withhold information about wrongdoing in connection with employment by or rendering service to the city.

(Ord. No. 07-11, § 1, 4-7-11)

Sec. 2-6-4. - Enforcement.

(a) The provisions of the State Code of Ethics are interpreted and enforced by the commission on ethics pursuant to state law.

(b) The provisions of the code of ethics adopted by the city council in its rules and procedures of the city council, shall be enforced by the city council.

(c) The provisions of the code of ethics applicable to city employees as set forth in the City of Pensacola Employment Manual, shall be enforced by the mayor.

(d) Enforcement of the remaining provisions of this code of ethics shall be enforced by the mayor, if violated by any employee of the City of Pensacola, and by the city council to the extent authorized by law if violated by the mayor or any member of council. Any violation of this Code may be subject to a penalty imposed by the city council or the mayor, as applicable, at their discretion.

(Ord. No. 07-11, § 1, 4-7-11)

TITLE III. - FINANCE AND TAXATION[1]

CHAPTERS

Footnotes:

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Cross reference— Departments enumerated, § 2-4-3.

State Law reference— Municipal finance and taxation, F.S. § 166.201 et seq.; municipal fiscal year, F.S. §§ 166.241, 218.33; municipal borrowing, F.S. § 166.101 et seq.; financial matters pertaining to political subdivisions, F.S. Ch. 218.

CHAPTER 3-1. GENERAL PROVISIONS

Sec. 3-1-1. - Finance director.

The mayor with the consent of council may appoint a finance director who may serve as comptroller, treasurer, and plan administrator for all deferred compensation plans and all nonqualified pension plans. The finance directormay serve as plan or fund administrator and chief administrative officer for all qualified pension plans except as otherwise provided by law. The finance director may have charge of the financial services department as well as administration of the financial affairs of the city, including the keeping and supervision of all accounts, the levy, assessment and collection of taxes and other revenue, the making and collection of special assessments, the custody and disbursement of city funds and monies, the control over expenditures, and such other duties as the mayor may provide.

(Laws of Fla. 1931, Ch. 15425, § 28; Ord. No. 17-98, § 1, 5-28-98; Ord. No. 48-98, § 1, 9-24-98; Ord. No. 26-99, § 6, 7-22-99; Ord. No. 16-10, § 26, 9-9-10)

Cross reference— Administrative organization, Ch. 2-4.

Sec. 3-1-2. - Financial reports.

The finance director shall be charged with keeping and supervising the accounts for all departments and offices of the city. Provision shall be made for adequate recording of all cash receipts and disbursements, all revenues accrued and all liabilities incurred, as well as all transactions affecting the acquisition, custody and disposition of municipal properties and values. Financial reports shall be prepared for each quarter and fiscal year and for such other periods as may be required by the mayor. Those reports shall be submitted by the mayor to the council.

(Laws of Fla. 1931, Ch. 15425, § 29; Ord. No. 17-98, § 1, 5-28-98; Ord. No. 16-10, § 27, 9-9-10)

Sec. 3-1-3. - Taxes and monies received.

All taxes and monies received by any officer or employee of the city, or in connection with the business of the city, shall be paid promptly into the treasury and shall be deposited with responsible banking institutions in compliance with the council's adopted investment policy designated by the council in accordance with such regulation and subject to such requirements as to security therefor and interest thereon as the council may establish. All money so deposited shall accrue to the benefit of the city.

(Laws of Fla. 1931, Ch. 15425, § 30; Ord. No. 17-98, § 1, 5-28-98; Ord. No. 16-10, § 28, 9-9-10)

State Law reference— Security for public deposits, F.S. Ch. 280; investment of funds, F.S. § 166.261.

Sec. 3-1-3.5. - Insurance, risk management and loss prevention.

Subject to the provisions of subsection 1-1-1(c), the finance director shall review, monitor and make recommendations concerning city policy and administration in the subjects of insurance, risk management and loss prevention, shall maintain all records pertaining to claims, losses and insurance policies, shall supervise and coordinate the preparation of insurance specifications for contracts, shall assist in negotiating settlements of losses and make recommendations with regard thereto, and shall perform such other duties prescribed by the mayor.

(Ord. No. 26-99, § 3, 7-22-99; Ord. No. 16-10, § 29, 9-9-10)

Sec. 3-1-3.6. - Insurance purchases and insurance claim payments.

(a) The mayor is authorized to pay claims without city council approval under any one of the following circumstances:

The payment of the claim is required by law.

The payment of the claim is controlled by language specified in an insurance policy.

The claim amount is within the mayor's purchasing authority.

All other payments for claims must be approved by city council.

(b) The mayor is authorized to purchase insurance coverages that are required by Florida Statutes or by City Code or that fall within the mayor's purchasing authority. In addition, the mayor is authorized to purchase insurance policies that are either routine, cover unusual risk factors, for which a premium increase is primarily based on inflation, or for which the market is extremely limited.

(Ord. No. 32-10, § 1, 12-16-10)

Sec. 3-1-4. - Claims; accounts.

No claim against the city may be paid except by a method authorized by the finance director. Accounts shall be kept by the department of financial services, showing the financial transactions of all departments and offices of the city.

(Laws of Fla. 1931, Ch. 15425, § 31; Ord. No. 17-98, § 1, 5-28-98; Ord. No. 26-99, § 6, 7-22-99; Ord. No. 16-10, § 30, 9-9-10)

Sec. 3-1-5. - Reserved.

Editor's note— Ord. No. 16-10, § 31, adopted Sept. 9, 2010, repealed § 3-1-5, which pertained to "budget estimate." See also the Code Comparative Table.

REPEAL SECTION 3-1-6.

State Law reference— Determination of millage and budget adoption procedure, F.S. Ch. 200.

Sec. 3-1-7. - Expenditures.

No money shall be drawn from the treasury of the city, nor shall any obligation for the expenditure of money be incurred, except pursuant to appropriations made by the council.

(Laws of Fla. 1931, Ch. 15425, § 38)

Sec. 3-1-8. - Payment of claims.

Subject to the provisions of subsection 1-1-1(c), no claim against the city shall be paid except those certified by the director of the appropriate department, and by means authorized by the finance director. The finance director shall cause to have examined all payrolls, bills and other claim and demands against the city and shall issue no payment unless he finds that the claim is in proper form, correctly computed and duly certified; and that it is justly and legally due and payable, that an appropriation has been made therefor which has not been exhausted, and that the payment has been otherwise legally authorized; and that there is money in the city treasury to make payment. He may require any claimant to make oath to the validity of a claim. He may investigate any claim, and for that purpose may examine witnesses under oath, and if he finds a claim to be fraudulent, erroneous or otherwise invalid, he shall not issue payment therefor.

(Laws of Fla. 1931, Ch. 15425, § 44; Ord. No. 17-98, § 1, 5-28-98; Ord. No. 16-10, § 32, 9-9-10)

Sec. 3-1-9. - Requirements for issuance of bonds.

(a) *Procedures and requirements.*

(1) The city council of the city shall have the power to provide by resolution for the issuance and sale of revenue or excise tax bonds and certificates or any other bonds or certificates not secured by ad valorem taxation, so as to provide money to finance the acquisition, construction, improvement and operation of any utility, facility, enterprise, work, undertaking or project which the city is authorized by law to acquire, construct, improve or operate, or for any other municipal purpose or purposes, and to provide that the bonds and certificates and interest thereon shall be payable from the revenues to be derived by the city from the operation of the same or a combination of any or all of the utilities, facilities, enterprises, works, undertakings or projects, or from any other sources of pledged security except ad valorem taxes. The resolution may be adopted at a regular or special meeting by a majority vote of the council and at the same meeting at which it is introduced, to take effect immediately upon its passage, subject to mayoral veto. It is determined and declared as a matter of legislative intent that no election to authorize the issuance of the bonds or certificates shall be necessary. No other proceedings or procedures of any character whatever shall be necessary or required for the issuance of the bonds or certificates by the city. The words "revenue bonds" and "revenue certificates" and "excise tax bonds" and "excise tax certificates" are used interchangeably herein, and the provisions applicable to one are applicable to the other.

(2) Any and all revenue or excise tax bonds or certificates issued by the city pursuant to this section shall be special obligations of the city and shall be payable from and secured by a lien upon the revenue of the enterprise or other pledged security as more fully described in the resolution adopted, having due regard to the cost of operation and maintenance of the enterprise, and the amount or proportion, if any, of the revenue of the enterprise previously pledged. The city may by resolution pledge for the security of the bonds or certificates a fixed amount, without regard to any fixed proportion of the gross revenue of the enterprise.

(3) No recourse shall be had for the payment of the revenue bonds or excise tax bonds or certificates, or any interest thereon or any part thereof, against funds of the city realized from ad valorem taxes. The bonds or certificates and interest thereon shall not be a debt of the city nor a charge, lien or encumbrance, legal or equitable, upon the property of the city or upon any income, receipts, excise taxes, franchise fees or revenues of the municipality other than the revenues as shall have been pledged to the payment thereof, and every bond or certificate shall recite in substance that the bond or certificate, including interest thereon, is payable solely from the revenues pledged to the payment thereof, and that the municipality is under no obligation to pay the same except from the revenues.

(4) The city may issue bonds payable solely out of revenues which may be derived from a particular project or projects, or may issue bonds payable from utilities services taxes, franchise fees or payments, or any excise or service tax which it may be authorized to impose, or a combination of either or all of such sources of revenue or unpledged revenue from any source; except that full faith and credit bonds or general obligation bonds, payable from unlimited ad valorem taxes, may not be issued unless authorized by vote of the electors of the city in the manner provided by law.

(5) The city may, in addition to the other powers herein conferred, insert provisions in any resolution authorizing the issuance of such revenue or excise tax bonds or certificate which shall be a part of the contract with the holders of the revenue bonds or certificates, in the following respects:

a. Limitations on the purpose to which the proceeds of sale of any issue of bonds or certificates may be applied;

b. Limitations on the issuance and on the lien of additional bonds, certificates or obligations to finance the extension, addition or improvement of the enterprise which are secured by or payable from the revenues of the enterprise;

c. Limitations on the right of the city or its governing body to restrict and regulate the use of the enterprise;

d. Pledging all or any part of the revenues of the enterprise to which its right then exists or rights which may thereafter come into existence;

e. The city may avail itself of any right, power or authority to issue bonds granted to municipalities from time to time by the provisions of Florida Statutes.

(6) The foregoing provisions of this section shall constitute full and complete authority for the issuance of the bonds and certificates herein authorized, and no procedures or proceedings, publications, notices, consents, approvals, orders, acts or things by the council or any board, officer, commission or department of the city, other than those required by this section, shall be required to issue any bond or certificate or to do or perform any act, except as shall be required by this section.

(7) Bonds, certificates or other obligations of any type or character authorized and issued by the city may bear an interest rate within the discretion of the council. There shall be no maximum limitation on the interest rate, except that the interest rate shall be based on the good faith judgment of the council after receiving advice from the mayor, city financial officials, fiscal agents and bond attorneys employed by the city.

(b) *Power to combine utilities, enterprises.* The council shall have power by resolution to combine any or all of its municipally owned utilities or other revenue-producing enterprises or undertakings for the purposes of the construction, extension, improvement, operation or financing thereof.

(Laws of Fla. 1931, Ch. 15425; Laws of Fla., Ch. 59-1725, § 1; Laws of Fla., Ch. 70-885, § 1; Ord. No. 16-10, § 33, 9-9-10)

State Law reference— Municipal borrowing, F.S. § 166.101 et seq.; municipal finance and taxation, F.S. § 166.201 et seq.; maximum rate of interest, F.S. § 215.84; bond information, notice, sale, etc., F.S. §§ 218.37, 218.38, 218.385.

Sec. 3-1-9.1. - Reserved.

Editor's note— Ord. No. 32-02, § 1, enacted Oct. 10, 2002, repealed § 3-1-9.1 in its entirety. Formerly, said section pertained to investment of city funds; authorization, as adopted by Ord. No. 20-85, § 1, enacted June 13, 1985.

Sec. 3-1-11. - Service fee for dishonored checks.

There shall be assessed a service fee of twenty dollars ($20.00) or five (5) percent of the amount of the check, draft, or order, whichever is greater, for the collection of a dishonored check, draft or other order for the payment of money to the city or any official or agency of the city or such other amount as may be authorized by F.S. § 166.251, as said statute may be amended from time to time. The service fee shall be in addition to all other penalties imposed by law. Proceeds from this fee shall be retained by the collector of the fee.

(Ord. No. 52-89, § 1, 10-5-90; Ord. No. 16-92, § 1, 6-25-92)

Sec. 3-1-12. - Reserved.

Editor's note— Ord. No. 16-10, § 34, adopted Sept. 9, 2010, repealed § 3-1-12, which pertained to "Liability of director of finance for unauthorized payments." See also the Code Comparative Table.

Sec. 3-1-13. - Council reserve (general fund).

Effective January 12, 2017, a minimum reserve of twenty (20) percent of the general fund beginning adopted appropriations (expenditure budget) should be incrementally established and maintained for use in meeting unanticipated needs and/or emergencies.

(1) *Use of council reserve.* Council reserves shall be used only after all efforts have been exhausted to fund unanticipated needs and/or emergencies, such as implementing a modified hiring freeze and expenditure reductions. Once the mayor has determined that it is necessary to draw down council reserves, written communication should be provided by the mayor to city council, explaining the nature of the unanticipated need and/or emergency and requires approval by a two-thirds (2/3) vote of city council. Use of funds may only be initiated when current fiscal year revenues decrease by five (5) percent or more of the total adopted beginning estimated revenues, including transfers. A maximum of fifty (50) percent of the shortfall or fifty (50) percent of the prior fiscal year ending council reserve balance may be drawn, whichever is less. At no time may the reserve be less than seven and one-half (7.5) percent of adopted

annual appropriations or half of the prior fiscal year ending council reserve balance, whichever is greater. The council reserve may not be used for more than two (2) consecutive years.

(2) *Replenishment of council reserve.* If the reserves are drawn down below the minimum required level of twenty (20) percent, then a budgetary plan shall be implemented to return the reserve to a minimum twenty (20) percent level in no more than a five-year period. The progress of replenishment should be reported in the annual budget.

(3) *Funding of council reserves.* Proceeds from the sale of city (general government) owned surplus real property, specifically approved by city council for such purpose, and any other funds identified in the annual budget (and any amendments thereto) will be used to increase the reserve. Interest earnings will be applied on the reserve balance each fiscal year.

(Ord. No. 39-14, § 1, 10-9-14; Ord. No. 04-17, § 1, 3-9-17)

CHAPTER 3-2. PUBLIC WORKS AND IMPROVEMENTS[2]

Footnotes:

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Cross reference— Competitive bid for contracts for public works and purchase of material and supplies, § 3-3-2; leisure services, Title VI; buildings and building regulations, Ch. 7-13; public enterprises and utilities, Title X.

State Law reference— Supplemental and alternative procedure for making local improvements, F.S. Ch. 170; municipal public works, F.S. Ch. 180.

Sec. 3-2-1. - Powers of city; fixing fees and charges for utility services.

In addition to powers which it may now have, the city shall have power under this chapter:

(1) To construct, repair, extend or acquire extensions and improvements to the existing natural gas systems and other utility systems, and all other facilities now owned and operated or hereafter acquired by the city, including but not limited to facilities for the storage, transmission or distribution of natural gas, storage tanks, distributing mains and pipes, meters, valves and equipment, within or without the territorial boundaries of the city, and to acquire in the name of the city, by gift, purchase or the exercise of the right of eminent domain, lands or rights in land in connection therewith and any other property, real or personal, tangible or intangible, necessary, desirable or convenient in connection with the construction, operation or management of the utility systems and other facilities, and to hold and dispose of all real and personal property under its control.

(2) To construct, repair, extend and improve and make improvements to the public streets and thoroughfares of the city; and to acquire, construct, alter, repair and improve all public buildings, property, improvements and all other facilities, including recreational parks and playgrounds, now existing or hereafter to be acquired, belonging to the city and used and dedicated to municipal and public purposes and lying within or without the city limits of the city, and to acquire in the name of the city, by gift, purchase or the exercise of the right of eminent domain, lands or rights in lands or water rights in connection therewith and any other property, furnishings and equipment, real or personal, tangible or intangible, necessary, desirable or convenient in connection with the construction, operation or management, extension and improvement of the public streets, public buildings, property and all other facilities, including recreational parks and playgrounds.

(3) To employ, and to enter into agreements or contracts with, consultants, advisors, engineers, architects, managers or fiscal or other experts, for the planning, preparation, construction, supervision, management, operation and financing of natural gas systems and other utility

systems, and such public streets and thoroughfares, public buildings, property, improvements, recreational and other facilities, now existing or hereafter to be acquired, or any part thereof, upon the terms and conditions as to compensation and otherwise as the city shall deem desirable and proper.

(4) To prescribe, fix, establish and collect fees, rentals or other charges for the facilities, services and privileges furnished by natural gas systems and other utility systems, and public buildings, property, improvements, recreational and other facilities, or any part thereof, whether heretofore or hereafter constructed or acquired, upon any equitable basis; provided, however, that the fees, rentals or other charges or any revision thereof shall be fixed and established by resolution of the council of the city only after a public hearing has been held thereon and notice of the public hearing shall have been published at least once at least ten (10) days prior thereto in a newspaper published in the city.

(Laws of Fla. 1931, Ch. 26138, § 1)

Cross reference— Energy services, Ch. 10-4.

REPEAL SECTION 3-2-2.

REPEAL SECTION 3-2-3.

REPEAL SECTION 3-2-4.

REPEAL SECTION 3-2-5.

REPEAL SECTION 3-2-6.

REPEAL SECTION 3-2-7.

Sec. 3-2-8. - Same—Taxing of public utility services.

(a) The city, in order to pay the principal and interest on any revenue bonds issued pursuant to this chapter, and any reserve or other payments required by the provisions of the resolution or other proceedings authorizing the issuance of the revenue bonds or certificates, is hereby given the right, power and authority, by nonemergency ordinance, to impose, levy and collect on all public utility services a tax to be paid by the purchaser of the services, the tax to be in addition and supplemental to any utilities services taxes and/or excise taxes heretofore authorized by the Charter of the city or by any special act by the state relating to the city or a general law of the state, now in effect or which might hereafter be authorized, for the payment of revenue bonds or certificates issued pursuant to this chapter, and to increase the rate of taxation now existing for those purposes, and to pledge the net proceeds of the additional utilities services taxes and/or excise taxes for the payment of the principal of and interest on any revenue bonds issued pursuant to this chapter, as provided in section 3-2-6(3).

(b) The powers provided for in this section shall be permissive and not mandatory, and the city may issue revenue bonds as provided in this chapter without exercising the powers provided in this section. In the event the city shall elect to exercise the powers provided in this section and pledge such utilities services taxes and/or excise taxes or any portion thereof for such revenue bonds or certificates as provided in section 3-2-6(3), then the limitations provided in section 3-2-9 shall apply.

(Laws of Fla. 1949, Ch. 26138, § 10)

Sec. 3-2-9. - Same—Excise taxes on utilities to continue until bonds or certificates are paid.

Notwithstanding any other law, general or special, now or hereafter enacted, the city shall not have the right to repeal or rescind any utility tax ordinance or resolution imposing excise taxes pledged to the payment of principal or interest on any of the special tax revenue certificates or bonds issued hereunder, and any such utility tax or excise tax shall automatically continue in force, until there shall be a sufficient sum of money on hand to pay the principal and interest on all outstanding bonds or certificates for which the taxes were pledged. Notwithstanding any other law, general or special, now or hereafter enacted, the city shall not have the right to reduce any of the rates or amounts of such municipal utilities taxes or excise taxes pledged to the payment of principal or interest of bonds or certificates, or grant exemptions from the payment of the taxes (except to the extent, within the limitations and in the manner that might be reserved in the resolution authorizing the bonds or certificates), as long as any bonds or certificates issued hereunder are outstanding and funds sufficient for payment of the principal and interest thereof are not on hand.

(Laws of Fla. 1949, Ch. 26138, § 6)

Sec. 3-2-10. - Same—Deemed to constitute legal investments.

Notwithstanding any provisions of any other law or laws to the contrary, all revenue bonds or certificates, including refunding revenue bonds or certificates, issued pursuant to this chapter, shall constitute legal investments for savings banks, banks, trust companies, executors, administrators, trustees, guardians and other fiduciaries, and for any board, body, agency or instrumentality of the state or of any county, municipality or other political subdivision of the state.

(Laws of Fla. 1949, Ch. 26138, § 11)

Sec. 3-2-11. - Special assessments.

(a) The city may levy or cause to be levied, to the extent and in the manner provided by law, special assessments against the premises, lands and real estate specially benefited by the construction or acquisition of repairs, extensions or improvements to the natural gas systems, public streets and thoroughfares and other utility systems, directly or indirectly, and regardless of whether or not the premises, lands and real estate abut upon the streets or lands upon which the natural gas systems or other utility systems or parts thereof are located or are repaired, extended or improved, provided the land is especially benefited. The special assessments shall be made, levied and collected in the mode and manner provided under the applicable laws of the state.

(b) The city may pledge the amounts collected from any special assessments levied pursuant to this section to the payment of the principal of and the interest on any revenue bonds or other obligations issued pursuant to this chapter. All collections of the special assessments pledged as provided herein shall be paid over to the appropriate fund or funds for revenues of the utility system for the construction, acquisition, extension, repair or improvement of which the special assessment was levied, and shall be deemed to be treated as other revenues derived from the system; provided, however, that no holder or holders of revenue bonds or other obligations issued pursuant to this chapter, and for which the proceeds from the special assessments have been pledged shall ever have the right to foreclose or require the foreclosure of the lien of any such special assessment upon any land, premises or real estate.

(Laws of Fla. 1949, Ch. 26138, § 9)

Sec. 3-2-11.1. - Proration of costs to be paid by city and abutting property owners specially benefiting from special assessment projects.

(a) Whenever the city council of the city chooses to construct an improvement in the City of Pensacola, the subject matter of which is proper for the levy of special assessments for the purpose of assessing property to be specially benefited by such improvements, and, whenever the city council chooses to use the front footage method of levying said special assessments, and provided that the city council has separately determined by resolution that the property owners to be assessed will be specially benefited by the proposed improvement, the method of prorating the costs of the improvement shall be as provided in subsection (b) hereof.

(b) Whenever a special assessment project is undertaken by the city council as indicated in subsection (a) hereof, the abutting property owners shall be assessed an amount of twenty (20) percent of the cost of the project as further defined by resolution at the time the project is implemented and the city shall pay sixty (60) percent of the cost of the improvements.

(c) The provisions of this section shall not preclude the city council from choosing a different lawful method of assessing costs of any improvement or of not using a special assessment program with regard to any particular improvement if the city council deems that to be in the best interest of the city.

(Ord. No. 44-85, §§ 1—3, 12-19-85)

Editor's note— Ord. No. 44-85, §§ 1—3, enacted Dec. 19, 1985, being not specifically amendatory of the Code, has been included herein as § 3-2-11.1, at the discretion of the editor.

Sec. 3-2-12. - Rates, fees, rentals and charges to produce revenues.

The council may prescribe and collect reasonable rates, fees, rentals or charges for the services and use of utility systems, public buildings, property and other facilities, and shall revise the rates, fees, rentals or charges from time to time whenever necessary. The rates, fees, rentals or charges prescribed shall be such as will produce revenues, together with any other pledged funds, at least sufficient:

(1) To provide for all expenses of operation and maintenance and renewal of such utility systems, including reserves therefor;

(2) To pay, when due, all revenue bonds or certificates and interest thereon for the payment of which the revenue is or shall have been pledged or encumbered, including reserves therefor; and

(3) To provide for any other funds which may be required under the resolution or resolutions authorizing the issuance of the revenue bonds or certificates pursuant to this chapter.

(Laws of Fla. 1949, Ch. 26138, § 5)

Sec. 3-2-13. - Revenues and obligations to be tax exempt.

So long as the city shall own and operate public utility systems, public buildings, properties and recreational facilities, all property of and all revenue derived therefrom, including all parts thereof heretofore or hereafter constructed or acquired, shall be exempt from all taxation by the state or by any county, municipality or any other political subdivision thereof. Revenue bonds or other obligations, including refunding revenue bonds, issued pursuant to this chapter, shall, together with the income therefrom, be exempt from all taxation by the state or any county, municipality or other political subdivision thereof.

(Laws of Fla. 1949, Ch. 26138, § 12)

CHAPTER 3-3. PURCHASING

ARTICLE I. - IN GENERAL

REPEAL SECTION 3-3-1.

Sec. 3-3-2. - Contracts for public work and purchases of other commodities and services; lowest and best responsible bidder; rejection of bids; approval of council and mayor; emergency purchases.

(a) Definitions.

(1) *Commodity* means any of the various supplies, materials, equipment, goods, merchandise and all other personal property purchased, leased or otherwise contracted for by the city.

(2) *Invitation to bid* means a written solicitation for sealed competitive bids with the title, date, and hour of the public bid opening designated and specifically defining the commodity, group of commodities or services for which bids are sought. It includes instructions prescribing all conditions for bidding and shall be distributed to all prospective bidders simultaneously. The invitation to bid is normally used when the city is capable of specifically defining the scope of work for which a contractual service is required or when the city is capable of establishing precise specifications defining the actual commodity or group of commodities required.

(3) *Request for proposals* means a written solicitation for sealed proposals with the title, date, and hour of the public opening designated. The request for proposals is normally used when it would be difficult for the city to specifically define the scope of work for which the commodity, group of commodities, or contractual service is required and when the city is requesting that a qualified vendor propose a commodity, group of commodities or contractual service to meet the needs of the city. A request for proposals should include, but is not limited to, general information, applicable laws and rules, functional or general specifications, statement of work, proposed instructions, and evaluation criteria. Requests for proposals should state the relative importance of price and any other evaluation criteria.

(b) Purchases of commodities and services. The purchase of commodities and services that have been specifically adopted in the annual budget within a program of a department, division, office or similar or appropriated by council may be contracted for or purchased by the mayor without further action of council. Subject to the authority granted in subsections (c) and (d), below, regarding tier one city certified small business enterprises, the purchase of or contracting for commodities or services in an amount exceeding twenty-five thousand dollars ($25,000.00), that has not been specifically adopted in the annual budget or appropriated by council, must be approved by council prior to purchase or contract. All contracts for commodities or services that exceed a term of three years shall be approved by the city council.

(c) Public works and improvements. Any public work or improvement may be executed either by contract, or by direct labor, as may be determined by the council; if the cost does not exceed twenty-five thousand dollars ($25,000.00), or does not exceed one-hundred thousand dollars ($100,000.00) if contracting with a tier one city certified small business enterprise (SBE), the mayor may make the determination. Before authorizing the direct execution of any work or improvement costing more than twenty-five thousand dollars ($25,000.00), or one hundred thousand dollars ($100,000.00) if contracting with a tier one city-certified small business enterprise (SBE), detailed plans and estimates shall be submitted to the council by the mayor unless the council does not require same. Contracts for public work in excess of twenty-five thousand dollars ($25,000.00), or one hundred thousand dollars ($100,000.00) if contracting with a tier one city-certified small business enterprise (SBE), shall be signed by the mayor after approval thereof by the city council. When the invitation to bid procedure is utilized, contracts for all such works or improvements at an estimated cost in excess of twenty-five thousand dollars ($25,000.00), or one-hundred thousand dollars ($100,000.00) if

contracting with a tier one city certified small business enterprise (SBE) or more shall be awarded to the lowest and best responsible bidder after such public advertisement and competition as may be prescribed by ordinance and there shall be a separate accounting for each work or improvement so executed. The mayor shall have the authority to reject all bids and advertise again. Contract advertisements shall contain a reservation of the foregoing right.

(d) The mayor has the authority to award all contracts for the purchase of commodities and services with a value not in excess of twenty-five thousand dollars ($25,000.00), or one-hundred thousand dollars ($100,000.00) if contracting with a tier one city certified small business enterprise (SBE) without competitive bids. Whenever the purchase of commodities or services with an estimated cost in excess of twenty-five thousand dollars ($25,000.00), or one-hundred thousand dollars ($100,000.00) if contracting with a tier one city certified small business enterprise (SBE) is contemplated by the city, the council shall reserve the option to utilize the invitation to bid procedure, request for proposals, informal quotes or to authorize the mayor to negotiate, depending upon which alternative is deemed by the council to be in the best interest of the city.

(e) The mayor shall have the authority to make emergency purchases for commodities and/or services without competitive bids under circumstances where the delay incident to giving opportunity for competitive bidding would be detrimental to the interest of the city; all such purchases shall be reported to the city council at its next regularly scheduled meeting.

(f) Nothing contained herein shall be construed to prevent the city from purchasing commodities and/or services under the provisions of state purchasing contracts pursuant to F.S. § 287.042(2), as the same may be amended from time to time, from vendors at federal contract prices, and from any vendor so long as purchases are at or below listed state/federal contract price; from contracts of other municipal governments or other governmental agencies or political subdivisions providing the vendor extends the same terms and conditions of the contract to the city; or from purchasing specialized items from sole source vendors without competitive bids.

(g) The mayor is hereby authorized to enter into any contract for services or make purchases of commodities that do not exceed twenty-five thousand dollars ($25,000.00), or one-hundred thousand dollars ($100,000.00) if contracting with a tier one city certified small business enterprise (SBE), in any twelve-month period. The twelve-month period limitation applies to the purchase of commodities or services from a single vendor for the same project.

(h) All purchases are subject to availability of funds in the city's budget.

(Laws of Fla. 1931, Ch. 15425, § 40; Laws of Fla. 1955, Ch. 31162, § 1; Laws of Fla., Ch. 73-591; Ord. No. 33-81, § 1, 8-13-81; Ord. No. 48-87, § 1, 11-19-87; Ord. No. 53-90, § 1, 10-19-90; Ord. No. 34-96, § 1, 8-8-96; Ord. No. 31-97, § 1, 9-11-97; Ord. No. 02-06, § 1, 1-12-06; Ord. No. 09-09, § 1, 4-9-09; Ord. No. 09-10, § 1, 4-8-10; Ord. No. 16-10, § 36, 9-9-10; Ord. No. 18-14, § 1, 4-24-14; Ord. No. 19-14, § 1, 5-8-14)

Cross reference— Public works and improvements, Ch. 3-2.

Sec. 3-3-3. - Contractual liability.

No liability shall be enforceable against the city upon any contract not supported by previous appropriation, nor shall the city be liable for any service, material or supplies furnished to the city or any department, office or division thereof, the financial requirements of which are to be met out of the proceeds of taxes or of any other funds controlled by the council, unless the council shall previously have made the appropriation therefor. In the event that contracts are made to extend over a period longer than one year and are to be met from current receipts of the city, it shall be lawful for the council to make appropriations sufficient to answer the requirements of any such contracts for only one (1) year, and the contract shall be legal and binding upon the city notwithstanding no appropriation has been made for the ensuing years over which it is to be operative, and it shall be the duty of the council to make

appropriations from year to year as required for the purpose of the contracts. The obligations of the city under the contracts shall not be considered to be part of the indebtedness of the city. The continuing contracts shall not be legal unless authorized by a vote of eight (8) members of the council.

(Laws of Fla. 1931, Ch. 15425, § 42)

Sec. 3-3-4. - Small business enterprise program.

(1) *Small business enterprise (SBE) policy.* The policy of the city is to create economic opportunities for certified local area small business enterprises (hereinafter referred to as "SBE") by establishing a program providing for the encouragement of such enterprises to compete for contracts and subcontracts for goods, services, and construction purchased by and for the city. This policy is to be implemented in conjunction with section 3-3-1 of the Code and with the purchasing policy and procedures manual, without sacrificing cost effectiveness based on the lowest and best responsible bidder criteria. It is further the policy of the city, to ensure that all segments of the community, including minority-owned and women-owned business establishments, have an effective opportunity to participate in the city's purchasing program. In furtherance of this goal, the city's policy is to require necessary information from prospective contractors and suppliers of goods and services regarding their minority-owned or women-owned status and that of any subcontractors involved in bids on city business.

(2) *Mayor authority.* The mayor is hereby authorized to establish a program for the purchasing and contracting activities of the city, directed toward providing economic opportunities to local area certified small business enterprises where practical and feasible. The program which is authorized by this section shall include the following elements:

(a) Definitions:

1. *Tier one (1) small business* means an independently owned and operated business concern which employs fifteen (15) or fewer permanent full-time employees, and which has a net worth of not more than one million dollars ($1,000,000.00). As applicable to sole-proprietorships, the one million dollars ($1,000,000.00) net worth shall include both personal and business investments. Goods and services provided by tier one (1) small businesses may be purchased under the mayor's spending authority up to one hundred thousand dollars ($100,000.00).

2. *Tier two (2) small business* means an independently owned and operated business concern which employs fifty (50) or fewer permanent full-time employees, and which has a net worth of not more than one million dollars ($1,000,000.00). As applicable to sole-proprietorships, the one million dollars ($1,000,000.00) net worth shall include both personal and business investments.

3. *Certified small business enterprise* means a business that has been certified by the City of Pensacola, the Florida Department of General Services, or another governmental agency to be a certified small business enterprise.

4. *Small business joint venture* is a joint business association of small businesses and non small business firms. The small business firms shall receive a share of contract dollars proportionate to the percentage participation it represents in the joint venture.

5. *Purchasing policy* are those rules and procedures adopted by the city which govern, without exception, all purchases made by and for the city.

6. *Local area* means that geographic area within the boundaries of Escambia County and Santa Rosa County, Florida.

7. Participation goal is the percentage goal as determined by the contract coordinator for a specific project based on review of specifications and available certified SBE firms.

(b) Reserved.

(c) The program to be developed and implemented by the mayor may have applicability to all purchasing and contracting, including, but not limited to, formal bidding, competitive bidding, and direct purchases by the city.

(d) In the development and implementation of this program, the mayor may review all feasible sources of small business enterprise participation in city contracting and purchasing programs and to develop a pool of available concerns to be utilized. The mayor mayalso be authorized to evaluate each contracting and purchasing opportunity and to establish a participation goal utilizing available small business enterprises to be required of all potential bidders, contractors, or suppliers. In evaluating competitive bids, the mayor maymake a determination and so recommend to council regarding whether or not a bidder has either met the established participation goal or has demonstrated good faith efforts towards meeting such goal. In the event that a bidder is determined by city council, upon the recommendation of the mayor to not have met an established participation goal and not have evidenced sufficient good faith efforts towards meeting such goal, the city council may determine that such bid was nonresponsive.

(e) The mayor may require prospective bidders or contractors to supply such information as the mayor may require pertaining to the minority-owned or women-owned status of the bidder or contractor, or of any subcontractor involved in the project. This information may be collected and monitored by the mayor for purposes of determining the extent of participation by such firms in the city's contracting program.

(3) *Quarterly reports.* The mayor shall provide the city council with quarterly reports describing the operation and effectiveness of the small business enterprise program. The reports submitted by the mayor shall include information regarding the rates of participation by minority-owned and women-owned enterprises in the city's contracting program.

(Ord. No. 14-88, § 1, 4-28-88; Ord. No. 4-89, §§ 1, 2, 1-26-89; Ord. No. 61-89, §§ 1, 2, 12-7-89; Ord. No. 28-99, § 1, 7-22-99; Ord. No. 29-02, § 1, 9-26-02; Ord. No. 13-09, § 1, 4-23-09; Ord. No. 09-10, § 1, 4-8-10; Ord. No. 16-10, § 37, 9-9-10; Ord. No. 14-14, § 1, 4-10-14)

Sec. 3-3-5. - Advertisements.

All advertisements for bids relative to contracts for public work or improvement, prescribed in section 3-3-2, and all other advertisements for bids relative to contracts for the purchase of materials and supplies, which are required by law to be published, shall be published once a week for two (2) weeks in a newspaper published in the city which meets the requirements of F.S. § 50.031.

(Ord. No. 17-98, § 5, 5-28-98)

Sec. 3-3-6. - Prohibited conduct by bidders.

(a) Prohibited conduct. Upon the publication of any solicitation for sealed bids, requests for proposals, requests for qualifications, or other solicitation of interest or invitation to negotiate by any authorized representative of the City of Pensacola, any party interested in submitting a bid, proposal, or other response reflecting an interest in participating in the purchasing or contracting process shall be prohibited from engaging in any communication pertaining to formal solicitations with a member of the Pensacola City Council or any member of a selection/evaluation committee for RFQs, whether directly or indirectly or through any representative or agent, whether in person, by mail, by facsimile, by telephone, by electronic communications device, or by any other means of communication, until such time as the city council or member of a selection/evaluation committee has completed all action with respect to the solicitation. Any member of council or committee receiving a communication prohibited by this section shall be obligated to disclose such communication to the entire city council prior to council taking any action with respect to the solicitation.

(b) Sanctions. The city council may impose any one (1) or more of the following sanctions upon a bidder or proposer for a violation of the policy set forth in this section:

(i) Rejection or disqualification of the submittal;

(ii) Termination of any contract with the City of Pensacola; or

(iii) Suspension or debarment from future participation in contracting opportunities with the City of Pensacola for a period of time to be determined by council, not to exceed five (5) years in length.

With respect to the sanctions of termination of contracts, or suspension or debarment, council shall provide an opportunity for a hearing before council prior to the imposition of such sanction, and the decision of council following such hearing shall be final subject only to judicial review within thirty (30) days by petition for writ of certiorari.

(c) The mayor may designate the appropriate contracting official who shall be charged with the responsibility of including information pertaining to this policy to all prospective bidders or proposers.

(Ord. No. 12-10, § 1, 5-13-10; Ord. No. 16-10, § 38, 9-9-10)

Sec. 3-3-7. - Purpose and scope.

The purpose of this section, consistent with the legislative findings stated below, is to enable the city, through the purchasing manager, to undertake specific activities to prevent disparate treatment and its effects against business enterprises who have been certified as MBEs ("MBEs") or WBEs ("WBEs"). The mayor is hereby expressly delegated the necessary powers to effectuate the purpose of this section.

(Ord. No. 04-15, § 1, 2-12-15)

Sec. 3-3-8. - Findings.

The City Council of Pensacola, after considering:

(1) The Report prepared by MGT of America entitled, "Comprehensive Disparity Study for the City of Pensacola, 2012" ("MGT Study") which found evidence of disparities between availability and utilization of woman- and minority-owned business enterprises and in the private sector as well as;

(2) Anecdotal evidence of disparate treatment against MBEs and WBEs by prime contractors.

(3) Hereby adopts the following findings as a strong basis in evidence supporting a narrowly tailored, remedial program in City procurement.

There exists a prima facie evidence showing that WBEs, and MBEs owned by African-Americans, Hispanics, Asian-Americans, Native Americans and Women, who have done business or attempted to do business in the private and public industries within the city and the Pensacola metropolitan area, have suffered and continue to suffer from disparate treatment by prime contractors. This disparate treatment has existed in private sector industry contracting in such work areas in which the city has been a passive participant. Because of such disparate treatment, such WBEs and MBEs have lacked equal opportunity to participate in such contracts. Such disparate treatment has prevented WBEs and MBEs from participating both in the city's contracting opportunities and in the private sector at a level which would have existed absent such disparate treatment.

The city seeks to provide a level playing field and equal access for all prime contractors and subcontractors to participate in city procurement. The city also desires to reaffirm its commitment to full and fair opportunities for all firms to participate in its contracts.

The MGT Study made recommendations for a Minority- and Women-owned business program for city procurement, emphasizing the establishment of project-specific goals, implementation of race- and gender-neutral measures, and enhancements to data gathering.

Goals program. The city, therefore, finds and declares that it has a compelling governmental interest in prohibiting, preventing, and eliminating race and gender disparate treatment and its effects in city contracts, and for this purpose, adopts the specific program of good-faith efforts goals as set forth in this section 3-3-8. This program will be carefully structured to take into consideration factors such as present availability of such WBEs and MBEs to perform work on such city contracts, and to take into consideration statistical and anecdotal evidence of disparate treatment. The program is to be narrowly tailored to prevent and eliminate disparate treatment and its effects against such MBEs and WBEs with a minimum of burden on other contractors, including:

The program does not impose a quota, set-aside, sheltered market or bid preference, never excludes any party, including nonminority- and non-woman-owned business enterprises, from competing for any contract, and never denies contracts for failure to meet project goals, if non-disparate treatment is demonstrated by a showing of a good-faith attempt to comply with project goals established therein. The program provides for graduation from the program of MBEs and WBEs whose size indicates that they have had the opportunity to overcome the effects of disparate treatment.

Definitions.

- **Certification.** An application procedure completed by a business enterprise to participate as a small, minority, or woman business enterprise under the M/WBE Program.

- **Certified Business Enterprise.** A small, minority, or women-owned business enterprise that has been certified by the city and/or certifying agencies approved by the city.

- **Minority individual.** An individual who is a citizen of the United States or a legal resident alien and who satisfies one or more of the following definitions as defined by the United States (U.S.) Census Bureau:

    A) **African Americans:** U.S. citizens or lawfully admitted permanent residents having an origin in any of the black racial groups of Africa.

    B) **Hispanic Americans:** U.S. citizens or lawfully admitted permanent residents of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese cultures or origins regardless of race.

    C) **Asian Americans:** U.S. citizens or lawfully admitted permanent residents who originate from the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

    D) **Native Americans:** U.S. citizens or lawfully admitted permanent residents who originate from any of the original peoples of North America and who maintain cultural identification through tribal affiliation or community recognition.

    E) **Women:** U.S. citizens or lawfully admitted permanent residents who are non-Hispanic white females. Minority women were included in their respective minority category.

    F) **Disadvantaged Individual.** An individual defined as disadvantaged for purposes of the federal disadvantaged business enterprise program (DBE) contained in 49 CFR Part 26.

- **Minority-owned Business.** A business located in the Pensacola Regional Area, that is at least fifty-one (51) percent owned by one or more minority individuals who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least fifty-one (51) percent of the equity ownership interest in the corporation,

partnership, or limited liability company or other entity is owned by one or more minority individuals who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more minority individuals.

• **Pensacola Regional Area.** The market area of four Florida counties: Escambia, Santa Rosa, Okaloosa, and Walton as well as Mobile, Alabama.

• **Proposal.** A response to a request for proposal, request for information, request for qualifications, or city-requested informal quote.

• **M/WBE.** A certified minority and woman business enterprise, as defined herein, located in the Pensacola Regional Area.

(Ord. No. 04-15, § 1, 2-12-15)

Sec. 3-3-9. - Rules and regulations; informal guidelines.

The mayor shall have the power and authority to each adopt rules and regulations and/or informal guidelines to effectuate the purpose and operation of this section, including by way of example, but not by way of limitation, the determination of qualification of a business enterprise; the determination of good-faith criteria and efforts with respect to the meeting of contract goals; the determination of informal procurement procedures involving notification of MBEs and WBEs; the procedures, methods and criteria of certification and decertification of MBEs and WBEs; and graduation size standards and other criteria.

(Ord. No. 04-15, § 1, 2-12-15)

Sec. 3-3-10. - Contracts excepted from this article.

In the case of a contract hereunder for which a part of the contract price is to be paid with funds from the United States Government or the State of Florida and for which the United States Government or the State of Florida has made applicable to such contract requirements, terms or conditions which are inconsistent with the terms of this section, the provisions of this section shall not apply to such contract to the extent of such inconsistency.

(Ord. No. 04-15, § 1, 2-12-15)

Sec. 3-3-11. - Program review and sunset.

(1) The city council shall hear annual reports from the mayor detailing the city's performance under the program.

(2) The city council will review these reports, including the annual participation goals and the city's progress towards meeting those goals and eliminating disparate treatment in its contracting activities and marketplace.

(3) Within five (5) years after the effective date of this ordinance, the city will review the operation of the program and the evidentiary basis for the program in order to determine whether the city has a continuing compelling interest in remedying disparate treatment against MBEs and WBEs in its marketplace, and the permissible scope of any narrowly tailored remedies to redress disparate treatment against MBEs or WBEs.

(4) This subdivision shall sunset on or before March 1, 2025.

(Ord. No. 04-15, § 1, 2-12-15; Ord. No. 02-20, § 1, 2-13-20)

Sec. 3-3-12. - Purpose and scope of program.

The purpose of this section is to enable the city, through the mayor, to undertake specific activities to encourage Veteran-owned business participation in the city procurement program. The mayor is hereby expressly delegated the necessary powers to effectuate the purpose of this section.

(Ord. No. 09-15, § 1, 4-9-15)

Sec. 3-3-13. - Veterans business enterprise program.

(1) Veterans business enterprise is defined s a business that (i) has been certified by the State Department of Management Services to be a certified veterans business enterprise as set forth in F.S. § 295.187; and (ii) has a principal place of business in Escambia or Santa Rosa County.

(2) A business which wishes to obtain a veterans business enterprise preference on a procurement must be certified by the State Department of Management as a certified veterans business no later than the date of submittal of its bid, proposal, quote or qualification statement. Proof of certification is required.

(3) For solicitations by competitive sealed bidding and requests for quotation, the following bid preference scale shall apply to a responsive bid submitted by a responsible veterans business enterprise, provided its bid does not exceed the lowest responsive and responsible bid by more than the following:

   (a) Fifteen (15) percent on bids up to one thousand five hundred dollars ($1,500.00);

   (b) Ten (10) percent on bids from one thousand five hundred dollars and one cent ($1,500.01) to nineteen thousand nine hundred ninety-nine dollars and ninety-nine cents ($19,999.99);

   (c) Nine (9) percent on bids from twenty thousand dollars ($20,000.00) to thirty-nine thousand nine hundred ninety-nine dollars and ninety-nine cents ($39,999.99);

   (d) Eight (8) percent on bids from forty thousand dollars ($40,000.00) to fifty-nine thousand nine hundred ninety-nine dollars and ninety-nine cents ($59,999.99);

   (e) Seven (7) percent on bids from sixty thousand dollars ($60,000.00) to seventy-nine thousand nine hundred ninety-nine dollars and ninety-nine cents ($79,999.99)

   (f) Six (6) percent on bids from eighty thousand dollars ($80,000.00) to ninety-nine thousand nine hundred ninety-nine dollars and ninety-nine cents ($99,999.99);

   (g) Five (5) percent on bids from one hundred thousand dollars ($100,000.00) to one hundred forty-nine thousand nine hundred ninety-nine dollars and ninety-nine cents ($149,999.99);

   (h) Four (4) percent on bids from one hundred fifty thousand dollars ($150,000.00) to two hundred forty-nine thousand nine hundred ninety-nine dollars and ninety-nine cents ($249,999.99);

   (i) Three (3) percent on bids from two hundred fifty thousand dollars ($250,000.00) to four hundred ninety-nine thousand nine hundred ninety-nine dollars and ninety-nine cents ($499,999.99);

   (j) Two (2) percent on bids from five hundred thousand dollars ($500,000.00) to nine hundred ninety-nine thousand nine hundred ninety-nine dollars and ninety-nine cents ($999,999.99); and

   (k) One (1) percent on bids for one million dollars ($1,000,000.00) or more.

Notwithstanding the foregoing, this bid preference shall not apply if the lowest responsive and responsible bid was submitted by another veterans business enterprise, a minority business enterprise or a woman business enterprise.

(4) For procurement by competitive sealed proposals and requests for qualifications, participation by veterans business enterprises will receive two (2) percent of the points in the scoring as provided in the solicitation. A business which is both a veterans business enterprise and a minority business enterprise or a woman business enterprise will receive a scoring credit for either its status as a veterans business enterprise or as a minority business enterprise or woman business enterprise, but not both as provided in the solicitation.

(5) The veterans business enterprise preference shall not apply to procurements where prohibited by law or disallowed by the terms (i) of any grant or (ii) agreement with the state or federal government.

(6) The veterans business enterprise preference shall apply to solicitations issued by the city after the adoption of this ordinance.

(Ord. No. 09-15, § 1, 4-9-15)

Secs. 3-3-14, 3-3-15. - Reserved.

ARTICLE II. - STOCK ACCOUNTS

REPEAL SECTION 3-3-16.

REPEAL SECTION 3-3-17.

REPEAL SECTION 3-3-18

REPEAL SECTION 3-3-19.

Secs. 3-3-20—3-3-24. - Reserved.

REPEAL SECTION 3-3-26.

Secs. 3-3-27—3-3-29. - Reserved.

ARTICLE IV. - PUBLIC-PRIVATE PARTNERSHIPS (P3)

Sec. 3-3-30. - Purpose and scope; applicability.

(a) This article creates a uniform process for private entities and the city to engage in a public-private partnership (P3) consistent with the provisions of F.S. section 255.065, as that statute may be amended from time to time.

(b) When considering a public project, the city may elect to (1) follow this P3 process if consistent with applicable state statutes, (2) follow any other legally available project delivery process, or (3) not pursue the project.

(c) The procurement of P3 agreements by the city shall be governed by the provisions of this article. Requirements of other sections or articles of this chapter 3-3, including but not limited to section 3-3-4, section 3-3-10, and section 3-3-13, shall not apply to procurements under this article unless such requirement is expressly included or incorporated by reference in the procurement documents. The city shall ensure that generally accepted business practices for exemptions provided by this article are part of the procurement process or are included in the P3 agreement.

(d) The city may develop and maintain a separate P3 policy containing more detailed procedures and requirements for entering into P3 agreements, consistent with this article.

(e) When the city procures stand-alone professional services, as defined in the Consultants' Competitive Negotiation Act, F.S. section 287.055, or when it procures professional services in the context of a design-build project, the city will not follow the P3 process, but will instead continue to comply with the provisions of F.S. section 287.055.

(Ord. No. 20-15, § 1, 11-12-15)

Sec. 3-3-31. - Definitions.

City means the City of Pensacola, Florida.

Conceptual proposal means an unsolicited proposal that includes conceptual information sufficient for the city to determine whether the proposed ideas are attractive enough to justify investment of city resources to undertake a process that may lead to formation of a contract to implement the ideas.

Detailed proposal means a proposal (solicited or unsolicited) that contains detail beyond a conceptual level sufficient for the city to compare the proposal competitively to others.

P3 means a public-private partnership, which is an agreement between the city and a private entity that allows for greater private sector participation in the delivery of a city qualifying project.

P3 Statute means the provisions of F.S. section 255.065, as that statute may be altered or amended from time to time.*Private entity* means any natural person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, nonprofit entity, or other private business entity.

Proposal review fee means a five thousand dollar ($5,000.00) fee required of a private entity submitting a conceptual proposal, a twenty-five thousand dollar ($25,000.00) fee required of a private entity submitting a detailed unsolicited proposal, or a twenty-five thousand dollar ($25,000.00) fee required of a private entity submitting a detailed proposal that competes with an unsolicited proposal. All proposal review fees are non-refundable.

Qualifying project means a facility or project that serves a public purpose, or a facility or infrastructure that is used or will be used by the public or in support of a public purpose or activity, as defined in F.S. section 255.065.

Solicitation means a city-initiated procurement process seeking offers (bids, proposals, or otherwise) for city projects, which may include processes authorized by chapter 3-3 of the Code of the City of Pensacola, (2) F.S. §§ 255.20 or 287.055, or (3) any other law or the city's home rule powers.

Unsolicited proposal means a conceptual proposal or a detailed proposal that a private entity submits to the city on its own initiative, and not in response to a solicitation.

(Ord. No. 20-15, § 1, 11-12-15)

Sec. 3-3-32. - Conceptual proposal.

(a) A private entity may submit a conceptual proposal to the city to gauge the city's potential interest in pursuing the proposed project as a P3. A conceptual proposal is not required. A private entity may forego submitting a conceptual proposal and submit an unsolicited detailed proposal.

(b) A private entity must tender a non-refundable proposal review fee of five thousand dollars ($5,000.00) with its conceptual proposal. The city will not review a conceptual proposal that is not accompanied by the payment of this fee. The city purchasing may engage the services of private consultants to assist in the review of a conceptual proposal.

(c) A conceptual proposal must contain information sufficient to inform the city about (1) the overall character of the proposed qualifying project, (2) the general experience of the private entity, and (3) the general strategies to ensure successful project delivery.

(d) Within fifteen (15) business days after receipt of the conceptual proposal, the city will either (1) summarily reject the conceptual proposal or (2) accept the conceptual proposal for substantive review and notify the private entity of the anticipated time required for the city to complete the review of the conceptual proposal.

(e) If the city decides to accept the conceptual proposal for substantive review, the city will preliminarily assess whether: (1) the proposed project is a qualifying project; (2) the proposed project delivery model offers advantages over traditional models such as lower cost, shorter schedule, or increased investment.; (3) the proposed project is reasonably likely to satisfy the criteria established by F.S. section 255.065.

(f) Upon completion of review of the conceptual proposal, the city will notify the private entity in writing of its position regarding the proposed project. The city may:

(1) Decide not to pursue the proposed project;

(2) Decide to pursue the proposed project, or a similar project, using other procurement methods (in which, if open to private companies, the private entity may compete if otherwise qualified); or

(3) Decide to continue considering the proposed project and request the private entity to submit a detailed proposal (which request shall not constitute a formal solicitation).

(g) The city disposition of a conceptual proposal does not limit its discretion or authority with respect to future projects, whether substantially similar or not, and whether solicited or unsolicited.

(Ord. No. 20-15, § 1, 11-12-15)

Sec. 3-3-33. - Detailed proposals (unsolicited).

(a) A private entity may submit an unsolicited detailed proposal to the city, to initiate its consideration of whether to deem the proposed project as a qualifying project and whether to pursue it further. The city is not obligated to review, evaluate or pursue a project under the P3 Statute, even if the project satisfies the statutory definition of a qualifying project. The city may engage the services of private consultants to assist in the review and evaluation of a detailed proposal.

(b) A private entity must tender a proposal review fee of twenty-five thousand dollars ($25,000.00) with its detailed proposal, unless, in its sole determination, the private entity has already paid a fee for review of a substantially similar conceptual proposal, in which case the proposal review fee is twenty thousand dollars ($20,000.00). The city will not review a detailed proposal that is not accompanied by the payment of this fee. The proposal review fee is non-refundable.

(c) A detailed proposal must contain information sufficient to inform the city about: the detailed quality and character of the proposed qualifying project; the detailed experience and capacity of the private entity; and the detailed financial and implementation strategies to ensure successful project delivery. This information should include the following:

(1) A description of the private entity, including name, address, type of organization, and legal structure.

(2) Name and complete contact information of the primary point of contact for the detailed proposal.

(3) Names and experience of proposed key project personnel.

(4) Type of support needed, if any, from the city such as facilities, equipment, materials, personnel, or financial resources.

(5) Identification of any proprietary data used and the manner in which it is used.

(6) Identification of any outside entities or professionals the private entity has or intends to consult with respect to the project.

(7) The names of any other federal, state, or local agencies receiving the same proposal.

(8) A complete discussion of the objective of the project, the method of approach, the nature of the anticipated results, and the characteristics that make it a qualifying project worthy of pursuit by the city.

(9) A detailed overview of the proposed business arrangements, including the plan for the development, financing, and operation of the project.

(10) A preliminary project schedule, including anticipated initiation and completion dates.

(11) A detailed financial analysis of the proposed project.

(d) Within ninety (90) business days after receipt of the detailed proposal, the city will notify the private entity in writing of its decision either to reject the detailed proposal or to accept the detailed proposal for competitive review. During this period, the city may meet with the private entity to gain a deeper understanding of the detailed proposal, and the city may request that the private entity submit additional information. The city reserves the right to request the private entity pay the costs of any additional fees required by the city for in-depth review of a particular proposal as necessary. These meetings will be preliminary in nature, and will not include or constitute substantive negotiation of agreement terms. In considering whether to accept the detailed proposal for competitive review, the city will assess whether: (1) the proposed project is a qualifying project; (2) the proposed project delivery model offers advantages over traditional models such as lower cost, shorter schedule, or increased investment; and (3) the proposed project is reasonably likely to satisfy the criteria established by the F.S. section 255.065. The city may determine that it requires more than ninety (90) days to complete its review of the detailed proposal and this assessment, in which case it will notify the private entity in writing of how much time will be required.

(e) An unsolicited proposal, whether conceptual or detailed, and regardless of proposal review fee, may be rejected by the city at any time. The city has complete discretion and authority to reject any unsolicited proposal it receives.

(f) If the city decides to accept an unsolicited proposal for competitive review, it will provide written notice of its decision, and a copy of the unsolicited proposal, to affected local jurisdictions in accordance with F.S. section 255.065(7).

(g) In the event that the city decides to accept an unsolicited proposal for competitive review, the city shall publish notice in the Florida Administrative Register and in a newspaper of general circulation within the city at least once a week for two (2) consecutive weeks, stating that the city has received a proposal and will accept other proposals for the same project. The timeframe within which the city may accept competing proposals shall be determined on a project-by-project basis, based upon the complexity of the project and the public benefit to be gained by allowing longer or shorter time within which competitive proposals may be received; however, the timeframe for allowing competing proposals must be at least twenty-one (21) days, but no more than one hundred twenty (120) days, after the initial date of publication.

(h) Each competing proposal shall be accompanied by a twenty-five thousand dollars ($25,000.00) proposal review fee. The city will not review a competing proposal that is not accompanied by the payment of this fee. The proposal review fee is non-refundable.

(Ord. No. 20-15, § 1, 11-12-15)

Sec. 3-3-34. - Solicited detailed proposals.

(a) The city purchasing may on its own initiative determine to issue a solicitation inviting private entities to submit detailed proposals for any opportunity that the city has identified as a qualifying project.

(b) Any solicitation that the city issues under the authority of F.S. section 255.065 will reference that statute and the city shall publish notice in the Florida Administrative Register and in a newspaper of general circulation within the city at least once a week for two (2) consecutive weeks, stating that the city requests proposals for a qualifying project. The timeframe within which the city may accept

competing proposals shall be determined on a project-by-project basis, based upon the complexity of the project and the public benefit to be gained by allowing longer or shorter time within which competitive proposals may be received; however, the timeframe for allowing competing proposals must be at least twenty-one (21) days, but no more than one hundred twenty (120) days, after the initial date of publication. In addition to the foregoing, the city may further solicit proposals via other media or website posting as desired by city purchasing. Each competing proposal shall be accompanied by a twenty-five thousand dollars ($25,000.00) proposal review fee. The city will not review a competing proposal that is not accompanied by the payment of this fee. The proposal review fee is non-refundable.

(c) The city is not obligated to proceed under the P3 Statute when soliciting proposals, and may follow any legally available procurement process, regardless of whether the project qualifies as a qualifying project and regardless of whether the ultimate transaction may be characterized as a P3.

(Ord. No. 20-15, § 1, 11-12-15)

Sec. 3-3-35. - Competitive review of detailed proposals.

(a) Whether received in response to a solicitation pursuant to F.S. section 255.065, or in response to notice published for competing proposals to an unsolicited proposal, within fifteen (15) business, days after the receipt of all competing detailed proposals, the city will begin evaluation of responses.

(b) The city may rely on subject matter experts, including private consultants and other professionals, and staff for information gathering and administrative work.

(c) The city will initially review the detailed proposals and determine whether to allow for oral discussions or presentations for the purpose of gaining deeper understanding of the detailed proposals. The city is not required to allow oral presentations. Any oral discussion or presentations will be limited to reviewing and discussing information contained in the detailed proposals, and will not include or constitute substantive negotiations related to any detailed proposal or the qualifying project.

(d) The city will rank the detailed proposals in order of preference. The city may use any reasonable method to rank the detailed proposals, and is not required to numerically score them. In ranking the detailed proposals, the city may consider the private entity team members' professional qualifications and experience, the proposed general business terms, innovative project delivery terms (including finance, design, construction, maintenance, and operation, as applicable to the particular circumstance), and any other factors deemed pertinent.

(e) Following its ranking of detailed proposals, the city will commence negotiations with the private entity responsible for the top-ranked proposal. The city will then conduct negotiations in accordance with F.S. section 255.065.

(f) In the city's discretion, the city and the private entity may enter into an interim agreement as described in the F.S. section 255.065.

(g) The city and the private entity may enter into a comprehensive agreement as described provided by law. The city council is authorized to approve a comprehensive agreement only upon the recommendation of the mayor.

(h) In deciding whether to enter into a comprehensive agreement, the city council will consider and determine all reasonable factors, including but not limited to:

(1) Whether the proposed project is a qualifying project.

(2) Whether the qualifying project is in the public's best interest.

(3) Whether the qualifying project involves a facility that is owned by the city or for a facility for which ownership will be conveyed to the city.

(4) Whether the comprehensive agreement has adequate safeguards in place to ensure that additional costs or service disruptions are not imposed on the public in the event of material default by the private entity or cancellation of the qualifying project by the city.

(5) Whether the comprehensive agreement has adequate safeguards in place to ensure that the city or the private entity has the opportunity to add capacity to the qualifying project or other facilities serving similar predominantly public purposes.

(6) Whether the qualifying project will be owned by the city upon completion or termination of the project and payment of amounts financed.

(7) Whether there is a public need for or benefit derived from the qualifying project.

(8) Whether the estimated cost of the qualifying project is reasonable in relation to similar facilities.

(9) Whether the comprehensive agreement will result in the timely acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, or operation of the qualifying project.

(Ord. No. 20-15, § 1, 11-12-15)

Sec. 3-3-36. - Public records.

All proposals submitted as part of a Public-Private Partnership statutory initiative are subject to the Florida Public Records Law, contained in F.S. ch. 119. If the private entity believes that any information is exempt from the public records law, the private entity must expressly identify the statutory basis of the claimed exemption and segregate the exempt information.

(Ord. No. 20-15, § 1, 11-12-15)

Sec. 3-3-37. - Sovereign immunity.

Nothing in this article shall be deemed a waiver of the sovereign immunity of the city, or any officer or employee thereof with respect to participation in, or approval of, any part of a qualifying project or its operation, including but not limited to, interconnection of the qualifying project with any other infrastructure or project. The city possesses sovereign immunity with respect to the project, including, but not limited to its design, construction, and operation.

(Ord. No. 20-15, § 1, 11-12-15)

Sec. 3-3-38. - Expiration or termination of agreements.

Expiration or termination of comprehensive agreements shall be governed by the provisions of F.S. section 255.065, as that statute may be altered or amended from time to time.

(Ord. No. 20-15, § 1, 11-12-15)

CHAPTER 3-4. TAXATION[3]

Footnotes:

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Cross reference— Administration, Title II; occupational licenses, Ch. 7-2.

State Law reference— Municipal finance and taxation, § 166.201 et seq.; occupational license taxes, F.S. Ch. 205; taxation and finance, Ch. 192 et seq.

ARTICLE I. - IN GENERAL

REPEAL SECTION 3-4-1.

Secs. 3-4-2—3-4-15. - Reserved.

ARTICLE II. - TAXES[4]

Footnotes:

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Editor's note— The city continues to levy the admissions tax and gasoline tax as they are bonded.

Constitutional law reference— All forms of taxation other than ad valorem taxes are preempted to the state except as provided by general law, Fla. Const., § 1(a) of Art. VII.

Cross reference— Power of city to pledge excise taxes for the payment of certain revenue bonds or revenue certificates, § 2-1-1(5).

State Law reference— Admission taxes, F.S. § 212.22; occupational license taxes, F.S. § 205.013 et seq.; gasoline taxes, F.S. § 206.61.

DIVISION 1. - GENERALLY

Secs. 3-4-16—3-4-30. - Reserved.

DIVISION 2. - RESERVED[5]

Footnotes:

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Editor's note— Section 1 of Ord. No. 47-90, adopted Sept. 27, 1990, repealed former §§ 3-4-31—3-4-34, which were contained in Div. 2, "Admissions Tax." The repealed provisions derived from Code 1968, §§ 150-1—150-4.

Secs. 3-4-31—3-4-45. - Reserved.

DIVISION 3. - RESERVED[6]

Footnotes:

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Editor's note— Ord. No. 56-07, § 3, adopted Dec. 13, 2007, repealed div. 3, §§ 3-3-46—3-3-52, in its entirety. Formerly, said division pertained to gasoline tax as enacted by Code 1968, §§ 150-22—150-27.

Secs. 3-4-46—3-4-65. - Reserved.

DIVISION 4. - PUBLIC SERVICE TAX[7]

Footnotes:

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Editor's note— Ord. No. 30-87, § 1, adopted Aug. 27, 1987, repealed §§ 3-4-66—3-4-72 of Div. 4 and added §§ 3-4-66—3-4-75 to read as herein set forth. Prior to repeal, said sections pertained to similar subject matter and were derived from Code 1968, §§ 150-28—150-32.

State Law reference— Municipal public service tax, F.S. § 166.231.

Sec. 3-4-66. - Levy of tax on purchase of electricity, metered or bottled gas and water service.

(a) There is hereby levied by the city a tax on the purchase in the city of electricity, metered natural gas, liquefied petroleum gas either metered or bottled, manufactured gas either metered or bottled, and water. The tax is levied at the rate of ten (10) percent of the first ten thousand dollars ($10,000.00) purchased per month and at the rate of one-tenth (1/10) of one (1) percent of monthly purchases over ten thousand dollars ($10,000.00).

(b) The tax imposed by paragraph (a) shall not be applied against any fuel adjustment charge, and such charge shall be separately stated on each bill. The term "fuel adjustment charge" means all increases in the cost of utility services to the ultimate consumer resulting from an increase in the cost of fuel to the utility subsequent to October 1, 1973.

(Ord. No. 30-87, § 1, 8-27-87; Ord. No. 1-98, § 1, 1-29-98; Ord. No. 56-07, § 1, 12-13-07)

Editor's note— Section 5 of Ord. No. 56-07 provided for an effective date of July 1, 2008.

Sec. 3-4-66.5. - Reserved.

Editor's note— Ord. No. 56-07, § 3, adopted Dec. 13, 2007, repealed § 3-4-66.5 in its entirety. Formerly, said section pertained to tax on telecommunications service as enacted by Ord. No. 1-98, § 4, adopted Jan. 29, 1998.

Sec. 3-4-67. - Levy of tax on purchase of fuel oil.

There is hereby levied by the city on each and every purchase in the city of fuel oil a tax of four cents ($0.04) per gallon.

(Ord. No. 30-87, § 1, 8-27-87)

Sec. 3-4-68. - Collection by seller.

It shall be the duty of every seller to collect from the purchaser the tax levied in this division at the time of collecting the selling price charged in each transaction, and no less frequently than monthly, and to file a return and remit monthly on or before the twentieth (20th) day of each month to the city all the taxes levied and collected during the preceding calendar month. It shall be unlawful for any seller to collect the price of any sale in the city without at the same time collecting the tax unless such seller shall elect to assume and pay the tax without collecting the same from the purchaser.

(Ord. No. 30-87, § 1, 8-27-87; Ord. No. 1-98, § 2, 1-29-98; Ord. No. 41-98, § 1, 9-10-98)

Sec. 3-4-69. - Liability of seller for failure to collect.

Any seller failing to collect the tax levied in this division at the time of collecting the price of any sale, where the seller has not elected to assume and pay the tax, shall be liable to the city for the amount of the tax in like manner as if the same had been actually paid to the seller, and the mayor shall bring and cause to be brought all such suits and actions and take all such proceedings as may be necessary for the recovery of the tax.

(Ord. No. 30-87, § 1, 8-27-87; Ord. No. 16-10, § 42, 9-9-10)

Sec. 3-4-70. - Discontinuance of service.

If any purchaser shall fail, neglect or refuse to pay to the seller the seller's charge and the tax levied in this division and as hereby required on account of the sale for which the charge is made, or either, the seller shall have and is hereby invested with the right to immediately discontinue further service to the purchaser until the tax and the seller's bill has been paid in full.

(Ord. No. 30-87, § 1, 8-27-87)

Sec. 3-4-71. - Records; inspection; transcripts.

Each and every seller of a product or service taxable under this division, shall keep complete records showing all sales in the city. The records shall show the price charged upon each sale, the date thereof and the date of payment thereof, and shall at all reasonable times be open for inspection by the duly authorized agents of the city, who shall have authority to make such transcripts thereof as they may desire.

(Ord. No. 30-87, § 1, 8-27-87)

Sec. 3-4-72. - Computation of tax where seller collects at monthly periods.

In all cases where the seller collects the price thereof at monthly periods, the tax levied in this division may be computed on the aggregate amount of sales during such period; provided the amount of tax to be collected shall be the nearest whole cent to the amount computed.

(Ord. No. 30-87, § 1, 8-27-87; Ord. No. 35-87, § 1, 9-24-87; Ord. No. 46-89, § 1, 9-21-89; Ord. No. 44-91, § 1, 9-26-91; Ord. No. 56-07, § 2, 12-13-07)

Editor's note— Section 5 of Ord. No. 56-07 provided for an effective date of July 1, 2008.

Sec. 3-4-73. - Exemptions.

Purchases by the United States of America, the State of Florida and all counties, school districts, and municipalities of the state, and by public bodies exempted by law or court order, are exempt from the taxes levied in this division. The purchase of natural gas, manufactured gas, or fuel oil by a public or private utility, either for resale or for use as fuel in the generation of electricity, or the purchase of fuel oil or kerosene for use as an aircraft engine fuel or propellant or for use in internal combustion engines shall be exempt from taxation hereunder. Purchase by any recognized church in this state for use exclusively for church purposes are exempt from the taxes levied in this division.

(Ord. No. 30-87, § 1, 8-27-87; Ord. No. 1-98, § 3, 1-29-98)

Sec. 3-4-74. - Reserved.

Editor's note— Ord. No. 56-07, § 3, adopted Dec. 13, 2007, repealed § 3-4-74 in its entirety. Formerly, said section pertained to provisions relating to tax on purchase of local telephone service as enacted by Ord. No. 30-87, § 1, adopted Aug. 27, 1987.

Sec. 3-4-75. - Interest and penalties for late payments and late returns.

Any seller of electricity, metered or bottled gas (manufactured or natural), fuel oil, and water service failing to remit to the city on or before the twentieth (20th) day of each calendar month or quarter, as applicable, all such taxes levied and collected during the preceding tax period shall be liable for interest on the unpaid amount of tax at the rate of one (1) percent per month from the date the tax was due until paid. In addition, penalties will be assessed at a rate of five (5) percent per month of the delinquent tax, not to exceed a total penalty of twenty-five (25) percent, except that in no event will the penalty for failure to file a return be less than fifteen dollars ($15.00). In the case of a fraudulent return or a willful intent to evade payment of the tax, the seller making such fraudulent return or willfully attempting to evade payment of the tax, shall be liable for a specific penalty of one hundred (100) percent of the tax. Interest and penalties shall be computed on the net tax due after application of any overpayments. The interest and penalties shall accrue from the due date until the date such taxes are paid, provided, however, that the finance director may settle or compromise any interest due pursuant to this section as is reasonable under the circumstances.

(Ord. No. 41-98, § 2, 9-10-98)

Sec. 3-4-76. - Costs incurred in pursuit of tax or information as a result of a violation of any section of this division.

The city is entitled to and may assess against sellers not complying with any provision of this chapter, a fee based upon the actual costs incurred by the city in collecting the tax or information due.

(Ord. No. 41-98, § 3, 9-10-98)

Sec. 3-4-77. - Authority.

This division is adopted pursuant to authority granted by, and is subject to the provisions, conditions, limitations, and exemptions of F.S. §§ 166.231 through 166.234, which are incorporated herein and made a part hereof by reference.

(Ord. No. 30-87, § 1, 8-27-87; Ord. No. 41-98, § 4, 9-10-98)

Secs. 3-4-78—3-4-80. - Reserved.

DIVISION 5. - PROPERTY INSURANCE PREMIUM TAX[8]

Footnotes:

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State Law reference— Excise tax on property insurance authorized, F.S. § 175.101.

Sec. 3-4-81. - Levy; due date for payments; collection.

(a) Pursuant to the provisions of F.S. section 175.101, there is hereby assessed, levied and imposed on every insurance company, corporation or other insurer now engaged in or carrying on, or which shall

hereafter engage in or carry on, the business of property insurance as shown by the record of the State of Florida Department of Insurance an excise tax amounting to 1.85 percent of the gross amount of receipts of premiums from policy holders on all premiums collected on property insurance policies covering property within the corporate limits of the city. In the case of multiple peril policies with a single premium for both the property and casualty coverages in such policies, seventy (70) percent of such premiums shall be used as the basis for the 1.85 percent tax. The tax shall be in addition to any lawful license or excise tax now levied or imposed by the city.

(b) The excise tax imposed by this section shall be payable annually on the first day of March of each year hereafter and shall be collected by the state treasurer for account of the city from the companies, corporations and insurers as now required by the laws of the state.

(Code 1968, § 150-35; Ord. No. 30-89, § 1, 6-8-89)

Secs. 3-4-82—3-4-90. - Reserved.

ARTICLE III. - EXEMPTIONS

DIVISION 1. - HISTORIC PROPERTIES EXEMPTION

Sec. 3-4-91. - Exemptions for improvements to historic properties authorized.

A method is hereby created to allow ad valorem tax exemptions under s. 3, Art. VII of the State Constitution to historic properties if the owners are engaging in the restoration, rehabilitation, or renovation of such properties. The city council by ordinance or resolution may authorize the exemption from ad valorem taxation of up to 100 percent of the assessed value of all improvements to historic properties which result from the restoration, renovation, or rehabilitation of such properties. The exemption applies only to improvements to real property. In order for the property to qualify for the exemption, any such improvements must be made on or after the day this division is adopted and in accordance with the provisions of this division.

(Ord. No. 31-94, § 1, 9-8-94)

Sec. 3-4-92. - Taxes to which exemptions apply.

Exemptions shall apply only to taxes levied by the city, excluding levies for the downtown improvement board. The exemptions do not apply, however, to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution.

(Ord. No. 31-94, § 1, 9-8-94)

Sec. 3-4-93. - Duration of exemptions.

Any exemption granted remains in effect for up to ten years (as determined by the ordinance or resolution granting such exemption) with respect to any particular property, regardless of any change in the authority of the city to grant such exemptions or any change in ownership of the property. In order to retain the exemption, however, the historic character of the property, and improvements which qualified the property for an exemption, must be maintained over the period for which the exemption is granted. In the event that an exemption is granted for less than ten years, the city council may extend the term of the exemption provided that the total term shall not exceed ten years.

(Ord. No. 31-94, § 1, 9-8-94)

Sec. 3-4-94. - Property to which exemptions apply.

Property is qualified for an exemption under this division if:

(a) At the time the exemption is granted, the property:

(1) Is individually listed in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended; or

(2) Is a contributing property to a national-register-listed district; or

(3) Is designated as a historic property, or as a contributing property to a historic or preservation district, under the terms of the of the land development code or other ordinance of the city; and

(b) The preservation board has certified to the city that the property for which an exemption is requested satisfies paragraph (a).

(Ord. No. 31-94, § 1, 9-8-94)

Sec. 3-4-95. - Improvements which qualify for exemption.

In order for an improvement to a historic property to qualify the property for an exemption, the improvement must:

(a) Be consistent with the United States Secretary of Interior's Standards for Rehabilitation.

(b) Be determined by the preservation board to meet criteria established in subsections 3-4-96(b) and (c).

(c) Exceed five thousand dollars ($5,000.00) in actual expenditures on the project.

(Ord. No. 31-94, § 1, 9-8-94)

Sec. 3-4-96. - Application and review.

(a) Any person, firm, or corporation that desires an ad valorem tax exemption for the improvement of a historic property must, in the year the exemption is desired to take effect, file with the preservation board an application on a form prescribed by the Department of State. For properties located within a district subject to the jurisdiction of the city's architectural review board, applications should be filed and reviewed by the preservation board prior to the submittal of plans to the architectural review board. Applications are encouraged to be filed before the improvements are initiated and must be filed no later than March 1 next following the completion of construction of the improvements. The application must include the following information:

(1) The name of the property owner and the location of the historic property.

(2) A description of the improvements to real property for which an exemption is requested and the date of commencement of construction of such improvements.

(3) Proof, to the satisfaction of the preservation board, that the property that is to be rehabilitated or renovated is a historic property under this section.

(4) Proof, to the satisfaction of the preservation board, that the improvements to the property will be consistent with the United States Secretary of Interior's Standards for Rehabilitation and will be made in accordance with guidelines developed by the Department of State.

(5) Applications submitted for properties which have been individually designated as historic properties or landmarks shall include documentation substantiating such designation and describing the historic, archaeological or architectural features which provided the basis for

designation. Acceptable documentation shall include a copy of the designation report for the property and official correspondence notifying the property owner of designation.

(6) Other information deemed necessary by the preservation board.

(b) Upon receipt of the completed application and all required supporting materials, the preservation board shall conduct a review to determine:

(1) Whether the property for which an exemption is requested satisfies section 3-4-94.

(2) Whether the proposed improvements are consistent with the Secretary of Interior's Standards for Rehabilitating Historic Buildings (Revised 1990), U.S. Department of the Interior, National Park Service, which are incorporated herein by reference, and the criteria in this division, and

(3) For applications submitted under the provisions of section 3-4-100, whether the criteria of that section are met.

(c) The preservation board shall apply the recommended approaches to rehabilitation as set forth in the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings in evaluating the eligibility of improvements to the historic property. For improvements intended to protect or stabilize severely deteriorated historic properties or archaeological sites, the preservation board shall apply the following additional standards:

(1) Before applying protective measures which are generally of a temporary nature and imply future historic preservation work, an analysis of the actual or anticipated threats to the property shall be made.

(2) Protective measures shall safeguard the physical condition or environment of a property or archaeological site from further deterioration or damage caused by weather or other natural, animal or human intrusions.

(3) If any historic material or architectural features are removed, they shall be properly recorded and, if possible, stored for future study or reuse.

(4) Stabilization shall reestablish the structural stability of a property through the reinforcement of loadbearing members or by arresting material deterioration leading to structural failure. Stabilization shall also reestablish weather resistant conditions for a property.

(5) Stabilization shall be accomplished in such a manner that it detracts as little as possible form the property's appearance. When reinforcement is required to reestablish structural stability, such work shall be concealed wherever possible so as not to intrude upon or detract from the aesthetic and historical quality of the property, except where concealment would result in the alteration or destruction of historically significant material or spaces.

(d) On completion of the review of an application, the preservation board shall notify the applicant and the mayor in writing of the results of the review and shall make recommendations for correction of any planned work deemed to be inconsistent with the standards cited subsection (b)(2) of this section.

(e) Each review of an application conducted by the preservation board shall be completed within thirty (30) days following receipt of the completed application and all required supporting materials.

(Ord. No. 31-94, § 1, 9-8-94; Ord. No. 7-01, § 1, 1-25-01; Ord. No. 16-10, § 43, 9-9-10)

Sec. 3-4-97. - Request of review of completed work.

(a) Following completion of the improvements, the applicant shall submit to the preservation board, a request for review of completed work on a form prescribed by the Department of State. The applicant shall submit with such request documentation demonstrating that the actual expenditure on the improvements exceeded five thousand dollars ($5,000.00). Such documentation shall include paid

contractor's bills, cancelled checks or other information determined to be sufficient by the preservation board.

(b) Upon receipt of the request for review of completed work and all required supporting materials, the preservation board shall conduct a review to determine whether or not the completed improvements are in compliance with the work described in the approved preconstruction application, subsequent approved amendments, if any, and the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. The preservation board may inspect the completed work to verify such compliance.

(c) On completion of the review of a request for review of completed work, the preservation board shall recommend that the city council grant or deny the exemption. The recommendation, and the reasons therefor, shall be provided in writing to the applicant and to the local government.

(d) Each review of a request for review of completed work shall be completed within thirty (30) days following receipt of the completed request and all required supporting materials.

(Ord. No. 31-94, § 1, 9-8-94)

Sec. 3-4-98. - Approval of exemption.

A majority vote of the city council shall be required to approve an exemption. Such exemption shall take effect on the January 1 following substantial completion of the improvement. The city council shall include the following in the resolution or ordinance approving the exemption:

(a) The name of the owner and the address of the historic property for which the exemption is granted.

(b) The period of time for which the exemption will remain in effect and the expiration date of the exemption.

(c) A finding that the historic property meets the requirements of this division.

(Ord. No. 31-94, § 1, 9-8-94)

Sec. 3-4-99. - Covenant.

(a) A property owner qualifying for an exemption under this division and the city shall execute a historic preservation property tax exemption covenant, on a form approved by the Division of Historical Resources of the Department of State, requiring that the character of the property, and the qualifying improvements to the property, be maintained during the period that the exemption is granted. The covenant or agreement shall be binding on the current property owner, transferees, and their heirs, successors, or assigns. On or before the effective date of the exemption, the owner of the property shall have the covenant recorded with the deed for the property in the official records of Escambia County.

(b) The following conditions shall provide justification for removal of a property from eligibility for the property tax exemption provided under this division:

(1) The owner is in violation of the provisions of the historic preservation tax exemption covenant; or

(2) The property has been damaged by accidental or natural causes to the extent that the historic integrity of the features, materials, appearance, workmanship and environment, or archaeological integrity which made the property eligible for listing in the National Register or designation under the provisions of the local preservation ordinance have been lost or so damaged that restoration is not feasible.

(c) Violation of the covenant or agreement results in the property owner being subject to the payment of the differences between the total amount of taxes which would have been due in March in each of the previous years in which the covenant or agreement was in effect had the property not received the exemption and the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in F.S. § 212.12(3).

(Ord. No. 2378, § 1, 5-9-94)

Sec. 3-4-100. - Additional exemptions for historic properties open to the public.

(a) If an improvement qualifies a historic property for an exemption under this division, and the property is used for nonprofit or governmental purposes and is regularly and frequently open for the public's visitation, use, and benefit, and city council by ordinance or resolution may authorize the exemption from ad valorem taxation of up to one hundred (100) percent of the assessed value of the property, as improved, any provision of this division to the contrary notwithstanding, if all other provisions of this division are complied with; provided, however, that the assessed value of the improvement must be equal to at least fifty (50) percent of the total assessed value of the property as improved. The exemption applies only to real property to which improvements are made by or for the use of the existing owner. In order for the property to qualify for the exemption provided in this section, any such improvements must be made on or after the day the ordinance granting the exemption is adopted.

(b) For purposes of the exemption under this section, a property is being used for government or nonprofit purposes if the occupant or user of at least sixty-five (65) percent of the useable space of a historic building or of the upland component of an archaeological site is an agency of the federal, state or local government, or a nonprofit corporation whose articles of incorporation have been filed by the Department of State in accordance with F.S. § 617.0125.

(c) For purposes of the exemption under this section, a property is considered regularly and frequently open to the public if public access to the property is provided not less than fifty-two (52) days a year on an equitably spaced basis, and at other times by appointment. Nothing in this section shall prohibit the owner from charging a reasonable nondiscriminatory admission fee.

(Ord. No. 31-94, § 1, 9-8-94)

Sec. 3-4-101. - Report of property appraiser.

The city shall deliver a copy of each application for a historic preservation ad valorem tax exemption to the Property Appraiser of Escambia County. Upon certification of the assessment roll, or recertification, if applicable, pursuant to F.S. § 193.122, for each fiscal year during which this division is in effect, the property appraiser shall report the following information to the city council:

(a) The total taxable value of all property within the city for the current fiscal year.

(b) The total exempted value of all property in the city which has been approved to receive historic preservation ad valorem tax exemption for the current fiscal year.

(Ord. No. 31-94, § 1, 9-8-94)

Sec. 3-4-102. - Definitions.

(a) The words and phrases used in this division which are defined in Chapter 1A-38 of the Rules of the Department of State Division of Historical Resources shall have the same meanings as are set forth in said chapter except where the context clearly indicates a different meaning.

(b) Preservation board, as used in this division, shall mean the Historic Pensacola Preservation Board of Trustees of the Department of State. Provided, however, if the Department of State does not designate the preservation board to carry out the functions prescribed to the preservation board by this division, then preservation board shall mean the Division of Historical Resources of the Department of State.

(Ord. No. 31-94, § 1, 9-8-94)

Sec. 3-4-103. - Fees.

The city council may adopt uniform fees to recover the costs of processing applications for exemptions under this division.

(Ord. No. 2378, § 1, 5-9-94)

Secs. 3-4-104—3-4-110. - Reserved.

DIVISION 2. - SENIOR CITIZENS EXEMPTION

Sec. 3-4-111. - Authority.

This division is adopted pursuant to F.S. § 196.075, as amended, and Article VII, Section 6(d), of the Florida Constitution to allow an additional homestead tax exemption of up to fifty thousand dollars ($50,000.00) for any person who has legal or equitable title to real estate and maintains thereon the permanent residence of such owner, who has attained age sixty-five (65), and whose household income does not exceed the limits established by F.S. section 196.75 in accordance with the regulations established herein.

(Ord. No. 24-01, § 1, 11-15-01; Ord. No. 15-14, § 1, 4-24-14)

Sec. 3-4-112. - Definitions.

The words and phrases in this division shall have the meanings provided by F.S. § 196.075, as amended, except where the context clearly indicates a different meaning.

(Ord. No. 24-01, § 1, 11-15-01)

Sec. 3-4-113. - Additional homestead tax exemption for persons age sixty-five and older.

(a) In accordance with Section 6(d), Article VII of the Florida Constitution and F.S. § 196.075, as amended, the City Council hereby authorizes the following additional homestead tax exemptions:

(1) Commencing with the 2015 tax year and each year thereafter, an additional homestead tax exemption in the amount of fifty thousand dollars ($50,000.00) for any person who has legal or equitable title to real estate and maintains thereon the permanent residence of such owner, who has attained age sixty-five (65), and whose household income does not exceed the household income limitation.

(2) Commencing with the 2015 tax year and each year thereafter, an additional homestead tax exemption in the amount of the assessed value of the property for any person who has legal or equitable title to real estate with a just value less than two hundred fifty thousand dollars

($250,000.00) and maintains thereon the permanent residence of such owner for at least twenty-five (25) years, who has attained age sixty-five (65), and whose household income does not exceed the household income limitation).

(b) The income limitation shall be adjusted annually, on January 1, by the percentage change in the average cost-of-living index in the period January 1 through December 31 of the immediate prior year compared with the same period for the year prior to that. The index is the average of the monthly consumer-price-index figures for the stated twelve-month period, relative to the United States as a whole, issued by the United States Department of Labor.

(c) Persons receiving such additional homestead tax exemption shall be subject to the provisions of F.S. §§ 196.131 and 196.161, as amended, if applicable, pertaining to wrongful receipt of a homestead tax exemption.

(Ord. No. 24-01, § 1, 11-15-01; Ord. No. 15-14, § 2, 4-24-14)

Sec. 3-4-114. - Rescission.

It is the intent of the city council in establishing this division that it be and is hereby empowered to rescind this additional homestead tax exemption at the end of any particular year should it be determined in the sole discretion of the city council that there is an adverse financial impact of such an exemption, and it no longer serves the best financial interest of the city.

(Ord. No. 24-01, § 1, 11-15-01)

Sec. 3-4-115. - Exemption limitation.

(a) The additional homestead tax exemption established hereunder shall apply only to taxes levied by the City of Pensacola. Unless otherwise specified by the city, this exemption will apply to all levies of the city, including dependent special districts and municipal service taxing units.

(b) Should the city council hereafter specify a different exemption amount for any dependent special district or municipal service taxing unit, that exemption amount must be uniform in all such dependent special districts or municipal service taxing units within the city.

(Ord. No. 24-01, § 1, 11-15-01)

Sec. 3-4-116. - Application procedure.

(a) Those persons entitled to the homestead tax exemption in F.S. § 196.031, as amended, may apply for and may receive an additional homestead tax exemption as provided in this section.

(b) A taxpayer claiming the additional homestead tax exemption provided under this division shall annually submit to the property appraiser, no later than March 1, a sworn statement of household income on a form prescribed by the department of revenue.

(c) The filing of the statement of the taxpayer shall be supported by copies of any federal income tax returns for the prior year, any wage and earnings statements (W-2 forms), and any other documents it finds necessary, for each member of the household, to be submitted by June 1. The taxpayer's statement shall attest to the accuracy of such copies. The property appraiser may not grant the exemption without the required documentation.

(d) If title is held jointly with right of survivorship, the person residing on the subject property and otherwise qualifying may receive the entire amount of the additional homestead tax exemption.

(Ord. No. 24-01, § 1, 11-15-01)

Sec. 3-4-117. - Repeal.

The city clerk shall deliver a copy of the adopted ordinance to the property appraiser no later than December 1 of the year prior to the year that this exemption will take effect. If this ordinance is hereafter repealed, the city council shall notify the property appraiser no later than December 1 of the year prior to the year the exemption expires.

(Ord. No. 24-01, § 1, 11-15-01)

Secs. 3-4-118—3-4-130. - Reserved.

DIVISION 3. - ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION

Sec. 3-4-131. - Purpose and intent.

It is the intent of the city to secure or ensure the consideration of economic development ad valorem tax exemptions according to the following provisions:

(1) *No precedent.* No precedent shall be implied or inferred by the granting of an exemption to a new or expanding business. The city's decision to grant or deny an application shall be discretionary. Applications for exemptions shall be considered by the city on a case-by-case basis for each application, after consideration of the Escambia County Property Appraiser's report on an application and other relevant factors pertaining to the application.

(2) *Percentage of assessed value.* Per F.S. Ch. 196, any exemption granted may apply up to one hundred (100) percent of the assessed value of all improvements to real property made by or for the use of a new business and all tangible personal property of such new business, or up to one hundred (100) percent of the assessed value of all added improvements to real property which additions are made to facilitate the expansion of an existing business and of the net increase in all tangible personal property acquired to facilitate such expansion of an existing business. To qualify for this exemption, the improvements to real property must be made or the tangible personal property must be added or increased after approval by motion or resolution of the city subject to ordinance adoption, or on or after the day the ordinance is adopted.

(3) *Duration of grant.* Any exemption may be granted for a full (10) year period or any period less than ten (10) years from the time the exemption is granted.

(4) *No exemption for land.* No exemption shall be granted on the land on which new or expanded businesses are to be located.

(5) *Exemption limited to city ad valorem taxes.* The exemption applies only to ad valorem taxes levied by the city.

(Ord. No. 06-15, § 1, 3-12-15)

Sec. 3-4-132. - Definition of terms.

The following words, phrases and terms shall have the same meanings attributed to them in current state statutes and the Florida Administrative Code, except where the context clearly indicates otherwise:

(1) *Applicant.* Applicant means any person, firm or corporation submitting an economic development ad valorem tax exemption application to the city.

(2) *Business.* Business means any activity engaged in by any person, corporation or company with the object of private or public gain, benefit or advantage, either direct or indirect.

(a) *New business.* New Business shall have the meaning defined in F.S. Ch. 196.

(b) *Expansion of existing business.* Expansion of existing business shall have the meaning defined in F.S. Ch. 196.

(3) *Department.* Department means the Florida Department of Revenue.

. No. 06-15, § 1, 3-12-15)

Sec. 3-4-133. - Procedure: (i) qualification by resolution subject to ordinance, or (ii) by ordinance alone.

Pursuant to F.S. Ch. 196, the city, at its discretion, by ordinance may exempt from ad valorem taxation up to one hundred (100) percent of the assessed value of all improvements to real property made by or for the use of a new business and of all tangible personal property of such new business, or up to one hundred (100) percent of the assessed value of all added improvements to real property made to facilitate the expansion of an existing business and of the net increase in all tangible personal property acquired to facilitate such expansion of an existing business. To qualify for this exemption, the improvements to real property must be made or the tangible personal property must be added or increased either (i) after approval by motion or resolution of the city, subject to later ordinance adoption, or (ii) on or after the day the ordinance is adopted.

(Ord. No. 06-15, § 1, 3-12-15)

Sec. 3-4-134. - Application for resolution subject to ordinance.

Any applicant desiring a city resolution in support of considering the grant of a potential economic development ad valorem tax exemption to be effective in a future year, shall, in any year prior to the year the desired exemption is to take effect and prior to improvements being made, file with the city a written application in a form prescribed by the city containing adequate information to the satisfaction of the city for review of the proposed application by the city in the city's sole discretion. Providing city passage of such resolution in support of considering the grant of an exemption, the applicant shall, pursuant to F.S. Ch. 196, in the year the exemption is desired to take effect, make application with the city for an ordinance granting the exemption. Such application for ordinance following resolution shall conform to the procedures of the city, this division, and F.S. Ch. 196.

(Ord. No. 06-15, § 1, 3-12-15)

Sec. 3-4-135. - Application for ordinance.

Pursuant to F.S. Ch. 196, any applicant desiring an economic development ad valorem tax exemption shall, in the year the exemption is desired to take effect, file a written application on a form prescribed by the department with the city. The application shall request the adoption of an ordinance granting the applicant an exemption pursuant to this division and F.S. Ch. 196 and shall include the following information:

(a) The name and location of the new business or the expansion of an existing business;

(b) A description of the improvements to real property for which an exemption is requested and the date of commencement of construction of such improvements;

(c) A description of the tangible personal property for which an exemption is requested and the dates when such property was or is to be purchased;

(d) Proof, to the satisfaction of the city, that the applicant is a new business or an expansion of an existing business, as defined in F.S. Ch. 196;

(e) The number of jobs the Applicant expects to create along with the average wage of the jobs and whether the jobs are full-time or part-time;

(f) The expected time schedule for job creation; and

(g) Other information deemed necessary or appropriate by the department or the city.

(Ord. No. 06-15, § 1, 3-12-15)

Sec. 3-4-136. - Report of property appraiser.

Prior to taking action on an application in the form prescribed by the department, city shall deliver a copy of the application to the Escambia County Property Appraiser. Pursuant to F.S. Ch. 196, after careful consideration, the property appraiser shall report the following information to the city:

(a) The total revenue available to the city for the current fiscal year from ad valorem tax sources, or an estimate of such revenue if the actual total revenue available cannot be determined;

(b) Any revenue lost to the city for the current fiscal year by virtue of exemptions previously granted, or an estimate of such revenue if the actual revenue lost cannot be determined;

(c) An estimate of the revenue which would be lost to the city during the current fiscal year if the exemption applied for were granted had the property for which the exemption is requested otherwise been subject to taxation; and

(d) A determination as to whether the property for which an exemption is requested is to be incorporated into a new business or the expansion of an existing business, as defined in F.S. Ch. 196 or into neither, which determination the property appraiser shall also affix to the face of the application. Upon the request of the property appraiser, the department shall provide such information as it may have available to assist in making such determination.

(Ord. No. 06-15, § 1, 3-12-15)

Sec. 3-4-137. - City review criteria.

Pursuant to F.S. Ch. 196, in considering any application for an exemption under this division, the city shall take into account the following:

(a) The total number of net new jobs to be created by the applicant;

(b) The average wage of the new jobs;

(c) The capital investment to be made by the applicant;

(d) The type of business or operation and whether it qualifies as a targeted industry as may be identified from time to time by the city;

(e) The environmental impact of the proposed business or operation;

(f) The extent to which the applicant intends to source its supplies and materials within the applicable jurisdiction; and

(g) Any other economic-related characteristics or criteria deemed necessary by the city.

(Ord. No. 06-15, § 1, 3-12-15)

Sec. 3-4-138. - Ordinance granting exemption.

Pursuant to F.S. Ch. 196, an ordinance granting an exemption shall be adopted in the same manner as any other city ordinance and shall include the following:

(a) The name and address of the new business or expansion of an existing business to which the exemption is granted;

(b) The total amount of revenue available to the city from ad valorem tax sources for the current fiscal year, the total amount of revenue lost to the city for the current fiscal year by virtue of economic development ad valorem tax exemptions currently in effect, and the estimated revenue loss to the city for the current fiscal year attributable to the exemption of the business named in the ordinance;

(c) The period of time for which the exemption will remain in effect and the expiration date of the exemption, which may be any period of time up to ten (10) years; and

(d) A finding that the business named in the ordinance meets the requirements of a new business or expansion of a business pursuant to F.S. Ch. 196.

(Ord. No. 06-15, § 1, 3-12-15)

Sec. 3-4-139. - Finding of eligibility of business.

(1) *Eligible business.* Pursuant to this division, the city shall find the business meets the requirements of a new business or expansion of a business pursuant to F.S. Ch. 196. An eligible business is a new business or expansion of a business, which is not ineligible pursuant to this division.

When considering the issue of whether or not a business or industry is an eligible business, subject to F.S. Ch. 196, the city may consider the anticipated number of employees, average wage, type of industry or business, geographical location of the proposed new business or expanding business, environmental impacts, and volume of business or production prior to accepting the economic development ad valorem tax exemption application.

(2) *Ineligible business.* An ineligible business includes one that is not qualified under this division and includes but is not limited to any business considered in the city's sole discretion to be a business in violation of any federal, state, or local law, policy or regulation, or to be noxious or offensive to the general public, or which may become a nuisance or jeopardize the health, safety or welfare of the citizens of the city.

(Ord. No. 06-15, § 1, 3-12-15)

Sec. 3-4-140. - Annual exemption renewal.

Pursuant to F.S. Ch. 196, once the original application for tax exemption has been granted, in each succeeding year an applicant shall submit an annual renewal application. In addition to statutory requirements, any applicant awarded a tax exemption under this division shall provide to the city, on a form prescribed by the city, sufficient detail in the sole discretion of the city documenting continuing qualification for the granted tax exemption, and compliance with the criteria in section 3-4-137, along with the renewal application for exemption in the form prescribed by the department (currently Form DR-418).

(Ord. No. 06-15, § 1, 3-12-15)

Sec. 3-4-141. - Fees.

No fees shall be charged for processing the economic development ad valorem tax exemption application or any exemption resolution or ordinance adopted by the city.

(Ord. No. 06-15, § 1, 3-12-15)

Sec. 3-4-142. - Revisions to Florida Statutes Control.

F.S. Ch. 196 may be amended by the Florida Legislature from time to time. Any revisions to the Florida Statutes regarding the granting of economic development ad valorem tax exemptions by municipalities shall take precedent over any contrary or conflicting provision in this division.

(Ord. No. 06-15, § 1, 3-12-15)

TITLE IV. - HEALTH AND SANITATION[1]

CHAPTERS

Footnotes:

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Cross reference— Fire prevention and control, Ch. 7-13, Art. XII; zoning, Ch. 12-2; streets, sidewalks and other public places, Ch. 11-4; parks and recreation, Ch. 6-3.

CHAPTER 4-1. GENERAL PROVISIONS

(RESERVED)

CHAPTER 4-2. ANIMALS[2]

Footnotes:

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State Law reference— Cruelty to animals, F.S. Ch. 828; livestock at large, F.S. § 588.12 et seq.; damage by dogs, Ch. 767.

Cross reference— Refuse not acceptable for collection by sanitation department, § 4-3-57; animals prohibited from running at large in parks, § 6-3-5.

ARTICLE I. - IN GENERAL

Sec. 4-2-1. - Adoption of County Animal Control Regulations.

The provisions of Escambia County animal control ordinance, Sec. 10-1 through Sec. 10-28 of the Code of Escambia County, Florida, as those provisions may be altered or amended from time to time, shall be applicable and enforced within the City of Pensacola, as provided therein.

REPEAL SECTION. 4-2-2.

Sec. 4-2-3. - Poultry or fowl generally.

It shall be unlawful to keep roosters within the corporate limits of the city or to keep more than eight (8) poultry or other fowl at a single residence. It shall be unlawful for any person to keep any live poultry such as chickens, turkeys, ducks, geese or guinea fowl within the corporate limits of the city without the provision of coops, pens or enclosures so constructed and maintained as to prevent access by predators. Free ranging of poultry or fowl is allowed as long as they are prevented from going upon the streets, parks or public places or upon the premises of persons other than the owner or custodian of the poultry or other fowl.

(Code 1968, § 62-5; Ord. No. 17-12, § 2, 8-9-12)

Sec. 4-2-4. - Required distance of enclosures from certain buildings and public parks.

It shall be unlawful to keep, harbor or confine ducks, geese, chickens, guineas, peacocks or other fowl in any pen, coop or enclosure in the city, any part of which is within thirty (30) feet of an adjacent dwelling, church, hospital, school, public building or public park.

(Code 1968, § 62-5; Ord. No. 17-12, § 3, 8-9-12)

Sec. 4-2-5. - Same—Keeping for sale.

All live poultry, such as chickens, turkeys, ducks, geese or guinea fowl, which are kept for purposes of sale within the corporate limits of the city, shall be placed and kept in coops or pens which shall be erected so that the bottom of the coops or pens shall be at least eighteen (18) inches from the ground. The floors of the coops or pens shall be so constructed so as to permit the droppings from the poultry to fall into a removable box placed underneath the coops or pens. Each of the coops or pens shall be equipped with a water trough and feed box attached to the outside of the coops or pens in such manner at to prevent contamination of same. It shall be unlawful for any person to keep live poultry within the city for the purposes of sale or breeding, except in compliance with zoning regulations.

(Code 1968, § 62-6; Ord. No. 17-12, § 4, 8-9-12)

Sec. 4-2-6. - Doves, pigeons.

(a) It shall be unlawful for any person to keep or harbor on any premises in the city any doves or pigeons, other than homing or carrier pigeons, unless the same shall be confined in cages or coops or in such other manner as will prevent them from flying or straying beyond the premises on which they are kept.

(Code 1968, §§ 62-8, 62-9; Ord. No. 16-10, § 44, 9-9-10; Ord. No. 17-12, § 5, 8-9-12)

Sec. 4-2-7. - Rabbits.

(a) All rabbits kept within the city for the purposes of sale shall be kept in coops or pens of the character and construction provided in section 4-2-5 for the keeping of live poultry.

(b) It shall be unlawful for any person to keep or harbor on any premises in the city more than two (2) rabbits, except as set forth in (a) above.

(c) It shall be unlawful for any person to keep rabbits within the city for the purposes of breeding, except in compliance with zoning regulations.

(Code 1968, § 62-7)

Sec. 4-2-8. - Livestock.

It shall be unlawful to keep any horse, mule, donkey, goat, sheep, hogs and cattle in any stable, shed, pen or enclosure within the city limits.

(Code 1968, §§ 62-10, 62-14)

RPEAL SECTION 4-2-9.

Secs. 4-2-10—4-2-20. - Reserved.

ARTICLE II. - DOMESTICATED ANIMALS[3]

Footnotes:

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Editor's note— Ord. No. 16-87, §§ 1, 2, passed May 14, 1987, repealed §§ 4-2-21—4-2-110 of Ch. 4-2 and enacted in lieu thereof, §§ 4-2-21—4-2-40 as set forth in Art. II hereof. Prior to repeal, said sections comprised Art. II, Divs. 1—4, Art. III, and Art. IV of this chapter, pertained to regulations for the control of domesticated animals, impoundment, and kennels, and were derived from Code 1968, §§ 62-19—62-28, 62-30, 62-31(1)—(9), 62-32—62-32.2, 62-32.4, 62-32.6, 62-32.8(2), (3) and 62-32.9(2), (3).

State Law reference— Damage by dogs, F.S. Ch. 767.

REPEAL SECTION 4-2-21.

REPEAL SECTION 4-2-22.

REPEAL SECTION 4-2-23.

REPEAL SECTION 4-2-24.

REPEAL SECTION 4-2-25.

REPEAL SECTION 4-2-26.

REPEAL SECTION 4-2-27.

REPEAL SECTION 4-2-28.

REPEAL SECTION 4-2-29.

REPEAL SECTION 4-2-30.

REPEAL SECTION 4-2-31.

REPEAL SECTION 4-2-32.

REPEAL SECTION 4-2-33.

REPEAL SECTION 4-2-34.

REPEAL SECTION 4-2-35.

REPEAL SECTION 4-2-36.

REPEAL SECTION 4-2-37.

REPEAL SECTION 4-2-38.

REPEAL SECTION 4-2-39.

REPEAL SECTION 4-2-40.

REPEAL SECTION 4-2-41.

Sec. 4-2-42. - Keeping pot-bellied pigs as household pets.

(a) The term "pigs" as used herein shall mean Pot-bellied Pigs.

(b) The number of such pigs shall be limited to one per each residence.

(c) The breeding of such pigs is prohibited.

(d) Male pigs four (4) weeks of age or older shall be neutered.

(e) Such pigs shall be controlled by a leash, tether, harness or adequate enclosure any time said animals are outside the residence of the owner or other person harboring, keeping or maintaining said pig.

(f) The owner shall display, upon request from the an animal control officer or any law enforcement officer, a current certification from a veterinarian licensed in the State that all necessary and appropriate vaccinations have been administered and that the pig has been tested and demonstrated free of parasitic disease. Such certification shall be obtained on a yearly basis.

(g) It shall be unlawful for any pig owner or person in charge of a pig, to fail to remove deposits of pig excreta made by a pig in that person's charge when the deposit of the pig's excreta occurred in the presence of the pig's owner or person in charge of the pig on any property not belonging to the owner or a person in charge of the pig. If such depositing of excreta occurs, the owner or person in charge of the pig shall immediately cause its removal for disposal.

(h) It shall be unlawful for any pig owner or person in charge of a pig to allow the area in which the pig is kept or allowed to roam to become the source of odors which are detectable on adjoining properties where such odors are the result of the pig being kept or allowed to roam on the subject property.

(i) All other animal control and nuisance laws applicable to animals within the City of Pensacola shall apply to pot-bellied pigs.

(j) A homeowners' association formed in accordance with State Statute may prohibit ownership of pot-bellied pigs through a formal inclusion in the association's covenants.

(Ord. No. 10-14, § 2, 3-13-14)

Sec. 4-2-43. - Enforcement.

The provisions of Sec. 4-2-3 through 4-2-42 shall be enforced by the mayor.

Sec. 4-2-44. - Penalties.

(a) Any person who willfully refuses to sign and accept a citation or notice to appear issued by an officer shall be guilty of a misdemeanor of the second degree, punishable as provided by F.S. section 775.082, section 775.083, or section 775.084.

(b) Any person found to be in violation of section 4-2-1 through section 4-2-40 of the code of the City of Pensacola, Florida, shall be subject to a maximum civil penalty not to exceed five hundred dollars ($500.)) in amount, however, the civil penalty for such person who has committed a violation and does not contest a citation shall be an amount less than five hundred dollars($500.00).

Secs.—4-2-45 - 4-2-85. - Reserved.

ARTICLE III. - RESERVED[4]

Footnotes:

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Note— See the editor's footnote to Art. II of this chapter.

Secs. 4-2-86—4-2-120. - Reserved.

ARTICLE V. - BIRD SANCTUARY

Sec. 4-2-121. - City designated as bird sanctuary.

The entire area now embraced by the corporate limits of the city shall be designated as a bird sanctuary.

(Code 1968, § 62-33)

Sec. 4-2-122. - Signs.

Adequate signs shall be erected at entrances to the city, within the discretion of the council, signifying the designation of the area within the city as a bird sanctuary.

(Code 1968, § 62-34)

Sec. 4-2-123. - Killing and molesting birds prohibited.

It shall be unlawful to hunt, kill, maim or trap, hunt with slingshot, or attempt to in any manner shoot or otherwise molest birds or any wild fowl, to rob or otherwise molest the nests or birds nesting or located within the city. This is not to conflict with F.S. § 790.33.

(Code 1968, § 62-35; Ord. No. 27-11, § 1, 9-22-11)

Sec. 4-2-124. - Birds constituting nuisances; abatement.

If starlings or other similar birds are found roosting, nesting or inhabiting any locality within the city in such numbers as to constitute a nuisance or health menace to persons or property, it shall be the duty of the council to notify representatives of the Audubon Society, garden club, birdwatchers club or humane society, if representatives of any of these organizations are available, advising them that such a condition exists and requesting that immediate action to eliminate same be taken by them. If the condition has not been eliminated by representatives of the abovenamed organizations within a reasonable time, then the city shall take whatever action it deems necessary to eliminate such condition or health menace.

(Code 1968, § 62-36)

CHAPTER 4-3. GARBAGE AND REFUSE[6]

Footnotes:

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Cross reference— Litter control, Ch. 4-5; streets, sidewalks and other public places, Ch. 11-4; tree/landscape regulations, Ch. 12-6; buildings, construction and fire codes, Title XIV.

State Law reference— Resource recovery and management, F.S. § 403.701 et seq.

ARTICLE I. - IN GENERAL

Secs. 4-3-1—4-3-15. - Reserved.

ARTICLE II. - RUBBISH, WEEDS AND OFFENSIVE GROWTH[7]

Footnotes:

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Editor's note— Ord. No. 19-06, § 1, adopted Aug. 24, 2006, amended Art. II, §§ 4-3-16—4-3-25, in its entirety. Formerly, said article pertained to similar subject matter as enacted by Code 1968.

Sec. 4-3-16. - Definition of "weeds."

The word *"weeds"* as herein used means all rank vegetative growth which is dangerous, or noxious to human beings, or which has grown more than twelve (12) inches in height causing unsightliness, a nuisance, or an otherwise undesirable appearance of any lot, block, parcel of land or premises within the city, or which could be a potential harbor for rats, vermin, insects, or other creatures that would constitute a hazard to the public health, safety and welfare of the community.

(Ord. No. 19-06, § 1, 8-24-06)

Cross reference— Definitions and rules of construction generally, Ch. 1-2.

Sec. 4-3-17. - Prohibited deposits on streets and sidewalks.

(a) It shall be unlawful for any person to keep on any street any firewood, empty boxes or barrels, shavings, bricks, refuse, building materials or any carriage, cart, wagon or other vehicle except as authorized by this chapter or permitted by the sanitation services & fleet management director.

(b) It shall be unlawful to sweep into or deposit in any street any papers, trash or rubbish, or to fail to collect and put the same into receptacles.

(c) It shall be unlawful for any person to throw or deposit on any street or sidewalk any trash of any kind whatsoever.

(Ord. No. 19-06, § 1, 8-24-06)

Sec. 4-3-18. - Excessive growth of weeds prohibited.

It shall be unlawful for any person who shall own, control or occupy any lot, parcel of land or premises in the city, or for the agent, servant, representative or employee of any person, to allow weeds to grow upon the lot, parcel of land or premises to a height exceeding twelve (12) inches or otherwise violate this article.

(Ord. No. 19-06, § 1, 8-24-06)

Sec. 4-3-19. - Authority to require removal of weeds.

Whenever any lot, block or parcel of land in the city is overgrown with any weeds of such a character or of such a height and thickness as to be detrimental to the public health or safety, the mayor may require the removal of such weeds by the owner, occupant or agent of the property.

(Ord. No. 19-06, § 1, 8-24-06; Ord. No. 16-10, § 47, 9-9-10)

Sec. 4-3-20. - Notice of city's intention to remove weeds.

Prior to cutting down or removing weeds from private premises, the code enforcement office of the f sanitation services & fleet management department shall give written notice to the person owning, occupying or controlling the premises that if such weeds are not cut down or removed within ten (10) days from the date of the notice's mailing, and if during such time the property owner does not contest the notice of violation to the City of Pensacola, then the sanitation director will cause them to be cut down or removed and the premises will be assessed for the cost thereof. Notice shall be deemed to be sufficient if it is mailed to the occupant of the premises, if any, and the last owner of record on file in the office of the property appraiser. In the event that the mailed notice is undeliverable or returned then the city shall prominently post the notice upon the premises.

(Ord. No. 19-06, § 1, 8-24-06)

Sec. 4-3-21. - Removal of weeds by city.

It shall be the duty of the sanitation director to cause to be cut down and removed from any private premises all weeds growing thereon to a height exceeding twelve (12) inches whenever the owner of such premises or other person who is required by this chapter to cut down and remove the same fails or refuses to do so.

(Ord. No. 19-06, § 1, 8-24-06)

Sec. 4-3-22. - Cutting and cleaning of lots; assessment of costs; liens.

Upon the completion of the cutting or cleaning by the city of any lots, parcels or tracts of land within the city by removing therefrom the weeds, trash, filth, garbage or other refuse, the sanitation director shall

certify to the finance director the costs incident to and required for the removal of the offensive matter described above, specifying the lots and parcels so improved and the nature of the improvements. Thereafter, the finance director shall assess the lands, lots and parcels of land for the improvements and the costs thereof, and shall take appropriate action as necessary to place a lien upon the lands, parcels or tracts of land, which lien shall be equal in dignity to all other special assessments for benefits against property within the city, and shall be collected in the same manner as other special assessments for benefits are collected, and the finance director is hereby authorized and directed to perform and to do all things necessary to the recording, perfecting and collection of such lien. No such lien shall be recorded unless thirty (30) days have expired without payment of the special assessment after the finance director has served notice of the nature and the amount of the special assessment in the manner set forth in section 4-3-20.

(Ord. No. 19-06, § 1, 8-24-06)

Sec. 4-3-23. - Lot-cleaning fund created.

There is hereby created and established a fund to be designated as the "lot-cleaning fund" from which shall be paid and for which there is appropriated moneys in the city treasury.

(Ord. No. 19-06, § 1, 8-24-06)

Sec. 4-3-24. - Use of lot-cleaning fund.

The lot-cleaning fund shall be used as a revolving fund from which shall be paid the cost of cleaning weeds plus undergrowth, filth, garbage or other refuse from lots, tracts or parcels of land within the city when the owner thereof or his or her agents shall neglect, fail or refuse to clean such lots, parcels or tracts of land after notice by the sanitation director.

(Ord. No. 19-06, § 1, 8-24-06)

Sec. 4-3-25. - Enforcement.

The code enforcement division is hereby authorized, under the supervision of the sanitation director , to carry out the provisions of sections 4-3-18, 4-3-20 to 4-3-24 as may be deemed reasonable. A violation of this section shall, upon conviction, be punishable as provided in section 1-1-8 of this Code. Payment of a penalty for violation of this section shall not be a defense to imposition or collection of an assessment or lien as provided for in section 4-3-22.

(Ord. No. 19-06, § 1, 8-24-06)

Secs. 4-3-26—4-3-38. - Reserved.

ARTICLE III. - MANDATORY COLLECTION AND DISPOSAL SYSTEM[8]

Footnotes:

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Editor's note— Ord. No. 18-09, § 1, adopted May 28, 2009, amended Art. III in it's entirety. See also the Code Comparative Table.

DIVISION 1. - GENERALLY

Sec. 4-3-39. - Purpose.

The purpose of this article is to assure adequate sanitary conditions and to promote the public health, safety, and welfare for all persons within the corporate limits of the city.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-40. - Reserved.

Sec. 4-3-41. - Definitions.

For the purposes of this article, the following terms, phrases, words, and their derivations shall have the meanings given herein. Words, terms, and phrases used in this article which are not defined in this section shall be the meanings given in F.S. § 403.703, or in this article, unless the context clearly otherwise requires. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Animal. The terms "animal," as used in this article, shall mean any male, female, or altered member of the canine or feline species, or any other domesticated animal, except those classified by the Florida Fish and Game Commission as wildlife.

Bulk waste shall mean items that because of its size, shape, quality, or quantity precludes or complicates handling by normal collection, processing, or disposal methods; including, but not limited to the following:

(1) Discarded materials resulting from remodeling, repair, excavation, construction or demolition of structures, such as plaster, roofing materials, trees, and similar items, excluding asbestos materials and treated lumber, or other items excluded herein.

(2) Tree stumps, tree trunks, and limbs larger than eight (8) inches in diameter and six (6) feet in length.

(3) Household furnishings, such as sofas, chairs, mattresses, box springs, televisions, tables, appliances, water heaters, air conditioners, and space heaters.

(4) Yard trash mixed with other waste.

(5) Any other item as may be determined by the director.

Business district. All that area bound on the south by Pensacola Bay, on the west by Spring Street, on the north by Belmont Street, on the east by Tarragona Street, and includes all properties facing on the above streets.

Collection shall mean the act of removing solid waste or refuse from the source of generation to the point of disposal.

Customer. Any person subscribing to sanitation services in the city.

Director. The department of sanitation services & fleet management director.

Disposal facility shall mean the site where solid waste or refuse is disposed of, whether by sanitary landfilling, incineration, treatment, recover, or recycling approved by the city.

Garbage. All waste accumulations of animal, fruit, or vegetable matter that attend the preparation, use, cooking, dealing in or storage of meat, fowl, fish, fruits, or vegetables, containers originally used for foodstuffs other than those containers designated as recyclable in the city recycling program, but does not include animal waste.

Owner/occupant. Any person or entity who acquires responsibility or title of real property, a structure or dwelling, by occupancy, ownership, or agency.

Recyclables. Material(s) extracted from solid waste or refuse having known recycling potential that can be processed and returned to a useful product and are designated as a recyclable material in the city recycling program.

Residential composting. Residential composting is the managed process of controlled decomposition of organic material such as leaves, twigs, grass clippings, and vegetative food waste that is utilized as a soil amendment.

Rubbish. All nonputrescible solid wastes other than those materials designated as recyclables in the city recycling program, consisting of both combustible and noncombustible wastes, such as paper, cardboard, glass, crockery, excelsior, cloth, and similar material.

Scavenging. To search through solid waste or discarded materials for something of use or value.

Solid waste or *refuse.* Material as defined in F.S. section 403.703.*Yard trash* or *green waste.* Includes grass clippings, pine straw, leaves, residue from trimming limbs, shrubs, and trees, tree trunks, stumps, and bark which do not exceed six (6) feet in length and eight (8) inches in diameter.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-42. - Use of solid waste collection services required; exception.

(a) To assure adequate sanitary conditions and promote public health, every owner of real property with five (5) residential units or less per dwelling or structure located within the corporate limits of the city shall insure that each occupied unit has its own separate subscription to solid waste collection and disposal services of the city and that the occupied unit does not share service with any other dwelling or unit. This provision shall not apply to a dwelling, structure, or real property that has been designated by the director as requiring commercial collection service or may be required elsewhere in this Code; or to a dwelling defined as an accessory residential unit in section 12-2-52 of the Code of the City of Pensacola, Florida.

(b) It shall be unlawful for the owner or occupant of any dwelling or structure in the city to dispose of any solid waste or refuse generated at such dwelling except by subscribing to the solid waste or refuse collection service of the city.

(c) Violation of this section shall subject the owner of real property to the penalties provided by law, including sections 13-1, 13-2, 13-3 and 1-1-8 of the Code of the City of Pensacola, Florida.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09; Ord. No. 30-11, § 1, 11-10-11)

Sec. 4-3-43. - Evidence of lack of service.

Occupancy of a dwelling shall be prima facie evidence that waste is being generated and accumulated on such premises. It shall be the duty of the director to inspect such premises, and cause to be removed therefrom, any and all waste found thereon, at the expense of the owner/occupant thereof; and it shall be the duty of the director to institute prosecution of any person in violation of this section.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-44. - Solid waste or refuse to be property of city; scavenging.

(a) Ownership of the recyclables, solid waste or refuse material set out for collection shall be deemed discarded and ownership of same shall vest in the city. In no case will scavenging be permitted except where prior written permission is given by the director.

(b) Disturbing, removing after placement for collection. It shall be unlawful for any person to remove, handle, or otherwise disturb the recyclables, solid waste or refuse which has been placed curbside

for collection by the sanitation services & fleet management department. This section does not apply to the owner or occupant of a residence or dwelling so placing the contents.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-45. - Determination of service providers.

It shall also be unlawful for any person, firm or entity to provide recyclables, solid waste or refuse collection and disposal service to any dwelling, structure, or real property in the city unless the director has made a written determination that the sanitation services & fleet management department is not capable of providing such service.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-46. - Burying of recyclables, solid waste, refuse, or hazardous materials or substances.

No recyclables, solid waste or refuse shall be buried on any property within the city.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-47. - Storing or placement of recyclables, solid waste or refuse.

(a) *Storing or placement of recyclables, solid waste or refuse.* No person shall place recyclables, solid waste or refuse in any street, alley, or other public place. Nor shall any person store any such recyclables, solid waste or refuse upon any private property whether owned by the person or not, within the city. Recyclables, solid waste or refuse shall be placed in proper containers and placed for collection as required in this article.

(b) *Disposal upon water.* No person shall throw, deposit, or dispose of any recyclable material, solid waste or refuse in or upon any stream, waterway, or body of water.

(c) *Unauthorized accumulation.* Any unauthorized accumulation of recyclables, solid waste or refuse not in compliance with this Code on any real property or premises is prohibited and declared a nuisance.

(d) *Scattering of recyclables, solid waste or refuse.* No person shall cast, place, sweep, or deposit any recyclable materials, solid waste, refuse, or garbage in such manner that it may be carried or deposited by the elements.

(e) *Residential composting.* Residential composting, with the intent of utilizing such as a soil amendment, shall not be deemed to be a violation of this section.

(f) *Dead animals.* It is unlawful for any person to store dead animals in a container or place it at curbside for collection by the city. It is the responsibility of the owner of a dead animal or the person who discovers a dead animal to promptly notify a local animal control agency responsible for disposing of dead animals.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-48. - Placement of recyclables, solid waste or refuse in gutters or streets prohibited, declared nuisance.

The placement or scattering of yard trash, green waste, and/or other recyclables, solid waste or refuse in or upon street gutters, street surfaces, or storm water inlets is hereby declared a nuisance and a danger to water quality and shall be prohibited.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-49. - Enforcement.

The mayor is hereby authorized and directed to carry out and enforce the provision of this article.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09)

DIVISION 2. - COLLECTION AND DISPOSAL

Sec. 4-3-50. - Special collections of scheduled and non-scheduled bulk waste items.

Bulk waste items shall be collected by the city upon customer request and the customer shall be billed for scheduled bulk waste collection under the established fee schedule set forth in section 4-3-97. If no request is made for collection of bulk items placed curbside, such items will be collected by the city at its convenience, without notification, and the property owner or occupant shall be billed for nonscheduled bulk waste collection under the established fee schedule set forth in section 4-3-97. Billing shall be to the existing city utility account or to the individual property owner or occupant where no city account has been established.

(Ord. No. 17-03, § 2, 8-21-03; Ord. 14-07, § 1, 3-22-07; Ord. No. 18-09, § 1, 5-28-09)

Secs. 4-3-51—4-3-53. - Reserved.

Sec. 4-3-54. - Collection schedule.

(a) *Recyclables, solid waste or refuse.* All recyclables, solid waste or refuse shall be collected by the city according to the following schedule except during periods of disaster cleanups or peak yard trash collection seasons when schedules may be altered, suspended, or delayed:

(1) All combined household solid waste, refuse, or garbage generated in residential areas shall be collected once each week from the city-owned wheeled container designated for garbage.

(2) All recyclables shall be collected once each week from the city-owned wheeled container designated for recycling.

(3) Yard trash/green waste shall be collected once a week.

(4) Bulk waste shall be collected as provided in the provisions of this article, including but not limited to sections 4-3-50 and 4-3-57.

(5) Corrugated cardboard moving boxes shall be collected as provided for in section 4-3-61.

(Ord. No. 17-03, § 2, 8-21-03; Ord. 14-07, § 1, 3-22-07; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-55. - Placement for collection.

(a) No person shall place any accumulation of recyclables, solid waste or refuse, recovered materials, or garbage container(s) in any street or gutter, or other public place of travel nor upon any private or public property, except adjacent to and directly in front of said person's own property. In all cases where conditions permit, said placement shall be in the area behind the curb, but no more than two (2) feet from the curb or the back slope or roadside.

(b) Yard trash/green waste shall not be placed on top of and shall not cover sprinkler system heads and water meters. The city shall not be responsible for damage to sprinkler systems, sprinkler heads,

water meters, utility combination boxes, or the like, and other objects including fences, gates, hedges, plants, and trees damaged due to yard trash or green waste being placed over or piled on or against such items for collection.

(c) Wheeled containers shall not be placed out for collection prior to 6:00 p.m. of the day preceding the scheduled day of collection, and all containers shall be removed no later than 6:00 a.m. the day following collection.

(Ord. No. 17-03, § 2, 8-21-03; Ord. 14-07, § 1, 3-22-07; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-56. - Solid waste and refuse not acceptable for collection by the city..

Solid waste or refuse materials not acceptable for collection by the city shall be disposed of by the person or persons generating the solid waste or refuse in accordance with federal, state, and local laws:

(1) Solid waste or refuse requiring special handling.

(2) Hazardous materials or substances. Including but not limited to, petroleum products, poisons, acids, caustics, infected materials, body wastes, explosives, radioactive and asbestos containing material.

(3) Solid wastes resulting from industrial processes.

(4) Dirt, concrete, bricks, rocks, stones, mortar, roofing materials and materials of similar nature.

(5) Tree stumps, tree trunks, and limbs larger than eight (8) inches in diameter and six (6) feet in length.

(6) Bulk waste material regulated by local, state, and federal agencies.

(Ord. No. 17-03, § 2, 8-21-03; Ord. 14-07, § 1, 3-22-07; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-57. - Bulk waste acceptable for collection.

Bulk waste as defined in this section shall be collected by the city provided a request is made by the customer. Collection and charge for such services shall be provided for in the fee schedule in section 4-3-97. Examples of bulk waste that are acceptable for collection under this section shall include but shall not be limited to the following:

(1) Minor amounts of discarded materials, less than two (2) cubic yards in volume, resulting from remodeling, repair, construction, or demolition of structures, such as plaster, lumber, and similar items that have resulted directly from work of the property owner or occupant, and excluding asbestos materials and treated lumber or other items excluded herein.

(2) Household furnishings such as sofas, chairs, mattresses, box springs, televisions, tables, appliances, water heaters, air conditioners, and space heaters.

(3) Yard trash or green waste mixed with other waste.

(Ord. No. 17-03, § 2, 8-21-03; Ord. 14-07, § 1, 3-22-07; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-58. - Building construction wastes.

(a) The person to whom a building permit is issued shall remove or have removed all refuse, waste matter, rubbish, garbage, trash, and construction debris, including, but not limited to, trees, stumps, dirt, old buildings and structures resulting from the clearing of land before the completion of the work permitted and final inspection by the city's department of inspection services is made or within seventy-two (72) hours of completion of the work. It shall also be the responsibility of any person to

whom the permit is issued to inspect the site and to remove therefrom all such materials which have been buried, stored, or left to remain on the site.

(b) Compliance with this section shall be the responsibility of the property owner or occupant. Failure to comply may result in the imposition of costs and/or fines as provided for in this section against the property owner or occupant.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-59. - Tree surgeon, fence companies, landscape contractors, swimming pool contractors and building contractors.

(a) It shall be the responsibility of all fence companies, tree surgeons, nurseries, landscape contractors, swimming pool contractors and building contractors or any individual or company doing work on private property to remove from the premises all residue and rubbish resulting from their work.

(b) Compliance with this article shall be the responsibility of the property owner or occupant. Failure to comply may result in the imposition of costs and/or fines as provided for in this article against the property owner or occupant.

(Ord. No. 17-03, § 2, 8-21-03; Ord. 14-07, § 1, 3-22-07; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-60. - Reserved.

Sec. 4-3-61. - Corrugated cardboard.

Corrugated cardboard moving boxes will be collected on an on-call basis. Cardboard is collected separately and must be flattened before being placed curbside.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-62. - Reserved.

Sec. 4-3-63. - Yard trash, green waste.

When placed curbside for collection, all limbs, trees, and shrubs shall not exceed six (6) feet in length and eight (8) inches in diameter and bushy limbs shall be cut apart and trimmed to lay flat. Yard trash/green waste piles containing limbs, trees, and shrubs that do not meet this requirement shall be subject to collection at the scheduled bulk waste collection fee as established in section 4-3-97.

(Ord. No. 17-03, § 2, 8-21-03; Ord. 14-07, § 1, 3-22-07; Ord. No. 18-09, § 1, 5-28-09)

Secs. 4-3-64—4-3-80. - Reserved.

DIVISION 3. - CONTAINERS

Sec. 4-3-81. - City-owned wheeled containers.

(a) *Mandatory use.* Except as otherwise provided in this section, all recyclables, garbage and rubbish shall be placed in separate wheeled containers issued to the customer by the city for the specific purpose of providing separate recyclable and garbage collection. The use of any other containers is unlawful.

(b) *Prohibited materials.* It shall be unlawful to place for collection in city-owned wheeled containers any materials described in sections 4-3-56, 4-3-57, and 4-3-63.

(c) *Separation of recyclables.* It shall be unlawful to place for collection in a city-owned wheeling container, designated specifically for recycling use, any materials other than those recyclable materials determined by the city to be eligible for inclusion in the city recycling program.

(d) *Responsibility of customer.* Wheeled containers issued to customers by the city are and shall continue to be the property of the city. It is the responsibility of the customer to which such container has been issued to keep it clean and to protect it from theft, destruction, and damage beyond repair. The customer shall notify the city customer service department prior to vacating a premises and shall place the container in a safe location where it is accessible to the city.

(e) *Damaged containers.* The customer shall be responsible for charges associated with replacement of any city-owned container damaged due to negligence or abuse.

(f) *Exceptions for disabled persons.* Service will be provided in accordance with applicable ADA guidelines.

(g) *Placement of containers.* When not placed curbside for collection, city-owned wheeled containers shall be placed beside a permanent structure or behind vegetation or other visual barrier. The mayor is authorized to grant an exemption from the requirements of this provision when a determination has been made that the existing circumstances render compliance not reasonably feasible. This subsection may be enforced pursuant to the provisions of section 1-1-8 or section 13-2-2, herein.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09; Ord. No. 03-14, § 1, 2-13-14)

Sec. 4-3-82. - Overloading.

(a) Any wheeled container which is so loaded that the lid will not fit securely on the container will not be collected by the city.

(b) The contents of any wheeled container which, with the container, weighs more than two hundred (200) pounds, will not be collected.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09)

Secs. 4-3-83—4-3-96. - Reserved.

DIVISION 4. - RATES AND FEES

Sec. 4-3-97. - Fees and surcharges.

The following fees are hereby established for recycling, solid waste or refuse collection services by the city as may be amended from time to time by resolution of the city council:

(1) *New accounts, transferred accounts, and resumption of terminated service:* Twenty dollars ($20.00).

(2) *Garbage, recycling and trash collection fee, per month:* Twenty-five dollars and eleven cents ($25.11). This fee shall be automatically adjusted upon approval of city council each October 1 hereafter based on the percentage difference in the cost of living as computed under the most recent Consumer Price Index for all urban consumers or similar index published by the Bureau of Labor Statistics, U.S. Department of Labor for the period beginning April 1 of the preceding year and ending March 31 of the current year.

(3) Provided, however, the monthly fee for garbage, recycling and trash collection for the dwelling of an eligible household, occupied by a person sixty-five (65) years of age or older, under the

low-income home energy assistance program pursuant to F.S. § 409.508, 1993, as administered by the Escambia County Council on Aging or for the dwelling of a family heretofore determined by the city housing department of the city to be eligible for assistance under the Section 8 existing housing assistance payments program pursuant to 42 U.S.C., section 1437(f), shall be reduced by one dollar ($1.00) per month commencing October 1, 1989, and by an additional one dollar ($1.00) per month commencing October 1, 1990, provided that sufficient monies are appropriated from the general fund to replace decreased solid waste revenues caused by such fee reductions. If insufficient monies are appropriated from the general fund to replace all of such decreased solid waste revenues, then the mayor may change the amount of the fee reduction to an amount less than the amount set forth in the preceding.

(4) *Sanitation equipment surcharge:* Two dollars and four cents ($2.04) per month. A sanitation equipment surcharge shall be added as a separate line item to all city solid waste and/or refuse collection services fees. This surcharge shall be automatically adjusted upon approval of council each October 1 hereafter based on the percentage difference in the cost of living as computed under the most recent Consumer Price Index for all urban consumers or similar index published by the Bureau of Labor Statistics, U.S. Department of Labor for the period beginning April 1 of the preceding year and ending March 31 of the current year.

(5) *Vehicle fuel and lubricant pass-through surcharge:* One dollar and thirty cents ($1.30) per month. A sanitation services & fleet management department vehicle fuel and lubricant surcharge shall be added as a separate line item to all city solid waste and/or refuse collection service fees. Said surcharge, which shall be initially set on the fiscal year 2007 sanitation services & fleet management fuel and lubricant budget, shall be revised by the finance director no less frequently than annually based upon the budgeted fuel and lubricant costs adjusted for their actual costs for the previous or current fiscal years.

(6) *Tire removal:* A surcharge of three dollars ($3.00) per tire shall be added to the scheduled or nonscheduled bulk waste collection fee established herein whenever tire(s) more than twelve (12) inches in size are collected.

(7) *Scheduled bulk waste collection:* The fee for scheduled bulk item collection shall be fifteen dollars ($15.00) for the first three (3) minutes and five dollars ($5.00) for each additional three (3) minutes up to twenty-one (21) minutes after which time a disposal fee will be added.

(8) *Non-scheduled bulk waste collection:* The fee for nonscheduled bulk item collection shall be thirty-five dollars ($35.00) for the first three (3) minutes and ten dollars ($10.00) for each additional three (3) minutes up to twenty-one (21) minutes after which time a disposal fee will be added.

(9) Deposits in an amount up to a total of the highest two (2) months bills for service within the previous twelve (12) months may be required of customers who, after the passage of this section, have their service cut for nonpayment or have a late payment history. The financial services department will be responsible for the judicious administration of deposits.

(10) A late charge equal to one and one-half (1½) percent per month of the unpaid previous balance.

(Ord. No. 17-03, § 2, 8-21-03; Ord. 14-07, § 1, 3-22-07; Ord. No. 18-09, § 1, 5-28-09; Ord. No. 16-10, § 48, 9-9-10; Ord. No. 22-11, § 1, 9-22-11; Ord. No. 10-17, § 1, 5-11-17; Ord. No. 12-18, § 1, 9-13-18; Ord. No. 22-19, § 1, 9-26-19)

Sec. 4-3-98. - Billing and collection charges.

(a) The financial services department shall issue and send to the customers of the sanitation system bill and invoices for sanitation services.

(b) It shall be the duty of the financial services department to collect the charges set forth on the bills and invoices issued to customers for sanitation services furnished.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 37-08, § 1, 7-24-08; Ord. No. 18-09, § 1, 5-28-09)

Sec. 4-3-99. - Penalty.

Failure to comply with the provision(s) of this article shall be punishable pursuant to the Code, section 1-1-8, and any other applicable sections.

(Ord. No. 17-03, § 2, 8-21-03; Ord. No. 18-09, § 1, 5-28-09)

ARTICLE IV. - COMMERCIAL COLLECTION

Sec. 4-3-100. - Franchise required; exception; application.

(a) It shall be unlawful for any person, firm or entity to engage in the business of collecting and disposing of solid waste, generated by any other person, firm or entity without having been granted a franchise by the city. It shall be unlawful for any person, firm or entity to engage in the business of collecting and disposing of solid waste from any dwelling for which a written determination has not been made by the city that it is impractical for the sanitation services & fleet management department to provide solid waste collection service to such dwelling. Provided, however, nothing in this section shall be construed to require any generator of tree trimmings or construction or demolition debris upon any premises from himself or itself removing and disposing of such materials without first obtaining a franchise. Construction sites that utilize a solid waste service provider other than a city franchisee shall be subject to an immediate stop work order to be issued by the city building official.

(b) The mayor shall have the authority to grant all non-exclusive solid waste franchises described herein. Applicants that are denied a franchise by the mayor shall have the right to appeal as provided in section 4-3-112 that denial before city council.

(c) Franchise applicants shall obtain an application from the city upon payment to the city of a two-hundred dollar ($200.00) application fee.

(d) As an alternative to paying a renewal application fee of two hundred dollars ($200.00), franchise holders may agree to provide in-kind solid waste rolloff collection and disposal services, at no cost to the city, in the amount of not less than thirty (30) cubic yards. These in-kind services shall be performed by the franchise holder at the request and convenience of the city within the three-year term of the franchise.

(e) The mayor may issue a ninety-day temporary franchise after payment of the two hundred dollars ($200.00) application fee and completion of all documentation required to obtain a franchise. A temporary franchise granted under this section shall not be renewable beyond its ninety-day term.

(f) To ensure sufficient solid waste service capacity in the event of a declared disaster, the mayor shall be authorized to issue temporary franchises for periods not to exceed one (1) year. Such temporary franchises shall be subject to all provisions of this chapter.

(Ord. No. 43-89, § 1, 9-21-89; Ord. No. 53-07, § 1, 9-27-07; Ord. No. 14-08, § 1, 2-13-08; Ord. No. 16-10, § 49, 9-9-10)

Sec. 4-3-101. - Definitions.

For the purpose of this article, the following words, terms, and phrases shall have the meanings given herein unless the context clearly requires otherwise. Words, terms, and phrases in this article not

defined in this section shall have the meanings given in F.S. § 403.703, or in this Code, unless the context clearly otherwise requires.

Container shall mean any portable, nonabsorbent, enclosed container with close-fitting cover or doors, open top and "roll-on"/"roll-off" approved by the city, which is used to store refuse. All containers utilized by a franchisee must be capable of being serviced by mechanical equipment.

Customer shall mean that customer utilizing a Dempster-box-type container or "roll-on"/"rolloff" container.

Designated place of business shall mean the business office address of the franchisee established by the franchise agreement issued pursuant to this article. This office will be open to the public during normal hours of business and available by toll-free telephone for the processing of service requests, complaints, payments, emergency requests and normal inquiries.

Franchise agreement shall mean this article and a contract document specifically approved by council and accepted by a franchisee by which a franchisee is granted the privilege to engage in the collection of solid waste in the city subject to the terms and conditions of this article.

(Ord. No. 43-89, § 1, 9-21-89; Ord. No. 32-94, § 1, 9-8-94; Ord. No. 53-07, § 1, 9-27-07)

Sec. 4-3-102. - Grant of franchise.

Franchisees named in a franchise agreement shall be granted a nonexclusive franchise, including every right and privilege appertaining thereto, to operate a solid waste collection and disposal service in, upon, over and across the present and future streets, alleys, bridges, easements and other public places within the limits of the city, for solid waste generated at any place or establishment other than those residences to be served exclusively by the city pursuant to section 12-4-42. Title to the solid waste shall remain in the generator thereof until deposited in a solid waste disposal facility, whereupon title shall pass to the owner of the facility. All solid waste collected shall be promptly transported to and deposited in a lawfully operating solid waste transfer station or disposal facility, and the franchisee shall pay any and all fees charged for disposal by the operator of the facility.

(Ord. No. 43-89, § 1, 9-21-89; Ord. No. 32-94, § 2, 9-18-94; Ord. No. 53-07, § 1, 9-27-07)

Sec. 4-3-103. - Geographical limits of franchise.

A franchise shall be effective within the city's corporate limits as they may from time to time exist. The geographical limits of a franchise are subject to expansion or reduction by annexation and contraction of municipal boundaries and franchisee has no vested right in a specific area.

(Ord. No. 43-89, § 1, 9-21-89)

Sec. 4-3-104. - Contracts for collection service.

(a) A franchisee shall not provide solid waste service within the city unless the franchisee has executed a written contract between the franchisee and the customer. For purposes of providing the city with auditable records, the franchisee shall retain such contracts for inspection by the city for a period of not less than three (3) years.

(b) The franchisee shall have the sole responsibility for establishment of fees charged individual customers, billing, and collection of all charges.

(c) The city reserves the right to collect solid waste from any single customer (location) within its system up to five (5) 90-gallon wheeled containers on any one (1) collection day.

(Ord. No. 43-89, § 1, 9-21-89; Ord. No. 32-94, § 3, 9-18-94; Ord. No. 53-07, § 2, 9-27-07)

Sec. 4-3-105. - Franchise consideration; quarterly and monthly reports; annual report.

(a) The franchisee shall pay the city a franchise fee equal to one dollar fifty cents ($1.50) per cubic yard of solid waste container capacity per incident of collection and three dollars ($3.00) for solid waste collected in a compaction container per cubic yard of container capacity per incident of collection. Payment shall be made to the City of Pensacola within thirty (30) days following the end of each calendar quarter, i.e., January 30, April 30, July 30 and October 30.

(b) The city reserves the right to adjust the franchise fee after ninety (90) days' written notice of such an adjustment to the franchisee.

(c) The franchisee shall provide the city with a quarterly report detailing service activity and franchise fee payments. This report shall contain, but is not limited to, the following: the container type, container size, dates of service, number of collections, total cubic yards of service provided, and an itemized total of the franchise fees paid to the city. The report shall also include a complete listing of locations where the franchisee provided service by roll-off container and the number and size of the containers serviced at each location. This quarterly report, in a format acceptable to the city, shall be submitted in writing to the city within thirty (30) days following the end of each calendar quarter, i.e., January 30, April 30, July 30 and October 30. Failure by the franchisee to file a quarterly report containing the full documentation required by the deadline shall be the basis for termination of the franchise. Notwithstanding the above, the city in its reasonable discretion also may require such franchisees to provide monthly reports detailing their service activity and franchise fee payments as set out above in the event the city determines such reports are necessary to ensure compliance with this article.

(d) Annually, the franchisee shall furnish the citywith a financial report no later than February 28th, unless the city gives the franchisee prior written approval for a different deadline. The report shall be prepared in accordance with generally accepted accounting standards and its accuracy shall be attested to by the franchisee's certified public accountant or by its chief financial officer. The report shall reflect the accuracy of the franchisee's franchise fee payments to the city and shall ensure and include, but not be limited to, the following:

    (1) That all in-city accounts have been properly coded to reflect charges accrued to the city.

    (2) Reflect the number of in-city-related container pickups and the corresponding total cubic yards of service provided to in-city customers by the franchisee.

    (3) That all franchise fee payments to the city have been correctly computed and remitted to the city on a timely basis.

(e) Commencing February 28, 2010 and reoccurring on every third anniversary of that date, the franchisee shall be required to furnish the city with a franchise fee audit report prepared and attested to by an independent financial accounting firm that details the completeness and accuracy of franchise fee payments made to the city by the franchisee over the prior three (3) year period. The report shall summarize any discrepancies between the franchisee's quarterly reports on file and the audit findings and shall determine whether any underpayment or overpayment of franchise fees occurred during the period. The franchisee may elect to provide this independent franchise fee audit report each year when submitting the annual report. These reports shall be furnished to the city at the sole expense of the franchisee.

(f) The franchisee shall make its books and records available to the city at all reasonable times. The records shall contain for each customer, a contract, service address, size of container and frequency of service. Said records shall be kept open for inspection by duly authorized agents of the city during business hours on all business days; and said duly authorized officers or agents of the city shall have the right, power and authority to make transcripts of essential information therefrom. Records not located within Escambia County shall be furnished by the franchisee to the city within fourteen (14) days of written request. Should the franchisee not comply with the written request, the city may authorize an agent or officer to conduct an audit at the location where said records are located at the

franchisee's expense. Failure to furnish the city with the report, or to maintain complete and accurate records, shall be considered a material breach of this franchise and the city may move to collect any damage resulting therefrom or revoke the franchise.

(Ord. No. 43-89, § 1, 9-21-89; Ord. No. 4-00, § 1, 1-13-00; Ord. No. 22-06, § 1, 9-14-06; Ord. No. 53-07, § 2, 9-27-07; Ord. No. 23-11, § 1, 9-22-11)

Sec. 4-3-106. - Term.

The initial term of each franchise shall expire on September 30, 2010, and the term of each franchise granted, renewed or extended after that date shall expire on the third anniversary of such date. The renewal term of each franchise shall be in increments not to exceed three (3) years, provided, that the franchisee has performed in accordance with all of the terms and conditions of this article.

(Ord. No. 43-89, § 1, 9-21-89; Ord. No. 53-07, § 2, 9-27-07)

Sec. 4-3-107. - Condition.

An acceptance of the provisions, conditions and stipulations of this article shall:

(1) Be in writing;

(2) Contain the franchisee's local address; and

(3) Be filed with the city clerk within fifteen (15) days of the execution of a franchise agreement.

(Ord. No. 43-89, § 1, 9-21-89)

Sec. 4-3-108. - Default.

(a) In the event that a franchisee fails to provide those services in the contracts with its commercial customers by reason of: (1) unknown emergency, labor strike, or similar event; (2) breach of contract; or (3) negligent failure to adequately perform the duties and obligations of this article (as determined by the city); the city may at its discretion, after written notification and after having allowed franchisee sufficient time to correct said default, terminate the franchise.

(b) Written notice of any determination of default and of the actions necessary to cure the default shall be given by the city to the franchisee. A franchisee aggrieved by the determination of default or by the actions determined to be necessary to cure the default may file in the office of the city clerk, within ten (10) days of the date of the notice of default, a written appeal to the mayor setting forth evidence and arguments as to why the franchisee feels that the notice of default is unreasonable. The mayor may hold a conference with the franchisee if he determines that it would be helpful in his or her deliberations. The mayor shall make his or her decision within a reasonable time. Within ten (10) days of receipt of a written decision by the mayor, an aggrieved franchisee may file in the office of the city clerk a written appeal to the city council setting forth evidence and arguments as to why the franchisee feels that the decision of the mayor is unreasonable. The city clerk shall give the franchisee written notice of the meeting of the city council at which the appeal will be considered. The franchisee shall be permitted to speak before the city council. The decision of the city council shall be final.

(Ord. No. 43-89, § 1, 9-21-89; Ord. No. 53-07, § 3, 9-27-07; Ord. No. 16-10, § 50, 9-9-10)

Sec. 4-3-109. - Default by other franchisees.

In the event of a default or failure to provide adequate services by a franchisee (as determined by the city), and should the city choose to assign the services, a franchisee may be requested by the city to provide services or temporary services if the franchisee's equipment and schedule permits, at the prevailing rate of the defaulted franchisee for the services undertaken and completed.

(Ord. No. 43-89, § 1, 9-21-89)

Sec. 4-3-110. - Insurance and indemnification.

Before starting and until termination of any activities necessary or incidental to the franchise granted by the city, the franchisee shall procure and maintain insurance of the types and to the limits specified.

Insurance shall be issued by an insurer whose business reputation, financial stability and claims payment reputation is satisfactory to the city, for the city's protection only. Unless otherwise agreed, the amounts, form and type of insurance shall conform to the following minimum requirements:

(a) *Workers' compensation.* The franchisee shall purchase and maintain workers' compensation insurance coverage for all workers' compensation obligations imposed by law. Additionally, the policy, or separately obtained policy, must include employers liability coverage of at least one hundred thousand dollars ($100,000.00) each person—accident; one hundred thousand dollars ($100,000.00) each person—disease; five hundred thousand dollars ($500,000.00) aggregate—disease.

(b) *Comprehensive general, automobile and umbrella liability coverage.* The franchisee shall purchase coverage on forms no more restrictive than the latest editions of the comprehensive general liability and business auto policies filed by the insurance services office. The city shall be an additional insured and such coverage shall be at least as broad as that provided to the named insured under the policy for the terms and conditions of this contract. The city shall not be considered liable for premium payment, entitled to any premium return of dividend and shall not be considered a member of any mutual or reciprocal company. Minimum limits of one million dollars ($1,000,000.00) per occurrence, and per accident, combined single limit for liability must be provided, with umbrella insurance coverage making up any difference between the policy limits of underlying policies coverage and the total amount of coverage required.

(1) *Comprehensive general liability coverage* must be provided, including bodily injury and property damage liability for premises, operations, and independent contractors. Broad form comprehensive general liability coverage, or its equivalent shall provide at least, broad form contractual liability applicable to this specific contract, personal injury liability and broad form property damage liability. The coverage shall be written on occurrence-type basis.

(2) *Business auto policy coverage* must be provided, including bodily injury and property damage arising out of operation, maintenance or use of all owned, nonowned and hired automobiles and employee nonownership use.

(3) *Umbrella liability insurance coverage* shall not be more restrictive than the underlying insurance policy coverages. The coverage shall be written on an occurrence-type basis.

(c) *Certificates of insurance.* Required insurance shall be documented in the certificates of insurance which provide that the city shall be notified at least thirty (30) days in advance of cancellation, nonrenewal or adverse change or restriction in coverage. The city shall be named on each certificate as an additional insured and this contract shall be listed. If required by the city, the franchisees shall furnish copies of the franchisee's insurance policies, forms, endorsements, jackets and other items forming a part of, or relating to such policies. Certificates shall be on the "certificate of insurance" form equal to, as determined by the city an ACORD 25. Any wording in a certificate which would make notification of cancellation, adverse change or restriction in coverage to the city an option shall be deleted or crossed out by the insurance carrier or the insurance carrier's agent or employee. The franchisee shall replace any cancelled,

adversely changed, restricted or nonrenewed policies with new policies acceptable to the city and shall file with the city certificate of insurance under the new policies prior to the effective date of such cancellation, adverse change or restriction. If any policy is not timely replaced, in a manner acceptable to the city, the franchisee shall, upon instructions of the city, cease all operations under the contract until directed by the city, in writing, to resume operations.

(d) *Insurance of the franchisee primary.* The franchisee required coverage shall be considered primary, and all other insurance shall be considered as excess, over and above the franchisee's coverage. The franchisee's policies of coverage will be considered primary as relates to all provisions of the contract.

(e) *Hold harmless.* The franchisee shall hold the city harmless from any and all claims, suits, actions, damages, liability and expenses in connection with loss of life, bodily or personal injury, or property damage, including loss of use thereof, directly or indirectly caused by, resulting from, arising out of or occurring in connection with the performance of this franchise, except to the extent caused by the negligence of the city. The franchisee's obligation shall not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance.

(f) *Pay on behalf of the city.* The franchisee agrees to pay on behalf of the city, as well as provide a legal defense for the city, both of which will be done only if and when requested by the city, for all claims as described in the hold harmless paragraph. Such payment on the behalf of the city shall be in addition to any and all other legal remedies available to the city and shall not be considered to be the city's exclusive remedy.

(g) *Loss control and safety.* Precaution shall be exercised at all times by the franchisee for the protection of all persons, including employees and property. The franchisee shall make special effort to detect hazardous conditions and shall take prompt action where loss control/safety measures should reasonably be expected.

(Ord. No. 43-89, § 1, 9-21-89)

Sec. 4-3-111. - Licenses.

The franchisee shall, at its sole expense, procure from all local, state, and federal governmental authorities (having jurisdiction over the operations of the franchisee) all licenses, certificates, permits, or other authorizations which may be necessary for the conduct of the franchisee's operations.

The franchisee shall pay all taxes, and licenses; certifications, permits and examination fees; and all excises which may be assessed, levied, exacted, or imposed upon its property, operations, and gross receipts, or all or any combination of these things; and upon this franchise and the rights and privileges granted herein, and shall make all applications, reports, and returns required in connection therewith to all respective governmental and agency authorities.

(Ord. No. 43-89, § 1, 9-21-89)

Sec. 4-3-112. - Termination and denial.

(a) A franchise may be terminated by the mayor prior to the expiration of the term if any of the following events occur:

(1) The franchisee fails (1) to pay the sums, fees, or charges due to the city in a timely manner; or (2) the franchisee fails to perform or observe the covenants and conditions designated to it under this article. In the event of a failure, the city shall notify the franchisee in writing of the specific failure or default, and the franchisee shall have thirty (30) days from the receipt of such notice to correct the condition giving rise to such notice. If the correction is not made to the city's

satisfaction within the thirty (30) days, the mayor may give written notice to the franchisee that the privileges granted herein are terminated as of the date of such notice; or

(2) If and when the franchisee shall liquidate, dissolve, or sell substantially all of its assets; or

(3) If and when there is a transfer of fifty (50) percent or more of the franchisee's voting stock which results in a change in the franchisee's control; or

(4) If and when the franchisee becomes insolvent, or makes a general assignment for the benefit of its creditors; or if an action or petition is filed by or against the franchisee under any part of the Federal Bankruptcy Act or other law relating to the alleged insolvency of the franchisee, and such action or petition is not dismissed within ninety (90) days of the date of its filing.

(5) In the event the franchise granted herein is terminated pursuant to this section, any liability of the franchisee to the city accruing thereby, and any liability of the franchisee to the city arising out of any act or event occurring prior to the termination shall immediately become due and payable to the city, without further notice.

(6) The franchisee shall have the right to appeal to the city council the decision of the mayor to terminate its franchise within ten (10) days of receipt of the mayor's written decision. The franchisee shall file a written appeal in the office of the city clerk setting forth evidence and arguments as to why the franchisee feels that this decision is unreasonable. The city clerk shall give the franchisee written notice of the meeting of the city council, or of any of its committees, at which the appeal will be considered. The franchisee shall be permitted to speak before the city council and its committees. The decision of the city council shall be final.

(b) The mayor shall deny by written decision any application for a franchise that fails to satisfactorily comply with all the provisions of this chapter. The decision shall set out in particular the deficiencies in the application and the reason(s) for its denial. The mayor's decision to deny an application shall be made within sixty (60) days after its filing. The right of appeal to the city council as provided in this section shall be available to such an applicant that has been denied a franchise.

(Ord. No. 43-89, § 1, 9-21-89; Ord. No. 53-07, § 4, 9-27-07; Ord. No. 16-10, § 51, 9-9-10)

Sec. 4-3-113. - Notices.

All notices herein required to be given by the city to the franchisee, except where specifically provided otherwise, shall be mailed U.S. Mail, certified, return receipt requested, addressed to the franchisee at its last known business address. All notices required to be given to the city, except where specifically provided otherwise, shall be given to the sanitation services & fleet management director either by hand-delivery or by U.S. Mail, certified, return receipt requested, addressed to the Sanitation Services & Fleet Management Director, P.O. Box 12910, Pensacola, Florida 32521-0091.

(Ord. No. 43-89, § 1, 9-21-89; Ord. No. 53-07, § 4, 9-27-07)

Sec. 4-3-114. - Remedies.

All remedies for a default shall be deemed cumulative and not in lieu of or exclusive of each other, or of any other remedy available to the city, at law or in equity. In the event the city shall prevail in any action arising hereunder, the franchisee shall pay the city's costs and attorneys' fees.

(Ord. No. 43-89, § 1, 9-21-89)

Sec. 4-3-115. - Equipment.

(a) The franchisee shall have on hand at all times sufficient equipment in good working order to permit franchisee to perform its duties fully, adequately and efficiently. Collection equipment shall be kept clean, sanitary, neat in appearance and in good repair at all times. No equipment will be used which allows garbage or rubbish to spill or be blown therefrom.

(b) All trucks utilized by the franchisee, and all containers owned or leased by the franchisee shall be prominently identified with the franchisee's name and business telephone number, either painted on or attached by signs reasonable in size so as to be recognizable.

(Ord. No. 43-89, § 1, 9-21-89)

Sec. 4-3-116. - Nonassignability.

A franchise may not be assigned by the franchisee without the prior written consent of the city.

(Ord. No. 43-89, § 1, 9-21-89)

Sec. 4-3-117. - Restoration.

Each franchisee agrees to repair all property, public or private, altered or damaged by it, its agents or employees in the performance of its duties herein to as good or better condition as before damage or alteration.

(Ord. No. 43-89, § 1, 9-21-89)

Sec. 4-3-118. - Spillage and litter.

The franchisee shall not litter premises or rights-of-way in the process of making collections, but shall not be required to collect any waste material that has not been placed in approved containers or in a manner herein provided. During hauling, all solid waste shall be contained, tied or enclosed so that leaking, spilling or blowing are prevented. In the event of spillage by the franchisee, the franchisee shall promptly clean up the litter.

(Ord. No. 43-89, § 1, 9-21-89)

Sec. 4-3-119. - Complaints.

All complaints shall be responded to by the franchisee within forty-eight (48) hours. Franchisee shall maintain records of all complaints on a form approved by it and shall indicate the disposition of each. Such records shall be available for inspection by the city at all times during business hours specified herein. The form shall indicate the day and hour on which the complaint was received and the day and hour on which it was resolved. When a complaint is received on the day preceding a holiday or on a Saturday, it shall be addressed on the next working day. The franchisee shall establish procedures acceptable to city to ensure that all customers are notified as to the complaint procedure.

(Ord. No. 43-89, § 1, 9-21-89)

Sec. 4-3-120. - Franchisee personnel.

(a) Franchisee shall assign a qualified person to be in charge of operations under the franchise agreement and shall give the name and qualifications of said person to the city. Any change in the identity of said person will be furnished to the city prior to the effective date of change.

(b) A franchisee's collection employees shall wear uniforms bearing franchisee's name or wear an identification badge.

(c) Each person employed to operate a vehicle shall, at all times, carry a valid Florida driving license for the type of vehicle being driven, and any other document(s) as may be required by the State of Florida.

(d) The franchisee shall assure that operating and safety training has been provided to all personnel that operate collection equipment.

(Ord. No. 43-89, § 1, 9-21-89; Ord. No. 53-07, § 5, 9-27-07)

Sec. 4-3-121. - Monitoring performance and compliance.

The city shall monitor performance and compliance on the quality of service provided by each franchisee pursuant to the franchise agreement. For the purpose of this function, "service" shall be defined as the performance of duties, tasks and obligations of the franchisee enumerated in the franchise agreement and the performance of such other duties, tasks, and obligations as are generally and reasonably regarded as incidental to the safe and satisfactory discharge of responsibilities in the sanitation industry.

(Ord. No. 43-89, § 1, 9-21-89; Ord. No. 53-07, § 5, 9-27-07)

Sec. 4-3-122. - Amendments.

The city reserves the right to amend this article at any time, and in any manner that the city deems necessary for the health, safety, or welfare of the public. The city also reserves the right to prescribe, from time to time, reasonable rules and regulations further governing the franchisee's operations herein, including, but not limited to, hours of container pickup. These rules need not be memorialized in an ordinance revision or further, formal action by the council, the council's approval of this article being an approval that the regulations should be so issued.

(Ord. No. 43-89, § 1, 9-21-89; Ord. No. 53-07, § 5, 9-27-07)

Sec. 4-3-123. - No official interest in franchise.

By accepting a franchise granted pursuant to this article, a franchisee represents and warrants to the city that, to the best of the knowledge of the franchisee, no appointed or elected city official, officer, employee, or agent has any interest, either directly or indirectly, in the business of the franchisee.

(Ord. No. 43-89, § 1, 9-21-89)

CHAPTER 4-5. LITTER CONTROL[10]

Footnotes:

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Cross reference— Garbage and refuse, Ch. 4-3; streets, sidewalks and other public places, Ch. 11-4.

State Law reference— Florida litter law, F.S. § 403.413.

Sec. 4-5-1. - Short title.

This chapter shall be known and may be cited as the "City of Pensacola Litter Control Ordinance."

(Ord. No. 61-83, § 1, 3-24-83)

REPEAL SECTION 4-5-2.

REPEAL SECTION 4-5-3.

Sec. 4-5-4. - Definitions.

The following words, phrases or terms as used in this chapter, unless context indicates otherwise, shall have the following meanings:

Cover. Any device, equipment, container, close-fitting tarpaulin, chain, rope, wire or line used on vehicles to prevent any part of a vehicle load from sifting, blowing, leaking, falling or escaping in any manner from the vehicle.

Enforcement agency. Any officer of the city charged by the mayor with enforcement responsibility.

Litter. Refuse and rubbish including, but not limited to, paper, bottles, tin cans, glass, crockery, plastic, rubber, yard trash, waste building materials, tree and shrub trimmings, leaves and disposable packages and containers.

Nuisance. Any violation of this chapter is declared to be a public nuisance and subject to abatement as such in accordance with the terms of this chapter.

Storage. The interim containment of litter, in an approved manner after generation and prior to proper and final disposal.

Unauthorized accumulation. Accumulation of litter on any residential or commercial properties in violation of this chapter. This shall not include building materials used in construction or repairing a building stored at the site of such building, nor shall it include refuse acceptable for collection pursuant to Chapter 4-3, Article III.

Written corrective notices. A written statement issued to the violator of any provisions of this chapter, or his or her agent, identifying and specifying the violation, date and time of issuance, corrective measures to be taken and date and time correction is to be completed.

(Ord. No. 61-83, § 4, 3-24-83)

Cross reference— Definitions and rules of construction generally, Ch. 1-2.

Sec. 4-5-5. - Littering prohibited.

It is a violation of this chapter for any person to throw, discard, place, drop or deposit litter in any manner or amount in or upon any public property, private property, highway, street, right-of-way or body of water in the city except in areas and containers provided therefor, or in accordance with Chapter 4-3, Article III.

(Ord. No. 61-83, § 5, 3-24-83)

Sec. 4-5-6. - Owner's, generator's responsibility generally.

Any person, corporation, establishment, firm, business, owner, agent of property within the city who generates litter shall be responsible for ensuring such litter is managed, stored, handled, transported and disposed of in accordance with the provisions of this chapter.

(Ord. No. 61-83, § 15, 3-24-83)

Sec. 4-5-7. - Duty of operators, owners to keep adjacent areas free of litter.

It shall be the duty of each operator, owner, lessee or agents of any business, industry, institution, private or public, profit or nonprofit, to keep the adjacent and surrounding areas clean and free of litter. These areas include public property, roads, rights-of-way, grounds, parking lots, loading and unloading areas and vacant lots owned or leased by said establishment or institution.

(Ord. No. 61-83, § 8, 3-24-83)

Sec. 4-5-8. - Litter discarded from motor vehicle.

In any case where litter is ejected or discarded from a motor vehicle, except at approved and permitted disposal sites, the operator of the motor vehicle shall be deemed in violation of this chapter.

(Ord. No. 61-85, § 5, 3-24-83)

Sec. 4-5-9. - Litter storage; provision of receptacles.

(a) All commercial establishments shall store their litter in containers so as to eliminate wind-driven debris and unsightly litter in and about their establishments. The number and size of containers necessary for each commercial establishment shall be as required to maintain a clean, neat, sanitary premises. Spillage and overflow around containers shall immediately be cleaned up as it occurs.

(b) All loading and unloading areas at commercial establishments shall be provided with litter receptacles by the generator to store loose debris, paper, cardboard, packaging materials and similar materials.

(c) It shall be the duty of any and every person, corporation, company, lessee, agent owning or operating any public establishment or public place to provide receptacles adequate to contain litter generated from such establishment.

(d) All construction and demolition contractors, owners or agents shall provide on-site receptacles for loose debris, paper, building materials wastes, scrap building materials and other litter products to prevent wind-driven scattering of such materials if the materials are otherwise not properly disposed of on a daily basis.

(e) It shall be the duty of every person, corporation, company, firm, owner, lessee or agent in possession, charge of or in control of any place, public or private, where litter is accumulated or generated, to provide and at all times to keep litter in adequate and suitable receptacles and/or containers capable of holding such materials until proper final disposal is accomplished.

(f) Any unauthorized accumulation of litter on any property, vacant or occupied, premises, public street, alley or other public place or private place is a violation of this chapter.

(Ord. No. 61-83, §§ 7, 8, 3-24-83)

Sec. 4-5-10. - Receptacles to be used for litter only.

It shall be a violation of this chapter for any person to deposit any item, items or materials except litter in any receptacle placed for public use as a depository for litter.

(Ord. No. 61-85, § 5, 3-24-83)

REPEAL SECTION 4-5-11.

Sec. 4-5-12. - Handbills and advertising materials.

The placing of handbills or advertising materials on the windshields of vehicles is a violation of this chapter, unless permission to do so is first obtained from the owner and/or person in possession of said vehicle.

(Ord. No. 61-83, § 9, 3-24-83)

Sec. 4-5-13. - Storage, transportation, disposal generally.

Litter shall be stored and transported in accordance with the provisions of this chapter and disposed of in accordance with the ordinances of the City of Pensacola.

(Ord. No. 61-83, § 11, 3-24-83)

Sec. 4-5-14. - Permitting premises to be nuisance prohibited.

It is a violation of this chapter for any owner, lessee, operator, tenant or agent to maintain premises, private or open to the public, vacant or occupied, upon which litter is permitted, caused, allowed or exists in any manner to be a nuisance.

(Ord. No. 61-83, § 10, 3-24-83)

Sec. 4-5-15. - Disposing of litter of private property; owner not to allow.

It is a violation of this chapter for any private property owner, tenant, occupant, lessee or agent to grant permission to any person to dispose of litter on his or her property.

(Ord. No. 61-83, § 8, 3-24-83)

REPEAL SECTION 4-5-16.

Sec. 4-5-17. - Issuance of written corrective notices; arrests.

Employees of the enforcement agency are empowered to issue written corrective notices, citations, court summons or arrest; and are further empowered to issue written corrective notices to persons, corporations, establishments, companies, owners, tenants, occupants and agents violating any of the provisions of this chapter.

(Ord. No. 61-83, § 13, 3-24-83; Ord. No. 48-96, § 1, 9-26-96)

Sec. 4-5-18. - Contents, service of written corrective notices.

Written corrective notices may be issued to violators of this chapter to correct an offense in lieu of arrest. The notice shall state the date and time issued, nature of the offense committed, corrective measures to be taken and the date and time such corrections shall be made. All such notices issued shall be maintained for public inspections during normal office hours. Notices mailed by certified mail, return receipt requested, mailed to the violator's last known place of residence shall be deemed personal service upon the person, for the purpose of this chapter.

(Ord. No. 61-83, § 13, 3-24-83)

Sec. 4-5-19. - Same—Failure to comply with written corrective notice.

Any person, corporation, company, firm, business, institution, owner, lessee, agent, tenant or occupant who has been served such notice in accordance with the provisions of this chapter, and who shall neglect or shall refuse or shall fail to fully comply with the corrective notices so ordered and/or within the time frame so ordered therein, shall be in violation of this chapter.

(Ord. No. 61-83, § 14, 3-24-83)

Sec. 4-5-20. - Same—Prosecution for violation.

Prosecution for a violation of this chapter shall be initiated by the officer who witnesses such offense or has sufficient probable cause or who discovers an article of litter bearing the name or address of a person, corporation, company, firm, business or institution on the property of another or on any public property. It shall be presumed that any article of litter so discovered is the property of such person whose name or address appears thereon, and that said person, company, corporation, firm, business or institution placed or caused to be placed such article of litter; provided, however, that such presumption shall be rebuttable by competent evidence. This presumption is based on the tenet that all generators of such litter are responsible for such litter until such time it has been properly disposed of.

(Ord. No. 61-83, § 13, 3-24-83)

CHAPTER 4-6. WRECKED, ABANDONED AND JUNKED PROPERTY[11]

Footnotes:

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State Law reference— Abandoned property; supplemental procedure for removal and destruction, F.S. § 705.16; reporting of removal of motor vehicles, F.S. § 715.05.

Sec. 4-6-1. - Definitions.

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

Abandoned personal property. Wrecked or derelict property, having no apparent intrinsic value to the owner, which has been left abandoned and unprotected from the elements and shall include wrecked, inoperative or partially dismantled motor vehicles, trailers, boats, machinery, refrigerators, washing machines, plumbing fixtures, furniture and any other similar article which has no apparent intrinsic value to the owner, and which has been left abandoned and unprotected from the elements, including all property defined in F.S. section 705.101.

Abandoned swimming pools. Outdoor pools, whether in-ground or above-ground, that have been abandoned and not maintained, allowing the water to become opaque, mosquitoes to breed, or otherwise becoming a nuisance as defined in section 14-3-3(2).

Public property. Lands and improvements owned by the city lying within the municipal boundaries and includes buildings, grounds, parks, playgrounds, streets, sidewalks, parkways, rights-of-way and other similar property.

(Ord. No. 24-84, § 1, 6-14-84; Ord. No. 13-11, § 1, 7-21-11)

Sec. 4-6-2. - Procedures supplemental.

The procedure authorized by this chapter is supplemental to other procedures authorized by law.

(Ord. No. 24-84, § 8, 6-14-84)

Sec. 4-6-3. - Mayor immune from prosecution for trespassing.

The mayor or any person authorized by the mayor shall be immune from prosecution, civil or criminal, for reasonable good faith trespassing upon real property while in the discharge of duties imposed by this chapter.

(Ord. No. 24-84, § 6, 6-14-84; Ord. No. 16-10, § 52, 9-9-10)

Sec. 4-6-4. - Obstructing, etc., mayor.

Whoever opposes, obstructs or resists the mayor or any person authorized by the mayor in the discharge of his or her duties as provided in this chapter upon conviction shall be subject to the penalties provided for in section 1-1-8.

(Ord. No. 24-84, § 5, 6-14-84; Ord. No. 16-10, § 53, 9-9-10)

Sec. 4-6-5. - On public property.

(a) Whenever the mayor shall ascertain that an article of abandoned property is present on public property he or she shall cause a notice to be placed upon the article in substantially the following form:

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY. This property (setting forth brief description) is unlawfully upon public property known as (setting forth brief description of location) and must be removed within five (5) days or, if the property is a boat, thirty (30) days from the date of this notice. If this property is not removed within such period a hearing shall be held at (setting forth time and place of hearing) at which the owner or any person interested in the property may show reasonable cause why the property should not be removed and destroyed. If at the conclusion of the hearing, the owner or other person interested in it has not shown good cause why the property should not be removed and destroyed, it shall be presumed to be abandoned property and will be removed and destroyed by order of the City of Pensacola. If the property is a motor vehicle or boat, the owner will be liable for the costs of removal and destruction. Dated this: (setting forth the date of posting of notice). Signed: (setting forth name, address and telephone number of the mayor). The notice shall be not less than eight (8) inches by ten (10) inches and shall be sufficiently weatherproof to withstand normal exposure to the elements. In addition to posting, the mayor shall make a reasonable effort to ascertain the name and address of the owner

and, if such is reasonably available to the mayor, he shall mail a copy of the notice to the owner on or before the date of posting.

(b) At the hearing which shall be held before the city council, the owner or any person having any interest in the abandoned article described in the notice will be permitted to show reasonable cause why the article should not be removed and destroyed.

(c) If, at the conclusion of the hearing, the owner or any person interested in the abandoned article described in the notice has not removed the article from public property or shown reasonable cause for failure to do so, the city council may cause the article of abandoned property to be removed and destroyed. The salvage value, if any, of the article shall be retained by the city to be applied against the cost of removal and destruction thereof, unless the costs of removal and destruction are paid by the owner as provided in section 4-6-7, in which case the salvage value shall be deposited in the general fund of the city.

(Ord. No. 24-84, § 2, 6-14-84; Ord. No. 16-10, § 54, 9-9-10)

Sec. 4-6-6. - On private property.

(a) *Notice to owner.*

(1) Whenever the mayor shall ascertain that an article of abandoned personal property is present on private property within the city limits, in violation of any ordinance or regulation of the city, the mayor shall cause a notice to be provided to the owner pursuant to F.S. § 162.12, as that statute may be amended from time to time, except as otherwise provided herein. If the real property where the abandoned personal property is located is or appears to be vacant, then notice shall also be provided by posting the property as described in F.S. § 162.12.

(2) The notice shall state that the owner has fifteen (15) days in which to remove the abandoned personal property or, if the article has not been removed, the owner shall appear before the code enforcement authority for a hearing to be held at a date and time certain to show cause why the article in question is not abandoned personal property or why code enforcement should not remove and destroy the abandoned personal property.

(b) *Failure to act.* If the owner of the abandoned personal property fails to remove the article within the fifteen (15) days, fails to appear before the code enforcement authority on the designated hearing date, and fails to communicate with the code enforcement authority before the hearing, then the code enforcement authority shall enter an order declaring the subject article to be abandoned personal property and that the article shall be seized, removed, and destroyed by the city, and the salvage value, if any, of such article shall be retained by the city to be applied against the cost of removal and destruction thereof.

(c) *Appearance by the owner.* If the owner of the abandoned personal property appears before the code enforcement authority or otherwise communicates with the code enforcement authority prior to the hearing, the owner or any person having any interest in the abandoned personal property will be permitted to show reasonable cause why the article should not be removed and destroyed. If the owner or interested person requests an extension to remedy the situation, then the code enforcement authority may provide the owner or interested person one extension, until the next regular code enforcement authority meeting, in which to remove the abandoned personal property. If the owner or interested person has not removed the abandoned personal property by the time of the next code enforcement authority hearing, then the code enforcement authority shall enter an order declaring the subject article to be abandoned personal property and that the article shall be seized, removed, and destroyed by the city, and the salvage value, if any, of such article shall be retained by the city to be applied against the cost of removal and destruction thereof.

(d) *Summary proceedings.*

(1) Whenever the city determines that an article(s) of abandoned personal property or an abandoned swimming pool creates an emergency situation or a nuisance, as defined in section 14-3-3 of this Code, then the city may institute summary proceedings. In such circumstances, the city shall notify the owner of the real property where the abandoned personal property is situated pursuant to F.S. § 162.12, of the article of abandoned personal property or abandoned swimming pool that is present on private property within the city limits and in violation of any ordinance or regulation of the city. The notice shall provide the owner with five (5) days in which to remove the abandoned personal property or remedy the abandoned swimming pool, except where the city determines that the circumstances warrant immediate action.

(2) If after five (5) days the abandoned personal property has not been removed, then the city may seize, remove and destroy the abandoned personal property, and the salvage value, if any, of such article shall be retained by the city to be applied against the cost of removal and destruction thereof.

(3) If after five (5) days the abandoned swimming pool has not been brought into compliance with section 14-3-3, then the city may take action to bring the swimming pool into compliance with section 14-3-3.

(Ord. No. 24-84, § 3, 6-14-84; Ord. No. 16-10, § 55, 9-9-10; Ord. No. 13-11, § 2, 7-21-11)

Sec. 4-6-7. - Owner liable for costs of removal.

The owner of any abandoned personal property and the owner of the real property upon which the abandoned property is located who, after notice as provided in section 4-6-2 or section 4-6-3, does not remove the abandoned personal property within the specified period shall be liable to the city for all costs of removal and destruction of the property, inclusive of the cost of city staff time and compensation and the reasonable administrative overhead therefore, less any salvage value received by the city. Upon such removal and destruction, the mayor shall notify the owner of the abandoned personal property and the owner of the land upon which it was situated of the amount owed and of the penalty provision of this section. Such amounts imposed by the city shall constitute a joint and several obligation of the owners of the abandoned personal property and of the real property upon which it was situated, shall constitute a lien upon all personal and real property owned by the owner of the abandoned personal property and owner of the real property upon which it was situated, and shall be enforced as such by the city pursuant to law.

(Ord. No. 24-84, § 4, 6-14-84; Ord. No. 16-10, § 56, 9-9-10; Ord. No. 13-11, § 3, 7-21-11)

Sec. 4-6-8. - Revocation of boat registration privileges.

In the case of an abandoned boat, any person who neglects or refuses to pay the amount shall not be entitled to be issued a certificate of registration for any other boat until the costs have been paid. The mayor shall supply the department of natural resources with a list of persons whose boat registration privileges have been revoked under this chapter and neither the department nor the tax collector or other person acting as agent thereof shall issue a certificate of registration to a person whose boat registration privilege has been revoked, as provided by this section, until the costs have been paid. In the case of an abandoned motor vehicle, any person who neglects or refuses to pay the amount shall be subject to a fine of one hundred dollars ($100.00). If such cost is not paid within thirty (30) days of claiming the property, the remedies set forth in F.S. section 705.103 may apply.

(Ord. No. 24-84, § 4, 6-14-84; Ord. No. 16-10, § 57, 9-9-10)

Sec. 4-6-9. - Reserved.

Editor's note— Ord. No. 13-11, § 4, adopted July 21, 2011, repealed § 4-6-9, which pertained to state law adopted by reference and derived from § 161-1 of the 1968 Code; Ord. No. 24-84, § 7, 6-14-84.

Sec. 4-6-10. - Real property in violation.

(a) *Responsibility for and registration of real property.* Responsibility for securing compliance with all applicable codes of the City of Pensacola pertaining to the condition of dwellings, buildings and other structures, and improved and unimproved lots, is hereby placed upon the owners and occupants of such property, jointly and severally, except that non-owners are not liable for building code violations. In addition, responsibility for securing compliance with all applicable codes of the City of Pensacola pertaining to the condition of dwellings, buildings and other structures and improved and unimproved lots is placed upon individuals and entities who hold a recorded security interest in such property after they have received notice from the mayor that the owner or occupant of the property has been notified, or attempts were made to notify the owner pursuant to F.S. § 162.12, of an existing code violation and has failed to remove and correct the violation after having been directed to do so by the city.

The following provisions are applicable to individuals and entities who hold a recorded mortgage or other recorded security interest in real property in the City of Pensacola which has been found by the city or by a court of law to be in violation of the code of ordinances pertaining to the condition of such property and which violation has not been corrected or removed by the owner or occupant after having been directed to do so by the authority or a court:

(1) The responsible party shall perform an inspection of the property within ten (10) days of receipt of notification from the city of an uncorrected violation from the city.

(2) If the property is found to be vacant or shows evidence of vacancy, it shall be deemed abandoned and the responsible party shall, within ten (10) days of inspection, register the property with the city , on forms provided by the city. A registration is required for each vacant property.

(3) If the property is occupied, it shall be inspected by the responsible party monthly until all code violations have been corrected.

(4) Registration with the city shall include the name of the responsible party, a direct mailing address, a direct contact name and telephone number, and in the case of responsible parties not having an office or representative in Escambia or Santa Rosa County, the name, address and contact information of a local property management agent who shall be responsible for the security and maintenance of the property.

(5) This section also shall apply to properties that have been the subject of a foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure.

(6) Properties subject to this section shall remain under the annual registration requirement, security, and maintenance standards of this section as long as they remain vacant.

(7) Any responsible party, person or corporation that has registered a property under this section must report any change of information contained in the registration within ten (10) days of the change.

(b) *Maintenance requirements.*

(1) Properties subject to this section shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, fliers, notices, except those required by federal, state, or local law, discarded personal items including, but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

(2) The property shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior paint.

(3) Front, side, and rear yard landscaping shall be maintained in accordance with the city's standard at the time registration was required.

(4) Landscape shall include, but not be limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation. Landscape shall not include weeds, gravel, broken concrete, asphalt or similar material.

(5) Maintenance shall include, but not be limited to, watering, irrigation, cutting, and mowing and removal of all trimmings.

(6) Pools and spas shall be maintained so the water remains free and clear of pollutants and debris. Pools and spas shall comply with enclosure requirements of this Code and the Florida Building Code, as amended from time to time.

(7) Failure of the responsible party to properly maintain the property may result in a violation of this Code and a notice of violation or notice of hearing by the city.The city may take the necessary action to ensure compliance with this section.

(c) *Security requirements.*

(1) Properties subject to this section shall be maintained in a secure manner so as not to be accessible to unauthorized persons.

(2) A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates, and other openings of such size that may allow a child to access the interior of the property and/or structure. Broken windows shall be secured by reglazing or boarding of the window.

(3) If the property is owned by a responsible party headquartered outside of Escambia and Santa Rosa counties, a local property management company shall be contracted to perform monthly inspections to verify compliance with the requirements of this section and any other applicable laws.

(4) The property shall be posted with the name and twenty-four-hour contact phone number of the local property management company. The posting shall be no less than an eight-inch by ten-inch sign. The posting shall contain the following language:

THIS PROPERTY IS MANAGED BY:
TO REPORT PROBLEMS OR CONCERNS CALL:

The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible, or secured to the exterior of the building/structure facing the street to the front of the property so it is visible or, if no such area exists, on a stake of sufficient size to support the posting in a location as close as possible to the main door entrance of the property. The exterior posting shall be constructed of and printed with weather-resistant materials.

(5) The local property management company shall inspect the property on a bi-weekly basis to ensure that the property is in compliance with this section. Upon the request of the city, the local property management company shall provide a copy of the inspection reports to the city.

(6) Failure of the responsible party to properly maintain the property may result in a violation of this Code and a notice of violation or notice of hearing by the city. The city may take the necessary action to ensure compliance with this section.

(d) *"Responsible party"* is any individual or entity that holds a recorded mortgage or other recorded security interest on the real property at issue.

(e) *Opposing, obstructing enforcement officer, penalty.* Whoever opposes, obstructs, or resists any enforcement officer or any person authorized by the mayor in the discharge of duties as provided in this section, upon conviction shall be punished as provided in section 1-1-8 of this Code.

(f) *Immunity of enforcement officer.* Any enforcement officer authorized or designated by the mayor or any person authorized by the enforcement officer shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon real property while in the discharge of duties imposed by this section.

(g) *Additional authority.* The mayor shall have the authority to require the mortgagee and/or owner of record of any property affected by this section, to implement additional maintenance and/or security measures including, but not limited to, securing any and all door, window, or other openings, employment of an on-site security guard, or other measures as may be reasonably required to help prevent further decline of the property.

(h) *Adoption of rules; expenditure of funds; declaration of city purpose.* The mayor, consistent with his or her duties and authorities under the City Charter, including those duties and authorities relating to emergency situations, is authorized and empowered to adopt rules and regulations and expend city funds as may be reasonably necessary and available to carry out the terms of this section, the expenditure of such funds being declared a proper city purpose.

(Ord. No. 13-11, § 5, 7-21-11)

TITLE V. - HUMAN RESOURCES AND CIVIL RIGHTS

CHAPTERS

CHAPTER 5-1. GENERAL PROVISIONS

(RESERVED)

CHAPTER 5-2. DISCRIMINATION

ARTICLE I. - IN GENERAL

Secs. 5-2-1—5-2-15. - Reserved.

ARTICLE II. - FAIR HOUSING[1]

Footnotes:

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Cross reference— Buildings and building regulations, Ch. 7-13; housing, § 7-13-241 et seq.; zoning, Ch. 12-2.

Sec. 5-2-16. - Declaration of policy.

It is hereby declared to be the policy of the city, in the exercise of its police power for the public safety, public health and general welfare, to ensure equal opportunity to obtain adequate housing by all persons, regardless of race, color, religion, sex, national origin, place of birth, age (provided the person has the capacity to contract), marital status, ancestry, military status or disability and, to that end, to prohibit and eliminate discrimination in housing by any person.

(Code 1968, § 80-20)

Sec. 5-2-17. - Definitions.

For the purposes of this article, the following terms, phrases and words and their derivations shall have the meanings given herein:

Board. The fair housing board established by this article.

Director. The fair housing director established by this article.

Discrimination, discriminatory housing practice. Any difference in the treatment of persons based on race, color, religion, sex, national origin, place of birth, age (provided the person has the capacity to contract), marital status, military status, ancestry or disability.

Housing, housing accommodations, dwelling. Any building, mobile home or trailer, structure or portion thereof which is occupied as, or designed, or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any building, mobile home or trailer, structure, or portion thereof, or any real property, as defined herein, used or intended to be used for any of the purposes set forth in this subsection.

Lending institution, financial institution. Any person, as defined in Chapter 1-2, engaged in the business of lending money or guaranteeing loans.

Mortgage broker. An individual who is engaged in or performs the business or services of a mortgage broker as the same are defined by Florida Statutes.

Real estate broker, real estate salesman. Any individual who, for a fee, commission, salary or for other valuable consideration, who with the intention or expectation of receiving or collecting same, lists, sells, purchases, rents or leases any housing accommodations, including options thereupon, or who negotiates or attempts to negotiate such activities, or who advertises or holds himself out as engaged in such activities; or who negotiates or attempts to negotiate a loan secured by a mortgage or other encumbrance upon transfer of any housing accommodation; or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, rental or lease of any housing accommodation through its listing in a publication issued primarily for such purpose; or an individual employed by or acting on behalf of any of these.

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

(Code 1968, § 80-21; Ord. No. 60-82, § 1, 5-2-782)

Cross reference— Definitions and rules of construction generally, Ch. 1-2.

Sec. 5-2-18. - Discrimination prohibited.

It shall be unlawful within the city for a person, owner, financial institution, real estate broker, or real estate salesman, or any representative of the above to:

(1) Refuse to sell, purchase, rent or lease, or otherwise deny to or withhold any housing accommodation from a person, or to evict a person because of his race, color, religion, sex, national origin, place of birth, age (provided the

person has the capacity to contract), marital status, military status, ancestry or disability;

(2) Discriminate against a person in the terms, conditions of privileges of the sale, purchase, rental or lease of any housing accommodation or in the furnishing of facilities or services in connection therewith;

(3) Refuse to receive or transmit a bona fide offer to sell, purchase, rent or lease any housing accommodation from or to a person because of his race, color, religion, sex, national origin, place of birth, age (provided the person has the capacity to contract), marital status, military status, ancestry or disability;

(4) Evict or to refuse to negotiate for the sale, purchase, rental or lease of any housing accommodation to a person because of his race, color, religion, sex, national origin, place of birth, age (provided the person has the capacity to contract), marital status, ancestry or disability;

(5) Represent to a person that any housing accommodation is not available for inspection, sale, purchase, rental or lease, when in fact it is so available, or to refuse to permit a person to inspect any housing accommodation, because of his race, color, religion, sex, national origin, place of birth, age (provided the person has the capacity to contract), marital status, military status, ancestry or disability when such dwelling is in fact available to persons who are financially qualified;

(6) Make, publish, print, circulate, post or mail, or cause to be made, published, printed, circulated, posted or mailed, any notice, statement or advertisement, or to announce a policy, or to sign or to use a form of application for the sale, purchase, rental, lease or financing of any housing accommodations, or to make a record of inquiry in connection with the prospective sale, purchase, rental, lease or financing of any housing accommodation, which indicates any discrimination or any intent to discriminate;

(7) Offer, solicit, accept or use a listing of any housing accommodations for sale, purchase, rental or lease knowing that a person may be subjected to discrimination in connection with such sale, purchase, rental or lease, or in the furnishings of facilities or services in connection therewith;

(8) Induce or discourage, or attempt to induce or discourage the sale, purchase, rental, lease, or the listing for the sale, purchase, rental or leasing of any housing accommodations in an area, by means of causing panic, inciting unrest, or creating or playing upon fear, by representing that the presence or anticipated presence in that area of persons of any particular race, color, religion, ancestry, sex, place of birth, disability, marital status, or national origin, will or may result in the lowering of property value in the area, the increase in criminal or antisocial behavior in the area, or a decline in the quality of the schools serving the area;

(9) For any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or

other financial assistance to an applicant for a loan for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration or other terms or conditions of such loans or other financial assistance, because of the race, color, religion, sex, national origin, place of birth, age (provided the person has the capacity to contract), marital status, military status, ancestry or disability of such person or of any person associated with him in connection with the loan or other financial assistance or the purposes of the loan or other financial assistance, or of the present or prospective owners, lessees, tenants or occupants of the dwelling or dwellings in relation to which the loan or other financial assistance is to be made or given;

(10) Deny any person who is otherwise professionally qualified by state law access to, or membership or participation in, any multiple listing service, real estate brokers' organizations, or other service, organization or facility relating to the business of selling or renting dwellings or to discriminate against him in the terms or conditions of such access, membership or participation on account of race, color, religion, sex, national origin, place of birth, age (provided the person has the capacity to contract), marital status, military status, ancestry, or disability;

(11) Make any misrepresentations concerning the listing for sale, purchase, rental or lease, or the anticipated listing for any of the above, or the sale, purchase, rental or lease of any housing accommodation in any area in the city for the purpose of inducing or attempting to induce a listing or any of the above transactions;

(12) Engage in, or hire to be done, or to conspire with others to commit acts or activities of any nature, the purpose of which is to coerce, cause panic, incite unrest or create or play upon fear, with the purpose of either discouraging or inducing, or attempting to induce the sale, purchase, rental or lease, or the listing for any of the above, of any housing accommodation;

(13) Retaliate or discriminate in any manner against a person because he has opposed a practice declared unlawful by this article, or because he has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding, hearing or conference under this article;

(14) Aid, abet, incite, compel or coerce any person to engage in any of the practices prohibited by this article; to obstruct or prevent any person from complying with the provisions of this article or any order issued thereunder;

(15) Resist, prevent, impede or interfere with the fair housing board, or any of its members or representatives in the lawful performance of its or their duty under this article;

(16) By canvassing, commit any unlawful practices prohibited by this article;

(17) Otherwise deny to or withhold any housing accommodation from a person because of his race, color, religion, sex, national origin, place of birth, age

(provided the person has the capacity to contract), marital status, military status, ancestry or disability.

(Code 1968, § 80-22; Ord. No. 60-82, § 2, 5-27-82)

Sec. 5-2-19. - Exemptions.

This article shall not apply to:

(1) *Religious organizations.* A religious organization, association, society, or any nonprofit institution or organization operating, supervised or controlled by or in conjunction with a religious organization, association or society, which limits the sale, rental or occupancy of dwellings which it owns or operates for other than commercial purposes to persons of the same religion, or which gives preference to the persons, unless membership in such religion is restricted on account of race, color, sex, national origin, age (provided the person has the capacity to contract), marital status, military status or disability;

(2) *Private clubs.* A private club not in fact open to the public, which as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, and which limits the rental or occupancy of the lodgings to its members or gives preference to its members;

(3) *Certain single-family houses.* Any single-family house sold or rented by an owner, provided that the private individual owner does not own more than three (3) single-family houses at any one time; provided further, that in the case of the sale of any single-family house by a private individual owner not residing in the house at the time of the sale or who was not the most recent resident of the house prior to the sale, the exemption granted by this subsection shall apply only with respect to one sale within any twenty-four-month period; provided further, that the bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than three single-family houses at any one time; provided further the sale or rental of any single-family house shall be excepted from the application of this article only if the house is sold or rented:

(a) Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesman, or of the facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any broker, agent, salesman or person, and

(b) Without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of the provisions of 42 United States Code, Section 3604(c) or of section 5-2-18 of this article; but nothing in this provision shall prohibit the use of attorneys, escrow

agents, abstractors, title companies and other such professional assistance as necessary to perfect or transfer the title.

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

(Code 1968, § 80-23)

Sec. 5-2-20. - Fair housing director—Position created, appointment, staff, funding.

(a) The office and position of fair housing director is hereby created and established.

(b) The director shall be appointed by and serve at the will of the Escambia County Human Relations Commission, Inc., doing business as the Escambia-Pensacola Human Relations Commission. The director shall be chosen by the Commission on the basis of qualifications and experience. The fair housing director shall serve under the supervision of the Commission. .

(c) The Commission shall appoint assistants to the director as may be necessary, subject to budget limitations, and shall provide the director required administrative support.

(d) This office shall be funded annually as approved by the Pensacola City Council.

(Code 1968, § 80-24)

Sec. 5-2-21. - Same—Duties and powers.

Subject to the provisions of subsection 1-1-1(c), the duties, functions, powers and responsibilities of the fair housing director may include:

(1) Implementing the provisions of this article and rules and regulations promulgated hereunder and all city ordinances, codes, rules and regulations pertaining to housing discrimination;

(2) Investigating any and all complaints of unlawful practices in violation of this article, seeking conciliation between the complainant and the respondent, and if in the opinion of the director such conciliation is not reached within sixty (60) days of receipt of the complaint, reporting his findings and recommendations to the fair housing board and carrying out the directives of the board;

(3) Providing assistance in all matters relating to equal housing opportunity within the city;

(4) Publishing and disseminating public information and educational materials relating to housing discrimination;

(5) Subject to the approval of the fair housing board, entering into written working agreements, as may be necessary to effectuate the purposes of this article, with federal, state and county agencies involved in reducing housing discrimination;

(6) Keeping the fair housing board fully and currently informed of all complaints alleging violations of this article and actions taken thereon, and of other actions taken by the director under the provisions of this section; and attending all meetings of the fair housing board;

(7) Implementing recommendations received from the fair housing board concerning this article and the carrying out of its purpose. When in the opinion of the director, effectuating any such recommendation would be undesirable or infeasible, he will promptly so report to the board, with his reasons; any differences of judgment not susceptible of agreement between board and director will be referred to the mayor for his determination, and the board may, if it feels the matter warrants, further carry any disagreement to the city council for decision;

(8) Making semiannual reports to the city council, through the mayor and to the fair housing board concerning the status of housing discrimination in the city and the enforcement of the provisions of this article, and making recommendations concerning methods by which to reduce the discrimination.

(Code 1968, § 80-25; Ord. No. 60-82, § 3, 5-27-82; Ord. No. 16-10, § 58, 9-9-10)

Sec. 5-2-22. - Fair housing board—Created.

The city's fair housing board is hereby created and established. The Escambia County Human Relations Commission, Inc., doing business as the Escambia-Pensacola Human Relations Commission is hereby vested with the authority to act as the fair housing board. The qualifications of members, terms of office, organization of the board, and meetings of the board will coincide with those of the Commission. .

(Code 1968, § 80-26)

Sec. 5-2-23. - Same—Duties, powers, functions.

The board shall have the following duties, powers, functions and responsibilities:

(1) Making recommendations to the director for the enforcement of this article and the carrying out of its purpose;

(2) Reviewing the director's actions and decisions on all complaints of housing discrimination received by or initiated by him or her;

(3) Conducting public hearings and making determinations concerning the director's actions and decisions on the complaints upon appeal by either complainant or respondent, at the request of the director, or when the board deems it desirable, on its own initiative;

(4) In carrying out the functions of subsections (2) and (3) above, the board shall have the power to uphold, rescind, reverse, or modify the actions, decisions, and recommendations of the director;

(5) Administering oaths and compelling the attendance of witnesses and the production of evidence before it by subpoenas issued by the chairman of the board;

(6) Reviewing and commenting on the director's semiannual report, forwarding each comment to the city council;

(7) In coordination with the director, taking other informational, educational or persuasive actions to implement the purpose of this article.

(Code 1968, § 80-27)

REPEAL SECTION 5-2-24.

REPEAL SECTION 5-2-25.

Sec. 5-2-26. - Other remedies.

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

(Code 1968, § 80-31)

Sec. 5-2-27. - Report to real estate commission.

If a real estate broker, a real estate sales agent, or an employee thereof, has been found to have committed an unlawful practice in violation of this article, or has failed to comply with an order issued by the director, the director shall, in addition to the other procedures and penalties set forth herein, report the facts to the real estate commission of the state.

(Code 1968, § 80-32)

CHAPTER 5-3. DOMESTIC PARTNERSHIP REGISTRY

Sec. 5-3-1. - Definitions.

For purposes of this chapter:

Affidavit of domestic partnership means a sworn form under penalty of perjury, which certifies that two (2) domestic partners meet the requirements of a domestic partnership relationship as described in section 5-3-2.

City clerk means the City Clerk of the City of Pensacola or such other person or office approved by the city council to administer the domestic partnership registry.

Correctional facility means holding cells, jails, and juvenile correction centers of any kind, located within or under the jurisdiction of the City of Pensacola.

Dependent is a person who resides within the household of a registered domestic partnership and is:

(1) A biological, adopted, or foster child of a registered domestic partner; or

(2) A dependent as defined under IRS regulations; or

(3) A ward of a registered domestic partner as determined in a guardianship or other legal proceeding.

Domestic partners means only two (2) adults who are parties to a valid domestic partnership relationship and who meet the requisites for a valid domestic partnership relationship as established pursuant to section 5-3-2.

Health care facility includes, but is not limited to, hospitals, nursing homes, hospice care facilities, convalescent facilities, walk-in clinics, doctors' offices, mental health care facilities, and any other short-term or long-term health care facilities located within the City of Pensacola.

Jointly responsible means each domestic partner mutually agrees to provide for the other partner's basic needs while the domestic partnership relationship is in effect, except that partners need not contribute equally or jointly to said basic needs, such as food and shelter.

Mutual residence means a residence shared by the registered domestic partners; it is not necessary that the legal right to possess the place of residence be in both of their names. Two (2) people may share a mutual residence even if one or both have additional places to live. Registered domestic partners do not cease to share a mutual residence if one leaves the shared place but intends to return.

(Ord. No. 41-13, § 1, 12-12-13)

Sec. 5-3-2. - Registration of domestic partnerships.

(a) A domestic partnership may be registered by any two (2) persons by filing an affidavit of domestic partnership with the city, which affidavit shall comply with all requirements set forth in this chapter for establishing such domestic partnership. Upon payment of any required fees, the city clerk shall file the affidavit of domestic partnership and issue a certificate reflecting the registration of the domestic partnership in the city. The city clerk shall record the affidavit with the Escambia County Clerk of Court.

(b) An affidavit of domestic partnership shall contain the name and address of each domestic partner, the signature of each partner, and the signatures of two (2) witnesses for each partner's signature, and each partner shall swear or affirm under penalty of perjury that:

(1) Each person is at least eighteen (18) years old and competent to contract;

(2) Neither person is currently married under Florida law or is a partner in a domestic partnership relationship or a member of civil union with anyone other than the co-applicant;

(3) They are not related by blood as defined in Florida law;

(4) Each person considers himself or herself to be a member of the immediate family of the other partner and to be jointly responsible for maintaining and supporting the registered domestic partnership;

(5) The partners reside together in a mutual residence;

(6) Each person agrees to immediately notify the city clerk, in writing, if the terms of the registered domestic partnership are no longer applicable or if one of the domestic partners wishes to terminate the domestic partnership; and

(7) Each person expressly declares their desire and intent to designate their domestic partner as their healthcare surrogate and as their agent to direct the disposition of their body for funeral and burial.

(c) Any partner to a domestic partnership may file an amendment to the domestic partnership certificate issued by the city clerk to reflect a change in his or her legal name or address. Amendments shall be signed by both members of the registered domestic partnership under oath.

(Ord. No. 41-13, § 1, 12-12-13)

Sec. 5-3-3. - Termination of registered domestic partnership relationship.

(a) Either partner to a registered domestic partnership relationship may terminate such relationship by filing a notarized affidavit of termination of domestic partnership relationship with the city clerk. Upon the payment of the required fee, the city clerk shall file the affidavit and issue a certificate of termination of domestic partnership relationship to each partner of the former relationship. The termination shall become effective ten (10) days from the date the certificate of termination is issued.

(b) Automatic termination. A registered domestic partnership shall automatically terminate upon notice to the city clerk of the following events:

(1) One (or both) of the domestic partners marries in Florida;

(2) One of the domestic partners dies, except that upon the occurrence of this event the provisions relating to funeral and burial decisions shall survive; or

(3) One of the domestic partners registers with another partner.

The marrying, surviving, or re-registering domestic partner(s) shall file an affidavit terminating the domestic partnership relationship within ten (10) days of one of the occurrences listed in subsections (b)(1)—(3) above.

(Ord. No. 41-13, § 1, 12-12-13)

Sec. 5-3-4. - Maintenance of records; filing fees.

(a) The city clerk shall prepare the form of all affidavits, amendments, and certificates required to be filed under this chapter and shall record the same with the Escambia County Clerk of Court. The city clerk shall maintain a record of all affidavits, amendments, and certificates filed pursuant to this chapter.

(b) The city clerk is authorized to establish fees for the filing of any affidavits, amendments, and the issuance of any certificates required by this act, subject to the approval of the Pensacola City Council. Any fees established under this section shall be commensurate with the actual costs of administering the provisions of this chapter.

(c) The city clerk is authorized and directed to take all actions necessary to implement the provisions of this section within ninety (90) days after this chapter is created.

(d) If Escambia County, Florida establishes a domestic partnership registry law that is substantially similar to the City of Pensacola's domestic partnership registry provisions, the city clerk shall collaborate with Escambia County to determine whether a joint registration system will most efficiently serve our citizens. The city clerk will bring any recommendations for joint administration to the city council for its consideration. If such a joint registry is established, the references to the city clerk shall mean the filing officer for the joint registry approved by city council and Escambia County.

(Ord. No. 41-13, § 1, 12-12-13)

Sec. 5-3-5. - Rights and legal effect of registered domestic partnership.

To the extent not superseded by federal, state, or other city law or ordinance, or contrary to rights conferred by contract or separate legal instrument, registered domestic partners shall have the following rights:

(a) *Health care facility visitation.* All health care facilities operating within the city shall honor the registered domestic partnership documentation issued pursuant to this code as evidence of the relationship and shall allow a registered domestic partner visitation as provided under federal law. A dependent of a registered domestic partner shall have the same visitation rights as a patient's child.

(b) *Health care decisions.* This section pertains to decisions concerning both physical and mental health. Registry as a domestic partner shall be considered to be written direction by each partner designating the other to make health care decisions for their incapacitated partner, and shall authorize each partner to act as the other's healthcare surrogate as provided in F.S. Ch. 765, and otherwise as provided by federal law. Further, no person designated as a health care surrogate shall be denied or otherwise defeated in serving as a health care surrogate based solely upon his or her status as the domestic partner of the partner on whose behalf health care decisions are to be made. Any statutory form, including but not limited to, a living will or health care surrogate designation in the form prescribed by F.S. Ch. 765, that is properly executed after the date of registration and that contains conflicting designations shall control over the designations by virtue of the registration.

(c) *Funeral and burial decisions.* Registry as a domestic partner shall be considered to be written direction by the decedent of his or her intention to have his or her domestic partner direct the disposition of the decedent's body for funeral and burial purposes as provided in F.S. Ch. 497, unless the decedent provides conflicting, written inter vivos authorization and directions that are dated after the date of the registration, in which case the later dated authorization and directions shall control.

(d) *Correctional facility visitation rights.* Any person who is a party to a registered domestic partnership relationship pursuant to section 5-3-2 shall be entitled to visit his or her domestic partner, or other family member of the domestic partner, who is an inmate at a correctional facility located within the City of Pensacola, upon the same terms and conditions under which visitation is afforded to spouses, dependents, or parents of inmates. Visitation rights provided by this section shall extend to any children of the domestic partners, and the domestic partners of an inmate's parents or children.

(e) *Notification of family members.* In any situation providing for mandatory or permissible notification of family members including but not limited to notification of family members in an emergency, or when permission is granted to correctional facility inmates to contact family members, "notification of family" shall include registered domestic partners.

(f) *Preneed guardian designation.* A person who is a party to a registered domestic partnership relationship, pursuant to section 5-3-2 above, shall have the same right as any other individual to be designated as a preneed guardian pursuant to F.S. Ch. 744, and to serve in such capacity in the event of his or her domestic partner's incapacity. A domestic partner shall not be denied or otherwise be defeated in serving as the preneed guardian of his or her domestic partner or the partner's property under the provisions of F.S. Ch. 744, to the extent that the incapacitated partner has not executed a valid preneed guardian designation, based solely upon his or her status as the domestic partner of the incapacitated partner.

(g) *Participation in education.* To the extent allowed by federal and state law, and in a manner consistent with any applicable court orders or valid agreements or contracts, a registered domestic partner shall have the same rights to participate in the education of a dependent of the registered domestic partnership as a biological parent has to participate in the education of their child, in all educational facilities located within or under the jurisdiction of the city. However, if a biological parent of a minor dependent, whose parental rights have not been terminated, objects to the participation of a non-biological registered domestic partner in education conferences or other dissemination of educational information, only the participation of the biological parents shall be allowed.

(Ord. No. 41-13, § 1, 12-12-13)

Sec. 5-3-6. - Limited effect.

(a) Nothing in this article shall be interpreted to alter, affect, or contravene city, county, state, or federal law or impair any court order or contractual agreement.

(b) Nothing in this article shall be construed as recognizing or treating a registered domestic partnership as a marriage.

(Ord. No. 41-13, § 1, 12-12-13)

Sec. 5-3-7. - Enforcement.

A registered domestic partner may enforce the rights under section 5-3-5 by filing a private judicial action against a person or entity in any court of competent jurisdiction for declaratory relief, injunctive relief, or both.

(Ord. No. 41-13, § 1, 12-12-13)

Sec. 5-3-8. - Recognition of domestic partnerships registered in other jurisdictions.

All rights, privileges, and benefits extended to domestic partnerships registered pursuant to this chapter shall also be extended to domestic partnerships registered pursuant to domestic partnership laws in other jurisdictions, so long as the registry documents issued by other jurisdictions comply with all applicable state and federal requirements. If a conflict occurs between jurisdictions, this chapter shall govern in the city.

(Ord. No. 41-13, § 1, 12-12-13)

CHAPTER 6-1. GENERAL PROVISIONS

(RESERVED)

CHAPTER 6-2. PARKS AND RECREATION BOARD[2]

Footnotes:

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Editor's note— Ord. No. 06-10, § 2, adopted Feb. 11, 2010, changed the title of Ch. 6-2 from "Recreation Board" to "Parks and Recreation Board." It should also be noted that Ord. No. 06-10, § 2, provided that references in the Code to "recreation board" are hereby amended to read "parks and recreation board".

Sec. 6-2-1. - Establishment; composition; compensation; terms of office; vacancies and removal.

There is hereby established a parks and recreation board of the city. This board shall consist of nine (9) persons serving without pay who shall be appointed by the city council. The term of office shall be for three (3) years or until their successors are appointed and qualified. Vacancies on the board occurring otherwise than by expiration of term shall be filled by the city council for the unexpired term.

It is the expressed intent of this city to recognize the importance of balance in the appointment of minority and nonminority persons to membership on the parks and recreation board and to promote that balance through the provisions of this section.

For purposes of this Code Section, "minority person" means:

(a) An African American; that is, a person having origins in any of the racial groups of the African Diaspora.

(b) A Hispanic American; that is, a person of Spanish or Portuguese culture with origins in Spain, Portugal, Mexico, South America, Central America, or the Caribbean, regardless of race.

(c) An Asian American; that is, a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands, including the Hawaiian Islands prior to 1778.

(d) A Native American; that is, a person who has origins in any of the Indian Tribes of North America prior to 1835.

(e) An American woman.

In addition, the city recognizes the importance of including persons with physical disabilities on this board. Furthermore, it is recognized that the parks and recreation board plays a vital role in shaping public policy for the city, and the selection of the best-qualified candidates is the paramount obligation.

In appointing members to the parks and recreation board, the city council should select, from among the best-qualified persons, those persons whose appointment would ensure that the membership of the board accurately reflects the proportion that minority persons represent in the population of the city as a whole, unless the law regulating such appointment requires otherwise, or minority persons cannot be recruited. If the size of the board precludes an accurate representation of minority persons, appointments should be made which conform to the requirements of this section insofar as possible.

Each board member serves at the pleasure of city council and may be removed at any time with reasonable cause or by recommendation by the parks and recreation board. Any board member missing three (3) consecutive board meetings or five (5) board meetings over the course of a calendar year shall forfeit their membership on the board. Absences may be excused by the chair.

(Code 1968, § 46-1; Ord. No. 06-10, § 1, 2-11-10; Ord. No. 16-10, § 59, 9-9-10; Ord. No. 18-12, § 1, 8-9-12; Ord. No. 21-13, § 1, 8-22-13)

Sec. 6-2-2. - Election of officers; adoption of rules and regulations.

Immediately after the appointment of the parks and recreation board, it shall meet and organize by electing one (1) of the members chairman and other officers as may be necessary. The board shall have the power to adopt bylaws, rules and regulations for the proper conduct of public recreation for the city.

(Code 1968, § 46-2; Ord. No. 06-10, § 1, 2-11-10)

Sec. 6-2-3. - Duties.

The parks and recreation board shall advise and make recommendations to the city council, and shall advise the mayor on matters concerning the establishment, maintenance and operation of parks and recreational activities within the city. The board shall provide input on master plan updates and improvements, and policy development for the use of recreational facilities.

(Code 1968, § 46-3; Ord. No. 06-10, § 1, 2-11-10; Ord. No. 21-13, § 2, 8-22-13; Ord. No. 11-17, § 1, 5-11-17)

Sec. 6-2-4. - Reserved

Editor's note— Ord. No. 21-13, § 3, adopted August 22, 2013, repealed § 6-2-4, which pertained to budget; gifts and donations. See Code Comparative Table for complete derivation.

Sec. 6-2-5. - Reserved.

Editor's note— Ord. No. 21-13, § 4, adopted August 22, 2013, repealed § 6-2-5, which pertained to expenditures, contracts, agreements; approval by city council required. See Code Comparative Table for complete derivation.

CHAPTER 6-3. PARKS AND RECREATION[3]

Footnotes:

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Cross reference— Administration, Title II; health and sanitation, Title IV; traffic and vehicles, Title XI; zoning, Ch. 12-2; planning, Ch. 12-0; streets, sidewalks and other public places, Ch. 11-4; subdivisions, Ch. 12-8; trees, Ch. 12-6; animals prohibited in certain public places, § 4-2-33; animals restricted in schools, parks and beaches, § 4-2-33; recreation board, Ch. 6-2; injuring trees or shrubs in public places, § 8-1-6; zoning, Ch. 12-2.

State Law reference— Parks and recreation, F.S. Ch. 418.

Sec. 6-3-1. - Supervision.

The parks and recreation director shall have direct charge and supervision of all matters relating to city owned or leased parks.

(Code 1968, § 118-1; Ord. No. 24-13, § 1, 9-26-13)

Sec. 6-3-2. - Rules and regulations generally.

(a) The parks and recreation director may adopt rules and regulations for the reasonable and proper use, and for preventing injuries to or misuse of, city parks and their appurtenances and park property, and to prevent disorder and improper conduct within the precincts of such park and the waters adjacent thereto.

(b) Any rules and regulations when published or posted in the park shall have the same effect as ordinances, and any violations thereof shall be punished as provided for in section 1-1-8 except as otherwise provided herein.

(Code 1968, § 118-11; Ord. No. 24-13, § 2, 9-26-13)

Sec. 6-3-3. - Traffic in parks.

(a) State law. All applicable provisions of laws and rules regulating the equipment and operation of motor vehicles on Florida highways will be strictly enforced in the parks, together with such rules provided in this article.

(b) Direction of traffic. All traffic officers and designated park employees are authorized and instructed to direct traffic whenever and wherever needed in the parks and on the highways, streets or roads immediately adjacent thereto in accordance with the provisions of this article and such supplementary rules as may be issued by the department or other state agency. No person shall fail to comply with any lawful order, signal or direction of such officer or employee. All persons shall observe carefully all traffic signs indicating speed, direction, caution, stopping or parking and all others posted for proper control and to safeguard life and property.

(c) Speed of vehicles in parks. No person shall drive a vehicle at a speed exceeding eleven (11) miles per hour.

(d) Restriction to roads. No person shall drive any motorized vehicle on any area except park roads or parking areas or such other areas as are designated as temporary parking areas.

(e) Parking.

(1) All motor cars shall be parked only in established and indicated parking areas or in such other areas and at such times as may be specifically designated by the parks and recreation director.

(2) Parking on roads, driveways, grass or non-paved areas is forbidden at all times except in an emergency.

(3) No person shall park or station any vehicle in any zone designated and marked no parking or otherwise marked for restricted use except briefly for the expeditious loading or unloading of passengers or freight.

(4) No person shall make nonemergency repairs, perform routine maintenance or wash any vehicle in any city park or recreation area.

(5) No vehicles are permitted to remain in a parking area after closing hours. Any vehicle parked continuously in the park for in excess of twenty-four (24) hours will be towed at the owner's expense.

(f) Bicycles. Bicycles may be ridden on any designated roads or trails. When riding vehicular roads, they must observe all safety rules and regulations as constituted by state law. Bicyclists shall, when riding or parking their bikes, respect the safety and security of other park users.

(g) Prohibited areas. All wheeled vehicles are prohibited from all tennis and basketball courts, but may be ridden on any designated road or trail.

(h) Penalty. The penalty for violation of this section shall be ten dollars ($10.00) for each incident.

(i) Enforcement. Violations of this section may be enforced by issuance of a citation as provided in chapter 11 of this Code or by any other means permitted by law.

(Ord. No. 24-13, § 3, 9-26-13)

Editor's note— Ord. No. 24-13, § 3, adopted September 26, 2013, amended § 6-3-3 in its entirety to read as herein set out. Former § 6-3-3, pertained to motor vehicles to remain on designated roads, areas; motor vehicles not permitted. See Code Comparative Table for complete derivation.

Sec. 6-3-4. - Reserved.

Editor's note— Ord. No. 24-13, § 4, adopted September 26, 2013, repealed § 6-3-4, which pertained to racing, speeding, reckless driving. See Code Comparative Table for complete derivation.

Sec. 6-3-5. - Animals running at large not permitted.

The owner or custodian of any animal shall not permit the animal to run at large in any park.

(Code 1968, §§ 118-2(B), 118-4)

Cross reference— Certain animals prohibited from running at large in city, § 4-2-2.

Sec. 6-3-6. - Permit required for obstructions.

No person shall place or deposit, or allow to be placed or deposited, in city parks, any article or thing which would obstruct or hinder the safe and convenient use of any part of the park by the general public, without the written permit of the parks and recreation director.

(Code 1968, § 118-5; Ord. No. 24-13, § 5, 9-26-13)

Sec. 6-3-7. - Discharging fireworks, stones and missiles.

(a) It shall be unlawful for any person to throw stones or discharge missiles within city parks.

(b) The exploding or discharging of fireworks, rockets or other incendiaries is prohibited.

(Code 1968, § 118-7; Ord. No. 27-11, § 2, 9-22-11)

Sec. 6-3-8. - Peddling, advertising, handbills, signboards.

No person shall, without a permit from the parks and recreation director, expose any article or thing for sale, or do any hawking or peddling or displaying of handbills, or erect any signboards, or post, paste or affix any notice or bill or advertisement of any kind in writing or printing on any tree, post or at any other place or in any manner whatever in city parks. No animal or vehicle or person carrying or displaying any placard or advertisement of any kind shall be allowed in the park except as authorized by the director.

(Code 1968, § 118-8; Ord. No. 24-13, § 6, 9-26-13)

Sec. 6-3-9. - Injuring trees, buildings and other property.

No person shall break or injure in any way any of the trees, shrubs, turf, grounds, fences, buildings or other structures or property of the parks.

(Code 1968, § 118-9)

Sec. 6-3-10. - History of Plaza Ferdinand VII.

Plaza Ferdinand VII has significant historical and aesthetic value for the City of Pensacola. The plaza is named after Ferdinand VII, who was king of Spain from 1813 to 1833. The transfer of Florida to the United States from Spain occurred in Plaza Ferdinand in 1821. In 1960, Plaza Ferdinand was designated a National Historic Landmark by the United States National Park Service.

Before 1985, Plaza Ferdinand was the primary park used for special events in Pensacola. Beginning in 1983, as part of the City's Directions '85 program, Plaza Ferdinand was completely renovated. Those renovations included restoration of the fountain, rebuilding of the sidewalks, rebuilding of the ballast walls along the perimeter of the park, restoration and renovation of the obelisk in the center of the park, a commemorative bust of Andrew Jackson, and restoration of the commemorative cannons in the park. The renovations cost approximately two hundred fifty-four thousand dollars ($254,000.00).

After the renovations were complete, the city allowed a festival to take place in Plaza Ferdinand in September 1987. Following the event, the city again had to spend thousands of dollars to clean the facilities, re-seed the grass, care for the plantings, and refurbish the park.

In 1987, following the September festival, the city council voted to restrict use of Plaza Ferdinand in order to preserve its landscaping, historical attributes, and general beauty. Seville Square was designated the primary special events park and various amenities were added to Seville Square, including the gazebo and electrical facilities. Since then, Seville Square has been the site of many annual festivals, assemblies and special events.

(Ord. No. 26-09, § 1, 8-13-09)

Sec. 6-3-11. - Findings and purpose.

In order to preserve Plaza Ferdinand's value to the City of Pensacola and its citizens, the city council finds it is appropriate to restrict the group use of the park, requiring a permitting process for such use, and reserving Plaza Ferdinand primarily for spontaneous, casual and passive use by people for their quiet enjoyment. By restricting the use of Plaza Ferdinand, it is the city's intent and purpose to protect the features of the park, including the commemorative statues, the fountain, the historical cannons, and the ballast wall surrounding the Plaza, as well as protecting the grass and landscaping in Plaza Ferdinand.

(Ord. No. 26-09, § 1, 8-13-09)

Sec. 6-3-12. - Alternative parks and green space.

In finding that it is appropriate to restrict the use of Plaza Ferdinand, the city council notes that there are five (5) other city parks within approximately a half-mile radius of Plaza Ferdinand, to wit: Plaza de Luna, Seville Square, Bartram Park, Corinne Jones Park, the Vince Whibbs, Sr. Community Maritime Park and Martin Luther King, Jr. Plaza. These parks are open to citizens for use for group events, as well as spontaneous, casual and passive uses, and thus provide alternative venues for assembly and expressive activity. Furthermore, within the half-mile radius of Plaza Ferdinand, various green spaces,

although not designated as public parks by the City of Pensacola, have been made available for group use, including the north lawn of City Hall, Plaza De Luna and the state-owned area commonly known as Fountain Park.

(Ord. No. 26-09, § 1, 8-13-09)

Sec. 6-3-13. - Definitions.

Where used in sections 6-3-10 through 6-3-20, the following terms, phrases, words and their derivatives shall have the meanings given herein, unless the context otherwise requires:

(a) "Plaza Ferdinand" or "park" means Plaza Ferdinand VII in the City of Pensacola. For purposes of these sections only, the boundaries of Plaza Ferdinand are defined as follows:

(1) The northern curb of Zarragosa Street;

(2) The southern curb of Government Street;

(3) The eastern curb of Palafox Place; and

(4) The western curb of Jefferson Street.

(b) "Director" means the parks and recreation director.

(Ord. No. 26-09, § 1, 8-13-09)

Sec. 6-3-14. - Application for Plaza Ferdinand permit.

Any person desiring a permit for use of Plaza Ferdinand shall make application for a permit to the director not less than ten (10) days in advance of the time and date of the intended use of Plaza Ferdinand and no earlier than January 2 of the calendar year in which the applicant intends to use the park. The ten (10) days' advance application period may be shortened under extenuating circumstances. The application shall set forth the following information:

(1) The name, address and telephone number of the person requesting the permit;

(2) The name and address of the organization or group he/she is representing, if applicable;

(3) The name, address and telephone number of the person(s) who will act as chairperson of the event and will be responsible for the conduct of the event;

(4) The time and date of the commencement of the event and the time the event will terminate;

(5) Completion of the required forms, including providing any required liability insurance certificate;

(6) Deposit of any required clean-up deposit and damage deposit; and

(7) Any other relevant information as the director may require.

Applications for permits shall be processed in the order of receipt and only upon receipt of the entire application and any applicable fees or an affidavit of indigency and request for a waiver of the fees. The director shall decide whether to grant or deny an application within fourteen (14) days unless, by written notice to the applicant, the director extends the period of review an additional fourteen (14) days. If the director fails either to grant or deny an application within the fourteen-day deadline, or within the fourteen-day extension if one (1) has been noticed, then the application shall be deemed granted.

An applicant may receive only one (1) permit for use of Plaza Ferdinand during a single calendar year. However, if as of May 15 of the calendar year for which the applicant has requested a permit, the director has received applications from fewer than six (6) applicants, then a single applicant may request more than one (1) permit for use of Plaza Ferdinand during a single calendar year.

Permits for use of Plaza Ferdinand are not transferable or assignable and may be used only by the applicant.

(Ord. No. 26-09, § 1, 8-13-09)

Sec. 6-3-15. - Application fee.

All applicants must pay an application fee of one hundred dollars ($100.00) to cover the cost of processing the application.

(Ord. No. 26-09, § 1, 8-13-09)

Sec. 6-3-16. - Restrictions on Plaza Ferdinand permits.

(a) A person or organization must obtain a permit in order to conduct a public assembly, parade, picnic, or other event involving thirty (30) or more persons that will take place in Plaza Ferdinand.

(b) Permits shall be restricted in the following manners:

(1) Permitted events may take place only during the months of June, July and August. A maximum of six (6) events will be permitted in any calendar year.

(2) No more than two (2) events per month will be permitted. No more than one (1) permitted event may occur during any seven-day period.

(3) The attendance at a permitted event may not exceed one thousand (1,000) persons.

(4) No amplified sound or bands will be permitted.

(5) No vendors will be permitted.

(6) No booths, exhibits, or stages will be permitted.

(7) No event with utility hook-up requirements will be permitted.

(8) No alcohol will be permitted.

(9) A permitted event may not last longer than thirty-six (36) consecutive hours, including setup before the event and cleanup after the event.

(10) The other general rules for city parks apply.

(c) To the extent permitted by law, the director may deny an application for permit if the applicant or the person on whose behalf the application for permit was made has on prior occasions made material misrepresentations regarding the nature or scope of an event or activity previously permitted or has violated the terms of prior permits issued to or on behalf of the applicant. The director also may deny an application for permit on any of the following grounds:

(1) The application for permit (including any required attachments and submissions) is not fully completed and executed;

(2) The applicant has not tendered the required application fee with the application or has not tendered the required user fee, insurance certificate, or clean-up deposit within the time prescribed;

(3) The application for permit contains a material falsehood or misrepresentation;

(4) The applicant is legally incompetent to contract or to sue and be sued;

(5) The applicant or the person on whose behalf the application for permit was made has on prior occasions damaged city property and has not paid in full for such damage, or has other outstanding and unpaid debts to the city;

(6) A fully executed prior application for permit for the same time and place has been received, and a permit has been or will be granted to a prior applicant authorizing uses or activities which do not reasonably permit multiple occupancy of Plaza Ferdinand or part thereof;

(7) The proposed use or activity is prohibited by or inconsistent with the classifications and uses of Plaza Ferdinand or part thereof;

(8) The use or activity intended by the applicant would present an unreasonable danger to the health or safety of the applicant, other users of Plaza Ferdinand, city employees, or members of the public;

(9) The use or activity intended by the applicant is prohibited by law, by this Code, or by the regulations of the city.

(d) Notice of denial of an application for permit shall clearly set forth the grounds upon which the permit was denied and, where feasible, shall contain a proposal by the director for measures by which the applicant may cure any defects in the application for permit or otherwise procure a permit. Where an application has been denied because of a conflict with the time and place of another event or due to other restrictions, the director shall propose an alternative location, time, or other manner for the applicant to comply with the restrictions.

(Ord. No. 26-09, § 1, 8-13-09)

Sec. 6-3-17. - Insurance requirements; clean-up deposit; user fees.

(a) Applicants shall provide the city with a certificate of insurance no less than ten (10) days prior to the date of the event. The certificate of insurance shall indicate that: the city is an additional insured; the certificate holder is the City of Pensacola; the type of event to be held; the date of the event; and the limits of liability.

(b) The user fees, clean-up deposits, and insurance liability limits that shall be provided are as follows:

Event	Clean-up Deposit	Insurance Limits	User Fee
Single day event with anticipated attendance of 20—300 persons	$500.00 per event	$300,000.00 per occurrence and the aggregate	$500.00/day
Single day event with anticipated attendance of 301—1,000 persons	$1,000.00 per event	$1,000,000.00 per occurrence and the aggregate	$1,000.00/day

These requirements are subject to change and the director shall notify applicants of any changes to these requirements.

(Ord. No. 26-09, § 1, 8-13-09)

Sec. 6-3-18. - Reduction or waiver of fees, deposit or insurance.

An applicant may request a reduction or waiver of the user fee, clean-up deposit and/or insurance requirement in the same manner as described in section 11-4-180, Pensacola City Code.

(Ord. No. 26-09, § 1, 8-13-09)

Sec. 6-3-19. - Issuance or denial of permit or waiver; appeal.

An applicant who is denied a permit or a waiver of the insurance requirement, clean-up deposit or user fee, may appeal such denial in the manner described in section 11-4-174, Pensacola City Code.

(Ord. No. 26-09, § 1, 8-13-09)

Sec. 6-3-20. - Penalties for violations.

(a) A person violating the provisions of sections 6-3-14 or 6-3-16 may be directed to leave Plaza Ferdinand by a sworn police officer or code enforcement officer.

(b) A person refusing to leave Plaza Ferdinand when directed as described in subsection (a) shall be escorted out of Plaza Ferdinand and issued a trespass warning to not return to the park for twenty (20) days, or placed under arrest for trespass after warning.

(c) If a person who has received a trespass warning returns to Plaza Ferdinand within the time period prescribed in subsection (b), then the person may be prosecuted pursuant to F.S. § 810.09.

(d) The penalties described herein are in addition to the penalties provided in section 1-1-8, Pensacola City Code, and any other remedies available at law or in equity.

(Ord. No. 26-09, § 1, 8-13-09)

REPEAL CHAPTER 6-4.

CHAPTER 7-1. GENERAL PROVISIONS

Sec. 7-1-1. - Franchise required for certain transit services and utilities.

It shall be unlawful for any person, firm or corporation to operate a bus line or bus service, airport transit service, natural gas distribution system or electric utility company within the city without a contract or lease with or franchise from the city authorizing the particular business operated.

(Code 1968, § 95-2)

Cross reference— Vehicles for hire, Ch. 7-10; airports and aircraft, Ch. 10-2; energy services, Ch. 10-4.

Sec. 7-1-2. - Operation of business in contravention to franchise prohibited.

It shall be unlawful for any person, firm or corporation to operate any business within the city in contravention to any franchise granted by the city.

(Code 1968, § 95-3)

Sec. 7-1-3. - Future rights to purchase and terminate franchise.

No franchise shall hereafter be granted except upon condition that the city shall have the right at any time after fifteen (15) years from the granting thereof, to purchase the physical properties of the franchise holder and to terminate its franchise and all privileges enjoyed by it thereunder; provided the majority of the qualified taxpaying voters of the city voting thereon shall vote to do so; and provided that upon the petition of fifteen (15) percent of the qualified taxpaying voters to the council, the matter of acquisition of the property shall be submitted to an election to be determined by a vote of the qualified taxpaying voters voting thereon, which election shall be held at the next succeeding general election in the city, after at least twenty (20) days' notice in a newspaper published in the city, and provided that the owner of the physical property shall be compensated for the value thereof, considering solely the physical assets, the value to be determined by the report of the majority of three (3) arbitrators, one to be selected by the council, one by the owner of the physical property to be valued, and the third by the arbitrators so selected, but if the owner of the physical property shall refuse for thirty (30) days to select the arbitrator, then the judge of the court having jurisdiction over the case shall have authority to appoint a third arbitrator. The rights conferred by this section shall not be construed as applying to any exclusive jurisdiction conferred upon the Florida Public Service Commission.

(Laws of Fla. 1931, Ch. 15425, § 56)

CHAPTER 7-2. LOCAL BUSINESS TAXES[2]

Footnotes:

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Editor's note— Ord. No. 31-06, § 1, adopted Dec. 14, 2006, effective Jan. 1, 2007, amended the title of Chapter 7-2 to read as herein set out. Formerly, said chapter was entitled Occupational Licenses. Said ordinance further provided for a new Chapter 7-2, §§ 7-2-1—7-2-9, to read as herein set out.

Cross reference— Administration, Title II; condition precedent to granting of license to dealers in gasoline, § 3-4-49(b); adult entertainment, Ch. 7-3; ambulance franchise, Ch. 7-5; auctions, Ch. 7-6;

pawnbrokers, junk and secondhand dealers, Ch. 7-8; peddlers and solicitors, Ch. 7-9; vehicles for rent to the public, Ch. 7-10; wreckers and wrecker companies, Ch. 7-11; fees, Ch. 7-14; energy services, Ch. 10-4; buildings, construction and fire codes, Title XIV.

Sec. 7-2-1. - Local business tax.

(a) No person shall engage in or manage the business, profession or occupation or exercise any privilege mentioned and designated in this chapter, unless a city local business tax receipt shall have been procured from the city by the payment of the local business taxes set opposite such designation of the business, profession, occupation or privilege as set forth in this chapter.

(b) The persons upon whom the local business tax shall be levied shall be construed to be the following:

(1) Any person who maintains a permanent business location or branch office within the city for the privilege of engaging in or managing any business within the city's jurisdiction;

(2) Any person who maintains a permanent business location or branch office within the city for the privilege of engaging in or managing any profession or occupation within the city's jurisdiction;

(3) Any person who does not qualify under the provisions of (1) or (2) above and who transacts any business or engages in any occupation or profession in interstate commerce where such a local business tax is not prohibited by Section 8 of Article I of the United States Constitution.

(Ord. No. 31-06, § 1, 12-14-06)

Sec. 7-2-2. - Expiration date of receipts, term; proration of fee, penalty for late payment of tax.

(a) Local business tax receipts shall expire on the thirtieth day of September each year. No receipt shall be issued for more than one year. For each receipt obtained between the thirtieth day of September and the first day of April, the full tax for one year shall be paid, except as herein provided. For each receipt obtained from the first day of April to the thirtieth day of June, one-half the full tax for one year shall be paid and from the first day of July to the twenty-ninth day of September, one-fourth the full tax for one year shall be paid, except as herein provided.

(b) Local business taxes shall be due and payable and subject to delinquent payment penalties and remedies as provided for in F.S. Ch. 205. Such taxes for new businesses and transferred local business tax receipt shall be due and payable on or before the date that the business commences operations.

(Ord. No. 31-06, § 1, 12-14-06)

Sec. 7-2-3. - Transferability of receipts.

Local business tax receipts shall be good only for the business and the place named and for the person to whom issued, but receipts may be transferred when there is a bona fide sale, and transfer of the property used in the business, stock or trade or removal of same from one place to another, upon application to the city, and payment of a transfer fee of ten (10) percent of the annual local business tax amount, but not less than three dollars ($3.00) nor more than twenty-five dollars ($25.00).

(Ord. No. 31-06, § 1, 12-14-06)

Sec. 7-2-4. - Certificate of occupancy required prior to issuance of receipt.

A certificate of occupancy, as defined in section 12-14-1 of this Code, issued by the building official shall be furnished to the city as a condition precedent to the issuance or transfer of a local business tax receipt for a business to be located in any new building or in any existing building undergoing a change in

occupancy classification. A business in an existing non-residential building may obtain a receipt by applying to the city; however, a local business tax receipt inspection certificate, as defined in section 12-14-1 of this Code, will be required in order to continue business.

(Ord. No. 31-06, § 1, 12-14-06)

Sec. 7-2-5. - Disposition of revenue from receipts.

All revenue derived from local business taxes hereby imposed shall be paid into the general fund of the city.

(Ord. No. 31-06, § 1, 12-14-06)

Sec. 7-2-6. - Display of receipt.

Every person having a local business tax receipt shall exhibit it when called upon to do so by an authorized officer of the city, and all receipts must be conspicuously displayed at all times.

(Ord. No. 31-06, § 1, 12-14-06)

Sec. 7-2-7. - Presentation of certificate required before issuance of receipt.

Every person carrying on or practicing any trade, profession or occupation for which a certificate, registration or license to practice the trade, profession or occupation is required by the laws of the state, is hereby required to present the certificate to the city upon demand therefor, before a local business tax receipt shall be issued to the person to carry on or practice his trade, profession or occupation in the city.

(Ord. No. 31-06, § 1, 12-14-06)

Sec. 7-2-8. - Advertising of business evidence of liability for receipt.

The fact that any person representing himself as engaged in any business, profession or occupation for the transaction of which a local business tax receipt is required, or that the person exhibited a sign or advertisement indicating the business, calling, profession or occupation shall be evidence of the liability of the person to procure a receipt.

(Ord. No. 31-06, § 1, 12-14-06)

Sec. 7-2-9. - Amount of local business tax.

The amount of the local business tax which shall be paid for the several firms, persons or organizations engaging in and managing businesses, professions or occupations for which a local business tax receipt is required is hereby fixed as follows:

(1) *Insurance companies.* The local business tax for insurance companies to do business in the city shall be based on the rate of two hundred ten dollars ($210.00) per company per agency.

(2) *Professions.* The following local business taxes will be charged those individuals involved in the professions noted below and will not be subject to the schedule set out in subsection (3) herein:

   a. Engineers $236.25

   b. Architects 236.25

c. Certified public accountants 236.25

d. Dentists 236.25

e. Lawyers 236.25

f. Veterinarians 236.25

g. Doctors, physicians, surgeons, osteopaths, chiropractors, and naturopaths 236.25

h. Psychologists 78.75

(3) *Other businesses and occupations.*

a. Local business taxes shall be charged for all businesses active in the city under the terms of city ordinances by way of the following rate schedule utilizing the number of employees for each local business tax receipt as the principal basis of the tax amount charged. These taxes are to be levied for each separate location or place of business and would be applicable except where specifically exempt. These occupations and businesses shall use the following system as a method of computing tax charges:

Number of employees rate

1 ..... $26.25

2 ..... 52.50

3 ..... 98.44

4, 5 ..... 131.25

6, 7 ..... 210.00

8—11 ..... 288.75

12—17 ..... 367.50

18—26 ..... 498.75

27—38 ..... 656.25

39—58 ..... 840.00

59—86 ..... 1,050.00

87—130 ..... 1,312.50

131—195 ..... 1,640.63

196—295 ..... 2,034.38

296—420 ..... 2,493.75

421—670 ..... 3,018.75

671—1,000 and over 3,675.00

b. "Employee" shall be defined as all persons actively connected with the business working within the city limits. The owner of the business or any relative, whether receiving direct compensation or not, shall be considered an employee.

c. Computation of additional number of employees shall be:

1. Total annual hours worked divided by one thousand eight hundred (1,800) or average number of employees, whichever is applicable.

2. Total number of employees employed on September 1 of each year. Determination of the number of employees of the business may use either method or a combination of the above, whichever is applicable to their business, or an alternate system may be authorized by the mayor.

(4) *Coin-operated machines.* Local business taxes for businesses utilizing coin-operated or token-operated machines shall be based on the number of coin-operated or token-operated machines owned, operated or located upon the premises on any single day during the previous licensing year or, in the case of a new business, on an estimate for the current year, in the amount set forth below, or the employee schedule in subsection (3), whichever is greater:

a. Coin-operated or token-operated machines used in the operation of a self-service laundry, including, but not limited to, washers, dryers, dry cleaning machines, extractors, soap dispensers, etc., per year or fraction thereof, each $3.28

b. Coin-operated or token-operated machines used for food and drink dispensing, including ice machines, per year or fraction thereof, each 6.56

c. Other coin-operated or token operated machines, including, but not limited to, carwash, pinball, tobacco products, novelty items, jukebox and other miscellaneous machines not otherwise defined, per year or fraction thereof, each 6.56

d. Coin-operated or token-operated machines operated by authorized charities as per Internal Revenue Service listing ..... No charge

(5) *Separate charges.* Separate charges will be levied from the employee local business tax system and the additional categories noted above in the following instances:

a. Door-to-door sales and solicitations. Flat tax of one hundred five dollars ($105.00) or thirty-one dollars and fifty cents ($31.50), plus ten dollars and fifty cents ($10.50), with the local business tax receipt to be issued for a period of not more than thirty (30) days.

b. Temporary receipts. A local business tax receipt may be issued for a period of not more than thirty (30) days under this section. The local business tax shall be thirty-one dollars and fifty cents ($31.50), plus one-half (½) of the regular tax for the conduct of that particular type of business.

c. Use of streets, etc.

1. Each person, firm, corporation, association, company or other business entity who uses the streets, avenues, alleys or public roads of the city for unloading, distributing, disposing of or delivering goods, wares, or merchandise of any kind, which goods, wares, produce or merchandise was transported from a point without the city to a point within the city shall pay a local business tax not in excess of the tax paid for by local taxpayers engaged in the same business. This tax shall entitle the business entity to a local business tax receipt for the privilege of engaging in the above-referenced activities on the streets of the city.

2. Local business tax receipt holders shall be entitled to the following privileges:

i. Loading and unloading zones for commercial vehicles only. The loading zones shall be appropriately marked by the city and shall be required to be used by the receipt holder when available.

ii. Police and fire protection shall be provided while the vehicles are located within the city limits.

iii. The appropriate office of the city shall be required to make periodic inspections of vehicles in order to ensure that a receipt has been granted to the taxpayer's vehicle and that all other conditions and regulations have been met.

iv. Each receipt holder, as well as all interested city citizens, shall be entitled to review the files to be kept by the city containing information requested in the application for a receipt.

3. The following exemptions from the above requirements are hereby granted:

i. All vehicles which pay the state mileage tax to the state department of highway safety and motor vehicles pursuant to Florida Statutes.

ii. Ordinary commercial travelers who sell or exhibit for sale goods or merchandise to parties engaged in the business of buying and selling and dealing in the goods or merchandise.

iii. Sale of goods or merchandise donated by the owners thereof and the proceeds of which are to be applied to any charitable or philanthropic purposes.

iv. Vehicles used by any person taxed under this chapter for the sale and delivery of tangible personal property at either wholesale or retail from his place of business on which a receipt is paid shall not be construed to be separate places of business, and no taxes may be levied on such taxpayer's vehicles or the operators thereof as salesmen or otherwise.

(6) *Miscellaneous businesses.* Local business taxes for certain select businesses shall be as follows. These taxes are to be in lieu of those set forth above.

a. Clairvoyants, astrologers, fortune-tellers and palmists, per year $236.25

b. Tattoo artists, per year 236.25

c. Cable television companies, per year 1,312.50

d. Auctioneers, per year 210.00

e. Auctions, per thirty (30) days or portion thereof 210.00

(7) *Additional taxes for certain uses.* Additional local business taxes shall be levied for the following uses which shall be in addition to those set forth elsewhere in this section.

a. Business with dancing privileges, flat fee $157.50

b. Pool and billiard tables not covered under coin-operated machines, per table, per year 13.13

c. Pawnshops, small loan companies and consumer finance companies, per year 472.50

(8) *Tax increases.* Commencing effective on October 1, 2007, and every other year thereafter, the city council of the City of Pensacola may increase by ordinance the rates of local business taxes by up to five (5) percent; provided, however, such increases may not be enacted by less than a majority plus one vote of the city council.

(9) *Exemptions.* All exemptions provided for in Chapter 205, Florida Statutes, are hereby incorporated by reference.

(Ord. No. 31-06, § 1, 12-14-06)

CHAPTER 7-3. ADULT ENTERTAINMENT[3]

Footnotes:

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Editor's note— Ord. No. 4-99, § 1, adopted Jan. 14, 1999, repealed ch. 7-3, which pertained to similar subject matter, and replaced it with a new ch. 7-3 to read as herein set out. See Code Comparative Table.

ARTICLE I. - IN GENERAL

Sec. 7-3-1. - Purpose.

The intent of the city council in adopting this chapter is to establish reasonable and uniform regulations that will reduce the adverse effects adult entertainment businesses have upon the city, and to protect the health, safety, morals and welfare of the citizens and inhabitants of the city.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-2. - Construction.

This chapter shall be liberally construed to accomplish its purpose of licensing and regulating adult entertainment and related activities. Unless otherwise indicated, all provisions of this ordinance shall apply equally to all persons regardless of gender.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-3. - Definitions.

For the purpose of this chapter, the following terms shall have the meaning set forth herein, unless the context clearly indicates otherwise.

Adult arcade means an establishment where, for any form of consideration, one (1) or more motion picture projectors, slide projectors, videotape or playback and viewing devices, or similar machines, for viewing by five (5) or fewer persons each, are used to show films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by emphasis on the depiction or description of specified sexual activities or specified anatomical areas. For the purpose of this chapter, adult arcade is included within the definition of adult motion picture theater.

Adult bookstore means an establishment which sells, leases or rents adult material for any form of consideration, unless the adult material is accessible only by employees and either the gross income from the sale or rental of adult material comprises less than ten (10) percent of the gross income from the sale or rental of goods or services at the establishment or the individual items or adult material offered for sale or rental comprise less than fifteen (15) percent of the individual items publicly displayed at the establishment as stock in trade. It is an affirmative defense to an alleged violation of this chapter regarding operating an adult bookstore without an adult entertainment license if the alleged violator shows that the adult material is accessible only by employees and either the gross income from the sale or rental of adult material comprise less than ten (10) percent of the gross income from the sale or rental of goods or services at the establishment, and the individual items of adult material offered for sale or rental comprise less than fifteen (15) percent of the individual items publicly displayed at the establishment as stock in trade.

Adult booth means a small enclosure within an adult entertainment establishment accessible to any person (regardless of whether a fee is charged for access) for the purpose of viewing adult materials. The term "adult booth" does not include a hallway/foyer used primarily to enter or exit the establishment or its restrooms. However, only one (1) person shall be allowed to occupy a booth at any time.

Adult dancing establishment shall mean a commercial establishment that permits, suffers or allows employees on more than three (3) days in a sixty-day period to display or expose any part of the human body except for completely or opaquely covered specified anatomical areas or permits, suffers or allows employees to wear any covering, tape, pasties or other device that simulates or otherwise gives the

appearance of the display or exposure of any specified anatomical areas. Any establishment on whose premises any employee, who need not be the same employee, displays or exposes specified anatomical areas or wears any covering, tape, pasties or other device that simulates or otherwise gives the appearance of the display or exposure of any specified anatomical areas on more than three (3) days in a sixty-day period shall be deemed an adult dancing establishment and shall be required to obtain a license under this chapter. It shall be unlawful for any establishment licensed pursuant to this chapter, or unlicensed, to permit, suffer or allow any employee, or anyone within the establishment, to display or expose specified anatomical areas that are less than completely or opaquely covered.

Adult entertainment establishment means an adult motion picture theater, a leisure spa establishment, an adult bookstore, or an adult dancing establishment.

Adult materials means any one (1) or more of the following:

(a) Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other visual representations or recordings, novelties and devices, which have, as their primary or dominant theme, matter depicting, illustrating, describing or relating to specified sexual activities or less than completely and opaquely covered specified anatomical areas; or

(b) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.

Adult motel means any hotel or motel, boarding house, rooming house or other lodging which includes the word "adult" in any name it uses, and otherwise advertises outside the individual rooms the presentation of film, video or any other visual material or methods which has, as its primary or dominant theme, matters depicting, illustrating or relating to specified sexual activities for observation by patrons thereof. For the purposes of this chapter, an adult motel is included within the definition of adult motion picture theater.

Adult motion picture theater means an enclosed building, or a portion or part of an enclosed building, or an open-air theater designed to permit viewing by patrons seated in automobiles or other seating provisions, for any form of consideration, film, video or any other visual material or method which has, as its primary or dominant theme, matters depicting, illustrating or relating to specified sexual activities for observation by patrons thereof, and includes any hotel or motel, boarding house, room house or other lodging which, for any form of consideration, advertises the presentation of such film material. For the purposes of this chapter an adult motion picture theater includes an adult arcade, an adult motel, and an adult motion picture booth.

Alcoholic beverage means all beverages containing one-half of one (0.5) percent or more of alcohol by volume, including beer and wine.

Day care center means a facility that exists for the purpose of child care for five (5) or more children of ages that include pre-school.

Dense business area means all of that portion of the corporate limits of the city as defined in Chapter 12-14 of this Code.

Employee means a person who works or performs in a commercial establishment, irrespective of whether said person is paid a salary or wage by the owner or manager of the premises.

Establishment or *commercial establishment* means the site, physical plant, or premises or portion thereof, upon which certain activities or operations are being conducted for commercial or pecuniary gain. "Operated for commercial or pecuniary gain" shall not depend upon actual profit or loss and shall be presumed where the establishment has an occupational license. Establishment or commercial establishment shall not mean premises that are operated usually or continuously as commercial theaters or playhouses that show works that contain serious literary or artistic merit.

Inspector means any person authorized by the mayor who shall inspect premises licensed under this chapter and take or require the actions authorized by this chapter in case of violations being found on licensed premises, and also inspect premises seeking to be licensed under this chapter and require corrections of unsatisfactory conditions found on said premises.

Leisure spa establishment means a site or premises or portion thereof, upon which any person performs any of the treatments, techniques or methods of treatment referred to as a leisure spa service, or where any leisure spa services are administered, practiced, used, given or applied, but shall not include the following: licensed health care facilities; licensed physicians or nurses engaged in the practice of their professions; educational or professional athletic facilities, if a leisure spa is a normal and usual practice in such facilities; or establishments which are exempt from regulation hereunder due to their licensure under F.S. Ch. 480 or 400.

Leisure spa patron means any person who receives, or pays to receive, a leisure spa service from a leisure spa technician for value.

Leisure spa service means any method of treating the external parts of the body, consisting of touching, rubbing, stroking, kneading, tapping, or vibrating; such treatments being performed by the hand or with any other body part, or by any mechanical or electrical instrument.

Leisure spa technician means any person who engages in the business of performing leisure spa treatments, techniques or methods of treatment referred to as leisure spa services.

Licensed premises means not only rooms and areas where adult materials regulated under this chapter, or adult activities regulated by this chapter, are sold, rented, leased, offered, presented or stored or where any form of adult entertainment is presented, but also all other areas within five hundred (500) feet of the room or area where adult materials or adult activities are regulated and over which the licensee has some dominion and control and to which customers or patrons may pass, and shall include all of the floor or land areas embraced within the plan appearing on or attached to the application for the license involved and designated as such on said plan.

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

Personal advertising means any communication on the part of any employee of an adult entertainment establishment that is designed to encourage a prospective patron to enter said establishment and is performed by repeatedly speaking in a raised tone of voice, by making prominent physical gestures, such as waving or repeatedly pointing, or by holding signs or other written statements. Personal advertising shall not include oral or physical references to an adult entertainment establishment by patrons or spectators.

Premises means a physical plant or location, which is enclosed by walls or any other enclosing structural device, or which is covered by a single roof, and shall include any structure, structures or land, or contiguous structures or land, within five hundred (500) feet of the physical plant or location, where such structures or land and the physical plant or location are under common ownership, control or possession.

Principal stockholder means any individual, partnership or corporation that owns or controls, legally or beneficially, ten (10) percent or more of a corporation's capital stock, and includes the officers, directors and principal stockholders of a corporation; provided, that if no stockholder of a corporation owns or controls, legally or beneficially, at least ten (10) percent of the capital stock, all stockholders shall be considered principal stockholders, and further provided, that if a corporation is registered with the securities and exchange commission or pursuant to F.S. Ch. 517 (including its amendments or its successor statutes), and its stock is for sale to the general public, it shall not be considered to have any principal stockholders.

Private performance means modeling, posing, or the display or exposure of any portions of or the entire human body, including specified anatomical areas, whether completely and opaquely covered or not, by an employee of an adult entertainment establishment to a patron, while the patron is in an area not accessible during such display to all other persons in the establishment.

Religious institution means a building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith. Includes temples, synagogues or other places of assembly for the purposes of organized religion.

School means an institution of learning for minors, whether public or private, which offers instruction in those courses of study required by F.S. Ch. 233. This definition includes a nursery school, kindergarten, elementary school, junior high school, middle school, senior high school, or any special institution of learning under the jurisdiction of the state department of education, but it does not include a vocational or professional institution or an institution of higher education, including a community or junior college, college or university.

Specified anatomical areas means:

(a) (i) Human genitals or pubic region;

(ii) The human cleavage of the human buttocks;

(iii) A portion of the human female mammary gland (commonly referred to as the female breast) including the nipple and the areola (the darker colored area of the breast surrounding the nipple) and an outside area of such gland wherein such outside area is (i) reasonably compact and contiguous to the areola and (ii) contains at least the nipple and the areola and one-quarter (¼) of the outside surface area of such gland.

(b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified criminal act means a violation of this chapter; an offense under F.S. Ch. 800 (Lewdness Indecent Exposure); an offense under F.S. § 806.01, 806.10, 806.111 or 806.13(2)(c) (Arson and Criminal Mischief); an offense under F.S. Ch. 796 (Prostitution); an offense under F.S. § 847.013 or 847.014 (Obscenity); an offense under F.S. § 877.03 (Breach of the Peace); an offense under F.S. § 893.13 (Possession or Sale of Controlled Substances); an offense under F.S. § 849.09(2), 849.10 or 849.25(3) (Gambling); an offense under F.S. Ch. 794 (Sexual Battery); an offense under F.S. Ch. 826 (Bigamy, Incest); or violation of analogous (to above statutes) laws or ordinances of another city or state or federal government or successor statutes to above statutes.

Specified sexual activities means:

(a) Human genitals in a state of sexual stimulation, arousal or tumescence;

(b) Acts of human anilingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellation, flagellation, masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sapphism, sexual intercourse, sodomy, urolagnia or zooerasty;

(c) Fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breast;

(d) Excretory functions as part of or in connection with any of the activities set forth in (a) through (c) above.

Straddle dance, also known as a "lap dance" or "face dance," means the use by an employee, whether clothed or not, of any part of his body to massage, rub, stroke, knead, caress or fondle the genital or pubic area of a patron, while on the premises, or the placing of the genital or pubic area of an employee in contact with the face of a patron, while on the premises.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 1, 4-29-99; Ord. No. 20-09, § 1, 6-25-09)

Secs. 7-3-4—7-3-10. - Reserved.

ARTICLE II. - REGULATORY PROVISIONS

Sec. 7-3-11. - Responsibility.

Ultimate responsibility for the administration of this chapter is vested in the mayor, who shall be responsible for the issuance of all licenses referenced hereunder. All references to the mayor in this chapter shall also refer to his or her designee.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 16-10, § 61, 9-9-10)

Sec. 7-3-12. - License required.

(1) *Requirement.* No adult bookstore, leisure spa establishment, adult motion picture theater or adult dancing establishment shall be permitted to do business in the city without having first obtained a license as required under this chapter. For adult bookstores, leisure spa establishments, adult motion picture theaters or adult dancing establishments legally in existence and operating on the date of adoption of this chapter, permission to operate is hereby granted until an application for a license under this chapter is filed with the mayor not later than forty-five (45) days following the adoption of this chapter, and thereafter for so long a time as is necessary for the mayor to issue or to deny issuance of a license under this chapter.

(2) *Classification.* Adult entertainment establishment licenses referred to in this chapter shall be one (1) of four (4) separate types of licenses which are classified as follows:

(a) Adult bookstore;

(b) Adult motion picture theater;

(c) Leisure spa;

(d) Adult dancing establishment.

An adult entertainment establishment shall be limited to one (1) of the four (4) classes of licenses and thereby limited to the one (1) type of activity for which the license is issued. However, a given adult entertainment business operating with a valid occupational license on the date of adoption of this chapter, shall be allowed to apply for and receive those licenses necessary to operate the types of adult entertainment it offered immediately prior to the date of adoption of this chapter, provided it complies with all other requirements of this chapter.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 16-10, § 62, 9-9-10)

Sec. 7-3-13. - Disqualification.

(1) *Noncompliance of premises.* No license shall be issued as a result of investigations by the city which determine that the proposed licensed premises does not meet each and every one (1) of the general and special requirements for the type of license applied for as established in article III, article IV, article V, article VI and article VII of this chapter, except as provided in section 7-3-99, or if the proposed licensed premises fails to satisfy all applicable building, zoning, health and fire regulations, ordinances or statutes, whether federal, state or local; further, no license shall be issued based on false information given in the application for license.

(2) *Issuance of license where prior license has been revoked or suspended.* No license shall be issued to:

(a) Any individual, partnership or corporation whose license under this chapter is suspended or revoked;

(b) Any partnership, a partner of which has a license presently suspended or revoked under this chapter;

(c) Any corporation of which an officer, director or principal stockholder presently has his license under this chapter suspended or revoked; or

(d) Any individual who is, or was at the time of suspension, a partner in a partnership or an officer, director or principal stockholder of a corporation, whose license under this chapter is presently suspended.

(3) *Prohibited by law or court order.* No license shall be issued when its issuance would violate a statute, ordinance, law or when an order from a court of law prohibits the applicant from obtaining an adult entertainment or occupational license in the city.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-14. - License application; application fee.

(1) *Required information and documents.* Any individual, partnership or corporation desiring to engage in the business of operating an adult bookstore, leisure spa establishment, adult motion picture theater or adult dancing establishment, shall file an application with the mayor. The application shall contain, at a minimum, the following information, and shall be accompanied by the following information and/or documents:

(a) If the applicant is:

(i) An individual—his legal name and all aliases used by him; or

(ii) A partnership—the full name of the partnership and the legal names and all aliases used by all of the partners, whether general or limited, accompanied by, if in existence, a copy of the written partnership agreement; or

(iii) A corporation—the exact corporate name, the date of incorporation, evidence that the corporation is in good standing, and the legal names and all aliases used and the capacity of all the officers, directors and principal stockholders;

(b) If the business is to be conducted under the name other than that of the applicant, the business name and the county of registration under F.S. § 865.09, (or its successor statute).

(c) Whether the applicant or any of the other individuals listed pursuant to paragraph (a) has, within the five-year period immediately preceding the date of the application, been convicted of a specified criminal act, and if so, the particular criminal act involved and the place of conviction;

(d) Whether the applicant or any of the other individuals listed pursuant to paragraph (a), above, has had a license issued under this chapter previously suspended or revoked or has been partner in a partnership or an officer, director or principal stockholder of a corporation whose license issued under this chapter has previously been suspended or revoked, including the date of suspension or revocation;

(e) The classification of the license for which the application is being filed;

(f) Whether the applicant holds any other adult entertainment establishment licenses in any state in the United States and, if so, the number and locations of such licensed premises and whether any such licenses have been suspended or revoked;

(g) The location of the proposed establishment, including, if known, a list of employees, or if there will be no employees, a statement to that effect; and

(h) A floor plan drawn to substantially accurate scale of the proposed licensed premises indicating the areas to be covered by the license, all windows, doors, entrances and exits and the fixed structural features of the proposed licensed premises. The term "fixed structural features" shall include walls, stages, immovable partitions, projection booths, admission booths, concession booths or stands, immovable counters and similar structures that are intended to be permanent.

(2) *Application fee.* Each application shall be accompanied by a nonrefundable fee of four hundred dollars ($400.00) payable at the time the application is filed. In the event a license is approved, said fee shall be applied to the license fee required for the first year pursuant to section 7-3-24 of this chapter.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 16-10, § 63, 9-9-10)

Sec. 7-3-15. - Investigation.

Upon receipt of an application properly filed with the mayor, and upon payment of the application fee, the mayor shall verify the information required by subsection 7-3-14(1) of this chapter. The investigation shall be concluded within ninety (90) days from the date of the application. The mayor shall state on the application the results and findings of his or her investigation, recommending either approval or denial of the application.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 16-10, § 64, 9-9-10)

Sec. 7-3-16. - Approval procedure; appeal.

(1) *Approval and issuance.* Upon the completion of the review of an application, the mayor shall approve or deny the application. If approved, the mayor shall issue the license upon the payment of the appropriate license fee provided for herein.

(2) *Disapproval and denial.* If the mayor disapproves the application, he shall indicate the reason therefore upon the application, or in a separate writing, and shall deny the application. If the application is denied, the mayor shall notify the applicant of the disapproval and the reasons therefore. Notification shall be by regular U.S. mail or hand delivery and shall be sent to the address on the license application, which shall be considered the correct address.

(3) *False information.* Notwithstanding any other provision in this chapter, the mayor shall deny any application for a license in which the applicant has supplied false or untrue information.

(4) *Time period.* The mayor shall approve or disapprove all applications within ninety (90) days from the date a completed application has been submitted. Upon the expiration of ninety (90) days, the applicant shall be permitted to initiate operation of the adult entertainment establishment and the license shall be issued and forwarded to the applicant, unless the mayor notifies the applicant of a preliminary denial of the application. A preliminary denial shall specify on the license application the reasons therefore, and shall be sent within seven (7) days of the action via regular U.S. mail or hand delivery to the address specified in the application which shall be considered the correct address.

(5) *Revocation.* Should a license be issued as a result of false information, misrepresentation of fact, or mistake of fact, it shall be revoked. If the application is revoked, the mayor shall notify the licensee of the revocation and the reasons therefore. Notification shall be by regular U.S. mail or hand delivery and shall be sent to the address on the license application, which shall be considered the correct address.

(6) *Appeal.* Within fifteen (15) days after the mailing of either a notice of denial or preliminary denial of a license pursuant to an application, or a notification of the revocation of a license, the applicant or licensee may appeal to the city council. In the case of a denial of a license, if the city council finds that the initial application should have been approved or a license issued, it shall so order and upon payment of the appropriate license fee, as provided in section 7-3-24, the mayor shall issue the license. In the case of a revocation of an issued license, if the city council finds the license should not have been revoked, it shall order the reissue of the license. The appeal shall have been concluded within sixty (60) days of its filing unless continued by the city council for good cause, but in no event more than ninety (90) days after its filing.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 16-10, § 65, 9-9-10)

Sec. 7-3-17. - Limitation on licenses and licensed premises.

Except as provided in section 7-3-12, not more than one (1) license shall be issued and in effect for any single adult entertainment establishment within the city. No building, premises, structure, or other facility that allows, contains or offers any classification of adult entertainment as provided for in section 7-

3-3 or 7-3-12(2) above, shall allow, contain or offer any other classification of adult entertainment. A licensed premises may be owned by a licensee or may be leased by the licensee from a person not a licensee so long as the lessee who is operating the licensed premises undergoes the equivalent licensing process under this chapter; provided, that a licensee who is a tenant or lessee may not surrender his tenancy or lease to the owner or lessor if by so doing the said owner or lessor will take possession, control and operation of the licensed premises and the business licensed under this chapter, unless the license is transferred as provided in section 7-3-20 and further provided, that a licensee who is the owner of the licensed premises may not lease or otherwise give up possession, control and operation of the licensed premises and the business licensed under this chapter to any other individual, partnership or corporation, unless the license is transferred as provided in section 7-3-20.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-18. - Display of license; mutilation prohibited.

All licensees licensed under this chapter shall display their licenses in conspicuous places on their licensed premises, in clear, transparent cover or frame. The license shall be available for inspection at all times by the public. No person shall mutilate, cover, obstruct or remove a license so displayed.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-19. - Term of license; renewals.

(1) *Term.* All licenses issued under this chapter, except new licenses, shall be annual licenses which shall be paid for on or before October 1st and shall expire on September 30th of the following year. A licensee beginning business after October 1st and before April 1st may obtain a new license upon application therefore and the payment of the appropriate license fee and such license shall expire on the following September 30th. A licensee beginning business after March 31st and before October 1st may obtain a new license upon application therefore and the payment of one-half (½) of the appropriate license fee herein required for the annual license and such license shall expire on September 30th of the same year. The provisions of this subsection shall not affect the provisions of section 7-3-14.

(2) *Renewals.* A licensee under this chapter shall be entitled to a renewal of his annual license from year to year as a matter of course, on or before October 1st by presenting the license for the previous year or satisfactory evidence of its loss or destruction to the mayor and by paying the appropriate license fee. A license that is not renewed by October 1st of each year shall be considered delinquent, and, in addition to the regular license fee, subject to a delinquency penalty of ten (10) percent of the license fee for the month of October, or any fraction thereof, and an additional penalty of ten (10) percent of the license fee for each additional month, or fraction thereof, thereafter until paid, provided that the total delinquency penalty shall not exceed twenty-five (25) percent of the license fee. All licenses not renewed within one hundred and twenty (120) days of September 30th shall be terminated.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 16-10, § 66, 9-9-10)

Sec. 7-3-20. - Transfer of license.

When a licensee shall have made a bona fide sale of the business for which he is licensed under this chapter to conduct, he may obtain a transfer of the license issued under this chapter to the purchaser of said business, but only if, before the transfer, the application of the purchaser shall be approved by the mayor in accordance with the same procedure provided for herein in the case of issuance of new licenses. Before the issuance of any transfer of license, the transferee shall pay a transfer fee of ten (10)

percent of the appropriate annual license fee. Licenses issued under this chapter shall not be transferable in any other way than provided in this section.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 16-10, § 67 9-9-10)

Sec. 7-3-21. - Licensee moving to new location; changing name of business.

(1) *New location.* Subject to all other applicable legal requirements, a licensee may move his licensed premises to a new location and operate at the new location upon approval by the mayor of the licensee's application for a change of location. The licensee shall submit to the mayor an application for a change of location, accompanied by an application fee of four hundred dollars ($400.00) at the time the application is filed. The application will contain, or have attached to it, a plan drawn to substantially accurate scale of the licensed premises at the location indicating the area to be included in the proposed licensed premises, all windows, doors, entrances and exits and the fixed structural features of the proposed licensed premises. The term "fixed structural features" shall have the same meaning as in subsection 7-3-14(l)(h). Upon approval, which approval shall be subject to all other applicable legal requirements, of the application, there shall be issued to the licensee a license for the proposed location without the payment of any further fee other than the application fee for a change of location. The licensee's application for a change of location shall be approved or denied by the mayor within forty-five (45) days of its submittal.

(2) *Change of name.* No licensee may change the name of the business located at his licensed premises without first giving the mayor thirty (30) days' notice, in writing, of such change and without first making payment to the city of a three dollar ($3.00) change-of-name fee.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 16-10, § 67, 9-9-10; Ord. No. 16-10, § 68, 9-9-10)

Sec. 7-3-22. - Suspension of license.

(1) *Violations of health, building, zoning or fire provisions.* In the event the mayor learns or finds upon sufficient cause that a licensed adult entertainment establishment is operating in violation of a health, building, zoning or fire statute, ordinance, or regulation, whether federal, state, or local, contrary to the requirements of this chapter, he shall promptly notify the licensee of the violation and shall grant the licensee the right to exhaust applicable administrative remedies to correct said violations. Should the licensee fail to either correct the violation or to obtain an administrative reversal of the mayor's finding, the mayor shall forthwith suspend the license, and shall notify the licensee of the suspension. The suspension shall remain in effect until the violation of the provision in question has been corrected.

(2) *Other violations.* In the event a jury or other trier of fact in a court of law finds that a licensee has violated any of the criminal provisions of this chapter, or has committed a specified criminal act as defined hereinunder, whether or not an adjudication of guilt has been entered, the mayor shall forthwith suspend the license for fifteen (15) days, and shall notify the licensee of the suspension.

(3) *Suspension of license.*

(a) *Procedure.* Notification of violations or suspension of a license or revocation of a license shall be by regular U.S. mail or hand delivery and shall be sent to the address on the license application, which shall be considered the correct address.

(b) *Periods of suspension.*

(1) In the event three (3) or more violations of the criminal provisions of this chapter, or specified criminal acts occur at a single adult entertainment establishment within a two-year period, and convictions result from at least three (3) of the violations, the mayor shall, upon the date of the third conviction, suspend the license, and notify the licensee of the suspension. The suspension shall remain in effect for a period of thirty (30) days.

(2) In the event one (1) or more violations of the criminal provisions of this chapter, or specified criminal acts occur at the establishment within a period of two (2) years from the date of the violation from which the last conviction resulted for which the license was suspended for thirty (30) days under subsection (b)(1), but not including any time during which the license was suspended for thirty (30) days, and a conviction results from one (1) or more of the violations, the mayor shall, upon the date of the first conviction, suspend the license again, and notify the licensee of the suspension. The suspension shall remain in effect for a period of ninety (90) days.

(3) In the event one (1) or more violations of the criminal provisions of this chapter, or specified criminal acts occur within a period of two (2) years from the date of the violation from which the conviction resulted for which the license was suspended for ninety (90) days, and a conviction results from one (1) or more of the violations, the mayor shall, upon the date of the first conviction, suspend the license again, and notify the licensee of the suspension. The suspension shall remain in effect for a period of one hundred eighty (180) days.

(4) The transfer or renewal of a license pursuant to this chapter shall not defeat the terms of subsections (b)(1) through (3).

(c) *Effective date of suspension.* All periods of suspension shall begin fifteen (15) days after the date that the mayor mails or delivers the notice of suspension to the licensee or on the date the licensee surrenders his or her license to the mayor, whichever happens first.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 2, 4-29-99; Ord. No. 16-10, § 69, 9-9-10)

Sec. 7-3-23. - General appeals.

Appeals alleging error in the denial, suspension or revocation of a license or permit under this chapter shall be by petition for a formal hearing before the city council of the City of Pensacola, Florida. A notice of intent to appeal shall be filed with the city clerk within fifteen (15) days after the mailing of a notice of denial, suspension or revocation of a license or permit. Thereafter, and upon payment of a fee of one hundred dollars ($100.00) to cover administrative costs, a hearing will be scheduled within forty-five (45) days. The clerk shall give the petitioning party at least ten (10) days written notice of the time and place for the hearing.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-24. - License fee.

(1) *Levy of fees.* There are hereby levied the following annual license fees under this chapter:

(a) Adult bookstore—Four hundred dollars ($400.00);

(b) Leisure spa establishment—Four hundred and fifty dollars ($450.00);

(c) Adult motion picture theaters, as follows:

(i) Having only adult motion picture booths—Fifty dollars ($50.00) for each booth; or

(ii) Having only a hall or auditorium—Five dollars and fifty cents ($5.50) for each seat or place; or

(iii) Designed to permit viewing by patrons seated in automobiles—Three dollars and fifty cents ($3.50) for each speaker or parking space; or

(iv) Having a combination of any of the foregoing the license fee applicable to each under subparagraphs (i), (ii), and (iii);

(v) Adult motel—Eight hundred dollars ($800.00).

(d) Adult dancing establishment—Four hundred dollars ($400.00).

(2) *License fee as regulatory fee.* The license fees collected under this chapter are fees paid for the purpose of examination and inspection of licensed premises under this chapter and the administration thereof and are declared to be regulatory fees in addition to and not in lieu of the occupational license taxes imposed by other sections of this Code. The payment of a license fee under this chapter shall not relieve any licensee or other person of a liability for and the responsibility of paying an occupational license fee where the same is required by other sections of this Code, and for doing such acts and providing such information as may be required by this Code.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-25. - Records and reports; consent by licensee.

Each licensee shall keep such records and make such reports as may be required by the mayor in order to implement this chapter and carry out its purpose. By applying for a license under this chapter, an individual, partnership or corporation shall be deemed to have consented to the provisions of this chapter and to the exercise by the mayor and other interested agencies of the powers designated herein in the manner therein specified.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 16-10, § 70, 9-9-10)

Secs. 7-3-26—7-3-35. - Reserved.

ARTICLE III. - REQUIREMENTS FOR ALL ADULT ENTERTAINMENT ESTABLISHMENTS

Sec. 7-3-36. - General requirements.

In addition to the special requirements contained in articles IV, V, VI, and VII of this chapter, each licensed premise shall:

(a) Conform to all applicable building laws, ordinances or regulations, whether federal, state or local;

(b) Conform to all applicable fire laws, ordinances or regulations, whether federal, state or local;

(c) Conform to all applicable health laws, ordinances or regulations, whether federal, state or local;

(d) Have each and every glass area that faces a public thoroughfare or through which casual passersby can see the materials or activity inside the licensed premises covered over by black paint or other opaque covering; provided that this requirement shall not apply if the uncovered glass area exposes to public view only a lobby or anteroom containing no material or activities of an adult nature. Such lobby or anteroom may contain a reception center or desk and chairs or couches for customers to use while waiting.

(e) Conform to the requirements of Chapter 381, Florida Statutes, and the rules and regulations of the Florida Department of Healthmade pursuant thereto. Each licensed premises shall be deemed to be a "place serving the public" for the purpose of sanitary facilities.

(f) Conform to the following sanitary facilities requirements:

(i) Water supply—The water supply must be adequate, of safe, sanitary quality and from an approved source in accordance with provisions of applicable codes.

(ii) Plumbing—Plumbing shall be sized, installed and maintained in accordance with provisions of applicable codes.

(iii) Restrooms—All licensed premises shall be provided with adequate and conveniently located toilet facilities for its employees and patrons in accordance with provisions of applicable codes. All toilet facilities must be of readily cleanable design and be kept clean, in good repair and free from objectionable odors. Restrooms must be vented to the outside of any building, be equipped with mechanical exhaust systems and be well lighted. Floors shall be of impervious easily cleanable materials. Walls shall be smooth, nonabsorbent and easily cleanable. Toilet tissue shall be provided. Easily cleanable receptacles shall be provided for waste materials and such receptacles in toilet rooms for women shall be covered. Toilet rooms shall be completely enclosed and shall have tight-fitting, self-closing doors. Such doors shall not be left open except during cleaning or maintenance. Toilet rooms shall not open directly into food service or preparation areas (beverage is considered a "food"). Hand washing signs shall be posted in each toilet room used by employees.

(g) Conform to the requirements of the Life Safety Code.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-37. - Advertising.

No establishment regulated under this chapter shall:

(1) Display a sign advertising the presentation of any activity prohibited by a Florida statute, or any ordinance of the city; or

(2) Erect, install, maintain, alter or operate any sign in violation of applicable ordinances of the city; or

(3) Engage in, encourage, or permit, any form of personal advertising for the commercial benefit of the establishment or for the commercial benefit of any individual who displays or exhibits less than completely and opaquely covered specified anatomical areas within the establishment; or

(4) Display signs or any other building treatments on the exterior of the structure wherein the business is conducted or on the property upon which the structure is located, or upon any other property within the city which utilize the depiction of the nude human figure, whether male or female, or any words that refer to specified anatomical areas or specified sexual activities.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-38. - Entrance to adult entertainment establishment.

(1) The entrance to any adult entertainment establishment shall be designed in such a manner that no person outside the building or property can see materials offered to patrons or depictions of specified anatomical areas within the adult entertainment establishment.

(2) Immediately inside the entrance of any adult entertainment establishment there shall be posted a well-lighted sign which shall read as follows:

NOTICE

THIS ESTABLISHMENT OFFERS MATERIAL OR ENTERTAINMENT HAVING ADULT CONTENT. SUCH MATERIALS OR ENTERTAINMENT ARE FOR ADULTS ONLY. IF THIS OR NUDITY WOULD OFFEND YOU, DO NOT ENTER.

Such sign shall be clear and legible and the text thereof shall be set forth in letters of uniform size having a height of not less than one (1) inch nor more than two (2) inches.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 3, 4-29-99)

Sec. 7-3-39. - Operation of unlicensed premises unlawful.

It shall be unlawful for any person to operate an adult bookstore, adult motion picture theater, leisure spa establishment or adult dancing establishment unless such business shall have a currently valid license therefor under this chapter, which license shall not be under suspension or either permanently or conditionally revoked.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-40. - License required of commercial establishments advertising adult entertainment.

Any establishment that displays within one hundred (100) feet of its premises a sign or other form of advertisement capable of leading a reasonable person to believe that said establishment offers, presents, permits or engages in any activity required by this chapter to be licensed shall obtain an adult entertainment license for said activity.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-41. - Proscriptions where alcoholic beverages are sold, dispensed or permitted.

The display of less than opaquely or completely covered specified anatomical areas or the wearing by employees of any covering, tape, pasties or other device that simulates or otherwise gives the appearance of the display or exposure of any specified anatomical areas shall not be permitted on a licensed premises where alcoholic beverages are sold, dispensed, permitted or consumed (except normal restroom functions occurring in restroom facilities). It shall be unlawful for any employee to exhibit less than completely and opaquely covered specified anatomical areas or to wear any covering, tape, pasties or other device that simulates or otherwise gives the appearance of the display or exposure of any specified anatomical areas while selling or dispensing any form of food or beverage.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 4, 4-29-99)

Sec. 7-3-42. - Admissions of minors unlawful.

Except as provided in section 7-3-60, it shall be unlawful for a licensee to admit or to permit the admission of minors within a licensed premises. This chapter shall not apply to conduct the regulation of which has been preempted to the state under Chapter 847, Florida Statutes.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-43. - Sale to minors unlawful.

Except as provided in section 7-3-60, it shall be unlawful for any person to sell, barter or give, or to offer to sell, barter or give, to any minor, any service, material, or device on the premises of any adult bookstore, adult motion picture theater, leisure spa establishment or adult dancing establishment.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-44. - Permitting violations of ordinance or illegal acts prohibited.

It shall be unlawful for a licensee, owner or employee to permit, suffer or allow violations of this chapter or illegal acts to take place on the licensed premises, if the licensee or employee knows or has reason to know that such violations or illegal acts are taking place.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 5, 4-29-99)

Sec. 7-3-45. - Permits for employees in licensed premises.

(1) *Adult entertainment permit required.* Unless specifically excluded below, it shall be unlawful for any person to obtain employment as an employee in an establishment licensed under this chapter, for any form of consideration, unless and until such person shall have first obtained an adult entertainment permit or temporary permit from the mayor. All references to the mayor in this chapter shall also refer to his or her designee. This section shall not apply to employees engaged exclusively in performing janitorial, maintenance or other services, not including bartending, table service or entertaining.

(2) *Qualifications.* Employees of a licensee on a licensed premises shall not be less than eighteen (18) years of age.

(3) *Application for an issuance of adult entertainment permit.*

(a) Permission is hereby granted for an employee working at an establishment legally in operation under this chapter on the date of adoption of this chapter to continue working until an application for a permit under this chapter is filed with the mayor, not later than forty-five (45) days for adult bookstores, leisure spa establishments, adult motion picture theaters, and seventy-five (75) days for adult dancing establishments, from the date of adoption of this chapter, and for a period, after filing of an application, not to exceed twenty-one (21) days.

(b) All present and prospective employees employed on the premises of an adult entertainment establishment shall file an application for an adult entertainment permit with the mayor.

(c) All applications shall be accompanied by a nonrefundable payment of a thirty dollar ($30.00) fee.

(d) At the time an applicant applies for a permit and completes all requirements for the issuance of a permit, he shall be issued a temporary permit valid for twenty-one (21) days. No later than twenty-one (21) days from the filing of an application, the mayor shall issue a permit.

(e) It shall be the duty of the mayor to issue the applicant a written permit which shall be signed by the mayor, and shall bear the name, all aliases, age, signature and photograph of the applicant. The mayor shall procure the fingerprints and a photograph of the applicant, the applicant's address, sex, and the name(s) of all entertainment establishments where the applicant is to work or perform and shall keep the same on file. The fingerprints, names of establishment(s) and photograph of the applicant shall be furnished by the applicant at the time of the filing of his application. Upon delivery of the permit to the applicant, the applicant may begin working on the licensed premises as a permanent employee.

There shall be submitted with each application for a permit, proof of the applicant's age. Such proof may be provided by production of the applicant's driver's license, passport, or a certified copy of his birth certificate.

(f) No permit shall be issued when its issuance would violate a statute, ordinance, law or when an order from a court of law prohibits the applicant from obtaining an adult entertainment permit in the city.

(4) *Revocation.* Should a permit be issued as a result of false information, misrepresentation of fact or mistake of fact, it shall be revoked.

(5) *Expiration and renewal.* A permit under this chapter shall expire one (1) year from the date of issuance. A permittee under this chapter shall be entitled to a renewal of his permit as a matter of

course, except when said permit has been suspended or revoked, upon presentation of his previous permit or presentation of an affidavit as to its destruction to the police chief and payment of a thirty dollar ($30.00) fee.

(6) *Possession of permit required.* It shall be unlawful for an employee, as defined in this chapter, to work or perform in an adult entertainment establishment without being in possession of a valid adult entertainment permit.

(7) *Violations.* Any person who violates the provisions of this section, or otherwise fails to secure a permit as required by this section, shall be prosecuted and punished in accordance with section 1-1-8 of this Code.

(8) *Suspension of permit.*

(a) *Conviction for violation of article VIII.* In the event a permittee commits one (1) or more violations of article VIII of this chapter, and a conviction results from at least one (1) of the violations, the mayor shall, upon the date of the conviction, suspend the permit, and notify the permittee of the suspension. The suspension shall remain in effect for a period of ninety (90) days.

(b) *Effective date of suspension.* The period of the suspension shall begin fifteen (15) days after the date the mayor mails or delivers the notice of suspension to the permittee or on the date the permittee surrenders his permit to the mayor, whichever happens first.

(9) *Appeal.* If an application for a permit is denied or if a permit is suspended or revoked, the applicant or permittee may, within fifteen (15) days after the mailing of a notice of denial or suspension or revocation, appeal to the city council. If the applicant or permittee does not appeal the denial, suspension or revocation of a permit, the applicant or permittee shall be deemed to have failed to have exhausted his administrative remedies.

(10) *Replacement of lost permits.* Replacements for lost permits shall be obtained by completing an application as required in this section. All applications for replacement permits shall be accompanied by a ten dollar ($10.00) fee.

(11) *Change of address, name or place of employment.* Whenever any person, after applying for or receiving an adult entertainment permit, shall move from the residential address named in such application, or in the permit issued to him, such person shall, within thirty (30) days, submit written notice to the mayor of such change and shall make a payment to the city in the amount of three dollars ($3.00) for change-of-address fee. In no event shall this eliminate or modify the requirements of this section as to change of business location.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 6, 4-29-99; Ord. No. 31-02, §§ 1, 2, 9-26-02; Ord. No. 16-10, § 71, 9-9-10)

Secs. 7-3-46—7-3-55. - Reserved.

ARTICLE IV. - REQUIREMENTS FOR LEISURE SPA ESTABLISHMENTS

Sec. 7-3-56. - Leisure spa establishments.

(1) It shall be unlawful for any person, firm or corporation to operate, own, conduct, carry on, or permit to be operated, owned, conducted or carried on, any leisure spa establishment of any type or kind, including, but not limited to, leisure spa, leisure spa service business, or any leisure spa business or service offered in conjunction with, or as part of, any health club, health spa, resort or health resort, gymnasium, athletic club, or other business, without compliance with the provisions of this chapter.

(2) In addition to the general requirements contained in Article III, a leisure spa establishment shall observe the following special requirements:

(a) Dressing rooms shall be proportioned to the maximum number of persons or patrons who are expected to be in them at one (1) time, excluding attendants and assistants, and providing a minimum of twelve (12) square feet per person or patron. Separate dressing rooms shall be provided for men and women. Floors shall be of a smooth, impervious material with a nonslip surface and shall be covered at the wall junction for thorough cleaning. Each dressing room area shall contain floor drains. Partition walls shall be covered from the floor to thirty (30) inches above the floor with ceramic tile or other impervious material.

(b) One (1) shower shall be provided for each ten (10) men or women, based upon the maximum number of persons who are expected to be using shower facilities at one (1) time, and separate shower facilities shall be provided for men and women. Floors and partition walls shall be constructed as required in subsection (a) for dressing rooms. Each shower will be constructed of ceramic tile, other impervious material, or single molded material. Each shower shall provide hot and cold running water.

(c) One (1) locker shall be provided for each patron who is expected to be on the licensed premises at one time, which shall be of sufficient size to hold clothing and other articles of wearing apparel. Each locker shall be capable of being locked by the patron with no one else having the key so long as the patron is using the locker, or the locker shall be under the constant attention and supervision of the attendant.

(d) Each room or enclosure where leisure spa services are performed shall be provided with lighting of a minimum of five (5) footcandles as measured four (4) feet above the floor, which lights shall remain on at all times during business hours, and one (1) light capable of providing fifty (50) footcandles of light in all corners of leisure spas, bath, shower or toilet rooms which light shall be turned on when cleaning these areas.

(e) The premises shall have adequate equipment for disinfecting and cleaning undisposable instruments and materials used in administering leisure spa services. Such materials and instruments shall be cleaned after each use. Methods of cleaning and sanitizing shall be consistent with the practices accepted by the National Sanitation Foundation, American Academy of Sanitarians or Center for Disease Control.

(f) Closed cabinets shall be provided for use of all storage equipment, supplies and clean linens. All used and soiled linens and towels shall be kept in water soluble linen bags designed to hold infectious linen and kept in covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage cabinets.

(g) Clean linen and towels shall be provided for each leisure spa patron. No common use of towels or linens shall be permitted.

(h) Oils, creams, lotions or other preparations used in administering leisure spa services shall be kept in clean containers or cabinets.

(i) Each room or enclosure where leisure spa services are performed shall contain a hand washing sink with hot and cold running water. Each technician shall wash his hands in hot running water, using soap or disinfectant before and after administering a massage to each patron.

(j) All walls, ceilings, floors, pools, lavatories, showers, bathtubs, steam rooms, and all other physical facilities shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments, and toilet rooms, shall be thoroughly cleaned each day the business is in operation. Bathtubs and showers shall be thoroughly cleaned after each use.

(k) In the event male and female patrons are served, separate rooms or enclosures for leisure spa services shall be provided.

(l) No person shall consume food or beverages in leisure spa work areas, nor shall there be any smoking in leisure spa work areas.

(m) Animals, except guide dogs, shall not be permitted in leisure spa establishments.

(n) The premises of leisure spa establishments shall be equipped with a service sink for custodial services, which sink shall be located in a janitorial room or custodial room separate from leisure spa service rooms. Such sink is to be properly connected to hot and cold running water and sewer system.

(o) Leisure spa services on a person by another person who displays or exhibits less than completely and opaquely covered specified anatomical areas are prohibited.

(p) No person shall perform leisure spa services on the genitals or pubic area of another person.

(q) It shall be unlawful for a leisure spa employee or owner to perform leisure spa services on a patron of the opposite sex.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 7, 4-29-99)

Sec. 7-3-57. - Leisure spa technician.

No leisure spa technician shall administer leisure spa services to any person:

(1) If said leisure spa technician believes, knows or should know that he or she is not free of any contagious or communicable disease or infection;

(2) If said person exhibits any skin fungus, skin infection, skin inflammation, or skin eruption; provided, however, that a physician duly licensed to practice in the State of Florida may certify that such person may be safely administered leisure spa services;

(3) If said person is not free of communicable diseases or infection or whom the leisure spa technician believes or has reason to believe is not free of communicable diseases or infection.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-58. - License required.

No employee of a leisure spa establishment may perform a leisure spa service upon any person unless he or she is duly permitted and is in good standing and active.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 8, 4-29-99)

Sec. 7-3-59. - Home massage treatment.

Massage may only be administered in a patron's home by a massage technician having a license issued in accordance with Chapter 480, Florida Statutes. Any leisure spa establishment must keep, for at least one (1) year, a record of all patrons receiving leisure spa services in a place other than a licensed leisure spa establishment, a record of the place where these leisure spa services were administered and a record of the leisure spa technician who administered these leisure spa services. No leisure spa technician shall administer any leisure spa services at a location which does not conform to or comply with the standards set forth herein.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-60. - Minors.

(1) No leisure spa establishment license holder shall allow a leisure spa patron under eighteen (18) years of age to enter said establishment nor shall a leisure spa technician perform any services upon

a leisure spa patron under eighteen (18) years of age without the written consent of that leisure spa patron's parents or legal guardian, executed before a notary public of the State of Florida.

(2) Each leisure spa establishment license holder shall keep a register or list of all leisure spa patrons under eighteen (18) years of age and keep, for at least one (1) year following the date of the service, a copy of the written consent as required in subsection (1) of this section.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-61. - Hours of operation.

No leisure spa establishment shall be operated between the hours of 10:00 p.m. and 9:00 a.m. No leisure spa patron shall remain upon the premises of a leisure spa establishment during these hours.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-62. - Inspections.

Inspections by the city shall be from time to time and at least twice each year to inspect each leisure spa establishment in the city for the purposes of determining that the provisions of this chapter are being complied with.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-63. - Specified sexual activities.

It shall be unlawful for any person to perform or engage in specified sexual activities in a leisure spa establishment or on the premises thereof.

(Ord. No. 4-99, § 1, 1-14-99)

Secs. 7-3-64—7-3-70. - Reserved.

ARTICLE V. - REQUIREMENTS FOR ADULT MOTION PICTURE THEATERS

Sec. 7-3-71. - Adult motion picture theaters.

(1) It shall be unlawful for any person, firm, or corporation to operate, own, conduct, carry on, or permit to be operated, owned, conducted or carried on, any adult motion picture theater as defined by this chapter, without compliance with the provisions of this chapter.

(2) In addition to the general requirements contained in article III, an adult motion picture theater shall observe the following special requirements:

(a) Each adult motion picture booth shall be open or have a rectangular shaped entranceway not less than thirty (30) inches wide nor less than six (6) feet high.

(b) Each adult motion picture booth shall have sufficient individual, separated seats, not couches, benches, or the like, to accommodate the person expected to use the booth who may occupy the area. Only one (1) person may occupy an adult motion picture booth at any time.

(c) Each adult motion picture booth or theater shall be designed so that a continuous main aisle runs alongside the seating areas in order that each person seated on the areas shall be visible

from the aisle at all times. Neither adult motion picture theaters or booths shall be locked or secured to prevent entry except during hours in which the establishment is closed to business.

(d) Each adult motion picture theater or booth shall be designed such that all areas where a patron or customer is to be positioned must be visible from a continuous main aisle and must not be obscured, wholly or partially, by any curtain, door, wall, partition or other enclosure.

(e) In addition to the sanitary facilities required by section 7-3-36, there shall be provided within or adjacent to the common corridor, passageway or area in adult motion picture theaters having adult motion picture booths, adequate lavatories equipped with running water, hand-cleaning soap or detergent and sanitary towels or hand-drying devices; common towels are prohibited.

(f) An adult motion picture theater designed to permit viewing by patrons seated in automobiles or other seating provisions shall have the motion picture screen so situated, or the perimeter of the licensed premises so screened or fenced, that the projected film material may not be seen from any public right-of-way, from any property zoned for residential use, any religious institution, any day care center, or any school.

(g) Each adult motion picture theater or booth shall have at the entranceway to the applicable theater or booth a sign which lists the maximum number of persons who may occupy the applicable theater or booth, which number shall not exceed the number of seats within the theater or booth.

(h) Each motion picture booth shall have walls or partitions of solid construction without any holes or openings except for the entranceway as provided in subsection (a) above.

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(Ord. No. 4-99, § 1, 1-14-99) Sec. 7-3-72. - Minors.

No adult motion picture theater, as defined by this chapter, shall allow any person under eighteen (18) years of age to enter said establishment.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-73. - Inspections.

Inspections by the city shall be from time to time and at least twice each year to inspect each adult motion picture theater in the city for the purposes of determining that the provisions of this chapter are being complied with.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-74. - Specified anatomical areas.

It shall be unlawful for any person to display or exhibit less than completely and opaquely covered specified anatomical areas in adult motion picture theaters or on the premises thereof (except in connection with normal restroom activities in restroom facilities).

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-75. - Specified sexual activities.

It shall be unlawful for any person to engage in specified sexual activities in adult motion picture theaters or on the premises thereof.

(Ord. No. 4-99, § 1, 1-14-99)

Secs. 7-3-76—7-3-80. - Reserved.

ARTICLE VI. - REQUIREMENTS FOR ADULT BOOKSTORES

Sec. 7-3-81. - Adult bookstore establishments.

(1) It shall be unlawful for any person, firm or corporation to operate, own, conduct, carry on or permit to be operated, owned, conducted or carried on any adult bookstore as defined by this chapter, without compliance with the provisions of this chapter.

(2) In addition to the general requirements contained in article III, an adult bookstore shall observe the following special requirements:

   (a) All materials, devices and novelties shall be so displayed that they cannot be seen by anyone other than customers who have entered the licensed premises.

   (b) If recordings are offered for sale and customers may listen to them while on the licensed premises and/or if booths or rooms are made available for use by customers who desire to listen to such recordings or read materials available, then each such booth or room shall:

      (i) Have an open entranceway not less than two (2) feet wide and not less than six (6) feet high, not capable of being closed or partially closed by any curtain, door, or other partition which would be capable of wholly or partially obscuring any person situated with the booth;

      (ii) Have, except for the entranceway, walls or partitions, of solid construction without any holes or openings in such walls or partitions;

      (iii) Have sufficient individual, separate seats, not couches, benches, or the like, to accommodate the expected number of persons who will occupy such booth or room at any time;

      (iv) The number of patrons who may occupy the booth or room at one time clearly stated on or near the door to the booth or room, and only that number of persons shall be permitted inside the booth or room at one time;

      (v) The door or doors opening into the booth or room incapable of being locked or otherwise fastened so that it or they will freely open the door from either side:

      (vi) All areas where a patron or customer is to be positioned visible from a continuous main aisle and not obscured by any curtain, door, wall, or other enclosure.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-82. - Minors.

No adult bookstore, as defined, by this chapter, shall allow any person under eighteen (18) years of age to enter said establishment.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-83. - Inspections.

Periodic inspections of at least twice a year shall be made by the city of each adult bookstore in the city for the purposes of determining that the provisions of this chapter are being satisfied.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-84. - Sale of nonadult material in adult bookstores.

(1) Adult bookstores as defined by this chapter, which sell, or offer for sale or rent for any form of consideration nonadult materials in addition to adult materials as defined by this chapter shall observe the following additional requirements:

   (a) Materials which are of a nonadult nature shall be segregated from adult material.

   (b) The adult materials shall be maintained in a separated area from which no patron may review such material from the area utilized for nonadult material.

   (c) No patron shall be required to enter said separated area of adult material in order to review nonadult materials, which are offered for sale or rental.

(2) The adult materials area shall have posted a well lighted sign at the entrance to such area which shall read as follows:

NOTICE

THIS AREA OFFERS MATERIALS HAVING ADULT CONTENT. SUCH MATERIAL IS FOR ADULTS ONLY. IF ADULT MATERIALS WOULD OFFEND YOU, DO NOT ENTER.

Such sign shall be clear and legible and the text thereof shall be set forth in letters of uniform size having a height of not less than one (1) inch nor more than two (2) inches.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 9, 4-29-99)

Sec. 7-3-85. - Providing of additional information.

The owner or operator of any commercial establishment which sells or rents books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other representations or recordings or novelties and devices may be required, if so requested by the city, to provide additional information referable to requirements under this chapter including, but not limited to, inventory listings and sales records for the purposes of determining if said commercial establishment is an adult bookstore. Failure to provide said materials upon written request of the city shall be sufficient cause for the suspension of the commercial establishment's license as required by article II. The owner or operator shall have a thirty (30) day period from the date of the written request within which to provide the requested information. He shall have two (2) additional periods of fifteen (15) days each within which to provide such information upon showing of good cause of his inability to provide it earlier, provided the reason(s) for not providing the requested information is submitted before the expiration of the existing period.

(Ord. No. 4-99, § 1, 1-14-99)

Secs. 7-3-86—7-3-90. - Reserved.

ARTICLE VII. - REQUIREMENTS FOR ADULT DANCING ESTABLISHMENTS

Sec. 7-3-91. - Adult dancing establishments.

In addition to the general requirements for adult entertainment establishments contained herein, an adult dancing establishment shall, regardless of whether it is licensed, observe the following special requirements:

(a) It shall have a stage provided for the display or exposure of any specified anatomical area by an employee or for the performance by any employee wearing any covering, tape, pasties or other device that simulates or otherwise gives the appearance of the display or exposure of any specified anatomical areas to a person other than another employee consisting of a permanent platform (or other similar permanent structure) raised a minimum of eighteen (18) inches above the surrounding floor and encompassing an area of at least one hundred (100) square feet; and

(b) It shall provide an area three (3) feet in width running along and/or around the entire edge of the stage within which patrons of the establishment shall not enter while the employee(s) is performing, entertaining, or standing on the stage; and

(c) There shall be no areas for private performances and private performances are prohibited; and

(d) Immediately inside the entrance of any adult dancing establishment there shall be posted a well-lighted sign which shall read as follows:

NOTICE

THIS ESTABLISHMENT OFFERS MATERIAL OR ENTERTAINMENT HAVING ADULT CONTENT. SUCH MATERIALS OR ENTERTAINMENT ARE FOR ADULTS ONLY. IF THIS OR NUDITY WOULD OFFEND YOU, DO NOT ENTER. STRADDLE DANCING IS NOT PERMITTED.

Such sign shall be clear and legible and the text thereof shall be set forth in letters of uniform size having a height of not less than one (1) inch nor more than two (2) inches.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 10, 4-29-99)

Sec. 7-3-92. - Minors.

No adult dancing establishment, as defined, by this chapter, shall allow any person under eighteen (18) years of age to enter said establishment.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-93. - Inspections.

Inspections by the city shall be made from time to time and at least twice each year to inspect each adult dancing establishment in the city to determine compliance with this chapter.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-94. - Specified sexual activities.

It shall be unlawful for any person to perform or engage in specified sexual activities in an adult dancing establishment or on the premises thereof.

(Ord. No. 17-99, § 11, 4-29-99)

Sec. 7-3-95. - Reserved.

ARTICLE VIII. - CRIMINAL PROVISIONS

Sec. 7-3-96. - Acts where alcoholic beverages are present.

(1) It shall be unlawful for any person within an establishment, regardless of whether it is licensed under this chapter, where said person knows or should have known that alcoholic beverages are on the premises, to exhibit or display less than completely and opaquely covered specified anatomical areas, as herein defined.

(2) It shall be unlawful for any person maintaining or operating an establishment, where said person knows or should have known that alcoholic beverages are on the premises, to knowingly, or with reason to know, permit, suffer or allow any person on the premises to exhibit or display less than completely and opaquely covered specified anatomical areas, as defined herein.

(3) Notwithstanding any provisions of this chapter to the contrary, it shall not be unlawful for any person or employee of any establishment to expose less than completely and opaquely covered specified anatomical areas in connection with the use of approved sanitary facilities commonly known as restrooms. However, less than completely and opaquely covered specified anatomical areas shall be exposed or displayed only in restroom facilities in connection with normal restroom functions.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-97. - Prohibited conduct within adult entertainment establishments.

(1) It shall be unlawful for any person to be an owner, operator or manager of an adult entertainment establishment where the person knows or should know:

   (a) That the establishment does not have the appropriate classification of adult entertainment license for the classification of entertainment offered within the establishment;

   (b) That the establishment has a license which is under suspension;

   (c) That the establishment has a license which has been revoked or canceled; or

   (d) That the establishment has a license which is expired.

(2) It shall be unlawful for any person to be an owner, operator or manager of:

   (a) An adult entertainment establishment which does not satisfy the requirements set forth herein.

   (b) An adult entertainment motion picture theater which does not satisfy all the special requirements set forth herein.

   (c) An adult dancing establishment which does not satisfy all of the special requirements set forth herein.

   (d) An adult entertainment bookstore which does not satisfy all the special requirements set forth herein.

   (e) An adult leisure spa establishment which does not satisfy all the special requirements set forth herein.

(3) It shall be unlawful for an owner or operator of an adult entertainment establishment, regardless of whether it is licensed under this chapter, to knowingly, or with reason to know, permit, suffer, or allow an employee:

   (a) To engage in a straddle dance with a person at the establishment;

   (b) To contract or otherwise agree with a person to engage in a straddle dance with a person at the establishment;

   (c) To engage in any specified sexual activity at the establishment;

(d) To, where alcoholic beverages are sold, offered for sale, dispensed, or consumed, display or expose at the establishment less than completely and opaquely covered specified anatomical areas;

(e) To display or expose at the establishment less than completely and opaquely covered specified anatomical areas, unless such employee is continuously away from any person other than another employee, and unless such employee is in an area as described in section 7-3-36(f)(iii);

(f) To display or expose any specified anatomical area while simulating any specified sexual activity with any other person at the establishment, including with another employee;

(g) To engage in a private performance;

(h) To, while engaged in the display or exposure of any specified anatomical area, intentionally touch any person at the adult entertainment establishment, excluding another employee;

(i) To intentionally touch the clothed or unclothed body of any person at the adult entertainment establishment, excluding another employee, at any point below the waist and above the knee of the person, or to intentionally touch the clothed or unclothed breasts of any female person; or

(j) To work, if the employee has not applied for and obtained a temporary or permanent permit under this chapter.

(4) *Advertising prohibited activity.* It shall be unlawful for an owner or operator of an adult entertainment establishment, regardless of whether it is licensed under this chapter, to advertise the presentation of any activity prohibited by any applicable state statute or local ordinance.

(5) *Minors prohibited.* Except as provided in section 7-3-60 above, it shall be unlawful for an owner or operator of an adult entertainment establishment, regardless of whether it is licensed under this chapter, to knowingly, or with reason to know, permit, suffer, or allow:

(a) Admittance to the establishment of a person under eighteen (18) years of age;

(b) A person under eighteen (18) years of age to remain at the establishment;

(c) A person under eighteen (18) years of age to purchase goods or services at the establishment; or

(d) A person to work at the establishment as an employee who is under eighteen (18) years of age.

(6) *Working at establishment which does not have valid adult entertainment license.* It shall be unlawful for any person to work in an adult entertainment establishment that he or she knows or should know is not licensed under this chapter, or which has a license which is under suspension, has been revoked or canceled, or has expired, regardless of whether he has applied for and obtained a temporary or permanent adult entertainment permit under this chapter.

(7) *Working without permit prohibited.*

(a) Subject to the limitations provided for herein, it shall be unlawful for any person to work in an adult entertainment establishment, regardless of whether it is licensed under this chapter, if the person has not applied for and obtained a temporary or permanent adult entertainment permit under this chapter.

(b) Subject to the limitations provided for herein, it shall be unlawful for any person working in an adult entertainment establishment, regardless of whether it is licensed under this chapter, to fail to produce a valid temporary or permanent permit within seventy-two (72) hours upon demand for inspection by any law enforcement officer. For the purposes of this provision, such a temporary or permanent permit is only valid if the person has applied for and obtained such permit prior to the demand.

(8) *Engaging in prohibited activity.* It shall be unlawful for any employee of any adult entertainment establishment, regardless of whether it is licensed under this chapter:

(a) To engage in a straddle dance with a person at the establishment;

(b) To contract or otherwise agree with a person to engage in a straddle dance with a person at the establishment;

(c) To engage in any specified sexual activity at the establishment;

(d) To, where the employee knows or should know that alcoholic beverages are sold, offered for sale, or consumed, display or expose at the establishment less than completely and opaquely covered specified anatomical areas or human male genitals in a discernibly turgid state, even if completely and opaquely covered;

(e) To display or expose at the establishment less than completely and opaquely covered specified anatomical areas, or human male genitals in a discernibly turgid state, even if completely and opaquely covered, unless such employee is continuously positioned away from any person other than another employee, and unless such employee is in an area as described in section 7-3-36(f)(iii);

(f) To engage in the display or exposure of any less than completely and opaquely covered specified anatomical areas while simulating any specified sexual activity with any other person at the establishment, including with another employee;

(g) To engage in a private performance;

(h) To, while engaging in the display or exposure of any specified anatomical area, intentionally touch any person at the adult entertainment establishment, excluding another employee; or

(i) To touch the clothed or unclothed body of any person at the adult entertainment establishment, excluding another employee, at any point below the waist and above the knee of the person; or

(j) To touch the clothed or unclothed breast of any female person.

(9) *Touching of employee by person.*

(a) It shall be unlawful for any person in an adult entertainment establishment, other than another employee, to intentionally touch an employee who is displaying or exposing any specified anatomical area at the adult entertainment establishment.

(b) It shall be unlawful for any person in an adult entertainment establishment, other than another employee, to touch the clothed or unclothed body of any employee at any point below the waist and above the knee of the employee.

(c) It shall be unlawful for any person in an adult entertainment establishment to intentionally touch the clothed or unclothed breast of any employee.

(10) *Exceeding occupancy limit of adult booth.* It shall be unlawful for any person to occupy an adult booth in which booth is already occupied by one person in violation of section 7-3-71 or for a greater number of persons to occupy an adult booth than are allowed in violation of section 7-3-81.

(11) *Use of restroom or dressing rooms.* Notwithstanding any provision indicating to the contrary, it shall not be unlawful for any employee of an adult entertainment establishment, regardless of whether it is licensed under this chapter, to expose any less than completely and opaquely covered specified anatomical area during the employee's bona fide use of a restroom, or during the employee's bona fide use of a dressing room which is accessible only to employees.

(12) *Hours of operation.*

(a) It shall be unlawful for any operator of an adult entertainment establishment, other than a leisure spa establishment, to allow such establishment to remain open for business, or to permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 3:00 a.m. and 11:00 a.m. of any particular day.

(b) It shall be unlawful for any employee of an adult entertainment establishment, other than a leisure spa establishment, to engage in a performance, solicit a performance, make a sale,

solicit a sale, provide a service, or solicit a service, between the hours of 3:00 a.m. and 11:00 a.m. of any particular day.

(13) *Alteration of license or permit.*

(a) It shall be unlawful for any person to alter or otherwise change the contents of an adult entertainment license without the written permission of the city.

(b) It shall be unlawful for any person to alter or otherwise change the contents of an adult entertainment permit without the written permission of the city.

(14) *Violation subject to criminal prosecution.* Whoever violates any section of article VIII of this chapter may be prosecuted and punished as provided in section 1-1-8 of this Code.

(Ord. No. 4-99, § 1, 1-14-99)

Sec. 7-3-98. - Presumptions.

The following shall be presumed in actions brought for violations of this chapter:

(1) Any establishment which has received an occupational license to operate commercially is presumed to be an adult entertainment establishment.

(2) Any person who operates or maintains an adult entertainment establishment shall be presumed to be aware of the activities which are conducted in said establishment upon a showing that said person negligently or willfully fails or refuses to monitor conduct at the establishment.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 12, 4-29-99)

Sec. 7-3-99. - Prospective application of certain sections.

Sections 7-3-41; 7-3-91(a) and (b); 7-3-96; 7-3-97(2); 7-3-97(3)(d) and (e); 7-3-97(8)(d) and (e); and 7-3-97(9)(a) and (b) of this chapter shall be applied only prospectively, that is only to establishments that were not in existence or operating, or not engaged in any of the proscribed activities on the date of adoption of this chapter.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 13, 4-29-99)

Sec. 7-3-100. - Nonconforming establishments.

Any adult entertainment establishments existing and operating as of the effective date of this chapter which do not conform to the requirements of the definition of an adult entertainment establishment shall be classified as nonconforming. If any such nonconforming adult entertainment establishment voluntarily ceases to do business for a period of fifteen (15) consecutive days then it shall be deemed abandoned and thereafter shall not reopen except in conformance with these distance and dispersal standards. However, no adult entertainment establishment shall expand the square footage or cubic footage of the establishment beyond its current dimensions. Non conforming establishments are still subject to licensure under this chapter and to conform to all other requirements that are not solely prospective in nature pursuant to section 7-3-99.

(Ord. No. 17-99, § 14, 4-29-99)

Sec. 7-3-101. - Obscenity not permitted.

Nothing in this chapter shall be construed to allow or permit conduct prohibited by Chapter 847, Florida Statutes (Obscenity) and its amendments or successor statutes. These matters are preempted to the state and are subject to state regulation. It is not the intent of the city council to legislate with respect to preempted matters. Nothing in this chapter nor the grant of any license or permit pursuant to the provision of this chapter shall be construed to mean that any operations or activities tolerated by the provisions of this chapter are in conformity with local community standards.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 14, 4-29-99)

Sec. 7-3-102. - Penalties.

(1) The city may bring suit to restrain, enjoin or otherwise prevent the violation of this chapter.

(2) Any violation of any provision of this chapter shall be punishable as provided in section 1-1-8 of this Code. Furthermore, any person who violates any provision of this chapter shall be subject to suspension or revocation of his license or permit as provided in this chapter.

(Ord. No. 4-99, § 1, 1-14-99; Ord. No. 17-99, § 14, 4-29-99)

Secs. 7-3-103—7-3-110. - Reserved.

ARTICLE IX. - DISTANCE AND LOCATION PROVISIONS

Sec. 7-3-111. - Distance requirements.

Notwithstanding any other provision of this Code, no person shall cause or permit the establishment or operation of any adult entertainment establishment, as herein defined, within:

(a) One thousand (1,000) feet from any other adult entertainment establishment; or

(b) Five hundred (500) feet from any religious institution, school, or day care center; or

(c) Five hundred (500) feet from any parcel of property zoned R-1AAAAA, R-1AAAA, R-1AAA, R-1AA, R-1A, R-ZL, R-2A, or PR-1AAA.

(Ord. No. 16-99, § 1, 4-29-99)

Sec. 7-3-112. - Measurement of distance requirements.

The city shall determine said distances by measuring a radius from the property line of the adult entertainment establishment. If any portion of a parcel of property is within said distance, whether or not the property is located within the corporate limits of the city, then the entire parcel shall be deemed to be within said distance.

(Ord. No. 16-99, § 1, 4-29-99)

Sec. 7-3-113. - Nonconforming establishments—Distance requirements.

Any adult entertainment establishments existing and operating as of the effective date of this section, which do not conform to the distance requirements set forth herein, shall be deemed to be nonconforming, and the distance requirements set forth herein shall not apply to those establishments. If any such nonconforming adult entertainment establishment voluntarily ceases to do business for a period of fifteen (15) consecutive days, then it shall be deemed abandoned and thereafter shall not reopen except in conformance with all requirements of the City Code of the City of Pensacola. Further, no such

nonconforming adult entertainment establishment may be extended to occupy any greater area of land or extended to occupy any land outside any buildings on the same parcel.

(Ord. No. 16-99, § 1, 4-29-99)

Sec. 7-3-114. - Location requirements.

An adult entertainment establishment located within the city limits shall be allowed only in the following land use districts or defined areas:

(a) C-3 (Commercial Zoning District)

(b) M-1 (Light Industrial Zoning District)

(c) M-2 (Heavy Industrial Zoning District)

(d) Dense Business Area, but excluding that area bounded on the west by Baylen Street, on the north by Garden Street, on the east by Jefferson Street, and on the south by Pensacola Bay.

(Ord. No. 16-99, § 1, 4-29-99; Ord. No. 3-01, § 1, 1-11-01)

REPEAL SECTION 7-3-115.

CHAPTER 7-4. ALCOHOLIC BEVERAGES[4]

Footnotes:

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Editor's note— Ord. No. 18-86, § 1, enacted June 26, 1986, amended Ch. 7-4 in its entirety to read as herein set forth. Prior to such amendment, Ch. 7-4, §§ 7-4-1—7-4-9, pertained to similar subject matter and was derived from Code 1968, §§ 60-1—60-11, 60-13.

Cross reference— Zoning districts, Ch. 12-2.

State Law reference— State beverage law, F.S. Ch. 561 et seq.

Sec. 7-4-1. - Definitions.

The following terms, when used in this chapter, shall have the meanings ascribed herein unless the context clearly indicates otherwise:

Bottle club shall have the meaning set forth in F.S. § 561.01.

Consideration means:

(1) The payment of, or obligation to pay, any cover charge, entrance fee, dues, or commission for the right or privilege to enter or remain upon the premises; or

(2) The payment, or obligation to pay for ice, nonalcoholic mixes or other nonalcoholic liquids used in connection with alcoholic beverage drinks; or

(3) The payment of or obligation to pay for use of glassware or other containers for the consumption of alcoholic beverage drinks; or

(4) The payment of or obligation to pay for food; or

(5) The payment of or obligation to pay for entertainment of any kind, whether live, recorded, taped, or on film; or

(6) The payment, or obligation to pay, for any combination of the foregoing.

Dense business area means all of that portion of the corporate limits of the city as defined in Chapter 12-14 of this Code.

Private club means any place or establishment licensed or required to be licensed pursuant to F.S. § 565.02(4).

School means an institution primarily for academic instruction, public, parochial or private (whether for-profit or nonprofit) and having a curriculum the same as ordinarily given in a public school, but not including colleges, universities or other institutions of post-secondary education.

(Ord. No. 18-86, § 1, 6-26-86; Ord. No. 35-86, § 1, 8-28-86; Ord. No. 10-89, § 1, 2-23-89; Ord. No. 56-90, § 1, 11-1-90; Ord. No. 10-95, § 1, 2-23-95; Ord. No. 15-96, § 1, 3-28-96; Ord. No. 6-99, § 1, 1-28-99; Ord. No. 15-99, § 1, 4-15-99; Ord. No. 20-09, § 1, 6-25-09)

Sec. 7-4-2. - Hours of operation.

(a) Alcoholic beverages may be sold only on Monday through Sunday, between the hours of 7:00 a.m. and 3:00 a.m. of the following day.

(b) No saloon, barroom, cocktail lounge, club or other place where alcoholic beverages are ordinarily sold, shall remain open during such prohibited hours of sale; provided, however the provisions of this section shall not be construed as prohibiting grocery stores, restaurants or eating places, which ordinarily sell such beverages, from remaining open during the prohibited hours, so long as such beverages are not sold or permitted to be consumed upon the premises of such places during such hours.

(c) Bottle clubs may be permitted to operate on Monday through Sunday only between the hours of 10:00 p.m. and 3:00 a.m. of the following day. Subsections (a) and (b) of this section shall not be applicable to bottle clubs.

(Ord. No. 18-86, § 1, 6-26-86; Ord. No. 35-86, § 2, 8-28-86; Ord. No. 39-89, § 1, 8-10-89; Ord. No. 15-96, § 1, 3-28-96; Ord. No. 22-12, § 1, 9-27-12; Ord. No. 11-19, § 1, 5-16-19)

State Law reference— Municipalities may establish hours of sale for alcoholic beverages, F.S. §§ 562.14(1), 562.45(2).

Sec. 7-4-3. - Certificates of compliance.

(a) It shall be unlawful to sell, or offer to keep for sale, alcoholic beverages containing more than one percent of alcohol by weight in any place or establishment, including a private club or bottle club, for which a certificate of compliance with the provisions of this chapter has not been issued. It shall also be unlawful for a bottle club to operate at any location for which a certificate of compliance has not been issued. It shall also be unlawful for a private club to serve or receive or keep for consumption on the premises, whether by members, nonresident guests or other persons, alcoholic beverages containing more than one percent of alcohol by weight at any location for which a certificate of compliance has not been issued. Provided, however, no certificate of compliance shall be required for any place or establishment lawfully operating on June 26, 1986. Any place or establishment lawfully operating on June 26, 1986, which would not be permitted under the terms of this chapter by reason of restrictions stated herein, shall be declared a nonconforming use and may be continued subject to the following provisions:

(1) *Extension of nonconforming use.* No such nonconforming use may be extended to occupy any greater area of land or extended to occupy any land outside any buildings on the same parcel.

(2) *Abandonment of nonconforming use.* If such nonconforming use is abandoned for a period of more than one hundred eighty (180) days, any future use of such land and structure shall be in conformity with the provisions of this title.

(3) *Change in nonconforming use.* There may be a change in tenant, ownership or management of a nonconforming use provided there is no change in the nature or character of such nonconforming use.

Provided further, however, no certificate of compliance shall be required for any place or establishment to sell or offer or keep for sale in sealed containers for consumption off of-the-premises beer, as defined by F.S. § 563.01, or wine, as defined by F.S. § 564.01(1).

(b) Each petition for a certificate of compliance shall be considered by the mayor and, if the mayor finds that the petition is in compliance with the provisions of this chapter, then the mayor shall issue a certificate of compliance with the provisions of this chapter, subject to appeal to the city council.

(c) Notice of each decision of the mayor to grant or deny a certificate of compliance with this chapter shall be filed immediately in the office of the city clerk where it shall be available for public inspection. The city clerk shall send notice of any decision to deny a certificate of compliance to the petitioner, which notice shall inform the petitioner of the right of any person aggrieved by the decision of the mayor to appeal to the city council within ten (10) calendar days after the date of such notice.

(d) Any person aggrieved by a decision of the mayor pursuant to this chapter may appeal to the city council by filing in the office of the city clerk a written notice of appeal within ten (10) calendar days after the date of the mayor's granting of a certificate of compliance or within ten (10) calendar days after the date of the city clerk's notice to the petitioner of the mayor's decision to deny a certificate of compliance. The notice of appeal shall set forth a short and plain statement alleging the reasons why the decision of the mayor was not in compliance with the provisions of this chapter.

(e) The city council shall consider any appeal pursuant to this chapter at a city council meeting within a reasonable time following the date of filing of a notice of appeal. At the meeting, the appellant, the petitioner (if not the appellant) and the mayor may present evidence concerning whether the decision of the mayor was in compliance with the provisions of this chapter. The burden of proof shall be upon the appellant. The city council shall consider the evidence presented concerning the criteria set forth in this chapter and render its decision which shall be final.

(f) The mayor shall issue to the petitioner a certificate of compliance with the provisions of this chapter if an appeal has been timely filed, and the city council has approved the granting of a certificate of compliance.

(Ord. No. 18-86, § 1, 6-26-86; Ord. No. 35-86, § 3, 8-28-86; Ord. No. 45-87, § 1, 10-22-87; Ord. No. 50-91, §1, 9-26-91; Ord. No. 15-96, § 1, 3-28-96; Ord. No. 16-10, § 72, 9-9-10)

Sec. 7-4-4. - Establishments prohibited in proximity of residential district.

(a) A certificate of compliance shall not be issued for any place or establishment, including a private club or a bottle club, within five hundred (500) feet of any vacant or residentially developed parcel of property zoned R-1AAAAA, R-1AAAA, R-1AAA, R-1AA, R-1A, R-ZL, R-2A, or PR-1AAA. This restriction shall not apply in the Historic District, the Waterfront Redevelopment District, the South Palafox Business District or the dense business area.

(b) The city shall determine said distance by measuring a radius from the property line of the place or establishment. If any portion of a parcel of property is within said distance, whether or not the property is located within the corporate limits of the city, then the entire parcel shall be deemed to be within said distance.

(c) The provisions of subsection (a) hereof shall not be applicable to any large multi-use retail store with a floor area of two hundred thousand (200,000) square feet or greater which has obtained a license

pursuant to F.S. 565.02(1)(a), or to any motel, hotel or restaurant which has obtained a special alcoholic beverage license pursuant to F.S. § 561.20(2)(a).

(Ord. No. 18-86, § 1, 6-26-86; Ord. No. 35-86, § 4, 8-28-86; Ord. No. 43-86, § 2, 10-23-86; Ord. No. 10-89, § 2, 2-23-89; Ord. No. 15-96, § 1, 3-28-96; Ord. No. 6-99, § 2, 1-28-99; Ord. No. 21-02, § 1, 9-12-02; Ord. No. 12-12, § 1, 5-24-12)

State Law reference— Authority to regulate location of business, F.S. § 562.45(2).

Sec. 7-4-5. - Restriction on distance from schools and churches.

(a) A certificate of compliance shall not be issued for any place or establishment within the city limits, but outside the dense business area, which lies within five hundred (500) feet of any church or school, nor for any place or establishment within the dense business area which lies within three hundred (300) feet of any church or school, unless, in the case of a church, the governing body of such church consents in writing to the issuance of a certificate of compliance.

(b) The city shall determine distances by measuring a radius from the property line of the place or establishment. If any portion of a parcel of land in use as church or school facilities lies within said radius, whether or not the property is located within the corporate limits of the city, then the church or school shall be deemed to be within said distance.

(Ord. No. 18-86, § 1, 6-26-86; Ord. No. 10-89, § 3, 2-23-89; Ord. No. 26-92, § 1, 8-13-92; Ord. No. 15-96, § 1, 3-28-96; Ord. No. 6-99, § 3, 1-28-99)

Sec. 7-4-6. - Restriction of number of certain alcoholic beverage establishments.

(a) There shall be no more than one place or establishment where beer, as defined by F.S. § 563.01, or wine, as defined by F.S. § 564.01(1), or liquor, as defined by F.S. § 565.01, are sold, offered or kept for sale, or received, kept or brought for consumption on or off the premises, opening or having entrance upon any one side or sidewalk of any block within the city, except as provided in subsection (b) hereof. Provided that, if any such place or establishment occupies a corner location in any particular block of the city, then such place or establishment shall not be considered to be within the provisions of subsection (a) hereof.

(b) The provisions of subsection (a) hereof shall not be applicable to any motel, hotel or restaurant which has obtained a special alcoholic beverage license pursuant to F.S. § 561.20(2)(a).

(Ord. No. 18-86, § 1, 6-26-86; Ord. No. 35-86, § 5, 8-28-86; Ord. No. 50-91, § 2, 9-26-91; Ord. No. 15-96, § 1, 3-28-96)

Sec. 7-4-7. - Additional criteria for certificate of compliance.

(a) A certificate of compliance shall not be issued for any place or establishment in any area in which the comprehensive plan or zoning ordinances of the city do not permit the sale of alcoholic beverages or where the place or establishment is not in compliance with the building, plumbing, electrical and gas codes of the city.

(b) Additionally, prior to granting a certificate of compliance, the mayor shall first determine that the place or establishment complies with the other requirements of this chapter and that the granting of a certificate shall not interfere with safe traffic circulation.

(Ord. No. 18-86, § 1, 6-26-86; Ord. No. 15-96, § 1, 3-28-96; Ord. No. 16-10, § 73, 9-9-10)

Sec. 7-4-8. - Conditional certificate of compliance for places or establishments not constructed or completed.

Conditional certificates of compliance may be issued for places or establishments which have not been constructed for which certificates of occupancy have not been issued by the inspection services department of the city. No conditional certificate shall be issued unless the construction plans show that the place or establishment when occupied will be in compliance with the requirements of this chapter. Prior to issuing a certificate of occupancy for a place or establishment for which a conditional certificate has been issued, the mayor shall determine whether the place or establishment complies with the zoning and building codes of the city and whether the main public entrance of the place or establishment has changed from that set forth in the construction plans so as to render the place or establishment in violation of the restrictions set forth in this chapter. If the place or establishment does not comply or if the main public entrance thereto has changed in the manner described above, the conditional permit shall be revoked by the mayor (notice of which shall be furnished to the petitioner) subject to the right of the petitioner to recommence the petition process. If the place or establishment does comply and the main public entrance thereto has not changed in the manner described above, the mayor shall issue a certificate of compliance in accordance with subsection 7-4-3(b), the issuance of which shall be subject to review by the manner prescribed in section 7-4-3.

(Ord. No. 18-86, § 1, 6-26-86; Ord. No. 15-96, § 1, 3-28-96; Ord. No. 16-10, § 74, 9-9-10)

Sec. 7-4-9. - Sunday deliveries.

It shall be unlawful for any wholesaler or distributor of alcoholic beverages to make any deliveries of alcoholic beverages to any retail establishment or other place retailing such beverages, by motor truck or other vehicle before 1:00 p.m. on Sundays, within the corporate limits of the city.

(Ord. No. 18-86, § 1, 6-26-86; Ord. No. 15-96, § 1, 3-28-96)

Sec. 7-4-10. - Certain exemptions for distributors.

It is the intent of this chapter that the provisions of sections 7-4-4 and 7-4-5 do not apply to distributors of alcoholic beverages, as the same are defined by the Beverage Law of the State of Florida.

(Ord. No. 18-86, § 1, 6-26-86; Ord. No. 15-96, § 1, 3-28-96)

Sec. 7-4-11. - Additional exemption for certain licensed restaurants.

Notwithstanding any provisions of this chapter to the contrary, a restaurant licensed by the Division of Hotels and Restaurants of the State of Florida Department of Business Regulation may sell beer and wine for consumption on the premises only during the hours of sale permitted by section 7-4-2. Additionally, any restaurant meeting the requirements stated above, and obtaining a license pursuant to F.S. § 561.20(2)(a)4, shall be permitted to sell beer, wine, and liquor for consumption on the premises only during the hours of sale permitted by section 7-4-2.

(Ord. No. 18-86, § 1, 6-26-86; Ord. No. 15-96, § 1, 3-28-96; Ord. No. 6-99, § 4, 1-28-99)

Sec. 7-4-12. - Additional exemption for certain vendors and nonprofit civic organizations.

Vendors licensed pursuant to F.S. § 563.02(1), and nonprofit civic organizations permitted pursuant to F.S. § 561.422, shall be exempt from the provisions of this chapter to the extent required by said law.

(Ord. No. 18-86, § 1, 6-26-86; Ord. No. 35-86, § 6, 8-28-86; Ord. No. 15-96, § 1, 3-28-96)

Sec. 7-4-13. - Consumption in public places.

(1) Except as provided below, it shall be unlawful for any person to consume, possess, or control any type of alcoholic beverages or any other intoxicating liquors other than a beverage in an unopen container at or upon any park, playground or other recreational facility owned by the city, or in or upon any street right-of-way within the city, including, but not limited to, sidewalks, alleyways, and paved or unpaved portions of the right-of-way.

(2) This prohibition shall not apply to those activities, either public or private, for which prior approval by the mayor has been granted or obtained pursuant to the provisions of the special events permitting, §§ 11-4-171 through 11-4-180 of the City Code.

(3) Public or private activities where alcoholic beverages or other intoxicating liquors may be consumed will be allowed under a special event permit in the following parks and recreational facilities:

   (a) Bayview Park (excluding Bayview Resource Center) and Bayview Senior Citizens Center.

   (b) Plaza de Luna.

   (c) Seville Square.

   (d) William Bartram Memorial Park.

   (e) East Pensacola Heights Clubhouse.

   (f) Sanders Beach Corinne Jones Resource Center (limited to the inside and the veranda).

Sale of alcoholic beverages by any activity sponsor, vendor, or other person at such a public or private activity shall be prohibited except for those events specifically permitting such sales under the activity's special event permit.

(4) Alcoholic beverages sales and consumption will be allowed on the Osceola Municipal Golf Course, in the Saenger Theatre, on the premises of the Roger Scott Tennis Center exclusive of the parking lot area outside of the perimeter fencing, and the Bayview Senior Citizens Center (limited to the inside and outdoor patio areas on the south side of the building), all subject to the terms and conditions of their respective vendor management agreements and city ordinance.

(5) At the time of application for a special event permit, the applicant as provided in section 11-4-177 shall furnish to the mayor for the activity a copy of its proof of liquor liability insurance and other required insurance coverages naming the city as an additional insured to protect the city from any potential liabilities or losses related to the proposed activity.

(6) The applicant also shall arrange with the city to provide security services for the activity at the time of application for a special event permit. The cost of such security services shall be paid for by the applicant. The city shall detail the number of officers as deemed appropriate to maintain public safety at the function but in no case less than the following for any proposed activity:

   (a) Outdoor events of one hundred fifty (150) people or less shall require a minimum of one (1) police officer. Outdoor events of more than one hundred fifty (150) people shall require a minimum of two (2) officers.

   (b) Indoor events of any size shall require a minimum of two (2) officers with one (1) stationed inside the facility and one (1) in the parking lot.

(7) This prohibition against open containers shall not apply to events taking place within the Specialty Center District as defined in section 11-4-171 where the event organizer has obtained a special events permit that invokes the Specialty Center District.

(Ord. No. 35-86, § 7, 8-28-86; Ord. No. 15-96, § 1, 3-28-96; Ord. No. 22-97, § 1, 6-26-97; Ord. No. 17-07, § 1, 4-26-07; Ord. No. 16-10, § 75, 9-9-10; Ord. No. 19-10, §§ 1, 2, 9-9-10; Ord. No. 04-13, § 1, 2-14-13)

Sec. 7-4-14. - Enforcement.

(1) In addition to the penalties for violations of this Code provided for in section 1-1-8 of this Code, this chapter also may be enforced by the city in an action to enjoin any violation of this chapter or to close any place or establishment where such violation occurs.

(2) For violations of section 7-4-13, in lieu of making an arrest or issuing a notice to appear pursuant to section 1-1-8, a law enforcement officer may issue a civil citation as described below:

(a) A law enforcement officer may issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a violation of section 7-4-13.

(b) A citation issued by a law enforcement officer shall be in a form prescribed by the mayor and shall contain:

(1) The date and time of issuance.

(2) The name and address of the person to whom the citation is issued.

(3) The date and time the violation of section 7-4-13 was committed.

(4) The facts constituting reasonable cause.

(5) The name of the law enforcement officer.

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

(7) The applicable civil penalty if the person elects to contest the citation.

(8) The applicable civil penalty if the person elects not to contest the citation.

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

(c) For violations of section 7-4-13, the following civil penalty citation schedules will apply if the person cited elects not to contest a citation and the civil penalties which will apply if such person elects to contest a citation:

(1) For those persons not contesting a citation:

a. First citation, fifty dollars ($50.00).

b. Second citation, one hundred dollars ($100.00).

c. Third citation, two hundred dollars ($200.00).

d. Fourth and all additional citations, $400.00.

(2) For those persons contesting a citation, the county court may impose a fine within the court's discretion up to a maximum of five hundred dollars ($500.00).

(d) After issuing a citation to an alleged violator, a law enforcement officer shall deposit the original citation and one copy of the citation with the county court.

(Ord. No. 35-86, § 8, 8-28-86; Ord. No. 15-96, § 1, 3-28-96; Ord. No. 04-12, § 1, 3-8-12)

Sec. 7-4-15. - Sales and consumption restricted to licensed buildings.

(1) It shall be unlawful for any owner of a licensed establishment, or for any agent, servant or employee of any such owner to permit the consumption of any alcoholic beverages in or upon any parking or other area outside of the building or room mentioned in his license certificate as the address thereof, when any part of such parking or other area is adjacent to the building or premises in which the building licensed under such section is operated, and when such parking or other area is owned, rented, leased, regulated, controlled or provided, directly or indirectly, by such owner or by any agent, servant or employee of such owner.

(2) It shall be unlawful for any person to consume any alcoholic beverage in or upon any parking or other area outside of and adjacent to licensed premises when such parking or other area is owned, rented, leased, regulated, controlled or provided, directly or indirectly, by such establishment.

(3) If any licensed owner mentioned herein be a corporation, then the officers of such corporation shall be regarded as the owners thereof, for the purposes of enforcement of this section.

(4) Any person violating any of the provisions of this section shall, upon conviction, be punished as provided in section 1-1-8 of the Code of the City of Pensacola, Florida.

(5) The mayor is hereby authorized to grant exemptions from the operation of this section. Any person seeking an exemption from the operation of this section must make a request in writing to the mayor's office, and this application must describe in detail the reasons and circumstances pertaining to the intended consumption of alcoholic beverages in an outside area. Exemptions may be granted by the mayor only in situations where it would appear that the exemption, if granted, would not create a public nuisance or a public disturbance. In determining whether to grant a requested exemption, the mayor shall take into account the following factors:

   (a) The degree to which the consumption of alcoholic beverages in an outside area would be exposed to public view.

   (b) The level of noise likely to be created by the granting of an exemption.

   (c) The extent to which litter control is exercised by the person or entity providing for the availability of alcoholic beverages.

   (d) The degree to which law enforcement services have been or may be required to be provided by the City of Pensacola.

No exemption granted by the mayor shall be effective for a period of more than one (1) year from the date of issue. Such exemption may be renewed by the mayor on an annual basis upon written request, and the mayor may grant annual renewal by application of the four (4) factors set forth above.

(6) Any person aggrieved by the denial of an exemption by the mayor shall have a right to appeal the mayor's decision to the city council. Such an appeal must be filed in writing in the office of the city clerk within ten (10) calendar days after the date of the mayor's decision to deny an exemption. The notice of appeal shall set forth a short and plain statement of the reasons why the decision of the mayor was not in compliance with the provisions of this section.

(7) The city council shall consider any appeal pursuant to this section within a reasonable time following the date of filing of a notice of appeal. At the meeting, the appellant and the mayor may present evidence concerning whether the decision of the mayor was in compliance with the provisions of this section. The burden of proof shall be upon the appellant. The city council shall consider the evidence presented concerning the criteria set forth in this section and render its decision which shall be final.

(8) The mayor is authorized to revoke any exemption which may have been granted pursuant to this section in the event that it is determined by the mayor that the conduct of patrons of a licensed establishment which has been granted an exemption constitutes a public nuisance or a public disturbance. In determining whether a public nuisance or disturbance exists, the mayor may consider and investigate the level of noise created by outdoor consumption of alcoholic beverages, the degree of litter produced, and the degree to which law enforcement services have been

necessitated. In the event that the mayor determines that an exemption previously granted should be revoked, the mayor shall provide written notice to the owner of the licensed establishment no less than five (5) days in advance of the effective date of the revocation, informing the owner of the licensed establishment of the intention to revoke the exemption and the reasons therefor.

(9) Any person aggrieved by the revocation of an exemption by the mayor shall have a right to appeal the mayor's decision to the city council. Such an appeal must be filed in writing in the office of the city clerk within ten (10) calendar days after the date of the mayor's decision to deny an exemption. The notice of appeal shall set forth a short and plain statement of the reasons why the decision of the mayor was not in compliance with the provisions of this section, or why the exemption should not be revoked.

(10) The city council shall consider any appeal of a revocation of exemption pursuant to this section within a reasonable time following the date of filing of a notice of appeal. At the meeting, the appellant and the mayor may present evidence concerning whether the decision of the mayor was in compliance with the provisions of this section. The burden of proof shall be upon the appellant. The city council shall consider the evidence presented concerning the criteria set forth in this section and render its decision which shall be final.

(Ord. No. 43-86, § 1, 10-23-86; Ord. No. 19-93, § 1, 6-24-93; Ord. No. 15-96, § 1, 3-28-96; Ord. No. 16-10, § 76, 9-9-10)

REPEAL SECTION 7-5-1

REPEAL SECTION 7-6.

REPEAL ARTICLE I.

REPEAL SECTION 7-6-1.

REPEAL SECTION 7-6-2.

REPEAL SECTION 7-6-3.

REPEAL SECTION 7-6-4.

REPEAL SECTION 7-6-5.

REPEAL SECTION 7-6-6.

REPEAL SECTION 7-6-7.

REPEAL SECTION 7-6-8.

Secs. 7-6-1—7-6-26. - Reserved.

REPEAL ARTICLE II.

REPEAL SECTION 7-6-21.

REPEAL SECTION 7-6-22.

REPEAL SECTION 7-6-23.

REPEAL SECTION 7-6-24.

REPEAL SECTION 7-6-25.

REPEAL SECTION 7-6-26.

CHAPTER 7-7. GARAGE AND OTHER SALES[7]

Footnotes:

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Cross reference— Administration, Title II; occupational licenses, Ch. 7-2; traffic and vehicles, Title XI; signs, Ch. 12-4; streets, sidewalks and other public places, Ch. 11-4.

ARTICLE I. - IN GENERAL

Secs. 7-7-1—7-7-15. - Reserved.

ARTICLE II. - RESERVED[8]

Footnotes:

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Editor's note— Ord. No. 8-87, § 1, passed Feb. 26, 1987, repealed Art. II, §§ 7-7-16—7-7-22. Prior to repeal, Art. II pertained to fire sales, going-out-of-business sales and liquidation sales, and was derived from Code 1968, §§ 108-22, 108-23(A)—(G) and 108-24. Art. II has been reserved by the editors for future use.

Secs. 7-7-16—7-7-35. - Reserved.

ARTICLE III. - GARAGE SALES

Sec. 7-7-36. - Intent and purpose.

The city council finds and declares that:

(1) The intrusion of nonregulated garage sales is causing annoyance to citizens in residential areas of the city and congestion of the streets in the city.

(2) The provisions contained in this article are intended to prohibit the intrusion of certain businesses in any established residential areas by regulating the term and frequency of garage sales, so as not to disturb or disrupt the residential environment of the area.

(3) The provisions of this article do not seek to control sales by individuals selling a few of their household or personal items.

(4) The provisions and prohibitions hereinafter contained are enacted not to prevent but to regulate garage sales for the safety and welfare of the citizens of the city.

(Ord. No. 104-83, § 1, 9-8-83)

Sec. 7-7-37. - Definitions.

For the purposes of this article, the following terms, phrase, words and their derivations shall have the following meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number the plural number. The word "shall" is always mandatory and not merely directory.

Garage sale. All general sales, open to the public, conducted from or on a residential premises in any residential zone, as defined by the zoning ordinance, for the purpose of disposing of personal property including but not limited to, all sales entitled "garage," "carport," "lawn," "yard," "attic," "porch," "room," "back yard," "patio," "flea market" or "rummage" sale. This definition shall not include a situation where no more than five (5) specific items are held out for sale and all advertisement of such sale specifically names those items to be sold.

Personal property. Property which is owned, utilized, and maintained by an individual or member of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

(Ord. No. 104-83, § 2, 9-8-83)

Cross reference— Definitions and rules of construction generally, Ch. 1-2.

Sec. 7-7-38. - Property permitted to be sold.

It shall be unlawful for any individual to sell or offer for sale, under authority granted by this article, property, other than personal property of the individual, which was either acquired or consigned for the purpose of resale.

(Ord. No. 104-83, § 3, 9-8-83)

Secs. 7-7-39—7-7-43. - Reserved.

Editor's note— Section 1 of Ord. No. 6-90, adopted Jan. 4, 1990, repealed §§ 7-7-39—7-7-43, which sections set forth garage sale permit requirements and which were derived from Ord. No. 104-83, §§ 4, 5, 8, 10, 14, adopted Sept. 8, 1983. Sections 7-7-39—7-7-43 have been reserved for future use by the editor.

Sec. 7-7-44. - Number of sales.

No more than three (3) garage sales may be held by any residence and/or family household during any calendar year.

(Ord. No. 104-83, § 6, 9-8-83)

Sec. 7-7-45. - Hours of operation.

Garage sales shall commence no earlier than 8:00 a.m. on the day of the sale and may continue only during daylight hours. Garage sales shall be limited in time to no more than three (3) consecutive days which period of time shall include setup and takedown of items included in the sale.

(Ord. No. 104-83, § 7, 9-8-83)

REPEAL SECTION 7-7-46.

Sec. 7-7-47. - Conduct of individuals; maintenance of order on premises; traffic control.

The owner or tenant of the premises on which the sale or activity is conducted shall be jointly and severally responsible for the maintenance of good order and decorum on the premises during all hours of the sale or activity. No such individual shall permit any loud or boisterous conduct on the premises nor permit vehicles to impede the passage of traffic on any roads or streets in the area of the premises. All such individuals shall obey the reasonable orders of the city in order to maintain the public health, safety and welfare.

(Ord. No. 104-83, § 11, 9-8-83)

Sec. 7-7-48. - Parking.

All parking of vehicles shall be conducted in compliance with all applicable laws and ordinances. Further, the mayor may enforce temporary controls to alleviate any special hazards and/or congestion created by any garage sale.

(Ord. No. 104-83, § 13, 9-8-83)

Sec. 7-7-49. - Inspection; enforcement; citations; arrests.

A police officer or city inspector shall have the right of entry onto any premises actually conducting a garage sale for the purpose of enforcement or inspection. This shall not include the right to enter a structure not open to the general public. If the provisions of this article are being violated, the premises may be closed to further sale. A city inspector may issue a citation only, and a police official may issue a citation or arrest the violator.

(Ord. No. 104-83, § 12, 9-8-83)

Sec. 7-7-50. - Public parks; rights-of-way.

No garage sale whatsoever shall be conducted in a public park or on a public right-of-way of the city.

(Ord. No. 104-83, § 17, 9-8-83; Ord. No. 6-90, § 2, 1-4-90)

Sec. 7-7-51. - Exemptions.

The provisions of this article shall not apply to or affect the following:

(1) Persons selling goods pursuant to an order or process of a court of competent jurisdiction;

(2) Persons acting in accordance with their powers and duties as public officials;

(3) Any sale conducted by any merchant or mercantile or other business establishment from or at a place of business wherein the sale would be permitted by the zoning regulations of the city or under the protection of the nonconforming use section thereof or any other sale conducted by a manufacturer, dealer or vendor and which sale would be conducted from properly zoned premises and not otherwise prohibited in other ordinances;

(4) Any bona fide charitable, eleemosynary, educational, cultural or governmental institution or organization when the proceeds from the sale are used directly for the institution or organization's charitable purposes and the goods or articles are not sold on a consignment basis.

(Ord. No. 104-83, § 15, 9-8-83)

Sec. 7-7-52. - Violation; penalty.

(a) Every article sold and every day a sale is conducted in violation of this article shall constitute a separate offense.

(b) Any person who shall violate any of the terms and regulations of this article, shall, upon conviction, be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100.00).

(Ord. No. 104-83, §§ 16, 18, 9-8-83)

REPEAL CHAPTER 7-8.

REPEAL SECTION 7-8-1.

REPEAL SECTION 7-8-2.

REPEAL SECTION 7-8-3.

REPEAL SECTION 7-8-4.

REPEAL SECTION 7-8-5.

REPEAL SECTION 7-8-6.

CHAPTER 7-9. PEDDLERS AND SOLICITORS[10]

Footnotes:

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Cross reference— Administration, Title II; occupational licenses, Ch. 7-2; traffic and vehicles, Title XI; zoning, Ch. 12-2; streets, sidewalks and other public places, Ch. 11-4.

State Law reference— Solicitations of funds, F.S. Ch. 496; peddlers at camp meetings, F.S. § 871.03.

ARTICLE I. - IN GENERAL

Secs. 7-9-1—7-9-15. - Reserved.

ARTICLE II. - HOUSE-TO-HOUSE SOLICITING AND CANVASSING[11]

Footnotes:

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Editor's note— Section 2 of Ord. No. 14-90, adopted Feb. 22, 1990, repealed §§ 7-9-16—7-9-22 of Art. II, and §§ 3—10 added §§ 7-9-16—7-9-23 in lieu thereof, as herein set forth. Said repealed sections pertained to similar subject matter and were derived from Code 1968, §§ 142-1—142-7.

Sec. 7-9-16. - Definitions.

(a) *Solicitor* shall mean any person, including an employee or agent of another, traveling either by foot, automobile, truck, or some other type of conveyance, who engages in the practice of going door-to-door, house-to-house, along any streets within the City of Pensacola, Florida:

(1) Selling or taking orders for or offering to sell or take orders for goods, merchandise, wares, or other items of value for future delivery, or services to be performed in the future, for commercial purposes; or

(2) Requesting contribution of funds, property, or anything of value, or the pledge of any type of future donation or selling or offering for sale any type of property, including, but not limited to, goods, tickets, books, and pamphlets for commercial purposes.

(b) *Solicitation* shall mean the practices of solicitors as listed in (a)(1) and (2) of this section.

(c) *Canvassing* shall mean the activity of any person including an employee or agent of another, traveling either by foot, automobile, truck, or some other type of conveyance, who engages in the practice of going door-to-door, house-to-house, along any streets within the City of Pensacola, Florida, for the purpose of distributing handbills, leaflets, or fliers, directly to the occupants of such house or dwelling.

(d) *Residential area* shall mean any area within the City of Pensacola, Florida, which has been zoned R-1AAAAA, R-1AAAA, R-1AAA, R-1AA, R-1A, R-ZL, R-2A, HR-1, HR-2, PR-1AAA, or PR-2.

(e) *Commercial purposes* shall mean the exchange of currency in the amount of one dollar, U.S. Currency, or more, or the exchange of anything having a value of one dollar, U.S. Currency, or more.

(Ord. No. 14-90, § 3, 2-22-90; Ord. No. 14-03, § 1, 7-17-03)

Sec. 7-9-17. - Restricted hours.

Soliciting and canvassing in residential areas in the City of Pensacola, Florida, between the hours of 5:30 p.m. CST and 8:00 a.m. CST of the following morning are hereby prohibited. When daylight savings time is in effect, the prohibition against soliciting and canvassing in residential areas shall be between the hours of 7:00 p.m. CDT and 8:00 a.m. CDT. This prohibition shall be enforced in accordance with the provisions of section 1-1-8 of the Code of the City of Pensacola, Florida.

(Ord. No. 14-90, § 4, 2-22-90; Ord. No. 08-19, § 1, 4-25-19)

Sec. 7-9-18. - License.

It shall be unlawful for any solicitor to engage in solicitation activities in the City of Pensacola, Florida, without first obtaining a license from the city.

(Ord. No. 14-90, § 5, 2-22-90; Ord. No. 14-03, § 2, 7-17-03)

Sec. 7-9-19. - Application for license.

The application for a solicitor's license shall be in a form prescribed by the mayor and shall contain the following information:

(1) Proof of the identity and residential and business address of the applicant;

(2) A brief description of the nature, character, and quality of the goods or merchandise to be sold;

(3) If the solicitor is employed by another, the name and business address of such person, firm, association, organization, company, or corporation;

(4) A statement regarding whether the applicant has been convicted or pled nolo contendere to any crime within three (3) years preceding the date of application, specifying the crime for which the applicant has been convicted or has pled nolo contendere.

(Ord. No. 14-90, § 6, 2-22-90; Ord. No. 14-03, § 3, 7-17-03; Ord. No. 16-10, § 77, 9-9-10)

Sec. 7-9-20. - Issuance of license and duration.

All applicants seeking a license to engage in soliciting in the City of Pensacola shall make application to the mayor, providing all information required. The mayor may issue such license, provided that all information sought has been furnished, and that the licensee has not engaged in any immoral, disorderly or other unlawful act or conduct affecting their fitness to engage in the business and providing further that the applicant has not been convicted of a crime or pled nolo contendere to a crime within three (3) years preceding the date of application. The mayor shall provide a document identifying the applicant and the fact that a license has been obtained. The license shall have a duration of no more than thirty (30) days from the date of issuance, and all persons engaged in soliciting shall carry with them the license which has been obtained while engaged in such activity. Any license issued under this section may be revoked by the mayor if the applicant who has obtained the license is found to have engaged in any immoral, disorderly, or other unlawful act or conduct affecting his fitness to engage in the business.

(Ord. No. 14-90, § 7, 2-22-90; Ord. No. 14-03, § 4, 7-17-03; Ord. No. 16-10, § 78, 9-9-10; Ord. No. 16-11, § 1, 7-21-11)

Sec. 7-9-21. - License renewal.

Licenses may be renewed, provided an application for renewal is received by the mayor no later than the expiration date of the current license. Applications received after that date shall be processed as new applications. The mayorshall review each application for renewal to determine that the applicant is in full compliance with the provisions of the Code of the City of Pensacola, Florida. If the mayor that the application meets such requirements, he shall issue a new license.

(Ord. No. 14-90, § 8, 2-22-90; Ord. No. 16-10, § 79, 9-9-10)

Sec. 7-9-22. - Unwanted solicitation and canvassing.

(a) Persons engaged in the activity of soliciting or canvassing are prohibited from entering upon the dwelling or disturbing the occupants of any residence in a residential area whenever a "No Peddlers," "No Soliciting," or "No Canvassing" sign has been posted by the occupant on or adjacent to the entrance to the dwelling or in prominent view of the entrance to the dwelling, regardless of the time of day, when such notice has been posted. Such signage shall conform to the provisions of section 12-4-5 of the Code of the City of Pensacola, Florida. Violation of this section shall constitute a public nuisance and shall be enforced according to the provisions of sections 8-1-3, 8-1-4, and 1-1-8 of the Code of the City of Pensacola, Florida.

(b) Persons engaged in the activity of soliciting or canvassing are prohibited from entering upon the dwelling or disturbing the occupants of any residence in a residential area where the residents have erected "No Peddlers," "No Soliciting," or "No Canvassing" signage conforming to section 12-4-5 of the Code of the City of Pensacola, Florida herein adjacent to each entrance to the residential area and (1) the residential area is a subdivision containing privately owned streets and/or sidewalks not maintained by the City of Pensacola, or (2) the residential area is located in a subdivision with three

(3) or fewer entrances marked by signage identifying the subdivision and the property owners have consented to the posting of such signage through an incorporated homeowners' association and such consent has been communicated to the mayor. The posting of such signage at each entrance shall be prima facie evidence of compliance with this subsection. This subsection applies regardless of the time of day, and violation of this section shall constitute a public nuisance and shall be enforced according to the provisions of sections 8-1-3, 8-1-4, and 1-1-8 of the Code of the City of Pensacola, Florida.

(Ord. No. 14-90, § 9, 2-22-90; Ord. No. 25-11, § 1, 9-22-11)

Sec. 7-9-23. - Exemptions.

Persons who are either running for elected public office or are supporting the campaigns of others who are running for elected public office shall be exempt from the provisions of section 7-9-16 through section 7-9-22 of the Code of the City of Pensacola, Florida.

(Ord. No. 14-90, § 10, 2-22-90)

Secs. 7-9-24—7-9-35. - Reserved.

REPEAL ARTICLE III. (Reserved.)

[12]

REPEAL SECTION 7-9-36.

REPEAL SECTION 7-9-37.

REPEAL SECTION 7-9-38.

REPEAL SECTION 7-9-39.

Secs. 7-9-40—7-9-50. - Reserved.

ARTICLE IV. - ITINERANT VENDORS

Sec. 7-9-51. - Definitions.

For the purposes of this article, the following terms, phrases and words and their derivations shall have the meanings given herein:

Itinerant vendor. All persons, firms and corporations, as well as their agents and employees, who engage in the temporary or transient business in this city, of selling, or offering for sale, any goods, or merchandise including photographs and portraits, or exhibiting the same for sale or exhibiting the same for the purpose of taking orders for the sale thereof; and who, for the purpose of carrying on the business or conducting the exhibits thereof, either hire, rent, lease or occupy any room or space in any building, structure or other enclosure in the city in, through, or from which any goods, or merchandise, may be sold, offered for sale, exhibited for sale or exhibited for the purpose of taking orders for the sale thereof.

Temporary. Any business transacted, as described in the definition of "itinerant vendor," or conducted in the city for which definite arrangements have not been made for the hire, rental or lease of premises for at least one month in or upon which the business is to be operated or conducted.

Transient. Any business, as described in the definition of "itinerant vendor," of any itinerant vendor as may be operated or conducted by persons, firms or corporations or by their agents or employees who reside away from the city or who have fixed places of business in places other than the city or who have their headquarters in places other than the city or who move stocks of goods or merchandise or samples thereof into the city with the purpose of intention of removing them or the unsold portion thereof away from the city before the expiration of one month.

(Code 1968, § 142-22)

Cross reference— Definitions and rules of construction generally, Ch. 1-2.

Sec. 7-9-52. - License permit—Required; fee; application requirements, bond.

It shall hereafter be unlawful for any itinerant vendor to sell, offer for sale, exhibit for sale or exhibit for the purpose of taking orders for the sale of any goods or merchandise including photographs and portraits in the city without first obtaining a license permit as herein provided. The city shall issue to any itinerant vendor a license permit authorizing such itinerant vendor to sell, exhibit for sale, offer for sale or exhibit for the purpose of taking orders for the sale thereof, in the city his goods or merchandise only after the itinerant vendor shall have fully complied with all provisions of this article and made payment of the sum of fifty-two dollars and fifty cents ($52.50) for the permit license, and which sum shall be compensation to the city for the services herein required of it and to enable the city to partially defray the expenses of the enforcing of the provisions of this article; provided:

(1) The itinerant vendor shall make application to the city at least ten (10) days prior to the date of his contemplated sale or exhibit to be held in the city which application shall be in the form of an affidavit stating the full name and address of the itinerant vendor, the location of his or its principal office and place of business, the name and addresses of its officers if it be a corporation, and the partnership name and the names and addresses of all partners if the itinerant vendor is a firm.

(2) Before the license permit shall be issued the application therefor must be accompanied by:

   a. A statement showing the kind and character of the goods or merchandise to be sold, offered for sale, or exhibited;

   b. A certified copy of the charter if the itinerant vendor is a corporation incorporated under the laws of the state;

   c. A certified copy of its permit to do business in Florida if the itinerant vendor is a corporation incorporated under the laws of some state other than Florida;

   d. A bond in the sum of not less than two thousand dollars ($2,000.00), which shall be executed by the itinerant vendor as principal with two (2) or more good and sufficient sureties, which bond shall be payable to the mayor of the city and his successors in office for the use and benefit of any person or persons entitled thereto and conditioned that the principal and surety will pay all damages to person or persons caused by or arising from or growing out of, the wrongful, fraudulent, or illegal conduct of the itinerant vendor while conducting the sale or exhibit in the city. The bond shall remain in full force and effect for the entire duration of the license permit as provided herein and two (2) years thereafter.

(Code 1968, § 142-23; Ord. No. 55-98, § 1, 11-12-98; Ord. No. 16-10, § 83, 9-9-10)

Sec. 7-9-53. - Same—Transferability.

The license permit provided for herein shall not be transferable nor give authority to more than one person to sell or exhibit goods or merchandise as an itinerant vendor either by agent or clerk or in any way other than his own proper person, but any person having obtained a license permit may have the

assistance of one or more persons in conducting the sale or exhibit who shall have authority to aid that principal, but not to act for or without him.

(Code 1968, § 142-24)

Sec. 7-9-54. - Same—Term; display.

(a) The license permit as provided for in this article shall continue so long as the sale or exhibit is continuously held in the city but in no event shall it continue for more than forty (40) days from the date of its issuance.

(b) The license permit shall be prominently displayed in a conspicuous place on the premises where the sale or exhibit is being conducted and shall remain so displayed so long as any goods or merchandise are being so sold or exhibited.

(Code 1968, § 142-25)

Sec. 7-9-55. - Exemption.

This article is not, and shall not be held to be applicable to the:

(1) Ordinary commercial traveler who sells or exhibits for sale goods or merchandise to parties engaged in the business of buying and selling and dealing in the goods or merchandise;

(2) Sales of goods or merchandise donated by the owners thereof, the proceeds whereof to be applied to any charitable or philanthropic purpose.

(Code 1968, § 142-26)

CHAPTER 7-10. VEHICLES FOR RENT TO THE PUBLIC[13]

Footnotes:

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Editor's note— Ord. No. 44-87, §§ 1, 2, enacted Oct. 22, 1987, repealed Ch. 7-10 in its entirety and added a new Ch. 7-10 to read as herein set forth. Prior to repeal, Ch. 7-10, Arts. I, II and III, §§ 7-10-1—7-10-167, pertained to vehicles for hire in general, taxicabs, and sight-seeing buses and was derived from Code 1968, §§ 155-110, 157-1—157-3(A)—(C), 157-4, 157-5, 157-10, 157-13—157-20(A), (B), 157-21, 157-22(A), (B), 157-23—157-25(A), (B), 157-26—157-31(A), (B), 157-32—157-40(A)—(J), 157-40.1, 157-41—157-44(A)—(C), 157-45—157-51, 157-56—157-59, 157-61, 157-63—157-68, 157-70; Ord. No. 13-81, § 1, enacted March 16, 1981; and Ord. No. 91-83, § 1, enacted July 14, 1983.

Subsequently, Ord. No. 16-03, § 1, adopted Aug. 21, 2003, repealed and replaced ch. 7-10 in its entirety to read as herein set out. Formerly, said chapter pertained to similar subject matter as enacted by Ord. No. 44-87, § 2, adopted Oct. 22, 1987, as amended. See the Code Comparative Table for a detailed analysis of inclusion.

Cross reference— Administration, Title II; occupational licenses, Ch. 7-2; wreckers and wrecker companies, Ch. 7-11; traffic and vehicles, Title XI; airports and aircraft, Ch. 10-2; signs, Ch. 12-4; streets, sidewalks and other public places, Ch. 11-4; franchise required for certain transit services, § 7-1-1.

ARTICLE I. - IN GENERAL

Sec. 7-10-1. - Findings and purpose.

(a) *Findings:*

(1) In 1983, the City of Pensacola deregulated entrance into the taxicab industry in an attempt to permit open competition to dictate and improve service levels.

(2) Since that time, the City of Pensacola has encountered increased regulatory problems and unsatisfactory service levels involving the taxicab industry, the limousine industry, and "courtesy cars" serving various hotels, motels, and resorts. These problems have generated increased demands for law enforcement intervention both at the airport and at other locations in the city.

(3) The City of Pensacola has received complaints from taxicab patrons, within the city and at Pensacola International Airport, concerning substandard vehicles, unkempt drivers, and disruptive activities between taxicabs and limousines.

(4) The City of Pensacola has received complaints from taxicab and limousine operators concerning the disruptive manner in which business is conducted.

(5) The City of Pensacola has received complaints from taxicab operators concerning an inability to capture a large enough share of the available market to maintain equipment, insurance, and satisfactory service levels.

(6) The City of Pensacola requires a viable city wide taxicab and limousine industry because of the lack of availability of other modes of public transportation at all times and locations and because of the existence of tourism and the military as major factors in the local economy.

(b) *Purpose:* In response to the foregoing, the city council directed that the regulations governing taxicabs, limousines and "courtesy cars" be reviewed and more stringent regulations adopted in order to provide clean, safe, affordable and responsive service to all segments of the public. City management has received input from the public, other jurisdictions, and industry representatives associated with small (single vehicle) and large (in excess of ten (10) vehicles) taxicab companies, limousine companies, and businesses operating "courtesy cars." An ordinance has resulted which regulates market entry, fares, equipment condition, insurance, driver suitability, and service availability in an effort to assure that each of the various modes of transportation can find a place in the city's public transportation network; that they provide the public with safe, clean, and affordable transportation; that operators of each type of transportation earn enough to permit them to meet operational and regulatory requirements; and that each of the various modes will be able to attract a suitable market share to maintain economic viability.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-2. - Renting vehicles with drivers—Insurance required.

Every person engaging in or carrying on in the city the business of renting or hiring to the general public automobiles or other motor vehicles with drivers shall file in the office of the mayor an insurance certificate with some casualty insurance company authorized to do business in the state, and conditioned to indemnify passengers and the public for damages or injuries to persons or property or for the death of any person resulting from or caused by the carelessness, negligence or default of the owner or driver of the motor vehicle described in the insurance policy, their servants, agents or employees, in connection with the ownership, maintenance or use thereof, or resulting from the defective construction or equipment of the vehicle, which policy of insurance shall be in amounts as are required by Florida Statutes.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 01-04, § 1, 1-22-04; Ord. No. 16-10, § 84, 9-9-10)

Sec. 7-10-3. - Same—Numbers and identification marks required on vehicles.

(a) The mayor of the city shall issue to every person engaged in or carrying on in the city the business of renting or hiring to the general public automobiles or motor vehicles with drivers, a number and identification mark, identifying the particular vehicle covered by the policy of insurance as set out in

section 7-10-1, which number and identifying mark shall not be transferable to any other vehicle, whether owned by the same operator or not, and which number and identification mark shall remain on the vehicle for the period covered by the insurance.

(b) It shall be unlawful for any person to engage in or carry on in the city the business of renting or hiring to the general public automobiles or other motor vehicles with drivers until the number and identification mark shall first be obtained from the mayor, and no vehicle shall be used by any person in a business until the number and identification mark required of him shall be plainly and legibly placed on the particular vehicle covered by the policy of insurance as set forth in section 7-10-1.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 85, 9-9-10)

Sec. 7-10-4. - Same—Renter required to have a valid drivers license.

(a) No person shall rent a motor vehicle to any other person unless the latter person is duly licensed or, if a nonresident, is licensed under the laws of the state or county of his residence.

(b) No person shall rent a motor vehicle to another until he has inspected the driver's license of the person to whom the vehicle is to be rented, and compared and verified the signature thereon with the signature of the person written in his presence.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-5. - Same—Required records.

Every person renting a motor vehicle to another shall keep a record of the registration number of the motor vehicle so rented and the name and address of the person to whom the vehicle is rented, the number of the license of the latter person, and the date and place when and where the license was issued. The record shall be open to inspection by any police officer or other authorized official of the city, and the record shall be maintained for a period of five (5) years from the date of rental.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-6. - Stopping or parking of buses and taxicabs.

The driver of a bus or taxicab shall not park upon any street in any business district at any place other than at a bus stop or taxicab stand, respectively, except that this provision shall not prevent the driver of the vehicle from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in loading or unloading passengers.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-7. - Restricted use of bus and taxicab stands.

No person shall stop, stand or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand, when the stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in the expeditious loading and unloading of passengers when the stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-8. - Nonconforming activity prohibited; company permit required; penalty.

(a) No vehicle which has been rented, leased or otherwise made available for hire shall be operated in the city unless all applicable regulations set forth in this chapter of the Code of the City of Pensacola, Florida, have been complied with. Violation of this chapter shall be a misdemeanor subjecting the person operating such vehicle and the person or persons renting, leasing or otherwise making the vehicle available for hire to the penalties set forth in section 1-1-8 of the Code of the City of Pensacola, Florida.

(b) No vehicle which has been rented or otherwise made available for hire with a driver shall be operated in the city unless a vehicle permit has been granted for such vehicle by the city.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-9. - Renting vehicles without drivers.

(a) Every person engaging in or carrying on in the city the business of renting or hiring to the general public automobiles or other motor vehicles without drivers shall file in the office of the mayor an insurance certificate with some casualty or insurance company authorized to do business in the state, and conditioned to indemnify passengers and the public for damages or injuries to persons or property or for the death of any person resulting from or caused by the carelessness, negligence or default of the owner or driver of the motor vehicle described in the insurance policy, their servants, agents or employees, in connection with the ownership, maintenance or use thereof, or resulting from the defective construction or equipment of the vehicle, which policy of insurance shall be in such amounts as required by Florida law.

(b) If any policy of insurance shall expire, the person shall secure other policies of a like amount and provisions and file the same with the city.

(c) Ten (10) days' advance written notice of any change in or cancellation of this policy shall be sent to the mayor of the city.

(d) The mayor of the city shall issue to every person engaged in or carrying on in the city the business of renting or hiring to the general public automobiles or motor vehicles without drivers, a number and identification mark, identifying the particular vehicle covered by the policy of insurance as set out in subsection (a), above, which number and identifying mark shall not be transferable to any other vehicle, whether owned by the same operator or not, and which number and identification mark shall remain on the vehicle for the period covered by the insurance.

(e) It shall be unlawful for any person to engage in or carry on in the city the business of renting or hiring to the general public automobiles or other motor vehicles without drivers until the number and identification mark shall first be obtained from the mayor, and no vehicle shall be used by any person in a business until the number and identification mark required of him shall be plainly and legibly placed on the particular vehicle covered by the policy of insurance as set forth in subsection (a), above.

(f) No person shall rent a motor vehicle to any other person unless the latter person is duly licensed or, if a nonresident, is licensed under the laws of the state or county of his residence.

(g) No person shall rent a motor vehicle to another until he has inspected the driver's license of the person to whom the vehicle is to be rented, and compared and verified the signature thereon with the signature of the person written in his presence.

(h) Every person renting a motor vehicle to another shall keep a record of the registration number of the motor vehicle so rented and the name and address of the person to whom the vehicle is rented, the number of the license of the latter person, and the date and place when and where the license was issued. The record shall be open to inspection by any police officer or other authorized official of the city, and the record shall be maintained for a period of five (5) years from the date of rental.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 01-04, § 1, 1-22-04; Ord. No. 16-10, § 86, 9-9-10)

Secs. 7-10-10—7-10-20. - Reserved.

ARTICLE II. - TAXICABS

DIVISION 1. - GENERALLY

Sec. 7-10-21. - Definitions.

The following words and phrases when used in this article have the meaning as set out herein:

Company permit. A certificate of public convenience and necessity issued by the mayor authorizing the holder thereof to conduct taxicab services in the City of Pensacola.

Chief of police. The chief of the police department of the city or any of his or her designated agents.

Cruising. The driving of a taxicab or limousine on the streets, alleys, public places of the city or airport in search of or soliciting prospective passengers for hire.

Demand-responsive transportation service. Transportation service initiated by the rider or someone else for the rider involving transportation over a public way but not on a fixed route. Service operated on a basic fixed route but with deviations for individual pickup requests shall be considered not on a fixed route. Demand-responsive shall include immediate demand and delayed demand (subscription) service.

Holder. A person to whom a company permit has been issued.

Manifest. A daily record prepared by a taxicab driver of all trips made by the driver showing the time and the place of origin, the destination, the number of passengers, and the amount of fare of each trip.

Rate card. A card issued by the city for display in each taxicab which contains the rates of fare then in force and average fares to and from various locations within the Pensacola area.

Revocation. The discontinuance of a driver's or firm's privilege to operate within the City of Pensacola with reinstatement of operating privileges to be permitted after one (1) year's time upon written approval of the mayor.

Subscription service. Transportation requested by a passenger or passengers at a future specific time and place. The reservation will be agreed to by passengers and company in advance and will become a part of company records.

Suspension. The temporary discontinuance of up to thirty (30) days of a driver's or firm's privilege to operate means of public convenience within the City of Pensacola.

Taxi driver's license. The permission granted by the city to a person to drive a taxicab upon the streets of the city.

Taxicab vehicle permit. A permit issued for each taxicab operated under said permit.

Taxicab. A public passenger vehicle equipped with a taximeter operated under company permit and taxicab vehicle permit required by this article, which carries passengers for hire only at lawful rates of fare recorded and indicated on a taximeter, or rates of fare otherwise authorized by this article or rule.

Taximeter. A mechanical or electrical device which records and indicates a charge of fare calculated according to distance traveled, waiting time, traffic delay, initial charge, number of passengers, and other charges authorized by this article or by rule, or by combination of any of the foregoing, and which records other data.

Terminal. The fixed base of operations of the owner of the taxicab business.

Waiting time. The time when a taxicab is not in motion from the time of acceptance of a passenger or passengers to the time of discharge, but does not include any time that the taxicab is not in motion due to any cause other than the request, act or fault of a passenger or passengers.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 87, 9-9-10; Ord. No. 27-10, § 1, 11-18-10)

Sec. 7-10-22. - Company permit; determination of need.

No taxicab vehicle permit shall be granted until the person applying for such permit has secured from the mayor that the public convenience and necessity warrants the operation of the additional taxicab or taxicabs for which taxicab vehicle permit is sought. In determining such public convenience and necessity, the mayor shall consider the number of taxicabs then operating in the city, and whether the needs of the public require additional taxicab service, the financial responsibility of the applicant, the number of taxicabs for which permits are sought, the traffic conditions of the city, and the demand for additional taxicab service. The cost for the initial permit and renewal shall be fifty dollars ($50.00) annually, expiring on September 30. The vehicles must be currently operable, permitted, and inspected as required by this chapter.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 88, 9-9-10; Ord. No. 27-10, §§ 2, 29, 11-18-10)

Sec. 7-10-23. - Application for company permit.

An application for a permit shall be filed for mayor review at the appropriately designated office upon forms provided by the City of Pensacola, and said application shall be verified under oath and shall furnish the following information:

(1) The name and address of the applicant:

(2) A current financial statement of the applicant, including the amounts of all unpaid judgments against the applicant and the nature of the transaction or acts giving rise to said judgments;

(3) The experience of the applicant in the transportation of passengers;

(4) Any facts which the applicant believes tend to indicate that public convenience and necessity warrant the granting of a company permit;

(5) The number of vehicles to be operated or controlled by the applicant pursuant to permit and the location of proposed terminals;

(6) Proof of proper amount of insurance coverage;

(7) Such further information as the mayor of the City of Pensacola may require.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 89, 9-9-10)

Sec. 7-10-24. - Issuance of company permit.

Upon the filing of an application, if the mayor finds that further taxicab service in the City of Pensacola is warranted by the public convenience and necessity, and that the applicant is able to perform such public transportation, and to conform to the provisions of the City Code, then the mayor shall issue a company permit stating the name and address of the applicant and the date of issuance; otherwise, the application shall be denied.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 90, 9-9-10)

Sec. 7-10-25. - Appeal from denial of company permit.

In the event that the mayor denies the issuance of a company permit pursuant to his authority in section 7-10-24 of the Code of the City of Pensacola, Florida, the applicant shall have the right to appeal the mayor's decision to the city council. In order to take such an appeal, the applicant must notify the city

clerk in writing of his desire to appeal the mayor's decision within ten (10) days from the date of the mayor's decision. The appeal shall be scheduled promptly for hearing at the next regularly scheduled city council meeting provided that such meeting does not occur less than four (4) working days prior to the request for appeal, in which case the appeal shall be considered at the next occurring council meeting.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 91, 9-9-10; Ord. 27-10, §§ 3, 29, 11-18-10)

Sec. 7-10-26. - Transfer of company permit.

No company permit may be sold, assigned, mortgaged, or otherwise transferred without the written consent of the mayor, and in determining whether to grant its consent, the mayor shall consider the number of taxicabs already in operation, whether existing transportation is adequate to meet the public need, the eligibility of the applicant, and the anticipated effect of increased service on existing traffic conditions.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 92, 9-9-10; Ord. 27-10, §§ 4, 29, 11-18-10)

Sec. 7-10-27. - Suspension and revocation of company permits.

A company permit issued under the provisions of this article may be revoked or suspended by the mayorif the holder thereof has:

(1) Violated any of the provisions or requirements of this article;

(2) Discontinued operations for more than ten (10) days; or

(3) Violated any law or regulation reflecting unfavorably on the fitness of the holder to provide transportation to the public.

Any revocation or suspension of a company permit also revokes or suspends all taxicab driver permits and taxicab permits operating under the company permit.

Any person aggrieved by any ruling or decision of the mayor may appeal the decision by notifying the city clerk in writing of his/her desire to appeal the mayor's decision within ten (10) days from the date of the decision of suspension or revocation. The appeal shall be scheduled promptly for hearing at the next regularly scheduled city council meeting provided that such meeting does not occur less than four (4) working days prior to the request for appeal, in which case the appeal shall be considered at the next occurring council meeting. The decision of the city council thereon shall be final.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 93, 9-9-10; Ord. 27-10, §§ 5, 29, 11-18-10)

Sec. 7-10-28. - Persons presently permitted and engaged in taxicab business.

Persons duly permitted and operating taxicabs on the effective date of this chapter shall not be required to be equipped with an operable two-way radio or other communications equipment as specified under section 7-10-142, and shall not be required to maintain an office as required under section 7-10-137 (so long as his company permit remains active and is not revoked). These exemptions shall remain valid and be transferable so long as the company permit remains active or is not revoked.

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 6, 11-18-10)

Sec. 7-10-29. - Vehicles—Initial inspection; fee.

Prior to the use and operation of any vehicle under the provisions of this article, said vehicle shall be thoroughly examined and inspected by the mayor and found to comply with such reasonable rules and

regulations as may be prescribed by the mayor. These rules and regulations shall be promulgated to provide safe, convenient, attractive transportation and shall specify such safety equipment and regulatory devices as the mayor shall deem necessary therefore. The fee for inspection shall be ten dollars ($10.00).

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 94, 9-9-10)

Sec. 7-10-30. - Same—Issuance of taxicab vehicle permit.

When the mayor finds that a vehicle has met the established standards, the city shall issue a permit to that effect, which shall also state the authorized seating capacity of said vehicle.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 95, 9-9-10; Ord. 27-10, §§ 7, 29, 11-18-10)

Sec. 7-10-31. - Same—Periodic inspections; fee for reinspection.

(a) All vehicles shall be annually inspected for proper markings, display of information, and the following characteristics in accordance with standards which shall be available for inspection at the designated department:

    (1) *Exterior:* Headlights, taillights, brake lights, signal lights, license plate lights, windshield wipers, horn, window raisers, doors and door locks, trunk latch, hood latch, and interior door handles, exhaust system, no loud twin pipes, hubcaps, bumpers, fenders, body and tires shall be inspected to ascertain that each is functioning safely and properly. Each taxicab shall be maintained in a clean condition. There shall be no tears or rust holes in the vehicle body and no loose pieces such as fenders, bumpers or trim hanging from the vehicle body. There shall be no unrepaired body damage or any body condition which would create a safety problem or interfere with the operation of the vehicle. All taxicabs must install a light underneath their vehicle that emits a red glow should the taxi driver require police assistance.

    (2) *Interior:* The rearview mirror, steering wheel, foot brakes, parking brakes, air conditioning and heating systems shall be inspected to ascertain that each is functioning safely and properly. The upholstery, floor mats or carpet, seats, seat belts, door panels and trunk compartment shall be inspected to determine whether they are clean, free of excessive wear, and that the trunk has sufficient space for passenger luggage. A rate card approved by the city shall be visible from the front and back seat of the vehicle. All taxi cabs shall have an operable taximeter.

(b) The permit holder of the taxicab failing to meet the above inspection requirements within thirty (30) days' notice by the city will subject his permit to revocation. Fee for reinspection of vehicle failing any periodic inspection shall be twenty dollars ($20.00).

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 8, 11-18-10)

Sec. 7-10-32. - Same—Must be kept clean and sanitary.

Every vehicle operating under this article shall be kept in a clean and sanitary condition according to rules and regulations promulgated by the mayor.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 96, 9-9-10)

Sec. 7-10-33. - Name of holder and rates.

Each taxicab shall bear on both sides of each vehicle, in printed letters not less than three (3) inches nor more than five (5) inches in height, the name of the holder as well as the drop fee, meter rate, and mileage rate, in printed letters not less than two (2) inches nor more than four (4) inches in height. All of

the items mentioned in this section must be non-removable or permanently affixed to the vehicle. No taxicab company names may appear on any window of the vehicle.

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 9, 11-18-10)

Sec. 7-10-34. - Manifests.

(a) Every taxicab driver shall maintain a daily manifest upon which are recorded all trips made each day, showing time and place of origin and destination of each trip and amount of fare; and all completed manifests shall be returned to the holder by the driver at the conclusion of his tour of duty. The forms for each manifest shall be furnished to the driver by the owner and shall be of a character approved by the mayor.

(b) Every company permit holder shall retain and preserve all drivers' manifests in a safe place for at least the calendar year next preceding the current calendar year; and the manifests shall be available to the mayor, chief of police, or his or her designated representatives.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 97, 9-9-10)

Sec. 7-10-35. - Records to be kept; reports to be filed with the mayor.

(a) Every company permit holder shall keep accurate records of receipts from operations, operating and other expenses, capital expenditures and such other operating information as may be required by the mayor. Every holder shall maintain the records containing such information and other data required by this article at a place readily accessible for examination by the mayor.

(b) If any adjustments are contemplated concerning the rates, fares, and fees provided for in this article, then, in order to accomplish said adjustments, the information required in subsection (a) hereof for the three (3) prior years of operation shall be made available to the mayor. Other pertinent operating information shall be made available to the mayor in order to review at reasonable intervals the adequacy and necessity of service as well as other reasonable and proper purposes consistent with the public health, safety, convenience and general welfare.

(c) It shall be mandatory for all company permit holders to file with the mayor copies of all contracts, agreements, arrangements, memoranda or other writings relating to the furnishing of taxicab service to any hotel, theater, hall, public resort, railway station or other place of public gathering, whether such arrangement is made with the taxi company or any corporation, firm or association with which the taxi company may be interested or connected. Failure to file the copies within ten (10) calendar days from the making thereof shall be sufficient cause for the revocation of a permit of any offending taxi company permit holder or the cancellation of the company permit.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 98, 9-9-10)

Editor's note— Ord. No. 16-10, § 98, adopted Sept. 9, 2010, changed the title of § 7-10-35 from "records to be kept; reports to be filed with the city manager" to "records to be kept; reports to be filed with the mayor." See also the Code Comparative Table.

Sec. 7-10-36. - Use of loading zones.

Permitted taxicabs may park in loading zones for periods up to ten (10) minutes for package deliveries. Taxicabs so parked shall display a sign at least three (3) by twelve (12) inches, noting the words "package deliveries," during the delivery.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-37. - Operators and drivers to report suspicious things to police department.

Every person holding a company permit, taxi vehicle permit, or taxicab driver's license shall report promptly to the police department either in person or through a dispatcher any suspicious person, thing or act whom or which he may observe, regardless of whether or not the person, thing or act was observed inside or outside of any taxicab which the operator or driver was operating or driving.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-38. - Refusal by passenger to pay fare.

Any passenger refusing to pay the legal rate charged by any owner or operator of a taxicab permitted by the city under this article shall be liable for penalties as stated in section 1-1-8.

(Ord. No. 16-03, § 1, 8-21-03)

Secs. 7-10-39—7-10-45. - Reserved.

Editor's note— Ord. No. 16-10, § 99, adopted Sept. 9, 2010, repealed § 7-10-39, which pertained to "Review of article(s) addressing public conveyance." See also the Code Comparative Table. Subsequently, Ord. 27-10, § 10, adopted Nov. 18, 2010, repealed § 7-10-39.

DIVISION 2. - TAXICAB VEHICLE PERMIT

Sec. 7-10-46. - Required.

(a) No person shall engage in the business of operating a taxicab upon the streets of the city without having first obtained a taxicab vehicle permit for each of the taxicabs to be operated under a company permit.

(b) A taxicab having no city permit may bring passengers into the city, but may not pick up any passenger or accept any business within the city for any destination within the city, or any destination outside the corporate limits of the city.

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 11, 11-18-10)

Sec. 7-10-47. - Qualifications of applicant.

No taxicab vehicle permit shall be issued at any time to any person who:

(a) Has not attained the age of twenty-one (21) years;

(b) is not a person of good moral character; or

(c) Has been convicted of:

(1) Was convicted of or released from incarceration for a class three felony in the United States within the preceding three (3) years;

(2) A class two felony, a class one felony, a capital felony, or a life felony;

(3) More than one (1) driving under the influence charge; or

(4) A sex crime or listed on a sexual offender or sexual predator registry.

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 12, 11-18-10)

Sec. 7-10-48. - Application.

(a) *Contents, information required.* Application for a taxicab vehicle permit under this division shall be made under oath and in writing, to the city clerk, upon blanks to be provided by him, and shall, if the applicant is an individual, state the applicant's full name, whether married or single, age and residence; and horsepower, make, ownership, engine number, and license number of the automobile proposed to be used in the business and its seating capacity.

(b) *Endorsement by chief of police.* The mayor may request the chief of police to require such additional information as the mayor deems necessary, and shall make such inquiry as he deems necessary in regard to the applicant, and within a reasonable length of time shall endorse thereon his approval or rejection. If the application is rejected, he shall note there on his reason therefor.

(c) *Rejection, reapplication.* If the mayor rejects an application for a taxicab vehicle permit, the applicant may reapply in writing to the mayor for reconsideration.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 100, 9-9-10; Ord. 27-10, § 13, 29, 11-18-10)

Sec. 7-10-49. - Liability insurance required.

(a) No taxicab vehicle permit shall be granted or continued in operation unless there is in full force and effect a liability insurance certificate issued by an insurance company authorized to do business in the State of Florida for each vehicle authorized in the minimum amount required by Florida law. Such insurance coverage shall be filed with the mayor.

(b) A company permit holder, including any taxi firm, partnership, association or corporation may be self-insured in accordance with the Florida Statutes provided that the coverage on each vehicle is equal to or greater than the minimum liability requirements specified by the City of Pensacola.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 01-04, § 1, 1-22-04; Ord. No. 16-10, § 101, 9-9-10; Ord. 27-10, §§ 14, 29, 11-18-10)

Sec. 7-10-50. - Fees; expiration.

No taxicab vehicle permit shall be issued or continued in operation unless the permit holder thereof has paid an annual renewal fee of fifty dollars ($50.00) for the right to engage in the taxicab business and fifteen dollars ($15.00) for a taxicab vehicle permit each year for each vehicle. The permit shall expire annually on September 30 and the permit fee required by this section shall be in addition to any other license fees or charges established by proper authority and applicable to the holder or the vehicle or vehicles under his operation and control.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-51. - Revocation.

(a) *Grounds.* The mayor or his or her appointed representative may, for incompetence or the violation of any of the provisions of the laws of the United States, the state, this Code or of any ordinance of the city, or for any immoral or lewd conduct or unlawful activity on the part of the company permit holder, or the licensed driver of any taxicab, or for any other cause which he shall deem sufficient, recommend the revocation of any permit for the operation of any taxicab and cause the permit to be surrendered to the mayor.

(b) *Refusal to surrender badge or plates.* Any person who, after written notice by the mayor that the permit has been revoked, refuses to surrender the same shall be deemed to have been guilty of a violation of the provisions hereof.

(c) *Appeal.* Any person aggrieved by any ruling or decision of the mayor may appeal by petition to the city council, within ten (10) days from the date of revocation; and the decision of the city council thereon shall be final.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 102, 9-9-10)

Sec. 7-10-52. - Transferability; fee.

(a) Any taxicab vehicle permit holder, upon the approval of the mayor, may transfer the ownership of his taxicab or taxicabs to another company permit holder. Upon the furnishing of evidence that a permitted taxicab is no longer to be used as such, the mayor may authorize the transfer of the license for use on another taxicab. Upon the death of any person owning a vehicle permitted by this article, the mayor may, upon receipt of satisfactory evidence of the death and at the request of the deceased's personal representative, authorize the transfer of the taxicab vehicle permit to the person in whose name title of such taxicab shall be vested by reason of the death. In no event, however, shall any transfer be made as hereinbefore contemplated unless and until the transfer in all respects complies with the terms and provisions of this division.

(b) For every transfer of taxicab vehicle permit, the city shall collect from the applicant a fee of five dollars ($5.00) for each taxicab.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 103, 9-9-10)

Secs. 7-10-53—7-10-65. - Reserved.

Editor's note— Ord. No. 27-10, § 15, adopted Nov. 18, 2010, repealed § 7-10-54, which pertained to "substitution of vehicles." Code Comparative Table.

DIVISION 3. - TAXICAB DRIVER'S LICENSE

Sec. 7-10-66. - Required.

(a) No person shall operate a taxicab for hire upon the streets of the city, and no person who owns or controls a taxicab shall permit it to be so driven, and no taxicab permitted by the city shall be so driven at any time for hire unless the driver of the taxicab shall have first obtained and shall have then in force a taxicab driver's license issued under the provisions of this division.

(b) No owner-licensee shall permit any employee to operate a public taxicab within the city without first obtaining a license as a taxicab driver from the mayor.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 105, 9-9-10)

Sec. 7-10-67. - Qualifications of applicant.

(a) Each applicant for a taxicab driver's license must:

(1) Be of the age of twenty-one (21) years of age;

(2) Be able to read and write in the English language.

(b) No taxicab driver's license shall be issued to any person who has been convicted of:

(1) A Florida class three felony in the United States within the preceding three (3) years or released from incarceration for a class three felony in the United States within the preceding three (3) years;

(2) A class two felony, a class one felony, a capital felony, or a life felony;

(3) More than one (1) driving under the influence charge; or

(4) A sex crime or listed on a sexual offender or sexual predator registry;

(5) A misdemeanor three (3) times within a period of three (3) years previous to the date of application;

Nor shall a license be issued to any person who is not a person of good moral character.

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 16, 11-18-10)

Sec. 7-10-68. - Application.

(a) *Filing.* An application for a taxicab driver's license shall be filed with the mayor on forms provided by the city and the application shall be verified under oath.

(b) *Fee.* An initial filing fee of ten dollars ($10.00) must accompany the application.

(c) *Information required.* Each applicant for a driver's license must fill out, upon a blank form to be provided by the city, a statement giving his or her full name, residence, place of residence for five (5) years previous to moving to his or her present address, age, height, color of eyes and hair, place of birth, length of time he has resided in the city, whether citizen of the United States, place of previous employment, whether married or single, whether he has ever been convicted of a felony or misdemeanor, whether he has ever previously been licensed as a driver or chauffeur, and if so, when and where, and whether his or her license has ever been revoked and for what cause. Such statement shall be signed and sworn to by the applicant and filed with the city as a permanent record.

(d) *Investigation.* The investigation of all applications for licenses under the provisions of this division shall be conducted by the city.

(e) *False information.* Any applicant who gives false information pertaining to the applicant's police records shall be deemed to have committed the crime of perjury and complaint may be made in the manner provided for punishment of such cases.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 106, 9-9-10; Ord. 27-10, § 17, 11-18-10)

Sec. 7-10-69. - Photograph and fingerprints required.

When an applicant for a taxicab driver's license applies at the city, his or her fingerprints and photograph will be taken.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-70. - Examination; class "E" motor vehicle permit required.

Before any application for a taxicab driver's license is finally passed upon by the city, the applicant may be required to pass a satisfactory examination as to his or her knowledge of the city and will need to show that he has a current class "E" permit issued by the state.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-71. - Application forwarded to mayor.

When the city's investigation is completed, the application for a taxicab driver's license shall be forwarded to the mayor for consideration, accompanied by copies of the traffic and police records, for approval.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 107, 9-9-10)

Editor's note— Ord. No. 16-10, § 107, adopted Aug. 9, 2010, changed the title of § 7-10-71 from "application forwarded to city manager" to "application forwarded to mayor." See also the Code Comparative Table.

Sec. 7-10-72. - Consideration of application by mayor.

The mayor, upon consideration of the application for a taxicab driver's license and the reports and certificate required to be attached thereto, shall approve or reject the application. If the application is rejected, the applicant may request a personal appearance before the mayor to offer evidence why his or her application should be reconsidered.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 108, 9-9-10)

Editor's note— Ord. No. 16-10, § 108, adopted Aug. 9, 2010, changed the title of § 7-10-72 from "consideration of application by city manager" to "consideration of application by mayor." See also the Code Comparative Table.

Sec. 7-10-73. - Preparation.

The annual taxicab driver's license will be prepared upon verification of the application. The license will bear the applicant's photograph, name, address, physical description, age, Florida license number, and signature. The license will be laminated to prevent tampering and provided with a hanging clip.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-74. - Issuance of taxicab driver's license or a temporary license; fee.

(a) Upon fulfillment of the foregoing requirements and approval of the application for a taxicab driver's license, the mayor shall issue the taxicab driver's license to the applicant.

(b) The mayor shall issue taxicab drivers' licenses, provided the application for a taxicab driver's license is approved. The mayor shall be authorized to disapprove the application for a taxicab driver's license for the same reasons as set forth in section 7-10-51; provided, however, a temporary license may be issued pending such investigation for a term of not to exceed twenty (20) days.

(c) The mayor may issue a taxicab driver's license upon the applicant's conforming to the foregoing requirements and paying to the city the sum of six dollars ($6.00).

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 109, 9-9-10)

Sec. 7-10-75. - Expiration; relicensing.

(a) All taxicab drivers' licenses shall expire on the thirtieth day of September of each year, unless sooner revoked or terminated as herein provided.

(b) If the applicant for a taxicab driver's license has been previously licensed, he shall be relicensed if he meets the requirements set forth in this division.

(c) The mayor shall renew each taxicab driver's license upon application for renewal and upon payment of a fee of six dollars ($6.00) unless the license for the preceding year has been revoked as provided for in section 7-10-78.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 110, 9-9-10)

Sec. 7-10-76. - Display of license, license number, photograph.

Every licensed driver shall have his or her taxicab driver's license conspicuously displayed so that it may be easily seen both day and night by occupants of the taxicab.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-77. - Defacing, removing, etc., license or book.

Any taxicab driver licensee who defaces, removes or obliterates any official entry made upon his or her license or book shall, in addition to any other punishment imposed by this division, have his or her license revoked at the discretion of the mayor.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 111, 9-9-10)

Sec. 7-10-78. - Suspension and revocation.

The mayor is hereby given the authority to suspend any taxicab driver's license issued under this division for a driver's failing or refusing to comply with the provisions of this article, such suspension to last for a period of not more than thirty (30) days. The mayor is also given authority to revoke any taxicab driver's license for failure to comply with the provisions of this article. However, a license may not be revoked unless the driver has received reasonable notice and has had an opportunity to present evidence in his or her behalf.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 112, 9-9-10)

Sec. 7-10-79. - Authority of mayor to establish additional rules and regulations.

The mayor is hereby authorized and empowered to establish additional rules and regulations governing the issuance of taxicab driver's licenses, not inconsistent herewith as may be necessary and reasonable. The rules and regulations so established shall become effective on approval by the mayor, copies of which shall be placed on file with the city clerk.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 113, 9-9-10)

Editor's note— Ord. No. 16-10, § 113, adopted Sept. 9, 2010, changed the title of § 7-10-79 from "authority of city manager to establish additional rules and regulations" to "authority of mayor to establish additional rules and regulations." See also the Code Comparative Table.

Secs. 7-10-80—7-10-90. - Reserved.

DIVISION 4. - TAXICAB DRIVERS

Sec. 7-10-91. - Compliance with city, state, federal law required.

Every driver licensed under this article shall comply with all city, state, and federal laws. Failure to do so will justify the mayor's suspending or revoking a license.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 114, 9-9-10)

Sec. 7-10-92. - Conduct generally.

It shall be the duty of every person driving or operating a taxicab to be courteous; to refrain from swearing, loud talking or boisterous conduct; to drive his or her motor vehicle carefully and in full compliance with all traffic laws and ordinances and regulations or orders of the city; to promptly answer all court notices, traffic violation notices; and to deal honestly with the public.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-93. - Solicitation—Generally.

(a) No taxicab shall stand in any metered area in any public street or place other than upon the stand assigned to it, in accordance with this article. Each taxicab, after discharging its passengers, shall return to its designated stand; provided, the taxicab may take on any passengers while returning, as aforesaid. No driver of the taxicab shall seek employment by repeatedly and persistently driving his taxicab back and forth in a short space or by otherwise interfering with the proper and orderly access to or egress from any theater, hall, hotel, public resort or railway station or other place of public gathering, or in any other manner obstructing or impeding traffic; but any taxicab may solicit employment by cruising through any public street or place without stops other than those due to obstruction of traffic, and at such speed as not to interfere with or impede traffic, and may pass and repass before any theater, hall, hotel or public place; but he shall not turn and repass until he shall have gone a distance of two (2) blocks beyond such place.

(b) No driver shall solicit passengers for a taxicab except when standing immediately adjacent to the curb side thereof. The driver of any taxicab shall remain in the driver's compartment or immediately adjacent to this vehicle at all times when the vehicle is upon the public street; except that, when necessary, a driver may be absent from his or her taxicab for not more than ten (10) consecutive minutes; and provided further, that nothing herein contained shall be held to prohibit any driver from alighting to the street or sidewalk for the purpose of assisting passengers into or out of such vehicle.

(c) No driver shall solicit patronage in a loud or annoying tone of voice or by sign, or in any manner annoy any person or obstruct the movement of any persons, or follow any person for the purpose of soliciting patronage.

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 18, 11-18-10)

Sec. 7-10-94. - Same—Other common carrier passengers.

No driver, owner or operator shall solicit passengers at the terminal of any common carrier, nor at any intermediate points along any established route of any other common carrier.

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 19, 11-18-10)

Sec. 7-10-95. - Same—Cruising.

No driver shall cruise in search of passengers except in such areas and at such time as shall be designated by the mayor. The areas and times shall only be designated when the mayor finds that taxicab cruising would not congest traffic or be dangerous to pedestrians and other vehicles.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 115, 9-9-10; Ord. 27-10, § 20, 11-18-10)

Sec. 7-10-96. - Same—Hotels; houses of ill repute; selling intoxicating liquors.

It shall be a violation of this article for any driver of a taxicab to solicit business for any hotel, or to attempt to divert patronage from one hotel to another. Neither shall the driver engage in selling intoxicating liquors or solicit business for any house of ill repute or use his vehicle for any purpose other than the transporting of passengers.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-97. - Receipt and discharge of passengers.

Drivers of taxicabs shall not receive or discharge passengers in the roadway, but shall pull up to the right-hand sidewalk as nearly as possible or; in the absence of a sidewalk, to the extreme right-hand side of the road and there receive or discharge passengers, except upon one-way streets, where passengers may be discharged at either the right or left-hand sidewalk, or side of the roadway in the absence of a sidewalk.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-98. - Passengers to be seated before vehicle moves.

It shall be unlawful for the driver of any taxicab to put the vehicle in motion until all passengers are inside the vehicle and seated.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-99. - Additional passengers.

No taxicab driver shall permit any other person to occupy or ride in the taxicab unless the person or persons first employing the taxicab shall consent to the acceptance of additional passenger or passengers. No charge shall be made for an additional passenger other than the extra passenger charge. Once the original destination for the first passenger is reached, then the first fare must end and a new fare begins if the additional passenger is going on to a different destination. The additional passenger is responsible for the new fare for the ride past the original destination.

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 21, 11-18-10)

Sec. 7-10-100. - Restriction on number of passengers.

No taxicab driver shall permit more persons to be carried in a taxicab as passengers than the rated seating capacity of his or her taxicab, as stated in the license for said vehicle issued by the city.

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 22, 11-18-10)

Sec. 7-10-101. - Refusal to carry orderly passengers prohibited.

No taxicab driver shall refuse or neglect to convey any orderly person or persons, upon request, unless previously engaged or unable or forbidden by the provisions of this article to do so.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-102. - Search of taxicab after each use; disposition of property found.

(a) Every driver of a taxicab, immediately after their termination of hiring or employment, must carefully search the taxicab for any property lost or left therein; and any such property, unless sooner claimed or delivered to the owners, must be taken to the police station and deposited with the officer in charge within twenty-four (24) hours after the finding thereof, with brief particulars to enable the police department to identify the owner of the property.

(b) The provisions of this section shall not apply to taxicab businesses which have a regularly established lost-and-found department, in which case the property must be kept subject to the call of the owner for at least thirty (30) days, at the end of which time it shall be disposed of in accordance with law.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-103. - Appearance and attire.

When on duty, licensed taxicab drivers shall maintain a clean, neat, well-groomed appearance. Drivers shall not wear T-shirts, tank tops, sandals, or beach shoes (flip-flops). Shorts are permitted providing those shorts are at least mid-thigh in length with a finished hem. Cut-offs are not permitted. Name tags shall be worn at all times.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-104. - Knowledge of proper operation.

Drivers operating cabs in the city must be thoroughly knowledgeable of the proper operation of taxi meters.

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 23, 11-18-10)

Sec. 7-10-105. - Adequate change.

Drivers operating taxicabs must maintain adequate change for fares. Failure to maintain adequate change will result in the fare being lowered to the amount for which the driver has adequate change.

(Ord. No. 27-10, § 24, 11-18-10)

Secs. 7-10-106—7-10-115. - Reserved.

DIVISION 5. - TAXICAB STANDS

Sec. 7-10-116. - Reserved

Sec. 7-10-117. - Open stands.

(a) *Establishment.* The mayor is hereby authorized and empowered to establish open stands in places upon the streets of the city. The mayor shall not create an open stand without taking into consideration the need for the stands by the companies and the convenience of the general public. The mayor shall prescribe the number of cabs that shall occupy the open stands, and a metal sign shall be attached to a post or stanchion at each stand stating the number of taxicabs permitted. The mayor shall not create an open stand in front of any place of business where the abutting property owners object to the same or where the stand would tend to create a traffic hazard.

(b) *Use.* Open stands shall be used by the different drivers on a first-come, first-served basis. The driver shall pull onto the open stand from the rear and shall advance forward as the cabs ahead pull off. Drivers shall stay within five (5) feet of their cars, and they shall not solicit passengers or engage in loud or boisterous talk while at an open stand. Nothing in this section shall be construed as preventing a passenger from boarding the cab of his or her choice that is parked at open stands.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 116, 9-9-10)

Sec. 7-10-118. - Other vehicles prohibited from using open stands.

Private or other vehicles for hire shall not at any time occupy the space upon the streets that has been established as either open stands or callbox stands.

(Ord. No. 16-03, § 1, 8-21-03)

Secs. 7-10-119—7-10-130. - Reserved.

DIVISION 6. - TAXIMETERS, RATES, SERVICE

Sec. 7-10-131. - Taximeters—Required.

All taxicabs operated under the authority of this article shall be equipped with taximeters fastened to the vehicle, placed in front of the passengers, visible to them at all times, day and night.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-132. - Same—Specifications.

(a) The face of the taximeter required by section 7-10-131 shall be illuminated.

(b) The taximeter shall be operated mechanically by a mechanism of standard design and construction, driven either from the transmission or from one of the front wheels by a flexible and permanently attached driving mechanism.

(c) The taximeter shall be sealed at all points. Connections which, if manipulated, would affect its correct reading and recording shall be sealed.

(d) Each taximeter shall have thereon a device to denote when the vehicle is employed and when it is not employed, and it shall be the duty of the driver activate the device.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-133. - Same—Inspections.

The taximeters shall be subject to inspection from time to time by the mayor. The mayor is hereby authorized, either on complaint of any person or without such complaint, to inspect any meter and, upon

discovery of any inaccuracy therein, to notify the person operating said taxicab to cease operation. Thereupon, the taxicab shall be kept off the roadways until the taximeter is repaired and in the required working condition.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 117, 9-9-10)

Sec. 7-10-134. - Rates—Generally.

No owner or operator of a taxicab shall charge a greater or lesser sum for the use of a taxicab than in accordance with the following rates:

(1) *Mileage rates.* Two dollars ($2.00) for the first one-ninth (1/9) mile or fraction thereof; twenty-five cents ($0.25) for each additional one-ninth mile or fraction thereof; charge for additional passengers over the age of thirteen (13) years, fifty cents ($0.50) each;

(2) *Waiting time.* Eighteen dollars ($18.00) per hour;

(3) *Airport trips—Minimum fare.* Pickups from the airport, eleven dollars ($11.00) minimum per trip (limited to taxicab companies with valid permits to serve the airport). Fares over eleven dollars ($11.00) shall be calculated based upon the meter rate commencing at the airport pickup point.

(4) *Airport trips—Airport pickup fee.* Pickups from the airport, two dollars and fifty-cents ($2.50) fee.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 01-04, § 1, 1-22-04; Ord. No. 20-07, § 1, 5-10-07; Ord. 27-10, § 25, 11-18-10; Ord. No. 30-17, § 1, 11-9-17)

Sec. 7-10-135. - Same—Flat and minimum rates.

No flat rates may be charged for any taxicab ride that starts in the jurisdictional limits of the city except for charter hires as described in section 7-10-139.

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 26, 11-18-10)

Sec. 7-10-136. - Waiting time defined.

(a) Waiting time shall include the time during which the taxicab is not in action beginning with its arrival at the place to which it has been called, or the time consumed while standing at the direction of the passenger; but no charge shall be made for the first five (5) minutes of waiting after arrival or for the time lost by inefficiency of the taxicab or driver or consumed by premature arrival in response to a call. All rates are to be based upon the most direct practical routes.

(b) Waiting time shall be utilized in conjunction with mileage rates while the taxicab is in motion so that the taximeter will indicate the total cost of the trip as a combination of either time or mileage, whichever is greater. All rates are to be based upon the most direct personal route.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-137. - Service generally.

All persons engaged in the taxicab business in the city operating under the provisions of this article shall render an overall service to the public desiring to use taxicabs. Each taxicab must be currently operating, permitted, inspected, and insured as required by this chapter. It is also required that a company permit holder maintain an office in the Pensacola area where required records are kept. The office is to be staffed by company agents or employees between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. Sufficient employees or answering devices to receive and dispatch calls must be

maintained at all times. They shall answer all calls received by them for services as soon as they can do so, and if the services cannot be rendered within a reasonable time, they shall then notify the prospective passengers how long it will be before the call can be answered and give the reason therefor. Any taxicab permit holder who shall refuse to accept a call anywhere in the city at any time when the permit holder has available cabs, or who shall fail or refuse to give overall service, shall be deemed a violator of this article and the company permit or taxicab permit granted shall be revoked at the discretion of the mayor.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 118, 9-9-10)

Sec. 7-10-138. - Parties.

(a) No driver of a taxicab shall carry any other person than the passenger first employing the taxicab without the consent of the passenger, and in no event shall a driver pick up or carry any other passenger en route after a trip has started except that, where the passenger first engaging the taxicab is a party or member of a party together, other members of the party may be picked up at different locations en route on direction of the member or members of the party first engaging the cab.

(b) When a party of passengers engages a taxicab, the members of the party shall be entitled to be carried to the same destination for the meter rate above provided, including extra passenger fare where applicable. When a member or members of a party are being dropped off, but other members of the party are continuing to a different destination, then the fare shall be settled when the first member(s) is dropped off and the meter shall be reengaged for the next portion of the trip.

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 27, 11-18-10)

Sec. 7-10-139. - Charters; personal uses.

Notwithstanding any other provision of this division, the taximeter need not be in operation whenever a taxicab is being driven for the personal use of the taxicab owner and/or operator thereof, for the transportation of passengers for hire under the terms of a written agreement fixing a flat rate for a period of at least twenty (20) days. Signs indicating use of the taxicab for those purposes shall be affixed to the front window of the right side of the taxicab. Each sign shall be at least three (3) inches wide and twelve (12) inches long, with the same words and lettering at least two (2) inches high on each side of the signs. Signs used to indicate personal use of the taxicab by the taxicab owner and/or operator shall contain the words "Not in Service." Signs indicating transportation of passengers for hire pursuant to contractual agreements, as stated above, shall contain the word "Charter." At all other times the taxicab is carrying passengers for hire, the taximeter shall be in operation. Taxicabs may carry parcels or packages and perform other courier services and make charges agreed upon by persons requesting service and the taxicab company.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-140. - Other forms of demand-responsive service.

A taxicab may be operated in another form of demand-responsive service as may be prescribed from time to time by this chapter.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-141. - Limousines for hire.

Limousines for hire, as defined in section 7-10-175 herein, operating anywhere within the corporate limits of the City of Pensacola shall be required to comply with the following provisions of the Code of the City of Pensacola, Florida:

(1) Insurance requirements-specified in subsections 7-10-2(a) through (c).

(2) Record keeping requirements of section 7-10-5.

(3) Restricted use requirements of section 7-10-7.

(4) Nonconforming activity regulations of section 7-10-8.

(5) Certificate of public convenience and necessity with fee as required for taxicabs by sections 7-10-22 through 7-10-27.

(6) Vehicle inspection requirements of sections 7-10-29 through 7-10-32.

(7) Subsection 7-10-34(b).

(8) Section 7-10-37.

(9) Section 7-10-38.

(10) Sections 7-10-46 through 7-10-52, in the same manner as those provisions are applicable to taxicabs.

(11) Sections 7-10-66 through 7-10-75 and sections 7-10-77 through 7-10-79, in the same manner as those provisions are applicable to taxicabs.

(12) Sections 7-10-91, 7-10-92, and 7-10-99, in the same manner as those provisions are applicable to taxicabs.

(13) Limousines shall not engage in cruising, as defined in section 7-10-175, anywhere in the corporate limits.

(14) Limousines or their operators shall not solicit customers as fares except by prior arrangement or contract.

(15) Limousines shall not charge less than fifty dollars ($50.00) per hour or any fraction thereof.

(16) At no time may a vehicle licensed as a taxicab be licensed as a limousine.

(Ord. No. 16-03, § 1, 8-21-03; Ord. 27-10, § 28, 11-18-10)

Sec. 7-10-142. - Radio equipment.

(a) All taxicabs covered by this chapter shall be equipped with an operable two-way radio and other communication equipment allowing the taxicab to receive calls from and to transmit calls to a permanent located dispatch. Such radio shall be in operation during the business hours of the holder.

(b) No company permit holder, taxicab permit holder, or driver operating under this article shall use or operate installed scanners or other portable radio devices to monitor communications of frequencies other than that assigned to the holder.

(Ord. No. 16-03, § 1, 8-21-03)

Secs. 7-10-143—7-10-155. - Reserved.

ARTICLE III. - RESERVED

Secs. 7-10-156—7-10-173. - Reserved.

ARTICLE IV. - AIRPORT SURFACE TRANSPORTATION

DIVISION 1. - GENERALLY

Sec. 7-10-174. - Generally.

All vehicles for hire soliciting or desiring to pick up persons, baggage, packages, or any item or object in general shall be required to comply with this article, shall have valid airport permits, and shall observe all rules and regulations of the City of Pensacola and the Pensacola International Airport with the exception that air cargo transportation vehicles shall not be required to comply with this article. Provided further, vehicles hired by an airline tenant for the purpose of providing ground transportation for its passengers or employees without charge to such passengers or employees, or for baggage, shall be exempt from the provisions of this article, except that such vehicles, the drivers thereof, and the certificate holders therefor shall not be exempt from the applicable provisions of this article pertaining to airport permits and the requirements for obtaining and maintaining such permits.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-175. - Definitions.

The following words and phrases when used in this article have the meaning as set out herein:

Airport. All land encompassed by the Pensacola International Airport, including, but not limited to, streets, parking areas, and approaches.

Airport permit. A permit issued by the airport director authorizing vehicles to conduct business on the airport.

Automatic vehicle identification (AVI) tag. A pre-programmed device issued by the mayor to detect, identify, control, monitor and track authorized vehicles for hire that are picking up or soliciting or desiring to pick up persons, baggage, packages, or any item or object under an airport permit.

Conducting business. The picking up or soliciting or desiring to pick up persons, baggage, packages, or any item or object under an airport permit.

Courtesy vehicle. A vehicle which carries persons between the airport and off-airport businesses, such as valet parking lots, hotels, motels, rental car companies and attractions, for which carriage the passenger pays no direct charge.

Cruising. The driving of a taxicab at the airport in search of or soliciting prospective passengers for hire.

Queuing area. An area designated by the mayor for taxicab to remain on the airport. Taxicabs will proceed to the passenger loading zone when alerted by signal in the queuing area.

Limousine. A chauffeur-driven vehicle for hire that is not configured with a taximeter which charges unmetered rates predetermined on a contractual basis, franchised by the city as a limousine, and carrying passengers by prearrangement or contract.

Operator. The owner or other person, firm or corporation operating or controlling the operations of one or more vehicles or any person who has rented such vehicle for the purpose of operation by his or her own agents.

Passenger loading zones. A clearly marked area designated by the airport director in close proximity to the entrance of the airport terminal. There will be one area designated for the exclusive use of taxicabs so as to accommodate a minimum of four (4) taxicabs for passenger loading. In addition, there will be clearly marked and separate passenger loading zones in close proximity to the entrance to the airport terminal for an appropriate number of limousines. There will be a clearly marked passenger loading zone within reasonable walking distance from the entrance of the airport

terminal for courtesy vehicles. These areas are under the direct control of the "traffic officer." In regulating such zones, the airport director shall have all authority conferred by section 10-2-4 of the Pensacola Code.

Revocation. The discontinuance of a driver's or firm's privilege to operate at the airport, with reinstatement of operating privileges to be permitted after one year's time upon written approval of the airport director.

Traffic officers. Employees or licensees of the airport who are obligated to assure the orderly, smooth, and nonpreferential loading and departure of authorized taxicabs from their designated passenger loading zone.

Suspension. The temporary discontinuance of up to thirty (30) days of a driver's or firm's privilege to operate at the airport.

Taxicab. A public passenger vehicle equipped with a taximeter operated under certificate and license required by this article, which carries passengers for hire only at lawful rates of fare recorded and indicated on a taximeter, or rates of fare otherwise authorized by this article or rule.

Shuttle vehicle. A vehicle for hire that is not configured with a taximeter which charges a posted flat rate from the airport to certain specified destinations.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 30-17, § 2, 11-9-17)

DIVISION 2. - TAXICABS

Sec. 7-10-176. - General.

All taxicabs operating at the airport shall comply with all applicable laws, codes or regulations.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-177. - Permits and fees.

(1) *Permits and AVI tags.* No operator shall conduct activities permitted under this article without having first obtained (1) an airport transportation permit with an accompanying decal and (2) an AVI tag issued by the airport director , pursuant to this chapter.

(2) *Display.* Decals and AVI tags shall be permanently affixed to the lower right-hand corner of the front windshield and shall be clearly visible at all times.

(3) *Airport permit fees.* An airport transportation permit fee in the amount of forty dollars ($40.00) shall be paid for a taxicab to conduct activities permitted under this article. Said airport transportation permit fee shall be due annually and payable in advance.

(4) *Pickup fee.* Each taxicab shall be charged an airport pickup fee in the amount of two dollars and fifty cents ($2.50) per pickup at the airport. Said airport pickup fee shall be remitted to the city on a monthly basis.

(5) *Duplicates.* Duplicate decals or AVI tags may be obtained upon submission of a statement setting forth the circumstances of the loss or damage to the decal or AVI tag and payment of the required duplicate fees in an amount of five dollars ($5.00) for decals and fifteen dollars ($15.00) for AVI tags.

(6) *Application form.* Each operator desiring to obtain a new airport transportation permit or renew an existing permit shall submit a completed airport transportation permit application to the airport director. Applicants for an airport transportation permit must possess a current and valid taxi license.

(7) *Transfer of permits and AVI tags.* An airport transportation permit and AVI tag may be transferred to another vehicle upon compliance with section 7-10-31, section 7-10-48, and payment of twenty-five dollars ($25.00) transfer fee to the airport director.

(8) *Annual renewal.* Airport transportation permits must be renewed annually. Renewal applications shall be submitted to the airport director at least ten (10) working days prior to expiration of the current permit along with payment of required fees. A late fee in the amount of twenty dollars ($20.00) shall be charged for applications submitted after the required deadline.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 30-17, § 3, 11-9-17)

Sec. 7-10-178. - Taxicab inspection at airport.

The airport director or his or her representative, any police officer, or airport operations officer may inspect a taxicab at any time while it is on the airport. Any taxicab found in violation of section 7-10-31 while at the airport shall be required to immediately leave the airport until the noted defects are corrected. All violations for FSS are subject to the uniform state traffic code.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-179. - Operational procedures.

(a) Passenger pickup will be on a first-come, first-out basis, from the terminal regardless of the fact that a specific taxicab has been called.

(b) All taxicabs with valid airport permits wishing to pick up passengers at the terminal must enter the taxicab queuing area. No taxicabs may pick up passengers without first entering the queuing area.

(c) A maximum of four (4) taxicabs at any one time will be allowed in the taxicab passenger loading zone. The airport director may, by rule, change the location of the passenger loading zone and the number of taxicabs allowed to occupy the passenger loading zone. Notification by telephone to the company dispatching office, verbal communication to a taxicab driver who is operating a taxicab controlled by the operator or written notification by mail will constitute adequate notification of a rule change in this section. Copies of such rule changes shall be available in the airport director's office during normal business hours. Notification shall be given by the airport director or an authorized representative who in turn must notify the mayor in writing of such rule changes within forty-eight (48) hours.

(d) All passenger pickups at the terminal shall be made at the taxicab passenger loading zone. It is a violation of this section to pick up or solicit passengers at any location upon airport property except as authorized by this section.

(e) Taxicabs shall not refuse a passenger fare while waiting at the passenger loading zone. Taxicabs refusing a fare shall immediately leave the passenger loading zone without picking up any other fare and either leave the airport or move to the rear of the queuing area.

(f) Taxicabs shall be required to accept a fare that desires to have the taxicab bill placed on a charge basis and the operator shall advertise acceptance of credit cards.

(g) Reserved.

(h) Reserved.

(i) The first-in-line taxicab may refuse to carry baggage, packages, or other items requested by airport tenants. Nothing in this section shall authorize a taxicab to refuse service to any fare paying passenger.

(j) The driver of any taxicab shall remain within the vehicle or immediately adjacent to the vehicle at all times while on airport property; except that, when necessary for use of restroom facilities, a driver

may be absent from his or her taxicab for not more than ten (10) consecutive minutes in the taxi queuing area. Taxicab drivers are prohibited from loitering or standing inside the airport terminal while their taxicab is in the queuing area or at the passenger loading zone except as allowed in this section.

(k) Taxicab drivers shall not handle passenger baggage except to load passenger baggage into the vehicle from curbside when requested by the passenger or unload the baggage to curbside when requested by the passenger.

(l) Taxicab vehicles shall not be repaired or have mechanical or auto body work performed on them while at the airport; except, when necessary to conduct emergency repairs for the purpose of removing a malfunctioning vehicle to a place where normal repairs may be accomplished.

(m) Arriving taxicabs which are bringing passengers to the airport may proceed directly to the terminal passenger drop-off zones for discharge only but must remain clear of the designated taxicab passenger loading zone.

(n) Arriving taxicabs that deliver passengers to the airport and are requested by the passenger to wait so the passenger can continue to his or her final destination in the same taxicab are not required to enter the queuing area, provided the taximeter continues to run and the passenger is charged for waiting time. Taxicabs waiting for passengers to continue on their original journey may not pick up passengers and may leave the airport only with their original passenger. Taxicabs that deliver passengers as allowed by this section and turn the taximeter off while at the airport shall not be permitted to wait for the passenger and shall be required to enter the rear of the queuing area.

(o) The traffic officer is responsible for maintaining orderly operations as specified above. Violations of these operational procedures will be subject to permanent suspension or revocation as determined by the airport director.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 119, 9-9-10; Ord No. 02-19 §(f), 2-28-19)

DIVISION 3. - COURTESY VEHICLES

Sec. 7-10-180. - Permits.

(a) *General.* Operation of any courtesy vehicle shall be allowed only by a valid airport permit which includes in part a color-coded decal as required by this article. Holders of such permits shall observe all rules and regulations of this article in addition to those established by other provisions of the Code of the City of Pensacola, Florida.

(b) *Permit fee.* An annual fee of two hundred forty dollars ($240.00) is hereby established for each courtesy vehicle for the privilege of conducting business at the airport. Fees shall be paid in advance by the operator of each courtesy vehicle doing business under its authority. A temporary airport permit is available for a maximum thirty-day period. The fee for such permit will be forty dollars ($40.00) per thirty-day period or any fraction thereof. All other requirements necessary for the issuance of the annual airport permit must be met, including minimum insurance coverage, before a temporary permit will be issued.

(c) *Issuance.* Upon full payment of licenses, permit fees, and successful completion of the vehicle safety inspection, a courtesy vehicle airport permit decal shall be issued for each vehicle listed on the application form. No permit shall be issued without the operator having valid courtesy vehicle licenses as may be required by the City of Pensacola.

(d) *Display.* Permit decals shall be permanently fixed to the lower right-hand corner of the front windshield and shall be clearly visible at all times. Permits shall be issued by the airport director and shall expire September 30 of each year. Only those vehicles displaying valid permit decals will be authorized to pick up passengers at the airport. No permit or license shall be required to enter the airport and discharge passengers.

(e) *Lost or damaged permit.* In case of loss of a permit or damage beyond recognition, a duplicate permit may be obtained after payment of five dollars ($5.00) by the operator and after submission of a statement setting forth the circumstances of the loss or damage of the permit.

(f) *Transfer of permits.* Permits may be transferred to another vehicle upon proper completion of the application form, successful completion of the safety inspection and a transfer fee of twenty-five dollars ($25.00).

(g) *Permit renewal.* Application forms for yearly renewal of courtesy vehicle airport permits must be submitted to the airport director at least ten (10) working days prior to expiration of the current permit. Renewal applications received after this time shall be charged a late fee of twenty dollars ($20.00).

(h) *Application form.* Each operator desiring to obtain a new airport permit or renew an existing permit shall obtain an airport permit application form and return the completed form to the airport director. Each vehicle for which a permit is requested must have all current licenses and insurance as may be required by the City of Pensacola before the airport application form will be processed. Full payment of the required airport permit fee must accompany the application form.

(i) *Courtesy vehicle inspection.* All courtesy vehicles will be inspected in accordance with the criteria found at section 7-10-31.

(j) *Violations.* The airport director or his or her representative, police officer, or airport operations officer may inspect a courtesy vehicle at any time while it is on the airport. A vehicle found to be in violation of section 7-10-31 will be required to immediately leave the airport until the noted deficiencies are corrected.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-181. - Operational procedures.

(a) *Receipt and discharge of passengers.* Courtesy vehicles may enter upon the airport only to discharge or to pick up passengers who theretofore have in advance requested service and whose names have been entered in the courtesy vehicle driver's log; except that persons who desire lodging at the courtesy vehicle operator's place of business or seek transportation to a rental car company by the rental company courtesy vehicle may request service by such vehicle while at the airport. All passengers loading and unloading into courtesy vehicles must do so in the specified area designated for that purpose. Nothing in this section shall allow courtesy vehicles to engage or pick up passengers and deliver them to any place other than the business location for which the vehicle permit was issued.

(b) *Driver's log book.* A log book shall be kept in each vehicle showing the name of each passenger to be picked up at the airport and the scheduled arrival time of such passenger's arriving flight. Upon request of the airport director or authorized representative, any police officer, or airport operations officer, the driver of a courtesy vehicle shall offer for inspection said log book.

(c) *Departure.* Courtesy vehicle may remain on the airport only so long as necessary to discharge or pick up passengers who have previously made a specific reservation for such vehicle service prior to the vehicle entering onto the airport or as allowed in other parts of this division. Vehicles shall depart from the airport immediately upon loading their scheduled passengers.

(d) *Loading zone.* Courtesy vehicles shall load and unload passengers and baggage only at areas designated by the airport director or authorized representative.

(e) *Soliciting.*

(1) Drivers and/or representatives of courtesy vehicles shall be prohibited from solicitation of business or passengers in any manner whatsoever upon the airport. The operations of such vehicles, drivers, or representatives shall be specifically limited to the pickup and delivery of passengers as allowed by this division.

(2) Paging or announcements of the availability of courtesy vehicle service on the airport public address system is prohibited, except as authorized by the airport director. Silent paging is available by passenger name only when the vehicle is being attended.

(3) Drivers and/or representatives of courtesy vehicles shall remain with the vehicle or stand immediately adjacent to it. Such persons may assist the passengers with their baggage if requested by the passenger. Drivers shall not stand or loiter inside the airport terminal while on duty.

(f) *Cruising.* Courtesy vehicles shall not cruise at the airport and shall not park or stand on airport property except as authorized by this article.

(g) *Identifying designs.* Each courtesy vehicle shall have permanently displayed on each side the company name, in printed letters not less than six (6) inches in height, and in addition may bear the company logo or other identifying designs or markings.

(Ord. No. 16-03, § 1, 8-21-03)

Secs. 7-10-182—7-10-194. - Reserved.

DIVISION 4. - LIMOUSINES

Sec. 7-10-195. - Generally.

No person shall engage in operating a limousine upon the airport except as provided by this division and shall observe all other rules, regulations, and codes as may be required by the City of Pensacola. Permits issued under this division shall not be deemed to represent a contract with the airport or City of Pensacola.

(Ord. No. 16-03, § 1, 8-21-03)

Sec. 7-10-196. - Regulation of limousines at airport.

The following regulations are hereby adopted as being applicable to limousines and the operation of limousines:

(1) *General.* Operation of any limousine shall be allowed only by a valid airport permit which includes a color-coded decal as required by this article. Holders of such permits shall observe all rules and regulations of this article in addition to those established by other provisions of the Code of the City of Pensacola, Florida.

(2) *Permit fee.* An annual fee of two hundred forty dollars ($240.00) is hereby established for each limousine for the privilege of conducting business at the airport. Fees shall be paid in advance by the operator of each limousine doing business under its authority. A temporary airport permit is available for a maximum thirty-day (30) period. The fee for such permit will be forty dollars ($40.00) per thirty-day (30) period or any fraction thereof. All other requirements necessary for the issuance of the annual airport permit must be met, including minimum insurance coverage, before a temporary permit will be issued.

(3) *Issuance.* Upon full payment of licenses, permit fees, and successful completion of the vehicle safety inspection, a limousine airport permit decal shall be issued for each vehicle listed on the application form. No permit shall be issued without the operator having valid limousine licenses as may be required by the City of Pensacola.

(4) *Display.* Permit decals shall be permanently affixed to the lower right-hand corner of the front windshield and shall be clearly visible at all times. Permits shall be issued by the airport director and shall expire September 30 of each year. Only those vehicles displaying valid permit decals

will be authorized to pick up passengers at the airport. No permit or license shall be required to enter the airport and discharge passengers.

(5) *Lost or damaged permit.* In case of loss of a permit or damage beyond recognition, a duplicate permit may be obtained after payment of five dollars ($5.00) by the operator and after submission of a statement setting forth the circumstances of the loss or damage of the permit.

(6) *Transfer of permits.* Permits may be transferred to another vehicle upon proper completion of the application form, successful completion of the safety inspection and a transfer fee of twenty-five dollars ($25.00).

(7) *Permit renewal.* Application forms for yearly renewal of limousine vehicle airport permits must be submitted to the airport director at least ten (10) working days prior to expiration of the current permit. Renewal applications received after this time shall be charged a late fee of twenty dollars ($20.00).

(8) *Application form.* Each operator desiring to obtain a new airport permit or renew an existing permit shall obtain an airport permit application form and return the completed form to the airport director. Each vehicle for which a permit is requested must have all current licenses and insurance as may be required by the City of Pensacola before the airport application form will be processed. Full payment of the required airport permit fee must accompany the application form.

(9) *Inspections.* The airport director or his or her representative, police officer, or airport operations officer may inspect a limousine at any time while it is on the airport. A vehicle found to be in violation of section 7-10-31 will be required to immediately leave the airport until the noted deficiencies are corrected.

(10) *Driver's log book.* A log book shall be kept in each vehicle showing the name of each passenger to be picked up at the airport and the scheduled arrival time of such passengers arriving flight. Upon request of the airport director or authorized representative, any police officer, or airport operations officer, the driver of a limousine shall offer for inspection said log book.

(11) *Departure.* Limousines may remain on the airport only so long as necessary to discharge or pick up passengers who have previously made a specific reservation for such vehicle service prior to the vehicle entering onto the airport or as allowed in other parts of this division. Vehicles shall depart from the airport immediately upon loading their scheduled passengers.

(12) *Loading zone.* Limousines shall load and unload passengers and baggage only at areas designated by the airport director or authorized representative.

(13) *Soliciting.*

a. Drivers and/or representatives of limousines shall be prohibited from solicitation of business or passengers in any manner whatsoever upon the airport. The operations of such vehicles, drivers, or representatives shall be specifically limited to the pickup and delivery of passengers as allowed by this division.

b. Paging or announcements of the availability of limousine service on the airport public address system is prohibited except as authorized by the airport director. Silent paging is available by passenger name only when the vehicle is being attended.

c. Drivers and/or representatives of limousines shall remain with the vehicle or stand immediately adjacent to it. Such persons may assist the passengers with their baggage if requested by the passenger. When necessary for use of restroom facilities, a driver may be absent from his or her vehicle for not more than ten (10) consecutive minutes. Drivers shall not stand or loiter inside the airport terminal while on duty.

(14) *Cruising.* Limousines shall not cruise at the airport and shall not park or stand on airport property except as authorized by this article.

(Ord. No. 16-03, § 1, 8-21-03)

Secs. 7-10-197—7-10-209. - Reserved.

DIVISION 5. - SUSPENSION AND REVOCATION

Sec. 7-10-210. - Generally.

(a) *Conduct.* Drivers shall be governed by all rules, regulations, ordinances, and laws in effect at the airport and as provided for in the Code of the City of Pensacola, Florida. Drivers shall be clean and neatly dressed at all times while operating a vehicle at the airport.

(b) *Suspension.*

(1) Upon establishment of facts indicating an owner's, operator's or driver's failure to comply with the provisions of this article while at the airport, an airport safety officer or Pensacola police officer is authorized to order the person's departure from the airport, issue a citation to such person, or arrest such person for violation of the Code of the City of Pensacola, Florida. A detailed report shall be submitted to the airport director setting forth the circumstances of the ordered departure, citation or arrest.

(2) The airport director and airport operations officer are hereby given authority to suspend any vehicle airport permit issued under this article for violation of the Code of the City of Pensacola, Florida, such suspension to last for a period of not more than thirty (30) days; provided, however, that the airport director or operations officer provide the permit holder with a written statement of the reason for suspension and a reasonable opportunity to respond prior to the effective date of the suspension.

(c) *Revocation.* The airport director is given authority to recommend revocation to the mayor of any airport permit for failure to comply with the provisions of the Code of the City of Pensacola, Florida. However, a permit may not be revoked unless the operator has received reasonable notice and has an opportunity to present evidence in his or her behalf to the mayor prior to revocation. Any aggrieved permit holder may appeal the mayor's decision to the Pensacola city council.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 120, 9-9-10)

Sec. 7-10-211. - Authority of airport director to establish additional rules and regulations.

The airport director is hereby authorized to establish additional rules and regulations governing the operational procedure of vehicles conducting business at the airport, not inconsistent herewith as may be necessary and reasonable. The rules and regulations so established shall become effective on approval by the mayor, copies of which shall be placed on file with the airport director.

(Ord. No. 16-03, § 1, 8-21-03; Ord. No. 16-10, § 121, 9-9-10)

CHAPTER 7-11. WRECKERS AND WRECKER COMPANIES[14]

Footnotes:

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Cross reference— Administration, Title II; occupational licenses, Ch. 7-2; vehicles for rent to the public, Ch. 7-10; traffic and vehicles, Title XI; signs, Ch. 12-4; streets, sidewalks and other public places, Ch. 11-4; following wreckers and emergency vehicles prohibited, § 11-2-7; franchise required for certain transient services and utilities, § 7-1-1.

Sec. 7-11-1. - Definitions.

The following definitions shall apply in the interpretation and the enforcement of this chapter:

Bridge. That portion of the Pensacola Bay Bridge extending between Pensacola and Gulf Breeze, Florida, coming under the jurisdiction of the Pensacola Police Department.

Fire extinguisher. A portable fire-extinguishing unit as defined by National Board of Fire Underwriters. A minimum five (5) pound dry chemical extinguisher with Underwriters' Laboratory approval in a quick-release carrier and displaying an inspection tag or sticker which shows approval within the last twelve (12) months.

Inspection permit. A permit issued once a wrecker has met all requirements as established in this code and has passed inspection to be permanently attached to the wrecker vehicle.

Motor vehicle. Every "vehicle" which is self-propelled.

Owner. Any person who holds the legal title of a motor vehicle or who has the legal right of possession thereof.

Street. Any street, alley, public place, square or highway within the corporate limits of the city.

Vehicle. Every device in or by which any person or property is or may be transported or drawn upon a public highway, except devices moved only by human power or used exclusively upon stationary rails or tracks, and shall include trailers and semitrailers.

Wrecker. Any motor vehicle used for the purpose of towing or removing disabled or wrecked vehicles or used for the purpose of towing or removing vehicles from public or private property without the consent of the owner or other legally authorized person in control of the vehicle.

Wrecker business. The business of towing or removing disabled or wrecked vehicles on the public streets, regardless of whether the purpose of the towing is to remove, repair, wreck, store, trade or purchase such disabled or wrecked vehicles, and including the business of towing or removing vehicles from public or private property without the consent of the owner or other legally authorized person in control of the vehicle.

Wrecker company. Any person engaged in the wrecker business.

Wrecker rotation list. The rotation list of companies, prepared and used as provided in section 7-11-7 of this chapter.

Wrecker selection list. The list for selection of wrecker companies, prepared and used as provided in section 7-11-4 of this chapter.

(Code 1968, § 162-1; Ord. No. 30-93, § 1, 12-16-93; Ord. No. 11-01, § 1, 3-8-01)

Sec. 7-11-2. - Application, licenses and permits required, issuance, fees.

(a) Every wrecker company desiring to engage in the wrecker business in the city shall make application in writing, on a form provided for that purpose, to the mayor for a license and for a vehicle permit for each wrecker proposed to be operated. The application shall contain the complete business name, address, telephone number, the wrecker number and type of wrecker equipment to be operated, the owner of the company concerned, and a statement that the applicant does or does not desire to appear on the wrecker rotation list. Every application, when filed, shall be sworn to by the applicant and accompanied by such license taxes and fees as established by city ordinance. These monies shall not be returned to the applicant.

(b) No person shall operate a wrecker on the public streets of the city unless a vehicle permit for each wrecker to be used has been issued.

(c) No person shall operate a wrecker on the public streets of the city unless an inspection permit for the wrecker has been issued for the vehicle. Each inspection permit for a wrecker vehicle shall show that such wrecker has been inspected and approved under by the city, and shall be affixed securely to the inside of the window of the approved wrecker vehicle.

(d) No occupational license, vehicle permit, or inspection permit is transferable, and every license and permit shall expire at 12:00 midnight on the thirtieth day of September of the fiscal year in which issued.

(e) Each vehicle inspection shall require a fee to be paid for each vehicle inspected and this fee shall not be returned to the applicant.

(Ord. No. 30-93, § 1, 12-16-93)

Sec. 7-11-3. - Wrecker classification, equipment and insurance required.

(a) No license authorizing the operation of a wrecker business and no permit authorizing the operation of a wrecker on the streets of the city shall be issued unless every wrecker proposed to be used by the applicant complies with the following provisions and requirements. Wreckers are to be classified as either general duty wreckers or heavy duty wreckers for city code qualification, as specified:

(1) General duty wreckers:

a. Has a minimum manufacturer capacity of ten thousand (10,000) pounds gross vehicle weight;

b. Has a commercially manufactured minimum crane and winch capacity of not less than eight thousand (8,000) pounds;

c. Has a commercially manufactured power winch pulling capacity of not less than eight thousand (8,000) pounds;

d. Must be equipped with a cradle tow plate, tow sling and bar with safety chains, and/or wheel lifts;

e. If double winch constructed, both winches must be able to operate both jointly and independently;

f. If equipped with a hydraulic boom, it must elevate and extend;

g. A roll-back wrecker will qualify as long as it meets the minimum requirements of having a minimum ten thousand (10,000) pound gross vehicle weight with a sixteen-foot bed, dual wheels, and one winch with an eight thousand (8,000) pound pulling capacity, and meets all other equipment requirements;

h. Must be equipped with a brake lock system.

(2) Heavy-duty wrecker:

a. Has a minimum manufacturer capacity of not less than thirty thousand (30,000) pounds gross vehicle weight;

b. Shall be equipped with a commercially manufactured power crane and winch having a manufacturers' rating of at least fifty thousand (50,000) pounds;

c. Must be equipped with airbrakes;

d. Must have dual rear wheels;

e. Must be equipped with cable capable of withstanding the required pulling capacity.

(b) Equipment required that each wrecker must have to tow on the public streets of the city, and to be on the city maintained rotation and/or selection lists:

(1) Each vehicle must be properly equipped with clearance lights, marker lights, and an amber colored emergency light, rotor beam or strobe type, mounted in such a manner that it can be seen in all directions;

(2) Wreckers shall be kept in reasonably good appearance and shall be equipped with all fenders, doors, bumpers, and hood;

(3) One heavy duty push broom;

(4) One shovel;

(5) One axe;

(6) One crowbar or prybar;

(7) One minimum five (5) pound dry chemical fire-extinguisher or equivalent displaying a current inspection tag or sticker, performed within the last twelve (12) months;

(8) Dollies (General duty wreckers-excluding roll-backs);

(9) One set of jumper cables;

(10) One set of red triangles and signal flares;

(11) Safety chains;

(12) One four-way lug wrench; and,

(13) One pair of bolt cutters.

(c) *Liability insurance required:* Each applicant shall procure and keep in full force and effect a policy or policies of garage liability and property damage insurance issued by a casualty insurance company authorized to do business in the state, and in the standard form approved by the board of insurance commissioners and the coverage provision insuring the public from any loss or damage that may arise to any person or property by reason of the operation of a wrecker of the company including "on hook" coverage for motor vehicles while being towed or transported by the wrecker company, and providing that the amount of recovery on each wrecker shall be in the limits of not less than the following sums:

(1) For damages arising out of bodily injury to or death of one person in any one accident, one hundred thousand dollars ($100,000.00);

(2) For damages arising out of bodily injury to or death of two (2) or more persons in any one accident, three hundred thousand dollars ($300,000.00);

(3) For injury to or destruction of property in any one accident, fifty thousand dollars ($50,000.00).

The city shall be added as an additional insured to the policy or policies when the wrecker company is on any of the police department's wrecker and rotation lists.

(Ord. No. 30-93, § 1, 12-16-93)

Sec. 7-11-4. - Wrecker selection list.

(a) Police communications shall maintain a wrecker selection list. This list will include, in alphabetical or numerical order, all companies that do not own their own wrecker but may require the services of a wrecker, whether to tow their company owned vehicle or any privately owned vehicle, if designated to do so by the vehicle owner, if wrecked or disabled on the public streets of the city. The selection wrecker service shall meet all minimum requirements as specified in section 7-11-3. The authorization to be a selection wrecker for any company must be submitted to the police department in writing.

(Ord. No. 30-93, § 1, 12-16-93)

Sec. 7-11-5. - Wrecker rotation lists.

(a) If the owner of a vehicle involved in an accident or collision is physically unable to designate the wrecker company desired or refuses to designate one, the investigating officer shall communicate that fact immediately to police department headquarters. The police department shall keep separate master wrecker rotation lists for general use, bridge rotation, and heavy-duty rotation. The wrecker rotation lists will be in numerical inspection order and will include all wrecker companies which:

(1) Have been issued a vehicle permit and inspection permit;

(2) Have applied to be on such lists;

(3) Maintain twenty-four (24) hour wrecker service with wreckers;

(4) Must meet all special and minimum requirements as herein established.

(b) General wrecker rotation list requirements: All minimum requirements for the general-duty wreckers and equipment will apply.

(c) Heavy-duty wrecker rotation list requirements: Wreckers qualified, as defined in section 7-11-3(a)(2) to tow heavy-duty trucks and vehicles, and equipment requirements will apply.

(d) Bridge rotation list requirements: Due to unusual circumstances arising from Pensacola Bay Bridge traffic and restraints, wrecker companies desiring to be on the bridge rotation list must be able to conform to the special requirements as follows:

(1) Maintain a response time to all calls within fifteen (15) minutes from the location of the wrecker business to the Pensacola Bay Bridge on a twenty-four (24) hour basis. Response time will be measured from the time the wrecker company receives the call from police communications until the wrecker arrives on the scene.

(2) Maintain a place of business, as defined in section 7-11-12, within five (5) miles of the Pensacola Bay Bridge.

(3) Comply with all other provisions of this chapter and as stated for the general rotation list.

(e) On receiving the first communication, the dispatcher receiving the communication at police headquarters shall call the first wrecker company on the list to tow the disabled vehicle and remove the same from the public streets of the city. If a wrecker belonging to the wrecker company receiving the communication fails to arrive at the scene of the accident within thirty (30) minutes for general wrecker rotation and heavy-duty or fifteen (15) minutes for a bridge rotation call, the investigating officer shall notify police headquarters. The first wrecker called shall be canceled and the next wrecker on the rotation list called. The wrecker whose call was canceled shall be placed in the last position on the rotation list. In each succeeding communication of the inability or refusal of the owner to designate a wrecker, the next company on the list shall be called, and proper notation of each call shall be made on the individual master wrecker card.

(f) When responding to a rotation call, each business shall charge as a wrecker towing fee an amount that is fair and reasonable, but in no instance to exceed eighty-five dollars ($85.00) for towing disabled vehicles on the streets of the city, when the vehicle requires only the normal wrecker services. In addition, companies required to store vehicles at their facilities shall charge as a storage fee an amount that is fair and reasonable, but in no instance to exceed ten dollars ($10.00) per day. Failure to comply will cause the wrecker business to be removed from the master wrecker rotation lists kept at police headquarters.

(g) Requests for voluntary removal from any of the wrecker rotation lists require a written statement to be submitted to the police department before removal from any of the lists.

(Ord. No. 30-93, § 1, 12-16-93; Ord. No. 43-96, § 1, 9-12-96; Ord. No. 36-97, § 1, 10-23-97; Ord. No. 11-01, § 2, 3-8-01)

Sec. 7-11-6. - Bills; billing procedure.

Each wrecker company licensed to operate within the city shall have prepared billheads with the name and address of the wrecker company printed thereon. The operator of a wrecker, before removing a disabled vehicle, shall prepare a bill on the billhead form showing total amount charged for towing service, in triplicate, a copy of which shall be given to the owner of the disabled vehicle or his or her authorized representative, one copy attached to the law enforcement report and the original retained by the owner of the wrecker.

(Code 1968, § 162-15; Ord. No. 30-93, § 1, 12-16-93)

Sec. 7-11-7. - Recommendation of wrecker service by police prohibited.

The City shall not recommend to any person the name of any particular person engaged in the wrecker service or repair business, nor shall it influence or attempt to influence in any manner the decision of any person in choosing or selecting a wrecker or repair service. Provided, any police officer, in the exercise of his or her discretion as a police officer, may direct that any vehicle, whether towed by a wrecker selected by the owner of the vehicle or from the wrecker rotation list, shall be taken by the driver of the wrecker towing the vehicle directly to the police headquarters and there held by the city for any lawful purpose.

(Code 1968, § 162-10; Ord. No. 30-93, § 1, 12-16-93)

Sec. 7-11-8. - Solicitation at scene of wreck or disablement prohibited; prima facie evidence.

No person shall solicit in any manner, directly or indirectly, on the streets of the city, the business of towing any vehicle which is wrecked or disabled on a public street, regardless of whether the solicitation is for the purpose of soliciting the business of towing, removing, repairing, wrecking, storing, trading or purchasing the vehicle. Proof of the presence of any person engaged in the wrecker business or the presence of any wrecker or motor vehicle owned or operated by any person engaged in the wrecker business, either as owner, operator, employee or agent, on any public street in the city, at or near the scene or site of a wreck, accident or collision within one hour after the happening of a wreck, accident or collision, shall be prima facie evidence of solicitation in violation of this section.

(Code 1968, § 162-13; Ord. No. 30-93, § 1, 12-16-93)

Sec. 7-11-9. - Wrecker attending accident prohibited unless summoned by police; exception.

No person shall drive a wrecker to or near the scene or site of an accident or collision on the streets of the city unless the person has been called to the scene by the police department of the city; provided, when it is necessary to prevent death or bodily injury to any person involved in an accident or collision, the prohibition of this section shall be inapplicable.

(Code 1968, § 162-6; Ord. No. 30-93, § 1, 12-16-93)

Sec. 7-11-10. - Intercepting or divulging certain radio messages prohibited.

No person shall intercept any message emanating through the police radios communications system or shall divulge or publish the existence, contents, substance, purpose, effect or meaning of the

intercepted communication; and no person, not being entitled thereto, shall receive or assist in receiving any such message and use the same, or any information therein contained, for his own benefit or for the benefit of another person.

(Code 1968, § 162-14; Ord. No. 30-93, § 1, 12-16-93)

Sec. 7-11-11. - Wreckers not emergency vehicles.

It is hereby declared and determined that wrecker vehicles are not emergency vehicles, and such wreckers shall comply strictly with all ordinances relating to motor vehicles.

(Code 1968, § 162-11; Ord. No. 30-93, § 1, 12-16-93)

Sec. 7-11-12. - General information, required.

(a) The wrecker business may not assign, transfer, pledge, surrender, or otherwise encumber or dispose of his or her approval under these rules or his or her place on the rotation lists.

(b) To ensure uniformity in qualifying for a position on any of the wrecker rotation lists, each wrecker business must comply with the following requirements for their place of business, for each position on rotation:

(1) The business must have a sign that identifies it to the public as a wrecker establishment;

(2) The place of business must maintain its own office space;

(3) The office must have personnel on duty at the office location, from at least 9:00 a.m. to 5:00 p.m., Monday through Friday, to answer calls from the police department and to serve the public;

(4) Must maintain its own telephone to answer calls;

(5) Must maintain at least one tow truck at that place of business;

(6) Must have the tow truck lettered as specified:

a. The wrecker vehicles must have the complete business name, address, and telephone number professionally lettered in contrasting colors on each side of the vehicle;

b. The business name shall be in letters at least three (3) inches high;

c. The business address and telephone number shall be at least three (3) inches high;

d. Lettering must be permanently affixed to the vehicle. Magnetic or removable signs do not meet code requirements;

e. The individual wrecker number shall be affixed on both sides of the cab in numbers at least three (3) inches high and of contrasting color.

(c) Wrecker vehicle operators are required to have a valid commercial driver's license in their possession at all times while operating the wrecker as required by Section 322.03, Florida State Statutes.

(Ord. No. 30-93, § 1, 12-16-93)

Sec. 7-11-13. - Grounds for denial, removal or suspension from rotation lists.

(a) The following are grounds for denial, removal or suspension of a wrecker company from any of the rotation lists:

(1) Failure to comply with any of the provisions of this code or to pass an annual inspection;

(2) Chasing or running wrecks without proper call from the police department;

(3) Soliciting at the scene of an accident by the wrecker operator, his or her driver or agent;

(4) Failure to answer a call three (3) times within a three (3) month period or failure to respond in the requested time while in service;

(5) Refusal to answer a call without a valid reason;

(6) Inability of an operator or his or her driver to properly operate the tow truck in the removal of disabled vehicles or to remove a vehicle without causing additional damage;

(7) Failure to comply with the rate requirements as established by city code;

(8) Pulling a wrecked or damaged vehicle without it having been investigated or cleared by a proper law enforcement agency.

(b) Administrative procedures for removal or suspension from the rotation lists shall be established by the chief of police.

(Ord. No. 30-93, § 1, 12-16-93) Sec. 7-11-14. - Reserved.

Editor's note— Ord. No. 25-09, § 1, adopted July 9, 2009, repealed § 7-11-14, which pertained to the removal of vehicles from private property without owner consent from Ord. No. 11-01, § 3, adopted March 8, 2001.

Sec. 7-12-1. - Establishment of dockless shared micromobility device pilot program.

The purpose of this chapter is to establish, permit and regulate a dockless shared micromobility device pilot program in the City of Pensacola. The provisions of this chapter shall apply to the dockless shared micromobility device pilot program and dockless shared micromobility devices. For the purpose of this chapter, the applicant, managing agent or vendor, and owner shall be jointly and severally liable for complying with the provisions of this chapter, the operating agreement and permit.

(Ord. No. 17-19, § 1, 9-12-19)

Sec. 7-12-2. - Definitions.

For purposes of this chapter, the following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section. The definitions in F.S. Ch. 316 apply to this chapter and are hereby incorporated by reference.

Dockless shared micromobility device (micromobility device) means a micromobility device made available for shared use or rent to individuals on a short-term basis for a price or fee.

Dockless shared micromobility device system means a system generally, in which dockless shared micromobility devices are made available for shared use or rent to individuals on a short-term basis for a price or fee.

Geofencing means the use of GPS or RFID technology to create a virtual geographic boundary, enabling software to trigger a response when a mobile device enters or leaves a particular area.

Micromobility device shall have the meaning ascribed to it in F.S. § 316.003, as amended. Micromobility device(s) are further defined as a vehicle that is powered by a motor with or without a seat or saddle for the use of the rider, which is designed to travel on not more than three (3) wheels and which is not capable of propelling the vehicle at a speed greater than twenty (20) miles per hour on level ground.

Motorized scooter means any vehicle or micromobility device that is powered by a motor with or without a seat or saddle for the use of the rider, which is designed to travel on not more than three (3) wheels, and which is not capable of propelling the vehicle at a speed greater than twenty (20) miles per hour on level ground.

Pedestrian means people utilizing sidewalks, sidewalk area or rights-of-way on foot and shall include people using wheelchairs or other ADA-compliant devices.

Rebalancing means the process by which shared micromobility devices, or other devices, are redistributed to ensure their availability throughout a service area and to prevent excessive buildup of micromobility devices or other similar devices.

Relocate or *relocating* or *removal* means the process by which the city moves the micromobility device and either secures it at a designated location or places it at a proper distribution point.

Rights-of-way means land in which the city owns the fee or has an easement devoted to or required for use as a transportation facility and may lawfully grant access pursuant to applicable law, and includes the surface, the air space over the surface and the area below the surface of such rights-of-way.

Service area means the geographical area within the city where the vendor is authorized to offer shared micromobility device service for its users/customers as defined by the pilot program operating agreement and permit.

Sidewalk means that portion of a street between the curb line, or the lateral line, of a roadway and the adjacent property lines, intended for use by pedestrians.

Sidewalk area(s) includes trail in the area of a sidewalk, as well as the sidewalk and may be a median strip or a strip of vegetation, grass or bushes or trees or street furniture or a combination of these between the curb line of the roadway and the adjacent property.

User means a person who uses a digital network in order to obtain a micromobility device from a vendor.

Vendor means any entity that owns, operates, redistributes, or rebalances micromobility devices, and deploys a shared micromobility device system within the city.

(Ord. No. 17-19, § 2, 9-12-19)

Sec. 7-12-3. - Pilot program for shared micromobility devices on public rights-of- way; establishment; criteria.

(a) The city hereby establishes a twelve-month shared micromobility device pilot program for the operation of shared micromobility devices on sidewalks and sidewalk areas within the city limits.

(b) It is anticipated the pilot program will commence on January 1, 2020, or on such other date as directed by the city council ("commencement date"), and will terminate twelve (12) months after the commencement date.

(c) Shared micromobility devices shall not be operated in the city unless a vendor has entered into a fully executed operating license agreement and permit ("pilot program operating agreement and permit") with the city. The mayor is authorized to develop, and execute, the pilot program operating agreement and permit and any other documents related to the pilot program.

(d) If two (2) or more shared micromobility devices from a vendor, without a valid pilot program operating agreement and permit with the city, are found at a particular location within the city, it will be presumed that they have been deployed by that vendor, and it will be presumed the vendor is in violation of this chapter and the shared micromobility devices are subject to impoundment.

(e) A vendor shall apply to participate in the pilot program. The mayor shall select up to two (2) vendors to participate in the pilot program, unless otherwise directed by the city council.

(f) No more than a total of five hundred (500) micromobility devices, distributed equally among the vendors selected to participate in the pilot program, or as directed by the mayor, will be permitted to operate within the city during the pilot program. Micromobility devices that are impounded or removed by the city shall count towards the maximum permitted micromobility devices authorized within the city.

(g) Once selected as a pilot program participant, a vendor shall submit a one-time, non-refundable permit fee of five hundred dollars ($500.00), prior to entering into the pilot program operating agreement and permit, which shall be used to assist with offsetting costs to the city related to administration and enforcement of this chapter and the pilot program.

(h) In addition to the non-refundable permit fee set forth herein, prior to entering into the pilot program operating agreement and permit, a vendor shall remit to the city a one-time, non-refundable fee in the amount of one hundred dollars ($100.00) per device deployed by the vendor.

(i) Prior to entering into a pilot program operating agreement and permit, a vendor shall, at its own expense, obtain and file with the city a performance bond in the amount of no less than ten thousand dollars ($10,000.00). The performance bond shall serve to guarantee proper performance under the requirements of this chapter and the pilot program operating agreement and permit; restore damage to the city's rights-of-way; and secure and enable city to recover all costs or fines permitted under this chapter if the vendor fails to comply with such costs or fines. The performance bond must name the city as obligee and be conditioned upon the full and faithful compliance by the vendor with all requirements, duties and obligations imposed by this chapter and the pilot program operating agreement and permit. The performance bond shall be in a form acceptable to the city and must be issued by a surety having an A.M. Best A-VII rating or better and duly authorized to do business in the State of Florida. The city's right to recover under the performance bond shall be in addition to all other rights of the city, whether reserved in this chapter, or authorized by other law, and no action, proceeding or exercise of a right with respect to the performance bond will affect or preclude any other right the city may have. Any proceeds recovered under the performance bond may be used to reimburse the city for such additional expenses as may be incurred by the city as a result of the failure of the vendor to comply with the responsibilities imposed by this chapter, including, but not limited to, attorney's fees and costs of any action or proceeding and the cost to relocate any micromobility device and any unpaid violation fines.

(j) The pilot program operating agreement and permit will be effective for a twelve-month period and will automatically expire at the end of the twelve-month period, unless extended, or otherwise modified, by the city council. Upon expiration of the pilot program, vendors shall immediately cease operations and, within two (2) business days of the expiration of the pilot program, vendors shall remove all micromobility devices from the city, unless otherwise directed by the mayor. Failure to remove all micromobility devices within the two (2) business day timeframe, may result in the impoundment of the micromobility devices and the vendor will have to pay applicable fees to recover the micromobility devices from impound in accordance with this chapter.

(k) In the event the pilot program is extended, or otherwise modified by the city council, the pilot program operating agreement and permit may be extended consistent with such direction.

(l) Upon expiration of the pilot program, micromobility devices shall not be permitted to operate within the city until and unless the city council adopts an ordinance authorizing the same.

(Ord. No. 17-19, § 3, 9-12-19)

Sec. 7-12-4. - Operation of a dockless shared micromobility device system—Vendors' responsibilities and obligations; micromobility device specifications.

(a) The vendor of a shared micromobility device system is responsible for maintenance of each shared micromobility device.

(b) The micromobility device shall be restricted to a maximum speed of fifteen (15) miles per hour within the city.

(c) Each micromobility device shall prominently display the vendor's company name and contact information, which may be satisfied by printing the company's uniform resource locator (URL) or providing a code to download the company's mobile application.

(d) Vendors must comply with all applicable local, state and federal regulations and laws.

(e) Vendors must provide to the city an emergency preparedness plan that details where the micromobility devices will be located and the amount of time it will take to secure all micromobility devices once a tropical storm or hurricane warning has been issued by the National Weather Service. The vendor must promptly secure, all micromobility devices within twelve (12) hours of an active tropical storm warning or hurricane warning issued by the National Weather Service. Following the tropical storm or hurricane, the city will notify the vendor when, and where, it is safe to redistribute the micromobility devices within the city.

(f) Micromobility devices that are inoperable/damaged, improperly parked, blocking ADA accessibility or do not comply with this chapter must be removed by the vendor within one (1) hour upon receipt of a complaint. An inoperable or damaged micromobility device is one that has non-functioning features or is missing components. A micromobility device that is not removed within this timeframe is subject to impoundment and any applicable impoundment fees, code enforcement fines, or penalties.

(g) Vendors shall provide the city with data as required in the pilot program operating agreement and permit.

(h) Vendors must provide details on how users can utilize the micromobility device without a smartphone.

(i) Vendors must rebalance the micromobility devices daily based on the use within each service area as defined by the pilot program operating agreement and permit to prevent excessive buildup of units in certain locations.

(j) The vendor's mobile application and website must inform users of how to safely and legally ride a micromobility device.

(k) The vendor's mobile application must clearly direct users to customer support mechanisms, including but not limited to phone numbers or websites. The vendor must provide a staffed, toll-free customer service line which must provide support twenty-four (24) hours per day, three hundred sixty-five (365) days per year.

(l) The vendor must provide a direct customer service or operations staff contact to city department staff.

(m) All micromobility devices shall comply with the lighting standards set forth in F.S. § 316.2065(7), as may be amended or revised, which requires a reflective front white light visible from a distance of at least five hundred (500) feet and a reflective rear red light visible from a distance of at least six hundred (600) feet.

(n) All micromobility devices shall be equipped with GPS, cell phone or a comparable technology for the purpose of tracking.

(o) All micromobility devices must include a kickstand capable of keeping the unit upright when not in use.

(p) The only signage allowed on a micromobility device is to identify the vendor. Third-party advertising is not allowed on any micromobility device.

(q) The mayor, at his or her discretion, may create geofenced areas where the micromobility devices shall not be utilized or parked. The vendor must have the technology available to operate these requirements upon request.

(r) The mayor, at his or her discretion, may create designated parking zones (i.e., bike corrals) in certain areas where the micromobility devices shall be parked.

(Ord. No. 17-19, § 4, 9-12-19)

Sec. 7-12-5. - Operation and parking of a micromobility device.

(a) The riding and operating of micromobility devices and motorized scooters is permissible upon all sidewalks, sidewalk areas and other areas a bicycle may legally travel, located within city limits, except those areas listed below:

(1) Micromobility devices and motorized scooters are prohibited from operating or parking at all times on streets, sidewalks, bike paths or sidewalk street areas on Palafox Street between Wright and Pine Streets;

(2) Micro micromobility devices and motorized scooters are prohibited from operating at all times on sidewalks along DeVilliers Street between Gregory and Jackson Streets;

(3) Veterans Memorial Park as designated by signage;

(4) Where prohibited by official posting; or

(5) As designated in the pilot program operating agreement and permit.

(b) A user of a micromobility device and motorized scooter has all the rights and duties applicable to the rider of a bicycle under F.S. § 316.2065, except the duties imposed by F.S. §§ 316.2065(2), (3)(b) and (3)(c), which by their nature do not apply to micromobility devices and motorized scooters.

(c) Micromobility devices and motorized scooters shall be restricted to a maximum speed of fifteen (15) miles per hour.

(d) A user operating a micromobility device and motorized scooter upon and along a sidewalk, sidewalk area, or across a roadway upon and along a crosswalk, has all the rights and duties applicable to a bicyclist under the same circumstances and shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

(e) A user operating a micromobility device and motorized scooter must comply with all applicable local, state and federal laws.

(f) Use of public sidewalks for parking micromobility devices and motorized scooters:

(1) Adversely affect the streets or sidewalks.

(2) Inhibit pedestrian movement.

(3) Inhibit the ingress and egress of vehicles parked on- or off-street.

(4) Create conditions which are a threat to public safety and security.

(5) Prevent a minimum four-foot pedestrian clear path.

(6) Impede access to existing docking stations, if applicable.

(7) Impede loading zones, handicap accessible parking zone or other facilities specifically designated for handicap accessibility, on-street parking spots, curb ramps, business or residential entryways, driveways, travel lanes, bicycle lanes or be within fifteen (15) feet of a fire hydrant.

(8) Violate Americans with Disabilities Act (ADA) accessibility requirements.

(Ord. No. 17-19, § 5, 9-12-19)

Sec. 7-12-6. - Impoundment; removal or relocating by the city.

(a) Any shared micromobility device that is inoperable/damaged, improperly parked, blocking ADA accessibility, does not comply with this chapter or are left unattended on public property, including sidewalks, sidewalk areas, rights-of-way and parks, may be impounded, removed, or relocated by the city. A shared rental micromobility device is not considered unattended if it is secured in a designated parking area, rack (if applicable), parked correctly or in another location or device intended for the purpose of securing such device.

(b) Any micromobility device that is displayed, offered, made available for rent in the city by a vendor without a valid pilot program operating agreement and permit with the city is subject to impoundment or removal by the city and will be subject to applicable impoundment fees or removal fines as specified in this chapter.

(c) The city may, but is not obligated to, remove or relocate a micromobility device that is in violation of this chapter. A vendor shall pay a seventy-five dollars ($75.00) fee per device that is removed or relocated by the city.

(d) Impoundment shall occur in accordance with F.S. § 713.78. The vendor shall be solely responsible for all expenses, towing fees and costs required by the towing company to retrieve any impounded

micromobility device(s). The vendor of a micromobility device impounded under this chapter will be subject to all liens and terms described under F.S. § 713.78, in addition to payment of all applicable penalties, costs, fines or fees that are due in accordance with this chapter and applicable local, state and federal law.

(Ord. No. 17-19, § 6, 9-12-19)

Sec. 7-12-7. - Operation of a shared micromobility device program—Enforcement, fees, fines and penalties.

(a) The city reserves the right to revoke any pilot program operating agreement and permit, if there is a violation of this chapter, the pilot program operating agreement and permit, public health, safety or general welfare, or for other good and sufficient cause as determined by the city in its sole discretion.

(b) Violations of sections 7-12-1 through 7-12-9 shall be enforced as non-criminal violations of city ordinances.

(c) Violations of operating a shared micromobility device system without a valid fully executed pilot program operating agreement and permit, shall be fined two hundred fifty dollars ($250.00) per day for an initial offense, and five hundred dollars ($500.00) per day for any repeat offenses within thirty (30) days of the last offense by the same vendor. Each day of non-compliance shall be a separate offense.

(d) Violations of this chapter or of the pilot program operating agreement and permit shall be fined at one hundred dollars ($100.00) per device per day for an initial offense, and two hundred dollars ($200.00) per device per day for any repeat offenses within thirty (30) days of the last same offense by the same vendor. Each day of non-compliance shall be a separate offense.

(e) The following fees, costs and fines shall apply to vendors:

(i)	Pilot program permit fee	$500.00 - non-refundable
(ii)	Performance bond	$10,000.00 minimum
(iii)	One time per unit fee	$100.00 per unit - non-refundable
(iv)	Removal or relocation by the city	$75.00 per device the city fee
(v)	Operating without a valid operating agreement and permit fine	$250.00 per day; $500.00 per day for second offense
(vi)	Permit violation fine	$100.00 per device per day; $200.00 per device per day for second offense

(f) At the discretion of the mayor, a vendor is subject to a fleet size reduction or total pilot program operating agreement and permit revocation should the following occur:

(1) If the violations of the regulations set forth in this chapter are not addressed in a timely manner; or

(2) Fifteen (15) unaddressed violations of the regulations set forth by this chapter within a thirty-day period; or

(3) Submission of inaccurate or fraudulent data.

(g) In the event of fines being assessed as specified herein or a pilot program operating agreement and permit revocation, the mayor shall provide written notice of the fines or revocation via certified mail or other method specified upon in the operating user agreement, informing the vendor of the violation fines or revocation.

(Ord. No. 17-19, § 7, 9-12-19; Res. No. 2019-58, § 1, 10-10-19)

Sec. 7-12-8. - Appeal rights.

(a) Vendors who have been subject to the imposition of violation fines pursuant to section 13-2-2 or a pilot program operating agreement and permit revocation may appeal the imposition of violation fines or the revocation. Should a vendor seek an appeal from the imposition of violation fines or the pilot program operating agreement and permit revocation, the vendor shall furnish notice of such request for appeal to the city code enforcement authority no later than ten (10) business days from the date of receipt of the certified letter informing the vendor of the imposition of violation fines or revocation of the pilot program operating agreement and permit.

(b) Upon receipt of a notice of appeal, a hearing shall be scheduled and conducted by the special magistrate in accordance with the authority and hearing procedures set forth in the section 13-1-6. The hearing shall be conducted at the next regular meeting date of the code enforcement authority or other meeting date of the code enforcement authority as agreed between the city and the vendor.

(c) Findings of fact shall be based upon a preponderance of the evidence and shall be based exclusively on the evidence of record and on matters officially recognized.

(d) The special magistrate shall render a final order within thirty (30) calendar days after the hearing concludes, unless the parties waive the time requirement. The final order shall contain written findings of fact, conclusions of law, and a recommendation to approve, approve with conditions or deny the decision subject to appeal. A copy of the final order shall be provided to the parties by certified mail or, upon mutual agreement of the parties, by electronic communication.

(e) A vendor may challenge the final order by a certiorari appeal filed in accordance with Florida law with the circuit court no later than thirty (30) days following rendition of the final decision or in any court having jurisdiction.

(Ord. No. 17-19, § 8, 9-12-19)

Sec. 7-12-9. - Indemnification and insurance.

(a) As a condition of the pilot program operating agreement and permit, the vendor agrees to indemnify, hold harmless and defend the city, its representatives, employees, and elected and appointed officials, from and against all ADA accessibility and any and all liability, claims, damages, suits, losses, and expenses of any kind, including reasonable attorney's fees and costs for appeal, associated with or arising out of, or from the pilot program operating agreement and permit, the use of right-of-way or city-owned property for pilot program operations or arising from any negligent act, omission or error of the vendor, owner or, managing agent, its agents or employees or from failure of the vendor, its agents or employees, to comply with each and every requirement of this chapter, the pilot program operating agreement and permit or with any other federal, state, or local traffic law or any combination of same.

(b) Prior to commencing operation in the pilot program, the vendor shall provide and maintain such liability insurance, property damage insurance and other specified coverages in amounts and types

as determined by the city and contained in the pilot program operating agreement and permit, necessary to protect the city its representatives, employees, and elected and appointed officials, from all claims and damage to property or bodily injury, including death, which may arise from any aspect of the pilot program or its operation.

(c) A vendor shall include language in their user agreement that requires, to the fullest extent permitted by law, the user to fully release, indemnify and hold harmless the city.

(d) In addition to the requirements set forth herein, the vendor shall provide any additional insurance coverages in the specified amounts and comply with any revised indemnification provision specified in the pilot program operating agreement and permit.

(e) The vendor shall provide proof of all required insurance prior to receiving a fully executed pilot program operating agreement and permit.

(Ord. No. 17-19, § 9, 9-12-19)

CHAPTER 7-14. FEES[17]

Footnotes:

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Editor's note— The provisions of inadvertently repealed Ch. 12-7 were reenacted by § 4 or Ord. No. 27-92, adopted Aug. 13, 1992, and redesignated at the direction of the city as Ch. 7-14.

Ord. No. 27-85, §§ 1—3, adopted Sept. 26. 1985, amended §§ 7-14-2—7-14-5 of Ch. 7-14, and set out additional provisions which the editors have designated §§ 7-14-6—7-14-9 herein. Ord. No. 20-86, § 1, adopted July 10, 1986 also amended and restated the above-described sections.

Subsequently, Ord. No. 35-07, § 1, adopted July 12, 2007, provided for the amendment of Ch. 7-14 to read as herein set out. See the Code Comparative Table for a detailed analysis of inclusion.

Cross reference— Administration, Title II; occupational licenses, Ch. 7-2; buildings an building regulations, Ch. 7-13; zoning districts, Ch. 12-2; signs, Ch. 12-4; subdivisions, Ch. 12-8; airport zoning, Ch. 12-11; administration and enforcement, Ch. 12-12; boards and commissions, Ch. 12-13; buildings, construction and fire codes, Title XIV.

Sec. 7-14-1. - Planning and zoning fees.

The following fees to be charged by the city for development plan review, amendments, vacations of streets and alleys, subdivision plats, and division of land requiring a boundary survey shall be collected by the city as hereinafter set forth, and said fees shall be paid before the beginning of any administrative process required for said activities.

(a) *Planning and development services plan review fees:* The applicant for development plan review for the following activities shall at the time of application pay the following fees:

Table 7-14.1

	Fee	Review Board Rehearing/Rescheduling Fee	City Council Rehearing/Rescheduling Fee

Boundary Survey for Two Lot Division	750.00	NA	NA
Preliminary Subdivision Plat	1000.00	250.00	250.00
Final Subdivision Plat plus 25.00 per lot	1,500.00	250.00	250.00
Minor Subdivision (4 lots or less combined preliminary/final plat)	2,000.00	250.00	250.00
ROW Vacation	2,000.00	250.00	500.00
License to Use ROW	500.00 (minor) 1,000.00 (major)	100.00	100.00
License to Use ROW for Sandwich Board Sign	100.00	NA	NA
Rezoning Without Comprehensive Plan FLUM Amendment	2,500.00	250.00	750.00
Rezoning with Small Scale Development (less than 10 acres) Comprehensive Plan FLUM Amendment	3,500.00	250.00	750.00
Rezoning with Comprehensive Plan FLUM Amendment for Development other than Small Scale	3,500.00	250.00	1,000.00
Conditional Use	2,000.00	100.00	250.00
Site Development Plan "A" - Preliminary Development Plan	1,500.00	100.00	250.00
Site Development Plan "A" - Final Development Plan	1,500.00	250.00	250.00

Site Development Plan "A" - Combined Preliminary/Preliminary Development Plan	2,000.00	250.00	250.00
Site Development Plan "B" - Preliminary Development Plan	1,500.00	250.00	250.00
Site Development Plan "B" - Final Development Plan	1,500.00	250.00	250.00
Site Development Plan "B" - Combined Preliminary/Final Development Plan	2,000.00	250.00	250.00
Site Development Plan "C" Non-Residential Parking in a Res. Zone	1,500.00	250.00	NA
Adjacent Voluntary Annexation	0.00	NA	0.00
Appeal of Planning Board Decision To City Council (Site Plan "C" only)	250.00	NA	250.00
Home Occupation Permit	50.00	NA	NA
Zoning Letter	25.00	NA	NA
Variance	500.00	250.00	NA
Front yard averaging	150.00	NA	NA
Appeal of any order, requirement, decision, or determination made by administrative official	500.00	250.00	NA
Zoning Board of Adjustment Interpretation for Historic and North Hill Preservation Districts (for uses not expressly permitted)	300.00	300.00	NA
Historic Preservation District Staff	0.00	NA	NA

Abbreviated Review			
Historic Preservation District Residential Site Plan-Homestead	50.00	25.00	NA
Historic Preservation District Non-Homestead or Commercial Site Plan	250.00	125.00	NA
Historic Preservation District Variance	500.00	250.00	NA
Appeal of Architectural Review Board Decision to City Council	500.00	NA	250.00
Historic Preservation District Architectural Review Board Abbreviated Review	25.00	NA	NA
Gateway Redevelopment District Residential Site Plan Review	50.00	25.00	NA
Gateway Redevelopment District Commercial Site Plan Review	250.00	125.00	NA
Gateway Redevelopment District Abbreviated Review	25.00	0.00	NA
Appeal of Gateway Redevelopment District Decision to City Council	500.00	NA	250.00
Alcoholic Beverage License Certificate of Compliance	250.00	NA	NA
Appeal of Alcoholic Beverage License Certificate of Compliance to City Council	250.00	NA	250.00
Alcoholic Beverage License Extension of Premises	25.00	NA	NA

Adult Entertainment Establishment License	400.00	NA	NA

Notes:

Site Plan "A"

- Special Planned Developments
- Major revisions to SSD's
- Exceptions to the four thousand (4,000) sq. ft. maximum area for a commercial use in an R-NC district

Site Plan "B"

- Conservation district (CO)
- Airport district—All private, nonaviation related development in the ARZ zone and all developments except single-family in an approved subdivision in the ATZ-1 and AZT-2 zones
- Waterfront Redevelopment district (WRD)
- South Palafox Business district (SPBD)
- Interstate Corridor district (IC)
- Multi family developments over thirty-five (35) feet in height within the R-2A district;
- Buildings over forty-five (45) feet in height in the R-2, R-NC and C-1 districts.

Site Plan "C"

- Non-residential parking in a residential zone

(b) Any fee paid in order to appeal from an allegedly erroneous decision by the city shall be refunded to the applicant in the event that the appropriate board determines that the applicant has prevailed in the appeal.

(c) When a boundary survey, preliminary plat, final plat, combined preliminary/final plat or any site development plan is denied because it does not comply with subdivision or development requirements a plan re-submittal fee of one-half (½) the initial fee shall be paid.

(Ord. No. 35-07, § 1, 7-12-07; Ord. No. 24-09, § 1, 7-9-09; Ord. No. 26-11, § 1, 9-22-11)

Sec. 7-14-2. - Permit fees.

The following permit fees to be charged by the city for buildings, signs, manufactured buildings, mobile homes, swimming pools, television and radio antennas, roofing, moving or demolition of buildings or structures, electrical, plumbing, gas, mechanical, fire suppression and alarm system installations, penalties for starting work without a permit, and field inspection for business license certificate of occupancy shall be collected by the inspection services department for all work done within the city, as outlined below, and said fees shall be paid before the beginning of any construction or alteration as hereinafter set forth:

The applicant for any permit shall pay an administrative application fee of forty dollars ($40.00) in addition to the building, electrical, gas, mechanical, fire protection/prevention, and plumbing permit fees specified below. Fences, tents, temporary signs and banners shall be exempt from this fee.

(a) *Building permit fees:*

(1) The applicant for a permit for any new building or structure, for any additions to an existing building or structure or portion thereof, shall, at the time of having made application and issuance of the permit, pay for each and every building or structure fifteen cents ($0.15) per square foot based on the square footage of gross floor area of such work. Minimum permit fees will also be based upon the number of required inspections times the minimum inspection fee of fifty dollars ($50.00) when the square footage is such that the square footage cost will not cover the cost of inspections.

(2) For remodeling, repairs or modifications of existing buildings or structures for which a gross floor area cannot be measured and for which a specific fee is not indicated, the fee shall be at the rate of seven dollars fifty cents ($7.50) per one thousand dollars ($1,000.00) of the estimated total cost of labor and materials for the work for which the permit is requested, i.e., excluding only subcontractor work that will be permitted separately.

(3) Antennas, dish and tower, roof and ground installations:

a. Residential, including amateur "ham" units $50.00

b. Commercial: Fee to be calculated in accordance with subsection 7-14-2(a)(2).

(4) Window and door installation:

Fee to be calculated in accordance with subsection 7-14-2(a)(2).

(5) Demolition of buildings or structures 100.00

Plus one dollar ($1.00) for each one hundred (100) square feet of total gross floor space, or portion thereof, over five thousand (5,000) square feet.

(6) Fences and tents 35.00

(7) Manufactured buildings and mobile homes:

a. For plan review, foundation rough-in and final inspection, per unit 140.00

b. Each additional inspection 50.00

(8) Moving of buildings or structures:

a. From one (1) location to another within the city limits: Two hundred dollars ($200.00) plus twenty dollars ($20.00) for each mile within the city in excess of five (5) miles.

b. From outside the city limits to a location inside the city: Two hundred fifty dollars ($250.00) plus twenty-five dollars ($25.00) for each mile within the city in excess of five (5) miles.

c. For moving a building or structure through the city or from the city: Two hundred dollars ($200.00) plus twenty dollars ($20.00) for each mile within the city in excess of five (5) miles.

(9) Siding or residing structures including pre-inspection 100.00

Structural, electrical, mechanical and plumbing work required in conjunction with siding installation shall be permitted and fees charged in accordance with appropriate subsections of this chapter.

(10) Roofing, re-roofing:

a. Residential $100.00

Plus fifty ($50.00) for each additional; inspection in excess of two (2) inspections.

b. Commercial $140.00

Plus fifty ($50.00) for each additional; inspection in excess of two (2) inspections.

(11) Signs (including plan review):

a. Accessory $100.00

b. Non-accessory—Billboard-type signs, including pre-inspection $210.00

c. Temporary—Portable signs and banners $35.00

(12) Swimming pools/spas:

a. Residential $150.00

b. Commercial $300.00

Plus fifty ($50.00) for each inspection in excess of three (3).

(13) Minimum permit fee 35.00

(14) Penalty fee for work which commences prior to securing the appropriate permit or permits computed in accordance with section 7-14-6.

(b) *Electrical permit fees:*

(1) Temporary or construction pole service $50.00

(2) Minimum fee, per inspection unless noted otherwise $50.00

(3) Electrical service: (residential and commercial, including signs, generators, and service changes:

0—100 amperes $90.00

101—200 amperes $95.00

201—400 amperes $125.00

401—600 amperes $175.00

601—800 amperes $275.00

801—1,000 amperes $375.00

1,001—1,200 amperes $475.00

1,201—1,600 amperes $675.00

1,601—2,000 amperes $875.00

2,001—2,400 amperes $1,075.00

Over 2,401 amperes $1,275.00

Plus fifty cents ($0.50) per ampere over two thousand four hundred one (2,401)

(4) For sub-meters derived from main service, per meter $50.00

(5) For swimming pools, spas and hot tubs $100.00

(6) Commercial computer and communications systems including fire/security alarm systems ("system" defined as detection devices connected to a control panel), including alterations:

a. Base fee (includes two (2) inspections) $100.00

b. Each additional inspection $50.00

(7) Residential fire and security systems $50.00

(8) Penalty fee for work which commences prior to securing the appropriate permit or permits computed in accordance with section 7-14-6.

(c) *Gas installation permit fees:* The following fees shall be charged for both natural and liquid petroleum gas installations:

(1) Permit fee based upon number of inspections, per inspection $50.00

(2) Penalty fee for work which commences prior to securing the appropriate permit or permits computed in accordance with section 7-14-6.

(d) *Mechanical permit fees:*

(1) For heating, ventilation, air conditioning, and refrigeration systems: Fifty dollars ($50.00) per inspection plus three dollars ($3.00) for each ton or fraction thereof in excess of fifteen (15) tons.

(2) All other mechanical work, including, but not limited to, installation, replacement or alteration of duct work, hydraulic lifts, pumps, air compressors, refrigeration equipment, high-pressure washers, medical gas systems, extractors, boilers, incinerators etc., for each inspection $50.00

(3) Penalty fee for work which commences prior to securing the appropriate permit or permits computed in accordance with section 7-14-6.

(e) *Fire protection/prevention permit fees:*

(1) Fire sprinkler systems (includes plan review):

a. Residential (one- or two-family dwelling $170.00

b. Commercial; small, six (6) heads or less $170.00

Large $500.00

(2) Fire suppression systems (includes plan review):

a. Small, single hazard area $35.00

b. Large $210.00

(3) Fire alarm systems (includes plan review):

a. New installation, one (1) pull $35.00

b. New installation, multi-pull $85.00

c. Fire alarm inspection; small, six (6) or fewer initiating devices $90.00

d. Fire alarm inspection; large $250.00

(4) Installation of pollutant/hazardous material storage tanks:

a. Aboveground $250.00

b. Underground $250.00

(5) Removal of pollutant/hazardous material storage tank $100.00

(6) Penalty fee for work which commences prior to securing the appropriate permit or permits computed in accordance with section 7-14-6.

(f) *Plumbing permit fees:*

(1) Base fee (includes final, inspection) $50.00

Plus:

a. Additional fee for each outlet, fixture, floor drain or trap in excess of ten (10) $2.00

b. Each additional inspection $50.00

c. Sewer connection, in conjunction with new single-family dwelling $50.00

All others $50.00

(2) Plumbing permit fees for manufactured buildings/factory-built housing:

a. Base fee (including final inspection) $50.00

b. Sewer connection (each) $50.00

c. Rough-in for joining together of all components, including stack-out, for each inspection required $50.00

(3) Lawn sprinkler system installation fees:

a. Installation of valves, vacuum breakers and/or back-flow preventers and sprinkler heads to a maximum of fifty (50) $50.00

b. For each head in excess of fifty (50) add $2.00

c. Each additional inspection $50.00

(4) Solar heating system $50.00

(5) Penalty fee for work which commences prior to securing the appropriate permit or permits computed in accordance with section 7-14-6.

(Ord. No. 35-07, § 1, 7-12-07; Ord. No. 24-09, § 2, 7-9-09; Ord. No. 26-11, § 1, 9-22-11; Ord. No. 26-19, § 1, 10-24-19)

Sec. 7-14-3. - Renewal of expired permits.

A permit once issued, expires if work is not commenced within one hundred eighty (180) days of issuance or if construction or work is suspended or abandoned for a period of one hundred eighty (180) days at any time after work is commenced. To avoid permit expiration, a progress report (showing progress toward the permit) needs to be submitted in writing or an extension request needs to be submitted in writing showing justifiable cause to extend the permit prior to one hundred eighty (180) days of inactivity, otherwise the permit will expire. Extensions may be granted for one hundred eighty (180) days. The fee for renewal of expired permits shall be seventy-five (75) percent of the original fee paid if the fee is paid within thirty (30) days of the expiration date. After thirty (30) days, the full original fee is due. Beginning with the second permit renewal and subsequent renewals a five hundred dollar ($500.00) penalty will be assessed in addition to permit fees due for renewal.

(Ord. No. 26-11, § 1, 9-22-11; Ord. No. 26-19, § 2, 10-24-19)

Sec. 7-14-4. - Construction board of appeals hearing fee.

(a) The following fees shall be paid by a hearing applicant at time of application for hearing, in advance of hearing date.

Construction board of appeals hearing $300.00

(b) Any fee paid pursuant to this section in order to appeal from an allegedly erroneous decision by a member of the city staff shall be refunded to the applicant in the event that the board determines that the applicant has prevailed in the appeal.

(Ord. No. 35-07, § 1, 7-12-07; Ord. No. 26-11, § 1, 9-22-11)

Sec. 7-14-5. - Field inspection fees.

(1) Reinspection fee $50.00

(2) Inspection for temporary power prior to final inspection (includes electrical and mechanical):

For one- and two-family dwellings $50.00

For commercial and multi-family dwellings $100.00

(3) Special inspection conducted outside of normal working hours $200.00

(4) Contractor assistance $50.00

(5) Reinspection of temporary and construction electrical services $50.00

(6) Pre-inspection survey service $50.00

(7) Partial certificate of occupancy inspection .....$100.00 for 30 dayTemp C.O.

(8) Business certificate of occupancy inspection $100.00

(9) A fifty dollar ($50.00) permit fee shall be charged for tree removal and/or tree trimming in the public right-of-way or canopy road tree protection zones.

(10) Engineering "as-built" inspection fee four hundred dollars ($400.00) plus one hundred dollars ($100.00) per acre in the development site. Each fractional acre shall count as an acre. When an as-built inspection fails because improvements do not comply with approved engineering plans a re-inspection fee of one-half (½) the initial fee shall be paid. When an erosion control compliance inspection fails because erosion control measures do not comply with approved plans a re-inspection fee of two hundred fifty dollars ($250.00) shall be paid.

(11) Zoning compliance inspection fees:

(a) Zoning compliance inspection fee for one- and two-family dwellings shall be one hundred dollars ($100.00).

(b) Zoning compliance inspection fee for accessory structures and buildings and additions to existing single family dwellings shall be fifty dollars ($50.00).

(c) Zoning compliance inspection fee for all other developments shall be four hundred fifty dollars ($450.00) plus three hundred dollars ($300.00) per acre in the development site. Each fractional acre shall count as an acre.

(d) When a zoning compliance inspection of landscaping, signage, parking, building features, and similar improvements fails because improvements do not comply with approved plans a re-inspection fee of two hundred fifty dollars ($250.00) shall be paid.

(12) Overgrown lot inspection (to be added to lot cutting fee) $30.00

(Ord. No. 35-07, § 1, 7-12-07; Ord. No. 24-09, § 3, 7-9-09; Ord. No. 26-11, § 1, 9-22-11; Ord. No. 26-19, § 3, 10-24-19)

Sec. 7-14-6. - Penalty fees.

(1) For construction work which commences prior to securing the appropriate permit or permits:

   (a) First occurrence: Four (4) times the permit fee.

   (b) Second and repeat occurrence: Prosecution for Code violation.

(2) Fine for removing trees or limbs without permit: One hundred dollars ($100.00) per caliper inch of tree trunk or limb.

(3) Nothing contained herein shall be construed to prohibit the prosecution of any Code violations, regardless of the number of times such violation may have occurred, when any person continues to perform work after being warned that a permit for the work is required and has not been issued or when work continues after a stop work order has been issued. Nor shall this provision be construed to prohibit the city from seeking injunctive or other relief from Code violations.

(Ord. No. 35-07, § 1, 7-12-07; Ord. No. 26-11, § 1, 9-22-11)

Sec. 7-14-7. - Plan review fees for building code compliance.

(1) When construction plans are required, the plan review fee shall be one-half (½) the permit fee for the initial review and fifty dollars ($50.00) for the second plan review. This fee applies to each structural, electrical, mechanical and plumbing permit. However, there shall be no electrical, mechanical or plumbing plan review fee for single-family or duplex residential plans. Subsequent reviews for revised plans shall be fifty dollars ($50.00) per discipline for review.

(2) When a permit application is denied for the third and any subsequent time because the plans submitted do not comply with city and/or state codes, a plan re-submittal review fee of one-half (½) the permit fee shall be paid.

(Ord. No. 35-07, § 1, 7-12-07; Ord. No. 26-11, § 1, 9-22-11)

Sec. 7-14-8. - Site plan review fees.

(1) *Zoning review fees:*

   (a) Zoning review fee for one- and two-family dwellings shall be one hundred dollars ($100.00).

   (b) Zoning review fee for accessory structures and buildings and additions to existing single-family dwellings shall be fifty dollars ($50.00).

   (c) Zoning review fee for all other developments shall be four hundred fifty dollars ($450.00) plus three hundred dollars ($300.00) per acre in the development site. Each fractional acre shall count as an acre.

   (d) When plans are denied because they do not comply with zoning requirements a plan re-submittal fee of one-half (½) the initial fee shall be paid.

(2) E*ngineering plan review fee.* Engineering plan review fee shall be four hundred dollars ($400.00) plus one hundred dollars ($100.00) per acre in the development site. Each fractional acre shall count as an acre. When plans are denied because they do not comply with engineering requirements a plan re-submittal fee of one-half (½) the initial fee shall be paid.

(Ord. No. 35-07, § 1, 7-12-07; Ord. No. 26-11, § 1, 9-22-11)

Sec. 7-14-9. - Bayou Texar Shoreline and Escambia Bay Protection District Fees.

(1) Zoning review fee for one- and two-family dwellings located in the Bayou Texar Shoreline or Escambia Bay Protection Districts shall be three hundred dollars ($300.00). When plans are denied because they do not comply with zoning requirements a plan re-submittal fee of one-half (½) the initial fee shall be paid.

(2) Engineering plan review fee for one- and two-family dwellings located in the Bayou Texar Shoreline or Escambia Bay Protection Districts shall be two hundred dollars ($200.00). When plans are denied because they do not comply with engineering requirements a plan re-submittal fee of one-half (½) the initial fee shall be paid.

(Ord. No. 35-07, § 1, 7-12-07)

Sec. 7-14-10. - Subdivision construction plan review and inspection fees.

(1) Engineering construction plan review fee shall be five hundred dollars ($500.00) plus fifty dollars ($50.00) per lot in the subdivision. When plans are denied because they do not comply with engineering requirements a plan re-submittal fee of one-half (½) the initial fee shall be paid.

(2) Engineering "as-built" inspection fee shall be five hundred dollars ($500.00) plus fifty dollars ($50.00) per lot in the subdivision. When inspection fails because improvements do not comply with approved engineering plans a re-inspection fee of one-half (½) the initial fee shall be paid.

(Ord. No. 35-07, § 1, 7-12-07)

Sec. 7-14-11. - Driveway curb-cut right-of-way permits.

(1) *Single-family and duplex residential curb-cuts:* Seventy-five dollars ($75.00) for each driveway curb-cut permitted.

(2) *Commercial and all other development curb-cuts:* Two hundred dollars ($200.00) plus one hundred dollars ($100.00) for each additional driveway curb-cut permitted.

(Ord. No. 35-07, § 1, 7-12-07)

Sec. 7-14-12. - Miscellaneous other fees.

(1) A three dollar ($3.00) fee shall be charged for each document notarized.

(2) The fee for processing lien search requests for building permit information, building code violations, and demolition liens shall be twenty-five dollars ($25.00) per tax parcel identification number.

(Ord. No. 35-07, § 1, 7-12-07; Ord. No. 26-19, § 4, 10-24-19)

Sec. 7-14-13. - Refunds.

(1) All fees will be refunded if a permit is issued in error by the inspection services department. Otherwise, the maximum refund will exclude an amount equal to all plan review fees, an administrative fee of forty dollars ($40.00), plus a fifty dollar ($50.00) fee for each completed inspection.

(2) There will be a ten (10) percent service charge on all materials such as maps which are returned in useable condition within five (5) working days of purchase. No refunds on materials after five (5) working days.

(3) Refunds will be made by check and will not be credited toward purchase of new permit or material.

(4) No refund will be made without a receipt.

(Ord. No. 35-07, § 1, 7-12-07; Ord. No. 26-19, § 5, 10-24-19)

Section 7-15-1. Use of Fertilizer on Urban Landscapes.

(a) Legislative Findings.

As a result of impairment to the City of Pensacola's surface waters caused by excessive nutrients, or, as a result of increasing levels of nitrogen in the surface and/or groundwater within the aquifers or springs within the boundaries of the City of Pensacola, the City of Pensacola City Council has determined that the use of fertilizers on lands within City of Pensacola limits creates a risk to contributing to adverse effects on surface and/or groundwater. Accordingly, the City of Pensacola City Council finds that management measures contained in the most recent edition of the Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries, 2008, may be required by this ordinance.

(b) Purpose and Intent.

This ordinance regulates the proper use of fertilizers by any applicator; requires proper training of Commercial and Industrial Fertilizer Applicators; establishes training and licensing requirements; establishes a Prohibited Application Period; and specifies allowable fertilizer application rates and methods, fertilizer-free zones, low maintenance zones, and exemptions. The ordinance requires the use of Best Management Practices which provide specific management guidelines to minimize negative secondary and cumulative environmental effects associated with the misuse of fertilizers. These secondary and cumulative effects have been observed in and on City of Pensacola's natural and constructed stormwater conveyances, rivers, creeks, canals, springs, estuaries, and other water bodies. Collectively, these water bodies are an asset critical to the environmental, recreational, cultural, and economic well-being of the residents of the City of Pensacola and the health of the public. Overgrowth of algae and vegetation hinder the effectiveness of flood attenuation provided by natural and constructed stormwater conveyances. Regulation of nutrients, including both phosphorus and nitrogen contained in fertilizer, will help improve and maintain water and habitat quality.

(c) Definitions.

For this section 7-15, the following terms shall have the meanings set forth in herein unless the context clearly indicates otherwise.

"Administrator" means the City Administrator, or an administrative official of the City of Pensacola government designated by the City Administrator to administer and enforce the provisions of this Article.

"Application" or "Apply" means the actual physical deposit of fertilizer to turf or landscape plants.

"Applicator" means any person who applies fertilizer on turf and/or landscape plants in the City of Pensacola.

"Best management practices" means turf and landscape practices or combination of practices based on research, field-testing, and expert review, determined to be the most effective and practicable on-location means, including economic and technological

consideration, for improving water quality, conserving water supplies, and protecting natural resources.

“City of Pensacola Approved Best Management Practices Training Program” means the Florida Department of Environmental Protection’s recommended training program approved pursuant to Section 403.9338, Florida Statutes, or any more stringent requirements set forth in this section that includes the most current version of the Florida Department of Environmental Protection's Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries, 2008, as revised, and approved by the City of Pensacola Administrator.

“Code Enforcement Officer, Official, or Inspector” means any designated employee or agent of the City of Pensacola whose duty it is to enforce codes and ordinances enacted by the City.

“Commercial fertilizer applicator,” except as provided in § 482.1562(9), Florida Statutes, means any person who applies fertilizer for payment or other consideration to property not owned by the person or firm applying the fertilizer or the employer of the applicator.

“Fertilize,” “Fertilizing,” or “Fertilization” means the act of applying fertilizer to turf, specialized turf, or landscape plants.

“Fertilizer” means any substance or mixture of substances that contains one or more recognized plant nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other soil enrichment, or provides corrective measures to the soil.

“Guaranteed Analysis” means the percentage of plant nutrients or measures of neutralizing capability claimed to be present in a fertilizer.

“Institutional Applicator” means any person, other than a private, non-commercial or a commercial applicator (unless such definitions also apply under the circumstances), that applies fertilizer for the purpose of maintaining turf and/or landscape plants. Institutional applicators shall include, but shall not be limited to, owners, managers, or employees of public lands, schools, parks, religious institutions, utilities, industrial or business sites, and any residential properties maintained in condominium and/or common ownership.

“Landscape Plant” means any native or exotic tree, shrub, or groundcover (excluding turf).

“Low Maintenance Zone” means an area a minimum of ten feet wide adjacent to water courses which is planted and managed in order to minimize the need for fertilization, watering, mowing, etc.

“Person” means any natural person, business, corporation, limited liability company, partnership, limited partnership, association, club, organization, and/or any group of people acting as an organized entity.

“Prohibited Application Period” means the time period during which a flood watch, flood warning, tropical storm watch, tropical storm warning, hurricane watch, or hurricane warning is in effect for any portion of the City of Pensacola, issued by the National Weather Service, or if rainfall greater than 2 inches in a 24-hour period is likely.

“Saturated Soil” means a soil in which the voids are filled with water. Saturation does not require flow. For the purposes of this article, soils shall be considered saturated if standing water is present or the pressure of a person standing on the soil causes the release of free water.

"Slow Release," "Controlled Release," "Timed Release," "Slowly-Available," or "Water-Insoluble Nitrogen" means nitrogen in a form which delays the availability for plant uptake and use after application, or which extends its availability to the plant longer than a reference rapid or quick release product.

"Turf," "Sod," or "Lawn" means a piece of grass-covered soil held together by the roots of the grass.

"Urban landscape" means pervious areas on residential, commercial, industrial, institutional, highway rights-of-way, or other nonagricultural lands that are planted with turf or horticultural plants. For the purposes of this section, agriculture has the same meaning as in Section 570.02, Florida Statutes.

Sec. 7-15-2. Timing of Fertilizer Application. No applicator shall apply fertilizers containing nitrogen and/or phosphorus to turf and/or landscape plants during the Prohibited Application Period, or to saturated soils.

Sec. 7-15-3. Fertilizer Free Zones. Fertilizer shall not be applied within ten (10) feet of any pond, stream, watercourse, lake, canal, or wetland as defined by the Florida Department of Environmental Protection (Chapter 62-340, Florida Administrative Code) or from the top of a seawall, unless a deflector shield, drop spreader, or liquid applicator with a visible and sharply-defined edge is used, in which case a minimum of three (3) feet shall be maintained. If more stringent City of Pensacola Code regulations apply, this provision does not relieve the requirement to adhere to the more stringent regulations. Newly planted turf and/or landscape plants may be fertilized in this Zone only for a sixty (60) day period beginning thirty (30) days after planting if needed to allow the plants to become well-established. Caution shall be used to prevent direct deposition of nutrients into the water.

Sec. 7-15-4. Low Maintenance Zones. A ten (10) foot low maintenance zone is required from any pond, stream, water course, lake, wetland, or from the top of a seawall. A swale/berm system is required to be installed at the landward edge of this low maintenance zone to capture and filter runoff. No mowed or cut vegetative material may be deposited or left remaining in this zone or deposited in the water. Care should be taken to prevent the over-spray of aquatic weed products in this zone.

Sect. 7-15-5. Fertilizer Content and Application Rates.

(a) Fertilizers applied to turf within the City of Pensacola city limits shall be applied in accordance with requirements and directions provided by Rule 5E-1.003(2), Florida Administrative Code, Labeling Requirements for Urban Turf Fertilizers.

(b) Fertilizer containing nitrogen or phosphorus shall not be applied before seeding or sodding a site, and shall not be applied for the first thirty (30) days after seeding or sodding, except when hydro-seeding for temporary or permanent erosion control in an emergency situation (wildfire, etc.), or in accordance with the Stormwater Pollution Prevention Plan for that site.

(c) Nitrogen or phosphorus fertilizer shall not be applied to turf or landscape plants except as provided in subsection 42-408(1) for turf, or in UF/IFAS recommendations for landscape plants, vegetable gardens, and fruit trees and shrubs, unless a soil or tissue deficiency has been verified by an approved test.

Section 7-15-6. Application Practices.

(a) Spreader deflector shields are required when fertilizing via rotary (broadcast) spreaders. Deflectors must be positioned such that fertilizer granules are deflected away from impervious surfaces, fertilizer-free zones, and water bodies, including wetlands.

(b) Fertilizer shall not be applied, spilled, or otherwise deposited on any impervious surfaces.

(c) Any fertilizer applied, spilled, or deposited, either intentionally or accidentally, on any impervious surface shall be immediately and completely removed to the greatest extent possible.

(d) Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf or any other legal site or returned to the original or other appropriate container.

(e) In no case shall fertilizer be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, conveyances, or water bodies.

Section 7-15-7. Management of Grass Clippings and Vegetative Matter. In no case shall grass clippings, vegetative material, and/or vegetative debris be washed, swept, or blown off into stormwater drains, ditches, conveyances, water bodies, wetlands, or sidewalks or roadways. Any material that is accidentally so deposited shall be immediately removed to the maximum extent possible.

Section 7-15-8. Exemptions. The provisions set forth above in this Ordinance shall not apply to:

(a) bona fide farm operations as defined in the Florida Right to Farm Act, Section 823.14, Florida Statutes;

(b) other properties not subject to or covered under the Florida Right to Farm Act that have pastures used for grazing livestock;

(c) any lands used for bona fide scientific research, including, but not limited to, research on the effects of fertilizer use on urban stormwater, water quality, agronomics, or horticulture.

Section 7-15-9. Training.

(a) All commercial and institutional applicators of fertilizer within the City of Pensacola city limits shall abide by and successfully complete the six-hour training program in the Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries that is offered by the Florida Department of Environmental Protection through the University of Florida Extension “Florida-Friendly Landscapes” program, or an approved equivalent program.

(b) Private, non-commercial applicators are encouraged to follow the recommendations of the University of Florida IFAS Florida Yards and Neighborhoods program when applying fertilizers.

Section 7-15-10. Licensing of Commercial Fertilizer Applicators.

(a) Commercial Fertilizer Applicators within the City Limits of the City of Pensacola shall abide by and successfully complete training and continuing education requirements in the Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries that is offered by the Florida Department of Environmental Protection through the University of Florida Extension “Florida-Friendly Landscapes” program, or an approved equivalent program, prior to obtaining a license to do business in the City for any category of occupation which may apply any fertilizer to turf and/or landscape plants. Commercial Fertilizer Applicators shall provide proof of completion of the program to the Director of Public Works and Facilities or his designee at within thirty days of the effective date of this ordinance.

(b) All Commercial Fertilizer Applicators within the City of Pensacola city limits shall have, and carry in their possession at all times when applying fertilizer, evidence of certification by the Florida Department of Agriculture and Consume Services as a Commercial Fertilizer Applicator per Rule 5E-14.117(18), Florida Administrative Code.

(c) All businesses applying fertilizer to turf and/or landscape plants (including, but not limited to, residential lawns, golf courses, commercial properties, and multi-family and condominium properties) must ensure that at least one employee has a Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries training certificate prior to the business owner obtaining a business license. Owners of any business regulated by this section which may apply any fertilizer to turf and/or landscape plants shall provide proof of completion of the program to the Director of Public Works and Facilities or his designee.

Section 7-15-11 Enforcement.

(a) The provisions of this section shall be enforced pursuant to the provisions of sections 13-1-1 through 13-1-12; 13-2-1 through 13-2-4 and section 1-1-8.

(b) Funds generated by penalties imposed under this section shall be used by the City of Pensacola for the administration and enforcement of Section 403.9337, Florida Statutes, and this section of the City Code, and to further water conservation and nonpoint pollution prevention activities.

(Ord. 17-20; 7-16-20)

CHAPTER 8-1. GENERAL PROVISIONS

Sec. 8-1-1. - Assessment by courts for criminal justice education and law enforcement training.

(a) *Assessments.* All courts created by Article V of the Constitution of the State of Florida situate in the city shall levy and the clerks of all those courts shall collect and remit to the city an assessment of two dollars ($2.00) against every person convicted for violation of a state penal or criminal statute or convicted for violation of a municipal or county ordinance (except statutes or ordinances relating to the parking of vehicles) and two dollars ($2.00) from every bond estreature or forfeited bail bond related to such statutes or ordinances. This section shall apply only to the state penal and criminal law violations and the county ordinances as arise within the jurisdiction of the city.

(b) *Criminal justice education and training fund.* All funds remitted to the city pursuant to subsection (a) herein shall be deposited in a separate fund and be expended solely for criminal justice education degree programs and training expenditure for city law enforcement and correctional officers, part-time law enforcement officers, auxiliary officers and support personnel in conformance with the requirements of applicable law, pursuant to the provisions of F.S. section 918.15.

(Code 1968, § 2-10)

Sec. 8-1-2. - Misdemeanors under state law.

It shall be unlawful for any person to commit, within the corporate limits of the city, any act which is recognized by the laws of the state as a misdemeanor, and the commission of such acts is hereby forbidden.

(Code 1968, § 122-1)

Case Law annotation— A municipality may enact an ordinance which creates an offense against municipal law for the same act that constitutes an offense against state law. Jaramillo v. City of Homestead, 322 So. 2d 496 (Fla. 1975).

Similarly, a municipality by ordinance may adopt state misdemeanor statutes by specific reference or by the general reference contained in the ordinance. Id.

Such an adoption by general reference as contained in the ordinance permits subsequent amendments, revisions and repeals of the laws by the state legislature to apply to the municipal ordinances. Id.

State Law reference— Arrests, F.S. Ch. 901; notice in lieu of arrest, F.S. § 901.27 et seq.

Sec. 8-1-3. - Nuisances at common law, state law, city ordinances.

All nuisances at common law or under the laws of Florida, or defined by city ordinances, are hereby prohibited within the city, and it shall be unlawful for any person to create, cause, permit or suffer any such nuisance on any lot or premises owned, occupied or controlled by him, or on any street or public place, or to do any act or create, cause or permit the existence of anything calculated to endanger the safety of the city or the lives, health or comfort of the citizens.

(Code 1968, § 122-34)

Sec. 8-1-4. - Abatement of nuisances.

Whenever any nuisance as defined in section 8-1-3 shall be found to exist on any premises, and it shall be found necessary to have the same removed or abated, the city shall immediately notify the owner or occupant of the premises, or the person who causes, permits or suffers the nuisance to exist, to remove or abate same within a reasonable time to be specified in the notice as the nature of the case and as the public good may require, and any person who shall fail to remove or abate the nuisance within the time specified in the notice shall be punished as provided for in section 1-1-8.

(Code 1968, § 122-35)

Cross reference— Code enforcement, Title XIII.

Sec. 8-1-5. - Destroying or injuring city property.

It shall be unlawful for any person willfully or maliciously to destroy or injure any property belonging to or in the custody or control of the city.

(Code 1968, § 122-10)

Sec. 8-1-6. - Injuring trees or shrubs in public places.

It shall be unlawful to injure in any manner any tree or shrub growing in any public park or other public place.

(Code 1968, § 146-30)

Cross reference— Parks and recreation, Ch. 6-3.

Sec. 8-1-7. - Fences, enclosures or other obstructions on city property.

It shall be unlawful for any person to have, maintain, occupy or use, or cause to be maintained, occupied or used, any fence, enclosure, building, house, shed, tent or any structure or any obstruction whatsoever, on any street, park or other property, or any part or portion thereof, of the city, without the written permission of the mayor.

(Code 1968, § 146-28; Ord. No. 16-10, § 122, 9-9-10)

Cross reference— Streets, sidewalks and other public places, Ch. 11-4.

Sec. 8-1-8. - Barbed wire fences unlawful without planks.

It shall be unlawful for any person to erect or maintain in the city any fence of barbed wire, or fence of which barbed wire forms any part, upon the exterior lines of any lot or enclosure, without a plank at the top of the posts and two (2) other planks between the top one and the ground.

(Code 1968, § 122-3)

Cross reference— Buildings and building regulations, Ch. 7-13.

Secs. 8-1-9, 8-1-10. - Reserved.

Editor's note— Ord. No. 41-90, § 1, adopted Sept. 13, 1990, repealed §§ 8-1-9 and 8-1-10. Prior to repeal, said sections pertained to registration of firearms and transfer or sale of firearms, and were derived from Code 1968, §§ 122-21, 122-22.

Sec. 8-1-11. - Reserved.

Editor's note— Ord. No. 27-11, § 3, adopted September 22, 2011, repealed § 8-1-11, which pertained to discharge of firearms, explosives and derived from § 122-23, of the 1968 Code; Ord. No. 16-10, § 123, 9-9-10.

Sec. 8-1-12. - Use of slingshots.

It shall be unlawful for any person to use within the limits of the city any slingshot.

(Code 1968, § 122-53; Ord. No. 27-11, § 4, 9-22-11)

Sec. 8-1-13. - Parades and processions—Permit required; exceptions.

No procession or parade or designated funeral procession, shall occupy, march or proceed along any street except in accordance with a permit issued by the mayor and other regulations as are set forth herein which may apply.

(Code 1968, § 122-37; Ord. No. 16-10, § 124, 9-9-10; Ord. No. 16-10, § 125, 9-9-10; Ord. No. 16-10, § 124, 9-9-10)

Cross reference— Special events, Ch. 11-4, Art. VI.

Sec. 8-1-14. - Same—Interference.

It shall be unlawful for any person to willfully hinder, impede the progress of or interfere in any manner with the holding of any lawfully authorized parade held within the city.

(Code 1968, § 122-38)

Sec. 8-1-15. - False police and fire alarms.

(1) *Excessive false alarms prohibited:* It shall be a violation of this code for any person, firm, corporation, partnership or entity who owns, controls, or has custody of any police or fire alarm, as defined herein, to suffer or permit the existence of excessive false alarms by such devices, as defined herein.

(2) *Definitions:*

(a) *Alarm* or *alarm system* means any mechanical or electrical device that is arranged, designed, or used to signal the occurrence in the City of Pensacola of a burglary, robbery, or other criminal offense, fire emergency or other emergency requiring urgent attention, and to which public safety personnel are expected to respond. Alarm systems include those through which public safety personnel are notified directly of such signals through automatic recording devices or are notified indirectly by way of third persons who monitor the alarm systems and who report such

signals to the city. Alarm systems also include those designed to register a signal which is so audible, visible or in other ways perceptible outside a protected building, structure or facility as to notify persons in the neighborhood or vicinity beyond the signal location who in turn may notify the appropriate city personnel of the signal. Alarm systems do not include those affixed to automobiles. Alarms in separate structures are to be counted as separate systems even though owned or controlled by the same person or entity.

(b) *False alarm* means an alarm signal eliciting a response by public safety personnel when a situation requiring a response by public safety does not in fact exist. False alarm does not include an alarm signal caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm operator or alarm user. Alarms resulting from the following conditions are not considered false alarms:

1. Criminal activity or unauthorized entry.
2. Earthquake or other natural occurrence causing structural damage to the protected premises.
3. High winds sufficient to activate motion detection systems or causing physical damage to the protected premises.
4. Flooding of the protected premises due to overflow of natural drainage.
5. Lightning bolt causing physical damage to the protected premises.
6. Telephone line malfunction verified in writing by a telephone company supervisor.
7. Electrical service interruption verified by the Gulf Power Company.
8. Communication to city public safety personnel before a unit is dispatched to investigate clearly indicating that the alarm resulted from authorized entry, authorized system test, or other noncriminal cause.
9. An alarm caused on the reasonable but mistaken belief that a burglary, robbery, or other criminal offense, fire emergency, or other emergency is in progress.
10. The generation of a false alarm which is beyond the reasonable control of the system user.

(c) *Excessive false alarms* occur when any alarm system produces more than three (3) false alarms in any calendar year; however, persons installing a new alarm system or making substantial modifications to an existing system shall be entitled to a grace period during which alarms generated by such system shall be deemed nonfalse alarms, provided further that this grace period shall cease thirty (30) days after installation of or modification to an alarm system; provided further that the chief of the police or fire departments shall have the authority to grant an extended grace period for good cause shown upon request.

(3) *Response to alarms:*

(a) Whenever an alarm is activated in the city limits thereby requiring an emergency response to the location, the responding personnel on the scene of the activated alarm system shall inspect the area protected by the system and shall determine whether the emergency response was in fact required as indicated by the alarm system or whether the alarm signal was a false alarm.

(b) If the personnel at the scene of the activated alarm system determines the alarm to be false, they shall make a report of the false alarm, a notification of which shall be mailed or delivered to the alarm user at the address of said alarm system installation location, advising the alarm user of the false alarm.

(c) The mayor shall have the right to inspect any alarm system on the premises to which a response has been made, and may cause an inspection of such system to be made at any reasonable time thereafter.

(4) *Penalty fee assessment:*

(a) If any alarm system produces three (3) false alarms in any calendar year, the city shall provide written notice of the fact, which shall be given by certified mail or delivery to the alarm user asking the alarm user to take corrective action in regard to false alarms and informing the alarm user of the false alarm fee schedule provided herein.

(b) Upon any alarm system producing a fourth or additional false alarm in a calendar year, a fee of fifty dollars ($50.00) per false alarm shall be charged to the user or owner.

c False alarms occurring no later than six (6) months after installation of an alarm system shall not be counted in the penalty fee assessment procedure.

(5) *Appeal of false alarm:*

(a) Any owner or user who has been notified of a false alarm or assessed a false alarm fee may appeal to the mayor by giving written notice within three (3) days of the notification of a false alarm or assessment. Upon receipt of the appeal notice, a time certain, not to exceed thirty (30) days of receipt of the appeal, shall be established for a hearing.

(b) The appellant shall be given reasonable notice of such hearing date.

(c) The mayor shall serve as hearing officer, and the burden of proof shall be upon the appellant to show by a preponderance of the evidence that the alarm signal in question was not a false alarm as defined herein.

(d) After receipt of all relevant evidence, the hearing officer shall, within three (3) days, render a decision. The decision of the hearing officer shall be final.

(Ord. No. 14-87, § 1, 4-9-87; Ord. No. 45-89, §§ 1, 2, 9-21-89; Ord. No. 16-10, § 125, 9-9-10)

Sec. 8-1-16. - Regulation of noise.

(a) It shall be unlawful for any person to willfully make, continue or cause to be made or continued any loud and raucous noise which term shall mean any sound which, because of its volume level, duration, and character, annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of the city.

(b) The following acts, among others, are declared to be loud and raucous noises in violation of this section 8-1-16, which enumeration shall not be deemed to be exclusive:

(1) *Horns and signaling devices.* The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; the sounding of any such device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up. The use of sirens, except by authorized emergency vehicles, is prohibited.

(2) *Radios, phonographs and similar devices.* The using, operating or permitting to be played, used or operated, of any radio receiving set, television set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which the machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this paragraph.

(3) *Local vocal noises.* Vocal noises made in a loud and raucous manner between the hours of 11:00 p.m. and 7:00 a.m., so as to annoy or disturb the quiet, comfort, or repose of persons in any office or other place of business, or in any dwelling, hotel or other type of residence.

(4) *Animals and birds.* The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of persons in the vicinity.

(5) *Exhaust.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(6) *Defect in vehicle or load.* The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.

(7) *Construction or repairing of buildings.*

(i) The erection, including excavation, demolition, alteration or repair of any building other than between the hours of 6:00 a.m. and 7:00 p.m. on Monday through Saturday, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the director of inspections, which permit may be granted for a period not to exceed three (3) days while the emergency continues and which permit may be renewed for periods of three (3) days or less while the emergency continues. If the director of inspections should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 7:00 p.m. and 6:00 a.m., and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 7:00 p.m. and 6:00 a.m., including Sundays, upon application being made at the time the permit for work is awarded or during the progress of the work.

(ii) *Reserved.* At the request of the city this section has been removed.

(8) *Schools, courts, churches, hospitals, and other medical facilities.* No person, while on public or private grounds adjacent to any building in which a school, court, church, hospital, or other medical facility is in session or in use, shall willfully make or assist in the making of any noise which disturbs the peace or good order of such activity occurring within the building. The term "medical facility," as used in this paragraph, includes physicians' offices, walk-in medical centers, medical diagnostic testing centers, surgical centers and facilities which provide reproductive health services including the termination of pregnancy and/or counseling or referral services relating to the human reproductive system.

(9) *Construction equipment.* The operation between the hours of 6:00 p.m. and 7:00 a.m. and at any time on Sundays of any pile driver, steam or power shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.

(10) *Electronic sound amplification.* The use of electronic sound amplification equipment in such a manner as to produce a sound which is capable of being heard at a point in excess of fifty (50) feet between the hours of 11:00 p.m. and 7:00 a.m. is prohibited in the following zones: R-1AAAAA, R-1AAAA, R-1AAA, R-1AA, R-1A, R-ZL, R-2A, R-2, R-NC, HR-1, HR-2, HC-1, PR-1AAA, PR-2, ATZ-1 and ATZ-2.

(c) The provisions of section 8-1-16 are intended to be construed to secure for the people freedom from unwanted loud and raucous noise as described herein without violating any of the rights secured by the constitution to the people, and are not intended, nor shall they be construed, to regulate the usual and customary noise incidental to urban life.

(d) *Penalty.* Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and subject to the penalty provided by section 1-1-8 of the Code.

(e) *Additional remedy, injunction.* As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision hereof and which causes discomfort or annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health or peace of residents in an area shall be deemed, and is declared to be, a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

(Ord. No. 52-87, § 1, 12-10-87; Ord. No. 7-93, § 1, 4-8-93; Ord. No. 33-94, § 2, 9-18-94; Ord. No. 37-94, § 1, 10-13-94; Ord. No. 4-95, § 1, 1-26-95; Ord. No. 07-05, §§ 1, 2, 6-23-05)

Sec. 8-1-17. - Throwing certain objects at parades prohibited.

It shall be unlawful for any person, while participating in a parade or while on a parade route or in a parade staging area or in a parade disbanding area to throw, toss, distribute, possess, or have in his custody or control any fireworks not expressly permitted by Florida law; any life-threatening objects; any noxious substance or any liquid intended to be poured, tossed, handed out or otherwise distributed; or any throw containing sharp points, including but not limited to plastic spears or plastic, paper or silk flowers with wire stems, intended to be tossed; or to throw, toss or otherwise distribute, any other object having a weight in excess of two (2) ounces; or to throw, toss or otherwise distribute any object in such a manner as to encourage spectators to enter the street or to closely approach vehicles, floats, horses or other conveyances.

(Ord. No. 19-90, § 1, 3-22-90)

Sec. 8-1-18. - Prohibition of residential picketing.

It shall be unlawful for any person to engage in picketing before or about the residence or dwelling of any individual in the city. This prohibition shall be applied only when picketing occurs, with or without the carrying of signs or other forms of speech, and is directed toward or takes place solely in front of a particular residence, utilizing a public street, sidewalk, right-of-way, or other public area, when such activity occurs in the following zoning districts: R-1AAAAA, R-1AAAA, R-1AAA, R-1AA, R-1A, R-ZL, R-2A, R-2, R-NC, HR-1, HR-2, PR-1AAA, OEHR-2 ATZ-1, and PR-2. The provisions of section 1-1-8 of the Code of the City of Pensacola, Florida, shall provide the penalty for violation of this section.

(Ord. No. 29-94, § 2, 9-8-94)

Sec. 8-1-19. - Designated law enforcement areas.

(a) No person shall enter upon or obstruct or create any obstruction within a designated law enforcement area adjacent to an abortion clinic other than a law enforcement official. It shall not be a violation of this subsection for the owner, tenant, staff member, employee or invitee of an abortion clinic or other business served by a paved driveway to enter upon that portion of a designated law enforcement area which is a paved driveway solely as necessary for ingress and egress.

(b) *Definitions as used in this section:*

(1) *Designated law enforcement area* means an area eight (8) feet in width within a public right-of-way, immediately adjacent to the property line of land on which an abortion clinic is located. Such designated law enforcement area does not include paved sidewalks intended for pedestrian use.

(2) *Law enforcement official* means a sworn officer or authorized employee of the City of Pensacola , Escambia County Sheriff's Department, Florida Department of Law Enforcement, State Attorney's Office, or other state or federal law enforcement agency, whether in uniform or not.

(3) *Abortion clinic* means any facility in which the termination of pregnancies occurs, which facility is regulated by an agency or department of the State of Florida.

(c) *Penalties.* Any person violating subsection (a) shall be subject to the penalties provided in section 1-1-8 of the city code.

(Ord. No. 3-95, § 2, 1-26-95)

Editor's note— Ord. No. 3-95, § 2, adopted Jan. 26, 1995 created a new § 8-1-18. At the discretion of the editor said section has been redesignated as § 8-1-19 to prevent duplication of section numbering.

Sec. 8-1-20. - Public nudity.

(1) *Title.* This section shall be known as the "City of Pensacola Public Nudity Ordinance".

(2) *Intent.*

(a) It is the intent of this section to protect and preserve the good order, health, safety, welfare, and morals of the citizens of the city by prohibiting a person from intentionally or recklessly appearing or being nude, or causing another person to appear or be nude, in a public place or engaging in, simulating or permitting another person to engage in or to simulate certain sexual conduct in or at a public place within the city except as provided for in subsection (7).

(b) It is the further intention of this section to accomplish those intents and purposes expressed in the recitals ("whereas" clauses) of Ordinance No. 56-98, each of which are incorporated by reference in this subsection (2).

(3) *Definitions.*

(a) *Breast.* A portion of the human female mammary gland (commonly referred to as the female breast) including the nipple and areola (the darker colored area of the breast surrounding the nipple) and an outside area of such gland wherein such outside area is (i) reasonably compact and contiguous to the areola, and (ii) contains at least the nipple and the areola and one-quarter (¼) of the outside surface area of such gland.

(b) *Entity.* Any proprietorship, partnership, corporation, association, business trust, joint venture, joint-stock company or other for-profit and/or not-for-profit organization.

(c) *Nude.* Any person insufficiently clothed in any manner or that any of the following body parts are not entirely covered with a fully opaque covering:

(1) The male or female genitals;

(2) The pubic area;

(3) The vulva;

(4) The penis;

(5) The female breast (each female person may determine which one-quarter(¼) of her breast surface area (see definition of breast) contiguous to and containing the nipple and the areola is to be covered);

(6) The anus;

(7) The anal cleft; or

(8) The anal cleavage.

(9) For the purposes of this subsection, bodypaint, tattoos, liquid latex, whether wet or dried, string and dental floss and similar substances shall not be considered an opaque covering.

(d) *Person.* Any live human being aged ten (10) years of age or older.

(e) *Places approved or set apart for nudity.* Enclosed single sex public restrooms, enclosed single sex functional shower, single sex locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctor's offices, portions of hospitals, the yard areas of private residences, and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and the sphere of privacy constitutionally protected therein. This term shall not be deemed to include places where a person's conduct of being nude is used for his or her profit or where being nude is used for the promotion of business or is otherwise for commercial gain.

(f) *Public place.* Any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for-profit or not-for-profit and whether open to the public at large or where entrance is limited by an admission or a cover charge or membership requirement or membership fee), bottle clubs, bars, pubs, hotels, motels, restaurants, night clubs, country clubs, cabarets, and meeting facilities utilized by any religious, social, fraternal or similar organization. Premises, or portions thereof, such as motel or hotel rooms, used solely as a private residence, whether permanent or temporary in nature, shall not be deemed to be a public place.

(4) *Findings.* In addition and supplemental to the findings and determinations contained in the recitals ("Whereas" clauses) of Ordinance No. 56-98 which are incorporated by reference into this subsection (4), it is the intent of the city to regulate the conduct of appearing nude in public places for the purpose of regulating nudity and other conduct, that considering what has happened in other communities, the acts prohibited in subsections (5) and (6) below, encourage or create the potential for the conduct of adverse secondary effects such as, but not limited to, neighborhood blight, lower property values, undesirable numbers of transients and the crimes of prostitution, rape, attempted rape, possession and sale of controlled substances and assault; that actual and simulated nudity and sexual conduct in public places, begets and has the potential for begetting undesirable and unlawful behavior; and that sexual, lewd, lascivious, and salacious conduct results in violation of law and creates dangers to the health, safety, morals, and welfare of the public and those who engage in such conduct.

(5) *Public sexual conduct prohibited.* No person in or at a public place shall engage in and no person or entity maintaining, owning or operating a public place shall encourage, allow or permit in or at such public place any sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, lap dancing, straddle dancing, any sexual act which is prohibited by law, touching, caressing, or fondling of the breasts, anus or genitals or the simulation thereof.

(6) *Nudity prohibited in public places.* It shall be unlawful for any person to knowingly, intentionally, or recklessly appear, or cause another person to appear nude, as defined in subsection (3)(c), except as provided in subsection (7), below. It shall also be unlawful for any person or entity maintaining, owning, or operating any public place to encourage, suffer or allow any person to appear nude in such public place, except as provided in subsection (7), below.

(7) *Existing nonconforming uses.* The provisions of this section shall be applied prospectively. Any adult entertainment establishment which permits as of the first reading of this section public nudity as defined herein and which would otherwise be in violation of this section may continue in existence as a nonconforming use; provided, however, that no establishment shall alter its method of business to permit any further form of public nudity than was in existence on October 29, 1998, and further provided that no such establishment may be enlarged or increased in size or be discontinued in use for a period of more than one hundred eighty (180) days.

(8) *Exemptions.* The prohibitions of subsections (5) and (6) of this section shall not apply:

(a) When a person appears nude in a place approved or set apart for nudity, as defined by this section, provided: (i) such person is nude for the sole purpose of performing the legal function(s) that is/are customarily intended to be performed within such place provided or set

apart for nudity, and (ii) such person is not nude for the purpose of obtaining money or other financial gain for such person or for another person or entity.

(b) When the conduct of being nude cannot legally be prohibited by this section because: (i) it constitutes a part of a bona fide live communication, demonstration or performance by a person wherein such nudity is expressive conduct incidental to and necessary for the conveyance or communication of a genuine message or public expression and is not a mere guise or pretense utilized to exploit the conduct of being nude for profit or commercial gain, and as such is protected by the United States Constitution or Florida Constitution, or (ii) it is otherwise protected by the United States Constitution or Florida Constitution.

(c) A mother's breastfeeding of her baby does not under any circumstance violate the provisions of this section.

(9) *Enforcement and penalties.* Any person or entity violating any of the provisions of this section shall be prosecuted in the same manner as misdemeanors are prosecuted. Such violations shall be prosecuted in the name of the state in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof and, upon conviction, shall be punished by a fine not exceeding five hundred dollars ($500.00) or imprisonment for a term not exceeding sixty (60) days or by both such fine and imprisonment. Each day any violation of any provision of this section shall continue shall constitute a separate offense.

(10) *Injunctive relief.* In addition to the procedures provided herein, persons and entities that are not in conformity with these requirements shall be subject to appropriate civil action in the court of appropriate jurisdiction for abatement.

(Ord. No. 56-98, §§ 1—10, 12-17-98)

Sec. 8-1-21. - Trespass in cemeteries.

A person who, without being authorized, licensed, or invited, willfully enters upon or remains in any cemetery in the City of Pensacola, Florida, between the hours of sunset and sunrise of the following day commits the offense of trespass in a cemetery and shall be punished as provided for in section 1-1-8.

(Ord. No. 16-04, § 1, 8-19-04)

Sec. 8-1-22. - Camping prohibited; exceptions.

(1) For purposes of this section, "camping" is defined as:

(a) Cooking over an open flame or fire out-of-doors; or

(b) Bathing in public for purposes of personal hygiene; or

(c) Sleeping out-of-doors under one of the following circumstances:

(i) Adjacent to or inside a tent, or

(ii) Inside some form of temporary shelter.

(2) Camping is prohibited on all public property, except as may be specifically authorized by the appropriate governmental authority.

(3) Camping is prohibited on all property in the city used for residential purposes; provided, however, that camping is permitted on such property with the permission and consent of the property owner.

(4) An individual in violation of this section who has no private shelter, shall be advised by a law enforcement officer charged with the enforcement of this ordinance of available shelter in the City of Pensacola or Escambia County, in addition to any penalties of law.

(Ord. No. 17-13, § 1, 5-23-13; Ord. No. 09-14, § 1, 2-27-14)

Secs. 8-1-23, 8-1-24. - Reserved.

Editor's note— Ord. No. 08-15, § 1, adopted April 9, 2015, repealed §§ 8-1-23, 8-1-24, which pertained to city restrooms—prohibited activities; public elimination prohibited. See Code Comparative Table for complete derivation.

Sec. 8-1-25. - Panhandling.

(1) *Legislative findings:* The City Council of the City of Pensacola, Florida, hereby makes the following findings:

(a) Aggressive soliciting, begging or panhandling warrants justifiable alarm or immediate concern for the safety of persons or property and can cause apprehension and fear in the intended target of the soliciting, begging or panhandling.

(b) Soliciting, begging or panhandling on the public roadways or rights-of-way creates a safety hazard for both pedestrians and those travelling upon the roadways and rights-of-way, and poses a disruption to the free flow of traffic.

(c) The City of Pensacola has a significant interest in protecting the health, safety and welfare of those peacefully moving about within the city.

(2) *Definitions.*

(a) *Arterial roadway* means a roadway providing service which is relatively continuous and of relatively high traffic volume, long trip length, and high operating speed. In addition, every Unites States numbered highway is an arterial road.

(b) *Begging* means, for purposes of this section only, the same as soliciting, below.

(c) *Community outreach services* means a public or private services provider that offers residential, rehabilitative, medical or social services assistance, including, but not limited to, mental health treatment, drug or alcohol rehabilitation or homeless assistance services for individuals in need thereof.

(d) *Community redevelopment areas* means those areas of the city the city council has found to be areas of slum and blight as set forth in F.S. §§ 163.330—163.463. The city council may establish additional community redevelopment areas pursuant to F.S. §§ 163.330—163.463.

(e) *Panhandling* means, for purposes of this section only, the same as soliciting, below.

(f) *Soliciting* means, for purposes of this section only, any request made in person on a street, sidewalk or public place, asking for an immediate donation of money or other thing of value, including the purchase of an item or service for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is a donation. Soliciting shall not include passively standing or sitting with a sign or other indication that one is seeking donations without addressing the request to any specific person.

(3) *Soliciting prohibited in certain areas or under certain circumstances.* It shall be unlawful for any person to solicit, beg or panhandle in the city limits of the City of Pensacola in the following areas or under the following circumstances:

(a) On any day after sunset, or before sunrise; or

(b) When either the panhandler or the person being solicited is located at any of the following locations:

1. At a bus stop.

2. In any public transportation vehicle.
3. In any public transportation facility.
4. In a vehicle which is parked or stopped on a public street or alley.
5. In a sidewalk cafe.
6. Within twenty (20) feet from any ATM machine or entrance to a financial institution.
7. Within twenty (20) feet of a public toilet facility.
8. From any operator of a motor vehicle that is in traffic on a public street; provided, however, that this prohibition shall not apply to services rendered in connection with emergency repairs requested by the owner or passengers of such vehicle; or

(c) In an aggressive manner, to include any of the following:

1. Touching the solicited person without the solicited person's consent.
2. Panhandling a person while such person is standing in line and/or waiting to be admitted to a commercial establishment.
3. Blocking, either individually or as part of a group of persons, the path of a person being solicited, or the entrance to any building or vehicle.
4. Following behind, ahead or alongside a person who walks away from the panhandler after being solicited.
5. Using profane or abusive language, either during the solicitation or following a refusal to make a donation, or making any statement, gesture, or other communication which would cause a reasonable person to be fearful or feel compelled.
6. Panhandling in a group of two (2) or more persons.

(d) Within five hundred (500) feet of the intersection of two (2) arterial roads in the Urban Core Community Redevelopment Area (CRA):

Main Street and Palafox Street

Bayfront Parkway and 9th Avenue

Garden Street and North Palafox Street

Chase and North Palafox Street

Cervantes and North Palafox Street

East Cervantes Street and 9th Avenue

East Gregory Street and 9th Avenue

East Gregory Street and Bayfront Parkway

East Chase Street and 9th Avenue

East Chase Street and Bayfront Parkway

North Alcaniz Street and East Chase Street

North Alcaniz Street and East Cervantes Street

North Davis Highway and East Cervantes Street

(4) *Penalties.* Violation of this section shall be enforced by application of the penalties set forth in section 1-1-8 of the Code of the City of Pensacola, Florida.

In addition, the officer issuing a citation under this article may elect to contact community outreach services in order to determine whether a referral can be made or services offered to assist the individual cited. In the event the officer is unable to contact community outreach services at the time of the officer's contact with the person accused of violating this section, the officer may supply the person with information sufficient for the person to make such contact at a later time.

(Ord. No. 20-13, § 1, 6-13-13)

Sec. 8-1-26. - Excessive generation of code complaints.

(1) *Repeated and excessive generation of code violations unlawful.* It shall be unlawful for any person, firm, corporation, partnership or entity who owns, controls, has custody of or responsibility for private property in the city limits of the City of Pensacola to allow the condition of the property to violate the provisions of the Code of Ordinances on more than four (4) occasions per calendar year, causing the investigation of such conditions and the preparation of notices of violations, regardless of whether the property is subsequently brought into compliance by the owner, the city, or any other entity.

(2) *Penalty for violation.* If the owner or person or entity in control of or having responsibility for the maintenance of real property allows the property located in the city limits of the City of Pensacola to become in violation of the code so as to generate the issuance of more than four (4) notices of violation in a calendar year, the code enforcement authority shall charge and impose an additional fee in the amount of one hundred fifty dollars ($150.00) per violation for each subsequent notice of violation, independent of and notwithstanding any other fines, penalties or assessments.

(3) *Appeal of fines for repeated and excessive generation of code violations.* Any property owner or other entity who has received a fine pursuant to this section may appeal the imposition of the fine to the Special Magistrate. Such appeal must be made in writing to the code enforcement authority within fourteen (14) calendar days of actual receipt or acknowledged receipt of a mailed notice of the fine, and a hearing will be scheduled before the Special Magistrate within thirty (30) days thereafter. The burden of proof shall be upon the appellant to show by a preponderance of the evidence that the fine is not warranted. The decision of the Special Magistrate shall be final.

(Ord. No. 01-12, § 1, 2-9-12)

Note— Formerly § 8-1-24.

Sec. 8-1-27. - Regulation of vegetation barriers.

It shall be unlawful for any person who shall own, control or occupy any lot, parcel of land or premises in the city, to allow a barrier consisting of vegetation to cause damage to physical structures on adjacent property or to be kept in a manner which harbors rats or other similar creatures constituting a hazard to public health. This section may be enforced through the provisions of section 1-1-8 or section 13-2-2, herein.

(Ord. No. 05-14, § 1, 2-13-14)

Editor's note— Ord. No. 05-14, § 1, adopted February 13, 2014, set out provisions intended for use as § 8-1-26. For purposes of clarity, and at the editor's discretion, these provisions have been included as § 8-1-27.

Sec. 8-1-28. - Reserved.

Editor's note— Ord. No. 24-17, § 1, adopted September 14, 2017, repealed § 8-1-28, which pertained to regulation of conduct in the Downtown Visitors' District and derived from Ord. No. 09-17, § 1, 5-11-17.

REPEAL CHAPTER 8-2.

CHAPTER 8-2. REGISTRATION OF CRIMINALS[2]

Footnotes:

--- (**2**) ---

State Law reference— Registration of convicted felons by the sheriff, F.S. § 775.13.

REPEAL SECTION 8-2-1.

REPEAL SECTION 8-2-2.

REPEAL SECTION 8-2-3.

REPEAL SECTION 8-2-4.

REPEAL SECTION 8-2-5.

REPEAL SECTION 8-2-6.

REPEAL SECTION 8-2-7.

REPEAL SECTION 8-2-8.

CHAPTER 8-3. OFFENSES UPON WATERS[3]

Footnotes:

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

Editor's note— Ord. No. 37-90, § 1, adopted Aug. 9, 1990, repealed Ord. No. 18-90, § 1, adopted March 22, 1990, from which former Ch. 8-3 was derived, and enacted a new Ch. 8-3 to read as herein set forth. Said former Ch. 8-3, §§ 8-3-1—8-3-3, pertained to similar subject matter.

Cross reference— Harbors and waterways, Ch. 10-3.

Sec. 8-3-1. - No-wake zones.

It shall be unlawful for any person to operate any vessel in or upon the waters of the city at a speed any greater than the minimum speed necessary to maintain steerageway in any no-wake zone designated by a sign reading "No Wake Zone" or "Idle Speed—No Wake" or similar or like warning.

(Ord. No. 37-90, § 1, 8-9-90)

Sec. 8-3-2. - Penalties.

(a) Any person cited for a violation of section 8-3-1 shall be deemed to be charged with a noncriminal infraction, shall be cited to appear before the county court. The civil penalty for any such infraction is thirty-five dollars ($35.00), except as otherwise provided in this section.

(b) Any person cited for an infraction under this section may:

(1) Post a bond, which shall be equal in amount to the applicable civil penalty; or

(2) Sign and accept a citation indicating a promise to appear.

The officer may indicate on the citation the time and location of the scheduled hearing and shall indicate the applicable civil penalty.

(c) Any person who willfully refuses to post a bond or accept and sign a summons is guilty of a misdemeanor of the second degree, punishable as provided in section 1-1-8 of this Code.

(d) Any person charged with a noncriminal infraction under this section may:

(1) Pay the civil penalty, either by mail or in person within ten (10) days of the date of receiving the citation; or,

(2) If he has posted bond, forfeit bond by not appearing at the designated time and location.

If the person cited follows either of the above procedures, he shall be deemed to have admitted the infraction and to have waived his right to a hearing on the issue of commission of the infraction. Such admission shall not be used as evidence in any other proceeding.

(e) Any person electing to appear before the county court or who is required so to appear shall be deemed to have waived the limitations on the civil penalty specified in subsection (a). The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of an infraction has been proved, the court may impose a civil penalty not to exceed five hundred dollars ($500.00).

(f) At a hearing under this chapter, the commission of a charged infraction must be proved beyond a reasonable doubt.

(g) If a person is found by the hearing official to have committed an infraction, he may appeal that finding to the circuit court.

(Ord. No. 37-90, § 1, 8-9-90)

Sec. 8-3-3. - No-wake zone—Bayou Texar.

That portion of the waters of Bayou Texar south of the Cervantes Street Bridge and north of Day Marker No. 4 is hereby designated as a no-wake zone and shall be posted in accordance with applicable regulations of the State of Florida Department of Natural Resources relating to uniform waterway markers.

(Ord. No. 37-90, § 1, 8-9-90)

Sec. 8-3-4. - No-wake zone—Portion of waters located in Pensacola Bay.

That portion of the waters north of the Harbor Channel adjacent to the red buoy marker known as "PMT2" located in Pensacola Bay to the entrance of Palafox Pier basin and from the west end of the Port of Pensacola to the west end of the Harbor Channel; including Seville Harbor, Commendencia Slip, Palafox Marina/Baylen Slip, Spring Street Slip and Bruce Beach Cove are hereby designated as a no

wake zone and shall be posted in accordance with applicable regulations of the State of Florida Department of Natural Resources relating to uniform waterway markers.

(Ord. No. 12-17, § 1, 5-11-17)

TITLE IX. - PERSONNEL[1]

CHAPTERS

Footnotes:

--- (**1**) ---

Cross reference— Departments enumerated, § 2-4-3.

CHAPTER 9-1. GENERAL PROVISIONS

(RESERVED)

CHAPTER 9-2. DEPARTMENT OF HUMAN RESOURCES[2]

Footnotes:

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Editor's note— Ord. No. 26-99, § 3, adopted Sept. 24, 2009 provided that references in the Code to "department employee services" be and the same are hereby amended to read "department human

resources". Section 6 of Ord. No. 26-99, adopted July 22, 1999, changed the title of Ch. 9-2 from "Department of Human Resources" to "Department of Employee Services." It should also be noted that § 6 of Ord. No. 26-99 provided that references in the Code to "director of personnel" and "department of personnel" be amended to read "director of human resources" and "department of human resources," respectively. Ord. No. 32-09, § 3, adopted Sept. 24, 2009 changed the title from "Department of employee services" to "Department of human resources." See also the Code Comparative Table.

Cross reference— Employer-employee relations, Ch. 9-4; pensions and deferred compensation, Ch. 9-5; Social Security replacement benefit program, Ch. 9-6.

Sec. 9-2-1. - Department, position of director established.

A department of human resources is hereby established. The head of the department shall be known as the director of human resources, and the position of director of human resources is hereby established.

(Code 1968, § 43-1(A); Ord. No. 26-90, § 2, 6-14-90; Ord. No. 26-99, § 6, 7-22-99; Ord. No. 32-09, § 2, 9-24-09; Ord. No. 16-10, § 126, 9-9-10)

REPEAL SECTION 9-2-2,

CHAPTER 9-3. EMPLOYEE BENEFITS AND COMPENSATION[3]

Footnotes:

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

Cross reference— Pensions and deferred compensation, Ch. 9-5; social security replacement benefit program, Ch. 9-6; group insurance, Ch. 9-7; general pension and retirement fund, Ch. 9-8.

ARTICLE I. - IN GENERAL

Sec. 9-3-1. - Purpose; administration.

(a) *Purpose.* The purpose of this article shall be to establish and maintain firm and fair policies governing the rights and privileges of employees of the city.

(b) *Administration.* There shall be established and maintained a human resources policy manual related to the terms and conditions of employment which may include, but not be limited to, working hours, official holidays, weekend observance, compensation, leaves of absence, accrual of time, personal time off, separation of service and retirement benefits. The human resources policy manual shall be maintained and readily available for public inspection on the city's webpage. The policies shall conform to this article and shall take into consideration that the city seeks to provide a positive work environment and a solid foundation for employees that is in compliance with federal, state, and local laws.

(Code 1968, § 42-1; Ord. No. 26-90, § 4, 6-14-90; Ord. No. 16-10, § 128, 9-9-10)

Sec. 9-3-2. - Working hours.

(a) G*enerally.* Except for those members of the police and fire departments who are on duty in rotating shifts, all employees of the city shall work a forty-hour workweek unless they are designated as part-

time employees or paid interns. The regular workweek shall be from 12:01 a.m. Monday to 12:00 midnight the following Sunday. The mayor may establish a different workweek for certain groups of employees and notation of such shall be kept in the department of human resources.

(b) *Incentive work programs.* Department heads may establish incentive work programs, subject to the mayor's approval, whereby employees performing a specific function are allowed to complete a unit of work each shift rather than remain on duty for a specific number of hours.

(Code 1968, § 42-2(A), (C), (D); Ord. No. 13-98, § 1, 3-26-98; Ord. No. 26-99, § 6, 7-22-99; Ord. No. 32-09, § 3, 9-24-09; Ord. No. 16-10, § 129, 9-9-10)

Sec. 9-3-3. - Holidays.

(a) *Official holidays.* The city shall observe the following official holidays: New Year's Day, Martin Luther King, Jr.'s Birthday, Good Friday, Memorial Day, the Fourth of July, Labor Day, Veteran's Day, Thanksgiving, the day after Thanksgiving, Christmas and the day after Christmas. The mayor is hereby authorized in his or her discretion to close non-essential city facilities on days adjacent to official holidays and to provide non-essential employees who are not subject to collective bargaining agreements with the flexibility of utilizing personal holidays, personal time off, or leave without pay on those dates. Employees who may elect to take leave without pay on dates adjacent to official holidays shall be able to take such official holidays without penalty.

(b) *Weekend observance.* Unless otherwise directed by the mayor, when the holiday falls on Saturday, the city's official observance will be on Friday, and when the holiday falls on Sunday, Monday will be the day of observance.

(c) Q*ualification.* Except when on approved paid leave, employees must work the last fully scheduled day prior to the holiday and the first fully scheduled day immediately following the holiday in order to qualify for holiday benefits.

(d) *Additional holiday compensation.* Employees who are on rotating or permanent shifts, who may be scheduled for duty on an official holiday as designated in subsection (a) above, and who accrue additional personal time off (PTO) leave as provided in subsection 9-3-4(b)(4)b. shall not be granted any additional compensation in the form of overtime pay or compensatory time off, except for the holidays of Martin Luther King Jr.'s birthday and Veterans Day for which overtime shall be paid when applicable.

(e) A*dditional leave compensation.* Except as provided in subsection (d) and (f) of this section, all employees who because of the nature of their work are regularly unable to observe city holidays shall be compensated as provided under subsection 9-3-4(b)(4)b.

(f) *Overtime compensation.* Except as provided in subsections (d) and (e) of this section, all employees who because of the nature of their work are occasionally unable to observe city holidays shall be compensated as provided by the city.

(g) *Personal holiday.* There shall be two (2) additional personal holidays observed by each employee on a workday of the employee's choosing subject to approval in advance by the department director. The personal holiday must be taken within the calendar year. It cannot be carried over to the next calendar year nor can the employee be compensated if the personal holiday is not taken.

(h) *Anniversary day.* Employees shall receive one day of leave at the completion of each five-year interval of service (i.e. 5, 10, 15, 20, etc.) The anniversary day must be taken within one (1) year of reaching the milestone anniversary or the day will be forfeited.

(Code 1968, § 42-3; Ord. No. 4-85, § 1, 2-13-85; Ord. No. 1-86, § 1, 1-16-86; Ord. No. 21-98, § 1, 7-9-98; Ord. No. 38-99, § 1, 9-23-99; Ord. No. 28-00, § 1, 5-11-00; Ord. No. 36-02, § 1, 11-21-02; Ord. No. 02-08, § 1, 1-17-08; Ord. No. 16-10, § 130, 9-9-10)

Note— Section 6 of Ord. No. 36-02 provided for an effective date of Jan. 1, 2003.

Sec. 9-3-4. - Leaves of absence.

(a) *General:*

(1) *Purpose.* The city seeks to provide for its employees the protection and security of continuing salary or wage payments during periods when vacation, illness, emergency or certain civic responsibilities may require time away from the job. These periods, termed "leaves of absence," are to be considered as a privilege, not a right of employment.

(2) *Administration.* The mayor shall establish procedures by which the director of human resources shall administer leaves of absence. The leaves of absence shall be administered in keeping with the area practices and within the financial limits as set forth by the council.

(b) *Personal time off leave:*

(1) *Purpose.* Personal time off (PTO) is established for the purpose of providing employees leave for a variety of reasons such as vacation, personal business, illness, medical or dental appointments, and family. It replaces leave formerly known as sick and annual leave.

(2) *Employee responsibility.* Employees are required to arrange and obtain prior/advance approval of personal time off leave. In the case of illness, supervisors can consider same day request.

a. In any case of absence on account of illness, an employee may be required by his department to file a doctor's certificate with the city clinic, and all absences due to illness or injury of more than three (3) days' duration shall require the employee to provide a doctor's certificate to the city clinic stating:

1. The nature of illness or injury;

2. That the employee was incapacitated for work for the duration of his absence;

3. The employee is physically able to return to work and perform his duties;

4. That the employee has no contagious disease, which would jeopardize the health of other employees.

b. If an employee is habitually or chronically absent, a supervisor may require medical evidence to be provided to the city clinic concerning any illness or injury beginning with the first day of absence.

c. If an employee is absent and an excuse is felt necessary, an activity head or department director may request the city nurse to verify the reason for absence.

(1) *Recordkeeping.* No employee will be granted personal time off leave unless the time requested has already accrued prior to the leave period. Personal time off leave request shall be for a period of not less that one (1) hour and shall be in increments of not less than one (1) hour.

(2) *Accrual of time.*

a. G*enerally.* Each employee will be credited with sixteen (16) hours of personal time off (PTO) leave for each month of service.

(Code 1968, § 42-4; Ord. No. 26-90, § 4, 6-14-90; Ord. No. 48-90, § 1, 9-27-90; Ord. No. 49-91, § 1, 9-26-91; Ord. No. 13-95, § 1, 3-23-95; Ord. No. 35-99, § 1, 9-23-99; Ord. No. 17-01, § 2, 9-27-01; Ord. No. 19-01, § 1, 9-27-01; Ord. No. 36-02, § 1, 11-21-02; Ord. No. 30-07, § 1, 6-28-07; Ord. No. 32-09, § 3, 9-24-09; Ord. No. 10-10, §§ 1—4, 4-8-10; Ord. No. 16-10, § 131, 9-9-10; Ord. No. 14-10, § 1, 8-19-10; Ord. No. 16-10, § 131, 9-9-10)

Editor's note— Section 7 of Ord. No. 30-07 provided that this ordinance shall take effect immediately upon the effective date of the repeal of Chapter 99-474, Laws of Florida, as amended.

Note— Section 6 of Ord. No. 36-02 provided for an effective date of Jan. 1, 2003.

9-10)

Sec. 9-3-6. - Travel policy for officers and employees.

(a) *Purpose.* The purpose of this travel policy is to prescribe and authorize uniform rules and limitations for travel expenses applicable to all city officers and employees and to provide for reimbursement by the city for payment thereof.

The mayor shall authorize his or her own travel subject to same being for a public purpose authorized by law and in the best interest of the city within the limitations set forth in this section. The mayor shall authorize travel for all city employees.

(b) *Uniform report required.* The mayor shall provide a uniform travel expense report which shall be used by all travelers requesting reimbursement for travel expenses. The report should be submitted within ten (10) working days after completing the authorized travel. All requests for reimbursement for travel must be accompanied by appropriate documentation of reasonable expenditures. All costs of spouse and family travel must be borne by the officer or employee. The city will not prepay any such costs. Reimbursement is limited to the traveler.

(c) *Route and mode of travel; mileage of private vehicles.* All travel must be conducted by a normally traveled route. If a person travels by an indirect route for his own convenience, any extra costs shall be borne by the traveler, and reimbursement for expenses shall be based only on such expenses as would have been incurred by utilization of a normally traveled route. The method of travel will be designed by the person authorizing the travel, keeping in mind the best interest of the city, the nature of the business, the number of persons making the trip, the amount of equipment or material to be transported, the length of the trip, and other pertinent factors. Air travel shall be by tourist class. Travel by private vehicle will be reimbursed at the rate established in the city's administrative regulations on travel. City-owned vehicles may be used for traveling when authorized by the mayor. When travel is by public transportation, necessary taxi, limousine or car rental fares and parking fees are reimbursable, when substantiated by receipts.

(d) *Reimbursement for lodging and meals.* Reimbursement for lodging and meals is allowed for up to the amount set forth by the mayor in the rates established from time to time in the administrative regulations on travel. Said administrative regulations shall provide for reimbursement for lodging on the basis of actual cost of a single occupancy, or occupancy shared with another city employee. A double-occupancy rate will be reimbursed if no single room is available.

(e) *Registration fees.* Registration fees, including meals and other programmed affairs, are reimbursable upon presentation of receipts.

(f) *Miscellaneous expenses.* Any other reasonable and necessary expense not otherwise provided for, incurred for the benefit of the city, together with receipts and explanations therefor, should be claimed on an individual basis for approval by the mayor.

(g) *Implementation by mayor.* The mayor shall promulgate such administrative rules, regulations, forms, and procedures as are necessary and appropriate to implement the purposes and objectives of this travel policy.

(Ord. No. 40-89, §§ 1—8, 8-24-89; Ord. No. 16-10, § 133, 9-9-10)

Editor's note— Ord. No. 40-89, §§ 1—8, adopted August 24, 1989, being nonamendatory of the Code, has been included as § 9-3-6 herein, at the discretion of the editor.

Secs. 9-3-7—9-3-20. - Reserved.

ARTICLE II. - PAY PROGRAM FOR CITY EMPLOYEES[4]

Footnotes:

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Editor's note— Ord. No. 44-90, § 1, adopted Sept. 13, 1990, repealed Art. II of Ch. 9-3 and enacted a new Art. II to read as herein set forth. Said former Art. II, §§ 9-3-21—9-3-43, set forth similar subject matter and was derived from Code 1968, §§ 42-9—42-24, 42-26, 42-27, 42-32; Ord. No. 41-82, § 1, adopted March 11, 1982; Ord. No. 97-83, § 1, adopted July 28, 1983; Ord. No. 31-84, § 1, adopted July 26, 1984; Ord. No. 31-85, §§ 1, 2, adopted Sept. 26, 1985; Ord. No. 33-85, § 1, adopted Oct. 24, 1985; Ord. No. 36-85, § 1, adopted Nov. 14, 1985; Ord. No. 33-88, §§ 1, 2, adopted Sept. 8, 1988; Ord. No. 35-88, § 2, adopted Sept. 8, 1988; Ord. No. 43-88, §§ 1, 2, adopted Oct. 6, 1988; Ord. No. 52-88, § 1, adopted Dec. 15, 1988; and Ord. No. 5-89, § 1, adopted Jan. 26, 1989.

Sec. 9-3-21. - Pay plan on file in the office of city clerk.

(1) Except as hereinafter provided, all compensation to be paid to employees of the city shall be paid in accordance with the pay plan, as approved by the city council and on file in the office of the city clerk. Such pay plan may be modified from time to time upon approval by the city council by motion, resolution or ordinance.

REPEAL SECTION 9-3-22.

REPEAL SECTION 9-3-23.

REPEAL SECTION 9-3-24.

REPEAL SECTION 9-3-25.

RPEAL SECTION 9-3-26,

REPEAL SECTION 9-3-27.

Sec. 9-3-27. - Other payroll payments.

(1) Unless otherwise provided for by city council or by law, the following pay shall be considered a non-salaried supplement, and shall not be utilized in the calculation of pensions, deferred compensation(s) and other benefits: educational incentive pay, pistol qualifications pay, clothing allowance, education benefit, specialized duty pay, certification pay, field training pay, shift differential pay, non-substantiated business expenses, non-cash benefit such as employer-provided vehicles or any other city provided benefit. All other payments process through city payroll shall be utilized in the calculation of pensions, deferred compensation(s) and other benefits.

(Ord. No. 17-01, § 1, 9-27-01)

Sec. 9-3-28. - Overtime pay; prerequisite; computation.

Employees for which the mayor does not claim a statutory exemption under the Fair Labor Standards Act (FLSA) shall be compensated for overtime as required by law. No employee not so covered shall receive overtime pay unless specifically requested in writing and approved by the mayor. Overtime shall not commence until the number of hours in the employee's regular work period as authorized by the FLSA has been worked. Time worked shall mean the time actually spent on the job; provided, however, that it shall also include approved personal time off (PTO) leave due to illness for all employees and holidays observed by the City of Pensacola for all employees except employees who otherwise receive additional personal time off (PTO) leave in lieu of holidays. Time worked shall not include, personal time off (PTO) leave due to scheduled vacation, personal holiday, job injury, compensatory leave, other types of leave, or any other time not actually spent on the job. Leave without pay and time off because of inclement weather shall not be considered as time worked. Other compensatory plans may be allowed in departments where established by city council or by statute, or where an incentive system has been approved by the mayor. The overtime hours and pay shall be computed as defined by the FLSA. Department directors shall be responsible for seeing the minimal and judicious determinations of necessity for using employees on an overtime basis.

(Ord. No. 17-01, § 1, 9-27-01; Ord. No. 36-02, § 2, 11-21-02; Ord. No. 15-04, § 2, 8-19-04; Ord. No. 16-10, § 137, 9-9-10)

Note— Section 6 of Ord. No. 36-02 provided for an effective date of Jan. 1, 2003.

Section 3 of Ord. No. 36-02 provided that this ordinance shall not be implemented for employees who are currently members of a collective bargaining unit until such time as the Personal Time Off (PTO) Leave may be incorporated into an applicable collective bargaining agreement. Such employees shall be governed by the leave program in existence prior to the adoption of this ordinance or by an existing collective bargaining agreement, if applicable.

Additionally, Section 4 of Ord. No. 36-02 provided that this ordinance shall not be implemented for employees who are members of a proposed or established collective bargaining unit until such time as the collective bargaining unit is established and the Personal Time Off (PTO) leave may be incorporated into an applicable collective bargaining agreement. Such employees shall be governed by the leave program in existence prior to the adoption of this ordinance.

REPEAL SECTION 9-3-29.

REPEAL SECTION 9-3-30

REPEAL SECTION 9-3-31.

REPEAL SECTION 9-3-32.

REPEAL SECTION 9-3-33.

REPEAL SECTION 9-3-34.

REPEAL SECTION 9-3-35.

REPEAL SECTION 9-3-36.

Secs. 9-3-37—9-3-39. - Reserved.

Editor's note— Ord. No. 17-01, § 1, adopted Sept. 27, 2001, repealed §§ 9-3-37—9-3-39 in their entirety. Formerly said sections pertained to authority of city manager to transfer; authority of city manager to change class of vacant positions, and administrative pay plan for professional, noncivil-service appointed employees, respectively. See the Code Comparative Table.

REPEAL SECTION 9-3-40.

Sec. 9-3-41. - Reserved.

Editor's note— Ord. No. 17-01, § 1, adopted Sept. 27, 2001, renumbered § 9-3-41 as § 9-8-5. The user of this Code is directed to § 9-8-5 for provisions related to the treatment of certain contributions to general pension and retirement plan.

Sec. 9-3-42. - Reserved.

Editor's note— Ord. No. 17-01, § 1, adopted Sept. 27, 2001, repealed § 9-3-42 in its entirety. Formerly said section pertained to other payroll payments. See the Code Comparative Table.

Secs. 9-3-43—9-3-55. - Reserved.

REPEAL ARTICLE III.

REPEAL SECTION 9-3-58.

REPEAL ARTICLE IV.

Footnotes:

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State Law reference— Firefighters; supplemental compensation from state, F.S. § 633.382.

REPEAL SECTION 9-3-76.

REPEAL SECTION 9-3-77.

REPEAL SECTION 9-3-78.

REPEAL SECTION 9-3-79.

REPEAL SECTION 9-3-80.

REPEAL SECTION 9-3-81.

REPEAL SECTION 9-3-82.

CHAPTER 9-5. PENSIONS AND DEFERRED COMPENSATION[7]

Footnotes:

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Cross reference— Social security replacement benefit program, Ch. 9-6; employer-employee relations, Ch. 9-4; general pension and retirement fund, Ch. 9-8.

Related law cross references— Firefighters pension plan, (Laws of Fla. 1941, Ch. 21483, as amended) Related Special Acts, Part I, Subpart B, Article VI; investment of pension funds, (Laws of Fla., Ch. 61-1469, as amended) Related Special Acts, Part I, Subpart B, Article VIII.

State Law reference— Actuarial soundness of retirement systems, F.S. § 112.60 et seq.

REPEAL ARTICLE I.

REPEAL SECTION 9-5-1.

REPEAL SECTION 9-5-2.

ARTICLE II. - POLICE OFFICERS' RETIREMENT FUND[8]

Footnotes:

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Editor's note— Ord. No. 15-97, adopted April 24, 1997, amended in its entirety former §§ 9-5-16—9-5-45, relative to Police Officers' retirement fund, and set out §§ 9-5-16—9-5-45 to read as herein. The provisions of former §§ 9-5-16—9-5-34 derived from Ord. No. 8-88, § 1, adopted March 10, 1988; Ord. No. 1-89, §§ 1, 2, adopted January 12, 1989; Ord. No. 38-89, §§ 1—3, 5—9, 11—18, adopted August 10, 1989; Ord. No. 20-90, § 1, adopted April 12, 1990; Ord. No. 10-94, § 1, adopted March 10, 1994; Ord. No. 26-94, §§ 1—3, adopted July 15, 1994; Ord. No. 36-94, § 1, adopted October 13, 1994; Ord. No. 18-96, § 1, adopted April 25, 1996.

State Law reference— Municipal police officer's pension plan, F.S. § 185.35.

Sec. 9-5-16. - Establishment of plan and definitions.

(a) *Establishment of Police Officers' Retirement Fund.* There is hereby created for the Police Officers of the City of Pensacola, Florida, a fund to be known as the "Police Officers' Retirement Fund", a defined benefit pension plan intended to meet the applicable requirements of Section 401(a) of the Code which provides for retirement, disability and death benefits for such police officers. The Police Officers' Retirement Fund is a "governmental plan" within the meaning of Section 414(d) of the Code and as such, is exempt from the Employee Retirement Income Security Act of 1974, as amended. The Police Officers' Retirement Fund shall be administered and distributions made therefrom as provided in this article.

Irrespective of anything contained herein, as now expressed or hereafter amended, the trust fund shall be used for the exclusive benefit of members or their beneficiaries at all times and for the satisfaction of all rights and liabilities with respect to members or their beneficiaries hereunder and costs and expenses of operating the fund.

Pursuant to the provisions of F.S. § 185.38, effective at midnight on January 1, 2013, the City of Pensacola Police Officers' Retirement Fund shall be closed to new participants, and current officers

employed on that date shall be provided an election to remain in the Police Officers' Retirement Fund and shall continue to accrue benefits as provided herein or transfer to the Florida Retirement System. Officers hired on or after January 2, 2013 shall participate in the Florida Retirement System. For participants of the Pensacola Police Officers' Retirement Fund electing to remain participants of that plan, the City of Pensacola shall continue to take all steps necessary and required to receive state premium tax moneys for the use and benefit of the Police Officers' Retirement Fund until such plan is fully funded within the meaning of law. The Police Officers' Retirement Fund shall remain in effect until the final benefit payment has been made to the last remaining participant or beneficiary as required by law, and shall then be terminated.

The mayor is hereby authorized and directed to execute all necessary agreements and amendments thereto with the Administrator of the Florida Retirement System for the purpose of extending benefits provided by the Florida Retirement System to the police officers of the city, as provided herein, which agreement shall provide for such methods of administration of the plan by the city as are found by the Administrator of the Florida Retirement System to be necessary and proper, and shall be effective with respect to any employment covered by such agreements for services performed on and after midnight on the 1st day of January, 2013.

(b) *Definitions.* The following words and phrases as used in this article shall have the following meanings unless a different meaning is plainly required by the context:

(1) *Accrued benefit* means the monthly benefit payable at normal retirement date, as determined under the Police Officers' Retirement Fund's formula.

(2) *Actuarial equivalent* (or any synonymous term contained herein) means the equality in value of the aggregate amounts expected to be received under optional forms of benefit payments which, except as provided in section 9-5-22, will be based upon the RP 2000 Static Table with blended rates 80% male/20% female mortality table and utilizing a 7.00% interest rate.

(3) *Actuary* means the person, firm or corporation, one (1) of whose officers shall be members of the Society of Actuaries or The American Academy of Actuaries and an Enrolled Actuary (as defined by Subtitle C of Title III of the Employee Retirement Income Security Act of 1974), appointed by the board of trustees of the fund to render actuarial services to the fund.

(4) *Article* means chapter 9-5, article II, of the Code of the City of Pensacola, Florida.

(5) *Average final compensation* means one-twelfth (1/12) of the average annual compensation of the two (2) best years of the last five (5) years of credited/creditable service prior to retirement, termination or death for those with twenty (20) or more years of creditable service on January 1, 2013. Effective January 1, 2013 for those with less than twenty (20) years of creditable service, average final compensation means one-sixtieth (1/60) of the average annual compensation of the last five (5) years of credited/creditable service prior to retirement, termination or death.

(6) *Beneficiary.* Any person so designated by a police officer under section 9-5-27 below who may become entitled to receive retirement benefits upon the death of a police officer to the extent provided in section 9-5-27

(7) *Board of trustees* or *board* means the board of trustees provided for in this article.

(8) *City* means the City of Pensacola, Florida.

(9) *City council* means the City Council of the City of Pensacola.

(10) *Code* means the Internal Revenue Code of 1986, as amended from time to time.

(11) *Compensation* means for purposes of determining a police officer's average final compensation, for any period, the total of:

(a) A police officer's total cash compensation paid to a police officer by the city for services rendered before all pre-tax, salary deferral or salary reduction contributions made to the Police Officers' Retirement Fund and any Section 457 and Section 125 plan of the city on

behalf of a police officer (including any contributions made under Section 414(h)(2) of the Code); less.

(b) Any educational incentive pay, court pay, automobile and/or meals and uniform expense, accumulated sick leave at retirement and vacation pay at retirement, special duty pay, shift differential pay, or special bonuses (for example, suggestion awards); and less.

(c) Solely for a police officer whose employment date is on or after October 1, 1996, compensation for any plan year shall not exceed the annual compensation limit under Section 401(a)(17) of the Code, as in effect on the first day of the plan year. This limit shall be adjusted by the Secretary of the Treasury to reflect increases in the cost of living, as provided in Section 401(a)(17)(B) of the Code; provided, however, that the dollar increase in effect on January 1 of any calendar year is effective for plan years beginning in such calendar year. If a plan determines compensation over a plan year that contains fewer than twelve (12) calendar months (a "short plan year"), then the compensation limit for such "short plan year" is equal to the compensation limit for the calendar year in which the "short plan year" begins multiplied by the ratio obtained by dividing the number of full months in the "short plan year."

(d) Effective January 1, 2013, compensation shall be limited to an officer's base pay and senior officer pay exclusive of overtime for earnings on or after January 1, 2013, but shall include overtime which had been earned as of December 21, 2012.

(12) *Credited service* or *creditable service* means the aggregate number of years of service and fractional parts of years of service of any police officer, omitting intervening years and fractional parts of years when such police officer may not have been employed by the city subject to the following conditions:

(a) No police officer will receive credit for years or fractional parts of years of service if he or she has withdrawn his or her contributions to the fund for those years or fractional parts of years of service, unless the police officer repays into the fund the amount he or she has withdrawn, plus interest as determined by the board. The member shall have six (6) months after his or her reemployment to make repayment.

(b) A police officer may voluntarily leave his or her contributions in the fund for a period of five (5) years after leaving the employ of the police department, pending the possibility of his or her being rehired by the city, without losing credit for the time he or she has participated actively as a police officer. If he or she is not reemployed as a police officer of the city within five (5) years, his or her contributions shall be returned to him or her without interest.

(c) Credited service shall be provided only for service as a police officer or for military service, as provided in paragraph (12)(d) below, and shall not include credit for any other type of service.

(d) In determining the creditable service of any police officer, credit for up to five (5) years of the time spent in the military service of the Armed Forces of the United States shall be added to the years of actual service, if:

1. The police officer is in the active employ of the city prior to such service and leaves a position, other than a temporary position, for the purpose of voluntary or involuntary service in the Armed Forces of the United States.

2. The police officer is entitled to reemployment under the provisions of the Uniformed Services Employment and Reemployment Rights Act.

3. The police officer returns to his or her employment as a police officer of the city within one (1) year from the date of his or her release from such active service.

(e) In addition to service credits awarded for military service leave under subsection (d) above, any member of the plan who served in the Armed Forces of the United States or was employed as a police officer by any other law enforcement agency prior to employment by the city, as described under Chapter 2009 - 97, Laws of Florida, shall be entitled to

purchase service credits for such service or employment by contributing as provided in (e)(2) below an amount which is assumed to be the full actuarial cost of the service credits purchased. Once the member is vested but not yet retired or entered into DROP, the member may purchase a maximum of five (5) years of any combination of the afore mentioned qualifying non-city service.

1. The contribution required of the employee to purchase service credits for prior military service or prior employment as a police officer, may be made in one lump sum installment or by rollover from a qualified plan.
2. The contribution is calculated as twenty (20) percent of the employee's pensionable current annual compensation at the time of the buy back for each year purchased.

A member who is receiving or will receive a pension benefit for military or prior police service in any other pension plan supported by public funds, excluding a military pension, may not use or buy back credited service for the City of Pensacola Police Officers Pension Fund.

Credited service or creditable service also includes periods of "leave of absence," as defined in subsection 9-5-16(b)(21) below. Solely for the purposes of avoiding a one-year break in service, to the extent required under the Family and Medical Leave Act of 1993 and the regulations thereunder, a police officer shall be deemed to be performing credited service or creditable service for the city during any period the police officer is granted leave under such act for:

(i) The birth of a child;

(ii) The placement with the police officer of a child for adoption;

(iii) To care for a spouse, child or parent of the police officer with a serious health condition; or

(iv) For a serious health condition that makes the police officer unable to perform the functions of his or her job.

(13) *Deferred Retirement Option Plan* or *DROP* means a retirement option, in which a police officer may elect to participate, under which a police officer may retire for all purposes from the Police Officers' Retirement Fund and defer receipt of retirement benefits into a DROP account while continuing employment with the city. Notwithstanding any other provision to the contrary, the Police Officers' Retirement Fund shall comply with the DROP provisions of chapter 9-9 of title IX of the Code of Ordinances of the City of Pensacola.

(14) *Department* means the police department of the city.

(15) *Distributee police officer* means a police officer or former police officer, who is entitled to receive any distribution from the Police Officer's Retirement Fund. Distributee police officer shall also mean, solely for purposes of determining who is entitled to payment from the Police Officers' Retirement Fund, the police officer's surviving spouse, and the police officer's spouse or former spouse who is the alternate payee under a court order.

Effective for plan years beginning on and after January 1, 2007, a non-spouse beneficiary, may elect to directly rollover an eligible distribution to an IRA, a Roth IRA or an individual retirement annuity under Section 408(b) of the Code that is established on behalf of the designated beneficiary as an inherited IRA, pursuant to the provisions of Section 402(c)(11) of the Code. In order to be able to roll over the distribution, the distribution otherwise must satisfy the definition of "eligible rollover distribution". In addition, the determination of any required minimum distribution under Section 401(a)(9) of the Code that is ineligible for rollover shall be made in accordance with IRS guidance.

(16) *Eligible rollover distribution* is any distribution of all or any portion of the police officer's benefit, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee police officer or the joint lives (or joint life expectancies)

of the distributee police officer and the distributee police officer's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and any distribution made to satisfy Section 415 of the Code.

(17) *Eligible retirement fund* means an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code or a qualified trust described in Section 401(a) of the Code, that accepts the distributee police officer's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

(18) *Eligible retirement plan* means an IRA described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, an annuity contract described in Section 403(b) of the Code, an eligible plan under Section 457 of the Code that agrees to separately account for such transferred amounts and which is maintained by a state, political subdivision of a state or an agency or instrumentality of a state or political subdivision of a state or a qualified trust described in Section 401(a) of the Code that accepts the distributee police officer's "eligible rollover distribution". For distributions made after December 31, 2007, an eligible retirement plan shall include a Roth IRA as defined under Section 408A of the Code.

(19) *Full year* means a twelve (12) consecutive calendar month period commencing on a police officer's employment date and on the anniversary date of such employment thereafter.

(20) *Full year of credited service* means a full year wherein a police officer was employed by the department for more than six (6) months and he or she has not withdrawn his or her contribution to the Police Officers' Retirement Fund for such year.

(21) *Leave of absence* means:

(a) Any leave of absence or vacation authorized by the city or department.

(b) Any service in the armed forces of the United States required to be recognized by the Uniformed Services Employment and Reemployment Rights Act of 1994, provided the police officer was employed at the city other than in a temporary position, immediately prior to entry into such armed forces, and further provided the police officer returns to employment with the city within one year from the date of his/her release from such active service.

The above-named absences shall be authorized on a nondiscriminatory basis, and all police officers in similar circumstances will receive uniform and consistent treatment.

(22) *Limitation year* means the twelve-month period ending on September 30, which period shall be the "limitation year" for purposes of Code Section 415.

(23) *Line of duty* means within the scope of employment as a police officer during such time or times he or she was rendering services to the city as a police officer and at such other times when a police officer is vested with authority to make arrests in accordance with the laws of the State of Florida.

(24) *Normal retirement date* means the first day of the month coincident with or next following the date on which the police officer has completed twelve (12) or more years of credited service and attained age fifty-five (55).

(25) *Plan* means the Police Officers' Retirement Fund.

(26) *Plan year* means the twelve-month period ending on September 30.

(27) *Police officer* means any person hired prior to January 1, 2013 who is elected, appointed, or employed full time by the city, who is certified or required to be certified as a law enforcement

officer in compliance with F.S. § 943.1395, who is vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers, but does not include part-time law enforcement officers or auxiliary law enforcement officers as the same are defined in F.S. §§ 943.10(6) and (8), respectively. The police chief shall have an option to participate, or not, in the plan. Any police officer employed on or after October 1, 1979, participating in this plan shall not be eligible to participate in any other defined benefit pension plan of the city. No police officer employed prior to October 1, 1979, shall be permitted to participate in both this plan and another defined benefit pension plan of the city unless such police officer has done so continuously since prior to said date.

(28) *Police Officers' Retirement Fund* means the special fund created exclusively for the purposes provided in this article.

(29) T*otal and permanent disability* means both total disability and permanent disability. Total disability means physical and/mental disability of a police officer for a period of more than sixty (60) calendar days and who is forever thereafter wholly prevented from rendering useful and efficient service as a police officer in the sole discretion of the board of trustees. Permanent disability means a police officer is likely to remain forever totally disabled continuously and permanently in the sole discretion of the board of trustees. Total and permanent disability shall not include disability resulting from injuries or conditions resulting from a police officer's:

(i) Excessive and habitual use of alcohol, drugs or narcotics;

(ii) Injury or disease from an intentionally self-inflicted injury;

(iii) Willful and illegal participation in fights, riots, civil insurrections or while committing a crime;

(iv) Injury or disease after his employment has terminated.

The board of trustees shall determine if the above conditions have been met. Its decision shall be final and binding.

The definitions in this section shall not be construed to prohibit employees of the police department other than police officers who have participated in the Police Officers' Retirement Fund prior to the adoption of this article from continuing to participate in the fund.

(Ord. No. 15-97, § 1, 4-24-97; Ord. No. 1-99, § 1, 1-14-99; Ord. No. 41-99, § 1, 10-14-99; Ord. No. 20-00, § 1, 4-27-00; Ord. No. 03-11, § 1, 1-27-11; Ord. No. 11-11, § 1, 7-21-11; Ord. No. 18-11, § 1, 9-8-11; Ord. No. 07-13, §§ 1, 2, 2-28-13; Ord. No. 26-13, § 1, 9-26-13)

Sec. 9-5-17. - Board of trustees.

(a) *Creation.* There is hereby created in and for the city a board of trustees of the Police Officers' Retirement Fund, which shall be responsible for the sole and exclusive administration of, and for the proper operation of the Police Officers' Retirement Fund.

(b) *Composition.* The board of trustees shall consist of five (5) members, as follows:

(1) Two (2) legal residents of the city, who shall be appointed by the city council. Each resident-trustee shall serve as a trustee for a period of two (2) years, unless sooner replaced by the City Council, at whose pleasure he or she shall serve, and may succeed himself or herself as a trustee.

(2) Two (2) Police Officers who shall be elected by a majority of the Police Officers who are members of the Police Officers' Retirement Fund. Elections shall be held under such reasonable rules and regulations as the board of trustees shall adopt from time to time. Each

police officer shall serve as a trustee for a period of two (2) years, unless he or she sooner ceases to be a police officer in the employ of the Department. His or her successors shall be elected by a majority of Police Officers who are members of the fund except as provided in section 9-5-17(c) herein. Each Police Officer-trustee of the fund may succeed himself or herself as a trustee.

(3) A fifth trustee, who shall be chosen by a majority of the other four trustees. This fifth person's name shall be submitted to the city council, who shall, as a ministerial duty, appoint such person to the board as a fifth trustee. The fifth person shall serve as trustee for a period of two (2) years, and may succeed himself or herself as a trustee.

(c) *Board vacancy; how filled.* In the event a Police Officer-trustee provided for in subsection (b)(2) ceases to be a police officer in the employ of the Department, he or she shall be considered to have resigned from the board of trustees. In the event a Police Officer-trustee resigns, is removed, or becomes ineligible to serve as a trustee, the board shall, by resolution, declare the office of trustee vacated as of the date of adoption of said resolution. If such a vacancy occurs in the office of trustee within ninety (90) days of the next succeeding election for Police Officer-trustees, the vacancy shall be filled at the next regular election for the unexpired portion of the term; otherwise the vacancy shall be filled for the unexpired portion of the term, as provided in subsection (b)(2).

In the event a member-trustee provided for in subsection (b)(1) or (b)(3) resigns, is removed or becomes ineligible to serve as a trustee, the board shall, by resolution, declare the office of trustee vacated as of the date of adoption of said resolution. His or her successor for the unexpired portion of his or her term shall be chosen in the same manner as an original appointment.

(d) *Board meetings; quorum; procedures.* The board of trustees shall hold meetings regularly, at least one (1) in each quarter year, and shall designate the time and place thereof. At any meeting of such board, any and all acts and decisions shall be effectuated by a vote of the majority of the members of the Board. Each Trustee shall be entitled to one (1) vote on each question before the board and any and all acts and decisions shall be effectuated by a vote of the majority of the members of the Board. The board of trustees shall adopt its own rules of procedure and shall keep a record of its proceedings. All public records of such board shall be open to the public and shall be held as required by law.

(e) *Board chairman.* The board of trustees shall, by majority vote, elect from among its members a chairman.

(f) *Board secretary.* The board of trustees shall, by majority vote, elect from among its members a secretary. The secretary shall keep a complete minute book of the actions, proceedings and hearings of the board. And, the Secretary of the board of trustees shall keep a record of all persons receiving retirement payments and shall note the time when the pension is allowed and when the pension shall cease to be paid. In this record, the Secretary shall keep a list of all Police Officers employed by the municipality. The record shall show the name, address, and time of employment of such police officer and when he or she ceases to be employed by the municipality.

(g) *Compensation.* The board of trustees shall not receive any Compensation for their services as such, but may receive expenses and per diem as provided by law and the per diem policy promulgated by the city from time to time.

(h) *Disclosure.* The members of the board of trustees shall make and complete all public reports and disclosures required by federal and state law for members in similar positions.

(i) *Attorney.* The city attorney shall advise the board of trustees in all matters pertaining to their duties in the administration of the Police Officers' Retirement Fund and shall represent and defend said board in all suits and actions at law or in equity that may be brought against it, and he or she shall bring all suits and actions in its behalf. However, if the board of trustees so elects, it may employ independent legal counsel at the Police Officers' Retirement Fund's expense for the purposes contained within this article.

(j) *Professional, technical or other services.* The board of trustees shall have the authority to employ such professional, technical or other advisors as are required to carry out the provisions of this article.

(Ord. No. 15-97, § 1, 4-24-97; Ord. No. 1-99, §§ 2, 3, 1-14-99)

Sec. 9-5-18. - Powers and authority of board of trustees.

(a) *Nondiscriminatory.* In the exercise of any power or discretion under the fund, the board of trustees shall not take any action in respect to any of the rights, benefits, or obligations of a member under the fund which would be discriminatory in favor of some members over others in substantially similar situations or under substantially similar sets of facts. Nor shall the plan discriminate in its benefit formula based on color, national origin, sex or marital status.

(b) *Investments.* The board of trustees shall have the power and authority to invest and reinvest the assets of the Police Officers' Retirement Fund in the manner authorized by general law. Additionally, there shall be no limit on the authority of the board of trustees to invest the fund's assets in equity investments except that the aggregate market value of the fund's equity investments shall not exceed seventy (70) percent of the aggregate market value of all assets of the fund, shall not invest more than five (5) percent of the fund's assets in common stock or capital stock of any one (1) issuing company, nor shall the aggregate investment in any one (1) issuing company exceed five (5) percent of the outstanding capital stock of the issuing company.

Furthermore, notwithstanding F.S. § 185.06(1)(b), the board of trustees may, upon recommendation by the Board of Trustee's investment consultant and as long as the city remains the fund administrator:

(i) Invest the assets of the Police Officers' Retirement Fund in any lawful investment, real or personal, as provided in F.S. § 215.47; and

(ii) Invest no more than twenty (20) percent of the assets of the Police Officers' Retirement Fund, at fair market value, in any single group trust meeting the requirement of Internal Revenue Service Revenue Ruling 81-100 or successor rulings or guidance of similar import.

(c) *Professional money manager.* The board of trustees shall have the power and authority to:

(1) Contract with any professional money manager to act as agent and corporate trustee of the Police Officers' Retirement Fund. Such professional money manager shall have full investment powers over said fund subject to the provisions of subsection 9-5-18(b) which limit the nature and extent of investments of such fund.

(2) In order to accomplish the purpose outlined in subsection (c)(1), the said trustees may direct the mayor to act as their agent in all matters relating to retention and contracting with said professional money manager. The mayor shall report the nature, extent and return of the investments made by said professional money manager on a quarterly basis. The board of trustees shall review such report and shall give instructions and directions to the mayor regarding the continued investment of the Police Officers' Retirement Fund and the retention of said professional money manager. The mayor shall provide for periodic review of said investment funds and make annual reports with recommendations to the city council.

(d) *Administration.* The board of trustees shall have the power and authority to:

(1) Appoint a person to serve as fund administrator who shall be the chief administrative officer of the fund and who shall perform the administrative duties of the fund. Said fund administrator shall keep a separate and complete minute book of proceedings of the board in reference to the business and affairs relating to the Police Officers' Retirement Fund. Said minute book shall at all times be kept in the office of the fund administrator and be open to the public for inspection. It shall be the duty of the trustees of the Police Officers' Retirement Fund through its secretary and fund administrator, to promptly make all reports required by any general or special law, to

the state treasurer or insurance commissioner, relating to the status of the Police Officers' Retirement Fund.

The duties of the fund administrator shall include, but not be limited to the following:

(a) *Information to actuary.* The fund administrator shall furnish the actuary such information as he or she may require to properly perform his or her duties, those duties include regularly determining estimated contribution levels to properly fund the fund's benefit liabilities, determining disclosure information for the financial statements, and may include certifying the retirement and termination benefits payable under the fund.

(b) *Maintenance of records.* The fund administrator shall keep all records required to reflect the status of each police officer properly, and make available to each police officer the records of his or her status in the fund.

(c) *Direct benefit payments.* The fund administrator shall direct the custodian bank to make retirement and termination benefit payments as required by the provisions of the fund, after approval by the board of trustees.

(2) Issue drafts upon the Police Officers' Retirement Fund pursuant to the rules and regulations prescribed by the board of trustees. All drafts shall be consecutively numbered and be signed by the chairman and the secretary or those designated by the board from time to time and shall state upon their face the purposes for which the drafts were drawn. The plan administrator shall retain the drafts when paid, as permanent vouchers for disbursements made, and no money shall otherwise be drawn from the fund;

(3) Finally decide all claims to relief under the board rules and regulations;

(4) Convert into cash any securities of the fund;

(5) Keep a complete record of all receipts and disbursements and of the board's acts and proceedings, said records shall at all times be kept in the office of the fund administrator and be open to the public for inspection in accordance with the provisions of subsection 9-5-18(d)(1);

(6) Promptly and timely make all reports required by any general or specific law, to the State of Florida, relating to the Police Officers' Retirement Fund;

(7) Retain an independent consultant professionally qualified to evaluate and monitor the performance of the professional money manager. The independent consultant shall report its evaluation of the professional money manager to the board of trustees on a quarterly basis, or as often as the board may request. In all events, the independent consultant shall make its report not less than once every six (6) months;

(8) Keep in convenient form such data as shall be necessary for an actuarial valuation of the Police Officers' Retirement Fund and for checking the actual experience of the Police Officers' Retirement Fund;

(9) Attend at the cost of the Police Officers' Retirement Fund seminars, meetings, conferences and other events and functions relating to public retirement systems as approved by the board;

(10) Adopt uniform and nondiscriminatory regulations and procedures and any emergency rules necessary for the effective administration of the Police Officers' Retirement Fund;

(11) Deposit with the plan administrator from time to time all, or a portion of, the funds and securities of the Police Officers' Retirement Fund. Any such funds and securities so deposited with such plan administrator shall be kept in separate investment accounts clearly identified as funds and securities of the Police Officers' Retirement Fund. The board of trustees may appoint such plan administrator to direct the investment and reinvestment of any such investment accounts. The plan administrator so appointed shall invest and reinvest such accounts with the same power the trustees have but shall only invest and reinvest in the following:

a. Time and savings accounts of a national bank, a state bank insured by the Bank Insurance Fund (BIF) or a savings and loan association insured by the Savings Association Insurance

Fund (SAIF) so long as the cumulative deposits with any one such bank or savings and loan does not exceed the applicable BIF and SAIF insurance limits from time to time. Investments in time and savings accounts of any one such bank or savings and loan in excess of applicable BIF and SAIF limits shall be secured and collateralized upon the terms and conditions approved by the board or so secured or collateralized in accordance with the written rules and regulations adopted by the board from time to time.

b. Obligations of the United States or obligations guaranteed as to principal by the United States.

c. Bonds or other evidence of indebtedness issued by the State of Florida.

Such plan administrator shall report the nature, extent and return of the investments made by said finance director on a monthly basis. The plan administrator shall discharge his or her duties solely in the interest of the Police Officers participating in the Police Officers' Retirement Fund and their beneficiaries for the exclusive purpose of providing benefits to such Police Officers and beneficiaries and defraying reasonable expenses of administering the fund and shall be liable therefor as provided by law;

(12) The board of trustees shall submit such information to the State of Florida as is required under F.S. § 185.221(2), in order for the fund to receive a share of State funds for the current calendar year; when any of these items would be identical with the corresponding item submitted for a previous year it will not be necessary to submit duplicate information but to make reference to the item in such previous year's report.

The secretary of the board of trustees shall keep a record of all persons enjoying a pension under the provisions of the fund, in which shall be noted the time when the pension is allowed and when the same shall cease to be paid. The secretary shall keep a record of all Police Officers employed by the city and a record shall be kept in such manner as to show the name, address, and time of employment of such Police Officers and when such Police Officers cease to be employed by the city.

(13) Cause subpoenas to be issued and require the attendance of witnesses and the production of documents for the purpose of determining or redetermining at any time and from time to time the eligibility, right, or entitlement to any pension, benefit, or other payment provided under this article.

(Ord. No. 15-97, § 1, 4-24-97; Ord. No. 47-98, § 1, 9-24-98; Ord. No. 1-99, §§ 4, 5, 1-14-99; Ord. No. 41-99, § 2, 10-14-99; Ord. No. 45-00, §§ 1, 2, 10-12-00; Ord. No. 27-02, § 1, 9-26-02; Ord. No. 10-08, § 1, 1-31-08; Ord. No. 16-10, § 143, 9-9-10; Ord. No. 11-11, § 2, 7-21-11)

Sec. 9-5-19. - Liability of board of trustees.

No member of the board nor the fund administrator (for purposes of this section 9-5-19, references to "the board" shall be deemed to include the fund administrator) shall be directly or indirectly responsible or under any liability by reason of any action or default by him or her as a member of the board, or the exercise of or failure to exercise any power or discretion as such member, except for his own fraud or willful misconduct; and no member of the board shall be liable in any way for the acts or defaults of any other member of the board or any of its advisors, agents, or representatives. Without limitation or restriction upon any other indemnification right at law or otherwise, the city shall indemnify and save harmless each member or former member of the board against any and all expenses and liabilities arising out of his membership on the board, except expenses and liabilities arising out of his own fraud or willful misconduct. The fact that any member of the board is an officer, or police officer of the city, or a police officer included in the fund, shall not disqualify him or her from doing any act or thing which the fund authorizes or requires him or her to do as a member of such board (except as otherwise provided in for herein with respect to a member who is a police officer included in the fund).

(Ord. No. 15-97, § 1, 4-24-97)

Sec. 9-5-20. - Information.

(a) *Employment.* The City shall furnish to the board, in writing, such information as the board may reasonably request in the exercise of its powers and duties in the administration of the fund. Such information may include, but shall not be limited to, the names of employees, their Compensation and dates of birth, employment, termination of employment, retirement, or death. Such information shall be conclusive for all the purposes of the plan and the board shall be entitled to rely thereon; provided, however, that the board may correct any errors discovered in any such information.

(b) *Examination by Police Officers.* The board shall make available to each police officer for examination by him or her, at the principal office of the city, a copy of the ordinance and such of its records or copies thereof as may pertain to any benefits of such police officer under the fund.

(Ord. No. 15-97, § 1, 4-24-97)

Sec. 9-5-21. - Contributions and funding.

(a) The contributions to be credited to the Police Officers' Retirement Fund shall consist of, but shall not be limited to, the following sources of revenue:

(1) (a) Prior to January 2, 2013, the net proceeds of any excise or license tax under F.S. § 185.08, as amended, imposed by the city or the State of Florida upon certain casualty insurance companies on their gross receipts of premiums from holders of policies, which policies cover property within the corporate limits of the city. Such revenue shall first be used to fund the benefit increase provided in subsection 9-5-23(a)(ii)(a) and (b), and then any remaining revenue shall be used for the remaining benefits of the plan. If the receipt of this revenue is not sufficient to pay all benefits of the plan, nevertheless, all benefits of the plan shall be paid;

(b) Effective January 2, 2013, the imposition of excise or license taxes under F.S. § 185.08, an amended, imposed by the city upon certain casualty insurance companies on their gross receipts of premiums from holders of policies, shall cease; provided however, that in the event state law is altered or amended to allow the continuation of such funding source for this plan, then such tax shall be imposed and such revenue shall be made available as a funding source for the plan.

(2) Effective, February 1, 2004, five and one-half (5.5) percent [three (3) percent for police officers described in subsection 9-5-23(g) who did not elect to participate in the retirement benefit increase provided for in subsection 9-5-23(a)(ii)(b)] of the compensation of each police officer to be deducted by the city from each installment of compensation paid to the police officer and designated contributions by the city for purposes of Section 414(h) of the Internal Revenue Code of 1986, as amended. Effective October 1, 2004, the percentage for all police officers shall change to two and one-half (2.5) percent; and shall change to one-half (0.5) percent effective October 1, 2005. Such contributions, however, shall be considered contributions by a police officer subject to refund under subsection 9-5-26(a) and section 9-5-28, and this article. Such contributions are being paid by the city in lieu of contributions by a police officer and the police officer shall not have the option of choosing to receive the contributed amounts directly instead of having the same paid by the city to the Police Officers' Retirement Fund;

(3) Effective January 1, 2013, one and one-half (1.5) percent of the compensation of each police officer participating in the Police Officers' Retirement Fund to be deducted by the city from each installment of compensation paid to the police officer and designated contributions by the city for purposes of Section 414(h) of the Internal Revenue Code of 1986, as amended. Effective October 1, 2013, the police officers' contribution shall increase to three and one-half (3.5) percent of compensation; and effective October 1, 2014, the police officers' contribution shall

again increase to five and two-tenths (5.2) percent of compensation. Such contributions, however, shall be considered contributions by a police officer subject to refund under subsection 9-5-26(a) and section 9-5-28, and this article. Such contributions are being paid by the city in lieu of contributions by a police officer subject to refund under subsections 9-25-(b), 9-5-26(a) and this article;

(4) Payment of the city, or other sources, of a sum equal to the normal cost and amount required to fund over a forty-year period any actuarial deficiency shown by a triennial actuarial valuation, or as often as otherwise may be required by Florida law. For purposes of determining when a triennial actuarial valuation must be performed, the first of such valuations was conducted for the calendar year ending December, 1963;

(5) All gifts, bequests and devises when donated to the Police Officers' Retirement Fund;

(6) All accretions to the Police Officers' Retirement Fund by way of interest or dividends on bank deposits or otherwise; and

(7) All other sources of income now or hereafter authorized by law for the augmentation of the Police Officers' Retirement Fund.

(8) When authorized to fund prior service credit for police officers, transfers of assets from qualified plans (under Section 401(a) of the Internal Revenue Code) and from eligible governmental plans (under Section 457 of the Internal Revenue Code).

(b) All state and other funds received by the city under the provision of this article and chapter 185, Florida Statutes shall be deposited immediately with the board of trustees. Under no circumstances shall such deposit be made more than five (5) calendar days after receipt by the city. The eight and one-half (8.5) percent [three (3) percent for Police Officers described in subsection 9-5-23(g) who did not elect to participate in the retirement benefit increase provided for in subsection 9-5-23(a)(ii)(b)] contribution provided in subsection 9-5-21(a)(2) shall be paid over to the board of trustees by the city immediately after each pay period. All other funds received by the city and designated for or made payable to the Police Officers' Retirement Fund shall be paid to the board of trustees within five (5) calendar days after receipt by City.

(c) A police officer employed prior to October 18, 1999, in a department of the city other than the police department may irrevocably elect on or before December 10, 1999, whether or not to participate in this plan, and if his or her election is to participate in this plan then such police officer also shall irrevocably elect whether or not to include his or her prior service as a permanent sworn law enforcement officer of the city as credited service under this plan. If the police officer elects to so include such prior service he or she shall within thirty (30) days of making such election contribute five and one-half (5.5) percent of his or her compensation during such prior service period to the Police Officers' Retirement Fund as a condition of including such prior service as credited service and shall thereafter contribute to the fund in the amount set forth in subsection 9-5-21(a)(2).

Prior to providing for any further increase in police pension benefits, any increase in insurance premium tax proceeds received by the Police Officers' Retirement Fund shall first be used to credit the fund for those portions of the costs necessitated by this section to provide the minimum benefits set forth in F.S. ch. 185.

(Ord. No. 15-97, § 1, 4-24-97; Ord. No. 41-99, §§ 3, 12, 10-14-99; Ord. No. 27-02, § 2, 9-26-02; Ord. No. 11-04, § 1, 4-22-04; Ord. No. 07-13, § 3, 2-28-13)

Editor's note— Section 9-5-21(a)(2) shall take effect retroactively to September 26, 2002.

Sec. 9-5-21.5. - Defined contribution plan.

(a) *Established.* Pursuant to F.S. § 185.35, a defined contribution plan to be entitled "Police Officers' Retirement Fund Defined Contribution Plan" is hereby created. The purpose of this plan is to receive

fifty (50) percent of the excess insurance premium tax revenues over the insurance premium tax revenues received for calendar year 2012. The plan will not be funded if the city and the collective bargaining units come to mutual consent on an alternate use of the funds. The separate defined contribution plan hereby created shall be in addition to any other benefits available to the members under the police officers' retirement fund and nothing herein shall in any way affect any other benefits that now or hereafter exist.

(b) Any extra benefits to be provided or on behalf of participants of the police officers' retirement fund defined contribution plan shall be provided through individual accounts with each participant - directed investments and in accordance with Section 401(a) of the Internal Revenue Code and its related regulations.

(c) The city shall not be required to levy any additional taxes on its residents or to make any other contributions to the defined contribution plan.

(Ord. No. 31-16, § 1, 11-17-16)

Sec. 9-5-22. - Lump sum transfers.

All police officers who were eligible to participate in the Police Officers' Retirement Fund (the "Plan") on or before April 1, 2013, and elected to participate in the Florida Retirement System, thereby revoking their participation in the benefits under F.S. ch. 185 and foregoing any future benefits from the Plan, shall have the lump sum present value of their vested accrued benefit (expressed in the form of a single life annuity) transferred to the Section 401(a) Social Security Replacement Plan in which the police officer is currently a participant. The lump sum present value shall be calculated as of May 1, 2013 utilizing the RP 2000 Static Table with blended rates 80% male/20% female mortality tables with an interest rate of 7.75% per annum and factoring a post-retirement COLA of 2.5%.

(Ord. No. 15-13, § 1, 5-9-13)

Editor's note— Ord. No. 07-13, § 4, adopted February 28, 2013, repealed § 9-5-22, which pertained to participation and benefit claims procedure and derived from Ord. No. 15-97, § 1, 4-24-97.

Sec. 9-5-23. - Retirement.

(a) *Normal retirement.* Any police officer who is participating in the Police Officers' Retirement Fund, and who retires after having reached the normal retirement date or who completes twenty-five (25) years credited service regardless of age is eligible for normal retirement benefits. Such police officer will become one hundred (100) percent vested in his accrued benefit at normal retirement date. In that event, payment of retirement benefits shall be made in accordance with the following provisions:

(i) *Benefit commencement.* The monthly retirement income payable in the event of normal retirement shall commence on the later of (1) the police officer's normal retirement date or (2) the first day of the month coincident with or next following his or her actual retirement, continue to be paid for his or her life and thereafter be paid to his or her beneficiary in accordance with section 9-5-27.

(ii) *Normal retirement benefit.* The monthly retirement benefit payable to a police officer who retires on or after his or her normal retirement date shall be determined as follows:

(a) For a police officer hired on or after September 30, 2002, the amount of three (3) percent of average final compensation per total of his or her full years of credited service.

(b) For a police officer retiring on or after September 30, 2002, who was hired on or after October 1, 1979, and prior to September 30, 2002, and who made the election provided for

in subsection (g) of this section, the amount of three (3) percent of average final compensation for credited service on or after October 1, 1997, and two (2) percent of average final compensation for the period of credited service prior to October 1, 1997, except as provided in subsection (h) of this section.

(c) For a police officer retiring after December 31, 1996, the amount of two (2) percent of average final compensation per total of his or her full years of credited service.

(d) For a police officer retiring on or after April 1, 1996, the amount shall be one and 85/100 (1.85) percent of average final compensation per total of his or her full years of credited service.

(e) For a police officer retiring on or after July 1, 1994, and before April 1, 1996, the amount shall be the greater of the following:

i. Seventeen dollars ($17.00) per year for each full year of service; or

ii. One and 65/100 (1.65) percent of average final compensation per full year of total credited service.

(f) For a police officer retiring on or after April 1, 1990, and before July 1, 1994, the amount shall be the greater of the following:

i. Seventeen dollars ($17.00) per year for each full year of service; or

ii. One and 45/100 (1.45) percent of average final compensation per full year of total credited service.

(g) For a police officer retiring on or after December 31, 1986, and before April 1, 1990, the amount shall be the greater of the following:

i. Seventeen dollars ($17.00) per year for each full year of service; or

ii. One and one-quarter (1.25) percent of average final compensation per full year of total credited service.

(h) For a police officer retired on or after May 17, 1983, and before December 31, 1986, the amount shall be the greater of the following:

i. Seventeen dollars ($17.00) per year for each full year of service; or

ii. One hundred dollars ($100.00); or

iii. One-twelfth (1/12) of one (1) percent of the police officer's total earnings during the period of credited service.

(i) For a police officer retired on or after December 10, 1981, and before May 17, 1983, the amount shall be the greater of the following:

i. Fourteen dollars ($14.00) per year for each full year of service; or

ii. One hundred dollars ($100.00); or

iii. One-twelfth (1/12) of one (1) percent of the police officer's total earnings during the period of credited service.

(j) For a police officer retired before December 10, 1981, the amount shall be the greater of the following:

i. Twelve dollars ($12.00) per year for each full year of service; or

ii. One hundred dollars ($100.00); or

iii. One-twelfth (1/12) of one (1) percent of the police officer's total earnings during the period of credited service.

(b) *Early retirement.* Early retirement is retirement from the service of the city, as of the first day of any calendar month which is prior to the police officer's normal retirement date but subsequent to the date as of which the police officer has both attained the age of fifty (50) years and completed twelve (12) years of credited service.

(i) *Early retirement benefit.* A police officer eligible for early retirement shall receive monthly retirement income in accordance with the provisions of subsection 9-5-23(a) reduced by three (3) percent for each year by which the police officer's age is less than fifty-five (55).

Retirement Factors

Age at Retirement (Years)	Factor
55	1.00
54	0.97
53	0.94
52	0.91
51	0.88
50	0.85

(ii) *Benefit commencement.* The monthly retirement income payable in the event of early retirement shall commence on the police officer's early retirement date.

(c) *Delayed retirement.* In the event a police officer continues in the service of the city beyond his or her normal retirement date, or completes more than twenty-five (25) years of credited service regardless of age, as provided in subsection 9-5-23(a), he or she shall be eligible for retirement upon his or her actual retirement.

(i) Delayed retirement benefit. A police officer eligible for delayed retirement shall receive monthly retirement income computed in accordance with the provisions of subsection 9-5-23(a)(ii) upon his actual retirement.

(ii) Benefit commencement. Such monthly retirement income benefit shall commence on the first day of the month coincident with or following the police officer's actual retirement date and be paid on the first day of each month thereafter.

(d) *Optional forms of retirement income.* A police officer is entitled to optional forms of retirement income as provided in chapter 185, Florida Statutes.

(e) *Other benefit.* Notwithstanding the above, if any police officer shall after serving for a period of less than twelve (12) credited years of service, cease to be an employee of the city for any cause, such police officer is entitled to a refund of his or her contributions less any benefits paid. If a police officer shall after serving a period of at least twelve (12) years of credited service, and shall not ever make a

withdrawal of funds from the Police Officers' Retirement Fund, he or she shall be eligible to receive normal retirement benefits computed in accordance with subsection 9-5-23(a)(ii) in the manner set forth section 9-5-23 above.

(f) *Benefit forfeiture.* A police officer shall forfeit all benefits provided under this article to the extent provided by the Constitution of the State of Florida and F.S. § 112.3173, as amended.

(g) *Elective benefit increase.* A police officer hired on or after October 1, 1979, and before September 30, 2002, may irrevocably elect prior to July 1, 2004, to participate in the retirement benefit increase provided for in subsection (a)(ii)(b) of this section. Upon such election, contributions on behalf of such police officer to the defined contribution benefit plan provided for in section 9-5-93 of this Code shall cease. Each police officer making such election to participate shall be credited with all years of service as a permanent full-time police officer. Provided, however, any police officer who shall have had a break in service and withdrawn any employee contributions to the Police Officers' Retirement Fund, such police officer shall comply with section 9-5-31 in order to be credited with the period of service for which such police officer withdrew employee contributions.

(h) *Funding of prior service credit.* Funding the prior service credit granted by this section shall be made in accordance with section 9-5-21. The Police Officer's Retirement Fund shall transfer or distribute without interest to the source from which it was received any monies previously paid or transferred to the Police Officer's Retirement Fund to fund prior service credit pursuant to the version of this subsection adopted by Ordinance No. 27-02.

(Ord. No. 15-97, § 1, 4-24-97; Ord. No. 41-99, § 4, 10-14-99; Ord. No. 27-02, § 3, 9-26-02; Ord. No. 11-04, § 2, 4-22-04; Ord. No. 03-11, § 2, 1-27-11; Ord. No. 07-13, § 5, 2-28-13)

Editor's note— Sections 9-5-23(g), (h) shall take effect retroactively to September 26, 2002.

Sec. 9-5-24. - Disability benefits.

(a) A police officer having twelve (12) or more years of credited service, or a police officer who becomes totally and permanently disabled in the line of duty, regardless of length of service, may retire from the service of the city under the plan if he or she becomes totally and permanently disabled as defined in subsection (b) by reason of any cause other than a cause set out in subsection (c) on or after the effective date of the plan. Such retirement shall herein be referred to as disability retirement.

(b) A police officer will be considered totally disabled if, in the opinion of the board of trustees, he or she is wholly prevented from rendering useful and efficient service as a Police Officer; and a police officer will be considered permanently disabled if, in the opinion of the board of trustees, such police officer is likely to remain so disabled continuously and permanently from a cause other than as specified in subsection (c).

(c) A police officer will not be entitled to receive any line of duty disability retirement income if the disability is a result of: the circumstances in paragraphs (3) or (5) or any disability retirement if the disability is the result of the circumstances described in paragraphs (1), (2), (4), or (6) to wit:

(1) Excessive and habitual use by the police officer of drugs, alcohol or narcotics;

(2) Injury or disease sustained by the police officer while willfully and illegally participating in fights, riots, civil insurrections or while committing a crime;

(3) Injury or disease sustained by the police officer while serving in any armed forces;

(4) Injury or disease sustained by the police officer after employment has terminated;

(5) Injury or disease sustained by the police officer while working for anyone other than the city and arising out of such employment. If while so working the police officer commences the exercise of police powers and thence becomes disabled, the disability shall be deemed to be in the line of duty.

(6) Injury or disease from an intentionally self-inflicted injury.

(d) No police officer shall be permitted to retire under the provisions of this section until examined by a duly qualified physician or surgeon, to be selected by the board of trustees for that purpose, and is found to be disabled in the degree and in the manner specified in this section. Any police officer retiring under this section may be examined periodically by a duly qualified physician or surgeon or board of physicians and surgeons to be selected by the board of trustees for that purpose, to determine if such disability has ceased to exist.

(e) The benefit payable to a police officer who retires from the service of the city with a total and permanent disability as a result of a disability occurred in the line of duty, his or her monthly benefit shall be determined by the provisions of subsection 9-5-23(a)(ii) but shall not be less than forty-two (42) percent of his or her average monthly compensation as of the police officer's disability retirement date. If a police officer becomes totally and permanently disabled other than in the line of duty after twelve (12) or more years of credited service, the police officer's monthly benefit shall be determined in accordance with subsection 9-5-23(a)(ii), but shall not be less than twenty-five (25) percent of his or her average monthly compensation as of the police officer's disability retirement date.

(f) The monthly retirement income to which a police officer is entitled in the event of his or her disability retirement shall be payable on the first day of the first month after the board of trustees determines such entitlement. However, the monthly retirement income shall be payable as of the date the board determines such entitlement, and any portion due for a partial month shall be paid together with the first payment.

The last payment will be, if the police officer recovers from the disability, the payment due next preceding the date of such recovery or, if the police officer dies without recovering from his or her disability, the payment due next preceding death or the 120th monthly payment, whichever is later. In lieu of the benefit payment as provided in this subsection, a police officer may select an optional form as provided in F.S. § 185.161, subject to the approval of the board of trustees.

Any monthly retirement income payments due after the death of a disabled police officer shall be paid to the police officer's designated beneficiary (or beneficiaries) as provided in section 9-5-27.

(g) If the board of trustees finds that a police officer who is receiving a disability retirement income is no longer disabled, as provided herein, the board of trustees shall direct that the disability retirement income be discontinued. "Recovery from disability," as used in this section, shall mean a police officer has reached maximum medical improvement as certified by a duly qualified physician or surgeon selected by the board and is able to render useful and efficient service as a police officer for the city or is capable of performing other employment with the city for remuneration equal to or greater than the compensation he or she last received as a police officer in the sole discretion of the board.

(h) If the police officer recovers from disability and reenters the service of the city as a Police Officer, his or her service will be deemed to have been continuous, but the period beginning with the first month for which the police officer received a disability retirement income payment and ending with the date he or she reentered the service of the city may not be considered as credited service for the purposes of the plan.

(i) Upon the termination of disability retirement benefits because of a recovery from disability, a police officer shall reenter the fund as a member provided he or she commences active employment with the police department of the city within thirty (30) calendar days of such benefit termination. The police officer's credited service earned prior to his or her disability shall be joined with all post-disability credited service for purposes of computing any other benefits under this fund. No credited service shall be given for the period of a police officer's disability.

(j) If a police officer who recovers from a disability shall not return to active employment with the police department of the city, his or her membership in the fund shall cease on the day of the board's confirmation of a police officer's recovery from disability.

(k) Cost of examinations. The cost of any medical examinations under this section shall be paid by the Police Officers' retirement fund.

(Ord. No. 15-97, § 1, 4-24-97; Ord. No. 41-99, § 4, 10-14-99; Ord. No. 07-13, § 6, 2-28-13)

Sec. 9-5-25. - Optional forms of retirement.

(a) (1)

In lieu of the amount and form of retirement income payable in the event of normal or early retirement, a police officer, upon written request to the board of trustees and subject to the approval of the board of trustees, may elect to receive a retirement income or benefit of equivalent actuarial value payable in accordance with one of the following options:

(a) A retirement income of larger monthly amount, payable to the police officer for his or her lifetime only.

(b) A retirement income of a modified monthly amount, payable to the police officer during the joint lifetime of the police officer and a joint pensioner designated by the police officer, and following the death of either of them, one hundred (100) percent, seventy-five (75) percent, sixty-six and two-thirds (66 2/3) percent, or fifty (50) percent of such monthly amount payable to the survivor for the lifetime of the survivor.

(c) Such other amount and form of retirement payments or benefit as, in the opinion of the board of trustees, will best meet the circumstances of the retiring police officer.

(d) For officers retiring on or after January 1, 2013 who do not have twenty (20) or more years of service under the plan on January 1, 2013, a retirement benefit calculated using the provisions of subsection 9-5-25(a)(1)(b) to benefit the police officer and his or her spouse.

(2) The police officer upon electing any option of this section will designate the joint pensioner or beneficiary (or beneficiaries) to receive the benefit, if any, payable under the Police Officers' Retirement Fund in the event of the police officer's death, and will have the power to change such designation from time to time. Such designation will name a joint pensioner or one (1) or more primary beneficiaries where applicable. Notwithstanding any provisions of Police Officers' Retirement Fund to the contrary, a retired police officer may change his or her designation of joint annuitant or beneficiary (or beneficiaries) up to two times as provided in F.S. § 185.341, without the approval of the board of trustees or the current joint annuitant or beneficiary (or beneficiaries). The retiree is not required to provide proof of the good health of the joint annuitant or beneficiary (or beneficiaries) being removed, and the joint annuitant or beneficiary (or beneficiaries) being removed need not be living. If a police officer's benefits have commenced and he or she is requesting their third (or more) designation of joint pensioner or beneficiary change, such change must be approved by the board of trustees. The board of trustees may request: evidence of the good health of the joint pensioner that is being removed, as it may require; and the amount of the retirement income payable to the police office upon the designation of a new joint pensioner as actuarially redetermined taking into account the ages and sex of the former joint pensioner, the new joint pensioner, and the police officer. Each such designation will be made in writing on a form prepared by the board of trustees, and upon completion, will be filed with the board of trustees. In the event that no designated beneficiary survives the police officer, such benefits as are payable in the event of the death of the police officer subsequent to his or her retirement, shall be paid by the board of trustees to the estate of such deceased police officer, provided that in any of such cases the board of trustees, in its discretion, may direct that the commuted value of the remaining monthly income payments be paid in a lump sum. Any payment made to any person pursuant to this subsection shall operate as a complete discharge of all obligations under the plan with regard to such deceased police officer and shall not be subject to review by anyone, but shall be final, binding and conclusive on all persons ever interested hereunder.

(b) Effective January 1, 2013, the spousal benefits for police officers who have less than twenty (20) or more years of service on January 1, 2013, shall be equal to such benefit payment options as provided by the Florida Retirement System for the Special Risk Class on January 1, 2013, elected as follows:

(1) A monthly benefit payment to the member for the member's lifetime only.

(2) A decreased monthly benefit to the member for the member's lifetime. If the member dies prior to receiving the benefit for ten (10) years, the beneficiary will receive the same monthly benefit for the remaining of the ten (10) years.

(3) A decreased monthly benefit during the joint lifetime of both the member and his or her joint annuitant and which after the death or either, shall continue during the lifetime of the survivor in the same amount.

(4) A decreased monthly benefit payable during the joint lifetime of the member and his or her joint annuitant and which, after the death of either, shall continue during the lifetime of the survivor in an amount equal to sixty-six and two-thirds (66 2/3) percent of the amount that was payable during the joint lifetime of the member and his or her joint annuitant.

Retirement income payments shall be made under the option elected in accordance with the provisions of this section and shall be subject to the following limitations:

(1) If a police officer dies prior to his or her normal retirement date or early retirement date, whichever first occurs, no benefit will be payable under the option to any person, but the benefits, if any, will be determined under F.S. § 185.21.

(2) If the designated beneficiary (or beneficiaries) or joint pensioner dies before the police officer's retirement under the plan, the option elected will be canceled automatically and a retirement income of the normal form and amount will be payable to the police officer upon his or her retirement as if the election had not been made, unless a new election is made in accordance with the provisions of this section or a new beneficiary is designated by the police officer prior to his or her retirement and within ninety (90) days after the death of the beneficiary.

(3) If both the retired police officer and the designated beneficiary (or beneficiaries) die before the full payment has been effected under any option providing for payments for a period certain and life thereafter, made pursuant to the provisions of subparagraph (a)(1)c., the board of trustees may, in its discretion, direct that the commuted value of the remaining payments be paid in a lump sum and in accordance with section 9-5-27

(4) If a police officer continues beyond his or her normal retirement date and dies prior to actual retirement and while an option made pursuant to the provisions of this section is in effect, monthly retirement income payments will be made, or a retirement benefit will be paid, under the option to a beneficiary (or beneficiaries) designated by the police officer in the amount or amounts computed as if the police officer had retired under the option on the date on which death occurred.

(c) No police officer may make any change in his or her retirement option after the date of cashing or depositing his or her first retirement check.

(d) In the event a mandatory distribution is greater than one thousand dollars ($1,000.00), and a distributee police officer fails to elect to have such distribution paid directly to an eligible retirement plan specified by the distributee police officer in a direct rollover or to receive the distribution directly, then the board will pay the distribution in a direct rollover to an individual retirement account ("IRA") designated by the board. For purpose of the preceding sentence, a mandatory distribution is a distribution that constitutes an "eligible rollover distribution" (as defined in section 9-5-16(b)(16)) that is made without the police officers' consent. See sections 9-5-25(b)(3), 9-5-28 and 9-5-35 for examples of potential mandatory distributions.

(Ord. No. 15-97, § 1, 4-24-97; Ord. No. 41-99, § 6, 10-14-99; Ord. No. 15-10, § 1, 8-19-10; Ord. No. 03-11, § 4, 1-27-11; Ord. No. 07-13, § 7, 2-28-13)

Sec. 9-5-26. - Death benefits.

(a) *Death prior to twelve (12) years of service.* If any police officer who is a participant in the police officers' retirement fund dies before having twelve (12) years of service, the heirs, legatees, beneficiaries or personal representative of the deceased police officer shall be entitled to a refund of one hundred (100) percent, without interest, of the decedent police officer's contributions made through salary reductions pursuant to subsection 9-5-21(a)(2).

(b) *Death after twelve (12) years of service.* If any police officer who is a participant in the Police Officers' Retirement Fund and has twelve (12) years or more of service dies before reaching and/or attaining his or her normal retirement date, his beneficiary shall be entitled to receive a monthly retirement benefit as provided in subsection 9-5-24(a) in the manner and extent provided in section 9-5-27.

(c) *Death in line of duty.* If any police officer who is a participant in the Police Officers' Retirement Fund dies as a result of an injury received in the line of duty, his or her beneficiary shall be entitled to receive a monthly retirement benefit as provided in subsection 9-5-24(b) in the manner and extent provided in section 9-5-27.

(Ord. No. 15-97, § 1, 4-24-97; Ord. No. 41-99, § 7, 10-14-99; Ord. No. 07-13, § 8, 2-28-13)

Sec. 9-5-27. - Payments to beneficiary and alternative beneficiary.

In the event any payment under sections 9-3-23, 9-5-24, and subsections 9-5-26(b) and (c) are to be paid to the police officer's beneficiary, such payment shall be made as follows:

(a) Each police officer may, on a form, provided for that purpose, signed and filed with the board of trustees, designate a choice of one or more persons, named sequentially or jointly, as his or her beneficiary (or beneficiaries) to receive the benefit, if any, which may be payable in the event of the police officer's death, and each designation may be revoked by such police officer by signing and filing with the board of trustees a new designation or beneficiary form. If a police officer designates more than one beneficiary the benefits paid shall be divided equally among beneficiaries so long as more than one beneficiary remains eligible for such payments.

(b) If no beneficiary is named in the manner provided by subsection (a), or if no beneficiary designated by the member survives him or her, the death benefit, if any, which may be payable under the plan with respect to such deceased police officer shall be paid by the board of trustees to the estate of such deceased police officer, provided that in any of such cases the board of trustees, in its discretion, may direct that the commuted value of the remaining monthly income payments be paid in a lump sum. Any payment made to any person pursuant to this subsection shall operate as a complete discharge of all obligations under the plan with regard to such deceased police officer and shall not be subject to review by anyone, but shall be final, binding and conclusive on all persons ever interested hereunder.

(c) If the police officer's spouse is the designated beneficiary, the surviving spouse's monthly benefit payment shall be for life. Provided, however, such benefit shall cease upon the remarriage of the surviving spouse except the surviving spouse of a police officer killed in the line of duty shall not lose survivor retirement benefits if the spouse remarries. The surviving spouse of a deceased police officer killed in the line of duty whose benefit terminated because of remarriage shall have the benefit reinstated as of July 1, 1994, at an amount that would have been payable had such benefit not been terminated. Effective October 1, 1999, if the police officer's spouse is the designated beneficiary and if the surviving spouse should remarry, the surviving spouse of the deceased member of the plan shall continue to be entitled to the pension benefit provided for herein. Notwithstanding this provision, unless otherwise required by

law, if a surviving spouse should become a surviving spouse of more than one deceased member of the plan, the surviving spouse shall receive only the greater dependent benefit. Unless required by law, the surviving spouse shall not receive benefits from more than one (1) deceased member of the plan.

(d) If a police officer dies before being eligible to retire, the heirs, legatees, beneficiaries or personal representatives of such deceased police officer shall be entitled to a refund of one hundred (100) percent, without interest, of the contributions made to the Police Officers' Retirement Fund by such deceased police officer or, in the event an annuity or life insurance contract has been purchased by the board on such police officer, then to the death benefits available under such life insurance or annuity contract, subject to the limitations on such death benefit set forth in F.S. § 185.061, whichever amount is greater.

(e) If a police officer having at least twelve (12) years of credited service dies prior to retirement, his or her beneficiary is entitled to the benefits otherwise payable to the police officer at early or normal retirement age.

(f) If a police officer has designated his or her spouse as beneficiary and the police officer and spouse both die prior to the completion of one hundred twenty (120) monthly payments or (ii) a police officer dies and his or her spouse, who has been designated as beneficiary, remarries prior to the completion of one hundred twenty (120) monthly payments then:

(1) Such payments shall be made to the police officer's surviving children until the payments to the police officer, his or her spouse and children shall total one hundred twenty (120) payments. Provided, however, if a surviving child of the police officer is under the age of eighteen (18) at the time such payments total one hundred twenty (120), the payments, or portions received by such child shall continue until such child, attains age eighteen (18).

(2) If a police officer has no surviving children, payments shall be made to the beneficiary designated by the police officer from time to time in a written notice to the board until payments to the police officer, his or her spouse and designated beneficiary shall total one hundred twenty (120) payments.

(g) No spouse or spouse predeceased. If a police officer has no spouse or his or her spouse does not survive him or her, payments shall be made to the surviving children of the police officer until the payments to the police officer and his or her children shall total one hundred twenty (120) payments unless the police officer has designated a beneficiary other than his or her spouse or children. Provided, however, if a surviving child of the police officer is under the age of eighteen (18) at the time such payments total one hundred twenty (120), the payments, or portions received by such child shall continue until such child attains age eighteen (18).

(h) Payments shall be made to any other beneficiary designated by the police officer from time to time in a written notice to the board until the payments to the police officer and his or her designated beneficiary shall total one hundred twenty (120) payments.

(i) Beneficiary designation. The written notice designating a beneficiary of a police officer shall be made in accordance with the rules and regulations promulgated by the board of trustees from time to time. In the event no beneficiary notice is given by a police officer or such beneficiary predeceases the police officer, the police officer's benefits shall be payable to the personal representative of the police officer's estate.

(j) Alternate beneficiary. The board of trustees may refuse to make payment to any person who is, in its judgment, incapable for any reason of personally receiving and giving a valid receipt for such payment, and, unless and until claim shall have been made by a duly-appointed guardian, conservator or committee for such person, may make such payment, or any part thereto, to any other person, institution or agency then, in the judgment of the board, contributing toward or providing for the care and maintenance of such person; and to the extent of amounts so paid the board shall be completely discharged.

(k) Payments to minors. In the event a distribution is to be made to a minor, the board may direct that such distribution be paid to the legal guardian, or if none, to a parent of such beneficiary or

a responsible adult with whom the beneficiary maintains his residence, or to the custodian of such beneficiary under the Uniform Gift to Minors Act or, if such is permitted by the law of the state in which said beneficiary resides, such a payment to the legal guardian, custodian or parent of a minor beneficiary shall fully discharge the board from further liability on account thereof.

(Ord. No. 15-97, § 1, 4-24-97; Ord. No. 1-99, § 6, 1-14-99; Ord. No. 41-99, § 8, 10-14-99; Ord. No. 20-00, § 2, 4-27-00; Ord. No. 07-13, § 9, 2-28-13)

Sec. 9-5-28. - Refunds of contributions.

Should any police officer who is participating in the Police Officers' Retirement Fund leave the services of the city before being eligible to retire under the provisions of this fund, the police officer shall be entitled to a refund of all of his or her contributions made to the Police Officers' Retirement Fund, without interest, less any benefits paid to him or her.

(Ord. No. 15-97, § 1, 4-24-97)

Sec. 9-5-29. - Cost of living increase.

(a) For police officers who have retired or entered the DROP prior to January 1, 2013, the board of trustees shall have the authority to grant increased pension benefits equal to the corresponding increase in the United States Department of Labor Consumer Price Index for All Urban Consumers, U.S. City Average, but not to exceed three (3) percent per year. The increase in the cost of living index shall be calculated as of each September 30 for the prior twelve-month period; and any increase shall be effective January 1 of the following year.

(b) For police officers who retire or enter the DROP on or after January 1, 2013, the board of trustees shall have the authority to grant increased pension benefits equal to the corresponding increase in the United States Department of Labor Consumer Price Index for All Urban Consumers, U.S. City Average, but not to exceed three (3) percent per year for the first ten (10) years of benefit payments and not to exceed two (2) percent for each year thereafter. The increase in the cost of living index shall be calculated as of each September 30 for the prior twelve month period; and any increase shall be effective January 1 of the following year.

(c) However, effective for Police Officers' Retirement Fund participants entering DROP on or after January 1, 2013, any cost of living increase provided by the Fund shall not apply to the DROP participants.

(Ord. No. 15-97, § 1, 4-24-97; Ord. No. 16-98, § 1, 5-14-98; Ord. No. 07-13, § 10, 2-28-13)

Sec. 9-5-30. - Residence.

Any retired police officer now receiving a pension from the city shall continue to receive such pension of the same amount now paid, payable from the source from which such pension is now paid, and any retired police officer now or hereafter receiving a pension under this act may reside in any place of his or her choosing and continue to receive his or her pension as provided by this article, and it shall be the duty of the pension board to forward such pensioners the amount of such payment to the last and best address of such Police Officer.

(Ord. No. 15-97, § 1, 4-24-97)

Sec. 9-5-31. - Reinstatement rights.

Whenever it is now provided by law that a duly-appointed and enrolled police officer shall be required to have some designated period of continuous service to establish entitlement to or the amount of pension for himself or herself, his or her spouse, dependent, or other person, it shall be sufficient that he or she has served as such police officer whether continuously or discontinuously, for the required total period, and he or she shall be entitled to add together such periods of discontinuous service to secure the benefits now granted for continuous service of a like period; provided, however, that before such police officer may take advantage of this provision, if he or she shall have withdrawn the contributions or any part thereof theretofore paid by him or her into the Police Officers' retirement fund he or she shall repay into the fund the amount he or she has withdrawn, plus interest as determined by the board, within a period of six (6) months next succeeding the beginning of his or her last period of employment.

In addition, those certain Police Officers certified by the plan administrator from time to time who otherwise meet the requirements for participation in the fund and who are in their last period of employment with the city, whom, for whatever reason other than an affirmative election not to participate in the fund, have been erroneously excluded from the fund shall become members of the fund upon the payment to the fund of the total subsection 9-5-21(a)(2) contributions such police officer would have contributed to the fund if a member from the date of his or her last employment date to the date of entry into the fund, plus interest, as determined by the board. The reinstatements rights granted by this paragraph of this section (and no other paragraph or section) shall expire six (6) months after the date of written notice to the police officer of his or her entitlement to exercise the reinstatement rights granted herein. Those Police Officers declining to exercise the reinstatement rights under this paragraph of this section shall be deemed to have irrevocably elected to not participate in the fund during this period of their employment with the city. The plan administrator shall give written notice to Police Officers not exercising their reinstatement rights that they have forever forfeited those rights and are ineligible to participate in the fund for the involved period of his or her employment with the city.

(Ord. No. 15-97, § 1, 4-24-97; Ord. No. 41-99, § 9, 10-14-99)

Sec. 9-5-32. - Coordination of benefits.

Effective September 30, 2002, the total of the retirement benefits provided by this chapter and workers' compensation benefits, not to include benefits provided as a reimbursement of medical costs incurred as the result of a compensable injury, shall not exceed one hundred (100) percent of a police officer's average monthly salary. Should the total of the benefits exceed one hundred percent (100%) of the average monthly salary, the pension benefit shall be reduced so as not to cause the total pension and workers' compensation benefit to exceed one hundred (100) percent. In the event a police officer eligible for benefits under the workers' compensation law receives a lump-sum settlement of a workers' compensation disability claim, the benefits received shall be prorated over a ten-year projected period for the purposes of the offset of any benefit in excess of one hundred (100) percent. For the purpose of this section, workers' compensation disability benefits are primary and the retirement benefits from the Police Officer's Retirement Fund are secondary. Since retirement benefits are secondary, the retirement benefits shall be reduced in order to observe the cap. No reduction of benefits shall be implemented until a police officer eligible for the benefits under this chapter realizes the other benefit sources, including workers' compensation disability benefits. The police officer eligible for benefits must advise the fund administrator of the receipt of any benefits from a primary source, workers' compensation disability benefits, within three (3) days after the incipient receipt of the benefits. Any cost-of-living adjustment provided by Florida workers' compensation laws and by this chapter shall be calculated on the full benefit, prior to the offset. Notwithstanding the foregoing, no benefits paid hereunder shall be less than the minimum amounts required by Chapter 185, Florida Statutes.

(Ord. No. 15-97, § 1, 4-24-97; Ord. No. 27-02, § 4, 9-26-02)

Sec. 9-5-33. - Maximum benefits.

Notwithstanding any provision of the article. the maximum benefit paid to a police officer shall not exceed the limitations, if any, set forth in F.S. § 112.65, as amended.

The benefits otherwise payable to a police officer or a beneficiary under the Police Officers' Retirement Fund, and, where relevant, the benefits of a police officer, shall be limited to the extent required by the provisions of section 415 of the Code. To the extent applicable, the provisions of Section 415 of the Code, are incorporated by reference into the Police Officers' Retirement Fund. For this purpose, the limitation year is set forth is section 9-5-16(b)(22).

(Ord. No. 15-97, § 1, 4-24-97; Ord. No. 16-98, § 2, 5-14-98; Ord. No. 41-99, § 10, 10-14-99; Ord. No. 03-11, § 5, 1-27-11)

Sec. 9-5-34. - Eligible Rollover Distributions.

This section applies to any distributions from the Police Officers' Retirement Fund made on or after January 1, 1993. Notwithstanding any provision of the fund to the contrary that would otherwise limit a distributee police officer's election under this section, a distributee police officer may elect, at the time and in the manner prescribed by rule and regulations prescribed by the board of trustees, to have any portion of an eligible retirement fund specified by the distributee police officer in a direct rollover.

(Ord. No. 15-97, § 1, 4-24-97)

Sec. 9-5-35. - Unclaimed benefits.

In the event a police officer or beneficiary becomes entitled to benefits under this fund and the board of trustees and fund administrator are unable to locate the police officer or beneficiary (after sending a letter, return receipt requested, to the police officer's or beneficiary's last known address, and after such further diligent efforts as the board in its sole discretion deems appropriate) within sixty (60) calendar days from the date upon which such letter is sent, the board shall direct that the benefits be paid to an eligible beneficiary of the police officer or beneficiary until such police officer or beneficiary is located or until such benefits have been paid in full. If the board has not received a request for payment of such benefits from a police officer or beneficiary within the applicable period of limitations, then the benefits shall be paid pursuant to the direction of a court of applicable jurisdiction.

(Ord. No. 15-97, § 1, 4-24-97)

Sec. 9-5-36. - Recovery of mistaken payments.

If any benefit is paid to a police officer or beneficiary in an amount that is greater than the amount payable under the terms of the fund, the fund shall recover the excess benefit amount by eliminating or reducing the police officer's or beneficiary's future benefit payments, if any; provided, no one benefit payment shall be reduced pursuant to this section by more than twenty-five (25) percent. If no further benefits are payable to the police officer or beneficiary under the fund, the board, in its discretion, may employ such means as are available under applicable law to recover the excess benefit amount from the police officer or beneficiary.

(Ord. No. 15-97, § 1, 4-24-97)

Sec. 9-5-37. - Amendment and termination of fund.

(a) *Amendment of fund.* The city shall have the right, by action of the city council, in their sole and final discretion, to amend the fund from time to time, to any extent which the city council may deem advisable; provided, however, that no amendment (other than an amendment required by the

Internal Revenue Service as a condition of its approval of the fund and trust as qualifying under Sections 401(a) and 501(a) of the Internal Revenue Code shall retroactively decrease the benefits accrued to any police officer or increase the duties or responsibilities of the board without their written consent. In addition, no amendment may cause or permit any portion of the assets held under the Plan to revert to or become property of the city, except as otherwise permitted in section 9-5-37(c) below or otherwise permitted by law.

A certified copy of the ordinance of the city council making such amendment shall be delivered to the board of trustees; the fund shall be amended in the manner and effective as of the date set forth in such ordinance; and police officers, beneficiaries, trustees, and all others having any interest under the fund shall be bound thereby.

(b) *Termination of the plan.* The city shall have the right, by action of city council, in their sole and final discretion, to terminate the fund at any time subject to the provisions of F.S. § 185.37. A certified copy of the ordinance of the city council shall be delivered to the board of trustees, and the fund shall be terminated as of the date of termination specified in such ordinance. Notwithstanding any other provision of this ordinance, pursuant to section 411(d)(3) of the Code, upon termination of this Police Officers' Retirement Fund, the benefits to which each police officer or beneficiary is entitled shall become one hundred (100) percent vested to the extent funded.

(c) *Repayment to employer.* After the satisfaction of all liabilities under the fund, any over payment made by the city into the trust fund as a result of erroneous actuarial computations shall be repaid to the city.

(Ord. No. 15-97, § 1, 4-24-97; Ord. No. 41-99, § 11, 10-14-99; Ord. No. 03-11, § 6, 1-27-11; Ord. No. 26-13, § 2, 9-26-13)

Sec. 9-5-38. - Limitation of member rights and fund obligations.

Neither the establishment and maintenance of the fund or trust, nor any provision or amendment thereof, nor the purchase of any insurance or annuity contract, nor any act or omission under or resulting from the operation of the fund shall be construed:

(1) As conferring upon any police officer, participant, beneficiary, or any other person, firm, corporation, or association whomsoever, any right or claim against the city, or board, except to the extent that such right or claim shall be specifically and expressly provided in the plan or trust agreement.

(2) As an agreement, consideration, or inducement of employment, or as affecting in any manner or to any extent whatsoever the rights or obligations of the city or any police officer to continue or terminate the employment relationship at any time.

(Ord. No. 15-97, § 1, 4-24-97)

Sec. 9-5-39. - Nonassignability.

No benefit, contributions, or refund under the fund shall be liable for any debt, liability, contract, engagement, or tort of any member or his beneficiary, nor be subject to anticipation, sale, assignment, transfer, encumbrance, pledge, charge, attachment, garnishment, execution, or other voluntary or involuntary alienation or other legal or equitable process, nor transferability by operation of law. Should any attempt be made to so affect any such benefit, it shall ipso facto pass to such person or persons as may be appointed by the board from among the following persons appointed in the following order of priority: (a) the spouse, (b) children, (c) parents, or (d) brothers and sisters, of the member or beneficiary; provided, however, that the board of trustees, in its sole discretion, may reappoint the member or beneficiary to receive any such benefit thereafter becoming due either in whole or in part. Any such

appointment or reappointment made by the board of trustees hereunder may be revoked by the board of trustees at any time, and a further appointment or reappointment made by it.

(Ord. No. 15-97, § 1, 4-24-97)

Sec. 9-5-40. - Written communications required.

(a) *Fund administrator.* Any notice, request, instruction, or other communication required to be given or made hereunder shall be made in writing, and either personally delivered to the addressee, or deposited in the United States mail or overnight courier or delivery service fully postpaid and duly addressed to such addressee at the last address for notice shown on the records of the board of trustees.

(b) *Police Officer.* Each member shall at all times be responsible for notifying the fund administrator of any change in his name or address to which his benefit checks and other communications are to be mailed.

(c) *Disappearance of member or beneficiary.* In the event that any member or Beneficiary receiving or entitled to receive benefits under the fund should disappear and fail to respond within sixty (60) days to a written notice sent by the fund administrator by registered or certified mail, informing him or her of his entitlement to receive benefits under the fund, the board of trustees may pay such benefits or any portion thereof which the board of trustees determines to be appropriate to the dependents of the member or beneficiary, whichever is applicable, having regard to the needs of such dependents, until such member or beneficiary is located or until such benefits have been paid in full, whichever event shall first occur.

If the board of trustees has received no request for payment of such benefits from the member or beneficiary and has made no such payments to dependents thereof within the applicable period of limitation of actions after the same became payable, then benefits under the fund shall be paid pursuant to the direction of a court of applicable jurisdiction.

(Ord. No. 15-97, § 1, 4-24-97)

Sec. 9-5-41. - Qualified military service.

Notwithstanding any other provision of the plan to the contrary, contributions, benefits, and service credit with respect to qualified military service, as defined in Section 414(u) of the Code, shall be provided in accordance with Section 414(u) of the Code, the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA") and the Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART Act") and shall be effective as of the dates indicated in USERRA and the HEART Act. If a police officer dies on or after January 1, 2007, while performing qualified military service, such police officer's beneficiaries are entitled to any additional benefits the police officer would have received had the police officer resumed employment and then died while employed.

(Ord. No. 03-11, § 7, 1-27-11; Ord. No. 04-16, § 1, 1-14-16)

Sec. 9-5-42. - Forfeitures.

(a) A police officer of the Police Officers' Retirement Fund shall forfeit all benefits provided by the Police Officers' Retirement Fund to the extent provided by the State Constitution and F.S. § 112.3173 except for the return of his or her contributions as of the date of termination.

(b) Forfeitures arising from any cause whatsoever under the Police Officers' Retirement Fund shall not be applied to increase the benefits to any police officer who would otherwise receive under the Police Officers' Retirement Fund at any time prior to the termination of the Police Officers'

Retirement Fund or the complete discontinuance of contributions hereunder. Forfeitures shall be applied to reduce the contributions under the Police Officers' Retirement Fund in the then current or subsequent years.

(Ord. No. 15-97, § 1, 4-24-97; Ord. No. 03-11, § 8, 1-27-11)

Sec. 9-5-43. - Construction and law governing.

(a) The fund and this chapter shall be construed, enforced, and administered, and the validity determined in accordance with the law of the State of Florida.

(b) Words used herein in the masculine or feminine gender shall be construed as the feminine or masculine gender, respectively, where appropriate.

(c) Words used herein in the singular or plural shall be construed as the plural or singular, respectively, where appropriate.

(d) The city council's purpose in adopting this ordinance is to give effect to and implement the ratified agreement between the city and the police employees' collective bargaining representative. The board of trustees shall construe the provisions of this ordinance in accordance with the ratified agreement.

(e) Notwithstanding any provision herein to the contrary, any member of the Plan as in effect of January 1, 2013, who has vested benefits under the Plan as of that date shall not receive a benefit under the Plan less than the member's accrued benefit as of January 1, 2013, regardless of the date such member (or his or her beneficiary) begins receiving a pension or benefits under the Plan.

(Ord. No. 15-97, § 1, 4-24-97; Ord. No. 07-13, § 11, 2-28-13; Ord. No. 26-13, § 3, 9-26-13)

Sec. 9-5-44. - Offset for indebtedness to City.

Notwithstanding anything else herein to the contrary, the amount of accumulated police officer contributions, accrued retirement benefit and any other benefit or payment to which a member or beneficiaries may otherwise be entitled to under the fund shall be subject to and shall be reduced by the amount of any indebtedness of the member or beneficiaries to the city that is unpaid and outstanding at the time any payment is to be made to the member or beneficiaries under the terms of the fund.

(Ord. No. 15-97, § 1, 4-24-97)

Sec. 9-5-45. - Incidental and minimum benefit rules.

Required minimum distributions. Notwithstanding anything in the Police Officers' Retirement Fund to the contrary, all distributions under the Police Officers' Retirement Fund shall comply with Section 401(a)(9) of the Code and the Regulations thereunder, as prescribed by the Commissioner in Revenue Rulings, Notices, and other guidance published in the Internal Revenue Bulletin, to the extent that said provisions apply to governmental plans under section 414(d) of the Code, and shall be made in accordance with the following requirements:

(1) Time and manner of distribution.

(a) *Required beginning date.* The police officer's entire interest will be distributed, or begin to be distributed, to the police officer no later than the police officer's required beginning date.

(b) *Death of police officer before distributions begin.* If the police officer dies before distributions begin, the police officer's entire interest will be distributed, or begin to be distributed, no later than as follows:

(i) If the police officer's surviving spouse is the police officer's sole designated beneficiary, then, except as provided in the Police Officers' Retirement Fund, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the police officer died, or by December 31 of the calendar year in which the police officer would have attained age 70½, if later.

(ii) If the police officer's surviving spouse is not the police officer's sole designated beneficiary, then, except as provided in the Police Officers' Retirement Fund, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the police officer died.

(iii) If there is no designated beneficiary as of September 30 of the year following the year of the police officer's death, the police officer's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the police officer's death.

(iv) If the police officer's surviving spouse is the police officer's sole designated beneficiary and the surviving spouse dies after the police officer but before distributions to the surviving spouse begin, this subsection (1)(b), other than subsection (1)(b)(i), will apply as if the surviving spouse were the police officer.

For purposes of this section 9-5-133(1) and (4), distributions are considered to begin on the police officer's required beginning date (or, if section (1)(b)(iv) applies, the date distributions are required to begin to the surviving spouse under subsection (1)(b)(i)). If annuity payments irrevocably commence to the police officer before the police officer's required beginning date (or to the police officer's surviving spouse before the date distributions are required to begin to the surviving spouse under subsection (1)(b)(i), the date distributions are considered to begin is the date distributions actually commence.

(c) *Form of distribution.* Unless the police officer's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with subsections (2), (3), and (4) of this section 9-5-45. If the police officer's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of section 401(a)(9) of the Code.

(2) Determination of amount to be distributed each year.

(a) *General annuity requirements.* If the interest is paid in the form of annuity distributions under the Police Officers' Retirement Fund, payments under the annuity will satisfy the following requirements:

(i) The annuity distributions will be paid in periodic payments made at intervals not longer than one (1) year;

(ii) The distribution period will be over a life (or lives) or over a period certain not longer than the period described in subsection (3) or (4);

(iii) Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted; and

(iv) Payments will either be nonincreasing or increase only as follows:

(1) By an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;

(2) To the extent of the reduction in the amount of the police officer's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life

was being used to determine the distribution period described in subsection (3) dies or is no longer the police officer's beneficiary pursuant to a qualified domestic relations order within the meaning of section 414(p) of the Code;

(3) To provide cash refunds of police officer contributions upon the police officer's death; or

(4) To pay increased benefits that result from a Police Officers' Retirement Fund amendment.

(b) *Amount required to be distributed by required beginning date.* The amount that must be distributed on or before the police officer's required beginning date (or, if the police officer dies before distributions begin, the date distributions are required to begin under subsection (1)(b)(i) or (1)(b)(ii)) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the police officer's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the police officer's required beginning date.

(c) *Additional accruals after first distribution calendar year.* Any additional benefits accruing to the police officer in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(3) Requirements for annuity distributions that commence during the police officer's lifetime.

(a) *Joint life annuities where the beneficiary is not the police officer's spouse.* If the police officer's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the police officer and a nonspouse beneficiary, annuity payments to be made on or after the police officer's required beginning date to the designated beneficiary after the police officer's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the police officer using the table set forth in Q&A-2 of section 1.401(a)(9)-6T of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the police officer and a nonspouse beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.

(b) *Period certain annuities.* Unless the police officer's spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the police officer's lifetime may not exceed the applicable distribution period for the police officer under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the police officer reaches age 70, the applicable distribution period for the police officer is the distribution period for age 70 under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of the police officer as of the police officer's birthday in the year that contains the annuity starting date. If the police officer's spouse is the police officer's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the police officer's applicable distribution period, as determined under this section (3)(b), or the joint life and last survivor expectancy of the police officer and the police officer's spouse as determined under the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the police officer's and spouse's attained ages as of the police officer's and spouse's birthdays in the calendar year that contains the annuity starting date.

(4) Requirements for minimum distributions where the police officer dies before date distributions begin.

(a) *Police officer survived by designated beneficiary.* Except as provided in the Police Officers' Retirement Fund, if the police officer dies before the date distribution of his or her interest begins and there is a designated beneficiary, the police officer's entire interest will be distributed, beginning no later than the time described in section (1)(b)(i) or (1)(b)(ii), over the life of the designated beneficiary or over a period certain not exceeding:

(i) Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the police officer's death; or

(ii) If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

(b) *No designated beneficiary.* If the police officer dies before the date distributions begin and there is no designated beneficiary as of September 30th of the year following the year of the police officer's death, distribution of the police officer's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the police officer's death.

(c) *Death of surviving spouse before distributions to surviving spouse begin.* If the police officer dies before the date distribution of his or her interest begins, the police officer's surviving spouse is the police officer's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this subsection (4) will apply as if the surviving spouse were the police officer, except that the time by which distributions must begin will be determined without regard to subsection (1)(b)(i).

5. *Definitions.*

(a) *Designated beneficiary.* The individual who is designated as the beneficiary in accordance with the Police Officers' Retirement Fund and is the designated beneficiary under section 401(a)(9) of the Code and section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.

(b) *Distribution calendar year.* A calendar year for which a minimum distribution is required. For distributions beginning before the police officer's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the police officer's required beginning date. For distributions beginning after the police officer's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to subsection (1)(b).

(c) *Life expectancy.* Life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations.

(d) *Required beginning date.* The term "required beginning date" means April 1 of the calendar year following the later of: the calendar year in which the police officer attains age 70½; or the calendar year in which the police officer retires from employment with the City of Pensacola.

(Ord. No. 15-97, § 1, 4-24-97; Ord. No. 03-11, § 9, 1-27-11)

ARTICLE III. - PENSION SUPPLEMENT PROGRAM

REPEAL SECTION 9-5-46.

Sec. 9-5-47. - Eligible persons.

Pension supplements provided hereinafter shall be paid only to those persons who are members of the City of Pensacola General Pension and Retirement Fund system on or before February 27, 1975, by virtue of full-time service or to the unremarried widows of the members.

(Code 1968, § 40-17)

Sec. 9-5-48. - Payments.

The City shall pay to the members of the general pension and retirement fund system and widows of the members a monthly pension supplement, as hereinafter described, in addition to the general pension and retirement fund benefits presently paid to the persons:

(1) Members having twenty (20) or more years of full-time active service and presently receiving general pension and retirement fund benefits in the amount of two hundred dollars ($200.00) per month or less shall receive a pension supplement in the amount of the greater of the following two (2) sums:

   a. The difference between the amount of the general pension and retirement fund benefits the person is presently receiving and the sum of two hundred dollars ($200.00);

   b. Ten (10) percent of the present monthly general pension and retirement fund benefit that the person is receiving.

(2) Members having less than twenty (20) years of full-time active service and presently receiving general pension and retirement fund benefits of two hundred dollars ($200.00) a month or less shall receive a pension supplement in the amount of ten (10) percent of the amount of the present monthly general pension and retirement fund benefit.

(3) Unremarried widows receiving general pension and retirement fund benefits in the amount of two hundred dollars ($200.00) per month or less shall receive a pension supplement in the amount of five (5) percent of their present monthly general pension and retirement fund benefit.

(4) Members presently receiving general pension and retirement fund benefits greater than two hundred dollars ($200.00) per month and up to and including three hundred fifty dollars ($350.00) per month shall receive a pension supplement in the amount of five (5) percent of their present monthly general pension and retirement fund benefit; unremarried widows presently receiving general pension and retirement fund benefits greater than two hundred dollars ($200.00) per month and up to and including three hundred fifty dollars ($350.00) per month shall receive a pension supplement equal to three (3) percent of their present monthly general pension and retirement fund benefit.

(5) Members presently receiving general pension and retirement fund benefits greater than three hundred fifty dollars ($350.00) per month up to and including four hundred fifty dollars ($450.00) per month along with the unremarried widows of members receiving a similar amount of benefits shall receive a pension supplement in the amount of three (3) percent of their present monthly general pension and retirement fund benefit.

(6) The spouses of those pension system members who are entitled to the pension supplements set forth in this section who become widowed after February 27, 1975, and remain unmarried shall be entitled to a widow's pension supplement as set forth herein.

(7) All pension supplements, except those supplements paid to pension system members having twenty (20) years or more of full-time service, shall be reduced by five (5) percent of the amount of the supplement for each full year or fraction thereof that the pension system member served less than twenty (20) years.

(8) Members presently receiving general pension and retirement fund benefits greater than four hundred fifty dollars ($450.00) per month along with the unremarried widows of members receiving a similar amount of said benefits shall receive a pension supplement in the amount of three (3) percent of their present monthly general pension and retirement fund benefit.

(9) The spouses of those pension system members who are entitled to the pension supplements set forth in this section who become widowed after February 27, 1975, and remain unmarried shall be entitled to a widow's pension supplement as set forth herein.

(Code 1968, § 40-18)

Sec. 9-5-49. - Current benefits.

Pension benefits now authorized and payable from the City of Pensacola General Pension and Retirement Fund shall remain in full force and effect and payable according to law.

(Code 1968, § 40-19)

Secs. 9-5-50—9-5-65. - Reserved.

ARTICLE IV. - DEFERRED COMPENSATION PLANS

DIVISION 1. - FOR NON-SOCIAL SECURITY PARTICIPANTS EMPLOYED SINCE JANUARY 1, 1960, FOR CERTAIN EMPLOYEES COVERED BY COLLECTIVE BARGAINING AGREEMENTS AND FOR PARTICIPANTS IN THE FLORIDA RETIREMENT SYSTEM[9]

Footnotes:

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Editor's note— Section 3 of Ord. No. 16-07 renamed div. 1 to read as herein set out.

Sec. 9-5-66. - Establishment and purpose.

(a) *Establishment.* Effective December 8, 1983, the city established the City of Pensacola Deferred Compensation Plan for Non-Social Security Participants Employed Since January 1, 1960, for Certain Employees Covered by Collective Bargaining Agreements and for Participants in the Florida Retirement System (the "plan") which has been amended from time to time, and which is intended to qualify as an "eligible state deferred compensation plan" under Section 457 of the Internal Revenue Code of 1986, as amended.

(b) *Purpose.* The plan is intended to allow certain employees to designate a portion of their compensation to be deferred and invested at the discretion of and in a manner approved by the city until termination of employment, financial emergency or death of the participant. The terms of the plan shall be contained within the plan document which is available for public inspection at the city clerk's office.

(Ord. No. 122-83, § 1, 12-8-83; Ord. No. 08-16, § 2, 3-17-16)

Secs. 9-5-67—9-5-80. - Reserved.

Editor's note— Ord. No. 08-16, § 3, adopted March 17, 2016, repealed §§ 9-5-67—9-5-74, which pertained to definitions and rules of construction, participation, administration,

participant's accounts, investments, distributions, miscellaneous, amendment or termination of plan. See Code Comparative Table for complete derivation.

DIVISION 2. - RESERVED

Secs. 9-5-81—9-5-89. - Reserved.

Editor's note— Ord. No. 29-97, § 6, adopted Aug. 28, 1997, repealed the provisions of former §§ 9-5-81—9-5-89, which pertained to employees hired on or after October 1, 1979, as derived from Code 1968, §§ 40-20—40-28; Ord. No. 79-83, §§ 1—6, adopted June 9, 1983; Ord. No. 7-91, §§ 3, 4, adopted Feb. 28, 1991.

Sec. 9-5-90. - Reserved.

DIVISION 3. - FOR EMPLOYEES NOT PARTICIPATING IN A CITY-DEFINED BENEFIT PLAN

Sec. 9-5-91. - Introduction and purpose of plan.

(a) *Establishment.* Effective October 1, 1979, the city established the City of Pensacola Deferred Compensation Plan for Employees Not Participating in a City-Defined Benefit Plan (the "plan") which has been amended from time to time, and is intended to qualify as an "eligible state deferred compensation plan" under Section 457 of the Internal Revenue Code of 1986, as amended.

(b) *Purpose.* The plan is intended to allow certain employees to designate a portion of their compensation to be deferred and invested at the discretion of and in a manner approved by the city until termination of employment, financial emergency or death of the participant. As a retirement vehicle for employees of the city, participation with mandatory minimum deferral contributions is required by employees, together with employer contributions as prescribed in the plan. The terms of the plan shall be contained within the plan document which is available for public inspection at the city clerk's office.

(Ord. No. 29-97, § 1, 8-28-97; Ord. No. 08-16, § 4, 3-17-16)

Secs. 9-5-92—9-5-100. - Reserved.

Editor's note— Ord. No. 08-16, § 5, adopted March 17, 2016, repealed §§ 9-5-92—9-5-98, which pertained to definitions, participation, administration, participant's accounts, investments, distributions, miscellaneous, amendment or termination of plan. See Code Comparative Table for complete derivation.

ARTICLE V. - GENERAL PENSION AND RETIREMENT FUND

Sec. 9-5-101. - Establishment of the general pension and retirement fund.

(1) There is hereby created for the general employees of the City of Pensacola, Florida, a fund to be entitled the "General Pension and Retirement Fund", a defined benefit pension plan intended to meet the applicable requirements of Section 401(a) of the Code, which provides for retirement, disability, and death benefits for such general employees. The General Pension and Retirement Fund is a "governmental plan" within the meaning of Section 414(d) of the Code, and as such, is exempt from the Employee Retirement Income Security Act of 1974, as amended. The General Pension and

Retirement Fund shall be administered and distributions made therefrom as provided in this ordinance.

(2) Irrespective of anything contained herein, as now expressed or hereafter amended, the General Pension and Retirement Fund will not be used for or diverted to, a purpose other than the exclusive benefit of the members of the General Pension and Retirement Fund, their dependents, or their beneficiaries at all times and for the satisfaction of all rights and liabilities with respect to members of the General Pension and Retirement Fund, their dependents, or their beneficiaries hereunder and for costs and expenses of operating the fund. In addition, an amendment may not cause or permit any portion of the assets held under the General Pension and Retirement Fund to revert to or become property of the city, except as otherwise permitted under the Plan or otherwise permitted by law.

(3) The General Pension and Retirement Fund shall continue to exist exclusively for the purposes provided by this ordinance and related legislation and shall be operated on a plan year basis (i.e., the consecutive twelve-month period ending every September 30).

(Ord. No. 09-07, § 1, 2-8-07; Ord. No. 01-11, § 1, 1-27-11; Ord. No. 27-13, § 1, 9-26-13)

Sec. 9-5-102. - Definitions.

The words and phrases as used in this ordinance shall have the following meanings unless a different meaning is plainly required by the context:

(1) *Act.* The General Pension and Retirement Fund Special Act.

(2) *Actuary.* The person, firm, or corporation, one of whose officers shall be a member of the Society of Actuaries and an enrolled actuary, as defined by the Employee Retirement Income Security Act of 1974, authorized by the board of trustees of the fund to render actuarial services to the fund.

(3) *Actuarial equivalent* (or any synonymous term contained herein) means the equality in value of the aggregate amount expected to be received under optional forms of benefit payments which, unless otherwise specified herein, will be based upon the RP 2000 Combined Healthy Mortality set forward five (5) years for males, with no change for females and utilizing a 8.00% interest rate.

(4) *Average monthly salary.* For retirement prior to October 1, 2012, one twenty-fourth (1/24) of the salary of the two (2) highest years of the last five (5) years of credited service prior to retirement or death. For retirements on or after October 1, 2012, one sixtieth (1/60) of the salary of the last five (5) years of credited service prior to retirement or death.

(5) *Beneficiary.* Person so designated in writing by a member of the general pension plan who may become entitled to receive a refund of contributions made by a member of the plan.

(6) *Best two (2) years.* Two (2) separate periods of three hundred sixty-five (365) consecutive days.

(7) *Board of trustees, the board,* or *the general pension board.* The pension board, consisting of six (6) members as provided in the plan.

(8) *City.* The City of Pensacola.

(9) *City council.* The City Council of the City of Pensacola.

(10) *Code.* Internal Revenue Code of 1986, as amended.

(11) C*redited service years or credited years of service.* A period of service years credited to a member of the plan in which the member has contributed an amount to the General Pension and Retirement Fund, as provided in this plan. Credited service years or credited years of service shall not include any period of service for which an employee is credited by the Florida Retirement System.

(12) *Dependent.* The spouse or dependent children under the age of eighteen (18) of a member of the plan.

(13) *Dependent children.* A son or daughter under eighteen (18) years of age who is born in wedlock to a member of the plan; and/or a child under eighteen (18) years of age adopted by a member of the plan; and/or a child under eighteen (18) years of age dependent upon a member of the plan for support whose dependency is proven to the satisfaction of the board or, in the alternative, whose dependency has been established by a final court order.

(14) *Disability.* Physical or mental impairment which renders an employee partially and permanently or totally and permanently unable to perform the duties of his or her employment or unable to perform any substantial gainful employment.

(15) *ECUA.* The Emerald Coast Utilities Authority.

(16) *General pension and retirement fund, general pension plan, or the plan.* The special fund created exclusively for the purposes provided in this ordinance.

(17) *IRA.* An individual retirement account.

(18) *Limitation year.* The limitation year is the plan year.

(19) *Line of duty.* Within the scope of employment as an employee of the city during such times as such employee was rendering services to the city.

(20) *Major fraction of a year.* For calculation of benefits in this ordinance, six (6) months and one (1) day.

(21) *Member of the plan.* An individual who has been credited with a period of service under the plan and has contributed an amount to the plan, as provided in this ordinance.

(22) *Nonemployment.* Any period of time an individual is not employed in any capacity by the City of Pensacola.

(23) *Normal retirement and early retirement.* Any retirement not based upon a disability, illness, or injury.

(24) *Plan.* The General Pension and Retirement Fund.

(25) *Plan administrator.* The finance director of the City of Pensacola.

(26) *Plan year.* The twelve-month period ending on September 30.

(27) *Pensioner.* A member of the plan who has drawn or is drawing a pension under the provisions of the plan.

(28) *Permanent full-time employee.* An individual employed by the city, working an established work period as set forth by city policy, and not employed on a part-time, temporary, or specified timeframe basis, as defined in the books and records of the city.

(29) *Professional money manager.* An investment management firm that is registered as an investment advisor with the Securities and Exchange Commission pursuant to the Investment Advisors Act of 1940, which firm shall acknowledge in writing its fiduciary duty to the board of trustees.

(30) *Refund of contributions.* The distribution of funds contributed by a member of the plan.

(31) *Retiree.* A member of the plan, or a dependent of a member, who has drawn or is drawing a pension benefit under the provisions of this plan.

(32) *Salary.* The total cash remuneration paid to the member of the plan by the city for services rendered before all pretax, salary deferral, or salary reduction contributions made to the General Pension and Retirement Fund on behalf of the general pension plan members under Section 414(h)(2) of the Code and any Section 457 plan and Section 125 plan of the city. Unless otherwise provided by the city council, "salary" shall exclude any educational incentive pay, field

training pay, certificate pay, specialized duty pay, pistol qualifications pay, clothing allowance, education benefit, accumulated sick leave pay at retirement, Personal Time Off (PTO) pay at retirement, shift differential pay, nonsubstantiated business expenses, noncash benefits such as employer-provided vehicles, or any other city-provided benefit, severance pay, or similar lump-sum payment made upon separation of service, and any other pay excluded by the city council. Prior to October 1, 2012, "Salary" also shall exclude compensation for more than three hundred (300) hours per fiscal year of overtime pay and pay at non-overtime rates for over forty (40) hours per week (commonly known as additional regular pay), provided that any such compensation earned prior to June 1, 2008, shall be deemed to be "salary." For retirement on or after October 1, 2012, "Salary" shall exclude compensation for more than two hundred (200) hours per fiscal year of overtime pay and pay at non-overtime rates for over forty (40) hours per week (commonly known as additional regular pay).

Salary for any plan year shall not exceed the annual compensation limit under Section 401(a)(17) of the Code, as in effect on the first day of the plan year. This limit shall be adjusted by the Secretary of the Treasury (as defined by the Code) to reflect increases in the cost of living, as provided in Section 401(a)(17)(B) of the Code; provided, however, that the dollar increase in effect on January 1 of any calendar year is effective for plan years beginning in such calendar year. If a plan determines salary over a plan year that contains fewer than twelve (12) calendar months (a "short plan year"), then the compensation limit for such "short plan year" is equal to the compensation limit for the calendar year in which the "short plan year" begins multiplied by the ratio obtained by dividing the number of full months in the "short plan year".

(33) *Service under the plan.* A period of service years credited to a member of the plan, during which the member has contributed an amount to the General Pension and Retirement Fund, as provided in this plan.

(34) *Spouse.* The legally married husband or wife of the member of the plan (including an individual of the same sex of the member if such individuals are lawfully married). Legally married includes a marriage of same-sex individuals that was validly entered into in a state whose laws authorize the marriage of two individuals of the same sex; however, legally married does not include individuals (whether of the opposite sex or same sex) who have entered into a registered domestic partnership, civil union, or other similar formal relationship recognized under state law that is not denominated as marriage under the law of that state.

(35) *Surviving spouse.* The legally married, as defined in this plan, husband or wife (including an individual of the same sex) of a member of the plan who outlives the member of the plan.

(36) *Treasury regulations.* The regulations promulgated by the United States Department of the Treasury.

(37) *Vested member* or *vesting right.* A member of the plan who has a right, or the right itself, to future pension benefits as provided in this plan.

(Ord. No. 09-07, § 1, 2-8-07; Ord. No. 16-07, § 7, 4-26-07; Ord. No. 03-08, § 1, 1-17-08; Ord. No. 24-08, § 1, 4-24-08; Ord. No. 01-11, § 2, 1-27-11; Ord. No. 23-12, § 1, 9-27-12; Ord. No. 27-13, § 2, 9-26-13; Ord. No. 36-14, § 1, 9-25-14)

Sec. 9-5-103. - Pension board.

(1) There is hereby created a Pension Board of the City of Pensacola, consisting of six (6) members.

(a) Three (3) members shall be residents of Escambia County who are freeholders of the city and shall be appointed by the city council for a term of six (6) years or until their successors are appointed and qualified. Each appointment shall be for a term of six (6) years, with one (1) appointment being made every two (2) years, which appointment shall be made not later than the second regular meeting of the council held in July of each odd-numbered year hereafter.

(b) The remaining three (3) members shall consist of the current presiding council president of the city, or his appointed representative, who shall serve at the pleasure of the council president, and two (2) current employee members of the General Pension and Retirement Fund, who shall be elected by a plurality vote of current employee members. Each elected member shall take office upon election and shall serve for a term of two (2) years or until the member's successor is elected and qualified. Such election shall occur not later than thirty (30) days prior to the expiration of the two-year term. Should a vacancy occur in the position of elected member, an election will be held to elect an employee member to the board for the remainder of such two-year term within thirty (30) days of such vacancy occurring.

(2) The pension board is vested with the responsibility for the administration and proper operation of the fund and for compliance with the provisions of all related laws and regulations.

(Ord. No. 09-07, § 1, 2-8-07; Ord. No. 16-07, § 8, 4-26-07; Ord. No. 16-10, § 145, 9-9-10; Ord. No. 27-13, § 3, 9-26-13)

Sec. 9-5-104. - Oath of office; meetings; quorum.

Before entering upon the duties as a member of the pension board, each member shall take and subscribe to the oath of office required by the City Charter, which oath shall be filed with the city clerk. The board shall elect one (1) of its members chairperson, who shall be a voting member of the board. The finance director shall serve as plan administrator and shall be the chief administrative officer of the General Pension and Retirement Fund and shall keep the minutes of the board. The board shall meet as often as is necessary, upon the request of the chairperson or the plan administrator. A majority of the board shall constitute a quorum for the transaction of any business.

(Ord. No. 09-07, § 1, 2-8-07)

Sec. 9-5-105. - Powers of the board.

The pension board shall have the power and authority to:

(1 Adopt rules and regulations, not inconsistent with the provisions of this ordinance, governing its activities and providing for the certification of the moneys to be paid from the General Pension and Retirement Fund.

(2) Perform all the duties and enjoy all the rights and powers vested by law or ordinance. The city attorney of the city may give advice and legal assistance to the pension board in all matters pertaining to the performance of its duties, whenever requested, and may prosecute and defend all suits which may be instituted by or against the board. However, if in the opinion of the city attorney or in the opinion of the pension board, a conflict of interest exists as to a particular matter, the pension board may, in its discretion, employ independent legal counsel for such purposes, the expense of such employment to be paid from the General Pension and Retirement Fund.

(3) Cause subpoenas to be issued and require the attendance of witnesses and the production of documents for the purpose of determining or redetermining at any time and from time to time the eligibility, right, or entitlement to any pension, benefit, or other payment provided under this ordinance.

(4) Employ its own secretary, clerks, stenographers, or other personnel as required, who shall be paid such compensation, from the General Pension and Retirement Fund only, as fixed by the pension board. Nothing herein shall be construed to authorize or empower the board to incur such expense or obligation to be borne by the City of Pensacola.

(Ord. No. 09-07, § 1, 2-8-07)

Sec. 9-5-106. - Membership requirements and exclusions.

All permanent full-time employees of the city automatically become, upon employment, members of the General Pension and Retirement Fund of the city, except that the city may by ordinance amend or revise the foregoing membership criteria in the General Pension and Retirement Fund, provided, however, that in no event shall the following be permitted to participate in the General Pension and Retirement Fund:

(1) Employees of the city who are eligible to participate in the Firefighters' Relief and Pension Fund.

(2) Any officer or employee of the police department hired on or after October 1, 1979, who is eligible to participate in the Police Officers' Retirement Fund of the city.

(3) City public safety cadets.

(4) All permanent full-time employees of the city hired prior to October 6, 1997, making an election not to participate in the plan and having continuous service from October 6, 1997, until retirement.

(5) Any individual who is drawing a normal retirement or early retirement benefit and who is subsequently reemployed by the city. Such individual shall not be eligible for current participation in the plan and shall continue to draw a pension benefit from the plan.

(6) Elected officials of the city.

(7) Any employee hired on or after October 18, 1999, who is eligible for membership in another of the city's defined benefit pension plans.

(8) All employees who participate in another of the city's defined benefit pension plans except for employees hired prior to October 1, 1979, who have continuously participated in this plan and the Police Officers' Retirement Fund.

(9) All employees hired after July 1, 2007, enrolled as participants in the Florida Retirement System or at any such date the city may choose to make participation effective.

(10) All employees hired on or before June 30, 2007, who participate in the Florida Retirement System or at any such date the city may choose to make participation effective.

(Ord. No. 09-07, § 1, 2-8-07)

Sec. 9-5-107. - Emerald Coast Utilities authority provisions.

(1) Individuals who transferred to the ECUA when established in 1981 and who chose to continue participation in the General Pension and Retirement Fund shall be members of the plan and governed by all provisions of this plan. When administering this plan on behalf of ECUA members of the plan, the phrase "City of Pensacola" shall be interpreted as ECUA, where applicable.

(2) Notwithstanding any provision of this plan, disability determinations concerning ECUA employees shall be made by the general pension board, but shall not be effective unless and until the personnel appeals board of ECUA, utilizing the criteria set forth in section 9-5-113, concurs in such determinations.

(3) The ECUA, through its proper officers, shall deduct 5.5 percent (5.5%) from the salary of the members of the plan and shall pay the same to the General Pension and Retirement Fund. Such moneys shall be deposited in a special account by the city to be designated "General Pension and Retirement Fund" and no employee shall have any right to said moneys paid into the fund except as otherwise provided in this plan.

(4) The ECUA shall make a payment of a sum equal to the actuarially required funding amount shown by an annual actuarial valuation, as approved by the general pension board for the ECUA members of the plan.

(Ord. No. 09-07, § 1, 2-8-07; Ord. No. 01-11, § 3, 1-27-11)

Sec. 9-5-108. - Community redevelopment agency provisions.

(1) Effective October 1, 2016, individuals participating in this plan as full time employees of the City of Pensacola who transfer full time employment to the City of Pensacola's Community Redevelopment Agency shall be members of the plan and be governed by all provisions of this plan. When administering this plan on behalf of Community Redevelopment Agency members of the plan, the phrase "City of Pensacola" shall be interpreted as community redevelopment agency, where applicable.

(2) The community redevelopment agency shall pay to the plan or reimburse the city the contributions required to be made by the city for the employees who continue their participation in the general pension and retirement fund.

(Ord. No. 28-16, § 1, 9-15-16)

Sec. 9-5-109. - Eligible rollover distributions.

Notwithstanding any other provision of the General Pension and Retirement Fund to the contrary, a "distributee" may elect, at the time and in the manner prescribed by the plan administrator, to have any portion or all of an "eligible rollover distribution" paid directly to an "eligible retirement plan" specified by the "distributee" in a direct rollover. For purposes of this section, the following definitions shall apply:

(a) D*istributee* means a member or former member, the member's surviving spouse, and the member's spouse or former spouse who is the alternate payee under a court order, who is entitled to receive a portion of the member's benefit.

Effective for plan years beginning on and after January 1, 2007, a non-spouse beneficiary, may elect to directly rollover an eligible distribution to an IRA, a Roth IRA or an individual retirement annuity under section 408(b) of the Code that is established on behalf of the designated beneficiary as an inherited IRA, pursuant to the provisions of section 402(c)(11) of the Code. In order to be able to roll over the distribution, the distribution otherwise must satisfy the definition of "eligible rollover distribution". In addition, the determination of any required minimum distribution under section 401(a)(9) of the Code that is ineligible for rollover shall be made in accordance with IRS guidance.

(b) *Eligible retirement plan.* An eligible retirement plan is an IRA described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, an annuity contract described in section 403(b) of the Code, an eligible plan under section 457 of the Code that agrees to separately account for such transferred amounts and which is maintained by a state, political subdivision of a state or an agency or instrumentality of a state or political subdivision of a state or a qualified trust described in section 401(a) of the Code that accepts the distributee's "eligible rollover distribution." For distributions made after December 31, 2007, an eligible retirement plan shall include a Roth IRA as defined under section 408A of the Code. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a court order.

(c) *Eligible rollover distribution.* An eligible rollover distribution is any distribution of all or any portion of the member's benefit, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Code; the portion of any distribution that is not

includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities), any distribution made to satisfy section 415 of the Code; and any distribution that is reasonably expected to total less than two hundred dollars ($200.00), during the year.

(d) *Direct rollover.* A direct rollover is a payment by the General Pension and Retirement Fund to the eligible retirement plan specified by the distributee.

(e) In the event a mandatory distribution is greater than one thousand dollars ($1,000.00), and a distributee fails to elect to have such distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover or to receive the distribution directly, then the board will pay the distribution in a direct rollover to an IRA designated by the board. For purpose of the preceding sentence, a mandatory distribution is a distribution that constitutes an "eligible rollover distribution" (as defined in subparagraph (c) above) that is made without the member's consent. See section 9-5-118, section 9-5-119(5)(b), and section 9-5-121(5)(b) for examples of potential mandatory distributions.

(Ord. No. 09-07, § 1, 2-8-07; Ord. No. 01-11, § 5, 1-27-11)

Sec. 9-5-110. - Designation of employee contributions.

For the purposes of section 414(h) of the Internal Revenue Code, the contributions made by each employee to the General Pension and Retirement Fund shall be designated as "employer contributions." However, such designation is contingent upon the contributions being excluded from the employee's gross income for federal income tax purposes. Such contributions shall, nevertheless, be subject to refund or return to the employee upon termination of employment, or otherwise as provided in this ordinance.

(Ord. No. 09-07, § 1, 2-8-07)

Sec. 9-5-111. - Separation from service and reemployment.

Former members of the plan. Any employee who has separated from employment with the city, hereinafter referred to as "nonemployment," shall, upon reemployment, become a participant in the Florida Retirement System provided such participation does not violate the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA). If any such employee is reemployed, the employee shall be entitled to receive any pension benefits accrued under this chapter prior to such employee's separation from employment. For all other employee benefit purposes, such employee shall be deemed to be a newly-hired employee. The employee shall not be entitled to buy back periods of nonemployment except as provided by section 9-5-113.

(Ord. No. 09-07, § 1, 2-8-07; Ord. No. 16-07, § 9, 4-26-07)

Sec. 9-5-112. - Military service.

Notwithstanding any other provision of the General Pension and Retirement Fund to the contrary, contributions, benefits, and service credit with respect to qualified military service, as defined in Section 414(u) of the Code, shall be provided in accordance with Section 414(u) of the Code, the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA") and the Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART Act") and shall be effective as of the dates indicated in USERRA and the HEART Act. However, if a member of the General Pension and Retirement Fund has withdrawn the contributions or any part thereof paid by the member into the fund, the member shall return such moneys to the fund. In addition, such member shall pay into the fund, within the time required by applicable federal or state law, all contributions the member would have been required to pay during the

term the member was actively serving in the military. If a member dies on or after January 1, 2007, while performing qualified military service, such member's beneficiaries are entitled to any additional benefits the member would have received had the member resumed employment and then died while employed.

(Ord. No. 09-07, § 1, 2-8-07; Ord. No. 01-11, § 6, 1-27-11; Ord. No. 02-16, § 1, 1-14-16)

Sec. 9-5-113. - Disability.

A pension for injury or illness, whether incurred in the line of duty or not in the line of duty, as provided in this ordinance, shall be awarded only upon determination of the disability. The City of Pensacola adheres to the Americans with Disabilities Act of 1990 as may be amended, and reasonable accommodation for disabilities shall be evaluated on a case-by-case basis. Application, determinations, awards, and reevaluation of disability pensions shall be governed by the following:

(1) An employee, or the employer on behalf of the employee, must make application for a disability pension, complete with medical and other evidentiary material as prescribed by the board.

(2) Upon receipt of an application for a disability pension, the board shall make a determination of the disability, which determination shall be final. The board may employ the services of one (1) or more independent third-party agents, such as, but not limited to, a physician or a health and disability claims adjusting firm, to evaluate the case and to make a report containing recommended findings and conclusions, which may be approved, disapproved, or modified in the determination of the board.

(3) In the case of determination of disability, the board shall award a disability pension in an amount computed as a percentage equal to the percentage of the employee's disability times the full disability pension award as provided in this ordinance. At any time after an employee is awarded a disability pension, the City of Pensacola may offer its former employee employment for which his or her disability does not prevent performance. At such time as the former employee returns to active service, or at such time as the former employee fails to accept said offer of employment, all disability payments shall cease.

(4) The board, through its third-party agents, shall periodically reevaluate disability pensioners to determine if the condition of the disability persists.

(a A disabled pensioner's percentage of disability may be reclassified upon reevaluation by the board.

(b) If the pensioner has recovered sufficiently, as determined by the board, so that he or she is no longer disabled, and such determination is made within one (1) year after the effective date of the award of the pension, said pensioner shall be reinstated to active service in the same rank he or she occupied prior to the award of the pension. If such determination is made more than one (1) year after the effective date of the award of the pension, the pensioner shall be placed on an eligible list to be reinstated to his or her position upon the first vacancy in that position. At such time as a pensioner resumes active service, or at such time as the pensioner fails to accept reinstatement to active service, the payment of pension benefits shall cease.

(Ord. No. 09-07, § 1, 2-8-07)

Sec. 9-5-114. - Florida Retirement System participation.

If any vested member of the plan elects to participate in the Florida Retirement System on the date the city joins the Florida Retirement System and elects either to vest his or her benefit in this plan or to enter the deferred retirement option program provided for in Chapter 9-9, the member shall become eligible to receive the vested benefits under the following circumstances. Such member may receive such benefits upon termination of employment in accordance with the plan. Or such member may receive such

benefits while remaining currently employed upon meeting the requirements of normal retirement as defined in section 9-5-102, in which event such member must terminate employment no later than five (5) years following the commencement of receipt of such benefits. Or such member may receive such benefits while remaining currently employed upon receiving an in-service distribution as provided in section 9-5-137, in which event such member must terminate employment no later than five (5) years following the commencement of receipt of such in-service distribution. Or such member who elected to enter said deferred retirement option program and who later meets the requirements of either of the last two (2) preceding sentences may, upon the occurrence of one of such circumstances, receive such benefits while remaining currently employed provided that such member must terminate employment no later than five (5) years following the member's entry in said deferred retirement option program.

(Ord. No. 09-07, § 1, 2-8-07; Ord. No. 16-07, § 10, 4-26-07)

Sec. 9-5-115. - Normal retirement with twenty or more years of credited service under the plan.

(1) All members of the plan who have attained the age of fifty-five (55) years who have at least twenty (20) credited service years under the plan or, effective October 1, 1999, who regardless of age have thirty (30) credited service years, or effective May 1, 2007, who have attained the age of fifty-five (55) years and who have at least thirty (30) credited service years may apply for and be entitled to benefits under the provisions of this ordinance. In calculating the years of service under the plan, a major fraction of a year shall be computed as a whole year. A member of the plan must be separated from the employment of the city to receive a pension under the plan pursuant to this section, except as otherwise provided for in sections 9-5-114 or 9-5-125.

(2) If any member of the plan has not attained the age of fifty-five (55) years after a period of twenty (20) credited service years under the plan and does not make withdrawal of funds from the General Pension and Retirement Fund, such employee shall be eligible to receive a pension after attaining the age of fifty-five (55) years. It is the intent of this provision that said member shall have a vested right to said pension. A major fraction of a year of credited service shall be computed as a whole year for the purpose of vesting rights.

(3) For the purpose of determining the monthly pension of an employee:

   (a) The General Pension and Retirement Fund of the city shall pay to each member of the plan retired hereafter, whose credited service years under the plan are not less than twenty (20) years and who has attained the age of fifty-five (55) years or, effective October 1, 1999, who regardless of age has thirty (30) credited service years, a pension which has as its basis for calculation the average monthly salary of such member. Based upon such average monthly salary, a pension shall be paid according to the following table:

      75% upon the first $200.00

      50% upon the next 100.00

      40% upon all in excess thereof; and

   (b) Any employee who has attained twenty (20) credited years of service under the plan and who elects to remain employed after reaching fifty-five (55) years of age shall upon retirement be entitled to all of the rights and benefits provided for in this ordinance, and, in addition, the monthly pension shall be increased by one (1) percent for each year of credited service between the age of fifty-five (55) years and the actual age of retirement, but not for any year beyond the age of seventy (70); or

   (c) The monthly pension for a member of the plan who retires on or after July 1, 1988 and prior to July 1, 2000, shall be equal to two (2) percent of the average monthly salary times the number of years of credited service under the plan not in excess of thirty (30) credited service years, unless the payments would be greater if calculated by the applicable formulas set forth above in this subsection; or

(d) The monthly pension for a member of the plan who retires on or after July 1, 2000, and prior to October 1, 2012 shall be equal to 2.1 percent of the average monthly salary times the number of years of credited service under the plan not in excess of thirty (30) credited service years, unless the payments would be greater if calculated by the applicable formulas set forth above in this section, or

(e) The monthly pension for a member of the plan who retires on or after October 1, 2012, shall be equal to 2.1 percent of the average monthly salary times the number of years of credited service prior to October 1, 2012 and 1.75 percent of the average monthly salary times the number of years of credited service under the plan on or after October 1, 2012 not in excess of thirty (30) credited service years, unless the payments would be greater if calculated by the applicable formulas set forth above in this section.

(4) The monthly pension shall in no event be less than twenty-five dollars ($25.00) for each year of credited service under the plan not in excess of twenty (20) years.

(5) Each age and service condition required by this section 9-5-115 for entitlement to receive normal retirement benefits is referred to as "normal retirement age". Each member/employee will become one hundred (100) percent vested in his normal retirement benefit at normal retirement age.

(Ord. No. 09-07, § 1, 2-8-07; Ord. No. 16-07, § 11, 4-26-07; Ord. No. 03-08, § 2, 1-17-08; Ord. No. 01-11, § 7, 1-27-11; Ord. No. 23-12, § 2, 9-27-12)

Sec. 9-5-116. - Early retirement at 25 years of credited service.

(1) (a) Any member of the plan who has twenty-five (25) credited service years under the plan prior to attaining the age of fifty-five (55) years may retire at any time and receive a reduced pension, which shall have as its basis for calculation the member's average monthly salary. A major fraction of a year of credited service under the plan shall be computed as a whole year. A member of the plan must be separated from the employment of the city to receive a pension under the plan pursuant to this section, except as otherwise provided for in sections 9-5-114 or 9-5-125. Based upon such average monthly salary, a pension shall be paid according to the following table:

75% upon the first $200.00

50% upon the next 100.00

40% upon all in excess thereof; or

(b) The monthly pension for a member of the plan who retires on or after July 1, 1988, shall be equal to two (2) percent of the average monthly salary times the number of years of credited service under the plan not in excess of thirty (30) years, unless the payments would be greater if calculated by the formula set forth above.

(2) After said amount has been determined, the sum payable shall be adjusted by the following factors for early retirement as may be applicable to the member's age at the time of retirement:

Retirement Factors	
Age at Retirement	Factor
55	1.000

54	.928
53	.856
52	.784
51	.730
50	.676
49	.622
48	.586
47	.550
46	.514
45	.478

(3) The monthly pension shall in no event be less than twenty-five dollars ($25.00) for each year of credited service not in excess of twenty (20) years.

(4) (a) Notwithstanding subsections (1)(b) and (2), effective July 1, 2000, the monthly pension for a member of the plan who retires on or after July 1, 2000 and prior to October 1, 2012, shall be equal to 2.1 percent of the average monthly salary times the number of years of credited service under the plan not in excess of thirty (30) credited service years, unless the payments would be greater if calculated by the applicable formulas set forth above in this section.

(b) After said amount has been determined, the sum payable shall be adjusted by the following factors for early retirement as may be applicable to the member's age at the time of retirement if less than the age of fifty-five (55), or the member's years of credited service if less than thirty (30) years but greater than twenty-five (25) years, whichever will provide the greater benefit:

Retirement Factors	
Age at Retirement	Factor
55	1.00
54	.97

53	.94
52	.91
51	.88
50	.85
49	.82
48	.79
47	.76
46	.73
45	.70
44	.67
43	.64
42	.61
41	.58

Retirement Factors	
Years of Service	Factor
30	1.00
29	.97
28	.94
27	.91

26	.88
25	.85

(5) (a) Notwithstanding subsections (1)(b) and (2), effective October 1, 2012, the monthly pension for a member of the plan who retires on or after October 1, 2012, shall be equal to 2.1 percent of the average monthly salary times the number of years of credited service prior to October 1, 2012 and 1.75 percent of the average monthly times the number of years of credited service under the plan on or after October 1, 2012 not in excess of thirty (30) credited service years, unless the payments would be greater if calculated by the applicable formulas set forth above in this section.

(b) After said amount has been determined, the sum payable shall be adjusted by the following factors for early retirement as may be applicable to the member's age at the time of retirement if less than the age of fifty-five (55), or the member's years of credited service if less than thirty (30) years but greater than twenty-five (25) years, whichever will provide the greater benefit:

Retirement Factors	
Age at Retirement	Factor
55	1.00
54	.97
53	.94
52	.91
51	.88
50	.85
49	.82
48	.79
47	.76
46	.73

45	.70
44	.67
43	.64
42	.61
41	.58

Retirement Factors	
Years of Service	Factor
30	1.00
29	.97
28	.94
27	.91
26	.88
25	.85

(Ord. No. 09-07, § 1, 2-8-07; Ord. No. 16-07, § 12, 4-26-07; Ord. No. 23-12, § 3, 9-27-12)

Sec. 9-5-117. - Normal retirement with less than twenty years of credited service under the plan.

After a period of six (6) credited years of service under the plan, any member of the plan not having made withdrawal of funds from the General Pension and Retirement Fund shall be eligible to receive a pension upon attaining the age of sixty (60) years. Said member of the plan shall have a vested right to said pension. However, any member of the plan leaving employment must have a period of not less than six (6) credited service years under the plan in order to obtain a vested interest and right to pension benefits. A major fraction of a year of credited service shall not be computed as a whole year for the purpose of vesting rights. A member of the plan must be separated from the employment of the city to

receive a pension under the plan pursuant to this section, except as otherwise provided for in sections 9-5-114 or 9-5-125.

(1) (a) The General Pension and Retirement Fund of the city shall pay to those members of the plan with less than twenty (20) credited service years under the plan a pension which shall have as its basis for calculation the average monthly salary of such member. A major fraction of a year of credited service under the plan shall be computed as a whole year. Based upon such average monthly salary, a pension shall be paid according to the following table:

75% upon the first $200.00

50% upon the next 100.00

40% upon all in excess thereof; and

(b) After said amount has been determined, the sum payable shall be reduced to the percentage set opposite the number of years of credited service shown in the following schedule:

Years of Service	Percentage
6	48
7	51
8	54
9	57
10	60
11	63
12	66
13	69
14	72
15	75
16	80
17	85
18	90

19	95

(2) The monthly pension shall in no event be less than twenty-five ($25.00) for each year of credited service under the plan not in excess of twenty (20) years.

(Ord. No. 09-07, § 1, 2-8-07; Ord. No. 16-07, § 13, 4-26-07; Ord. No. 23-12, § 4, 9-27-12)

Sec. 9-5-118. - Refund of contributions with less than six credited years of service, except for disability or death in the line of duty.

(1) In the event any member of the plan with less than six (6) credited years of service separates from service, except for disability or death in the line of duty, such member or the decedent's dependent or beneficiary shall receive a refund of the member's contributions to the plan.

(a) The maximum amount of a refund of contributions shall equal the amount of contributions by the member of the plan less any amount of pension benefit received by the member of the plan and/or the member's dependents.

(b) Distribution election and distribution of a refund of contributions shall be made within ninety (90) days after eligibility. If no election is made, distribution shall be in a lump-sum payment.

(c) Any refund of the member's contributions under this ordinance shall be in full satisfaction of any and all claims by any person against the General Pension and Retirement Fund.

(2) The service years shall be computed on the basis of the total credited service years under the plan, either continuous or by totaling separate or discontinuous periods for the required total period. A major fraction of a year of credited service shall not be computed as a whole year for the purpose of vesting rights.

(Ord. No. 09-07, § 1, 2-8-07; Ord. No. 16-07, § 14, 4-26-07)

Sec. 9-5-119. - Disability injury or illness in line of duty.

If any member of the plan, due to injury or illness in the line of duty, makes application for retirement and is entitled to the benefits under this ordinance, the General Pension and Retirement Fund of the city shall pay according to the following schedule:

(1) (a) The General Pension and Retirement Fund of the city shall pay to each member of the plan retired hereafter because of injury or illness in the line of duty, whose period of credited service under the plan is not less than twenty (20) years, a pension which has as its basis for calculation the average monthly salary of such member. Based upon such average monthly salary, a pension shall be paid according to the following table:

75% upon the first $200.00

50% upon the next 100.00

40% upon all in excess thereof; and

(b) Any employee who has attained twenty (20) years of credited service under the plan and who elects to remain employed after reaching fifty-five (55) years of age shall upon disability retirement be entitled to all of the rights and benefits provided for in this ordinance, and, in addition, the monthly pension shall be increased by one (1) percent for

each year of service between the age of fifty-five (55) years and the actual age of disability retirement, but not for any year beyond the age of seventy (70); or

(c) The monthly pension for a member of the plan who retires on or after July 1, 1988, shall be equal to two (2) percent of the average monthly salary times the number of years of credited service under the plan not in excess of thirty (30) years, unless the payments would be greater if calculated by the applicable formulas set forth above in this section; or

(d) The monthly pension for a member of the plan who retires on or after July 1, 2000, and before October 1, 2012 shall be equal to 2.1 percent of the average monthly salary times the number of years of credited service under the plan prior to October 1, 2012 not in excess of thirty (30) credited service years, unless the payments would be greater if calculated by the applicable formulas set forth above in this section; or

(e) The monthly pension for a member of the plan who retires on or after October 1, 2012, shall be equal to 2.1 percent of the average monthly salary times the number of years of credited service prior to October 1, 2012 and 1.75 percent of the average monthly salary times the number of years of credited service under the plan on or after October 1, 2012 not in excess of thirty (30) credited service years, unless the payments would be greater if calculated by the applicable formulas set forth above in this section; or

(2) (a) The General Pension and Retirement Fund of the city shall pay to those members of the plan retired hereafter because of injury or illness in the line of duty, whose period of credited service under the plan is less than twenty (20) years, a pension which has as its basis for calculation the average monthly salary of such member. Based upon such average monthly salary, a pension shall be paid according to the following table:

75% upon the first $200.00

50% upon the next 100.00

40% upon all in excess thereof; and

(b) After said amount has been determined, the sum payable shall be reduced to the percentage set opposite the number of years of credited service shown in the following schedule:

Years of Service	Percentage
Less than 1	60
1	62
2	64
3	66
4	68
5	70
6	72

7	74
8	76
9	78
10	80
11	82
12	84
13	86
14	88
15	90
16	92
17	94
18	96
19	98

(3) The monthly pension shall in no event be less than twenty-five dollars ($25.00) for each year of credited service not in excess of twenty (20) years.

(4) In computing the number of years of credited service under the plan, a major fraction of a year shall be computed as a whole. The disability benefits provided for herein shall be in addition to any other benefits payable.

(5) In the event any member of the plan becomes disabled in the line of duty while employed, such member shall receive a pension benefit as provided in this section or, upon request, in lieu of a pension benefit, shall receive a refund of the member's contributions to the General Pension and Retirement Fund.

(a) The maximum amount of a refund of contributions shall equal the amount of contributions by the member of the plan less any amount of pension benefit received by the member of the plan.

(b) Distribution election and distribution of a refund of contributions shall be made within ninety (90) days after eligibility. If no election is made, distribution shall be in a lump-sum payment.

(c) Any refund of the member's contributions under this ordinance shall be in full satisfaction of any and all claims by any person against the General Pension and Retirement Fund.

(Ord. No. 09-07, § 1, 2-8-07; Ord. No. 09-07, § 1, 2-8-07; Ord. No. 23-12, § 5, 9-27-12)

Sec. 9-5-120. - Death in the line of duty.

In the event any member of the plan dies in the line of duty while employed, the deceased member's dependents or beneficiaries shall be eligible to receive benefits as provided for in sections 9-5-119 and 9-5-122 of this ordinance.

(Ord. No. 09-07, § 1, 2-8-07)

Sec. 9-5-121. - Disability injury or illness not in the line of duty.

(1) If any member of the plan who, due to injuries or illness not in the line of duty, makes application for disability retirement and is entitled to the benefits under this ordinance, the General Pension and Retirement Fund of the City of Pensacola shall pay according to the following schedule. In computing the number of years of credited service under the plan, a major fraction of a year shall be computed as a whole. The disability benefits provided for shall be in addition to any other benefits payable.

(2) (a) The General Pension and Retirement Fund of the city shall pay to each member of the plan retired hereafter because of injuries or illness not in the line of duty, whose period of credited service is not less than twenty (20) years, a pension which has as its basis for calculation the average monthly salary of such member. Based upon such average monthly salary, a pension shall be paid according to the following table:

75% upon the first $200.00

50% upon the next 100.00

40% upon all in excess thereof; and

(b) Any employee who has attained twenty (20) years of credited service under the plan and who elects to remain employed after reaching fifty-five (55) years of age shall upon retirement be entitled to all of the rights and benefits provided in this ordinance, and, in addition, the monthly pension shall be increased by one (1) percent for each year of credited service between the age of fifty-five (55) years and the actual age of retirement, but not for any year beyond the age of seventy (70); or

(c) The monthly pension for a member of the plan who retires on or after July 1, 1988, shall be equal to two (2) percent of the average monthly salary times the number of years of credited service under the plan not in excess of thirty (30) years, unless the payments would be greater if calculated by the applicable formulas set forth above in this section; or

(d) The monthly pension for a member of the plan who retires on or after July 1, 2000, and before October 1, 2012 shall be equal to 2.1 percent of the average monthly salary times the number of years of credited service under the plan prior to October 2, 2012 not in excess of thirty (30) credited service years, unless the payments would be greater if calculated by the applicable formulas set forth above in this section; or

(e) The monthly pension for a member of the plan who retires on or after October 1, 2012, shall be equal to 2.1 percent of the average times the number of years of credited service prior to

October 1, 2012 and 1.75 percent of the average monthly salary times the number of years of credited service under the plan on or after October 1, 2012 not in excess of thirty (30) credited service years, unless the payments would be greater if calculated by the applicable formulas set forth above in this section.

(3) (a) The General Pension and Retirement Fund of the city shall pay to those members of the plan retired hereafter because of injury or illness not in the line of duty, whose period of credited service under the plan is less than twenty (20) years, a pension which has as its basis for calculation the average monthly salary of such member. Based upon such average monthly salary, a pension shall be paid according to the following table:

75% upon the first $200.00

50% upon the next 100.00

40% upon all in excess thereof; and

(b) After said amount has been determined, the sum payable shall be reduced to the percentage set opposite the number of years of credited service shown in the following schedule:

Years of Service	Percentage
6	48
7	51
8	54
9	57
10	60
11	63
12	66
13	69
14	72
15	75
16	80
17	85

18	90
19	95

(4) The monthly pension shall in no event be less than twenty-five dollars ($25.00) for each year of credited service under the plan not in excess of twenty (20) years.

(5) In the event any member of the plan with less than six (6) years of credited service under the plan becomes totally or partially disabled not in the line of duty and such member is disabled to such an extent that he or she cannot properly discharge the duties of his or her employment, such member shall receive, in lieu of a pension, a refund of the total amount of his or her contributions to the General Pension and Retirement Fund. A major fraction of a year of credited service shall not be computed as a whole year for the purpose of vesting rights.

(a) The maximum amount of a refund of contributions shall equal the amount of contributions by the member of the plan less any amount of pension benefit received by the member of the plan.

(b) Distribution election and distribution of a refund of contributions shall be made within ninety (90) days after eligibility. If no election is made, distribution shall be in a lump-sum payment.

(c) Any refund of the member's contributions under this ordinance shall be in full satisfaction of any and all claims by any person against the General Pension and Retirement Fund.

(Ord. No. 09-07, § 1, 2-8-07; Ord. No. 16-07, § 15, 4-26-07; Ord. No. 09-07, § 1, 2-8-07; Ord. No. 16-07, § 15, 4-26-07; Ord. No. 23-12, § 6, 9-27-12)

Sec. 9-5-122. - Other benefit provisions.

(1) The order of eligibility for a pension benefit or a refund of contributions under this ordinance shall be first to the member of the plan, next to dependents if the member of the plan dies, then to the beneficiaries if there are no eligible dependents, and finally to the estate of the decedent if a beneficiary has not been named.

(2) In the event of the death of an individual retired prior to October 1, 2012 under this ordinance, his or her dependents or beneficiaries shall become immediately entitled to the benefits herein provided.

(a) Dependents eligible to receive a pension shall be paid in the following order:

1. a. To the surviving spouse, a monthly pension equal to one-twelfth (1/12) of eighty (80) percent of the annual pension which the deceased pensioner was receiving or to which the decedent would have been entitled in the event of retirement as of the date of death.

b. Effective on or after passage of this ordinance, if the surviving spouse should remarry, the surviving spouse of the deceased member of the plan shall continue to be entitled to the pension benefit provided for herein. Notwithstanding this provision, if a surviving spouse should become a surviving spouse of more than one (1) deceased member of the plan, the surviving spouse shall receive only the greater dependent benefit. In no case shall the surviving spouse receive benefits from more than one (1) deceased member of the plan.

2. If such decedent is not survived by a spouse but has dependent children under the age of eighteen (18) years or, if such decedent is survived by a spouse and dependent children

under the age of eighteen (18) years and the spouse dies before the youngest of said dependent children attains the age of eighteen (18) years, the dependent children of said decedent shall receive an amount equal to the benefit to which a surviving spouse would have been entitled under subparagraph 1., in equal shares among the dependent children and not exceeding in total the surviving spouse benefit. If any dependent child under this subparagraph ceases to be eligible for benefits for any reason, the benefits shall be recalculated to provide for equal shares to the remaining eligible dependent children.

(b) If there is no surviving spouse or eligible dependent children, then the member's beneficiary, if any, shall be entitled only to a refund of the contributions of the deceased member of the plan.

1. The maximum amount of a refund of contributions shall equal the amount of contributions by the member of the plan less any amount of pension benefit received by the member of the plan and/or the member's dependents.

2. Distribution election and distribution of a refund of contributions shall be made within ninety (90) days after eligibility. If no election is made, distribution shall be in a lump-sum payment.

3. Any refund of the member's contributions under this ordinance shall be in full satisfaction of any and all claims by any person against the general pension and retirement fund.

(c) Except as provided in subsection (4) of this section, in the event of the death of an individual retired after September 30, 2012, his or her dependents or beneficiaries shall not be entitled to any additional or further benefits hereunder unless an alternate form of benefit under subsection (3) of this section was elected by the retiree.

(3) (a) For retirements on or after October 1, 2012 the following alternative forms of benefits applies:

1. In lieu of the amount and form of retirement income payable in the event of normal or early retirement, a member, upon written request to the board of trustees and subject to the approval of the board of trustees, may elect to receive a retirement income or benefit of equivalent actuarial value payable in accordance with one of the following options:

a. A retirement income of a modified monthly amount, payable to the member during the joint lifetime of the member and the member's spouse, or if no surviving spouse, minor children until age 18, and following the death of the member, one hundred (100) percent, seventy-five (75) percent, sixty-six and two-thirds (66 2/3) percent, or fifty (50) percent of such monthly amount payable to the spouse for their lifetime or the minor until age 18.

b. No member may make any change in his or her retirement option after the date of cashing or depositing his or her first retirement check.

c. In the event a mandatory distribution is greater than one thousand dollars ($1,000.00), and a distributee member fails to elect to have such distribution paid directly to an eligible retirement plan specified by the distributee member in a direct rollover or to receive the distribution directly, then the board will pay the distribution in a direct rollover to an individual retirement account ("IRA") designated by the board. For purpose of the preceding sentence, a mandatory distribution is a distribution that constitutes an "eligible rollover distribution" (as defined in section 9-5-109) that is made without the member's consent.

(4) In the event any member of the plan with six (6) or more credited service years under the plan dies or otherwise separates from service of the city, such member or the deceased member's dependent shall, upon request, receive a refund of the member's contributions to the general pension and retirement fund in lieu of a pension benefit.

(a) The maximum amount of a refund of contributions shall equal the amount of contributions by the member of the plan less any amount of pension benefit received by the member of the plan and/or the member's dependents.

(b) Distribution election and distribution of a refund of contributions shall be made within ninety (90) days after eligibility. If no election is made, distribution shall be in a lump-sum payment.

(c) Any refund of the member's contributions under this ordinance shall be in full satisfaction of any and all claims by any person against the general pension and retirement fund.

(Ord. No. 09-07, § 1, 2-8-07; Ord. No. 16-07, § 16, 4-26-07; Ord. No. 23-12, § 7, 9-27-12)

Sec. 9-5-123. - Misconduct charges; hearings, forfeiture.

(1) No member of the plan shall at any time be retired under this or any other section of this ordinance while any charges of misconduct are pending before the civil service board against such member, but such charge shall be heard and determined, and no application for retirement shall be made or acted upon until thirty (30) days subsequent to the final determination.

(2) A member of the plan shall forfeit all benefits provided by this ordinance to the extent provided by the State Constitution and F.S. § 112.3173.

(Ord. No. 09-07, § 1, 2-8-07)

Sec. 9-5-124. - Cost-of-living increases.

(a) A cost-of-living increase in benefits paid pursuant to this ordinance shall be given effective July 1, 1999, and shall be paid biennially thereafter. Each biennial increase shall have an effective date of July 1. All such increases shall be equal to, but no greater than, the increase in the Consumer Price Index (U) (CPI) issued by the United States Department of Labor since the date of the last cost-of-living increase which was granted pursuant to this section, and in no event shall such increase be greater than three (3) percent. In the event the United States Department of Labor ceases to issue a CPI (U) the board may utilize a CPI index that is the functional equivalent. The period to be used for calculation of any CPI increase shall be April 1 of the last year in which an increase was given to March 31 of the year in which the increase is to be given.

(b) Effective for retirement on or after July 1, 2008 and prior to October 1, 2012, the cost-of-living increase in benefits pursuant to subsection (a) shall be paid annually provided that such increase shall be no greater than one and one-half (1.5) percent. The period to be used for calculation of any CPI increase shall be from April 1 of the preceding year to March 31 of the year in which the increase is to be given.

(c) Effective for retirements on or after October 1, 2012, the cost-of-living increase in benefits pursuant to subsection (a) shall be paid annually provided that such increase shall be no greater than one (1.0) percent. The period to be used for calculation of any CPI increase shall be from April 1 of the preceding year to March 31 of the year in which the increase is to be given.

(d) Members entering the Deferred Retirement Option Plan (DROP) after September 30, 2012 shall not be paid any cost-of-living increase granted to retirees while the member is participating in DROP. Once the member terminates his or her DROP participation, the member shall receive cost-of-living increases as provided in (c) above.

(Ord. No. 09-07, § 1, 2-8-07; Ord. No. 30-07, § 3, 6-28-07; Ord. No. 23-12, § 8, 9-27-12)

Sec. 9-5-125. - Deferred retirement option plan.

The City of Pensacola, by ordinance, may permit members of the General Pension and Retirement Fund who are eligible to retire and to receive retirement benefits to remain in the active service of the city until a contractually fixed termination date and to have accumulated for the employee's account from the date the contract is made all benefits which the employee would be eligible to begin receiving on that date

and to have those accumulated benefits held for the benefit of the employee until the employee separates from active service. Such ordinance may provide for forfeiture of the accumulated benefits or other penalty if the employee does not comply with the contract. However, if the employee complies in all respects with the terms of the contract, the employee shall receive all retirement benefits the employee would be entitled to under this ordinance upon the employee's actual retirement from the active service of the city.

(Ord. No. 09-07, § 1, 2-8-07)

Sec. 9-5-126. - Benefits under other statutes to remain unchanged.

Nothing in this ordinance shall operate to increase or diminish or in any way alter the amount of any pension now being paid by the City of Pensacola or any retirement benefits under the provisions of chapter 20061, Laws of Florida, 1939, and chapter 61-2655, Laws of Florida, as amended, or otherwise.

(Ord. No. 09-07, § 1, 2-8-07)

Sec. 9-5-127. - General pension benefits to be unaffected by other benefit payments.

If any employee of the City of Pensacola who is participating in the benefits provided by this ordinance is entitled to any social security benefits and/or deferred compensation benefits as a city employee, the amount of such benefits received shall not be deducted from the amount to which the employee is entitled under the provisions of this ordinance.

(Ord. No. 09-07, § 1, 2-8-07)

Sec. 9-5-128. - Maximum benefits and compensation limits.

(1) Notwithstanding any provision of the plan, the maximum benefit to be paid to any member of the General Pension and Retirement Fund shall not exceed the limitations, if any, provided in F.S. § 112.65.

(2) The benefits otherwise payable to a member or a beneficiary under the General Pension and Retirement Fund, and, where relevant, the accrued benefit of a member, shall be limited to the extent required by the applicable provisions of section 415 of the Code. To the extent applicable, the provisions of section 415 of the Code, are incorporated by reference into the General Pension and Retirement Fund. For purposes of the applicable limits of section 415 of the Code, the limitation year is set forth in section 9-5-102.

(Ord. No. 09-07, § 1, 2-8-07; Ord. No. 01-11, § 8, 1-27-11)

Sec. 9-5-129. - Election of members to participate in other defined benefit pension plans.

(a) On or after October 18, 1999, if a member of this plan elects to participate in another of the city's defined benefit pension plans or participates in the Florida Retirement System, contributions to this plan required under sections 9-5-130 and 9-5-131 shall cease. If such an election is made, nonvested members of the plan shall receive a refund of their contributions. Vested members may receive a refund of contributions in lieu of a future pension benefit or they may leave their contributions in the plan with their pension commencing as otherwise provided for herein. In such case, the pension benefit shall be calculated at the time contributions cease and further benefits shall not accrue.

(b) Notwithstanding any other provision contained in this plan, at the direction of the plan administrator, the contributions of the member (without interest) shall be transferred to another trust forming a part of the pension plan maintained by the city if such recipient plan meets the requirements of Section 401(a) of the Internal Revenue Code and provided that the recipient plan permits the transfer to be made.

(Ord. No. 09-07, § 1, 2-8-07; Ord. No. 16-07, § 17, 4-26-07)

Sec. 9-5-130. - Continuance of existing fund sources of revenue.

There is hereby continued in the City of Pensacola the fund heretofore established and known as the General Pension and Retirement Fund, to be maintained in the following manner:

(1) All sums of money now in the existing fund, designated "General Pension and Retirement Fund," shall remain therein.

(2) The City of Pensacola, through its proper officers, shall deduct 5.5 percent from the salary of members of the general pension plan and shall pay the same to the pension board herein created. Such payments shall be deposited in a special account by the City of Pensacola to be designated "General Pension and Retirement Fund," and no employee shall have any right to any moneys paid into the fund except as otherwise provided in this ordinance.

(3) By all gifts, bequests, and devices when donated to said fund and all other sources of income now or hereafter authorized by law for its augmentation.

(4) By all accretions to the fund by way of interest, profit, or otherwise.

(5) By mandatory payment by the City of Pensacola of a sum equal to the actuarially required funding amount shown by an actuary's annual valuation as approved by the general pension board.

(6) This provision supersedes the provisions contained in chapter 18777, Laws of Florida, 1937, as amended, chapter 24804, Laws of Florida, 1947, as amended, or any other applicable law, and no other revenue or funding source shall be utilized to maintain the fund other than as is provided for in subsections (1) through (5).

(7) Upon the payment or provision for payment of all benefits, liabilities and other obligations of the General Pension and Retirement Fund, the remaining assets of the fund shall be transferred to and become the property of the City of Pensacola.

(Ord. No. 09-07, § 1, 2-8-07; Ord. No. 24-08, § 2, 4-24-08)

Sec. 9-5-131. - Maintenance of sufficient funds to meet liabilities.

It is the duty of the pension board to at all times maintain the general pension fund at an amount sufficient to meet its current liabilities and, should there be an excess, the pension board may request the city council to authorize the abatement of the 5.5 percent employee contributions deducted under subsection (2) of section 9-5-130 proportionately to such amount as will maintain the fund as nearly as possible without increase or diminution; however, should the current income of the fund become insufficient to meet its current liabilities after the provision has been set apart for accumulations as above specified, the pension board shall so certify to the mayor and council president, and it is the mandatory duty of the city and all of the officers thereof to provide from any source of revenue available, budgeted or unbudgeted or from any fund, whether earmarked by ordinance or statute for other purposes, except that designated interest and sinking fund, a sufficient sum to meet such current liabilities without default. It is the mandatory duty of the city and its officers to fully fund from any source of revenue available any unfunded actuarially accrued liabilities arising under the General Pension and Retirement Fund as a result of pension benefits earned by city employees while actively employed by the city.

Notwithstanding any provision in this chapter to the contrary, if authorized by the City of Pensacola, there shall be transferred from the fund to the Florida Retirement System sufficient moneys to purchase prior service credit for members of the plan who elect to become participants in the Florida Retirement System and who elect to apply part of their prior service credit in the plan to service in the Florida Retirement System.

(Ord. No. 09-07, § 1, 2-8-07; Ord. No. 16-10, § 146, 9-9-10)

Sec. 9-5-132. - Retiree health insurance premium assistance.

The General Pension and Retirement Fund shall provide premium assistance for each covered general retiree participating in the city group health insurance plan in the amount of fifty-six dollars ($56.00) per month. The General Pension and Retirement Fund shall make payments to the City of Pensacola no less often than monthly to provide such premium assistance. Upon recommendation of the board of trustees, the city council may authorize a change in the monthly premium assistance paid to the City of Pensacola. No later than December 31, 1999, all amounts held in the City of Pensacola's General Pension Medical Account allocated for such premium assistance payments shall be transferred to the General Pension and Retirement Fund.

(Ord. No. 09-07, § 1, 2-8-07)

Sec. 9-5-133. - Minimum distribution requirement.

Required minimum distributions. Notwithstanding anything in the plan to the contrary, all distributions under the plan shall comply with section 401(a)(9) of the Code and the Treasury regulations, as prescribed by the Commissioner in Revenue Rulings, Notices, and other guidance published in the Internal Revenue Bulletin, to the extent that said provisions apply to governmental plans under section 414(d) of the Code, and shall be made in accordance with the following requirements:

(1) Time and manner of distribution.

(a) *Required beginning date.* The member's entire interest will be distributed, or begin to be distributed, to the member no later than the member's required beginning date.

(b) *Death of member before distributions begin.* If the member dies before distributions begin, the member's entire interest will be distributed, or begin to be distributed, no later than as follows:

(i) If the member's surviving spouse is the member's sole designated beneficiary, then, except as provided in the plan, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the member died, or by December 31 of the calendar year in which the member would have attained age 70½, if later.

(ii) If the member's surviving spouse is not the member's sole designated beneficiary, then, except as provided in the plan, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the member died.

(iii) If there is no designated beneficiary as of September 30 of the year following the year of the member's death, the member's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the member's death.

(iv) If the member's surviving spouse is the member's sole designated beneficiary and the surviving spouse dies after the member but before distributions to the surviving spouse begin, this section (1)(b), other than section (1)(b)(i), will apply as if the surviving spouse were the member.

(v) For purposes of this section 9-5-133(1) and (4), distributions are considered to begin on the member's required beginning date (or, if section 9-5-133(1)(b)(iv) applies, the date distributions are required to begin to the surviving spouse under section 9-5-133(1)(b)(i)). If annuity payments irrevocably commence to the member before the member's required beginning date (or to the member's surviving spouse before the date distributions are required to begin to the surviving spouse under section 9-5-133(1)(b)(i)), the date distributions are considered to begin is the date distributions actually commence.

(c) *Form of distribution.* Unless the member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with subsections (2), (3), and (4) of this section 9-5-133. If the member's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of section 401(a)(9) of the Code.

(2) Determination of amount to be distributed each year.

(a) *General annuity requirements.* If the interest is paid in the form of annuity distributions under the plan, payments under the annuity will satisfy the following requirements:

(i) The annuity distributions will be paid in periodic payments made at intervals not longer than one (1) year;

(ii) The distribution period will be over a life (or lives) or over a period certain not longer than the period described in section 9-5-133(3) or (4);

(iii) Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted; and

(iv) Payments will either be nonincreasing or increase only as follows:

(1) By an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;

(2) To the extent of the reduction in the amount of the member's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in section 9-5-133(3) dies or is no longer the member's beneficiary pursuant to a qualified domestic relations order within the meaning of section 414(p) of the Code;

(3) To provide cash refunds of member contributions upon the member's death; or

(4) To pay increased benefits that result from a plan amendment.

(b) *Amount required to be distributed by required beginning date.* The amount that must be distributed on or before the member's required beginning date (or, if the member dies before distributions begin, the date distributions are required to begin under subsection 9-5-133(1)(b)(i) or (1)(b)(ii)) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the member's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the member's required beginning date.

(c) *Additional accruals after first distribution calendar year.* Any additional benefits accruing to the member in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(3) Requirements for annuity distributions that commence during member's lifetime.

(a) *Joint life annuities where the beneficiary is not the member's spouse.* If the member's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the member and a nonspouse beneficiary, annuity payments to be made on or after the member's required beginning date to the designated beneficiary after the member's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the member using the table set forth in Q&A-2 of section 1.401(a)(9)-6T of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the member and a nonspouse beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.

(b) *Period certain annuities.* Unless the member's spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the member's lifetime may not exceed the applicable distribution period for the member under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the member reaches age 70, the applicable distribution period for the member is the distribution period for age 70 under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of the member as of the member's birthday in the year that contains the annuity starting date. If the member's spouse is the member's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the member's applicable distribution period, as determined under this section 9-5-133(3)(b), or the joint life and last survivor expectancy of the member and the member's spouse as determined under the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the member's and spouse's attained ages as of the member's and spouse's birthdays in the calendar year that contains the annuity starting date.

(4) Requirements for minimum distributions where member dies before date distributions begin.

(a) *Member survived by designated beneficiary.* Except as provided in this plan, if the member dies before the date distribution of his or her interest begins and there is a designated beneficiary, the member's entire interest will be distributed, beginning no later than the time described in section 9-5-133(1)(b)(i) or (1)(b)(ii), over the life of the designated beneficiary or over a period certain not exceeding:

(i) Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the member's death; or

(ii) If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

(b) *No designated beneficiary.* If the member dies before the date distributions begin and there is no designated beneficiary as of September 30th of the year following the year of the member's death, distribution of the member's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the member's death.

(c) *Death of surviving spouse before distributions to surviving spouse begin.* If the member dies before the date distribution of his or her interest begins, the member's surviving spouse is the member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this section 9-5-133(4) will apply as if the surviving spouse were the member, except that the time by which distributions must begin will be determined without regard to section 9-5-133(1)(b)(i).

(5) Definitions. For the purposes of section 9-5-133, the following definitions shall apply:

(a) *Designated beneficiary.* The individual who is designated as the beneficiary in accordance with the plan and is the designated beneficiary under section 401(a)(9) of the Code and section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.

(b) *Distribution calendar year.* A calendar year for which a minimum distribution is required. For distributions beginning before the member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the member's required beginning date. For distributions beginning after the member's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to section 9-5-133(1)(b).

(c) *Life expectancy.* Life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations.

(d) *Required beginning date.* The term "required beginning date" means April 1 of the calendar year following the later of: the calendar year in which the member attains age 70½; or the calendar year in which the member retires from employment with the city.

(Ord. No. 09-07, § 1, 2-8-07; Ord. No. 01-11, § 9, 1-27-11)

Sec. 9-5-134. - Investing funds; custodian of securities, contracts with professional money managers.

(1) The pension board shall have the power and authority to invest and reinvest the assets of the General Pension and Retirement Fund in:

(a) Time or savings accounts of a national bank, a state bank insured by the Federal Deposit Insurance Corporation, or a savings and loan association insured by the Federal Savings and Loan Insurance Corporation.

(b) Obligations of the United States Government or obligations guaranteed as to principal and interest by the United States Government.

(c) Obligations of municipal authority issued pursuant to the laws of this state; however, that:

(i) Except for obligations issued by the City of Pensacola to fund or prepay it obligations to make deposits to the General Pension and Retirement Fund. For each of the five (5) years next preceding the date of investment, the income of such authority available for fixed charges shall have been not less than one and one-half (1½) times its average annual fixed-charges requirement over the life of its obligations, and

(ii) Marketable securities carrying an investment grade rating by either Fitch, Standard and Poors, issued by the City of Pensacola to fund or prepay its obligations to make deposits to the General Pension and Retirement Fund need not comply with clause (c)(i) of this subsection (1), or any other restriction upon the character, tenor or quality of investment otherwise applicable to investment provided herein.

(d) Bonds, stocks, or other evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia; however, the board shall not invest more than five (5) percent of its assets in the common stock or capital stock of any one issuing company, nor shall the aggregate investment in any one issuing company exceed five (5) percent of the outstanding capital stock of the company, nor shall the aggregate market value of the fund's investments in common stocks exceed seventy-five (75) percent of the assets of the fund, nor shall the aggregate market value of the fund's investments in all corporate securities exceed eighty (80) percent of the assets of the fund.

(e) Commingled bank and insurance company temporary investment, stock, and bond funds without regard to the quality restrictions for individual securities contained in subsection (d).

(f) Commingled bank and insurance company real estate funds up to the maximum of fifteen (15) percent of assets at market value. Direct ownership and operation of real estate properties are prohibited.

(g) Guaranteed insurance contracts.

(h) Foreign securities, provided that the aggregate market value of such investments does not exceed twenty-five (25) percent of the assets of the fund.

(i) Master limited partnerships not to exceed ten (10) percent of the assets of the fund at market value.

(2) The pension board is hereby authorized to contract with one (1) or more professional money managers to act as agents of all or any portion of the assets of the fund. Such professional money manager or managers shall have full investment powers with respect to said assets subject to the provisions of subsection (1) which limit the types of investments which may be made, and subject to such further restrictions as may be imposed by the board.

(3) In order to accomplish the purpose outlined in subsection (2), the pension board may direct the plan administrator of the city to act as the board's agent in handling the administrative details concerning contracting with any professional money manager or managers; however, the plan administrator shall report the status of the pension funds to the pension board on a quarterly basis or with greater frequency as requested by the board, and the pension board shall review same and give directions to the plan administrator with respect to the continued contract status of the professional money manager or managers.

(Ord. No. 09-07, § 1, 2-8-07; Ord. No. 24-08, § 3, 4-24-08; Ord. No. 28-10, § 1, 12-16-10; Ord. No. 08-14, § 1, 2-27-14)

Sec. 9-5-135. - Reserved.

Editor's note— Ord. No. 23-12, § 9, adopted September 27, 2012, repealed § 9-5-135, which pertained to additional benefits and derived from Ord. No. 09-07, § 1, 2-8-07.

Sec. 9-5-136. - Severability.

If any section, clause, or portion of this ordinance is for any reason held or declared to be unconstitutional, invalid, inoperative, or void, such unconstitutionality or invalidity shall not affect the remaining provisions of this division, and it shall be construed to have been the legislative intent to pass this ordinance without such unconstitutional, invalid, or inoperative portion or portions, and the remaining provisions of the act shall be deemed valid as if such excluded portion or portions had not been included therein.

(Ord. No. 09-07, § 1, 2-8-07)

Sec. 9-5-137. - In-service distributions.

Notwithstanding any other provision in this chapter, a participant, upon attaining eligibility to receive a benefit but no earlier than age 55 or any time thereafter, may elect to receive an in-service distribution, provided however, any employee electing to receive such a distribution shall terminate employment within five (5) years from the effective date of the in-service distribution. Employees participating in the city's deferred retirement option plan (DROP) under Chapter 9-9 who elect an in-service distribution shall cease participation in DROP and start receiving benefit payments and continue employment until their original DROP termination date (for a maximum of five (5) years total).

(Ord. No. 16-07, § 18, 4-26-07; Ord. No. 03-08, § 3, 1-17-08)

Sec. 9-5-138. - Continued service upon conclusion of DROP.

Notwithstanding any other provision in the Code of the City of Pensacola, Florida, to the contrary, employees holding unclassified positions pursuant to authorized employment contracts with the mayor may continue to render such service to the city upon the conclusion of their participation in the deferred retirement option plan (DROP) of the General Pension and Retirement Fund, subject to the approval of the mayor as reflected in a written contract providing for same. Such contracts may be amended, modified or terminated from time to time at the discretion of the mayor.

(Ord. No. 30-07, § 4, 6-28-07; Ord. No. 16-10, § 147, 9-9-10)

Editor's note— Section 7 of Ord. No. 30-07 provided that this ordinance shall take effect immediately upon the effective date of the repeal of Chapter 99-474, Laws of Florida, as amended.

Sec. 9-5-139. - Termination.

Notwithstanding any other provision of this ordinance, upon termination of the General Pension and Retirement Fund for any reason, or upon the complete discontinuance of contributions, the rights of all members to benefits accrued to the date of such termination or discontinuance, including any amounts credited to a member's account, if applicable, are nonforfeitable, to the extent then funded. Upon termination of the General Pension and Retirement Fund, the city council, by ordinance, shall provide for the allocation and disposition of the asset thereof in a manner complying with applicable law.

(Ord. No. 01-11, § 10, 1-27-11)

Sec. 9-5-140. - Forfeitures.

(a) A member of the General Pension and Retirement Fund shall forfeit all benefits provided by the General Pension and Retirement Fund to the extent provided by the Florida Constitution and F.S. § 112.3173.

(b) Forfeitures arising from any cause whatsoever under this fund shall not be applied to increase the benefits any member would otherwise receive under the fund at any time prior to the termination of the fund or the complete discontinuance of contributions hereunder. Forfeitures shall be applied to reduce the contributions under the fund in the current or subsequent years.

(Ord. No. 01-11, § 11, 1-27-11)

Sec. 9-5-141. - Applicability of Ordinance 23-12 to read as follows.

Ordinance 23-12 and the changes to the plan made by such ordinance shall be effective on the later of enactment or October 1, 2012. Further, notwithstanding anything herein to the contrary, any member of the plan as in effect on September 30, 2012 who has vested benefits under the plan as of that date shall not receive a benefit under the plan less than the member's accrued benefit as of September 30, 2012 regardless of the date such member (or his or her beneficiary) begins receiving a pension or benefits under the plan.

(Ord. No. 23-12, § 10, 9-27-12)

CHAPTER 9-6. SOCIAL SECURITY REPLACEMENT BENEFIT PROGRAM[10]

Footnotes:

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Cross reference— Administration, Title II; department of human resources, Ch. 9-2; employee benefits and compensation, Ch. 9-3; pensions and deferred compensation, Ch. 9-5; general pension replacement benefit plan, § 9-5-81 et seq.

ARTICLE I. - SOCIAL SECURITY REPLACEMENT PROGRAM[11]

Footnotes:

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Editor's note— Ord. No. 10-01, § 1, adopted March 8, 2001, amended the title of Article I and §§ 9-6-1—9-6-6 in their entirety. Formerly, this article was titled elected officers and regular employees and said former sections pertained to similar subject matter as set out herein. See the Code Comparative Table.

DIVISION 1. - GENERALLY

Sec. 9-6-1. - Established.

The city established this social security replacement program which became effective January 1, 1982. This program is intended to provide replacement benefits in the areas of retirement, disability and survivor coverage for those employees of the city who were covered under social security as city employees on December 31, 1981, and all future employees of the city who would have been covered under social security as city employees, according to federal law in effect on December 31, 1981, had the city not withdrawn from social security. The social security replacement program has three (3) plans:

(1) *Disability and survivor plan.* A disability and survivor plan to provide disability and survivor coverage as described in section 9-6-5. The city established the replacement benefit program disability and survivor plan which became effective January 1, 1982.

(2) *Deferred compensation plan.* A deferred compensation plan set forth in section 9-6-6 of this article which is paired with the City of Pensacola 401(a) Match set forth in section 9-6-7, to allow participants an opportunity to save for retirement. This deferred compensation plan is intended to qualify as an "eligible deferred compensation plan" under Section 457 of the Internal Revenue Code of 1986, as amended.

(3) *A defined contribution pension plan.* A profit sharing plan set forth in section 9-6-7 of this article which is paired with the City of Pensacola 457 Deferred Compensation Plan set forth in section 9-6-6 to provide for matching contributions for those participants who defer in the City of Pensacola 457 Deferred Compensation Plan. This profit sharing plan is intended to meet the applicable requirements of Section 401(a) of the Internal Revenue Code of 1986, as amended.

(Code 1968, § 49-1(B); Ord. No. 7-98, § 2, 3-12-98; Ord. No. 10-01, § 1, 3-8-01; Ord. No. 08-16, § 6, 3-17-16)

Sec. 9-6-2. - Definitions.

Except as otherwise provided with respect to the deferred compensation plan described in Section 9-6-6 below or the defined contribution pension plan set forth in Division 4 of this article, whenever used in this Article, the following terms have the meanings set forth below (where there is a conflict between

these definitions and the definitions set forth in the provisions concerning the deferred compensation plan or the defined contribution pension plan, then the provisions of the particular plan shall prevail over these general definitions).

Compensation. Any remuneration payable to an employee for employment or contractual services rendered to the employer which is reportable as taxable income for purposes of the Internal Revenue Code of 1986 ("IRC"), as amended, except, however, that amounts deferred by an employee (which are not reportable as taxable income) under this or any other deferred compensation plan of the employer (other than a plan qualified under IRC Section 401) shall be included in the annual compensation for the purpose of determining disability and survivor benefits. Provided, however, compensation shall not include any of the following: educational incentive pay, pistol qualifications pay, clothing allowance, education benefit, special duty pay, certification pay, field training pay, shift differential pay, non-substantiated business expenses, non-cash benefits such as employer-provided vehicles or any other city provided benefit.

Employee. Any person who, on or after December 31, 1981, holds an appointment to a position within the administrative service of the city as defined in the civil service act of the city and any person who holds an appointment to a full-time administrative or clerical position with either the civil service board or the community redevelopment agency of the city, but excluding those persons in a class or category designated below:

(1) Part-time employees who do not work more than thirty (30) hours per week;

(2) Seasonal employees who do not work more than nine (9) months per year;

(3) Employees covered under a collective bargaining agreement unless expressly provided under the terms of the collective bargaining agreement;

(4) Independent contractors;

(5) Employees who are members of the firemen's relief and pension fund of the city;

(6) Officers elected by the people and persons appointed to serve on any board or commission of the city.

(7) Employees who are members of the Florida Retirement System hired on or after July 1, 2007.

Employer. The City of Pensacola, a Florida municipal corporation.

Social security. The system of old age and survivors insurance as authorized by the Federal Social Security Act and amendments thereto.

Except when otherwise indicated by the context, any masculine terminology herein shall also include the feminine and neuter and vice-versa, and the definition of any terms herein in the singular may also include the plural.

(Code 1968, § 49-1(C); Ord. No. 7-98, § 2, 3-12-98; Ord. No. 10-01, § 1, 3-8-01; Ord. No. 16-07, § 19, 4-26-07; Ord. No. 16-07, § 19, 4-26-07)

Sec. 9-6-3. - Eligibility.

All current employees of the city who were paying Federal Insurance Contribution Act (FICA) taxes to the social security administration as city employees as of December 31, 1981, and all employees hired subsequent to December 31, 1981, within the meaning of this article who would have paid FICA taxes to the social security administration as city employees, according to federal law in effect on December 31, 1981, had the city not withdrawn from social security, shall be eligible for participation in the social security replacement program.

(Code 1968, § 49-1(D); Ord. No. 10-01, § 1, 3-8-01)

Sec. 9-6-4. - Funding.

(a) The replacement social security program shall be funded with contributions of both the city and the employee in the following manner:

(1) The employee shall contribute a mandatory amount equal to four and seven-tenths (4.7) percent of his compensation.

(2) The city shall contribute a mandatory amount equal to four and seven-tenths (4.7) percent of compensation for each employee.

(3) The employee may contribute an additional amount on a voluntary basis up to the maximum amount allowed by law in accordance with subsection 9-6-6(c)(4).

(4) The city shall contribute an additional amount equal to the amount of the voluntary contribution of each employee up to but not exceeding two (2) percent of compensation.

(b) The contributions to fund the social security replacement program shall be distributed in the following manner:

(1) Each employee's contribution, both the four and seven-tenths (4.7) percent of compensation mandatory contribution and the up to two (2) percent of compensation additional voluntary contribution, shall be deposited in the replacement benefit program deferred compensation account for each employee in accordance with section 9-6-6

(2) The first one (1.0) percent of the city's four and seven-tenths (4.7) percent of compensation mandatory contribution shall be used to fund first the social security replacement program disability and survivor plan, provided for in Division 2 of this chapter, on behalf of all employees; the remaining city contributions after funding the social security replacement program disability and survivor plan shall be deposited in the social security replacement program defined contribution pension plan account of employees provided for in Division 4 of this article.

(3) The city's contribution of up to an additional two (2) percent of compensation to match employee's voluntary contribution of up to an additional two (2) percent of compensation shall be deposited in the social security replacement program defined contribution pension plan account of employees provided for in Division 4 of this chapter.

(4) City contributions to an employee's social security replacement program defined benefit pension plan account shall cease during any calendar year at the time employee contributions to that account cease.

(c) On July 1, 2007, contributions to this fund by the city and the employee shall cease for any employee who is a member of the Florida Retirement System.

(d) Effective January 1, 2013, at midnight contributions to this fund by members of the Police Officers' Retirement Fund shall be optional and there is no minimum contribution requirement.

(Code 1968, § 49-1(E); Ord. No. 10-01, § 1, 3-8-01; Ord. No. 16-07, § 20, 4-26-07; Ord. No. 06-13, § 1, 2-28-13)

DIVISION 2. - DISABILITY AND SURVIVOR PLAN

Sec. 9-6-5. - Disability and survivor plan.

(a) *Design.* The purpose of the social security replacement program disability and survivor plan is to provide protection for employees and their families in the event of a disabling impairment which prevents the employee from performing any gainful employment, or in the event of the death of the employee. This protection is designed to be similar to, but does not attempt to duplicate, coverage provided for disability and death under social security. The social security replacement program disability and survivor plan shall be administered for determination of disability through an insurance

carrier or other independent third-party agent. The mayor of the city is hereby authorized to enter into one (1) or more contracts with an insurance company and/or other third-party agent as necessary to provide at minimum the coverage outlined in subsections (b) and (c) and to amend, modify and/or terminate said contract, and to adopt subsequent contract as necessary to provide at minimum the coverage outlined in subsections (b) and (c). The city, at its option, may choose to self-insure all or a portion of the disability and survivor plan, provided that all administration of the disability and survivor plan for determination of disability shall be provided through an insurance carrier or other independent third-party agent.

(b) *Outline of disability coverage.* The social security replacement program disability and survivor plan shall provide for disability protection according to the following general plan outline. The provisions of the social security replacement program disability and survivor plan shall be governed in the specific by the contractual agreement entered into as authorized in subsection (a):

(1) A*mount of benefit.* The amount of monthly benefit shall be equal to sixty (60) percent of current monthly compensation less any benefit from social security, the general pension fund, the Police Officer's Retirement Fund, or other government pension benefit.

(2) *Minimum benefit.* A minimum benefit of fifty dollars ($50.00) per month shall be paid regardless of the amount of offsets.

(3) *Duration of benefits.* The disability benefit shall be payable until recovery or age sixty-five (65), whichever occurs first.

(4) *Contributions to defined contribution pension plan account.* The city shall continue to contribute each year an amount equal to four (4) percent of the disabled employee's current annual compensation as of the date of disability to his social security replacement program defined contribution pension plan account provided for in Division 4 of this article until the employee reaches age sixty-five (65), or until such time as distribution of the account commences, whichever event occurs first, and such contributions shall not cease because of a distribution for an unforeseeable emergency made pursuant to subsection 9-6-6(e)(6).

(5) *Definition of disability.* Disability shall be defined as the inability to perform any gainful employment and is further restricted by the specific definition of disability to be found in the contractual agreement governing the disability and survivor plan, and shall be administered by a third-party.

(c) *Outline of survivor coverage.* The replacement benefit program disability and survivor plan shall provide for survivor coverage in the event of the death of an employee according to the following general plan outline. The provisions of the replacement benefit program disability and survivor plan shall be governed in the specific by the contractual agreement entered into as authorized in subsection (a).

(1) *Amount of benefit.* The amount of monthly benefit shall be equal to twenty (20) percent of current annual compensation payable to the first survivor as designated by the employee; plus ten (10) percent of compensation to the next two (2) survivors as designated by the employee, for a maximum benefit of forty (40) percent of compensation. Eligible survivors are the employee's spouse and dependent, unmarried children.

(2) *Benefit for employee without survivor.* Employees who die without a survivor shall be entitled to a one-time benefit equal to current annual compensation payable to the deceased employee's designated beneficiary.

(3) *Duration of benefits.* The survivor benefits shall continue until the spouse reaches age sixty-five (65) or remarries, whichever occurs first, and the children's benefits shall continue until the child reaches age eighteen (18), or to age twenty-three (23) if continuously a full-time student.

(Code 1968, § 49-2; Ord. No. 5-90, § 1, 1-4-90; Ord. No. 7-98, § 1, 3-12-98; Ord. No. 10-01, § 1, 3-8-01; Ord. No. 16-10, § 148, 9-9-10)

DIVISION 3. - DEFERRED COMPENSATION PLAN

Sec. 9-6-6. - Deferred compensation plan.

Effective January 1, 1982, the city established the City of Pensacola 457 Deferred Compensation Plan (the "plan"), which has been amended from time to time, and which is intended to allow certain employees the ability to designate a portion of their compensation to be deferred and invested at the discretion of and in a manner approved by the city until termination of employment, financial emergency or death of the participant. Participation with a mandatory minimum deferral is required for designated employees. The city provides for mandatory employer matching contributions as prescribed in the City of Pensacola 401(a) Matching Plan for employees who defer into this plan. Participation in this plan shall not be construed to establish or create an employment contract between the employee and the city. The terms of the plan shall be contained within the plan document which is available for public inspection at the city clerk's office.

(Code 1968, § 49-3; Ord. No. 78-83, §§ 1—5, 6-9-83; Ord. No. 7-91, § 5, 2-28-91; Ord. No. 7-98, §§ 2—7, 3-12-98; Ord. No. 10-01, § 1, 3-8-01; Ord. No. 35-02, § 10, 10-24-02; Ord. No. 16-07, §§ 21, 22, 4-26-07; Ord. No. 06-13, § 2, 2-28-13; Ord. No. 08-16, § 7, 3-17-16)

DIVISION 4. - DEFINED CONTRIBUTION PENSION PLAN

Sec. 9-6-7. - Defined contribution pension plan.

(1) *Establishment.* Effective April 1, 2001, the city established the City of Pensacola 401(a) Matching Plan and the terms of plan which shall be contained within the plan document which is available for public inspection at the city clerk's office.

(2) *Purpose.* The plan is intended to provide mandatory employer matching contributions on behalf of participants who defer in the City of Pensacola 457 Deferred Compensation Plan as prescribed by the city. Such amounts are invested at the discretion of and in a manner approved by the city until termination of employment, financial emergency or death of the participant. Participation in this plan shall not be construed to establish or create an employment contract between the employee and the employer.

(3) *Transfers.* Notwithstanding any other provision contained in the plan, at the direction of the plan administrator, participants in the police officers retirement fund or participant in the general pension and retirement fund who becomes a member of the Florida Retirement System may transfer their funds to this plan as provided in the plan document.

(Ord. No. 10-01, § 1, 3-8-01; Ord. No. 34-02, § 2, 10-24-02; Ord. No. 16-07, § 23, 4-26-07; Ord. No. 08-16, § 8, 3-17-16)

Editor's note— Exhibit A is not included herein but is available for public inspection in the office of the city clerk.

Secs. 9-6-8—9-6-10. - Reserved.

ARTICLE II. - ELECTED OFFICERS AND PART-TIME, SEASONAL AND OTHER TEMPORARY EMPLOYEES

Sec. 9-6-11. - Establishment and purpose.

(a) *Establishment.* Effective July 1, 1991, the city established the City of Pensacola Deferred Compensation Plan for Elected Officers and Part-Time, Seasonal and other Temporary Employees

(the "plan") which has been amended from time to time. The plan is intended to qualify as an "eligible state deferred compensation plan" under Section 457 of the Internal Revenue Code of 1986, as amended.

(b) P*urpose.* The plan is intended to provide a retirement system for the mayor, members of the city council and certain employees of the city who are not covered by a retirement system maintained by the city. The terms of the plan shall be contained within the plan document which is available for public inspection at the city clerk's office.

(Ord. No. 30-91, § 2, 6-27-91; Ord. No. 08-16, § 9, 3-17-16)

Secs. 9-6-12—9-6-19. - Reserved.

Editor's note— Ord. No. 08-16, § 10, adopted March 17, 2016, repealed §§ 9-6-12—9-6-17, which pertained to definitions, deferment plan, administration, participant's accounts, investments, distributions, miscellaneous, amendment or termination of plan. See Code Comparative Table for complete derivation.

ARTICLE III. - FIREFIGHTERS DEFERRED COMPENSATION PLAN

DIVISION 1. - GENERALLY

Sec. 9-6-20. - Established.

The city hereby establishes this deferred compensation plan which shall become effective June 10, 2015. This program is intended to provide benefits in the areas of retirement, disability and survivor coverage for City of Pensacola Firefighters hired on and after June 10, 2015. The deferred compensation plan has three (3) divisions:

(1) *Disability and survivor plan.* A disability and survivor plan to provide disability and survivor coverage as described in division 2.

(2) *Deferred compensation plan.* A deferred compensation plan set forth in division 3 of this article which is paired with the defined contribution plan set forth in division 4. This deferred compensation plan is intended to qualify as an "eligible deferred compensation plan" under Section 457 of the Internal Revenue Code of 1986, as amended.

(3) *A defined contribution plan.* A defined contribution plan set forth in division 4 of this article which is paired with the deferred compensation plan set forth in division 3. This plan is intended to meet the applicable requirements of Section 401(a) of the Internal Revenue Code of 1986, as amended.

(Ord. No. 19-15, § 1, 10-8-15)

Sec. 9-6-21. - Definitions.

Except as otherwise provided with respect to the deferred compensation plan described in division 3 below or the defined contribution plan set forth in division 4 of this article, whenever used in this article, the following terms have the meanings set forth below (where there is a conflict between these definitions and the definitions set forth in the provisions concerning the deferred compensation plan or the defined contribution plan, then the provisions of the particular plan shall prevail over these general definitions).

Compensation. Any remuneration payable to an employee for employment or contractual services rendered to the employer which is reportable as taxable income for purposes of the Internal Revenue Code of 1986 ("IRC"), as amended, except, however, that amounts deferred by an employee (which are

not reportable as taxable income) under this or any other deferred compensation plan of the employer (other than a plan qualified under IRC Section 401) shall be included in the annual compensation for the purpose of determining disability and survivor benefits. Provided, however, compensation shall not include any of the following: educational incentive pay, clothing allowance, education benefit, special duty pay, certification pay, field training pay, shift differential pay, non-substantiated business expenses, non-cash benefits such as employer-provided vehicles or any other city provided benefit.

Employee. Any person who, was hired on or after June 10, 2015, and is a member of the City of Pensacola Firefighters' Relief and Pension Plan.

Employer. The City of Pensacola, a Florida municipal corporation.

Except when otherwise indicated by the context, any masculine terminology herein shall also include the feminine and neuter and vice-versa, and the definition of any terms herein in the singular may also include the plural.

(Ord. No. 19-15, § 1, 10-8-15)

Sec. 9-6-22. - Eligibility.

All current employees hired on or after June 10, 2015 who are members of the City of Pensacola Firefighters' Relief and Pension Plan and have elected to participate in the deferred compensation plan at the time of employment. Those employees hired on or after June 10, 2015 that were not given the option to join the plan at the time of employment shall be given the option to join within thirty (30) days after the adoption date of the plan.

(Ord. No. 19-15, § 1, 10-8-15)

Sec. 9-6-23. - Funding.

(a) The deferred compensation plan shall be funded with contributions of both the city and the employee in the following manner:

  (1) If the employee elects to participate, he must contribute a mandatory amount equal to one (1.0) percent of his compensation.

  (2) The city shall contribute a mandatory amount equal one (1.0) percent of compensation for each participating employee.

  (3) The employee may contribute an additional amount on a voluntary basis up to the maximum amount allowed by law.

  (4) The city shall contribute an additional amount equal to the amount of the voluntary contribution of each employee up to but not exceeding five and seven-tenths (5.7) percent of compensation.

(b) The contributions to fund the deferred compensation plan shall be distributed in the following manner:

  (1) Each employee's contribution, both the one (1.0) percent of compensation mandatory contribution and the up to five and seven-tenths (5.7) percent of compensation additional voluntary contribution, shall be deposited in the plan's deferred compensation account for each employee in accordance with the terms of the deferred compensation plan.

  (2) The first one (1.0) percent of the city's one (1.0) percent of compensation mandatory contribution shall be used to fund first the deferred compensation plan disability and survivor plan, provided for in Division 2 of this chapter, on behalf of all participants; the remaining city contributions after funding the deferred compensation plan disability and survivor plan shall be deposited in the defined contribution plan account of employees in accordance with the terms of the defined contribution plan.

(3) The city's contribution of up to an additional five and seven-tenths (5.7) percent of compensation to match employee's voluntary contribution of up to an additional five and seven-tenths (5.7) percent of compensation shall be deposited in the defined contribution plan account of employees in accordance with the terms of the defined contribution plan.

(4) City contributions to an employee's defined contribution plan account shall cease during any calendar year at the time such employee contributions to that account cease.

(Ord. No. 19-15, § 1, 10-8-15)

DIVISION 2. - DISABILITY AND SURVIVOR PLAN

Sec. 9-6-24. - Disability and survivor plan.

(a) *Design.* The purpose of the disability and survivor plan is to provide protection for employees and their families in the event of a disabling impairment which prevents the employee from performing any gainful employment, or in the event of the death of the employee. The deferred compensation plan disability and survivor plan shall be administered for determination of disability through an insurance carrier or other independent third-party agent. The mayor of the city is hereby authorized to enter into one (1) or more contracts with an insurance company and/or other third-party agent as necessary to provide at minimum the coverage outlined in subsections (b) and (c) and to amend, modify and/or terminate said contract, and to adopt subsequent contract as necessary to provide at minimum the coverage outlined in subsections (b) and (c). The city, at its option, may choose to self-insure all or a portion of the disability and survivor plan, provided that all administration of the disability and survivor plan for determination of disability shall be provided through an insurance carrier or other independent third-party agent.

(b) *Outline of disability coverage.* The disability and survivor plan shall provide for disability protection according to the following general plan outline. The provisions of the disability and survivor plan shall be governed in the specific by the contractual agreement entered into as authorized in subsection (a).

(1) *Amount of benefit.* The amount of monthly benefit shall be equal to sixty (60) percent of current monthly compensation less any benefit from social security, the fire pension fund, or other government pension benefit.

(2) *Minimum benefit.* A minimum benefit of fifty dollars ($50.00) per month shall be paid regardless of the amount of offsets.

(3) *Duration of benefits.* The disability benefit shall be payable until recovery or age sixty-five (65), whichever occurs first.

(4) *Contributions to defined contribution plan account.* The city shall continue to contribute each year an amount equal to four (4) percent of the disabled employee's current annual compensation as of the date of disability to his defined contribution plan account provided for in division 4 of this article until the employee reaches age sixty-five (65), or until such time as distribution of the account commences, whichever event occurs first, and such contributions shall not cease because of a distribution for an unforeseeable emergency made pursuant to the provisions outlined in the defined contribution plan.

(5) *Definition of disability.* Disability shall be defined as the inability to perform any gainful employment and is further restricted by the specific definition of disability to be found in the contractual agreement governing the disability and survivor plan, and shall be administered by a third-party.

(c) *Outline of survivor coverage.* The disability and survivor plan shall provide for survivor coverage in the event of the death of an employee according to the following general plan outline. The provisions of the disability and survivor plan shall be governed in the specific by the contractual agreement entered into as authorized in subsection (a).

(1) *Amount of benefit.* The amount of monthly benefit shall be equal to twenty (20) percent of current annual compensation payable to the first survivor as designated by the employee; plus ten (10) percent of compensation to the next two (2) survivors as designated by the employee, for a maximum benefit of forty (40) percent of compensation. Eligible survivors are the employee's spouse and dependent, unmarried children.

(2) *Benefit for employee without survivor.* Employees who die without a survivor shall be entitled to a one-time benefit equal to current annual compensation payable to the deceased employee's designated beneficiary.

(3) *Duration of benefits.* The survivor benefits shall continue until the spouse reaches age sixty-five (65) or remarries, whichever occurs first, and the children's benefits shall continue until the child reaches age eighteen (18), or to age twenty-three (23) if continuously a full-time student.

(Ord. No. 19-15, § 1, 10-8-15)

DIVISION 3. - DEFERRED COMPENSATION PLAN

Sec. 9-6-25. - Deferred compensation plan.

Effective June 10, 2015, the city establishes the firefighters deferred compensation plan ("deferred compensation plan") which is intended to allow certain firefighters the ability to designate a portion of their compensation to be deferred each pay period and invested at the discretion of and in a manner approved by the city until termination of employment, financial hardship or death of the employee. Participation in the deferred compensation plan is optional. If an eligible employee elects to participate in the deferred compensation plan a mandatory minimum deferral is required. Any compensation deferred by participants may be invested by the city, but there is no requirement to do so. Participation in this deferred compensation plan shall not be construed to establish or create an employment contract between the employee and the city. The terms of the deferred compensation plan shall be contained within the plan document which is available for public inspection in the office of the city clerk.

(Ord. No. 19-15, § 1, 10-8-15)

DIVISION 4. - DEFINED CONTRIBUTION PLAN

Sec. 9-6-26. - Defined contribution plan; established.

(a) *Establishment.* Effective June 10, 2015, the city shall establish the firefighters defined contribution plan ("defined contribution plan") the terms of which shall be contained within a separate plan document which is available for public inspection in the office of the city clerk.

(b) *Purpose.* The defined contribution plan is intended to provide mandatory employer matching contributions on behalf of participants who defer in the deferred compensation plan, set forth in division 3, as prescribed by the city. Such amounts are invested at the discretion of and in a manner approved by the city until termination of employment, financial emergency or death of the participant. Participation in this defined contribution plan shall not be construed to establish or create an employment contract between the employee and the employer.

(Ord. No. 19-15, § 1, 10-8-15)

CHAPTER 9-7. GROUP INSURANCE[12]

Footnotes:

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Cross reference— Employee benefits and compensation, Ch. 9-3.

Sec. 9-7-1. - General provisions.

The city may create, establish, modify, amend and terminate or discontinue, in whole or in part, from time to time group health, dental, life and other insurance plans for city employees, former employees, mayor, city council members and their dependents. The city may determine, modify and amend the coverages and levels of benefits, plan participation, premium contributions and other provisions of such plans. No such plan shall be deemed to constitute a contract between the city and the employee, plan participant or person insured or to be a consideration of inducement for the employee or participant. Nothing contained in any such plan shall be deemed to give any employee the right to be retained in the service of the city, to interfere with the right of the city to discharge any employee at any time regardless of the effect such discharge shall have upon the employee as a participant of such plan, or to interfere with the right of the city to terminate, discontinue, modify or amend any such plan in whole or in part. The mayor shall notify eligible employees, eligible former employees, and city council members of their eligibility to participate in such plans.

(Ord. No. 4-94, § 1, 1-13-94; Ord. No. 18-01, § 2, 9-27-01; Ord. No. 24-02, § 1, 9-26-02; Ord. No. 16-10, § 151, 9-9-10)

Sec. 9-7-2. - Participants; persons insured.

The following persons may be participants or persons insured in any plan of group health, dental, life or other insurance, unless by action of the city council plan participation is otherwise limited:

a. The mayor and any active, permanent, full-time city employee who is regularly scheduled to work forty (40) hours or more per week on a full-time basis and part-time employees as required under the Affordable Care Act.

b. Any other active city employee whose written employment contract with the mayor provides for participation in such insurance plan.

c. Any former employee, as described in subsection a. or b. and city council member as described in f., who while an active employee was a member of the city general pension and retirement plan, firemen's relief and pension plan, police officers retirement plan or Florida Retirement System and who was actively employed by the city for a continuous period of six (6) years, or whose written employment contract provided for participation in such insurance plan following termination of active employment.

d. Any former employee, as described in subsection a. or b., employed by the city as of October 1, 2016, who while an employee was a member of one of the city's defined contribution pension or deferred compensation plans, and who was actively employed by the city for a continuous period of six (6) years, or whose written employment contract provided for participation in such insurance plan following termination of active employment.

e. Any former employee, as described in subsection a. or b., whose employment has been terminated due to a total disability due to an accident, injury or occupational disease arising out of and in the course of city employment which is compensable under the workers' compensation laws of Florida in effect at the time that such accident, injury or occupational disease occurs, for so long as such employee remains totally disabled.

f. City council members and their eligible dependents are eligible to participate in the group health and dental plans only provided that the council members pay one hundred (100) percent of the health and dental insurance premiums. City council members and their eligible dependents will

not be eligible to participate in any other city group benefit plans. The mayor, city council members and any eligible dependents will continue to be eligible to participate in the group health plan in the manner as specified in c. above.

g. Insurance coverage shall be extended to the eligible dependents of any of the above-described employees, former employees, or mayor or city council members provided that the employee, or city council member, while in the active service of the city or while holding office, enrolls such eligible dependents for coverage during an authorized enrollment period or special enrollment period.

h. Any surviving spouse and/or eligible dependent children of an employee or former employee eligible to receive retirement benefits under one of the retirement plans described in subsection c., provided that such surviving spouse and/or eligible dependent children were enrolled for coverage prior to the deceased employee's last day of active service with the city.

(Ord. No. 4-94, § 1, 1-13-94; Ord. No. 18-01, § 2, 9-27-01; Ord. No. 24-02, § 1, 9-26-02; Ord. No. 16-10, § 152, 9-9-10; Ord. No. 02-17, § 1, 1-12-17)

Sec. 9-7-3. - Conditions of participation and insurance.

a. Participation and insurance coverage, and the privilege of continuing participation and coverage shall be conditioned upon the prompt payment of premiums for coverage by the city and by the participant. The mayor shall determine the means and manner for collecting such premiums, including, without limitation, payroll deductions, pension benefit deductions or collection from the participant. The failure of any participant to promptly and completely pay all premiums due by the participant shall be cause for cancellation of the participant's insurance upon written notice. No person whose participation has been cancelled for non-payment of premiums shall thereafter again become eligible for participation.

b. Participation shall be voluntary. Participant enrollment shall be subject to enrollment during enrollment periods established by the mayor. No person may be a participant who does not enroll during enrollment periods.

c. No former employee shall be enrolled as a participant unless the employee was a participant immediately prior to the termination of the employee's active service and unless, prior to terminating active service, the employee enrolls for participation following active service.

d. No surviving spouse or eligible dependent of a former employee shall be enrolled as a participant or person insured unless the employee was a participant immediately prior to the termination of the employee's active service, and the employee enrolled the spouse and eligible dependents as persons insured prior to termination of the employee's active service.

(Ord. No. 4-94, § 1, 1-13-94; Ord. No. 16-10, § 153, 9-9-10)

Sec. 9-7-4. - Eligible dependent defined.

For the purpose of this chapter, eligible dependent shall be defined in the manner set forth in the insurance policy.

(Ord. No. 4-94, § 1, 1-13-94)

CHAPTER 9-8. - GENERAL PENSION AND RETIREMENT FUND[13]

Footnotes:

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Cross reference— Employee benefits and compensation, Ch. 9-3; pensions and deferred compensation, Ch.9-5; general pension replacement benefit plan, § 9-5-81 et seq.

REPEAL SECTION 9-8-1.

REPEAL SECTION 9-8-2.

REPEAL SECTION 9-8-3.

REPEAL SECTION 9-8-4.

Sec. 9-8-5. - Treatment of certain contributions to general pension and retirement plan.

For the purpose of Section 414(h) of the Internal Revenue Code, the contributions made by each employee to the General Pension and Retirement Fund and the Firemen's Relief and Pension Fund shall be designated as employer contributions. Provided, however, such designation is contingent upon the contributions being excluded from the employee's gross income for federal income tax purposes as picked up contributions under Section 414(h)(2) of the Internal Revenue Code. Such contributions shall, nevertheless, be subject to refund or return to the employee upon termination of his employment, or later, as such may be provided for in the General Pension and Retirement Plan or Firemen's Relief and Pension Fund Plan.

(Ord. No. 44-90, § 1, 9-13-90; Ord. No. 27-99, § 1, 7-22-99; Ord. No. 17-01, § 7, 9-27-01)

Editor's note— Formerly § 9-3-41.

CHAPTER 9-9. - DEFERRED RETIREMENT OPTION PLAN (DROP)

Sec. 9-9-1. - Establishment of a Deferred Retirement Option Plan (DROP).

A Deferred Retirement Option Plan (hereinafter referred to as "the DROP"), is hereby established, in which an eligible participant in one of the specifically identified defined benefit pension plans may continue employment with the City of Pensacola but elect to freeze the accrual of additional pension benefits as of the effective date of such election as if the participant had retired on such effective date (such election is hereinafter referred to as the "DROP Election"). If an eligible employee files a proper DROP Election, then such participant's pension retirement benefits will be credited to a DROP account within the applicable pension plan. The DROP account will earn interest at the rate described in subsection 9-9-4(g) for as long as the participant is properly participating in the DROP, which is for a specific and limited period set forth in the DROP election. Any cost-of-living increase granted by the applicable pension board with respect to pension benefits shall also apply to a DROP participant's pension benefit. Through the DROP, city employees may retire from the general pension and retirement fund, Police Officers' retirement fund, and the firemen's relief and pension fund and receive pension benefits credited into the DROP, which is a fund within the pension plan and a trust in which the employee participates, while remaining employed with the City of Pensacola.

For purposes of this plan, participants will be considered as retired from their respective pension plans for pension purposes, but not separated from city employment. During participation in the DROP, the employee's pension benefits will be credited into an account, within the pension plan for which the DROP election was made (hereinafter the "DROP account"). Pension benefits credited into the DROP account, plus interest as described in subsection 9-9-4(g), are eligible to receive distribution of the

employee's DROP funds upon separation from employment in accordance with employee's DROP election. At the time of such separation of employment, the employee will also begin to receive the previously determined normal retirement benefits including any cost-of-living adjustments granted while in the DROP under the applicable defined benefit pension plan.

(Ord. No. 46-99, § 1, 11-18-99)

Sec. 9-9-2. - Definitions.

(a) *DROP.* DROP refers to a Deferred Retirement Option Plan which allows retirement eligible employees to continue working for the city for a defined period of time while, at the same time, accumulating retirement benefits in a DROP account within the applicable defined benefit pension plan.

(b) *DROP account.* A DROP account is a separate accounting within the appropriate retirement plan which credits the individual DROP participant with his/her benefits plus earnings during his/her election period.

(c) *DROP participation.* DROP participation results when an employee has completed and submitted a DROP election form, selecting a DROP period, and continues to work for the city for a period not to exceed sixty (60) months. During this period, the employee's retirement benefits will be credited to his/her DROP account.

(d) *DROP election.* DROP election means the establishment of a date upon which the employee intends to terminate his/her employment with the City of Pensacola. The date is established through the irrevocable completion of a DROP election form to be submitted to the DROP administrator. Following the submission of a DROP election, the employee's employment with the city cannot exceed sixty (60) months in duration, although employees may terminate employment with the city at any time prior to the termination date indicated on the DROP election form.

(Ord. No. 46-99, § 2, 11-18-99)

Sec. 9-9-3. - Participation.

(a) *Eligibility.* Any employee entitled to receive normal, nondisability pension benefits but not already receiving a pension benefit described in article VII, of the General Pension and Retirement Fund, article II of the Police Officers' Retirement Fund, or article VI of the Firemen's Relief and Pension Fund of the Code of the City of Pensacola, Florida, is eligible to participate in the DROP when such employee also satisfies the criteria set forth in subsection 9-9-3(b).

(b) *Criteria.* An employee may participate in the DROP if the employee is eligible for retirement under the appropriate plan.

(c) *Length of participation.* An employee shall be entitled to only one (1) DROP election for each applicable defined benefit pension plan in which the employee is a participant and for which the employee satisfies the criteria of subsection 9-9-3(b). Once made, a DROP election is irrevocable. An eligible employee may elect to participate in the DROP for a period not to exceed sixty (60) months commencing upon the date on which the employee enters the DROP.

(d) *Election.* In order to make a proper DROP election, an eligible employee must complete and execute the proper forms supplied by the DROP administrator. The election to participate in the DROP is binding and irrevocable.

(e) *Participant benefits.* With the exception of the accrual of additional pension benefits to the General Pension and Retirement Fund, the Police Officers' Retirement Fund, or the Firemen's Relief and Pension Fund (which accruals shall cease as of the effective date of DROP election with respect to such plans), participants of the DROP may participate in other benefits and benefit programs available to employees of the city in accordance with the terms and provisions of such benefit

programs. Participation in the DROP does not alter the participant's employment status except with respect to defined benefit pension plan benefits, and such employee shall not be deemed to terminate employment until his or her deferred resignation (as defined in the DROP election) is effective and termination occurs.

(f) *Pension calculations.* Pension benefits shall be calculated according to the formula in existence on the date of the DROP election, according to the provisions of the applicable pension plan. Additional years of service in the pension plan and additional benefit for years of service in such plan shall cease as of the date of entry into the DROP.

(g) *Pension fund participation.* An employee who elects to participate in the DROP shall not have, at any time, the right to become a contributing or recontributing member of the General Pension and Retirement Fund, the Police Officers' Retirement Fund and/or Firemen's Relief and Pension Fund. An employee who enters the DROP shall be considered, for pension purposes, as retired. While an employee who enters the DROP shall receive cost-of-living increases with respect to such employee's pension benefits, increases or decreases in benefits (other than cost-of-living increases), by amendment of the pension plan after the effective date of the DROP election, shall not apply with respect to the employee who enters the DROP, unless the amendment expressly provides that it is intended to apply to DROP participants.

(h) *Cessation of pension contributions.* Upon the effective date of an employee's participation in a DROP, the participant shall cease to make contributions to his/her respective pension fund. The City of Pensacola shall also cease to make contributions to the Pension Fund based on the DROP participant's salary.

(i) *Participation by members of two (2) pension plans.* An employee who is a member of the General Pension and Retirement Fund and the Police Officers' Retirement Fund may elect to participate in the DROP for one (1) or simultaneously for both retirement plans.

(j) *Employment.* The employment relationship is not changed by the DROP. However, additional years of service in the pension plan shall cease as of the date of entry into the DROP.

(k) *Sick and annual leave.* Employees participating in the DROP may receive a lump sum payment for accrued annual leave and sick leave earned as provided in the pay plan in existence on the date of termination of employment. This lump sum payment shall not increase or otherwise affect the employee's retirement benefit, which was previously determined when the employee elected to participate in the DROP.

(l) *Disability.* DROP participants are not eligible for disability retirements.

(Ord. No. 46-99, § 3, 11-18-99)

Sec. 9-9-4. - DROP accounts.

(a) *Definition.* The City of Pensacola shall establish a DROP account for each employee electing to enter the DROP. The DROP account balances will be an individual accounting only and all balances will remain within the applicable defined benefit pension plan.

(b) *Payments into the DROP account.* Pension benefits which the employee would have received as a retiree will be credited into the separate accounting of the DROP account established for the employee within the applicable defined benefit pension plan. Amounts shall be credited to the participant's DROP account balance with the same frequency as other retirement payments. When a DROP participant terminates employment with the City of Pensacola, all credits to the participant's DROP account shall immediately cease.

(c) *Plan statements.* Periodic statements shall be provided to participants in a manner determined by the DROP administrator.

(d) *Distributions.* Upon termination of the employee's employment with the City of Pensacola, distributions credited from the DROP account shall be made to the employee or, if the employee is deceased, to such participant's properly designated beneficiary. Participant or beneficiary payment elections shall be made on forms provided by the DROP administrator. For a participant or beneficiary who fails to elect a method of payment within sixty (60) days of termination of the DROP, the City of Pensacola shall pay a lump sum as provided in subparagraph (1) below. The alternative methods of payment are as follows:

(1) *Lump sum.* All accrued DROP benefits, plus interest, less federal withholding taxes remitted to the Internal Revenue Service, shall be paid the DROP participant or surviving beneficiary in a single lump sum.

(2) *Direct rollover.* All accrued DROP benefits, plus interest, shall be paid from the DROP directly to the custodian of an eligible retirement plan as defined in section 402(c)(8)(B) of the Internal Revenue code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in section 402(c)(9) of the Internal Revenue Code.

(3) *Partial lump sum.* A portion of the accrued DROP benefits shall be paid the DROP participant, less withholding taxes remitted to the Internal Revenue Service, and the remaining DROP benefits shall be transferred directly to the custodian of an eligible retirement plan as defined in Section 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in Section 402(c)(9) of the Internal Revenue Code. The proportions shall be specified by the DROP participant or surviving beneficiary.

The form of payment selected by the DROP participant or surviving beneficiary must comply with the minimum distribution requirements of the Internal Revenue Code.

(e) *Death of a participant.* Upon the death of a DROP participant, the participant's designated beneficiary shall have the same payout rights as the participant to elect and receive payouts, in accordance with the above subsection (d), except that a beneficiary other than the participant's surviving spouse shall not be eligible for a direct transfer of funds to an eligible retirement plan.

The normal retirement benefit accrued in the DROP during the month of a participant's death shall be the final monthly benefit credited for such DROP participant before the participant's death.

Eligibility to participate in the DROP terminates upon the death of the participant. If the participant dies on or after the effective date of enrollment in the DROP, but prior to the first monthly benefit being credited to the DROP, the benefits shall be paid in accordance with the participant's appropriate retirement fund without participation in the DROP.

DROP account distributions shall be in addition to any other benefits the beneficiary may be entitled.

(f) *Benefits not guaranteed.* All final benefits credited from the DROP shall be paid only from the assets within the participant's individual DROP Account. Neither the City of Pensacola, nor the General Pension and Retirement Fund, nor the Police Officers' Retirement Fund, nor the Firemen's Relief and Pension Fund shall have any duty or liability to make credits or other considerations to an individual participant's DROP Account, other than the benefits which were calculated at the time of the participant's initial election in the DROP. The City of Pensacola, the General Pension and Retirement Fund, the Police Officers' Retirement Fund, and the Firemen's Relief and Pension Fund shall not guarantee any specific total dollar amount or rate of return payable upon conclusion of the DROP by a participant.

(g) *Interest earned.* DROP Accounts earn interest at an annual rate of four percent, which may be adjusted from time to time by the DROP Administrator. However, effective for General Pension and Retirement Plan participants entering DROP on or after October 1, 2012, DROP accounts earn interest at an annual rate of 1.3%. Also, effective for Police Officers' Retirement Fund participants entering DROP on or after January 1, 2013, DROP accounts earn interest at an annual rate of 1.3%.

Effective for participants in the Firefighters' Relief and Pension Plan entering DROP on or after the date Special Act amendments become law as referenced in the collective bargaining agreement ratified by City Council on February 12, 2015, DROP accounts earn interest at an annual rate of 1.3%.

(h) *Cost-of-living.* Any cost-of-living increase granted by the respective pension boards shall apply to the pensions of DROP participants. However, effective for General Pension and Retirement Plan participants entering DROP on or after October 1, 2012, any cost-of-living increase provided by the General Pension and Retirement Plan shall not apply to the DROP participants. Also, effective for the Police Officers' Retirement Fund participants entering DROP on or after January 1, 2013, any cost of living increase provided by the Police Officers' Retirement Fund shall not apply to the DROP participants. Effective for the Firefighters' Relief and Pension Plan participants entering DROP on or after date Special Act amendments become law as referenced in the collective bargaining agreement ratified by city council on February 12, 2015, any cost of living increase provided by the Firefighters' Relief and Pension Plan shall not apply to the DROP participants.

(i) *Health insurance subsidy.* Retiree health insurance subsidies will not be granted to active DROP participants. Eligible participants will start receiving the health insurance subsidy at the conclusion of the DROP period, provided the proper application is made and the participant meets the eligibility requirements for such subsidy.

(j) *Assignment of benefits.* The accrued benefits of any DROP participant, and any contributions accumulated under the DROP, shall not be subject to assignment, execution, attachment, or any legal process whatsoever, except for qualified domestic relations orders issued by a court of competent jurisdiction, or other exceptions specifically authorized by Section 401(a)(13) of the Internal Revenue code.

(k) *Forfeiture of retirement benefits.* Nothing in this ordinance shall be construed to remove DROP participants from the scope of Section 8(d) Article II of the State Constitution, Section 112.373, and paragraph (5)(f). DROP participants who commit a specified felony offense while employed will be subject to forfeiture of all retirement benefits, including DROP benefits, pursuant to those provisions of law.

(l) *Employment limitation after DROP participation.* A DROP participant who is not a member of the General Pension and Retirement Fund shall not be eligible for reemployment with the City of Pensacola after the conclusion of the DROP period if the nature and extent of such employment or re-employment could result in the participant being eligible to participate in any defined benefit retirement plan of the city other than participation in the Florida Retirement System in a position of the city established by the mayor pursuant to the provisions of section 9-9-4(m).

(m) *Mayor's authority to re-employ former police DROP participants.* The mayor is authorized to create appropriate part-time employment positions for the purpose of enhancing and supplementing the public safety services rendered by the city's regular, sworn law enforcement employees. These positions shall be structured so as to permit, but not require, the employment of retired, former city law enforcement officers who shall not become participants in the police officers' retirement fund.

(Ord. No. 46-99, § 4, 11-18-99; Ord. No. 16-07, § 25, 4-26-07; Ord. No. 25-12, § 1, 12-13-12; Ord. No. 01-13, § 1, 1-10-13; Ord. No. 07-15, § 1, 3-12-15; Ord. No. 05-19, §§ 1, 2, 3-14-19)

Editor's note— Section 4 of Ord. No. 01-13 states this ordinance shall [be effective] on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.30(d) [4.03(d)] of the City Charter of the City of Pensacola.

Sec. 9-9-5. - DROP administration.

(a) *DROP administrator.* The DROP administrator shall be the finance director of the City of Pensacola, Florida. The DROP administrator shall have full power and authority to administer the DROP. Such

power will include the ability to promulgate, adopt, amend, or revoke procedures which are necessary to implement and maintain the DROP. The DROP administrator shall make such rules as are necessary for the effective and efficient administration of the plan. The DROP administrator shall not be required to advise members of the federal tax consequences of an election related to the DROP but may advise members to seek independent advice.

(b) *DROP expense.* Administrative expenses shall be credited as determined by the DROP administrator from the investment fund(s) selected by the administrator of the DROP.

(Ord. No. 46-99, § 5, 11-18-99)

Sec. 9-9-6. - Reservation of power to alter or amend.

Although the city council, through the adoption of this ordinance, has agreed to join with those communities and other governmental bodies in providing its workforce with additional flexibility in planning for and entering into retirement following a career with the city, the city council acknowledges that DROP plans are still in their relative infancy and may ultimately produce results, either financial or otherwise, which may be deemed adverse to the interest of the City of Pensacola, Florida. In that regard, in the adoption of the DROP plan ordinance, the city council hereby expressly reserves the authority in the future to amend, modify or repeal all or portions of this DROP plan ordinance as may be deemed necessary and appropriate. Any future change will be adopted in accordance with the requirements of law. With respect to city employees who have not terminated their employment with the city and who have not executed a DROP election, the adoption of this chapter shall not be deemed to have conferred any vested rights or property interest upon those employees.

(Ord. No. 46-99, § 6, 11-18-99)

CHAPTER 9-10. STATE-MANDATED PENSION BENEFITS

REPEAL SECTION 9-10-1

REPEAL SECTION 9-10-2.

REPEAL SECTION 9-10-3.

REPEAL SECTION 9-10-4.

REPEAL SECTION 9-10-5.

REPEAL SECTION 9-10-6.

REPEAL SECTION 9-10-7.

REPEAL SECTION 9-10-8.

REPEAL SECTION 9-10-9.

CHAPTER 9-11. FLORIDA RETIREMENT SYSTEM

Sec. 9-11-1. - Participation in the Florida Retirement System.

(a) All general employees of the city hired on or after July 1, 2007, and members of its city council and the mayor shall participate in the Florida Retirement System as authorized by F.S. Ch. 121, except as excluded by law or by this chapter. General employees hired before July 1, 2007, shall on July 1, 2007, become compulsory participants in the Florida Retirement System except for such employees who pursuant to section 9-11-2 elect prior to July 1, 2007, not to participate in the Florida Retirement System. The mayor and members of the city council shall be in the elected officials class of the Florida Retirement System. The city attorney, and such other employees designated by the mayor shall be in the senior management service class of the Florida Retirement System.

(b) "General employees," as used in this chapter shall mean any employee of the city required to be covered by the Florida Retirement System other than the following:

(1) Employees of the city who are eligible to participate in the firefighters' relief and pension fund below the rank of fire chief unless otherwise prohibited by law.

(c) All sworn police officers of the city hired on or after January 2, 2013 shall participate in the Florida Retirement System Special Risk Class as authorized by F.S. Ch. 121, except as excluded by law or by this chapter. Sworn police officers hired before January 2, 2013, shall on April 1, 2013, become compulsory participants in the Florida Retirement System except for such employees who pursuant to section 9-11-2 elect prior to April 1, 2013, not to participate in the Florida Retirement System.

(Ord. No. 16-07, § 26, 4-26-07; Ord. No. 16-10, § 154, 9-9-10; Ord. No. 08-13, § 1, 2-28-13)

Sec. 9-11-2. - Election of the Florida Retirement System.

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(a) Only those general employees and sworn police officers who elected coverage under the Florida Retirement System by an affirmative vote in a referendum election shall be eligible for such participation as well as future general employees and sworn police officers of the city who shall become automatically compulsory members of Florida Retirement System without the right of election.

(b) Once made, the choice by the employee to participate in the Florida Retirement System shall be irrevocable.

(Ord. No. 16-07, § 26, 4-26-07; Ord. No. 08-13, § 2, 2-28-13)

Sec. 9-11-3. - Agreement execution.

(a) The mayor is hereby authorized and directed to execute all necessary agreement(s) and amendments thereto with the administrator of the Florida Retirement System for the purpose of extending the benefits provided by it to the city's general employees and sworn police officers.

(b) As provided herein, such agreement(s) shall provide for the methods of administration of this retirement plan by the city that are found by the administrator of the Florida Retirement System to be necessary and proper and shall be effective for any employment covered by such agreement(s) for employee services performed on and after the first day of July 2007 for general employees and April 1, 2013 for sworn police officers.

(Ord. No. 16-07, § 26, 4-26-07; Ord. No. 32-09, § 3, 9-24-09; Ord. No. 16-10, § 155, 9-9-10; Ord. No. 08-13, § 3, 2-28-13)

Sec. 9-11-4. - Employee withholding.

There shall be withheld from the periodic compensation of each general employee and each sworn police officer sufficient funds to remit to the Florida Retirement System for employee Social Security contributions which shall be paid over by the city to the Florida Retirement System administrator designated by state law or regulations to receive such amounts.

(Ord. No. 16-07, § 26, 4-26-07; Ord. No. 08-13, § 4, 2-28-13)

Sec. 9-11-5. - Appropriation and pay from city funds.

There shall be appropriated and paid to the lawfully designated administrator of the Florida Retirement System in the manner provided by applicable state laws and regulations such amounts from available city funds and at such times as may be required to pay promptly the contributions and assessments of the city as a Florida Retirement System employer.

(Ord. No. 16-07, § 26, 4-26-07)

Sec. 9-11-6. - Records.

The city shall keep such records and make such reports as may be required by applicable state laws or regulations, and shall adhere to all laws and regulations relating to the Florida Retirement System.

(Ord. No. 16-07, § 26, 4-26-07)

Sec. 9-11-7. - Benefits and overage conditions.

The city hereby adopts the terms, conditions, requirements, reservations, benefits, privileges, and other conditions thereunto appertaining to the Florida Retirement System for and on behalf of the general employees of its departments and agencies and its sworn police officers to be covered under the agreement with Florida Retirement System.

(Ord. No. 16-07, § 26, 4-26-07; Ord. No. 08-13, § 5, 2-28-13)

Sec. 9-11-8. - Custodian of funds.

The city finance director is hereby designated the custodian of all Florida Retirement System sums withheld from the compensation of general employees and sworn police officers as authorized herein and of the appropriate funds from the employer's contributions. Also, the finance director is hereby designated the withholding and reporting agent and charged with the duty of maintaining records for the purposes of this chapter.

(Ord. No. 16-07, § 26, 4-26-07; Ord. No. 08-13, § 6, 2-28-13)

TITLE X. - PUBLIC ENTERPRISES AND UTILITIES[1]

CHAPTERS

Footnotes:

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Cross reference— Departments enumerated, § 2-4-3; public works and improvements, Ch. 3-2.

CHAPTER 10-1. GENERAL PROVISIONS

REPEAL SECTION 10-1-1.

REPEAL SECTION 10-1-2.

SECTION 10-1-3.

REPEAL SECTION 10-1-4

CHAPTER 10-2. AIRPORTS AND AIRCRAFT[2]

Footnotes:

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Cross reference— Administration, Title II; franchise required for certain transient service and utilities, § 7-1-1; vehicles for hire, Ch. 7-10; traffic, Ch. 11-2; streets, sidewalks and other public places, Ch. 11-4; airport zoning, Ch. 12-11; fire codes, Ch. 14-2.

State Law reference— Aircraft, F.S. Ch. 329; regulation of aircraft and pilots, F.S. Ch. 330; airports and air commerce, F.S. Ch. 331; airport law of 1945, F.S. Ch. 332; airport zoning, F.S. Ch. 333.

ARTICLE I. - IN GENERAL

Sec. 10-2-1. - Definitions.

For the purposes of this chapter, the following terms, words and abbreviations shall have the meanings given herein:

Airport as used in this article, shall be understood to designate the Pensacola International Airport, which is owned and operated by the city.

Airport director. The Manager of the Pensacola International Airport.

F.A.A. The Federal Aviation Administration.

General aviation. Public, private, commercial and business flying activity specifically delineated from that commonly called "air carrier".

(Ord. No. 7-96, § 1, 1-11-96)

Sec. 10-2-2. - Purposes of airport.

The airport shall be conducted as a public air terminal facility for the promotion and accommodation of air transportation, general aviation and recreational flying in accordance with federal and state regulations governing airport management and operations.

(Code 1968, § 59-9)

Sec. 10-2-3. - Airport hours.

The airport shall be open for public use at all hours of the day and night, subject to such restrictions due to inclement weather, the conditions of the landing area, the presentation of special events and like causes, as may be determined by the mayor.

(Code 1968, § 59-10)

Sec. 10-2-4. - Airport authority.

The city, through the mayor, shall at all times have authority to take such action as may be necessary in the handling, policing and management of the public in attendance at the airport. In any contingencies not specifically covered by these rules and regulations, the mayor may be authorized to make additional rules and regulations and render such decisions as seems proper.

The mayor is directed to designate locations for picketing, distribution of leaflets, fliers, and handbills, and the solicitation of contributions which will leave open ample alternative channels of communication for those who elect to use such channels. Violations of the mayor's regulations shall constitute a violation of this section of the Code of the City of Pensacola, Florida, and shall be enforced through penalties provided by section 1-1-8 of the Code of the City of Pensacola, Florida, as well as by other applicable provisions of law.

(Code 1968, § 59-11; Ord. No. 37-89, § 1, 7-27-89; Ord. No. 16-10, § 156, 9-9-10)

Sec. 10-2-5. - Franchise, lease, etc., required for certain airport services.

(a) *Generally.* It shall be unlawful for any person, firm or corporation doing business at or with the Pensacola International Airport who does not have a license, permit, contract, concession, lease, franchise or other specific permission from the city, to operate a rent-a-car service or fixed-base operation; or to peddle or sell any goods, wares or merchandise, or to rent any automobile to any person who has not already engaged the automobile; or to furnish taxicab or limousine service to any person who has not called the service; or to provide off-site airport customer parking lot rental services or to offer to do any act herein prohibited; or to solicit any business of any type without express airport permission as provided herein.

(b) *Off-site airport parking lots.* Any person, firm or corporation that is an airport rental car provider as defined in section 10-2-93 or independent third party parking lot facility operator serving customers of the Pensacola International Airport shall execute a written agreement with the city in the form of an off-site airport parking lot facility license permit as established by the airport director before engaging in the of offering for a rental fee vehicle parking spaces to such customers of the airport. "Customers" for the purposes of this section shall mean anyone who pays a fee for the parking of his/her vehicle at the licensee's parking lot facility that is not located on the Pensacola International Airport may be provided transportation in the licensee's courtesy vehicle to or from the airport as a part of such a vehicle parking transaction.

(1) Each airport rental car provider or independent third party parking lot facility operator licensee providing off-site airport parking lot services under an off-site airport parking lot facility license permit shall pay to the city a percentage amount of its gross revenues as defined below which shall equal the concession agreement percentage amount paid by on-airport concessionaire rental car providers. This fee shall be a separate and independent license charge payable by any rental car provider or independent third party parking lot facility operator offering for a rental fee vehicle parking spaces to customers of the airport. The existing off-site airport parking lot, discount airport parking, in its existing facility will be exempt from the requirements of this ordinance, but all new off-site providers which begins operations after the effective date of this amendment and any expansion of the existing Off-site provider to areas not contiguous to its current location at the southwest corner of Airport Boulevard and 12 th Avenue will be subject to the requirements of this ordinance.

a. *"Gross revenue"* of a licensee shall mean: All amounts received by the licensee or which the licensee is entitled to receive from any rental of an off-site airport lot parking space by the licensee or its agent to an airport customer who may be transported to any point on the airport, including but not limited to, the airport terminal building, any premises leased by the city to a third-party doing business on the airport, or any other location within the airport, or from any point on the airport, including but not limited to, the airport terminal building, any premises leased by the city to a third party doing business on the airport, or any other location on the airport, or

All revenue it receives from every airport customer who at the business location of the licensee executes an agreement for rental of an off-site airport parking lot space. Gross revenues shall be deemed received at the time the transaction occurs giving rise to the licensee's right to collect said monies, regardless of whether the transaction was conducted in person, by telephone or by mail, whether the transaction was for cash or credit, and if for credit, regardless of whether the licensee ultimately collects the monies owed for said transaction from the airport customer involved. Any gross revenue owed the city and determined by the licensee at a later date to be uncollectible shall not offset future percentage rentals owed the city. If the initial agreement entered into between the licensee and the airport customer is subsequently amended, the percentage of gross revenue to which the city is entitled hereunder shall be based upon the gross revenue which the licensee is entitled to receive under the agreement with its airport customer, as amended. Gross revenue shall not include:

1. Federal, state, or municipal sales taxes separately stated and collected from the customers;

2. Amounts the licensee receives, or is entitled to receive, for the sale, disposition, loss, conversion, or abandonment of equipment, personal or real property, and trade fixtures; and

3. Gross revenue shall not be reduced by reason of any commission or similar amount paid by the parking lot facility operator to travel agents or others to secure customer business.

b. Each licensee shall submit to the airport director's office, on or before the 20th day of each month, a statement which will set forth:

1. The total gross revenue earned during the prior month; and

2. Information demonstrating to the satisfaction of the airport director how much of the licensee's gross revenue during the prior month originated from airport customers and gross revenue originated from non-airport customers.

3. It shall be presumed that ninety-five (95) percent of all gross revenue earned by the licensee during the month with respect to the statement submitted constituted airport customer generated gross revenue, unless, and to the extent the licensee demonstrates otherwise in its statement to the satisfaction of the airport director.

4. Each licensee shall timely submit a statement of gross revenue each month even if such licensee earned no airport generated gross revenue during the prior month. In such case the statement of gross revenue shall state the licensee's total gross revenue during the prior month and shall demonstrate to the satisfaction of the airport director that none of such revenue constituted airport generated gross revenue.

5. If any licensee fails to submit any remittance, as required by this section, by the end of the 10th day following the final day on which such remittance should timely have been submitted, the licensee shall pay interest to the city at the rate of eighteen (18) percent per annum (1.5 percent per month) (or, if less, the maximum rate of interest allowed by law) on such overdue amounts calculated from the date on which such amounts should timely have been paid. If any licensee fails to submit any statement of gross revenue, as required by this section by the end of the 30th day following the final day on which such statement should timely have been submitted, the city may, in its discretion, perform, or hire an agent to perform, an audit of such licensee's various books and records (including but not limited to the records such licensee required to maintain under the provisions of this section) to determine that licensee's gross revenue during the month which would have been the subject of such statement of gross revenue. The licensee shall, within thirty (30) days of receipt from the city of an invoice from the city reimburse the city for its reasonable cost of performing or of hiring an agent to perform, such audit.

c. The city may issue an off-site airport parking facility license permit and once it has issued such a license, it may suspend or suspend and revoke that licensee under the provisions of this section, unless the licensee to whom the license is to be or has been issued continuously complies with the provisions of this section and the license permit agreement.

1. The airport director may suspend any license provided; however, that such suspension may be imposed only following fourteen (14) days written notice to the licensee whose license is to be suspended.

(a) A licensee whose license is suspended or may become subject to suspension may demonstrate to the airport director, at any time before or after such suspension has been imposed, that such licensee is in compliance or has remedied its noncompliance or that it is making good faith effort to do so.

(b) If the licensee whose permit is subject to suspension demonstrates that it has remedied its failure to satisfy the conditions of this section, the airport director shall remove the suspension of such licensee, if such suspension has been imposed, or shall abandon proceedings to suspend that license if such suspension has not yet been imposed.

(c) If the licensee whose license is subject to suspension demonstrates it is making a good faith effort to remedy its failure to comply (though it has not yet remedied such failure), the airport director may, in his/her discretion, remove the suspension of such licensee if such suspension has been imposed, or abandon proceedings to suspend the license if such suspension has not yet been imposed.

(d) Once a license has been properly suspended, it shall remain suspended unless and until its suspension is removed or until it is revoked.

(e) A licensee whose license has been properly suspended by the airport director may appeal the decision to the Mayor of the City of Pensacola by filing a petition within twenty-one (21) days of the entry of such suspension with city clerk.

2. The airport director may revoke any off-site airport parking lot facility license, provided, however, that:

(a) A license may not be revoked unless, at the time of revocation, it has been properly suspended for at least thirty (30) days; and

(b) A license may not be revoked except following thirty (30) days written notice from the airport director, which notice may be issued to the licensee holding such permit only after the suspension of the license has been imposed.

(c) Upon the revocation of a license, the licensee to whom such license was issued must remove any courtesy car decals issued in connection with the revoked license permit from its courtesy vehicles serving the airport.

(d) A license which has been revoked may not be reinstated. Nonetheless, the licensee whose permit has been revoked may apply for a new license after curing all causes of revocation.

(e) A licensee whose license has been properly revoked by the airport director may appeal the decision to the Mayor of the City of Pensacola by filing a petition within twenty-one (21) days of the entry of such revocation with city clerk.

3. Notwithstanding the notice provisions of this subsection, the airport director may revoke without notice the license of any licensee if, at any time while the license is suspended, any of licensee's courtesy vehicles seek to enter the airport under the authority of the suspended permit for the purpose of loading passengers for transport to or unloading passengers after transport from any off-site airport parking lot facility of licensee.

d. During and with respect to the term of any license issued, each licensee shall maintain such books and records as would normally be examined by an independent certified public accountant pursuant to generally accepted auditing standards in performing an audit or examination of the licensee's revenues and gross revenue in accordance with generally accepted accounting principles and this section.

1. Each licensee to whom an off-site airport parking lot facility license is issued shall make all records available for inspection by the airport director during reasonable business hours, for a period of not less than three (3) years after the end of the term of the license to which such records relate; provided; however, that no such inspection will be conducted at a time or in a manner which causes undue interference with the business of the licensee.

2. Licensee may make such records available for inspection in Pensacola, Florida or at its corporate headquarters. In the event the inspection of such records is made at the licensee's corporate headquarters, and said corporate headquarters are located outside the city limits of Pensacola, Florida, then the licensee shall reimburse the city for all reasonable travel expenses associated with the airport director traveling to licensee's corporate headquarters for the inspection of such records.

e. The term of such off-site airport parking lot facility license shall extend from the date it is issued until either midnight of the 31st day of December next following the date it is issued or the date on which revocation of such permit becomes effective, whichever is earlier. The courtesy car decals issued in connection with such a license shall expire at the end of the term of such license. The license shall be extended automatically for successive one-year periods, unless earlier suspended or revoked. If a suspension is in effect on January 1, the

licensee shall remedy all failures to comply with the provisions of this section and shall apply for a new license before such license be issued.

f. An off-site airport parking lot facility license and any courtesy car decals or other identifying elements issued in connection with such a license may never be transferred, assigned, loaned or used in any way by any person other than the licensee to whom such license was issued or the operator of a courtesy vehicle operated under agreement with that licensee.

1. Operation of any courtesy vehicle on the airport shall be allowed only with a color coded decal or other identifying element as required by city ordinance. Providers of courtesy vehicles shall observe all rules and regulations of this section in addition to those established by other provisions of the Code of the City of Pensacola, Florida.

2. Licensee courtesy vehicle decals or other identifying elements shall be provided initially to the licensee after the successful completion of the vehicle safety inspection. Decals or other identifying elements shall be issued for each courtesy vehicle operated by the licensee. No decals or other identifying elements shall be issued without the operator having valid courtesy vehicle licenses as may be required by the City of Pensacola.

3. Decals or other identifying elements shall be permanently affixed to the lower right-hand corner of the front windshield and shall be clearly visible at all times. Decals or other identifying elements shall be issued by the airport director and shall expire at the time of expiration of the licensee's off-site airport parking lot facility license. Only those vehicles displaying valid decals or other identifying elements will be authorized to pick up or discharge customers at the airport.

4. In the case of loss of a decal or other identifying elements is damage beyond recognition, a duplicate decal or other identifying element may be obtained after payment of five dollars ($5.00) by the licensee and after submission of a statement setting forth the circumstances of the loss or damage of the decal or other identifying element.

5. Application forms for yearly renewal of courtesy vehicle airport permit decals or other identifying elements must be submitted to the airport director at least ten (10) working days prior to the expiration of the current decal. Renewal applications shall be reviewed and renewal of the decal or other identifying element shall be made contingent upon satisfactory payment of the gross revenue percentage fees required under this section and the successful completion of the annual courtesy vehicle inspection.

6. All courtesy vehicles will be inspected in accordance with the criteria found in section 7-10-31 of the City Code.

7. The airport director , police officer, or airport safety officer may inspect a courtesy vehicle any time while it is on the airport. A vehicle found to be in violation of section 7-10-31 of the City Code will be required to immediately leave the airport until the noted deficiencies are corrected.

8. The city may suspend, or suspend and revoke the licensee's courtesy vehicle decal. Such power of suspension or suspension and revocation may be exercised only upon the failure of the licensee to satisfy the conditions of this section or the off-site airport parking lot license permit agreement or for noncompliance with city code regarding the operation of such vehicles.

9. A vehicle shall be considered a licensee car courtesy vehicle if it is operated by, or under agreement, with the licensee. Such a courtesy vehicle shall be deemed operated under agreement with the licensee if the airport director finds that it is operated pursuant to the licensee's off-site airport parking facility license.

(Code 1968, § 59-4; Ord. No. 24-12, § 1, 11-15-12)

Sec. 10-2-6. - General rules and regulations.

(a) Special services may be rendered or special facilities may be provided on such terms as the council may prescribe from time to time. No person shall use the airport as a base or terminal for the carrying on of commercial aviation or agricultural aviation, or the carrying of passengers, freight, express or mail, or student flying, communications, or for other commercial transportation, or carrying on activities of a commercial nature upon the airport premises, or for the sale of fuel, refreshments or commodities or for any other commercial purpose, or on the airport premises solicit fares, alms or funds for any purpose or make any sale, expose any article for sale or charge an admission fee, unless specifically authorized in writing by the mayor.

(b) The privileges of using the airport and its facilities shall be conditioned on the assumption of full responsibility and risk by the user thereof, and he shall release, hold harmless and indemnify the city, members of the council, boards or commissions, its officers and employees from any liability or loss resulting from such use. All aircraft owners and operators shall be covered at their expense by insurance in an amount established by the council.

(c) No person shall navigate any aircraft or land upon or take off from, or service, repair or maintain any aircraft on, the airport otherwise than in conformity with this chapter and applicable laws of the state and the federal government, or rules and regulations of the Federal Aviation Administration.

(d) No aircraft shall be operated on the ground in such manner as to cause unnecessary noise.

(e) The airport director, by appropriate notice, may restrict or suspend entirely practice flights or student training when required in the interest of safety, and shall restrict or suspend all flights or flying when required by military need or special circumstances.

(f) All fixed wing aircraft takeoffs and landings shall be confined to the runways. Rotary wing aircraft may be operated on ramp areas as directed by the tower to expedite operations.

(g) No person shall take any aircraft from the landing area or hangars or operate such aircraft while under the influence of or while using or having used any intoxicating beverage or habit-forming drug.

(h) No pedestrian shall be upon any landing area of the airport without first obtaining a written permit from the airport director, excepting persons engaged in the normal duties of their work and required by necessity to be on the landing area.

(i) No experimental ground operation shall be conducted on the airport without approval of the airport director. The approval is not to be withheld unreasonably.

(Code 1968, § 59-12; Ord. No. 7-96, § 2, 1-11-96; Ord. No. 16-10, § 157, 9-9-10)

Sec. 10-2-7. - Ground operations.

(a) No person shall operate any aircraft on the airport unless the same is equipped with effective and functioning wheel brakes, nor shall any person use or operate on the airport any aircraft equipped with a tail skid.

(b) All movement of aircraft shall be confined to hard surfaces except as authorized by the airport director.

(c) No person shall taxi any aircraft unless there will be no danger of collision with any person or object, and further, all aircraft shall be taxied at a safe and reasonable speed commensurate with safe operation in relation to existing conditions and with due regard for other aircraft, persons and property.

(d) No aircraft engine shall be started unless there is a competent operator at the controls and the wheels are properly blocked or adequate brakes are set. Also, aircraft operators will ensure that propeller and/or engine jet wash will not be detrimental to structures or persons in its path.

(e) Aircraft will not be parked except in an area and in a manner designated by the airport director.

(f) All repairs to aircraft or engines except emergency repairs shall be made in spaces designated for this purpose and not on areas reserved for landing, taxiing or tie-down.

(g) No person or persons except airmen, duly authorized personnel, passengers going to or from aircraft, or persons being personally conducted by airmen or airport attendants shall be permitted to enter the landing area proper, taxi strips or ramps. This does not give any person or persons so excepted the privilege of unrestricted use of the airport. These privileges are confined to necessary use of this space in connection with flights, inspections or routine duties.

(h) Every aircraft owner, his pilots and agents severally shall be responsible for the prompt removal under the direction of the airport director of wrecked or disabled aircraft. Assessable costs incurred by the city in ensuring compliance with this subsection will be borne by the aircraft owner, his pilot and agents.

(Code 1968, § 59-13; Ord. No. 7-96, § 3, 1-11-96)

Sec. 10-2-8. - Seaplanes.

The landing of seaplanes in, over, and upon the waters of Bayou Texar located within, or bordering on, the city is prohibited.

(Code 1968, § 59-14; Ord. No. 9-89, § 1, 2-9-89; Ord. No. 7-96, § 4, 1-11-96)

Sec. 10-2-10. - Reserved.

Editor's note— Section 10-2-10 has been deleted by the editor, inasmuch as it appears to have been superseded by Ord. No. 29-88, §§ 1—5, adopted Aug. 11, 1988, codified as Art. III, §§ 10-2-51—10-2-65, of this chapter. Said § 10-2-10 pertained to landing fees and use charges, and was derived from Code 1968, § 59-18.

Sec. 10-2-11. - Fire prevention.

The following hazards and regulations are enumerated here to ensure safety, so far as practical, against fires on the airport. However, it is expected that every person using the airport or its facilities in any way shall use the utmost caution to prevent fires and shall not cause to exist, create or permit any condition constituting a fire hazard.

(1) No aircraft shall be fueled or drained while its engine is running or while in a hangar or other enclosed place. Fueling shall be done in such a manner and with such equipment that adequate connections for the grounding of static electricity shall be maintained continuously during fueling. No smoking shall be permitted within fifty (50) feet of the point where gasoline is removed from or discharged into any aircraft.

(2) No cylinder or flask or compressed flammable gas shall be kept or stored except at such a place as may be designated by the fire department.

(3) The cleaning of motors or other parts of aircraft shall not be carried on in any hangar, except with nonflammable substances. If flammable liquids shall be employed for this purpose, the operation shall be carried on in the open air and at a safe distance from aircraft or structures,

unless the flammable liquids are confined, vented or otherwise utilized in a manner so as not to constitute a fire hazard in accordance with applicable codes and rules used by the city.

(4) Repairs to aircraft in designated tie-down or storage areas shall be limited to inspection of aircraft.

(5) Hangar entrances shall be kept clear at all times to permit ready access to the building for fire fighting.

(6) Floors of buildings shall be kept clean and free of oil, and no volatile or flammable solvent shall be used for cleaning floors.

(7) No boxes, crates, rubbish, paper or other litter shall be permitted to accumulate in or about any hangar; and all oil, paint and varnish cans, bottles or other containers shall be removed from any hangar immediately upon being emptied.

(8) No aircraft engines will be started and/or run for any period of time whatsoever while the aircraft is wholly or partially in a hangar, except while under the control of a competent operator with an observer, with the airplane pointing into the hangar.

(9) No person shall discard lighted cigarettes, matches or other burning items on grass areas of the airport or any other place on the airport where a fire hazard might be created.

(10) There shall be no discarding of trash, rubbish, debris, paper or bottles anywhere on airport properties except in trash cans or in areas designated by the airport director.

(Code 1968, § 59-17)

Cross reference— Fire codes, Ch. 14-2.

Sec. 10-2-12. - Vehicular traffic regulations.

(a) All vehicles and persons operating within the boundaries of the airport will operate according to the traffic laws and parking laws of the city. All violators of these traffic and parking laws will be subject to penalties provided for in ordinances of the city.

(b) Automobiles, trucks, motorcycles and other like vehicles shall be parked within designated parking areas.

(c) No person shall operate or propel any vehicle, machine or contrivance of whatsoever nature or description, except an airplane or other flying or lighter-than-air machine, on, upon or across any portion of the airport except along or upon roadways designated for travel by motor vehicles.

(e) The airport director is hereby authorized to place on the airport stop signs and parking regulation signs as he may deem necessary. It shall be unlawful for the driver of any vehicle to enter any intersection of a roadway or a roadway and pedestrian crossing when such intersection is signposted with a stop sign, without first bringing his vehicle to a full stop within six (6) feet prior to such intersection. It shall also be unlawful to park any vehicle contrary to the directions or regulations contained on any parking sign.

(f) The airport director shall have the authority to tow or otherwise move motor vehicles which are parked by their owners or operators on the airport in violation of the regulations of the airport, whenever it is determined by the airport director that a motor vehicle so parked creates a nuisance or hazard.

(g) All vehicles hauling trash shall be covered. No vehicle used for hauling trash, dirt or other materials shall be operated on the airport unless the vehicle is constructed so as to prevent the contents thereof from dropping, sifting, leaking or otherwise escaping therefrom. No person shall spill dirt or any other material from vehicles operated on the airport.

(h) The foregoing vehicle rules shall not be construed as prohibiting the operation of the following vehicles upon any portion of the airport for the following purposes:

(1) Vehicles driven on the field in response to emergencies or emergency calls.

(2) Vehicles driven upon the field for the purpose of making repairs and improvements thereto to the airport.

(3) Federal Aviation Administration, state, city or county representatives operating a vehicle on official business.

(Code 1968, § 59-16)

Cross reference— Traffic, Ch. 11-2.

Secs. 10-2-13—10-2-25. - Reserved.

ARTICLE II. - REGULATED ACTIVITIES[3]

Footnotes:

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State Law reference— Solicitation of funds within public transportation facilities, F.S. § 496.40.

Sec. 10-2-26. - Definitions.

For the purposes of this article, the following words and terms shall have the meanings given herein:

Airport. The Pensacola International Airport.

Airport director. The chief administrative official of the Pensacola Regional Airport.

Council. That body which is charged by statute or otherwise with legislative and other authority over general operations at the Pensacola International Airport.

Permittee. A person conducting regulated activities pursuant to a permit duly issued under this article.

Regulated activities. Those activities within the airport, by persons or organizations desiring to exercise their constitutionally protected rights of free speech and expression and free exercise of religion, for which a permit is required under this article, namely:

(1) Religious or other proselytism;

(2) Solicitation and acceptance of donations;

(3) Distribution of handbills, tracts and other literature.

(Code 1968, § 59-32)

Sec. 10-2-27. - Purpose.

Any person or organization desiring to use the Pensacola International Airport for the purpose of exercising his constitutional rights of free speech and freedom of religion, shall be protected in the activities providing they do not impair or interfere with the operational functions of the Pensacola Regional Airport and the activities are in compliance with the provisions set forth below. This article is hereby declared to be necessary for the accomplishment of the following:

(1) To ensure that religious organizations are permitted to proselytize or solicit funds on the airport's premises;

(2) To ensure that persons seeking to exercise constitutional freedoms of expression can communicate effectively with users of the airport;

(3) To ensure adequate nearby police facilities for the protection of persons exercising their constitutional freedoms;

(4) To restrict and to limit the activities to designated locations and/or buildings in public areas of the airport's buildings and premises;

(5) To protect persons using the airport from repeated unsought communications or encounters with solicitors which might constitute harassment or intimidation;

(6) To ensure the free and orderly flow of pedestrian traffic through the airport's premise; and

(Code 1968, § 59-31)

Sec. 10-2-28. - Permit—Required, application.

It shall be unlawful for any person or organization to engage in any regulated activities set forth in section 10-2-26 without first obtaining a written permit therefor from the airport director or his representative. For the purposes of obtaining such a permit, a written application shall be in a form prescribed by the director setting forth the following:

(1) The full name, mailing address and telephone number of the person or organization sponsoring, promoting or conducting the proposed activities;

(2) The full name, mailing address and telephone number of the individual person or persons who will have supervision of and responsibility for the proposed activities;

(3) The full name, mailing address and telephone number of the individual person or persons who will be engaged in the proposed activities at the airport;

(4) The subject matter of the proposed distribution or communication, and the purpose thereof;

(5) A description of the proposed activities, indicating the type of communication to be involved;

(6) The dates and hours which the activities or solicitation are proposed to begin, and the expected duration of the proposed activities; and

(7) The purpose of the solicitation.

(Code 1968, § 59-33)

Sec. 10-2-29. - Same—Financial report.

(a) If the proposed activity for which a permit is sought includes the solicitation or acceptance of contributions, the person or organization sponsoring, promoting or conducting the proposed activities, in addition to meeting the requirements of section 10-2-28, shall file with the airport director a financial report containing the following information, in the form set forth in Appendix A to this article which is on file in the clerk's office.

(1) Receipts (Revenues);

(2) Disbursements and expenses;

(3) Balance sheet of assets and liabilities;

(4) A statement that the person or organization described in subsections 10-2-28(1)—(3) through c has not been convicted of a crime involving fraud within the two (2) years prior to the filing of the report.

(b) The information contained in the financial report shall relate to the most recent full calendar year, or in the alternative at the election of the sponsoring person or organization's most recent full fiscal year.

(c) In lieu of a financial report, the sponsoring person or organization may submit a copy of their most recent Internal Revenue Service Form 990 (Return of Organization Exempt from Income Tax Under Section 501(c) of the Internal Revenue Code) or other documents containing the information called for in the financial report form.

(d) No permit for an activity involving the solicitation and/or acceptance of contributions may be issued unless the financial report required by this section is on file with the airport director; however, the contents of the financial report may not be considered in the permit application process.

(Code 1968, § 59-34)

Sec. 10-2-30. - Same—Applications and financial reports available to public.

All applications for permits required under section 10-2-28 and the financial reports required under section 10-2-29 shall be available for viewing by the public on any day during regular working hours.

(Code 1968, § 59-35)

Sec. 10-2-31. - Same—Grounds for denial.

Under the receipt of a completed permit application, the airport director must issue a permit unless he finds one or more of the following facts exist:

(1) That one or more of the statements in the application is incorrect, provided that the applicant has been given the opportunity to correct or amend his application;

(2) If the application is for a permit to solicit contributions, that the applicant or any agent or representative of the applicant who will participate under the permit has been convicted of a crime involving fraud within the past two (2) years;

(3) If the application is for a permit to solicit contributions, that a completed, current financial report for the person or organization on whose behalf the solicitation will be made is not on file with the airport director as required under section 10-2-29.

(Code 1968, § 59-36)

Sec. 10-2-32. - Same—Denial or revocation.

(a) If the airport director finds that one or more of the facts set forth in section 10-2-31 exist, he shall deny the applicant a permit, or if one has already been issued, he shall revoke the permit.

(b) The airport director shall revoke a permit for a violation of any of the regulations listed in sections 10-2-34 through 10-2-36.

(c) When a permittee is notified of the revocation of his permit, he must immediately cease all regulated activities.

(Code 1968, §§ 59-37, 59-41; Ord. No. 76-82, § 1, 7-22-82)

Sec. 10-2-33. - Appeal after denial or revocation.

(a) Upon notification of revocation of a permit, a permittee may within ten (10) days after receipt thereof, file with the office of the airport director, a notice of appeal to the city council. Upon filing of the notice with the airport director, the permittee may resume regulated activities, and the activities shall not be restricted until final determination of the appeal by the council.

(b) Upon receipt of the notice of appeal, the airport director shall set the matter for hearing before the city council within twenty (20) days thereof and shall issue a notice of hearing which shall contain the time and place of the hearing.

(c) At the hearing the aggrieved permittee may be represented by counsel.

(d) Testimony shall be taken upon oath or affirmation, first of witnesses in support of the denial or revocation of the permit; the aggrieved permittee may then testify and present witnesses on his/her behalf.

(e) A stenographic (or tape recorded) record shall be made of the proceeding. A record shall be kept of all evidence received or considered, in addition to the oral testimony.

(f) The findings and order of the city council shall within ten (10) days of the conclusion of the hearing be forthwith sent to the permittee by certified mail, return receipt requested, at the address listed on the permittee's application.

(g) If the airport director's revocation is affirmed it will become effective immediately unless a court of competent jurisdiction rules otherwise.

(Code 1968, § 59-45)

Sec. 10-2-34. - Daily registration.

(a) Anyone holding a valid permit may register to conduct regulated activities in either a terminal building or the airport as a whole, depending on the physical layout. Registration will occur on a daily basis between 9:00 a.m. and 11:00 a.m. each morning. If more than one registration is received by the airport manager, for the same location within the airport and for the same time period, the airport director will distribute locations on a first-come, first-serve basis. No registrant will be allowed to register for any person other than himself.

(b) No more than two (2) permittees may register and conduct regulated activities at the same terminal building or in the airport as a whole, depending on physical layout.

(Code 1968, § 59-38)

Sec. 10-2-35. - Location of regulated activities.

Regulated activities may be conducted only in or upon those airport premises which are open to the general public for common use, except as hereinafter set forth.

(1) Under no circumstances shall regulated activities be conducted:

a. Beyond the security check points through which passengers and visitors are required to pass when moving toward aircraft gate positions; i.e., on the side of the security check points where the gate positions of arriving and departing aircraft are located;

b. Within fifty (50) feet of any security check point;

c. Within ten (10) feet of any of the following:

1. Information booths;

2. Concession counters;
3. Another person conducting regulated activities;
4. Entrances to, exists from, or on elevators, stairways, or escalators, or any doors;
5. Restaurants, dining rooms, dining areas, or coffee shops;
6. Snack bars, mobile push carts, or bars;
7. Display cases or windows;
8. Any other business establishment, business entity, or office located within the airport;
9. Any person or persons who are waiting in line, such as, at a ticket counter, information booth, concession stand, or baggage claim area.

d. In any areas of the airport which are open only to airport or airline personnel or to which access by the general public is restricted.

(2) The mayor shall have the authority to limit regulated activities to designated locations and/or booths at the airport.

(Code 1968, § 59-39)

Sec. 10-2-36. - Restrictions on behavior.

In conducting regulated activities:

(1) No permittee may use sound or voice amplification systems, musical instruments, radio communication systems or other mechanical sound devices.

(2) No singing, chanting or dancing is permitted.

(3) Each permittee shall wear an identification badge at all times on the airport property which badge shall be issued by the airport director and which shall contain, in a form authorized by the airport director, the following:

a. Name of the permittee;

b. Address of the permittee;

c. Telephone number of the permittee; and

d. Name of the group or organization, if any, on whose behalf the permittee is conducting regulated activities.

(4) No permittee may in any way obstruct, delay or interfere with the free movements of any other person; seek to coerce or physically disturb any other person; or hamper to impede the conduct of any authorized business at the airport.

(5) No permittee may engage in the physical contact of touching or pinning on a flower or other object upon a prospective donor unless the donor has either consented to such contact or already agreed to make a contribution.

(6) A permittee shall immediately cease all regulated activities directed at any individual, where such individual has indicated his/her unwillingness to listen to the permittee, make a donation or accept any handbill, flower or other object proffered by the permittee.

(Code 1968, § 59-40)

Sec. 10-2-37. - Weapons, explosives and flammable materials.

It shall be unlawful for any person who is not duly authorized by law to do so to possess or carry on any airport property at the Pensacola International Airport any weapon capable of causing serious injury, any explosive or any flammable material.

(Code 1968, § 59-44; Ord. No. 09-16, § 1, 3-17-16)

Sec. 10-2-38. - Restricted areas.

It shall be unlawful for any person except a duly authorized employee of the city, a duly authorized licensee of the city, or a duly authorized employee of a licensee of the city to enter or go upon any area on airport property at the Pensacola International Airport that is not open to the public and that has been designated and posted by the city as a restricted area, unless the person entering or going upon the restricted area has first secured written permission to do so from the airport manager or his duly authorized representatives.

(Code 1968, § 59-43)

Sec. 10-2-39. - Emergency situations.

The mayor or his authorized representative may declare an emergency because of unusually congested conditions in a facility due to adverse weather, schedule interruptions, extremely heavy traffic movements, or for emergency security measures. In the event of an emergency, an announcement to this effect shall be made. Any person soliciting contributions shall immediately cease such activities for the duration of the emergency.

(Code 1968, § 59-42)

Secs. 10-2-40—10-2-50. - Reserved.

ARTICLE III. - FISCAL POLICY AND METHOD[4]

Footnotes:

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Editor's note— Ord. No. 41.88, § 1(1)—(15), adopted Sept. 22, 1988, amended Ord. No. 29.88, §§ 1—15, adopted August 11, 1988, which had been codified as Art. III, §§ 10-2-51—10-2-65, and pertained to similar subject matter. Ord. No. 41-88 has been included as enacted with the exception that the word "ordinance" has been changed to read "article" where appropriate, and a uniform style has been employed in keeping with the format of this Code.

Sec. 10-2-51. - Policy.

The city hereby adopts the following fiscal policy for the operation of the airport and the following method to establish and periodically adjust rents and fees to be paid by all airlines operating at the airport without a scheduled airline operating agreement and terminal building lease:

(a) The cost of operating, maintaining and developing the airport will be paid solely with airport revenues and such government grants as may be received by the city and lawfully used for such purposes, without the use of ad valorem taxes or other city revenue or pledges, so as not to place any burden on taxpayers or residents of the city.

(b) The city will fix, establish, maintain and collect such rates, fees, rentals and other charges for the use and services of the airport and revise the same from time to time whenever necessary,

as will always provide net revenues (as hereinafter defined) sufficient to pay one hundred twenty-five (125) per centum of the current annual debt service requirement (which shall be defined in the bond resolution) on the city's bonds (as hereinafter defined), and as will always provide airport revenues sufficient to pay all reserve and other payments provided for in the bond resolution (as hereinafter defined) and all other obligations and indebtedness payable out of the revenues of the airport. Such rates, fees, rentals and other charges shall not be reduced so as to be insufficient to provide adequate airport revenues for such purposes.

(c) In furtherance of this policy and in accordance with the authority conferred upon the city by the laws of the State of Florida, the city shall establish and periodically adjust as required, certain rates, fees, rentals and other charges for the use and occupancy of airport facilities, so that they are scheduled to recover from airline and nonairline owners or operators of aircraft, on a reasonable and nondiscriminatory basis, the fully allocated costs of the facilities and services used by such airlines and nonairline owners or operators or aircraft using the airport. In recovering the costs of these facilities and services, the city will take into account all airport revenue.

(Ord. No. 41-88, § 1(1), 9-22-88; Ord. No. 46-90, § 1(1), 9-27-90)

Sec. 10-2-52. - Definitions.

The following terms in this article shall have the following meanings unless the text otherwise expressly requires:

Air transportation shall mean the carriage of persons, property, cargo, and mail by aircraft.

Aircraft arrivals shall mean the landing of aircraft at the airport, including, without limitation, scheduled, charter, sightseeing, test, ferry, courtesy, and inspection flights or any other flights. Aircraft arrivals shall not include any flight that immediately returns to the airport after takeoff because of mechanical, meteorological, or other precautionary reasons.

Aircraft parking positions shall mean those portions of the airport's apron area designated by city from time to time for aircraft parking in order to receive and discharge passengers.

Airfield area shall mean those areas of the airport, as they now exist or as they may hereafter be modified, changed, or developed, that provide for landing and takeoff, taxiing, parking, or other operations of aircraft.

Airline shall mean any entity engaging in the business of providing air transportation services at the airport.

Airline rentable space shall mean the total of an airline's exclusive use space and preferential use space.

Airport shall mean the lands and facilities owned and operated by the city, known collectively as Pensacola International Airport as it now exists or as it may change from time to time.

Airport cost centers shall mean the following areas, as herein defined, which shall be used in accounting for airport revenues and expenses and for calculating and adjusting certain rents and fees described herein: Terminal building; terminal area; airfield area; apron area; loading bridges; other buildings and areas.

Airport consultant shall have the meaning set forth in the bond resolution.

Airport revenues shall have the meaning set forth in the bond resolution.

Annual budget shall mean the airport capital and maintenance and operating budget prepared by the mayor and approved by resolution of the city council as amended from time to time.

Annual debt service requirement shall have the meaning set forth in the bond resolution.

Apron area shall mean the area dedicated to parking and ground handling of aircraft at the terminal building, as it now exists or may be constructed in the future.

Bond resolution shall mean Resolution No. 51-88, adopted September 8, 1988, as it may be amended or supplemented from time to time, or any other resolution of the city council regulating or authorizing the issuance of bonds, as amended or supplemented from time to time, other than special purpose facility bonds, payable from airport revenues.

Bonds shall mean debt instruments of the city issued or made for the purpose of financing or refinancing the cost, or a portion thereof, of any improvements to the airport the payment of which debt is secured by a pledge of and lien upon airport revenues.

Capital improvement shall have the meaning set forth in the bond resolution.

Capital fund shall have the meaning set forth in the bond resolution.

Capital improvement plan shall mean the plan adopted by the city council setting forth the capital improvements the city intends to make at the airport in the current and following five (5) fiscal years.

Certificated maximum landing weight shall mean the maximum weight, in thousand (1,000) pound units, that each aircraft operated by an airline is authorized by the FAA to land at the airport, as recited in the airline's flight manual governing that aircraft type.

Date of beneficial occupancy or DBO shall mean that date or dates upon which the premises, or a substantial portion thereof, in the new passenger terminal building, or other improvements at the airport which are financed, in whole or in part, by proceeds from the bonds, are so substantially complete that they are usable by the airlines and the public without hazard or undue inconvenience, but in no event later than thirty (30) days after the city notifies the airlines that the premises have been certified by the project architect/engineer as available for public use and airline occupancy.

Exclusive use space shall mean the space leased by the city to an airline from time to time for the airline's exclusive use. FAA or Federal Aviation Administration shall mean the Federal Aviation Administration created by the federal government under the Federal Aviation Agency Act of 1958 or such similar federal agency as may from time to time have similar jurisdiction over the airlines or their businesses.

Fiscal year shall mean the twelve-month period beginning October 1 of any year and ending September 30 of the following year or any other period adopted by the city for its financial affairs.

Joint use formula shall mean the formula that is used to prorate the specified charge for joint use space according to the ratio of the number of each airline's enplaned passengers at the airport during the most recent month for which such information is available to the total number of enplaned passengers of all airlines at the airport during that same month. Twenty (20) percent of the specified charge shall be prorated equally among the airlines using the applicable facility or service and eighty (80) percent shall be prorated among the airlines based on the number of enplaned passengers. An enplaned passenger is a passenger boarding an aircraft at the airport.

Joint use space shall mean the premises leased by the city jointly to an airline and one or more other airlines from time to time for common use by such airlines.

Loading bridges shall mean any loading bridges owned by the city serving aircraft at the terminal building.

Maintenance and operating expenses shall have the meaning set forth in the bond resolution.

Maintenance and operating reserve requirement shall have the meaning set forth in the bond resolution.

Net revenues shall mean airport revenues, less all maintenance and operating expenses, and amounts deposited to the rebate fund.

Nonairline revenues shall mean airport revenues less rents, fees and other charges collected from airlines pursuant to this article or pursuant to operating agreements between the city and one or more airlines.

Other buildings and areas shall mean those portions of airport other than the terminal building, terminal area, airfield area, apron area and loading bridges, including the facilities, installations, and improvements thereon as they now exist or as they may hereafter be modified, changed, or developed.

Passenger holdrooms shall mean the passenger waiting rooms located inside the terminal building adjacent to the aircraft parking positions.

Preferential use space shall mean the premises from time to time provided by the city to an airline for its preferential and nonexclusive use and shall include passenger holdrooms, aircraft parking positions, and loading bridges.

Public areas shall mean those terminal building areas not leased on an exclusive, preferential, or joint use basis, or otherwise, to any person, company, or corporation and that are open to the general public.

Scheduled airline operating agreement and terminal building lease shall mean an agreement between the city and an airline providing for the operation of the airline at the airport and for the possession, occupancy and use of facilities in the terminal building by the airline for a term expiring no sooner than September 30, 2003.

Signatory airlines shall mean airlines that operate at the airport under a scheduled airline operating agreement and terminal building lease with the city.

Special purpose facility shall have the meaning set forth in the bond resolution.

Subordinate securities fund shall mean the account by the same name established by the bond resolution and referred to in section 10-2-53 of this article.

Terminal building shall mean the terminal building serving the airlines as it now exists or as it may hereafter be reconstructed, modified, changed, or developed. After the date of beneficial occupancy of the new passenger terminal complex, terminal building shall mean the proposed new terminal building presently being planned by the city at the airport including the related signing, landscaping, and curbside areas.

Terminal area shall mean the access roads and parking areas surrounding the terminal building, as such areas now exist or as they may hereafter be modified, changed, or developed.

Total landed weight shall mean the sum of the certificated maximum landing weights for all airline aircraft arrivals over a stated period of time. Said sum shall be rounded up to the nearest thousand (1,000) pound unit for all landing fee computations.

Usable space shall mean the total square feet in the terminal building less mechanical and utility space.

(Ord. No. 41-88, § 1(2), 9-22-88; Ord. No. 46-90, § 1(2), 9-27-90)

Sec. 10-2-53. - Disposition of airport revenues.

All airport revenues shall be deposited, applied and allocated in the funds and accounts created by the bond resolution in the manner and according to the priority provided for therein. Included among the indebtedness to be paid out from the subordinate securities fund shall be that portion of the debt obligation of the city's $36,000,000 Sale & Excise Tax Revenue Refunding Bonds (Series 1985) which is attributable to the cost of airport improvements and the existing debt obligation from the airport to the city's utility deposit account. The capital fund, as defined and created by the bond resolution, shall be divided into two (2) separate accounts, the capital improvement account and the prepaid revenue account, into which all remaining monies, after fulfilling the obligations with respect to funds and accounts of higher priority, shall be deposited, allocated and applied in the following manner and order of priority:

(a) Monies shall first be deposited in the capital improvement account in an amount equal to seventeen and one-half (17.5) percent of that fiscal year's budgeted nonairline revenues. This amount shall be reduced by the amount of the previous fiscal year s unencumbered or

uncommitted balance in the capital improvement account at the end of the fiscal year. Monies shall be paid out of the capital improvement account from time to time for capital improvements.

(b) Any amount remaining in the capital fund shall be deposited in the prepaid revenue account.

(Ord. No. 41-88, § 1(3), 9-22-88; Ord. No. 46-90, § 1(3), 9-27-90)

Sec. 10-2-54. - Payment of rates and fees.

(a) *Time of payment.* Rents for exclusive use space, preferential use space, joint use space, and the apron area and loading bridge use fees shall be payable, without deduction or setoff, in monthly installments in advance on or before the first day of each month.

Landing fees shall be due on the first day of, and payable without deduction or setoff no later than the last day of each month for the preceding calendar month of operations.

Rents and fees shall be paid by check payable to City of Pensacola, which shall be delivered or mailed, postage prepaid, to Pensacola International Airport, 2430 Airport Boulevard, Suite 225, Pensacola, Florida 32504.

(b) *Interest on overdue rents and fees.* Any rents and fees not received within three (3) business days after the due date shall accrue interest at the maximum interest rate then provided by applicable law; provided, however, that if no maximum interest rate is then provided by applicable law, the interest rate shall be eighteen (18) percent per annum. Such interest shall not accrue with respect to disputed items being contested in good faith by an airline.

(c) *Insufficient revenue.* The city reserves the right to adjust the rents and fees at any time during a given fiscal year, in the event that such adjustment is deemed necessary by the city to satisfy the requirements of section 10-2-51(b) of this article.

(Ord. No. 41-88, § 1(4), 9-22-88; Ord. No. 46-90, § 1(4), 9-27-90)

Sec. 10-2-55. - Monthly activity report.

Each airline shall furnish to the city, on or before the tenth day of each month, an accurate report, on forms prescribed by the city. Said report shall include: (1) the airline's total number of aircraft arrivals, by type of aircraft and certificated maximum landing weight of each type of aircraft, (2) the total number of enplaning and deplaning passengers, and (3) the amount of enplaned and deplaned freight, mail, and other cargo for such month. Each airline shall also report the above information for the aircraft of others, including charter flights, for which it provides ground services.

If any airline fails to furnish the city with the report required by this section, that airline's landing fee shall be determined by assuming that the total landed weight for that airline during the preceding month was one hundred and twenty-five (125) percent of the total landed weight during the most recent month for which such figure is available for that airline.

(Ord. No. 41-88, § 1(5), 9-22-88; Ord. No. 46-90, § 1(5), 9-27-90)

Sec. 10-2-56. - City records.

The city shall maintain an accounting system and accounting records which document the following for each airport cost center: (1) airport revenue, (2) maintenance and operating expenses, (3) capital improvements and other expenses incurred by city for the improvement, renovation, or enhancement of facilities, (4) debt service on the bonds, (5) debt service on subordinate securities, and (6) any other funding requirements of the airport.

The city shall further maintain records evidencing the allocation of capital funds to each airport cost center obtained from the proceeds of bonds or other capital fund sources. Included in the allocation to each airport cost center shall be its proportionate share of the expenses of any bond issuance, capitalized interest, and funding of special funds, determined with reference to the allocation of costs funded through securities or other capital fund sources.

(Ord. No. 41-88, § 1(6), 9-22-88; Ord. No. 46-90, § 1(6), 9-27-90)

Sec. 10-2-57. - Calculation of rents and fees.

Rents and fees, as set forth in this article, shall be adjusted at the beginning of each fiscal year based upon the annual budget adopted by the city council. The recalculation shall be effective on the first day of each fiscal year to which it applies (or in the case of the fiscal year in which DBO occurs, on DBO in accordance with the terms of this article). Notwithstanding the foregoing and other provisions of this section, the city may adjust rents and fees whenever and in such amount as it determines is necessary to satisfy the requirements of section 10-2-51(b) of this article.

(a) *Calculation of terminal building rental rates.* The city shall calculate the rental rates for space in the terminal building in the following manner:

(1) The rental rates to be effective upon occupancy of the new terminal building and thereafter shall be calculated pursuant to this paragraph (1) and paragraphs (2) and (3) of this subsection. The city shall calculate the terminal building costs for the succeeding fiscal year (or in the case of the fiscal year in which DBO occurs, for that portion of such fiscal year commencing with DBO), by totaling the following estimated amounts, as set forth in the city's annual budget:

a. The total maintenance and operating expenses allocated to the terminal building.

b. An amount equal to 1.25 times the pro rata portion of the annual debt service requirement allocated to the terminal building, or such other amount as may be required by the bond resolution.

c. An amount equal to the pro rata portion of the maintenance and operating reserve requirement allocated to the terminal building.

d. An amount equal to the pro rata portion of the annual requirement of any subordinate securities or loans made to the airport by the city or other loans allocated to the terminal building.

e. An amount equal to the pro rata portion of other deposits, if any, required by the bond resolution or this article and allocated to the terminal building.

f. The amount of any assessment, judgment, claim, settlement, or charge (net of insurance proceeds) to become payable by the city relating directly to airport or its operation and allocated to the terminal building.

g. An amount equal to any deficit or credit estimated for operation of the terminal building during the then-current fiscal year or any adjustment carried over from preceding fiscal years to reflect any difference between actual versus estimated expenses.

(2) The average rental rate shall then be calculated by dividing the terminal building costs computed pursuant to paragraph (a)(2) by the amount of usable space. The average rental rate shall then be multiplied by the total amount of square feet included in each airline's rentable space to determine the annual terminal building space rents payable by each airline.

(3) The space rents for all joint use space shall be prorated among all airlines according to the joint use formula and each airline shall pay its pro rata share of such space rents.

(b) *Calculation of apron area rents.* The city shall calculate apron area rents, to be effective upon the DBO of the apron area and thereafter, in the following manner:

(1) The city shall calculate the apron area rents for the succeeding fiscal year (or in the case of the fiscal year in which DBO occurs, for that portion of such fiscal year commencing with DBO) by totaling the following estimated amounts, as set forth in the annual budget:

a. The total maintenance and operating expenses allocated to the apron area.

b. An amount equal to 1.25 times the pro rata portion of the annual debt service requirement, if any, allocated to the apron area, or such other amount as may be required by the bond resolution.

c. An amount equal to the pro rata portion of the maintenance and operating reserve requirement allocated to the apron area.

d. An amount equal to the pro rata portion of the annual requirement of any subordinate securities or loans made to the airport by the city or other loans allocated to the apron area.

e. An amount equal to the pro rata portion of other deposits, if any, required by the bond resolution or this article and allocated to the apron area.

f. The amount of an assessment, judgment, claim, settlement, or charge (net of insurance proceeds) to become payable by city relating directly to airport or its operation, and allocated to the apron area.

g. An amount equal to any deficit or credit estimated for operation of the apron area during the then current fiscal year or any adjustment carried over from preceding fiscal years to reflect any difference between actual versus estimated expenses.

(2) The apron area rental rate per linear foot shall be calculated by dividing apron area rents by the total linear feet of apron area measured one hundred (100) feet from the terminal building. An airline's apron area rent shall then be calculated by multiplying the rental rate per linear foot by the total linear feet of airline's apron area measured one hundred (100) feet from the terminal building.

(c) *Calculation of loading bridge use fees.* The city shall calculate loading bridge use fees in the following manner:

(1) The city shall calculate the loading bridge use fees for the succeeding fiscal year (or in the case of the fiscal year in which DBO of the loading bridges occurs, for that portion of such fiscal year commencing with DBO) by totaling the following estimated amounts, as set forth in the annual budget:

a. The total maintenance and operating expenses allocated to the loading bridges.

b. An amount equal to 1.25 times the pro rata portion of the annual debt service requirement, if any, allocated to the loading bridges, or such other amount as may be required by the bond resolution.

c. An amount equal to the pro rata portion of the maintenance and operating reserve requirement allocated to the loading bridges.

d. An amount equal to the pro rata portion of the annual requirement of any subordinate securities or loans made to the airport by the city or other loans allocated to the loading bridges.

e. An amount equal to the pro rata portion of other deposits, if any, required by the bond resolution or this article and allocated to the loading bridges.

f. The amount of any assessment, judgment, claim, settlement, or charge (net of insurance proceeds) to become payable by the city relating directly to the airport or its operation, and allocated to the loading bridges.

g. An amount equal to any deficit or credit estimated for operation of the loading bridges during the then current fiscal year or any adjustment carried over from preceding fiscal years to reflect any difference between actual versus estimated expenses.

(2) The loading bridge use fee rate per loading bridge shall be calculated by dividing the loading bridge use fee by the number of loading bridges. An airline's loading bridge use fee shall then be calculated by multiplying the loading bridge use rate per loading bridge by the number of loading bridges assigned to the airline.

(d) *Calculation of landing fee rate.* The city shall calculate the landing fee rate for the fiscal year commencing October 1, 1988, and for each succeeding fiscal year, in the following manner:

(1) The city shall calculate the airport landing fee based upon the city's proposed annual budget for the succeeding fiscal year by totaling the following estimated amounts:

a. The total maintenance and operating expenses of the airport.

b. An amount equal to 1.25 times the annual debt service requirement, or such other amount as may be required by the bond resolution.

c. An amount equal to the total maintenance and operating reserve requirement.

d. An amount equal to the annual requirement of any subordinate securities or loans made to the airport by the city or other loans pertaining to the airport.

e. An amount equal to the amount of other deposits, if any, required by the bond resolution.

f. The amount of any assessment, judgment, claim, settlement, or charge (net of insurance proceeds) to become payable during the fiscal year by the city relating directly to the airport or its operation.

g. An amount equal to seventeen and one-half (17.5) percent of nonairline revenues.

h. An amount equal to any operating deficit of the airport during the current fiscal year.

(2) The following airport landing fee credits shall be subtracted from the amount calculated pursuant to paragraph (d)(1) of this section to determine the airport landing fee requirement:

a. An amount equal to the estimated unrestricted investment income to be earned by the city pursuant to the bond resolution during the succeeding fiscal year, except for the amount of any adjustments to the annual debt service requirement because of any transfers from the capital fund or any interest earnings.

b. The total of all terminal building rents, loading bridge use fees, and apron area rents to be paid by airlines during the succeeding fiscal year.

c. All other airport revenues from whatever other sources, excepting monies in the prepaid revenue account, derived during the succeeding fiscal year.

(3) The landing fee rate for the succeeding fiscal year shall be calculated by dividing the airport landing fee requirement computed pursuant to paragraphs (d)1 and (d)2 of this section by the estimated total landed weight of all airline aircraft arrivals at the airport for the succeeding fiscal year as estimated by the city. If the landing fee rate, as calculated above is greater than one hundred thirty (130) percent of the landing fee rate paid by the signatory airlines, then the landing fee rate shall be one hundred thirty (130) percent of the landing fee rate paid by the signatory airlines.

(4) The landing fee shall be calculated by multiplying the airline's portion of the total landed weight for the month by the landing fee rate then in effect.

(Ord. No. 41-88, § 1(7), 9-22-88; Ord. No. 46-90, § 1(7), 9-27-90)

Sec. 10-2-58. - Insurance.

(a) Each airline shall purchase at its cost, and maintain, at all times while this article is in force, comprehensive general liability and aviation liability insurance for protection, defense, and indemnification against any and all claims for property damage, including loss of use, personal injury, bodily injury, or death allegedly arising out of an airline's activities into, near, about, on, and/or leaving any portion of airport premises. Such insurance limits of liability shall be in an amount not less than one hundred fifty million dollars ($150,000,000.00) per occurrence for airlines operating aircraft over one hundred (100) seats, not less than one hundred million dollars ($100,000,000.00) for airlines operating aircraft with between ninety-nine (99) and sixty (60) seats, and not less than fifty million dollars ($50,000,000.00) for airlines operating aircraft with fifty-nine (59) or fewer seats. The number of seats shall be determined based upon the largest aircraft in an airline's fleet. The personal injury limit of that liability applicable to nonpassengers shall be twenty-five million dollars ($25,000,000.00) per occurrence in aggregate. The city, its city council, its mayor, its officers, agents, and employees shall be additional insured to the full extent of the airline's insurance coverage.

(b) Each airline shall purchase at its cost, and maintain, worker's compensation insurance coverage for any and all worker's compensation obligations imposed by law. Additionally, the policy, or separately obtained policy, must include employer's liability coverage of at least one million dollars ($1,000,000.00) for each person-accident, one million dollars ($1,000,000.00) for each person. disease, and four million dollars ($4,000,000.00) for aggregate disease.

(c) Each airline shall purchase at its cost a business automobile liability policy, in a form no more restrictive than the latest edition of such type policy filed by the insurance services office (ISO). Such policy shall have limits of liability not less than five million dollars ($5,000,000.00) per accident.

(d) All policies of insurance required herein shall be in a form and with a company or companies reasonably satisfactory to the city. Each such policy shall provide that such policy may not be materially changed, altered, or cancelled by the insurer during its term without first giving at least thirty (30) days written notice to the city.

(e) Required insurance shall be documented by certificates of insurance which provide that the city shall be notified at least thirty (30) days in advance of cancellation, nonrenewal, material change or alteration, or restriction in coverage. Any wording in a certificate of insurance which makes notice of cancellation an option of the insurer shall be deleted by the insurer, its agent or representative. If required by the city, an airline shall furnish copies of its insurance policies, forms, endorsements, jackets, and other items forming a part of, or relating to, such policies. The city shall be identified as an additional insured upon all certificates of insurance.

(f) At least thirty (30) days before the expiration of any then-current policy of insurance, each airline shall deliver to the city evidence showing that such insurance coverage had been renewed. Within fifteen (15) days after the date of written notice from the insurer of cancellation or reduction in coverage, each airline shall deliver to the city a policy or certificate reinstating or otherwise providing the required insurance.

(g) The coverage required of an airline shall be considered primary, and all other insurance shall be considered as excess, over and above the airline's coverage. An airline's policies of coverage will be considered primary as relates to all provisions of this article.

(h) Precaution shall be exercised at all times by each airline for the protection of all persons, including employees, and property. Each airline shall make special effort to detect hazardous conditions and shall take prompt action where loss control/safety measures shall reasonably be expected.

(Ord. No. 41-88, § 1(8), 9-22-88; Ord. No. 46-90, § 1(8), 9-27-90)

Sec. 10-2-59. - Indemnification.

(a) It is the city's policy that, as a condition of airport use, each airline shall indemnify the city from losses arising out of the airline's use and/or occupancy of airport facilities.

(b) By continuing to use and occupy airport facilities following notice of this article, an airline is deemed to have agreed to protect, defend, and hold the city and its officers and employees completely harmless from and against any and all liabilities, losses, suits, claims, judgments, fines, or demands arising by reason of injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including, but not limited to, attorney fees, court costs, and expert fees), of any nature whatsoever arising out of or incident to the airline's use or occupancy of, or operations of the airline at or about, the airport or the acts or omissions of the airline's officers, agents, employees, contractors, subcontractors, licensees, or invitees, regardless of where the injury, death, or damage may occur, unless such injury, death, or damage is caused by the sole negligence of the city. The city shall give to the airline reasonable notice of any such claims or actions.

(Ord. No. 41-88, § 1(9), 9-22-88; Ord. No. 46-90, § 1(9), 9-27-90)

Sec. 10-2-59.1. - Security deposit.

(a) In order to guarantee the timely payment of all rentals, fees, and charges provided for herein, all airlines that have not established or maintained a satisfactory credit history with the city (as evidenced by having promptly paid rentals, fees, and charges when due for a period of twelve (12) consecutive months) shall remit to the city a security deposit in the amount of (a) the airline's estimated landing fees for three (3) months (as determined on the basis of the airline's published flight schedule as of that date times the actual landing fee rate effective as of that date), plus (b) the airline's estimated terminal building rentals and preferential apron area rentals for three (3) months (as determined on the basis of the airline's occupied space as of that date multiplied by the actual rental rates effective as of that date, plus the historical portion of rent for joint use space allocable to the three (3) months prior to that date). The security deposit may be adjusted by the city as the airline's flight activity and space rental commitment increases.

Such security deposit shall be in the form of a bond or an irrevocable letter of credit. Said bond or irrevocable letter of credit shall be in effect until the airline has established a prompt payment record for a period of twelve (12) consecutive months or sixty (60) days after the airline terminates service to the airport. The bond or irrevocable letter of credit shall expressly permit partial payment. If a bond, it shall be written by a company authorized to write bonds in the State of Florida and shall be in a form approved by the appropriate authorities.

(b) If payments required by the airline under the terms of this article are not made in accordance with the payment provisions set forth in section 10-2-54, the city shall have the right to forfeit, take, and use so much of such security deposit as may be necessary to make such payment in full and to exercise any other legal remedies to which it may be entitled.

(Ord. No. 46-90, § 1(10), 9-27-90)

Editor's note— Section 1(10) of Ord. No. 46-90, adopted Sept. 27, 1990, which amended Ord. No. 41-88, was included as § 10-2-59.1 at the discretion of the editor.

Sec. 10-2-60. - Rules and regulations.

(a) Every airline shall observe and obey all rules and regulations promulgated from time to time by the city and other appropriate state and federal entities having jurisdiction over the airport, including the Federal Aviation Administration (FAA).

(b) Should an airline, its customers, agents, employees, officers, or guests violate any rules and regulations, and should said violations result in a citation or fine to the city, then the airline shall fully indemnify and reimburse the city for said citation or fine and for all costs and expenses, including reasonable attorney's fees, incurred by the city in defending against the citation or fine.

(Ord. No. 41-88, § 1(10), 9-22-88; Ord. No. 46-90, § 1(11), 9-27-90)

Sec. 10-2-61. - Compliance with law.

No airline will use the airport or any part thereof, or permit the same to be used by any of its employees, officers, agents, contractors, subcontractors, subtenants, invitees, or licensees for any illegal purposes and will, at all times, comply with all applicable ordinances, laws, rules or regulations of any city, county, or state government or of the United States government, and of any political division or subdivision or agency, authority, or commission thereof which may have jurisdiction to pass such laws or ordinances or to make and enforce such rules or regulations with respect to use and occupancy of the airport facilities.

(Ord. No. 41-88, § 1(11), 9-22-88; Ord. No. 46-90, § 1(12), 9-27-90)

Sec. 10-2-62. - Severability.

If any section of this article or portion thereof is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not invalidate the remaining portions of this article.

(Ord. No. 41-88, § 1(12), 9-22-88; Ord. No. 46-90, § 1(13), 9-27-90)

Sec. 10-2-63. - Amendments.

Except to the extent expressly prohibited by or inconsistent with the bond resolution, the city reserves the right to amend this article from time to time or to repeal this article in its entirety. It is the city's intent to amend this article from time to time as necessary to make it consistent with the bond resolution.

(Ord. No. 41-88, § 1(13), 9-22-88; Ord. No. 46-90, § 1(14), 9-27-90)

Sec. 10-2-64. - Repeal of conflicting ordinances.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

(Ord. No. 41-88, § 1(14), 9-22-88; Ord. No. 46-90, § 1(15), 9-27-90)

Sec. 10-2-65. - Penalties.

Any violation of this article shall be punishable as provided in section 1-1-8 of the Code of Ordinances.

(Ord. No. 41-88, § 1(15), 9-22-88; Ord. No. 46-90, § 1(16), 9-27-90)

Secs. 10-2-66—10-2-79. - Reserved.

ARTICLE IV. - RENTAL CAR BUSINESS REGULATIONS

Sec. 10-2-80. - Policy.

The city hereby adopts the following fiscal policy for the establishment of percentage fee rents to be paid by all non-concessionaire rental car businesses operating at the airport without tenant agreements with city:

A. The cost of operating, maintaining and developing the airport will be paid solely with airport revenues and such government grants as may be received by the city and lawfully used for such purposes, without the use of ad valorem taxes or other city revenue or pledges, so as not to place any burden on taxpayers or residents of the city.

B. The city will fix, establish, maintain and collect such rates, fees, rentals and other charges for the use and services of the airport and revise the same from time to time whenever necessary, as will always provide net revenues sufficient to pay for operating, maintaining and developing the airport.

C. In furtherance of this policy and in accordance with the authority conferred upon the city by the laws of the State of Florida, the city shall establish and periodically adjust as required, percentage fees upon the gross revenues of non-concessionaire rental car providers (as hereinafter defined) operating at the airport.

(Ord. No. 6-96, 1-11-96)

Sec. 10-2-81. - Definitions.

The following terms in this article shall have the following meanings unless the text otherwise expressly requires:

A. *Airport* shall mean the lands and facilities owned and operated by the city, known collectively as Pensacola International Airport, as it now exists or as it may change from time to time.

B. *Non-concessionaire rental car provider* or *operator* or *permittee* shall mean all persons, firms, agencies, or companies providing rental car services from locations based outside the airport and which are not signatory to a concession lease providing terminal building counter locations and ready lot vehicular parking.

C. *Gross revenue of a non-concessionaire rental car provider* shall mean:

1. All amounts received by the non-concessionaire rental car provider, or which the non-concessionaire rental car provider is entitled to receive, from any rental of a motor vehicle to any person picked up by the non-concessionaire rental car provider, or its agent, from any point on the airport, including but not limited to the airport terminal building, any premises leased by the city to a third-party doing business on the airport, or from any other location within the airport, or from any rental of a motor vehicle to any person returned by non-concessionaire rental car provider, or its agent, to any point on the airport, including but not limited to the airport terminal building, any premises leased by the city to a third party doing business on the airport, or to any other location on the airport.

2. All revenue it receives from every airport customer who, at the business location of the non-concessionaire rental car provider, either (1) executes an agreement for the rental of a motor vehicle from the non-concessionaire rental car provider, or (2) takes delivery of a motor vehicle rented from the non-concessionaire rental car provider. Gross revenues shall be deemed received at the time the sales, lease or service transaction occurs giving rise to the non-concessionaire rental car provider's right to collect said monies, regardless of whether the transaction was conducted in person, by telephone or by mail, whether the transaction was for cash or credit, and if for credit, regardless of whether the non-

concessionaire rental car provider ultimately collects the monies owed for said transaction from the airport customer involved. Any gross revenue owed the city and determined by the non-concessionaire rental car provider at a later date to be uncollectible shall not offset future percentage rentals owed the city. If the initial rental car agreement entered into between the non-concessionaire rental car provider and the airport customer is subsequently amended, because the airport customer's actual usage of the rental car vehicle differs from the usage contemplated by the original agreement, and the charges to be paid by the airport customer are therefore different from the charges contemplated by the original agreement, the percentage of gross revenue to which the city is entitled hereunder shall be based upon the gross revenue which the non-concessionaire rental car provider is entitled to receive, under the rental car agreement with its airport customer, as amended. Gross revenue shall not include:

a. federal, state, or municipal sales taxes separately stated and collected from the customers;

b. amounts the non-concessionaire rental car provider receives, or is entitled to receive, for the sale, disposition, loss, conversion, or abandonment of non-concessionaire rental car provider's used motor vehicles and other equipment, personal property, and trade fixtures; and

c. amounts which the non-concessionaire rental car provider receives, or is entitled to receive, for the repair of damages to its motor vehicles.

3. Gross revenue shall not be reduced by reason of any commission or similar amount paid by the non-concessionaire rental car provider to travel agents or others.

D. *Airport customer* shall mean anyone who is provided transportation to or from the airport as part of a rental car transaction in a rental car courtesy vehicle of the non-concessionaire rental car provider and who either (1) executes an agreement to rent a motor vehicle from the non-concessionaire rental car provider or had executed an agreement to rent a motor vehicle and had completed the rental transaction with the non-concessionaire rental car provider, or (2) takes delivery of a motor vehicle rented from the non-concessionaire rental car provider or had returned a motor vehicle rented from the non-concessionaire rental car provider.

E. *Rental car courtesy vehicle* shall be considered a rental car courtesy vehicle of the non-concessionaire rental car provider if it is operated by, or under agreement, with the non-concessionaire rental car provider. A courtesy vehicle shall be deemed operated under agreement with the non-concessionaire rental car provider if the airport director finds that such courtesy vehicle is operated pursuant to any agreement.

(Ord. No. 6-96, 1-11-96; Ord. No. 47-07, § 1, 9-13-07)

Sec. 10-2-82. - Non-concessionaire rental car business permit.

A. Each non-concessionaire rental car provider seeking to operate at the airport shall execute a written agreement with the city in the form of a non-concessionaire rental car business permit before engaging in any business activities on the airport. Application for such non-concessionaire rental car business permit shall be made to the office of the airport director.

B. The non-concessionaire rental car business permit shall be substantially in the form appended to the ordinance adopting this article, the terms of which are incorporated in and made a part of this article by reference. The airport director may modify the form of the permit in any manner not inconsistent with the provisions of this article. In the event of conflict between any provisions of this article and any provision of the permit, this article shall be controlling.

C. Operation of any courtesy vehicle on the airport shall be allowed only with a color coded decal as required by city ordinance. Providers of courtesy vehicles shall observe all rules and regulations of

this article in addition to those established by other provisions of the Code of the City of Pensacola, Florida.

D. Non-concessionaire rental car courtesy vehicle decals shall be provided initially to the non-concessionaire rental car provider upon the execution of the non-concessionaire rental car business permit and the successful completion of the vehicle safety inspection. Decals shall be issued for each courtesy vehicle operated by the non-concessionaire rental car provider. No decals shall be issued without the operator having valid courtesy vehicle licenses as may be required by the City of Pensacola.

E. Decals shall be permanently affixed to the lower righthand corner of the front windshield and shall be clearly visible at all times. Decals shall be issued by the airport director and shall expire at the time of expiration of the non-concessionaire rental car business permit. Only those vehicles displaying valid decals will be authorized to pick up passengers at the airport.

F. In the case of loss of a decal or damage beyond recognition, a duplicate decal may be obtained after payment of five dollars ($5.00) by the operator and after submission of a statement setting forth the circumstances of the loss or damage of the decal.

G. Application forms for yearly renewal of courtesy vehicle airport permit decals must be submitted to the airport director at least ten (10) working days prior to the expiration of the current decal. Renewal applications shall be reviewed and renewal of the decal shall be made contingent upon satisfactory payment of the percentage fees and completion of the annual courtesy vehicle inspection.

H. All courtesy vehicles will be inspected in accordance with the criteria found in section 7-10-31 of the City Code.

I. The airport director or his representative, police officer, or airport safety officer may inspect a courtesy vehicle at any time while it is on the airport. A vehicle found to be in violation of section 7-10-31 of the City Code will be required to immediately leave the airport until the noted deficiencies are corrected.

J. The city may suspend, or suspend and revoke, any non-concessionaire rental car business permit, including the non-concessionaire rental car courtesy vehicle decal. Such power of suspension or suspension and revocation may be exercised only upon the failure of the non-concessionaire rental car provider to satisfy the conditions of this article or the non-concessionaire rental car business permit or for non-compliance with city code regarding the operation of courtesy vehicles.

(Ord. No. 6-96, 1-11-96)

Sec. 10-2-83. - Operational procedures.

All non-concessionaire rental car provider courtesy vehicles shall operate on the airport in compliance with Section 7-10-181 of the City Code of the City of Pensacola.

(Ord. No. 6-96, 1-11-96)

Sec. 10-2-84. - Percentage fee.

A. *Amount.* Each non-concessionaire rental car provider offering rental car services from locations based outside the Airport shall pay to the city a percentage amount of all gross revenues which shall equal the concession agreement percentage amount paid by on-airport concessionaire rental car providers that is derived by said non-concessionaire rental car provider from the rental of motor vehicles to airport customers picked up by said non-concessionaire rental car provider from any point within the airport or returned by said non-concessionaire rental car provider to any point within the airport.

B. *Statement of gross revenue.* Each non-concessionaire rental car provider shall submit to the city, on or before the 20 th day of each month, a statement which will set forth:

1. The total gross revenue earned during the prior month; and
2. Information demonstrating to the satisfaction of the city which of the non-concessionaire rental car provider's gross revenue during the prior month originated from airport customers and which gross revenue originated from non-airport customers.
3. It shall be presumed that ninety-five (95) percent of all gross revenue earned by the non-concessionaire rental car provider during the month with respect to which the statement is submitted constituted airport customer generated gross revenue, unless, and to the extent the non-concessionaire rental car provider demonstrates otherwise in its statement to the satisfaction of the city.
4. The statement of gross revenue shall be submitted together with the non-concessionaire rental car provider's remittance in payment of the non-concessionaire rental car percentage fee it incurred during the prior month. Each non-concessionaire rental car provider shall timely submit a statement of gross revenue each month even if such non-concessionaire rental car provider earned no airport generated gross revenue during the prior month (and therefore incurred no non-concessionaire rental car percentage fee during such prior month). In such case the statement of gross revenue shall state the non-concessionaire rental car provider's total gross revenue during the prior month and shall demonstrate to the satisfaction of the city that none of such revenue constituted airport generated gross revenue.

(Ord. No. 6-96, 1-11-96; Ord. No. 12-11, § 1, 7-21-11)

Sec. 10-2-85. - Conditions of non-concessionaire rental car business permit.

The city will not issue a non-concessionaire rental car business permit, and once it has issued such a permit, may suspend or suspend and revoke that permit under the provisions of section 10-2-86, unless the non-concessionaire rental car provider to whom the permit is to be or has been issued continuously complies with the provisions of this article and the non-concessionaire rental car business permit.

(Ord. No. 6-96, 1-11-96)

Sec. 10-2-86. - Suspension or suspension and revocation of non-concessionaire rental car business permit.

A. *Suspension of permit.*

1. The city may suspend any non-concessionaire rental car business permit upon the failure of the non-concessionaire rental car provider to whom such permit was issued continuously to comply with any provision of this article or of the non-concessionaire rental car business permit provided, however, that such suspension may be imposed only following fourteen (14) days' written notice to the non-concessionaire rental car provider whose non-concessionaire rental car business permit is to be suspended.
2. A non-concessionaire rental car provider whose permit is suspended or may become subject to suspension may demonstrate to the city, at any time before or after such suspension has been imposed, that such operator is in compliance or has remedied its noncompliance or that it is making good faith effort to do so.
    a. If the non-concessionaire rental car provider whose permit is subject to suspension demonstrates that it has remedied its failure to satisfy the conditions of this article, the city shall remove the suspension of such rental car provider's non-concessionaire rental car

business permit, if such suspension has been imposed, or shall abandon proceedings to suspend that permit if such suspension has not yet been imposed.

b. If the non-concessionaire rental car provider whose permit is subject to suspension demonstrates it is making a good faith effort to remedy its failure to comply (though it has not yet remedied such failure), the city may, in its discretion, remove the suspension of such operator's non-concessionaire rental car business permit, if such suspension has been imposed, or abandon proceedings to suspend the permit if such suspension has not yet been imposed.

3. Once a non-concessionaire rental car business permit has been properly suspended, it shall remain suspended unless and until its suspension is removed or until it is revoked.

4. A non-concessionaire rental car provider whose non-concessionaire rental car business permit has been properly suspended by the mayor may appeal the decision to the mayor of the City of Pensacola.

B. *Revocation of permit.*

1. The city may revoke any non-concessionaire rental car business permit upon the failure of the non-concessionaire rental car provider to whom such permit was issued to continuously comply with all provisions of this article and its non-concessionaire rental car business permit, provided, however, that:

a. A non-concessionaire rental car business permit may not be revoked unless, at the time of revocation, it has been properly suspended for at least thirty (30) days, and

b. A non-concessionaire rental car business permit may not be revoked except following thirty (30) days' written notice, which notice may be issued to the non-concessionaire rental car provider holding such permit only after the suspension of the permit has been imposed.

2. Upon the revocation of a non-concessionaire rental car business permit, the non-concessionaire rental car provider to whom such permit was issued must remove any rental car decals issued in connection with the revoked permit from its rental car courtesy vehicles.

3. A non-concessionaire rental car business permit which has been revoked may not be reinstated. Nonetheless, a non-concessionaire rental car provider whose permit has been revoked may apply for a new non-concessionaire rental car business permit after curing all causes of revocation.

C. Notwithstanding the notice provisions of subsection B.1.b., the city may revoke without notice the non-concessionaire rental car business permit of any non-concessionaire rental car provider if, at any time while that permit is suspended, any of such non-concessionaire rental car provider's vehicles seek to enter the airport under the authority of the suspended permit for the purpose of loading passengers for transport to or unloading passengers after transport from any facility of such operator non-concessionaire.

(Ord. No. 6-96, 1-11-96; Ord. No. 16-10, § 158, 9-9-10)

Sec. 10-2-87. - Failure to pay fees.

A. If any non-concessionaire rental car provider fails to submit any remittance, as required by section 10-2-84, by the end of the 10th day following the final day on which such remittance should timely have been submitted, the non-concessionaire rental car provider shall pay interest to the city at the rate of eighteen (18) percent per annum (1.5% per month) (or, if less, the maximum rate of interest allowed by law) on such overdue amounts calculated from the date on which such amounts should timely have been paid.

(Ord. No. 6-96, 1-11-96)

Sec. 10-2-88. - Failure to submit statement of gross revenue.

If any non-concessionaire rental car provider fails to submit any statement of gross revenue, as required by subsection 12-2-85 B., by the end of the 30th day following the final day on which such statement should timely have been submitted, the city may, in its discretion, perform, or hire an agent to perform, an audit of such operator's various books and records (including but not limited to the records such operator is required to maintain under the provisions of this section) to determine that operator's gross revenue during the month which would have been the subject of such statement of gross revenue. The non-concessionaire rental car provider shall, within thirty (30) days of receipt from the city of an invoice from the city therefor, reimburse the city for its reasonable cost of performing or of hiring an agent to perform, such audit.

(Ord. No. 6-96, 1-11-96)

Sec. 10-2-89. - Records to be maintained by non-concessionaire rental car provider.

A. During and with respect to the term of any non-concessionaire rental car business permit issued to it, each non-concessionaire rental car provider shall maintain such books and records as would normally be examined by an independent certified public accountant pursuant to generally accepted auditing standards in performing an audit or examination of the operator's revenues and gross revenue in accordance with generally accepted accounting principles and this article.

B. Each non-concessionaire rental car provider to whom a non-concessionaire rental car permit is issued shall make all records available for inspection by the city , during reasonable business hours, for a period of not less than three (3) years after the end of the term of the non-concessionaire rental car business permit to which such records relate; provided, however, that no such inspection will be conducted at a time or in a manner which causes undue interference with the business of the non-concessionaire rental car provider.

C. Non-concessionaire rental car provider may make such records available for inspection in Pensacola, Florida or at its corporate headquarters. In the event the inspection of such records is made at non-concessionaire rental car provider's corporate headquarters, and said corporate headquarters are located outside the city limits of Pensacola, Florida, then non-concessionaire rental car provider shall reimburse the city for all reasonable travel expenses associated with the city and/or its duly authorized representatives travelling to non-concessionaire rental car provider's corporate headquarters for the inspection of such records.

(Ord. No. 6-96, 1-11-96)

Sec. 10-2-90. - Term of non-concessionaire rental car business permit.

A. The term of such non-concessionaire rental car business permit shall extend from the date it is issued until either midnight of the 31st day of December next following the date it is issued or the date on which revocation of such permit becomes effective, whichever is earlier. The rental car decals issued in connection with a non-concessionaire rental car business permit shall expire at the end of the term of such permit.

B. On the first day of January of each succeeding year the non-concessionaire rental car business permit shall be extended automatically for successive one-year periods, unless earlier suspended or revoked. If a suspension is in effect on January 1, the non-concessionaire rental car provider shall remedy all failures to comply with the provisions of this article and shall apply for a new non-concessionaire rental car business permit before such permit may be issued.

(Ord. No. 6-96, 1-11-96)

Sec. 10-2-91. - Non-concessionaire rental car business permit non-transferrable.

No non-concessionaire rental car business permit, and no rental car Decal issued in connection with a non-concessionaire rental car business permit, may ever be transferred, assigned, loaned or used in any way by any person other than the non-concessionaire rental car provider to whom such permit was issued or the operator of a rental car courtesy vehicle operated under agreement with that non-concessionaire rental car provider.

(Ord. No. 6-96, 1-11-96)

Sec. 10-2-92. - Rental Car Customer Facility Charge Policy.

The city hereby adopts the following fiscal policy for establishment of a Rental Car Customer Facility Charge to be collected and remitted to the city by all Rental Car Providers (as hereinafter defined).

(a) The cost of operating, maintaining, and developing Pensacola International Airport shall be paid solely with airport revenues and such government grants as may be received by the city and lawfully used for such purposes, without the use of ad valorem taxes or other city revenue or pledges so as not to place any burden on taxpayers or residents of the city.

(b) The city will fix, establish, maintain, and collect such rates, fees, rentals, and other charges for the use and services of the airport, and revise the same from time to time whenever necessary, so as to always provide net revenues sufficient, together with other amounts legally available and allocated by the airport for such purpose, to pay the costs of operating, maintaining, and developing the airport.

(c) In furtherance of this policy and in accordance with the authority conferred upon the city by the laws of the State of Florida, the city shall establish and periodically adjust, as required, Rental Car Customer Facility Charges upon the rental contracts of Rental Car Providers (as hereinafter defined) operating at the airport and their customers.

(Ord. No. 33-97, § 1, 10-9-97; Ord. No. 09-08, § 1, 1-31-08)

Sec. 10-2-93. - Customer Facility Charge Policy Definitions.

The following terms shall have the meanings set forth below unless expressly required otherwise:

Airport shall mean the lands and facilities owned and operated by the city, known collectively as Pensacola International Airport, as it now exists or as it may change from time to time.

Allocated Cost shall mean the allocation of the costs of providing any of the facilities described in herein, in the manner and to the extent the city shall reasonably determine, including, without limitation, the allocation of costs representing the rental value of land used for such facilities, as established in accordance with Section 10-2-100(b) hereof, and a ratable portion of the planning, design, engineering, program management construction oversight, construction costs, depreciation, borrowing charges, permitting and licensing expenses, administrative oversight by city staff and consultants and all other costs, expenses or charges determined by the airport to be allocable to such facilities.

Concessionaire shall mean all persons, firms, agencies, or companies having a rental car concession agreement authorizing the conduct of a rental car business on at the airport.

Contract Day shall mean each twenty-four (24) hour period, and any fraction thereof, during which a motor vehicle, having been delivered by Rental Car Providers to each customer at the airport, is rented by such customer from such Rental Car Provider. Any fractional period less than a twenty-four-hour period shall be deemed a Contract Day.

Fiscal Year shall mean the annual period corresponding to the City's Fiscal Year for financial reporting purposes, as established in accordance with applicable law.

Ready Car Area Customer Facility Charge shall mean the charge to recover all costs and expenses of planning, financing, constructing, operating, and maintaining the three hundred forty-two (342) parking spaces provided for the rental car companies in the airport parking garage for use as a ready car area.

Rental Car Customer Facility Charge shall mean a charge imposed on a transactional basis in a fixed uniform amount applied each Contract Day to each subject contract, and which shall be added to the amount collected by Rental Car Providers from the rental car customer. The Rental Car Customer Facility Charge shall consist of the Ready Car Area Customer Facility Charge and the Service Site Area Customer Facility Charge.

Rental Car Provider shall mean all persons, firms, agencies, or companies providing rental car services at the airport. Rental Car Providers include both rental car concessionaires of the airport and non-concessionaire (off-Airport) Rental Car Providers conducting activities at the airport.

Service Site Area Customer Facility Charge shall mean the charge to recover substantially all costs and expenses of planning, financing, developing, and constructing service sites for rental car operators to service rental cars plus all costs and expenses of operating and maintaining common areas, access, street lighting, security, and landscaping, as well as any other costs and expenses incurred by the city and associated with the Service Site Area.

(Ord. No. 33-97, § 1, 10-9-97; Ord. No. 09-08, § 2, 1-31-08)

Sec. 10-2-94. - Customer Facility Charge.

The city provides two types of support facilities for Rental Car providers. The city provides ready car parking spaces for cars ready to be rented and for cars being returned to the Rental Car Provider—i.e., the Ready Car Area. Additionally, the city provides an area for the servicing of rental cars on the Airport. The cost of these facilities and improvements (including direct and allocated operating and capital costs) will be recovered primarily by charging the customers of Rental Car Providers a Rental Car Customer Facility Charge per contract day. On customer contracts, receipts, and documentation provided to customers, the public, and the city,the Contract Day rates shall be combined and shown as a single daily Rental Car Customer Facility Charge per Contract Day.

(Ord. No. 33-97, § 1, 10-9-97; Ord. No. 28-06, § 1, 10-26-06; Ord. No. 09-08, § 3, 1-31-08)

Sec. 10-2-95. - Calculation of Customer Facility Charge Rates.

(a) Prior to the end of each Fiscal Year, the city shall recalculate the daily Rental Car Customer Facility Charge rates for the following Fiscal Year as hereinafter provided. Revised daily rates shall become effective as of the first day of each Fiscal Year.

(b) Ready Car Area Customer Facility Charge-Annually, the city will recalculate the Ready Car Area Customer Facility Charge to recover the direct cost and Allocated Cost of planning, financing, constructing, operating, and maintaining the three hundred forty two (342) parking spaces (included in the 1998 Airport Capital Improvement Program) made available to the Rental Car Providers for the Ready Car Area in the Airport parking garage. The city will expand the number of ready car parking spaces as part of a future Airport Capital Improvement Program. The cost of expanding the Ready Car Area shall be recovered through a direct space rental charge to the Rental Car Providers using the Ready Car Area. The cost of expanding the Ready Car Area shall not be recovered through an increase in the Ready Car Area Customer Facility Charge. Each year, the city will advise the Rental Car Providers of changes in the Ready Car Area Customer Facility Charge rate. This amount shall be collected from rental car customers by the Rental Car Providers, as agents for the city, and remitted to the city, as provided for below.

(c) Service site area customer facility charge-The Rental Car Providers shall, as agents for the city, collect from their customers a Service Site Area Customer Facility Charge in an amount as determined by the city. On the first day of each Fiscal Year thereafter, the Service Site Area

Customer Facility Charge shall be adjusted to recover all direct and Allocated Costs and expenses of planning, financing, and constructing the service sites plus all costs and expenses of operating and maintaining common areas, access, street lighting, security, and landscaping, as well as any other cost or expense incurred by the city and associated with the Service Site Area.

(d) The Service Site Area Customer Facility Charge proceeds remitted by the Rental Car Providers shall be used for the purpose of paying, reimbursing or bearing the expenses of the following:

i. To pay financing, physical planning, and architecture and engineering design costs associated with the new rental car service sites and facilities, as determined by the city.

ii. To pay project management and construction costs associated with the new rental car service sites and facilities, as determined by the city.

iii. To pay debt service on bonds and or loans, the proceeds of which were used to pay the development costs of the rental car service sites.

iv. To pay the operating and maintenance expenses of the city that are allocable to the rental car operations and operating areas at the airport.

v. To pay any other cost or expense associated with development of the rental car service sites or any other airport direct and indirect cost or expense associated with the rental car service sites.

vi. Costs of collection, processing, enforcement of payment of the Service Site Area Customer Facility Charges, administration of the Service Site Area Customer Facility Charges and audits of Rental Car Provider's compliance with the Rental Car Customer Facility Charge regulation.

(e) The city may annually adjust the Ready Car Area Customer Facility Charge and the Service Site Area Customer Facility Charge per Contract Day based on the city's estimates of the costs expenses of providing the ready car area and the Service Site Area and the projected number of Contract Days for the upcoming year. Each year, approximately sixty (60) days prior to the end of the city's Fiscal Year (September 30), the city may recalculate the Ready Car Area Customer Facility Charge per Contract Day and the Service Site Area Customer Facility Charge per Contract Day and notify Rental Car Providers of the revised Ready Car Area Customer Facility Charge and Service Site Area Customer Facility Charge per Contract Day. Any credits or shortfalls from the prior Fiscal Year, as determined by the city, shall carry forward to the next Fiscal Year in the calculation of the revised Ready Car Area Customer Facility Charge per Contract Day and the Service Site Area Customer Facility Charge per Contract Day.

(f) If, at any time during each Fiscal Year, the city determines that either or both of the Rental Car Ready Area Customer Facility Charge or the Service Site Area Customer Facility Charge will not be sufficient to pay when due all costs and expenses of each area respectively, the city shall recalculate and increase either or both of these charges to a level that will assure the payment of all costs and expenses of these areas from the respective components of the Rental Car Customer Facility Charge proceeds.

(g) All amounts collected or required to be collected pursuant to this Section 10-2-95 shall be considered Airport Revenues from the moment of collection, shall belong to the city and shall be retained by the city in the Airport Fund and used to pay the costs and expenses associated with the improvement, operations, financing, and maintenance of Rental Car Provider facilities at the airport.

(Ord. No. 33-97, § 1, 10-9-97; Ord. No. 09-08, § 4, 1-31-08)

Sec. 10-2-96. - Customer Facility Charge Collection.

Each Rental Car Provider shall collect Rental Car Customer Facility Charges from all rental car customers, including customers receiving complimentary or discounted car rentals under Rental Car Provider's bona fide marketing plans. The Rental Car Customer Facility Charge shall be imposed on a transactional basis and shall be a fixed uniform amount applied each day, or fraction thereof, to each rental car contract and shall be added to the amounts collected by the Rental Car Providers from their

rental car customers. The Rental Car Customer Facility Charges collected by Rental Car Providers shall be the amount established by the city for all Rental Car Providers renting cars to Airport passengers.

(Ord. No. 33-97, § 1, 10-9-97; Ord. No. 28-06, § 2, 10-26-06; Ord. No. 09-08, § 5, 1-31-08)

Sec. 10-2-97. - Customer Facility Charge Remittance.

Rental Car Providers shall submit the amount equivalent to that collected or required to be collected from its customers to the city no later than the last day of each month following the month of collection. An amount exactly equivalent to the Rental Car Customer Facility Charges collected by Rental Car Providers from their customers shall be payable to the city. Such amount shall be immediately due the city on collection by Rental Car Providers, who shall be required to hold such amount in trust for the city's benefit. These funds shall be considered the city's property and rental car providers shall hold only a possessory interest, not an equitable interest, in these funds, which shall be deemed to be held in trust for the airport until actually remitted to and paid to the Airport.

(Ord. No. 09-08, § 6, 1-31-08)

Sec. 10-2-98. - Customer Facility Charge Records and Controls.

(a) Each Rental Car Provider shall maintain records and controls sufficient to demonstrate the correctness of the Rental Car Customer Facility Charge revenue collected by the Rental Car Provider and the amount of Rental Car Customer Facility Charge Revenue paid to the city. The records shall be subject to review and audit annually by the city.

(b) The number of transactions completed by the Rental Car Providers shall be reported electronically to the city each month upon a form promulgated by the city. The report, which shall be signed by an authorized agent of each Rental Car Provider, is to be received by the city no later than the last day of the month following such transactions, and shall be remitted to the city with Rental Car Providers' Rental Car Customer Facility Charge proceeds for the month.

(Ord. No. 09-08, § 7, 1-31-08)

Sec. 10-2-99. - Failure To Pay Fees.

If any Rental Car Provider fails to remit on a timely basis the Rental Car Customer Facility Charge proceeds, as required by Sections 10-2-96 and 10-2-97 hereof, by the end of the tenth (10 th) day following the final day on which such remittance should timely have been remitted, the Rental Car Provider shall pay interest to the city at the rate of eighteen percent (18%) per annum (1.5% per month) (or, if less, the maximum rate of interest allowed by law) on such overdue amounts calculated from the date on which such amounts should timely have been remitted. Interest payments received by the city as a result of any Rental Car Provider failing to timely remit the Rental Car Customer Facility Charge proceeds shall not be credited to the calculation of the Rental Car Customer Facility Charge pursuant to section 10-2-95 hereof.

(Ord. No. 09-08, § 8, 1-31-08)

Sec. 10-2-100. - Rental Car Service Site Area Other Sources of Funds.

If the Service Site Area Customer Facility Charge proceeds are not sufficient to pay when due all costs and expenses associated directly or indirectly with the Service Site Area, the city will supplement the Customer Facility Charge proceeds to cure any such deficiencies, from the sources described in paragraphs (a) through (c) of this Section 10-2-100. The city may employ any or all of the other sources

of funds listed below to pay obligations when due. The sources of the other funds that will be applied are as follows:

(a) *Facilities Rent* —The city may charge Rental Car Providers using the rental car service sites a facilities rent for use of the pavement, buildings, and equipment.

i. At any time during a Fiscal Year in which the city projects that Service Site Area Customer Facility Charge proceeds will be insufficient to pay when due all Service Site Area costs and expenses, the city may charge the Rental Car Providers, for the use of the Rental Car Service Sites a facilities rental for the pavement, buildings, and equipment on each Rental Car Service Site.

ii. The facilities rent shall be calculated to recover a prorated share of the city's debt service and other requirement allocable to each rental car service site.

iii. Facilities rent shall be payable monthly in advance on the first day of each month. Facility rent will be held in a separate account of the airport and relating to the Rental Car Provider's Rental Car Service Site and applied exclusively to pay the cost and expenses of the Rental Car Service Site Area. Facilities rent will be for separately from general airport revenue.

iv. Anytime during the Fiscal Year it appears that the Customer Facility Charge proceeds supplemented with facilities rent for the Fiscal Year will not be sufficient to pay when due all costs and expenses of the Service Site Area, the city may increase the facilities rent to a level that will, when combined with Customer Facility Charge proceeds, be sufficient to pay all costs and expenses of the Service Site Area; and

(b) *Ground Rent* —The city will charge Rental Car Providers using the Service Site Area a ground rent for use of the land on which the rental car service sites are located.

i. The ground rent requirement will be equal to ten percent (10%) of the appraised value of the entire Service Site Area or such other percentage determined appropriate by the city. The ground rent requirement will be charged to the Rental Car Providers using the Rental Car Service Sites. The ground rent will be allocated to each Rental Car Provider using a Service Site based on the Service Site size.

ii. Ground rent is payable monthly in advance on the first day of each month and shall be accounted for separately from general airport revenue. Ground rent is dedicated to the payment of debt service and operating and maintenance costs of the Service Site Area.

iii. In each Fiscal Year, if Service Site Area Customer Facility Charge proceeds plus Facilities Rent are projected to be sufficient to pay when due all costs and expenses of the Service Site Area, the ground rent may be used for other airport purposes.

(c) Such other airport revenue sources, and in such amounts, as the city may, in its sole and absolute discretion, determine. In the event that the city may exercise its discretion to secure the financing of any facilities described herein with such other airport revenue sources, the amount actually paid from such sources to carry or repay such financing shall be treated as a temporary advance, to be repaid from the rates and charges imposed under this Ordinance, in such manner as the city shall determine.

(Ord. No. 09-08, § 9, 1-31-08)

Sec. 10-2-101. - Rental Car Concession Agreements, Service Site Leases, Non-Concessionaire Rental Car Business Permits.

Any Rental Car Concession Agreements, Service Site Leases, and Non-Concessionaire Rental Car Business Permits, entered into by the city after the effective date of this policy, will be subject and subordinate to the terms and condition of this Rental Car Customer Facility Charge Policy.

(Ord. No. 09-08, § 10, 1-31-08)

CHAPTER 10-3. HARBORS AND WATERWAYS[5]

Footnotes:

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Cross reference— Offenses upon waters, Ch. 8-3; traffic, Ch. 11-2; floodplain management, Ch. 12-10.

ARTICLE I. - IN GENERAL

REPEAL SECTION 10-3-1.

Secs. 10-3-2—10-3-15. - Reserved.

ARTICLE II. - PORT OF PENSACOLA

Sec. 10-3-16. - Created; administrative head.

There is hereby established a department which shall be known as the Port of Pensacola with its administrative head to be the port director who shall be appointed by and report directly to the mayor.

(Code 1968, § 73-4; Ord. No. 16-10, § 159, 9-9-10)

Sec. 10-3-17. - Powers and authority to publish tariff.

(a) The port director shall have the power to prescribe rules and regulations not inconsistent with the Charter and the ordinances passed in pursuance thereof, for the conduct of the officers and employees of the department, for the distribution and transaction of its business, and for the custody of the books, papers and property under his or her control.

(b) The mayor with approval of the city council shall have the authority to publish and amend the port tariff.

(Code 1968, §§ 73-6, 73-8; Ord. No. 16-10, § 160, 9-9-10)

Sec. 10-3-18. - Tariff—May be imposed for certain terminal services and privileges.

The city may impose a tariff for certain terminal services and privileges at the Port of Pensacola to include, but not limited to, wharfage, handling, berthing, storage, dockage, sheddage, rail car switching within the port terminal, use of port terminal rail trackage or the transferring of freight or cargo in export, import and coastwise traffic to and from ships, barges and rail cars. Said tariff shall be maintained, applied and enforced in accordance with applicable rules, regulations and policies of the Federal Maritime Commission.

(Code 1968, § 73-7)

REPEAL SECTION 10-3-19

CHAPTER 10-4. ENERGY SERVICES[6]

Footnotes:

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Cross reference— Administration, Title II; authority to set rates, etc., § 3-2-1; discontinued utility services delinquent customers, § 3-2-7; public service tax levy, § 3-4-66; franchise required for certain transient services and utilities, § 7-1-1; public works and improvements, Ch. 3-2.

ARTICLE I. - IN GENERAL

Sec. 10-4-1. - Fees for natural gas utility service.

Fees for all city furnished natural gas utility services are hereby established based on the cost to provide these services to the customer in addition to those fees and charges provided for elsewhere in this Code. Fees will be reviewed each year through an annual cost of service study to determine any changes in costs to provide service to customers. City council will be notified of any changes through the budget review process each year.

Fees are based on an average annual labor cost for the service including fringe benefits plus the actual equipment cost per hour times the average time (including drive time) to complete each type of work order. The fees will be adjusted from time to time in order to cover the cost of providing this service. The following fees will be reviewed annually:

(1) *New account and transferred accounts:* This fee covers the initial premises visit to either set the meter and/or establish the beginning meter reading. The technician ensures the meter is working properly, lights all appliances in the home or business, and answers any customer questions.

(2) *Resumption of terminated service:* This fee covers two (2) site visits. The first visit is to stop service for non payment where the meter is locked and sealed and the second visit is to reactivate service and light all appliances in the home or business.

(3) *Meter re-reads:* A fee is added to the customer's account for each subsequent request to read a meter if the initial reading has been substantiated.

(4) *Appliance turn-ons:* This fee covers the premises visit to light pilots.

(5) *Late payment charge:* One and one-half (1½) percent per month of the amount of the unpaid previous balance charged.

(6) *Deposits:* Deposits in an amount up to the total of the highest two (2) months bills for service within the previous twelve (12) months may be required of customers who, after the passage of this chapter, have their service cut for nonpayment or have a late payment history. The city will be responsible for the judicious administration of deposits.

(7) *Special request fee:* For new accounts, transferred accounts, resumption of terminated service, and pilot light turn-ons to be performed on the same day of the request, and miscellaneous appliance adjustments, a fee of twenty-five dollars ($25.00) in addition to the fees charged in (1), (2) and (4).

(8) *Unauthorized overrun fee:* An unauthorized overrun fee of two hundred (200) percent of the applicable rate times the unauthorized quantities of gas taken in excess of the contract quantity will be charged.

(9) *Operational Flow Order (OFO) charges:* Customers will be given at least eight (8) hours notice of an operational flow order unless a shorter time is required to protect the operational integrity

of the system. A customer exceeding allocated volume by less than ten (10) percent during the period restricted by the operational flow order shall be charged for each MMBtu taken in excess of the allocated volume the greater of 1) The city's weighted average cost of gas multiplied by one hundred five (105) percent or 2) the customer's contract rate multiplied by one hundred five (105) percent. A customer exceeding by greater than ten (10) percent their allocated volume during the restriction shall be charged for each MMBtu taken in excess of the allocated volume the city's weighted average cost of gas multiplied by one hundred five (105) percent plus twenty-five dollars ($25.00) per MMBtu.

(Code 1968, § 90-3; Ord. No. 40-86, § 1, 9-11-86; Ord. No. 52-89, § 2, 10-5-89; Ord. No. 14-94, § 4, 5-12-94; Ord. No. 26-99, § 6, 7-22-99; Ord. No. 44-00, § 1, 9-28-00; Ord. No. 13-05, § 1, 9-29-05; Ord. No. 01-06, § 1, 1-12-06)

Editor's note— Ord. No. 40-86, § 1, adopted Sept. 11, 1986, amended § 10-4-1 to read as herein set forth. Prior to such amendment, § 10-4-1 set out fees for municipal utility services.

Section 4 of Ord. No. 01-06 provided for an effective date of Jan. 13, 2006.

Cross reference— Schedule of gas rates and charges, § 10-4-19.

Secs. 10-4-2—10-4-15. - Reserved.

ARTICLE II. - GAS[7]

Footnotes:

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Cross reference— Certain utility ordinances saved from repeal, § 1-1-7(10).

Sec. 10-4-16. - Installation of services.

(a) The city will install for any new customer of its gas service a service line measuring from the gas main to the proposed meter site. For such portion of any such service line, the customer shall pay an installation charge equal to the cost of such installation minus the estimated net first annual revenue to the city derived from the sale of gas at the service address, such estimate to be determined by a city representative. There shall be no installation charge if the estimated net first annual revenue exceeds the cost of installation.

(b) The city may perform work on its distribution system upon customer or contractor request. Where applicable, the customer or contractor will pay a charge to offset the labor and materials expense as determined by a representative of the city.

(Code 1968, § 98-1(C); Ord. No. 98-83, § 1(§ 98-1C), 7-28-83; Ord. No. 44-00, § 1, 9-28-00; Ord. No. 13-05, § 1, 9-29-05; Ord. No. 01-06, § 1, 1-12-06; Ord. No. 21-11, § 1, 9-22-11; Ord. No. 08-17, § 1, 4-13-17)

Sec. 10-4-17. - Reserved.

Editor's note— Ord. No. 14-94, § 5, adopted May 12, 1994, repealed former § 10-4-17, which pertained to utility services deposit for city residents, as derived from Code 1968, § 98-5; Ord. No. 54-82, § 2, adopted May 13, 1982 and Ord. No. 28-85, § 2, adopted Sept. 26, 1985.

Sec. 10-4-18. - Reserved.

Editor's note— Ord. No. 14-94, § 5, adopted May 12, 1994, repealed former § 10-4-8, which pertained to advance deposit for other than in-city residential, as derived from Code 1968, § 98-5; Ord. No. 54-82, § 2, adopted May 13, 1982 and Ord. No. 28-85, § 2, adopted Sept. 26, 1985.

Sec. 10-4-19. - Schedule of rates and charges.

(a) The charges and assessments set forth below shall be levied and assessed by the department of Pensacola Energy through the mayor for natural gas services provided by the city to consumers.

The charges for gas are segregated according to the following service classifications: residential gas inside and outside the city limits (GR-1, GR-2), commercial gas inside and outside the city limits (GC-1, GC-2), interruptible industrial contract (GI-l, GI-2, GI-3, GI-4), City of Pensacola, almost firm service (GAF), flexible gas transportation (GTS, GPT, GIT, GVT), compressed natural gas service (CNG), and street or outdoor lighting.

(b) Purchased gas adjustment (PGA)—Service classifications having a distribution charge stated in Mcfs shall have the price per Mcf adjusted by the amount of any increase or decrease in the cost of gas purchased for resale. Changes to the PGA will be effective at the beginning of a monthly billing cycle.

(c) For the purpose of calculating the municipal public service tax, the city's cost of gas prior to October 1, 1973, was forty-five cents ($0.45) per Mcf.

(d) Weather normalization adjustment (WNA)—To adjust for fluctuations in consumption due to colder or warmer than normal weather during the months of October through March of the previous or current fiscal year, a WNA will be assessed on service classifications GR-1, GR-2, GC-1, GC-2, and GIT according to the following formula:

$$WNA = \frac{R \times (HSF \times (NDD-ADD))}{(BL + (HSF \times ADD))}$$

Where:

WNA = Weather normalization adjustment factor for each rate schedule classification expressed in cents per Mcf.

R = Weighted average base rate of temperature sensitive sales for each included rate schedule.

HSF = Heat sensitive factor for the appropriate rate schedule.

NDD = Normal billing cycle heating degree.

ADD = Actual billing cycle heating degree day.

BL = Average base load sales for each billing cycle.

Normal degree days (NDD) shall be based on the most current National Oceanic and Atmospheric Administration (NOAA) thirty-year normal data. Actual degree days (ADD) shall be based on NOAA data.

(e) The distribution pipeline infrastructure cost adjustment (DPICA) shall be adjusted annually, effective each October 1 by a percentage equal to the amount of eligible distribution pipeline infrastructure costs divided by the total test year margin revenues associated with the residential gas inside and outside city limits (GR-1 and GR-2), commercial gas inside and outside city limits (GC-1, GC-2, and GIT), and municipal operated building and facilities as shown for the 2012 Test Year shown in the most recent Cost of Service and Rate Design Study. Eligible distribution pipeline infrastructure costs include costs that meet all of the following conditions:

(1) The principal purpose of the project is not to increase revenues by directly connecting the infrastructure replacement to new customers;

(2) The project, or discrete portions thereof, are in service and used and useful;

(3) The costs of the project are not included in the city's existing base rates;

(4) The principal purpose of the project is to replace or extend the useful life of existing infrastructure, or otherwise enhance the infrastructure of city's physical plant; and

(5) City undertakes the project to comply with a valid statute, rule, regulation, order or ordinance, or other lawful requirement of a federal, state, or local governing or regulatory body having jurisdiction over pipeline integrity.

The percentage shall not exceed ten (10) percent of the non-gas operating expenses in the current fiscal year budget and will be applied to the rates used for each bill over the following twelve (12) months.

(f) Distribution and customer charge rates shall be adjusted annually if approved by the city council during budget sessions, effective each October based upon the percentage difference in the cost of living as computed under the most recent Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, U.S. Department of Labor for the period beginning April 1 of the preceding year and ending March 31 of the current year. The applicable rates are residential gas inside and outside the city limits (GR-1, GR-2), commercial gas inside and outside city limits (GC-1, GC-2), contract delivery, and municipal operated buildings and facilities.

(g) Tariff changes to pipeline transportation fees shall be assessed to each rate class upon implementation by the interstate or intrastate pipeline.

(h) Service charges shall include a customer charge and a distribution charge. The customer charge is a fixed monthly charge for having gas available and the distribution charge is a variable monthly charge based on consumption of gas. Service charges are as follows:

(1) *Service classification: GR-1, residential gas service.* (Within city limits of the City of Pensacola).

(1a) *Availability.* Available to any consumer using the city's natural gas service for any purpose in a residence only.

(1b) *Customer charge.* Nine dollars and ninety-four cents ($9.94) fixed monthly charge, plus

(1c) *Distribution charge.* Eight dollars and thirty-four cents ($8.34) per Mcf.

(2) *Service classification: GR-2, residential gas service.* (Outside city limits of the City of Pensacola).

(2a) *Availability.* Available to any consumer using the city's natural gas service for any purpose in a residence only.

(2b) *Customer charge.* Eleven dollars and nine cents ($11.09) fixed monthly charge, plus

(2c) *Distribution charge.* Ten dollars and thirty-one cents ($10.31) per Mcf.

(3) *Service classification: GC-1, commercial service.* (Within the city limits of the City of Pensacola).

(3a) *Availability.* Available to any commercial consumer for cooking, water heating, space heating, air conditioning, and like uses.

(3b) *Customer charge.* Seventeen dollars and fifty-eight cents ($17.58) fixed monthly charge, plus

(3c) *Distribution charge.* Eight dollars and thirty-four cents ($8.34) per Mcf.

(4) *Service classification: GC-2 commercial service.* (Outside the city limits of the City of Pensacola).

(4a) *Availability.* Available to any commercial consumer for cooking, water heating, space heating, air conditioning, and like uses.

(4b) *Customer charge.* Nineteen dollars and ninety-seven cents ($19.97) fixed monthly charge, plus

(4c) *Distribution charge.* Ten dollars and thirty-one cents ($10.31) per Mcf.

(5) *Service classification: GI-1, interruptible industrial contract service, small volume.*

(5a) *Availability.* Available to any consumer using the city's natural gas service provided the consumer has adequate standby facilities approved by the city that will permit the city to curtail consumption as the city may determine necessary. Service under this rate classification shall be governed by individual contracts with consumer which includes a customer charge, a distribution charge, and a charge for fuel. Such contracts may be executed by the Mayor. Contracts for this class or rate must be for not less than one (1) year. All consumers under this rate are subject to the terms of the contract.

(5b) *Contract volume.* Not less than twenty-five (25) Mcf per day.

(5c) *Customer charge.* Two hundred dollars ($200.00) fixed monthly charge, plus

(5d) *Distribution charge.* Two dollars and five cents ($2.05) per Mcf.

(6) *Service classification: GI-2, interruptible industrial contract service, large volume.*

(6a) *Availability.* Available to any consumer using the city's natural gas service provided the consumer has adequate standby facilities approved by the city that will permit the city to curtail consumption as the city may determine necessary. Service under this rate classification shall be governed by individual contracts with consumer which includes a customer charge, a distribution charge, and a charge for fuel. Such contracts may be executed by the Mayor. Contracts for this class or rate must be for not less than one (1) year. All consumers under this rate are subject to the terms of the contract.

(6b) *Contract volume.* Not less than two hundred fifty (250) Mcf per day.

(6c) *Customer charge.* Two hundred dollars ($200.00) fixed monthly charge, plus

(6d) *Distribution charge.* One dollar and five cents ($1.05) per Mcf.

(7) *Service classification: GI-3, interruptible industrial flexible contract service, large volume.*

(7a) *Availability.* Available to any consumer using the city's natural gas service provided the consumer has adequate standby facilities approved by the city that will permit the city to curtail consumption as the city may determine necessary. Service under this rate classification shall be governed by individual contracts with consumer which includes a customer charge, a distribution charge, and a charge for fuel. Such contracts may be executed by the Mayo. Contracts for this class or rate must be for not less than one (1) year. All consumers under this rate are subject to the terms of the contract.

(7b) *Contract volume.* Not less than five hundred (500) Mcf per day.

(7c) *Customer charge.* Two hundred dollars ($200.00) fixed monthly charge, plus,

(7d) *Distribution charge.* Rates to be negotiated.

(8) *Service classification: GI-4, interruptible transportation flexible contract service.*

(8a) *Availability.* Available to any consumer using the city's natural gas service provided the consumer has adequate standby facilities approved by the city that will permit the city to curtail consumption as the city may determine necessary. Service under this rate classification shall be governed by individual contracts with consumer which includes a customer charge, a distribution charge, and a charge for fuel. Such contracts may be executed by the Mayor. Contracts for this class or rate must be for not less than one (1) year. All consumers under this rate are subject to the terms of the contract.

(8b) *Contract volume.* Not less than one hundred (100) Mcf nor more than five hundred (500) Mcf per day.

(8c) *Customer charge.* Two hundred dollars ($200.00) fixed monthly charge, plus

(8d) *Distribution charge.* The GI-4 distribution charge shall consist of the following components:

1. The contracted cost of gas as it may vary from time to time, plus
2. The existing transportation rate on the city's natural gas distribution system as established under the annual pipeline transportation fees of One dollar and seventy-four cents ($1.74) plus ninety-two cents ($0.92) local transportation charge net per one (1) MMBTU/day transported for gas transportation service, plus
3. A seven cent ($0.07) margin on the contracted cost of natural gas.

These three (3) components shall determine the monthly cost of any consumer in this class or rate times the number of MMBTUs used by the consumer.

(9) *Service classification: City of Pensacola.*

(9a) *Availability.* Available to all current municipally operated buildings and facilities, and current and former municipally operated utilities, and other uses as authorized by the Mayor. Measurement shall be by standard meter as normally used within the city.

(9b) *Customer charge.* Twenty-two dollars and eighteen cents ($22.18) fixed monthly charge, plus

(9c) *Distribution charge.* Three dollars and twenty-four cents ($3.24) per Mcf.

(10) *Service classification: GTS, gas transportation service.* (For large volume commercial/industrial consumers).

(10a) *Availability.* Available to a consumer with sufficient resources for purchasing its own natural gas supplies and transporting it on the city's natural gas system to the consumer's facilities. The city will determine which gate station on the city's interstate pipeline transporter system has adequate capacity to receive the transportation request. There shall be a separate contract with each consumer for each service location which includes a customer charge, a distribution charge, and a charge for fuel. Such contracts may be executed by the Mayor. Contracts for this service must be for not less than one (1) year.

Consumers using this service must have adequate standby facilities approved by the city that will permit the city to curtail consumption as the city may determine necessary.

(10b) *Contract volume.* Transportation volumes not less than two hundred (200) MMBTU per day. Volume requirements shall be reviewed in determining if a consumer shall qualify for this rate.

(10c) *Customer charge.* Two hundred dollars ($200.00) fixed monthly charge, plus

(l0d) *Distribution charge.* Rates to be negotiated.

An additional $0.0475/MMBTU shall be added to cover administrative, maintenance, and monitoring costs for the transportation distribution on a daily basis. The consumer must notify

the city a minimum of five (5) working days prior to the beginning of each month and identify the volume of the third party gas to be transported on the system during that month.

(11) *Service classification: GPT, gas purchased transportation service.* (For large volume commercial/industrial consumers).

(11a) *Availability.* Available to a consumer using the city's natural gas service. There shall be a separate contract with each consumer which includes a customer charge, a distribution charge, and a charge for fuel. Such contracts may be executed by the Mayor. Contracts for this service must be for not less than one (1) year. All consumers under this rate are subject to the terms of the contract.

(11b) *Contract volume.* Transportation volumes not less than two hundred (200) MMBTU per day. Volume requirements shall be reviewed in determining if a consumer shall qualify for this rate.

(11c) *Customer charge.* Two hundred dollars ($200.00) fixed monthly charge, plus

(11d) *Distribution charge.* Rates to be negotiated.

A seven cent ($0.07) margin on the contracted cost of natural gas.

(12) *Service classification: GAF, almost firm service.*

(12a) *Availability.* Available to any consumer using the city's natural gas service. Service under this rate classification shall be governed by individual contracts with consumer which includes a customer charge, a distribution charge, and a charge for fuel. Such contract will be executed by the Mayo. Contracts for this class or rate must be for not less than one (1) year. All consumers under this rate are subject to the terms of the contract.

(12b) *Contract volume.* Not less than seventy-five (75) Mcf per day.

(12c) *Customer charge.* Two hundred dollars ($200.00) fixed monthly charge, plus

(12d) *Distribution charge.* One dollar and seventy-four cents ($1.74) for annual pipeline transportation fees plus ninety-two cents ($0.92) local transportation charge net per one (1) MMBTU/day transported for gas transportation service, plus

A seven cent ($0.07) margin on the contracted cost of natural gas.

(13) *Service classification: GIT, flexible gas transportation service.*

(13a) *Availability.* Available to any consumer using the city's natural gas service provided the consumer has adequate standby facilities approved by the city that will permit the city to curtail consumption as the city may determine necessary. Service under this rate classification shall be governed by individual contracts with consumer which includes a customer charge, a distribution charge, and a charge for fuel. Such contract will be executed by the Mayor. Contracts for this service must be for not less than one (1) year. All consumers under this rate are subject to the terms of the contract.

(13b) *Customer charge.* Nineteen dollars and ninety-seven cents ($19.97) fixed monthly charge, plus

(13c) *Distribution charge.* Rates to be negotiated.

(14) *Service Classification: CNG, Compressed Natural Gas Service.*

(14a) *Availability.* Available to any commercial or industrial customer utilizing natural gas for compressed natural gas refueling facilities. Service under this rate classification shall be governed by individual contracts with consumer. Such contract will be executed by the Mayor. Contracts for this service must be fore not less than one (1) year. All consumers under this rate are subject to the terms of the contract.

(14b) *Distribution charge.* Rates to be negotiated.

(15) *Service classification: GVT, flexible governmental industrial transportation service.*

(15a) *Availability.* Available to all governmental industrial transportation customers utilizing the city's gas services. Service under this rate classification shall be governed by individual contracts with consumer which includes a customer charge, a distribution charge, and a charge for fuel. Such contract will be executed by the Mayor. Contracts for this service must be for not less than one (1) year. All consumers under this rate are subject to the terms of the contract.

(15b) *Contract volume.* Transportation volumes not less than two hundred fifty (250) MMBTU per day. Volume requirements shall be reviewed in determining if a consumer shall qualify for this rate.

(15c) *Customer charge.* Two hundred dollars ($200.00) fixed monthly charge, plus

(15d) *Distribution charge.* Seventy cents ($0.70) per MMBTU.

(16) *Service classification: Street or outdoor lighting.*

(16a) *Availability.* Available to firm residential or commercial customers for continuous street, outdoor lighting, or communications power supply.

(16b) *Monthly rate.*

Communications power supply flat rate $10.85

Gas lights small, up to 2.36 cu. ft. per hour $10.85

Gas lights medium, up to 3.48 cu. ft. per hour $15.95

Gas lights large, up to 4.86 cu. ft. per hour $22.33

(Code 1968, § 98-1(A); Ord. No. 86-82, § 1, 7-22-82; Ord. No. 168-82, § 1, 11-11-82; Ord. No. 17-83, § 1, 1-27-83; Ord. No. 101-83, § 1, 8-11-83; Ord. No. 42-91, § 1, 9-26-91; Ord. No. 4-92, § 1, 2-13-92; Ord. No. 23-93, § 1, 9-30-93; Ord. No. 46-96, § 1, 9-26-96; Ord. No. 49-98, §§ 1—10, 9-24-98; Ord. No. 43-00, § 1, 9-28-00; Ord. No. 12-04, § 1, 5-27-04; Ord. No. 27-07, § 1, 5-24-07; Ord. No. 37-08, § 2, 7-24-08; Ord. No. 16-10, § 161, 9-9-10; Ord. No. 28-11, § 1, 9-28-11; Ord. No. 14-12, § 1, 7-19-12; Ord. No. 25-13, § 1, 9-26-13; Ord. No. 40-14, § 1, 10-9-14; Ord. No. 18-15, § 1, 9-17-15; Ord. No. 27-17, § 1, 9-14-17; Ord. No. 13-18, § 1, 9-13-18; Ord. No. 21-19, § 1, 9-26-19)

Sec. 10-4-20. - Reserved.

Editor's note— Ord. No. 14-94, § 5, adopted May 12, 1994, repealed former § 10-4-20, which pertained to charge for lighting gas appliances, as derived from Code 1968, § 98-1(D) and Ord. No. 98-83, § 1, adopted July 28, 1983.

Sec. 10-4-21. - Billing.

The city shall issue and send to the consumers of natural gas and the customers of the natural gas services provided by the city, bills and invoices for natural gas furnished consumers and customers by Energy Services of Pensacola, based upon the schedules on file in the clerk's office.

(Code 1968, § 98-3; Ord. No. 26-99, § 6, 7-22-99; Ord. No. 37-08, § 3, 7-24-08)

Sec. 10-4-22. - Collection of charges.

It shall be the duty of the mayor to collect the charges set forth on the bills and invoices issued to consumers and customers for natural gas services furnished the consumers and customers by Energy Services of Pensacola.

(Code 1968, § 98-4; Ord. No. 26-99, § 6, 7-22-99)

Sec. 10-4-23. - Disposition of funds collected.

Fees that result from installing gas services should accrue to the gas bond and construction account.

(Code 1968, § 98-1(E); Ord. No. 98-83, § 1, 7-28-83; Ord. No. 14-94, § 6, 5-12-94)

CHAPTER 10-5. TELECOMMUNICATIONS

REPEAL SECTION 10-5-1.

REPEAL SECTION 10-5-2.

TITLE XI. - TRAFFIC AND VEHICLES[1]

CHAPTERS

Footnotes:

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Cross reference— Administration, Title II; parks and recreation, Ch. 6-3; fire, liquidation and other sales, Ch. 7-7; peddlers and solicitors, Ch. 7-9; vehicles for hire, Ch. 7-10; wreckers and wrecker companies, Ch. 7-11; buildings and building regulations, Ch. 7-13; airports and aircraft, Ch. 10-2; advertising and signs, Ch. 12-4; fire prevention and protection, Ch. 7-13, Art. XII; planning, Ch. 12-0; streets, sidewalks and other public places, Ch. 11-4; subdivisions, Ch. 12-8.

CHAPTER 11-1. GENERAL PROVISIONS

Sec. 11-1-1. - Adoption by reference of Florida Uniform Traffic Control Law.

There is hereby adopted by reference the Florida Uniform Traffic Control Law, F.S. Ch. 316, as amended, which law shall be in full force and effect in the city as if fully set forth herein, and shall be considered as part of this Code.

State Law reference— Motor vehicles, F.S. § 316.001 et seq.; powers of local authorities, F.S. § 316.008; uniform disposition of traffic infractions act, F.S. Ch. 318.

Sec. 11-1-2. - Adoption by reference of Florida Uniform Disposition of Traffic Infractions Act.

There is hereby adopted by reference the Florida Uniform Disposition of Traffic Infractions Act, being F.S. Ch. 318, as amended, which act shall be in full force and effect in the city as if fully set forth herein, and shall be considered as part of this title.

CHAPTER 11-2. TRAFFIC[2]

Footnotes:

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Cross reference— Administration, Title II; traffic regulations at Pensacola Regional Airport, § 10-2-12; vehicles other than taxicabs prohibited from using open stands and callbox stands, § 7-10-118; vehiclesfor hire, Ch. 7-10; wreckers and wrecker companies, Ch. 7-11; airports and aircraft, Ch. 10-2;harbors and waterways, Ch. 10-3; zoning districts, Ch. 12-2; signs, Ch. 12-4; trees, Ch. 12-6; railroads, Ch. 11-3.

State Law reference— Motor vehicles, F.S. § 316.001 et seq.; powers of local authorities, F.S. § 316.008; pedestrians obedience to traffic-control devices and traffic regulations, F.S. § 316.130.

ARTICLE I. - IN GENERAL

Sec. 11-2-1. - Definitions.

The following words and phrases, when used in this chapter, shall have the following meanings, except where the context clearly indicates a different meaning:

Alley. Every street or way within a block set apart for public or private use, vehicular travel and local convenience, except footpaths.

Authorized emergency vehicle. Vehicles defined in F.S. section 316.003(1).

Bicycle. Vehicles defined in F.S. section 316.003(2).

Bus stand. A fixed area in the roadway parallel and adjacent to the curb, to be occupied exclusively by buses for layover in operating schedules or waiting for passengers.

Commercial vehicle. Any motor vehicle, trailer, or semi-trailer designed or used to carry passengers, freight, materials, or merchandise in the furtherance of any commercial enterprise.

Commercial vehicle—Large means any commercial vehicle greater than seven (7) feet wide, seven (7) feet high or twenty-five (25) feet long including but not limited to the following: construction equipment (bulldozers, graders etc.) semi-tractors and/or trailers, moving vans, delivery trucks, flat-bed and stake-bed trucks, buses, and similar vehicles over seven (7) feet wide, seven (7) feet high or twenty-five (25) feet long.

Commercial vehicle—Small means any commercial vehicle less than or equal to seven (7) feet wide, seven (7) feet high or twenty-five (25) feet long including but not limited to the following: automobiles, pick-up trucks, sport utility vehicles, vans, and other vehicles which are also commonly used as personal vehicles.

Common carrier. The term "regular common carrier of passengers" shall mean all common carriers of passengers operating between fixed termini, over regular routes and on fixed schedules.

Curb loading zone. A space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

Double parking or *double standing* or *double stopping.* The parking, standing or stopping of a vehicle upon the roadway side of another vehicle parking, standing or stopping, but not legally within or adjacent to an open parking space.

Freight curb loading zone. A space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight.

Holidays. Where used in this chapter or on official signs erected by authorized official agencies, in addition to Sundays, the following entire days recognized as federal holidays: New Year's Day, Martin Luther King, Jr. Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day and Christmas Day.

Major recreational equipment means all travel trailers, camping trailers, truck campers, motor homes, boats, boat trailers, race cars, utility trailers, dune buggies and similar recreational equipment.

Parking meter. A device authorized by this municipality to be used for the purpose of regulating parking.

Passenger curb loading zone. An area adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

Police chief and police officer. Sworn law enforcement officerss employed, directed and supervised by the mayor.

Residence district. The territory contiguous to a street not comprising a business district or central business district when the frontage on the street for a distance of three hundred (300) feet or more is mainly occupied by dwellings or by dwellings and buildings in use for residence.

Restricted access street. Every street or roadway in respect to which owners or occupants of abutting property or lands and other persons have no legal right of access to or from the same, except at such points only and in such manner as may be determined by the public authority having jurisdiction over such streets or roadway.

Taxi or *taxicab stand.* A fixed area in the roadway parallel and adjacent to the curb, set aside for taxicabs to stand or wait for passengers.

Taxi, taxicab. A licensed public motor vehicle for hire, designated and constructed to seat not more than seven (7) persons and operating on call or demand.

(Code 1968, § 155-1; Ord. No. 12-97, § 1, 3-13-97; Ord. No. 11-06, § 1, 4-13-06)

Cross reference— Definitions and rules of construction generally, Ch. 1-2.

Sec. 11-2-2. - Duties and powers of mayor.

(a) The mayor of the city, except as otherwise directed by this chapter, shall have power and he is hereby authorized to regulate the operation and parking of vehicles within the city by the erection or placing of proper signs or markers indicating prohibited or limited parking, restricted speed areas, one-way streets, through or arterial streets, stop streets, U-turns, play street, school zones, hospital zones, loading and unloading zones, quiet zones and other signs or markers indicating the place and manner of operating or parking vehicles within the corporate limits of the city. The mayor shall also have the power and he is hereby authorized to designate crosswalks, safety zones, bus stops and taxicab stands and to erect signs prohibiting the parking of vehicles other than buses and taxicabs in such stands. The mayor shall also have the power and he is hereby authorized to designate truck routes and to regulate the parking of vehicles of various sizes and weights. The mayor shall further have the power and he is hereby authorized to cause all such necessary signs or markers to be erected or placed on any street or part of a street when he deems such action necessary. It shall also be the general duty of the mayor to determine the installations and proper timing and maintenance of traffic-control devices.

(b) The mayor is further empowered and authorized to mark off traffic lanes on streets and parts of streets indicating and directing the flow of traffic when in his judgment that action is necessary.

(c) The existence of signs, signals or markers at any place within the corporate limits of the city shall be prima facie evidence that the signs or markers were erected or placed by and at the direction of the mayor and in accordance with the provisions of this section.

(d Any person failing or refusing to comply with the directions indicated on any sign or marker erected or placed in accordance with the provisions of this section, when so placed or erected, shall be guilty of a violation of this Code and subject to the penalties as set out in section 1-1-8.

(Code 1968, § 155-2; Ord. No. 16-10, § 162, 9-9-10)

Editor's note— Ord. No. 16-10, § 162, adopted Sept. 9, 2010, changed the title of § 11-2-2 from "duties and powers of city manager" to "duties and powers of mayor." See also the Code Comparative Table.

Sec. 11-2-3. - Traffic control devices.

It is the general duty of the director of public works & facilities to plan and determine the installation and proper timing and maintenance of traffic-control devices; to plan and direct the operation of traffic on the streets of this municipality, including parking areas; to conduct investigations of traffic conditions; to cooperate with other municipal and state officials and make recommendations for the improvement of traffic movement and conditions, including improvements in streets; and to carry out the additional powers and duties imposed by ordinances of this municipality.

(Code 1968, § 155-3; Ord. No. 16-10, § 163, 9-9-10)

Sec. 11-2-4. - Duties of law enforcement officers.

It shall be the duty of law enforcement officers to enforce the provisions of this chapter and the state vehicle laws applicable to traffic in this municipality; to make arrests for traffic violations; to assist in the prosecution of persons charged with traffic violations; to investigate accidents; to cooperate with all other officials of the municipality in the administration of the traffic laws and in developing ways and means to improve traffic conditions; and to carry out those duties especially imposed by this Code and the traffic laws of this municipality.

(Code 1968, § 155-4)

REPEAL SECTION 11-2-5.

(Code 1968, § 155-9)

Sec. 11-2-6. - Authority of police and fire department officials.

(a) It is the duty of the law enforcement officers, to enforce all traffic laws of this municipality and of the state vehicle laws applicable to street and highway traffic in this municipality.

(b) Officers of the police department or special officers assigned by the chief of police are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws, provided that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

(c) Authorized city personnel, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

(Code 1968, § 155-10)

Sec. 11-2-7. - Following wreckers and emergency vehicles unlawful.

No person shall follow in a motor vehicle any ambulance, police car or wrecker which is traveling on a public street in response to report of an automobile collision or accident.

(Code 1968, § 162-5)

Cross reference— Wreckers and wrecker companies, Ch. 7-11.

Sec. 11-2-8. - Farm tractors, trailers, semitrailers, trucks, commercial vehicles.

(a) When signs are erected giving notice thereof, no person shall operate or stop, stand or park any farm tractor, trailer, semitrailer, truck or commercial vehicle with a gross weight in excess of the amounts specified by the signs at any time upon any street or part of a street where the signs are located.

(b) It shall be unlawful to operate, park, stand or use upon any public street any commercial vehicle unless the vehicle is designated by lettering of three (3) inches minimum size on either side indicating the same for a commercial use.

(Code 1968, § 155-120)

Sec. 11-2-9. - Use of coasters, roller skates and similar devices.

No person upon roller skates or riding in or by means of any coaster, toy vehicle or similar device shall go upon any roadway except while crossing a street on a crosswalk, and when so crossing, such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This section shall not apply upon any street while set aside as a play street as authorized by ordinance of this municipality.

(Code 1968, § 155-129)

Sec. 11-2-10. - Vehicles creating hazardous conditions on Pensacola Bay Bridge.

(a) Any motor vehicle located on the Pensacola Bay Bridge, lying between Gulf Breeze, Florida, and Pensacola, Florida, is hereby determined to create a dangerous and hazardous condition jeopardizing lives and properties of all persons using said bridge whenever either of the following conditions occur:

    (1) When the fuel supply of a motor vehicle, be it gasoline or other substance, is insufficient to propel the motor vehicle off of the Pensacola Bay Bridge; or

    (2) When the operator of a motor vehicle stops the motor vehicle on the Pensacola Bay Bridge for the purpose of changing a flat tire or making other repairs, rather than driving said vehicle off the Pensacola Bay Bridge or waiting for wrecker assistance;

    (3) Abandoning the motor vehicle by leaving the immediate vicinity of the disabled vehicle.

(b) It shall be unlawful for any person operating or having control of a motor vehicle to allow said motor vehicle to create a dangerous and hazardous condition as described in subsection (a) above.

(c) Any person or persons who shall violate any of the provisions of this section shall be punished by a fine in the amount of twenty-five dollars ($25.00). This fine shall double in amount if payment is not received by the city, or if payment by mail is not postmarked, within seventy-two (72) hours of the time of notice of the violation.

(d) An appropriate notice regarding the prohibited conduct described herein shall be conspicuously posted on all approaches to the Pensacola Bay Bridge.

(Ord. No. 21-85, §§ 1—4, 6-13-85; Ord. No. 12-97, § 2, 3-13-97)

Editor's note— Ord. No. 21-85, §§ 1—4, adopted June 13, 1985, being not specifically amendatory of the Code, has been included as § 11-2-10 herein, at the discretion of the editor.

Sec. 11-2-11. - Reserved.

Editor's note— Ord. No. 30-16, § 2, adopted November 17, 2016, repealed § 11-2-11, which pertained to combat auto theft. See Code Comparative Table for complete derivation.

Sec. 11-2-12. - Port truck routes.

(a) No person operating a commercial vehicle for ingress to or egress to and from the Port of Pensacola and between the Port of Pensacola and Interstate Highway I-110, shall operate such vehicle upon any street other than a designated port truck route.

(b) A warning shall be issued first for any commercial vehicle found to be in violation of subsection (a). A fine of seventy-five dollars ($75.00) shall be levied for a second violation by the same commercial vehicle or by the operator of a commercial vehicle. The amount of the fine shall be doubled if payment is not received by the city, or if payment by mail is not postmarked, within seventy-two (72) hours of the time of notice of the violation. Both the owner and the operator of the commercial vehicle shall be jointly and severably liable for any fine. A third violation of subsection (a) by either the same commercial vehicle or the same operator of any commercial vehicle shall result in the operator of the vehicle being prohibited from entering the Port of Pensacola for a period of thirty (30) days or until any unpaid fine is paid, whichever is later.

(Ord. No. 18-04, § 1, 9-9-04)

Secs. 11-2-13—11-2-20. - Reserved.

ARTICLE II. - STOPPING, STANDING AND PARKING[3]

Footnotes:

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Cross reference— Stopping or parking of buses and taxicabs, § 7-10-5.

DIVISION 1. - GENERALLY

Sec. 11-2-21. - Application of regulations.

The provisions prohibiting the stopping, standing or parking of a vehicle shall apply at all times or at those herein specified or as indicated on official signs except when it is necessary to stop vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic-control device.

(Code 1968, § 155-111)

Sec. 11-2-22. - Regulations not exclusive.

The provisions of sections 11-2-31, 11-2-32, 11-2-33 and 11-2-34 imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing or parking of vehicles in specified places or at specified times.

(Code 1968, § 155-112)

Sec. 11-2-23. - Authority of police officer to impound or require removal of illegally parked vehicle.

Whenever any police officer finds a vehicle standing upon a street or alley in violation of any of the provisions of this title, the officer is hereby authorized to move the vehicles or require the driver or person in charge of the vehicle to move the same to a position off the paved or improved or main-traveled part of the street or alley.

(Code 1968, § 155-103)

Sec. 11-2-24. - Parking for certain uses prohibited.

No person shall park a vehicle upon any street, right-of-way, vacant lot or parking lot for the principal purpose of:

(1) Displaying such vehicle for sale;

(2) Washing, greasing or repairing such vehicle, except repairs necessitated by an emergency;

(3) Displaying advertising;

(4) Selling merchandise from such vehicle except in a duly established marketplace or when so authorized or licensed under the ordinances of this municipality; or

(5) Storage for more than twenty-four (24) hours.

(Code 1968, § 155-105; Ord. No. 11-06, § 2, 4-13-06)

Sec. 11-2-25. - Permit required for loading and unloading at an angle to the curb.

No person shall stop, stand or park any vehicle at right angles to the curb for the purpose of loading or unloading of merchandise without a permit issued by the mayor or his authorized representative.

(Code 1968, § 155-97; Ord. No. 16-10, § 164, 9-9-10)

Sec. 11-2-26. - Obstruction of traffic.

(a) No person shall park any vehicle upon a street in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for free movement of vehicle traffic.

(b) Where streets are not completely paved or curbs provided, the parking of a car shall not use up more than twelve (12) inches of the paved portion of the street.

(Code 1968, § 155-101)

Sec. 11-2-27. - Alleys.

(a) No person shall stop, stand or park a vehicle within an alley in a business district except for the expeditious loading or unloading of materials, and in no event for a period of more than twenty (20) minutes, and no person shall stop, stand or park a vehicle in any other alley in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for the free movement of vehicular traffic.

(b) No person shall stop, stand or park a vehicle within an alley in such position as to block the driveway or entrance to any abutting property.

(Code 1968, § 155-102)

Sec. 11-2-28. - Passenger curb loading zones.

No person shall stop, stand or park a vehicle for any purpose or period of time except for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to such passenger curb loading zone are effective, and then only for a period not to exceed five (5) minutes.

(Code 1968, § 155-106)

Sec. 11-2-29. - Freight curb loading zones.

(a) No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to those zones are in effect. In no case shall the stop for loading and unloading of materials exceed thirty (30) minutes.

(b) The driver of a vehicle may stop temporarily at a place marked as a freight curb loading zone for the purpose of and while actually engaged in loading or unloading passengers when the stopping does not interfere with any motor vehicle used for the transportation of materials which is waiting to enter or about to enter the zone.

(Code 1968, § 155-107)

Sec. 11-2-30. - Restricted parking zones.

No person shall stop, stand or park a vehicle for any purpose or length of time in any restricted parking zone other than for the purpose to which parking in that zone is restricted, except that a driver of a passenger vehicle may stop temporarily in the zone for the purpose of and while actually engaged in loading or unloading of passengers when the stopping does not interfere with any vehicle which is waiting to enter or about to enter the zone for the purpose of parking in accordance with the purpose to which parking is restricted.

(Code 1968, § 155-108)

Sec. 11-2-31. - Parking prohibited at all times on certain streets.

When signs are erected giving notice thereof, no person shall park a vehicle at any time upon any street whereon parking is thus prohibited.

(Code 1968, § 155-113)

Sec. 11-2-32. - Parking prohibited at all times at certain places.

No person shall park a vehicle at any time on any of the following parts of streets, sidewalks or sidewalk areas where signs are erected giving notice thereof:

(1) In front of a theater entrance;

(2) In front of the entrance or exit of a hotel;

(3) In front of the entrance to any building where in the opinion of the mayor, parking should be prohibited for public safety.

(Code 1968, § 155-114; Ord. No. 16-10, § 165, 9-9-10)

Sec. 11-2-33. - Prohibited during certain hours on certain streets.

When signs are erected in each block giving notice thereof, no person shall stop, stand or park a vehicle within the block during the hours prohibited by the signs.

(Code 1968, § 155-115)

Sec. 11-2-34. - Parking time limited on certain streets.

When signs are erected giving notice thereof, no person shall stop, stand or park a vehicle in the block where the signs are located at any time during the hours prohibited by the signs.

(a) Parking on blocks posted with a time limit is permitted free of charge for a period not to exceed the time limit posted.

(b) No person shall move or reposition a vehicle parked on street to another on street location on the same block having a posted time limit for purposes of avoiding the posted time limits. Moving or repositioning a vehicle parked on street to another on street location on the same block having a posted time within eight (8) hours of initially parking within the same block having a posted time limit shall create a rebuttable presumption that the moving or repositioning of the vehicle parked was for the purpose of avoiding the posted time limits.

(Code 1968, § 155-116; Ord. No. 41-14, § 1, 10-23-14)

Sec. 11-2-35. - Parking of major recreational equipment and commercial vehicles in residential areas restricted.

It shall be unlawful for any person to park or store major recreational equipment or commercial vehicles (large commercial vehicle or small commercial vehicles) except in accordance with the provisions of subsections (A) and (B) below and sections 12-2-36 (parking and storage of major recreational equipment) and 12-2-43 (parking of commercial vehicles in residential neighborhoods).

(A) *Recreational equipment.*

(1) *General requirements.*

(a) Parking or storage of major recreational equipment, except for loading and unloading not to exceed twenty-four (24) hours, shall not be permitted in any portion of any public right-of-way.

(b) Repairing or maintaining major recreational equipment, except repairs necessitated by an emergency, shall not be permitted in any portion of any public right-of-way.

(c) Major recreational equipment shall not be parked or stored on any vacant lot except where such vacant lot adjoins a lot on which a principal structure under the same ownership is located.

(d) Major recreational equipment may not be parked or stored on a parking lot for the principal purpose of displaying such equipment for sale except on parking lots where the sale of vehicles and major recreational equipment is a duly authorized permitted use (i.e. new and used car lot, major recreational equipment sales lot).

(e) Major recreational equipment may not be used for storage of goods, materials or equipment other than those items considered to be part of the vehicle or major recreational equipment essential for its immediate use.

(f) Parking or storage of major recreational equipment is allowed in duly authorized facilities designed for storage and parking of major recreational equipment and on residential premises as provided in subsection 11-2-35(A)(2).

(2) *Residential requirements.* Parking or storage of major recreational equipment on residential premises shall be allowed subject to the following conditions:

(a) May be parked or stored in:

1. Permanent equipment enclosures such as carports or garages;

2. The driveway of the owner's residence but not in any portion of any public right-of-way;

3. Rear yards not closer than three (3) feet to the rear and side property lines;

4. The front yard except in the required visibility triangle (refer to section 12-2-35) but only perpendicular to the front lot line and within fifteen (15) feet of either side lot line; or

5. One of the required side yards but not both. May be parked on corner lots in the required street side yard except in the required visibility triangle.

(b) May be parked anywhere on residential premises not to exceed twenty-four (24) hours during loading or unloading.

(c) Shall not be used for living, sleeping or housekeeping purposes while stored on a residential premises.

(d) Shall not be connected to any utilities except electricity.

(e) May not be parked or stored in required parking spaces of multiple-family developments.

(f) Must be maintained in an operable condition and must be properly licensed in accordance with all laws of the State of Florida.

(B) *Commercial vehicles.*

(1) *Large commercial vehicles.*

(a) Parking or storage of any large commercial vehicle, except for loading and unloading not to exceed twelve (12) hours, shall not be permitted in any portion of the right-of-way located within a residential district or development. Loading and unloading means that the commercial vehicle is attended and materials are being actively loaded/unloaded into and out of the commercial vehicle.

(b) Parking or storage of any large commercial vehicle on any residential premises shall not be permitted except as follows:

1. Temporary parking during loading and unloading not to exceed twelve (12) hours. Loading and unloading means that the commercial vehicle is attended and materials are being actively loaded/unloaded into and out of the commercial vehicle.

2. Temporary parking of construction equipment and delivery vehicles on or adjacent to a properly permitted construction site.

(c) Large commercial vehicles shall not be used for living, sleeping or housekeeping purposes while temporarily parked as provided above.

(d) The mayor may, for good cause shown, grant a temporary permit with reasonable conditions exempting any large commercial vehicle from the provisions of this section for a period not to exceed seventy-two (72) hours.

(e) Permanent parking or storage of large commercial vehicles on a residential premises may be permitted according to the following specific requirements:

1. Must be contained within a garage or similar enclosed accessory structure meeting the requirements of subsection 12-2-31(D): residential accessory structures standards.

2. Shall not be connected to any utilities.

3. Shall not be used for living, sleeping or housekeeping purposes.

4. Must be maintained in an operable condition and must be properly licensed in accordance with all laws of the State of Florida.

(2) *Small commercial vehicles.* Small commercial vehicles when not in active service shall not be parked or stored in any portion of the right-of-way located within a residential district or development between the hours of 6:00 p.m. and 6:00 a.m.

Permanent parking or storage of small commercial vehicles on residential premises is permitted subject to the following conditions:

(a) May be parked or stored in:

1. Garage, carport or similar enclosed accessory structure meeting the requirements of subsection 12-2-31(D): residential accessory structures standards.

2. The driveway of the residential premises of the vehicles owner and/or operator.

(b) Must be maintained in an operable condition and properly licensed in accordance with all laws of the State of Florida.

(c) Must be owned and/or operated by a resident of the residential premises.

(d) Shall not be connected to any utilities.

(e) Shall not be used for living, sleeping or housekeeping purposes.

(f) Shall not be more than two (2) small commercial vehicles on a residential premises.

(3) *Public school buses.* Public school buses operated by drivers employed by the Escambia County School District during the school year shall be permitted to park on the residential premises of the operator. Public school buses shall not be parked or stored in any portion of the right-of-way in a residential district or development between the hours of 6:00 p.m. and 6:00 a.m. Public school buses shall adhere to all provisions of subsections 11-2-35(B)(1) and 12-2-43(A).

(C) *Penalties.*

(1) The owner of any recreational equipment or commercial vehicle found to be in violation of any of the provisions of this section shall be fined in the amount of fifty dollars ($50.00) for the first offense, one hundred fifty dollars ($150.00) for the second offense and two hundred fifty dollars ($250.00) for the third and subsequent offenses. Each day the violation continues constitutes a separate offence. The amount of the fine shall be doubled if payment is not received, or if payment is not postmarked, within seventy-two (72) hours of the time of the notice of the violation.

(2) Violations shall be enforced in the manner prescribed in sections 11-2-66 through 11-2-72.

(Ord. No. 35-84, § 1, 9-13-84; Ord. No. 11-06, § 3, 4-13-06; Ord. No. 16-10, § 166, 9-9-10)

Sec. 11-2-36. - Fine for unauthorized use of parking spaces reserved for physically disabled persons.

The fine to be imposed for the unauthorized use of specially designated and marked motor vehicle public parking spaces reserved for the exclusive use of disabled individuals, as provided by F.S., §§ 316.008, 316.1955, 316.1956, and 318.18, shall be two hundred and fifty dollars ($250.00) per violation.

(Ord. No. 19-85, § 1, 5-23-85; Ord. No. 48-89, § 1, 9-21-89; Ord. No. 41-14, § 2, 10-23-14)

Sec. 11-2-37. - Parking fines.

(a) Unless otherwise specified in this chapter, the owner of any vehicle found to be in violation of any of the provisions of this chapter within the city shall be fined in the amount of ten dollars ($10.00) for the first offense; fifteen dollars ($15.00) for the second offense, thirty dollars ($30.00) for the third offense and forty dollars ($40.00) for the fourth or subsequent offense, provided, however, such other fine amounts may be established, subject to the police power of the city, from time to time in the downtown parking management district by the Pensacola Downtown Improvement Board. The amount of the fine shall be doubled if payment is not received by the city or the Pensacola Downtown Improvement Board, or if payment by mail is not postmarked, within fifteen (15) days of the date of notice of the violation.

(b) Notwithstanding the provisions of subsection (a), above, vehicles found to be in violation of posted parking regulations when the city has issued permits for special events as defined in section 11-4-171 of the Code of the City of Pensacola, Florida, within the area bounded on the north by Wright Street, on the south by Bayfront Parkway, on the east by 9th Avenue, and on the west by Baylen Street, shall be fined in the amount of twenty-five dollars ($25.00) or such other amount as may be established, subject to the police power of the city, from time to time in the downtown parking management district by the Pensacola Downtown Improvement Board for each offense. The amount of this fine shall be doubled if payment is not received by the Pensacola Downtown Improvement Board, or if payment by mail is not postmarked, within seventy-two (72) hours of the time of notice of the violation.

(Ord. No. 12-97, § 5, 3-13-97; Ord. No. 31-98, § 1, 8-27-98; Ord. No. 34-00, § 1, 8-17-00; Ord. No. 19-03, § 1, 11-6-03; Ord. No. 57-07, § 1, 12-13-07; Ord. No. 41-14, § 3, 10-23-14)

Sec. 11-2-38. - Obstruction of vehicular traffic lanes for pick-up and delivery in designated areas prohibited.

(a) No vehicle shall stop, stand or park, even temporarily, for the purpose of pick-up and delivery of any goods, packages or other tangible items, on any portion of the street designated and intended for the flow of vehicular traffic, in any portion of the following streets: On Garden Street from Baylen Street to Jefferson Street; on Baylen Street between Garden Street and Government Street; on Palafox Street or Palafox Place between Garden Street and Government Street; on Jefferson Street between Garden Street and Government Street; on Romana Street between Baylen Street and Jefferson Street; on Intendencia Street between Baylen Street and Jefferson Street; and on Government Street between Baylen Street and Jefferson Street.

(b) The terms "stop," "stopping," "stand," "standing," "park" and "parking" shall have the definitions set forth in F.S. § 316.003.

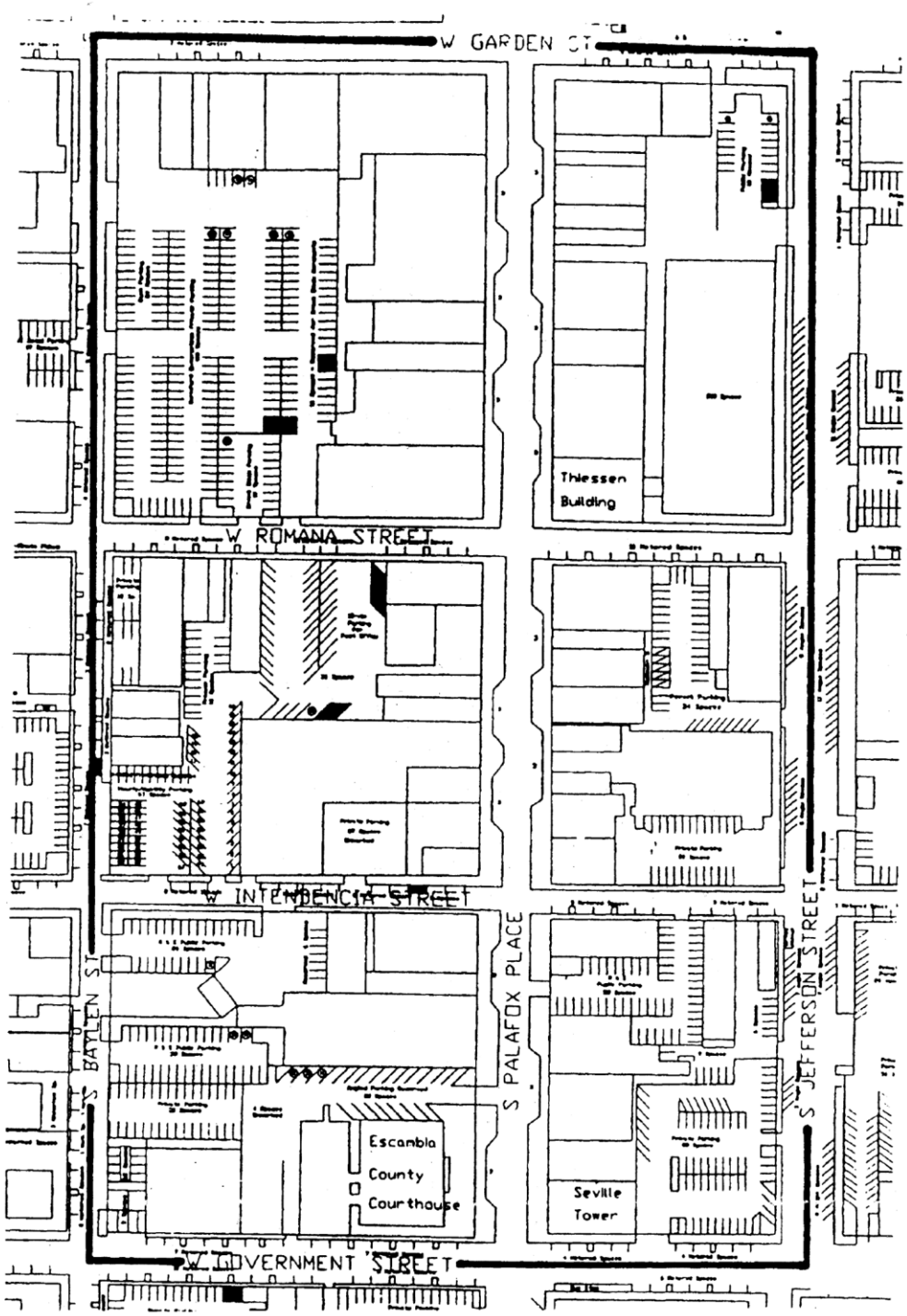
(c) Stopping, standing or parking by commercial vehicles for the purpose of pick-up or delivery of goods, packages or any other tangible items, within the area specified in subsection (a) above, shall take place only in areas adjacent to the curb of those streets which areas shall be specifically designated for the use of commercial vehicles with appropriate signage.

(d) Stopping, standing or parking in any area designated for commercial delivery use, by a vehicle not engaged in commercial delivery or pick-up, is prohibited.

(e) The mayor is authorized to designate appropriate areas adjacent to the curb of any street defined in subsection (a) above, for the purpose and use of commercial delivery vehicles engaged in pick-up and delivery of goods, packages or any other tangible items, and the mayor is hereby authorized to provide for any appropriate signage suitable to that purpose.

(f) The owner or operator of any vehicle found to be in violation of any of the provisions of this section shall be fined in the amounts set forth in section 11-2-37, and violations shall be enforced in the manner provided in sections 11-2-66 through 11-2-72 of the Code of the City of Pensacola, Florida.

(Ord. No. 18-00, § 1, 3-23-00; Ord. No. 16-10, § 167, 9-9-10)



Truck Delivery Restricted Area

Secs. 11-2-39—11-2-45. - Reserved.

DIVISION 2. - PARKING METERS

Sec. 11-2-46. - Authority of mayor to designate metered parking zones.

(a) The mayor is hereby authorized to determine and designate metered parking zones and to install and maintain upon any of the streets or parts of streets of the city as many parking meters as necessary in the parking zones, where it is determined that the installation of parking meters shall be necessary to aid in the regulation, control and inspection of the parking vehicles. The parking meters may be of whatever type as determined by the council.

(b) Provided, however, that within the downtown parking management district determining and designating metered parking zones and the selection, purchase, installation, and maintenance of parking meters shall be the exclusive responsibility of the Pensacola Downtown Improvement Board as administrator for the city of the downtown parking management district. The downtown parking management district shall encompass that certain area bounded on the west by westernmost side of DeVilliers Street, on the north by northernmost side of Wright Street and the CSX railroad tracks, on the east by the easternmost side of Ninth Avenue, and on the south by the southernmost shoreline of Pensacola Bay.

(Code 1968, § 155-28; Ord. No. 57-07, § 2, 12-13-07; Ord. No. 16-10, § 168, 9-9-10)

Editor's note— Ord. No. 16-10, § 168, adopted Sept. 9, 2010, changed the title of § 11-2-46 from "authority of city manager to designate metered parking zones" to "authority of mayor to designate metered parking zones." See also the Code Comparative Table.

Sec. 11-2-46.1. - Time limits and rates for parking in metered spaces; fines.

The rate for parking in metered parking spaces within the city shall be twenty-five cents ($0.25) per hour except for such other rates as may be established, subject to the police power of the city, from time to time in the downtown parking management district by the Pensacola Downtown Improvement Board. No vehicle may park in any such space for longer than the maximum time permitted on the meter.

(Ord. No. 11-85, § 1, 4-11-85; Ord. No. 33-87, § 1, 9-24-87; Ord. No. 43-91, § 1, 9-26-91; Ord. No. 12-97, § 3, 3-13-97; Ord. No. 34-00, § 1, 8-17-00; Ord. No. 57-07, § 2, 12-13-07)

Sec. 11-2-47. - Parking beyond designated time limit prohibited; exceptions.

When parking meters are erected giving notice thereof, no person shall stop, stand or park a vehicle in any metered parking zone for a period of time longer than designated by the parking meters upon the deposit of a coin of United States currency of the designated denomination on any day except Sunday and holidays unless otherwise posted upon any of the streets of the city.

(Code 1968, § 155-29(A); Ord. No. 12-97, § 4, 3-13-97)

Sec. 11-2-48. - Vehicle to be parked wholly within space.

Every vehicle shall be parked wholly within the metered parking space for which the meter shows parking privilege has been granted.

(Code 1968, § 155-29(B))

Sec. 11-2-49. - Violations.

(a) It is unlawful for any person to deposit or attempt to deposit in any parking meter anything other than a lawful coin of the United States, or any coin that is bent, cut, torn, battered or otherwise misshapen; however other currency or credit cards may be accepted.

(b) It is unlawful for any unauthorized person to remove, deface, tamper with, open, willfully break, destroy or damage any parking meter, and no person shall willfully manipulate any parking meter in such a manner that the indicator will fail to show the correct amount of unexpired time before a violation.

(c) It is unlawful for any person to deposit or cause to be deposited in a parking meter a coin for the purpose of increasing or extending the parking time beyond the maximum legal parking time limit which has been established for the parking zone.

(Code 1968, § 155-29(C),(D))

Secs. 11-2-50—11-2-65. - Reserved.

DIVISION 3. - COLLECTION OF PARKING FINES

Sec. 11-2-66. - Removal and impoundment for numerous unpaid citations—Authority.

(a) Any motor vehicle registration having against it five (5) or more outstanding unpaid summonses, citations or other process, charging that any vehicle licensed under the motor vehicle registration was parked, stopped or standing in violation of any law, ordinance or local authority of the city shall be deemed a public nuisance and shall constitute an emergency situation and the mayor and any other agent of the city assigned to traffic duty are hereby authorized to remove, or cause same to be removed from any public property within the city, at the sole cost and expense of the habitual violator; provided that the city, after the fifth violation, shall first send the owner of the vehicle notice of the violations, informing him of the violations, briefly outlining the provisions of this scofflaw division and ordering that he comply therewith, and warning him that if the letter is disregarded for a period of five (5) days the vehicle subject of the letter shall be impounded.

(b) The city shall have the power and is hereby authorized to remove the vehicle by either private or governmental equipment to the city pound.

(Ord. No. 48-84, § 1, 11-15-84)

Cross reference— Impoundment procedures generally, § 11-2-22.

Sec. 11-2-67. - Same—Notice to owner.

Whenever the city has impounded a vehicle described above, a notice of such removal and the location of the city pound where such vehicle is stored shall be mailed to the last registered owner of such vehicle, if the name and address of such owner can be ascertained with reasonable diligence. Such notice shall state that a post-tow hearing may be had at a designated time within two (2) working days of receipt of the notice. Such notice shall state, if the owner fails to reclaim such vehicle within sixty (60) days from the date of the mailing, the city will treat the vehicle as abandoned property and such vehicle will be sold at public auction to be held no sooner than thirty (30) days after the expiration of the sixty-day period contained in the notice. Notice shall be mailed to the vehicle owner by certified mail, return receipt requested.

(Ord. No. 48-84, § 2, 11-15-84; Ord. No. 5-86, § 1, 1-30-86)

State Law reference— Reporting of the towing of motor vehicles, F.S. § 715.05.

Sec. 11-2-68. - Same—Records.

It shall be the duty of the city to safely keep any impounded vehicle until the vehicle shall have been repossessed by the owner or person legally entitled to possession thereof or otherwise disposed of as provided in this division. The city shall cause an accurate record of the description of the vehicle to be kept, including the name of the officer from whom the vehicle was received; the officer employed to tow or have delivered the same to the pound; the date and time when received; the place where found, seized or taken possession of; the make and color of car; style or body; kind of power; motor number; serial number; number of cylinders; year built, state license number, if any; equipment and general description of condition; the name and address of the person redeeming the vehicle; the date of redemption and the manner and date of disposal of the vehicle in case the same shall not be redeemed; together with cost of outstanding summonses and the towing charges. This record shall be in the form prescribed by the mayor.

(Ord. No. 48-84, § 3, 11-15-84; Ord. No. 16-10, § 169, 9-9-10)

Sec. 11-2-69. - Same—Release of vehicle.

Vehicles impounded pursuant to this division will be released to their lawful owner (or person entitled to possession) upon showing adequate evidence of a right to its possession and paying the amount due of all accrued fines and costs for each outstanding unpaid summons or citation, or depositing of the collateral required for his appearance in the county court to answer for each violation for which there is an outstanding or otherwise unsettled traffic violation notice or warrant, and, in addition thereto, the charges for towing. The release shall be signed by an authorized officer.

(Ord. No. 48-84, § 4, 11-15-84)

Sec. 11-2-70. - Same—Post-tow hearing.

If the owner or a person entitled to possession of a vehicle impounded pursuant to this division submits to the mayor a written request for a hearing within one (1) working day of the time that the person was notified that the vehicle was impounded, a post-towage hearing shall be held within two (2) working days of the receipt of the request for a hearing. The mayor shall appoint an impartial hearing examiner. Should the hearing examiner find in favor of the city, the owner of the vehicle must pay the appropriate fines, costs and charges, the reasonableness of which shall be determined by the hearing examiner unless they have been adopted by the city council. A decision for said owner would require the city to pay charges where there is a commercial tower and refund any bond.

(Ord. No. 48-84, § 5, 11-15-84; Ord. No. 5-86, § 2, 1-30-86; Ord. No. 16-10, § 170, 9-9-10)

Sec. 11-2-71. - Authority of mayor to promulgate rules.

The mayor is hereby authorized to promulgate all such rules and regulations that may be necessary to carry out the provisions of this division.

(Ord. No. 48-84, § 6, 11-15-84; Ord. No. 16-10, § 171, 9-9-10)

Editor's note— Ord. No. 16-10, § 171, adopted Sept. 9, 2010, changed the title of § 11-2-71 from "authority of city manager to promulgate rules" to "authority of mayor to promulgate rules." See also the Code Comparative Table.

Sec. 11-2-72. - Parking ticket enforcement.

(1) The city shall cause to be furnished to the State of Florida Department of Highway Safety and Motor Vehicles, via an electronic means, a list of persons who have three (3) or more outstanding parking violations and any violations for parking in spaces designated for use by handicapped or disabled persons as set forth in F.S. §§ 316.1955 and 316.1956, and section 11 of the Code of the City of Pensacola, Florida. In addition, a list of such violators shall also be provided to the Clerk of the Court of Escambia County, Florida. The provisions of F.S. § 320.03(8), as amended, shall apply to each person whose name appears on such list.

(2) Under the authority of F.S. § 320.03(8), as amended, if the name of an applicant for a license plate or revalidation sticker appears on the list referred to in paragraph (1) of this subsection and F.S. § 316.1967(6), as amended, the license plate or revalidation sticker shall not be issued until the applicant's name no longer appears on said list or until the applicant presents a receipt from the city showing the parking fines have been paid.

(Ord. No. 26-93, § 1, 10-28-93; Ord. No. 37-13, § 1, 10-24-13)

Secs. 11-2-73—11-2-79. - Reserved.

DIVISION 4. - ALTERNATIVE ON-STREET PARKING

Sec. 11-2-80. - Authority of mayor.

The mayor is hereby authorized to develop alternative on-street parking programs, and promulgate rules, identify suitable locations, and establish rates and fines for such programs within the city, except however for that certain area encompassing the downtown parking management district as defined in section 11-2-46 where such authority, subject to the police power of the city, shall be exclusively vested in the Pensacola Downtown Improvement Board. Such programs may include decal or permit parking programs, available to the public, at monthly rates to be established by the mayor and filed with the city clerk. Such rates shall be commensurate with rates established for parking in metered spaces. Fines for violations of the alternative on-street parking program shall be commensurate with the fines provided in section 11-2-46.1, and shall be enforced in the manner provided in section 11-2-66 through section 11-2-71.

(Ord. No. 3-92, § 1, 1-16-92; Ord. No. 57-07, § 3, 12-13-07; Ord. No. 16-10, § 172, 9-9-10)

Editor's note— Ord. No. 1925, § 172, adopted Sept. 9, 2010, changed the title of § 11-2-80 from "authority of city manager" to "authority of mayor." See also the Code Comparative Table.

Secs. 11-2-81—11-2-85. - Reserved.

ARTICLE III. - IMPOUNDMENT OF CERTAIN VEHICLES[4]

Footnotes:

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Cross reference— Wrecked, abandoned and junked property, Ch. 4-6.

Sec. 11-2-86. - Circumstances under which vehicles may be impounded.

Police officers are hereby authorized to remove a vehicle from a street to the nearest garage or other place of safety, or to a garage designated or maintained by the city, under the circumstances hereinafter enumerated:

(1) When any vehicle is left unattended upon any bridge, causeway or viaduct or in any subway, or where such vehicle constitutes an obstruction to traffic.

(2) When a vehicle upon a street is so disabled as to constitute an obstruction to traffic, or the person or persons in charge of the vehicle are incapacitated by reason of physical injury to such an extent as to be unable to provide for its custody and removal.

(3) When a vehicle is found being operated upon the streets and is not in proper condition.

(4) When any vehicle is left unattended upon a street and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic.

(5) When any vehicle is left unattended upon a street continuously for more than twenty-four (24) hours and may be presumed to be abandoned.

(6) When the driver of the vehicle is taken into custody and the vehicle would thereby be left unattended upon a street.

(7) When removal of the vehicle is necessary in the interest of public safety because of fire, flood, storm or other emergency reason.

(Code 1968, § 155-39(A))

Cross reference— Removal and impoundment for numerous unpaid parking citations, § 11-2-66.

Sec. 11-2-87. - Towing and storage charges to be paid before release of vehicle.

No vehicle impounded in an authorized impound area as herein provided shall be released therefrom until the charges for towing the vehicle into the garage and storage charges have been paid. The storage charges shall be fixed by the mayor, such charges to be based upon a computation of all actual expenses entering into the current cost of such services. Such charge or charges shall be posted for public inspection in the police department of the city and in any authorized storage location.

(Code 1968, § 155-39(B); Ord. No. 17-86, § 1, 6-12-86; Ord. No. 16-10, § 173, 9-9-10)

Sec. 11-2-88. - Notice of impoundment.

Whenever the city removes a vehicle from a street as authorized in this article and the officer knows or is able to ascertain the name and address of the owner thereof, the city shall immediately give or cause to be given notice in writing to the owner of the fact of the removal and the reasons therefor and of the place to which the vehicle has been removed.

(Code 1968, § 155-40(A))

REPEAL SECTION 11-2-89.

CHAPTER 11-3. RAILROADS[5]

Footnotes:

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Cross reference— Administration, Title II; traffic, Ch. 11-2; streets, sidewalks and other public places, Ch. 11-4.

State Law reference— Duties of railroads in operating trains, F.S. § 351.001 et seq.; duties to railroad passengers and freight, F.S. § 352.01 et seq.

Sec. 11-3-1. - Blocking certain crossings for longer than ten minutes; exception.

(a) It shall be unlawful for a railroad company or any of its agents or employees to knowingly order, allow, permit or to so operate its system so that its trains, equipment or any cars and equipment carried by it blocks the crossings of railroad tracks in public streets or roads of the city for a period of more than ten (10) minutes.

(b) This section shall not apply to local streets but shall apply only to the streets in the city which are deemed to be interstate routes, intrastate routes or collector streets as follows:

(1) *Interstate routes:*

9th Avenue

Alcaniz Street

Garden Street

Gregory Street (east of 9th Avenue)

(2) *Intrastate routes:*

Fairfield Drive

Pace Boulevard

(3) *Collector Streets:*

14th Avenue

"A" Street

Barcelona Street

Barrancas Avenue

Baylen Street

Blount Street

Chase Street

"E" Street

Gadsden Street

Gregory Street

Gonzalez Street

Government Street

Intendencia Street

Jefferson Street

Jordan Street

Main Street

Maxwell Street

Palafox Street

Romana Street

Wright Street

Local streets are all other streets located within the city limits.

(c) This section shall not apply to any bona fide emergency situation wherein compliance withthe above regulations would endanger life, person or property or in a situation which is whollybeyond the control of the company or its agents or employees.

(Code 1968, § 129-1)

State Law reference— Blocking highway crossing for unreasonable period prohibited, F.S. § 351.032; liability of company for violations of local ordinances relating to crossings, F.S. § 351.036.

Sec. 11-3-2. - Speed of locomotives, railroad car, etc.

It shall be unlawful to run any locomotive, railroad car or other railroad rolling stock at a speed greater than set down by the various laws and regulations set forth by the state. It shall also be unlawful for any such locomotive, railroad car or other railroad rolling stock to travel at more than a reasonably safe speed as safety may dictate in any particular situation pursuant to pertinent regulations and other standards set forth by the railroad industry.

(Code 1968, § 129-10)

Sec. 11-3-3. - Planking or paving crossings required.

The council shall require persons or companies owning or leasing or operating any track or tracks along or across any alley, avenue or street of the city, to plank such track or tracks at the street crossings, between the rails and for the space of one and one-half (1½) feet outside of the rails of such tracks, with good, sound and whole pine planks, whenever any such railroad crossing shall not be required by ordinances to be paved or flagged, and to keep same in good repair and so as to permit vehicles to pass across same without damage or hindrance.

(Code 1968, § 129-7)

Sec. 11-3-4. - Planking or paving by city; lien for costs.

If any person or company shall fail to comply with the provisions of section 11-3-3 within ten (10) days after receiving notice of the adoption by the council of a resolution requiring them to construct and maintain any such crossing, the mayor shall have the work done at the expense of the person or railroad company, and the city shall have a lien for the total costs thereof against the property of the persons or companies interested.

(Code 1968, § 129-8; Ord. No. 16-10, § 174, 9-9-10)

REPEAL SECTION 11-3-5.

Sec. 11-3-6. - Interference with railroads prohibited.

It shall be unlawful for any person to knowingly or willfully interfere with, obstruct, or cause damage to any railroad track, wherever situated within the corporate limits of the city, for the purpose of preventing or delaying the movement of railroad cars, cargo, engines, or other railroad equipment along such track.

(Ord. No. 13-01, § 1, 7-19-01)

CHAPTER 11-4. STREETS, SIDEWALKS AND OTHER PUBLIC PLACES[6]

Footnotes:

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Editor's note— The provisions of inadvertently repealed Ch. 12-6.5 were reenacted by § 4 or Ord. No. 27-92, adopted Aug. 13, 1992, and redesignated at the direction of the city as Ch. 11-4.

Cross reference— Administration, Title II; health and sanitation, Title IV; certain deposits prohibited on streets and sidewalks, § 4-3-17(c); placement of refuse in gutters or streets prohibited, § 4-3-61; litter control, Ch. 4-5; parks and recreation, Ch. 6-3; public library, Ch. 6-4; fire prevention and protection, Ch. 7-13, Art. XII; garage and other sales, Ch. 7-7; pawnbrokers, junk and secondhand dealers, Ch. 7-8; peddlers and solicitors, Ch. 7-9; vehicles for rent to the public, Ch. 7-10; airports and aircraft, Ch. 10-2; traffic and vehicles, Title XI; traffic, Ch. 11-2; railroads, Ch.11-3; zoning districts, Ch. 12-2; signs, Ch. 12-4; tree/landscape regulations, Ch. 12-6; subdivisions, Ch. 12-8; flood damage prevention, Ch. 12-10; code enforcement, Title XIII; buildings, construction and fire codes, Title XIV.

State Law reference— Supplemental and alternative method of making local improvements, F.S. Ch. 170; municipal public works, F.S. Ch. 180; classification of roads, F.S. § 335.05; uniform minimum standards for roads, F.S. § 335.075; road and bridge funds, F.S. § 336.59.

ARTICLE I. - IN GENERAL

Sec. 11-4-1. - Uncovered or unguarded cellars, pits, vaults and other subterraneous openings.

It shall be unlawful for any person to leave open, uncovered or unguarded any cellar door, pit, vault or other subterraneous opening leading from, into or upon any street.

(Code 1968, § 146-12; Ord. No. 22-87, § 31, 5-28-87)

Sec. 11-4-2. - Business using streets and sidewalks; permit required.

No person shall use any portion of the streets or sidewalks of the city for the location or operation of any private business unless such person obtains a permit or franchise for the use of such streets or sidewalks from the council.

(Code 1968, § 146-27; Ord. No. 22-87, § 31, 5-28-87)

Sec. 11-4-3. - Interference with movement of vehicles or cargo at port prohibited.

It shall be unlawful for any person to knowingly or willfully interfere with or obstruct the movement of vehicles or cargo at the Port of Pensacola or any entrance thereto.

(Ord. No. 13-01, § 2, 7-19-01)

Secs. 11-4-4—11-4-15. - Reserved.

ARTICLE II. - SIDEWALKS

DIVISION 1. - GENERALLY

Sec. 11-4-16. - Cleanliness of sidewalks and gutters.

It shall be unlawful for any person occupying or owning any lot or part of any lot in the city to fail to keep the paved sidewalk clean and in good order and the gutters adjoining the same free from any encumbrance and obstruction.

(Code 1968, § 146-1; Ord. No. 22-87, § 31, 5-28-87)

REPEAL SECTION 11-4-17.

Sec. 11-4-18. - Prohibition of skateboards on sidewalks.

(a) Skateboarding shall be prohibited on public sidewalks and on walkways and parking lots in an area bounded on the west by the west right-of-way line of Baylen Street, on the north by the north right-of-way line of Cervantes Street, on the east by the east right-of-way lines of Guillemard Street and Jefferson Street, and on the south by the waterfront. A map depicting this area is on file in the office of the city clerk.

Editor's note— Said map is included immediately following this section.

(b) Within the city limits of the City of Pensacola no person shall skateboard on any property that has been posted by the owner to prohibit skateboarding thereon. Posting shall mean that a sign or signs have been placed on the property, with letters of not less than two (2) inches in height with the words "No Skateboarding", and stating the name of the owner of the property. One (1) or more signs shall be placed in a manner so as to be clearly visible from outside the property boundaries to provide reasonable notice to the public that the property is posted as no skateboarding. As used herein, the term "owner" shall include any person having any interest in said property under and by virtue of which the person is entitled to possession thereof, and shall include the agents or authorized employees of the owner. Any owner of property who posts "No Skateboarding" signs on their property shall notify the police department of such posting.

(c) A violation of this section shall be deemed a noncriminal infraction. The penalty for violations of this section shall be fines according to the following schedule:

(1) First offense ..... $ 10.00

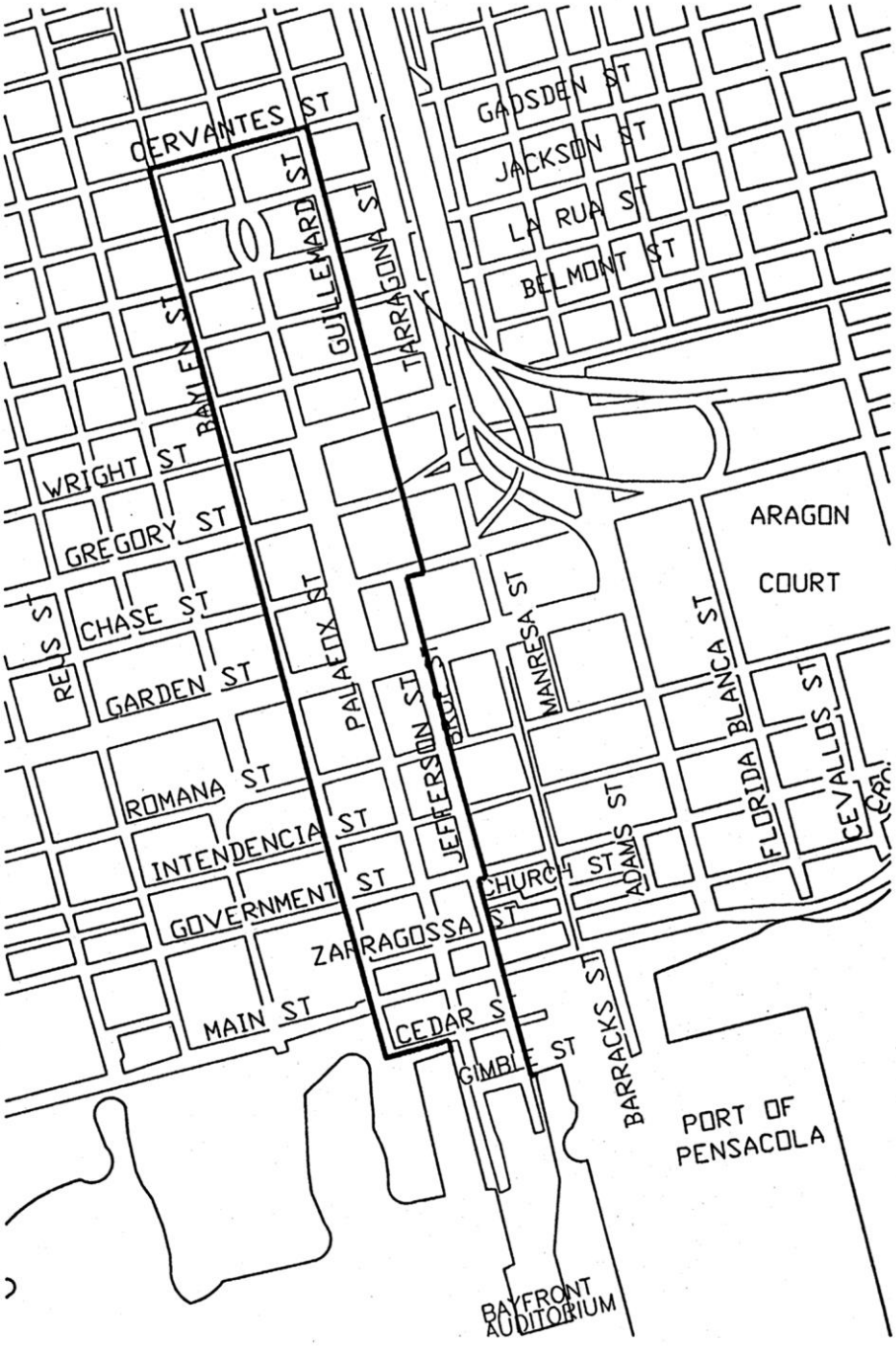
(2) Second offense 20.00

(3) Third offense 35.00

(4) Fourth and subsequent offenses, per offense 50.00

(d) Not withstanding the fines provided in subsection (c) above, the penalty for skateboarding on a device intended to serve as a handrail, a fence, a wall, a step, a fountain, or a bench shall be a fine up to five hundred dollars ($500.00), and/or an obligation to perform up to eighty (80) hours of

supervised community service. The amount of the fine and the extent of the community service obligation are to be determined by the county court. The violation of this section shall be deemed a noncriminal infraction.



(Ord. No. 23-96, § 1, 5-23-96; Ord. No. 16-01, § 1, 8-23-01)

Secs. 11-4-19—11-4-40. - Reserved.

DIVISION 2. - CONSTRUCTION AND REPAIR

REPEAL SECTION 11-4-41.

Sec. 11-4-42. - Specifications and grades; construction supervision by city engineer.

(a All public sidewalks within the street lines in the city shall be constructed according to specifications and grades designated by the city engineer, and no public sidewalk shall be constructed within the street lines in the city without first obtaining the approval of the specificationsand grades by the city.

(b) The construction of all sidewalks by the city, either by contract or direct labor, shall be under the authority of the city engineer, and it shall be his duty to prepare all contours, profiles, grades and specifications for the construction and to supervise the manner and method employed in the construction.

(Code 1968, § 138-1; Ord. No. 22-87, § 31, 5-28-87)

Sec. 11-4-43. - Minimum widths.

(a) All sidewalks required to be constructed within the city shall be a minimum of six (6) feet in width, except that hereafter in residential areas, in blocks where there are no sidewalks in existence, it is hereby permitted that the city engineer may approve sidewalks of a width of four (4) feet.

(b) Sidewalks on the following streets shall be fifteen (15) feet wide:

(1) On both sides of Palafox Street, from the north side of Garden Street to the south side of Wright Street;

(2) On both sides by pedestrians, and to take such steps as he deems necessary to prevent injury to any pedestrian of Garden Street, between Tarragona Street on the east and Spring Street on the west.

(c) Sidewalks on the following streets shall be ten (10) feet wide:

(1) On both sides of Palafox Street, between the north line of Hickory Street and the south line of Garden Street;

(2) On the north side of Wright Street, from Palafox Street to Hayne Street;

(3) On the south side of Wright Street, from Palafox Street to Alcaniz Street.

(d) Sidewalks on the following streets shall be eight (8) feet wide:

(1) On both sides of Palafox Street, between Wright Street and DeSoto Street;

(2) On both sides of Government Street, between Baylen Street and Adams Street;

(3) On the north side of Zarragossa Street, between Palafox Street and Tarragona Street;

(4) On the south side of Zarragossa Street, between Palafox Street and Barracks Street;

(5) On both sides of Garden Street, west of Spring Street and east of Tarragona Street.

(e) Nothing contained in this section shall be construed to compel any person now having sidewalks complying with existing ordinances to remove them and to broaden them to the width hereinbefore provided, until the existing sidewalk shall be in bad condition or require renewal.

(Code 1968, § 138-2; Ord. No. 22-87, § 31, 5-28-87)

Sec. 11-4-44. - Defective and unsafe sidewalks—Declaration of; reconstruction, repair.

The mayor is hereby empowered and authorized to declare a sidewalk defective and unsafe for use .

(Code 1968, § 138-3; Ord. No. 22-87, § 31, 5-28-87; Ord. No. 16-10, § 175, 9-9-10)

REPEAL SECTION 11-4-45.

REPEAL SECTION 11-4-46.

Editor's note— Ord. No. 1925, § 176, adopted Sept. 9, 2010, changed the title of § 11-4-46 from "same—authority of city manager to order repair" to "same—authority of mayor to order repair." See also the Code Comparative Table.

Footnotes:

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Editor's note— Ord. No. 40-91, § 1, adopted Aug. 29, 1991, repealed the provisions of §§ 11-4-46—11-4-52 (former §§ 12-6.5-46—12-6.5-52), relative to sidewalk construction and § 2 of said ordinance enacted new §§ 11-4-46—11-4-55 (12-6.5-46—12-6.5-55) to read as herein set out. The provisions of former §§ 11-4-46—11-4-52 derived from Code 1968, §§ 138-5—138-11 and Ord. No. 22-87, § 31, adopted May 28, 1987

REPEAL SECTION 11-4-47.

REPEAL SECTION 11-14-48.

REPEAL SECTION 11-4-49.

SECTION 11-4-50.

REPEAL SECTION 11-4-51.

REPEAL SECTION 11-4-52.

REPEAL SECTION 11-4-53.

REPEAL SECTION 11-4-54.

REPEAL SECTION 11-4-55.

Secs. 11-4-56—11-4-65. - Reserved.

ARTICLE III. - STREETS[8]

Footnotes:

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Cross reference— Depositing trash or rubbish on streets or sidewalks prohibited, § 4-3-17(c).

DIVISION 1. - GENERALLY

Sec. 11-4-66. - Obstructions on public rights-of-way—Prohibited.

It shall be unlawful for any person to plan, place, maintain or have any tree, shrub or other obstruction upon or extending from private property into any street, sidewalk, grass plot area, property, right-of-way or easement, either dedicated or occurring by operation of law, belonging to the city, that interferes with the normal and safe passage of vehicles or pedestrians traveling within their designated portions of the public right-of-way.

(Code 1968, §§ 146-13, 146-31; Ord. No. 22-87, §§ 31, 35, 5-28-87)

Sec. 11-4-67. - Same—Removal.

The mayor is hereby authorized and directed to remove or cause to be removed or pruned, any tree, shrub or any other obstruction or any part thereof within the designated areas within the city; provided, however, before pruning or making any removal of any tree, shrub or other obstruction, the mayor shall give the owner of the abutting property upon which the obstruction is located an opportunity to make the removal, by written notice to the owner ten (10) days in advance of the removal. If the property owner does not remove the obstruction within the ten-day period, then the city will cause it to be removed or pruned and the property owner will be assessed for the cost thereof. Upon the completion of the pruning or the removal of such obstructions, the city shall determine the costs incident to and required by the removal of the obstruction described above, specifying the lots and parcels so affected and the nature of the removed materials. Thereafter, the city shall assess the lands, lots and parcels of land for the removal and cost thereof, and shall take appropriate action as necessary to place a lien upon the lands, parcels or tracts of land, which lien shall be collected in the same manner as other special assessments for benefits are collected, and the mayor is hereby authorized and directed to perform and to do all things necessary to the recording, perfecting and collection of such lien. No such lien shall be recorded unless thirty (30) days have expired without payment of the special assessment after the city has served notice of the nature and amount of the special assessment in the manner set forth in section 4-3-20 of the Code.

(Code 1968, §§ 146-13, 146-32; Ord. No. 22-87, §§ 31, 36, 5-22-87; Ord. No. 16-10, § 182, 9-9-10)

Sec. 11-4-68. - Grades.

The grades of all streets in the city shall be according to the profiles and maps of the streets as prepared by the city engineer.

(Code 1968, § 146-23; Ord. No. 22-87, § 31, 5-28-87)

Sec. 11-4-69. - Vacation of public streets or rights-of-way—Reservation of easements for public utilities.

If the council determines that any portion of a public street or right-of-way is used or in the reasonably foreseeable future will be needed for public utilities, the street may be vacated only upon the condition that appropriate easements be reserved for such public utilities, which shall include, but not be limited to, the Escambia County Utilities Authority.

(Code 1968, § 146-32.2; Ord. No. 22-87, § 31, 5-28-87)

Sec. 11-4-70. - Same—Fee.

Upon the request of any individual, firm, partnership or corporation to the city for vacation of any street, alley or other public way, a fee of two hundred dollars ($200.00) shall be paid to the city by the individual, firm, partnership or corporation to cover the administrative costs involved therein.

(Code 1968, § 146-32.1; Ord. No. 22-87, § 31, 5-28-87; Ord. No. 57-89, § 1, 12-7-89)

Sec. 11-4-71. - Oil wastes, combustible or inflammable materials.

It shall be unlawful to allow any oil waste from motors, gasoline pumps or filling stations, or any other liquid waste, or inflammable or combustible material or substance, to run or to be poured or emptied upon or into the ground of any premises or street.

(Code 1968, § 146-18; Ord. No. 22-87, § 31, 5-28-87)

Sec. 11-4-72. - Maintenance of right-of-way by owner of abutting property.

The owner of property abutting a public right-of-way shall maintain and keep clean and free of litter and debris, that portion of the right-of-way lying between the curb, or other edge of the pavement or roadbed, and the property line, but excluding the curb. Where vegetation is present, said owner shall mow, prune and irrigate it on a frequent basis as the season requires to maintain an attractive appearance. Provided, however, said owner shall not be responsible for the maintenance of street signs, utility apparatus or trees not planted in the right-of-way by the owner.

(Ord. No. 22-87, § 37, 5-28-87)

Editor's note— Section 37 of Ord. No. 22-87, adopted May 28, 1987, added provisions to the Code, but did not specify manner of inclusion. At the discretion of the editor, therefore, said provisions have been included as § 11-4-72 herein.

Sec. 11-4-73. - Signs prohibited in the public rights-of-way.

(a) *Prohibition.* Except as otherwise provided in this Code, it shall be unlawful and a violation of this section for any person, business, entity, or organization to erect, post, or maintain a sign of any type or size on, in, or upon the following public rights-of-way, parkways, sidewalks, easements, or other streetscape property:

East/West	
Main St.	Barrancas to Tarragona
Bayfront Pkwy.	Tarragona to Pensacola Bay Bridge
Government St.	Pace to Bayfront
Garden St.	Pace to Alcaniz
Navy Blvd.	Bayou Chico to Pace Blvd.
Chase St.	"A" to Bayfront

Gregory St.	"A" to Bayfront
Jackson St.	"S" to "A"
Cervantes	"V" to Chipley
Jordan	"A" to 12th
Maxwell	"A" to 12th
Blount	"A" to 12th
Texar	Davis to 12th
Fairfield	Palafox to 12th
Brent Ln.	Linden to 9th
Airport Blvd.	Davis to the Airport
Langley	Everything within city limits
Burgess Rd.	Davis Hwy. to Sanders
Creighton Rd.	Schwab to Scenic
Summit	12th to Scenic
Hyde Park	Bayou to Scenic
North/South	
"W" St.	Navy to Idlewood
Pace Blvd.	Cypress to Strong
Barrancas	Pace to Garden
"E" St.	Main to Avery

"A" St.	Main to Maxwell
Palafox	Leonard to Cypress
MLK Dr.	Texar to Cervantes
Alcaniz	Cervantes to Bayfront
Davis Hwy.	Wright to Selina
Davis Hwy.	Airport to Village Oaks
9th Ave.	Bayfront to Olive
12th Ave.	Cervantes to 9th
17th Ave.	Bayfront to Texar
Bayou Blvd.	Cervantes to 9th
Firestone	Bayou to Summit
College Blvd.	Bayou to Langley
Tippin	John Carroll to Creighton
Spanish Trail	Summit to Bonway
Scenic Hwy.	Chipley to Baywood

Any such sign not regulated elsewhere in this Code may be removed from the subject right-of-way and disposed of by the city. This section may be enforced pursuant to Chapter 13 of this Code.

(b) *Penalties for violations.* A code enforcement officer designated by the mayor or a police officer may issue a notice to appear in court or a civil penalty citation for a fine to the person found to be in violation of this section for each sign in the amount specified below:

(1) First citation, one hundred fifty dollars ($150.00);

(2) Second citation, two hundred twenty-five dollars ($225.00);

(3) Third citation, three hundred twenty-five dollars ($325.00);

(4) Fourth citation and all subsequent citations, four hundred fifty dollars ($450.00).

For purposes of this section, a single violation shall occur when a person places one (1) or more similar subject matter signs in the public rights-of-way as prohibited herein. The person in violation shall be presumed to be the person, business entity, or organization whose name or other identifying information is displayed in the sign's text or illustrations and that person ordered, directed, or otherwise allowed the subject sign to be placed in the public right-of-way. This presumption may be rebutted by competent and substantial evidence to the contrary.

In addition to the penalties provided above, the violator shall be responsible for the reasonable costs incurred by the city in the removal and disposal of such signs which shall be specified on the subject citation.

(c) *Mandatory court appearance.* Court appearance shall be mandatory for violations of this section involving fourth or subsequent violations. In the event a mandatory court appearance is required, the citation must clearly inform the violator of such mandatory appearance, and records shall be maintained by the city code enforcement office regarding such cases. Violators required to appear in court do not have the option of paying the civil penalty instead of such an appearance.

(d) *Payment of civil penalty.* Subject to subsection (c), a violator may pay the civil penalty and the costs of removal and disposal of the violator's signs within fifteen (15) days of the date of receiving the citation. If the person cited follows this procedure, he or she shall be deemed to have admitted the civil infraction and to have waived his or her right to a trial on the issue of the commission of the violation.

(1) If a violator fails to pay the civil penalty within fifteen days of receipt of the citation, the clerk of the circuit court shall issue a notice to appear. An additional amount of twenty-five dollars ($25.00) and clerk of the circuit court service charges shall be assessed as a late fee for each penalty paid after the initial fifteen-day period.

(2) If a violator fails to pay the civil penalty or fails to appear in court to contest the citation as required by subsection (c) of this section, the court then may issue an order to show cause upon the request of the city. This order shall require such person to appear before the court to explain why no action on the citation has been taken by the person. If any person, who is issued such order, fails to appear in response to the court's directive, that person shall be held in contempt of court.

(e) *Refusal to sign or accept citation.* Any person refusing to sign and accept a citation shall be in violation of this section and shall be punished as provided for in section 13-2-2.

(Ord. No. 36-08, § 1, 7-24-08; Ord. No. 16-10, § 183, 9-9-10; Ord. No. 24-11, § 1, 9-22-11)

Secs. 11-4-74—11-4-85. - Reserved.

DIVISION 2. - PARKWAYS

Sec. 11-4-86. - Designation.

The portion of the paved streets between the sidewalk and the curb is hereby set aside for and designated as street greenway.

(Code 1968, § 146-7; Ord. No. 22-87, § 31, 5-28-87; Ord. No. 04-14, § 1, 2-13-14)

Sec. 11-4-87. - Use.

Street greenways shall be used exclusively for the purpose of planting trees, grass and shrubbery, and for the location of such poles as are now allowed on the streets, except in front of business houses,

where, by permission from the mayor, the space in front of the business houses may be paved with the same material used in the sidewalk and laid to conform to the sidewalk under the supervision of the city engineer. The space, when so paved, may be used as sidewalks are used. No person shall park a vehicle on a designated greenway which has signs in place restricting such use.

(Code 1968, § 146-8; Ord. No. 22-87, § 31, 5-28-87; Ord. No. 16-10, § 184, 9-9-10; Ord. No. 04-14, § 1, 2-13-14)

Sec. 11-4-88. - Placement of trees and poles.

In greenways of a width of six (6) feet or more, poles and trees shall be planted three (3) feet from the sidewalk, in those less than six (6) feet, trees must be planted in the center.

(Code 1968, § 146-10; Ord. No. 22-87, § 31, 5-28-87; Ord. No. 04-14, § 1, 2-13-14)

Sec. 11-4-89. - Crosswalks, driveways.

Nothing in section 12-11-87 shall be construed to prevent the building of one permanent crosswalk for each main entrance to each property and one driveway as may be required to each property.

(Code 1968, § 146-9; Ord. No. 22-87, § 31, 5-28-87)

Secs. 11-4-90—11-4-100. - Reserved.

DIVISION 3. - NAMES

Sec. 11-4-101. - Designations, locality, dimensions.

(a) The streets and other public places in the corporate limits of the city, except in the Lakeview Subdivision, shall have the designation, locality and dimensions delineated on the map caused to be lithographed and copyrighted by Thomas C. Watson in the year 1906.

(b) The streets in that portion of the city designated as Lakeview shall have the designation, locality and dimensions delineated on the map filed in the office of the city clerk by the heirs of Henry Baars, as approved by ordinance.

(c) Streets in the waterfront shall have the designation, locality and dimensions delineated on the map of the waterfront drawn by Galt Chipley, city engineer, in 1889, except as herein otherwise provided.

(d) The street designated as Peterson Street on the map is hereby changed in its entirety to Pace Boulevard. The streets designated as Muldon Street, Watson Street, Hyer Street and Green Street, lying north of Navy Boulevard, are hereby changed and designated as P Street, Q Street, R Street and S Street, respectively.

(e) The official names of the following described streets as shown by location, be, and the same are, hereby altered and changed to read as follows throughout the entire length:

Present name	New name	Location
Allora Avenue	Windwood Drive	South of Dunmire Street between Lot 9, Block E, and Lot 12, Block J, Second Addition to Nobles Subdivision

Barcelona Street	Spring Street	That portion of the existing Barcelona Street situated and lying between the southerly right-of-way line of Romana Street to the northerly right-of-way line of Main Street
Bennington Place	Langley Avenue	Broadview Farms Subdivision
Bonifay Drive	Tree Line Drive	The entire length of Bonifay Drive from Mariana Drive to the end of the cul-de-sac south of Balmoral Drive
Dahlia Drive	April Road	The entire length of Dahlia Drive east from Leesway Boulevard
Denkler Place	McClellan Circle	Entire length of Denkler Place from McClellan Road northeasterly to the end of the cul-de-sac
Eastgate Drive	Keating Terrace	Soto Grade Subdivision north of Keating Road, south of I-110, and east of Ninth Avenue
Eighth Avenue	Cevallos Street	Between Zaragossa and Romana Streets
Godwin Road	Godwinson	Cordova Park Area
Gregory Street	Gregory Square	That portion of Gregory Street (58-foot right-of-way) situated and lying between the easterly right-of-way line of Tarragona Street and the westerly limited access right-of-way line of ramp D of State Road 8A (I-110)
Holly	Kenneth Drive	The entire length of Holly from Chadwick Street to Boxwood Drive
Holyoke Place	Farmington Road	Broadway Farms Subdivision
Juanita	Future Street	The entire length of Juanita west of Capri Drive to the end of the cul-de-sac west of Ottoman Drive
LaPaz Road	Durango Drive	West of Leesway Boulevard
Lemmington	Chastain	South off Lemmington Road and continuing east across Monteigne Drive

Lane	Way	and including the cul-de-sac. All in Baycliff Estates, Unit 3, west of Scenic Highway, South of I-110
Main Street	Bayshore Parkway	From Pensacola Bay Bridge westward to Barrancas Avenue
Monteigne Court	Riddick Drive	West of Monteigne Drive, south of Arizona Drive and north of Brookshire Drive
New Hope Road	Montessori Drive	East of Pensacola Regional Airport and the north portion of New Hope Road that runs north and south
Old Spanish Trail Road	Monteigne Drive	Eastward fork of Old Spanish Trail Road
Sierra	Slaback	Lavallet Subdivision, Unit No. 3
South Palafox Street	Palafox Place	South of Garden Street and north of Government Street
Tronjo Place	Stonewood Place	Perpendicular to Tronjo Road between Semur Road and Tronjo Terrace in Cordova Park Subdivision, Unit No. 74

(f) The names as designated above shall hereafter be placed upon all of the maps, road signs and street designations along the entire length of the streets and the intersections, and shall be designated and known as set out in (e) herein.

(g) A copy of subsection (e) of this section shall be forwarded to the county commissioners of the county, the state and the U.S. Postmaster of the city, with a request that the state and county designate the streets as designated in (e) herein.

(Code 1968, § 146-22; Ord. No. 77-83, § 1, 5-26-83; Ord. No. 93-83, § 1, 7-14-83; Ord. No. 22-87, § 31, 5-28-87)

Sec. 11-4-102. - Placement.

The names of the streets as the council shall designate shall be placed upon the corners thereof in such a way as the council shall determine.

(Code 1968, § 146-24; Ord. No. 22-87, § 31, 5-28-87)

Sec. 11-4-103. - Damaging and injuring street name signs.

It shall be unlawful for any person to destroy, injure or deface the names of any street or any sign put up under the provisions of this chapter or by any official.

(Code 1968, § 146-25; Ord. No. 22-87, § 31, 5-28-87)

Secs. 11-4-104—11-4-120. - Reserved.

ARTICLE IV. - EXCAVATIONS

Sec. 11-4-121. - Permit required; application; deposit; restoration of street or sidewalk.

After any paved street or sidewalk shall have been laid under the provisions of any ordinance, it shall be unlawful for any person or their agents to dig into or disturb any such paved street or sidewalk or parts of same for any purpose whatever without a written permit from the mayor. Any person desiring to dig up or disturb any paved street or sidewalk shall make written application to the mayor for permission to dig up and disturb the paved street or sidewalk, and shall pay to the city in cash at the time the application is made such sum of money as the mayor may deem sufficient to pay all cost incurred in restoring the portion of any paved street or sidewalk disturbed to its original condition. Immediately after the repairs, causing the digging up or disturbing, have been made, the mayor shall be notified, whereupon the mayor shall cause the excavation in or under the street to be filled up under his direction by men in his employ, and shall cause that portion of the paved street or sidewalk thus disturbed to be placed in its original condition as near as practicable. Should the cost of the work be less than the amount paid the city as above, the excess shall be returned to the owner, and if it should be more, the owner shall pay the difference to the city.

(Code 1968, § 145-1; Ord. No. 22-87, § 31, 5-28-87; Ord. No. 16-10, § 185, 9-9-10)

Sec. 11-4-122. - Repairs to utility property by owner or operator.

It shall be the duty of the mayor to notify all persons or their agents owning or operating any gas or water mains or private sewer systems, electric light, power, telephone or telegraph poles, on the streets or portions of streets for which ordinances shall be passed providing for the paving or the repaving thereof, to overlook, examine and test all the property owned and maintained by them on, under or across any of the streets. It shall thereupon be the duty of the persons or their agents to forthwith proceed to overlook, examine and test all of the property owned and maintained by them on, under or across the street or portion of streets to be paved or repaved, and to make all repairs, renewals or extensions thereto necessary to properly operate and maintain the property without subsequent disturbance for a period of five (5) years after the completion of the paving or repaving. All persons or their agents owning water or gas mains and sewerage systems, electric light, power, telephone or telegraph poles, shall, within sixty (60) days after the date of notice from the mayor, lay and build all connections and make all renewals and extensions on, across and under the portion of the streets or parts of streets to be paved or repaved which may be necessary to properly apply their patrons and carry on their business for a period of five (5) years after the completion of the paving or repaving as aforesaid.

(Code 1968, § 145-4; Ord. No. 22-87, § 31, 5-28-87; Ord. No. 16-10, § 186, 9-9-10)

Secs. 11-4-123—11-4-140. - Reserved.

ARTICLE V. - NUMBERING OF HOUSES

Sec. 11-4-141. - Required; dividing lines.

All houses fronting on streets shall be numbered, and the numbering shall be as follows:

(1) All streets running north and south shall be numbered from Garden Street as a dividing line.

(2) Those portions of the streets lying north of Garden Street shall be known as north.

(3) Those portions of the streets lying south of Garden Street shall be known as south.

(4) All streets running east and west shall be numbered from Palafox Street as a dividing line.

(5) Those portions of the streets lying east of Palafox Street shall be known as east.

(6) Those portions of the streets lying west of Palafox Street shall be known as west.

(Code 1968, § 115-1; Ord. No. 22-87, § 31, 5-28-87)

Sec. 2-6.5-142. - Designation for each successive block.

The numbers of each successive block from the place of beginning shall begin with a new one hundred (100).

(Code 1968, § 115-2; Ord. No. 22-87, § 31, 5-28-87)

Sec. 11-4-143. - Designation of numbers by city engineer.

The allotment of numbers and the manner of numbering houses and buildings shall be designated by the city engineer to conform to the foregoing sections, and it shall be his or her duty to designate house numbering in all new subdivisions or areas newly opened to building and development. In allotting the numbers, the city engineer shall as nearly as practicable maintain a uniform system applicable to all sections of the city.

(Code 1968, § 115-3; Ord. No. 22-87, § 31, 5-28-87)

Sec. 11-4-144. - Odd and even numbers.

The odd numbers shall be on the south and west of all streets, and the even numbers shall be on the north and east.

(Code 1968, § 115-4; Ord. No. 22-87, § 31, 5-28-87)

Sec. 11-4-145. - Numbers assigned to each block to use entire allotment.

The numbers shall be assigned in each block so as to use the entire allotment; for instance, in a block three hundred (300) feet front, one odd or even number shall be allotted to each six (6) feet front; in a block four hundred (400) feet front, one odd or even number shall be allotted to each eight (8) feet front.

(Code 1968, § 115-5; Ord. No. 22-87, § 31, 5-28-87)

Sec. 11-4-146. - Streets running east and west, west of A or Oliva Street.

Houses on the streets running east and west, west of A or Oliva Street, shall be assigned numbers as outlined in the foregoing sections, except that the first block west of A or Oliva Street shall be numbered eight hundred (800) irrespective of its distance from Palafox Street, and each succeeding block shall have a new one hundred (100) ascending from eight hundred (800).

(Code 1968, § 115-6; Ord. No. 22-87, § 31, 5-28-87)

Sec. 11-4-147. - Barcelona Street.

The lowest number on Barcelona Street, north or south of Garden Street, shall (at Chase Street on the north, and Romana Street on the south) be one hundred (100), and it shall then be numbered as the streets parallel to it.

(Code 1968, § 115-7; Ord. No. 22-87, § 31, 5-28-87)

Sec. 11-4-148. - Streets running north and south, north of Wright Street.

All houses fronting on streets which run north and south and lie north of Wright Street shall be assigned numbers by the city engineer as outlined in sections 12-11-142 to 12-11-145 inclusive, except that houses in the first block on the streets north of Wright Street shall be numbered from three hundred (300) to four hundred (400) irrespective of the number of blocks which lie between Wright Street and Garden Street, and the numbers on each succeeding block shall be increased by one hundred (100).

(Code 1968, § 115-8; Ord. No. 22-87, § 31, 5-28-87)

Sec. 11-4-149. - Streets north of Garden Street, south of Wright Street, east of Eighth Avenue and Cevallos street.

All houses fronting on streets or avenues which are north of Garden Street, south of Wright Street and on Eighth Avenue or Cevallos Street, and streets east thereof, shall be numbered as follows:

(1) From Garden Street to Salamanca Street, numbers from zero to forty-nine (49) shall be used.

(2) From Salamanca Street to Chase Street, numbers from fifty (50) to ninety-nine (99) shall be used.

(3) From Chase Street to DeLeon Street, numbers from one hundred (100) to one hundred forty-nine (149) shall be used.

(4) From DeLeon Street to Gregory Street, numbers from one hundred fifty (150) to one hundred ninety-nine (199) shall be used.

(5) From Gregory Street to Heinberg Street, numbers from two hundred (200) to two hundred forty-nine (249) shall be used.

(6) From Heinberg Street to Wright Street, numbers from two hundred fifty (250) to two hundred ninety-nine (299) shall be used.

(Code 1968, § 115-9; Ord. No. 22-87, § 31, 5-28-87)

Sec. 11-4-150. - Magnolia, Whaley and Yates Avenues in Lakeview Subdivision.

All houses fronting on Magnolia Avenue, Whaley Avenue and Yates Avenue in the Lakeview Subdivision shall be numbered as though the avenues were intersected by continuations of the streets running east and west out of the new city tract.

(Code 1968, § 115-10; Ord. No. 22-87, § 31, 5-28-87)

Sec. 11-4-151. - Magnolia, Blackshear and Osceola Avenues north or northeast of Cross Street in Lakeview Subdivision.

All houses fronting on Magnolia Avenue, Blackshear Avenue and Osceola Avenue, lying north or northeast of Cross Street in the Lakeview Subdivision, shall be numbered as follows:

From	To	Numbers
Cross Street	Escambia Avenue	2,700 to 2,799
Escambia Avenue	20th Avenue	2,800 to 2,899
20th Avenue	19th Avenue	2,900 to 2,999
19th Avenue	18th Avenue	3,000 to 3,099

(Code 1968, § 115-11; Ord. No. 22-87, § 31, 5-28-87)

Sec. 11-4-152. - Meaning of numbers.

The first figures of a house number shall indicate its position east or west of Palafox Street, or north or south of Garden Street; the balance of the figures, its position in the particular block. The streets running east and west, or north and south, lying north of Wright Street, shall govern the distribution of the first figures, and the frontage of the particular block shall govern the distribution of the balance.

(Code 1968, § 115-12; Ord. No. 22-87, § 31, 5-28-87)

Sec. 11-4-153. - Size, type, location of numerals.

All numbers shall be neatly and legibly painted on the front of the building to be numbered, or upon a metal plate not less than three (3) by six (6) inches, or in separate numerals not less than three (3) inches high, securely fastened to the building.

(Code 1968, § 115-13; Ord. No. 22-87, § 31, 5-28-87)

Sec. 11-4-154. - Owner, occupant to number building; penalty for violations.

The owner, occupant or agent of any building shall number the building in accordance with the provisions hereof, and any owner, occupant or agent thereof who shall fail or refuse to so number his house or building or to change the number if wrong, when so notified by the mayor shall, upon conviction, be punished as provided for in section 1-1-8.

(Code 1968, § 115-14; Ord. No. 22-87, § 31, 5-28-87; Ord. No. 16-10, § 187, 9-9-10)

Sec. 11-4-155. - Damaging or defacing numbers.

It shall be unlawful for any person to tear down or deface any number or sign put upon any house in accordance with this article.

(Code 1968, § 115-15; Ord. No. 22-87, § 31, 5-28-87)

Sec. 11-4-156. - Waiver or modification of article provisions in certain instances.

Upon petition by two (2) or more affected property owners, the city council may, in its discretion, waiver or modify the provisions of this article, in whole or in part, for areas annexed by the city when houses and buildings located therein are not numbered in conformity with the provisions hereof.

(Ord. No. 32-90, § 1, 7-12-90)

Secs. 11-4-157—11-4-170. - Reserved.

ARTICLE VI. - SPECIAL EVENTS[9]

Footnotes:

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Cross reference— Parades and processions permit required, exceptions, § 8-1-13.

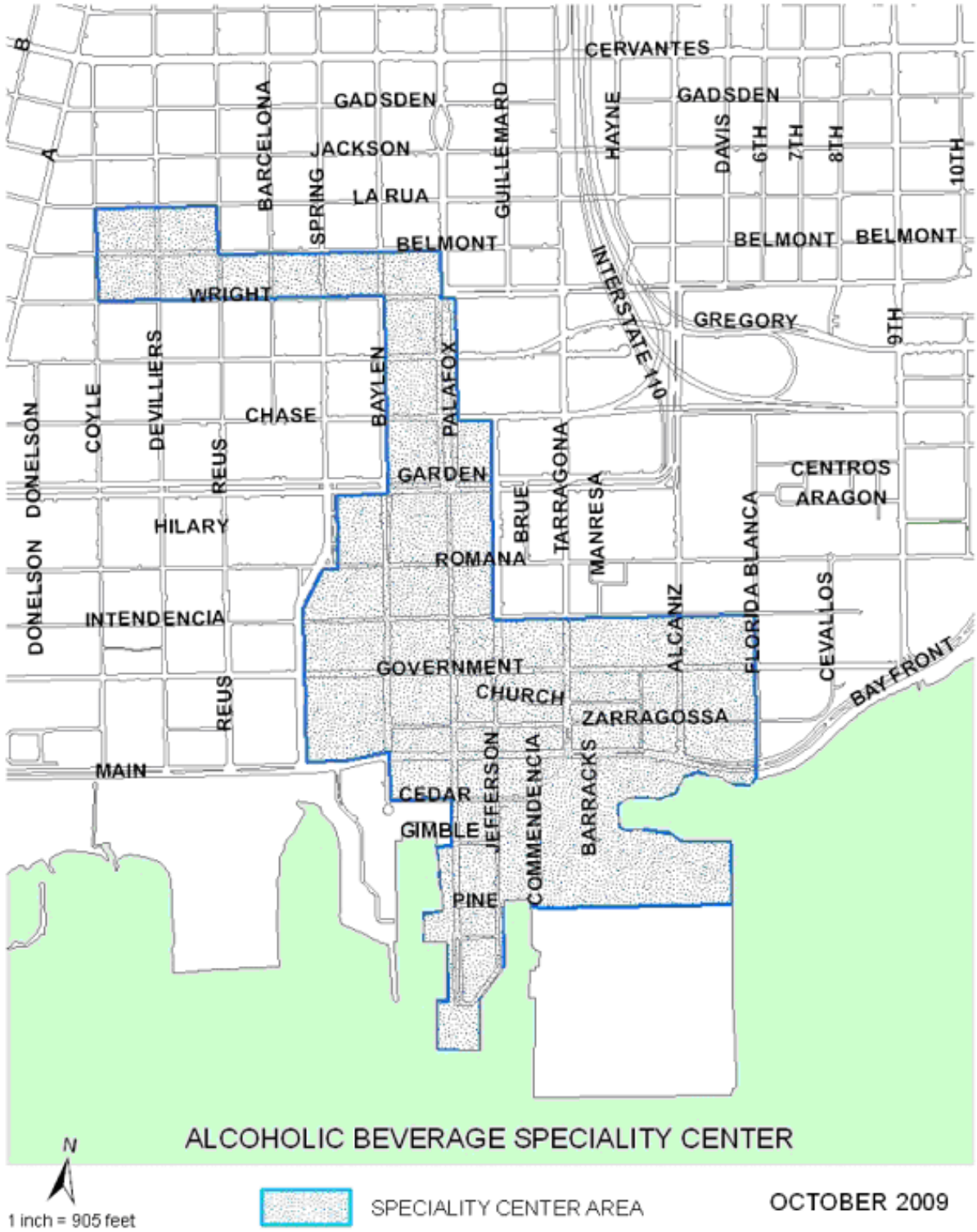
Sec. 11-4-171. - Definitions.

As used in this article, the following terms, phrases, words and their derivatives shall have the meanings given herein, unless the context otherwise requires:

Director. The Director of the Parks and Recreation Department.

Specialty Center District. The area starting at the southeast corner of Coyle Street and La Rua Street rights-of-way; thence east on south right-of-way of La Rua Street to west right-of-way of Reus Street; thence south on west right-of-way of Reus Street to south right-of-way line of Belmont Street; thence east on south right-of-way line of Belmont Street to the west right-of-way line of Palafox Street; thence south on the west right-of-way line of Palafox Street to south right-of-way line of Wright Street; thence east on south right-of-way line of Wright Street to the east right-of-way line of Palafox Street; thence south on the east right-of-way line of Palafox Street to the south right-of-way line of Chase Street; thence east on the south right-of-way line of Chase Street to the west right-of-way line of Jefferson Street; thence south on the west right-of-way line of Jefferson Street to the south right-of-way line of Intendencia Street; thence east on south right-of-way line of Intendencia Street to the west right-of-way line of Florida Blanca Street; thence south on the west right-of-way line of Florida Blanca Street to the shoreline of Pensacola Bay; thence westerly and southerly along the shoreline of Pensacola Bay to south right-of-way line of Pine Street right-of-way; thence west on the south right-of-way line of Pine Street to the west shoreline of Commendencia Slip; thence southerly and westerly and northerly following the shore line of Commendencia Slip and Pensacola Bay to south right-of-way line of Gimble Street; thence east on Gimble Street to the west right-of-way line of Palafox Street; thence north on the west right-of-way line of Palafox Street to the north right-of-way line of Cedar Street; thence west on the north right-of-way line of Cedar Street to the east right-of-way line of Baylen Street; thence north on the east right-of-way line of Baylen Street right-of-way to the north right-of-way line of Main Street; thence west on the north right-of-way line of Main Street to the east right-of-way line of Spring Street; thence north on the east right-of-way line of Spring Street to the south right-of-way line of Garden Street; thence east on the south right-of-way line of Garden Street to the east right-of-way line of Baylen Street; thence north on the east right-of-way line of Baylen Street to the north right-of-way of Wright Street; thence west on the north right-of-way line

of Wright Street to the east right-of-way line of Coyle Street; thence north on the east right-of-way line of Coyle Street to the south right-of-way line of La Rua Street to the point of beginning. See the Specialty Center map below.



Special event. Temporary use of public property by thirty (30) or more persons or three (3) or more vehicles for the purposes of conducting certain outdoor, short-term events such as a festival, parade,

rodeo, fund raising, walkathon, bikeathon, jogging activity, or any other similar organized activity whether for profit or not for profit wherein public streets, parks, or other public areas are to be utilized.

Specified area. The public park, plaza, square or public street wherein the special event is held. In addition, it shall include two (2) blocks on either side of a parade route and the parade route, a four-block radius from any park, plaza or square, or any area mutually agreed upon by the event sponsor and the city during a pre-permit coordination meeting.

Nonprofit. Any bona fide charitable, benevolent, eleemosynary, educational, cultural, or governmental institution or organization, or any event held for nonprofit purposes regardless of whether the sponsor is a for-profit or nonprofit organization.

(Ord No. 107-83, § 1, 9-8-83; Ord. No. 22-87, § 31, 5-28-87; Ord. No. 17-90, § 1, 3-22-90; Ord. No. 27-09, § 1, 8-13-09; Ord. No. 17-10, §§ 1, 3, 9-9-10)

Cross reference— Definitions and rules of construction generally, Ch. 1-2.

Sec. 11-4-172. - Application, contents.

Application to conduct a special event shall be made to the mayor, in writing, by the person or persons in charge or responsible therefor. The application shall set forth the following information:

(1) The name, address and telephone number of the person requesting the permit;

(2) The name and address of the organization or group he or she is representing;

(3) The name, address and telephone number of the person or persons who will act as chairman of the special event and be responsible for the conduct thereof;

(4) The number of monitors to be provided and the identifying marks, badges or symbols to be worn or used by the monitors;

(5) The purpose of the event, the estimated number of persons to participate and otherwise attend, and the number and types of vehicles (if any) to participate;

(6) The method of notifying participants of the terms and conditions of the special event;

(7) The date the event is to be conducted and the hours it will commence and terminate;

(8) The specific assembly and dispersal locations, the specific route and the plans, if any, for disassembly and dispersal;

(9) Whether any music will be provided, either live or recorded;

(10) The number, types and locations of all loudspeakers and amplifying devices to be used;

(11) Assurance that the applicant will make provision for adequate police presence, if any, and that the applicant will conform to necessary fire prevention rules, regulations and guidelines;

(12) Assurance that the applicant will make provision for garbage and litter cleanup associated with the special event during and after the special event in the specified area, to include a signed statement by Pensacola-Escambia Clean Community Commission that satisfactory arrangements have been made. For events ending by 6:00 p.m. all cleaning activities shall be completed within six (6) hours after the end of the event; and for events ending after 6:00 p.m., all cleanup activities shall be completed by 8:00 a.m. the following morning. The assurance shall also include the posting of a performance bond in the amount hereinafter provided, which bond shall be forfeited to the city if the cleanup is not adequate. Adequacy of the cleanup effort will be assessed by the mayor;

(13) Assurance that the applicant will cause all booths, stands, signs and any other movable fixtures pertaining to the event to be removed immediately after the special event;

(14) If the event is to take place within the boundaries of the Specialty Center District and the applicant wants to invoke the Specialty Center District exception to the open container ordinance in section 7-14-13, then the applicant shall indicate such on the application, including the street boundaries of the special event if the boundaries are less than the entire Specialty Center District.

(15) Such other information as the mayor may deem necessary in order to properly provide for traffic-control, street and property maintenance and the protection of the public health, safety and welfare.

(Ord. No. 107-83, § 2, 9-8-83; Ord. No. 22-87, § 31, 5-28-87; Ord. No. 17-90, § 2, 3-22-90; Ord. No. 16-10, § 188, 9-9-10; Ord. No. 17-10, §§ 2, 3, 9-9-10)

Sec. 11-4-173. - Time limitation for application.

No permit shall be issued for a special event unless application has been made not less than ten (10) days in advance of the date on which the special event is sought to be held.

(Ord. No. 107-83, § 4, 9-8-83; Ord. No. 22-87, § 31, 5-28-87)

Sec. 11-4-174. - Issuance or denial of permit; appeal.

(a) If an application for a permit or waiver of the user fee, clean-up deposit and insurance requirement is denied, then the applicant shall be informed by the director of the reason(s) for the denial of the permit or waiver.

(b) An applicant who has been denied a permit or waiver may file a written appeal of the director's decision with the mayor within ten (10) days of the denial. The mayor will issue his/her decision on the appeal within ten (10) days of receipt of the appeal. The time for a decision shall be shortened in extenuating circumstances.

(c) An applicant whose appeal has been denied by the mayor may file a written appeal with the city council within ten (10) days of the denial of the permit by the mayor. The written appeal shall be filed with the city clerk. The city council shall hear the appeal no later than at its next regularly scheduled meeting after receipt of the notice of appeal.

(d) An applicant whose appeal has been denied by the city council may seek review by the Circuit Court in and for Escambia County, Florida by filing a writ of certiorari.

(Ord. No. 107-83, § 3, 9-8-83; Ord. No. 22-87, § 31, 5-28-87; Ord. No. 27-09, § 2, 8-13-09; Ord. No. 16-10, § 189, 9-9-10)

Sec. 11-4-175. - Conditions contained in permit; closing of streets; parking prohibited.

Any permit granted under this article may contain conditions reasonably calculated to reduce or minimize dangers and hazards to vehicular or pedestrian traffic and the public health, safety and welfare, including but not limited to changes in time, duration or number of participants. For the purposes of public safety and welfare, the mayor may order the temporary closing of streets and/or may temporarily prohibit parking along same during the event, and shall direct the posting of proper warning signs in connection therewith.

(Ord. No. 107-83, § 5, 9-8-83; Ord. No. 22-87, § 31, 5-28-87; Ord. No. 16-10, § 190, 9-9-10)

Sec. 11-4-176. - Determination of time specified area will be used.

The maximum amount of time that the specified area will be utilized for the purpose of holding the special event will be determined by the mayor based upon the information contained in the application.

(Ord. No. 107-83, § 4, 9-8-83; Ord. No. 22-87, § 31, 5-28-87; Ord. No. 16-10, § 191, 9-9-10)

Sec. 11-4-177. - Indemnification of city; liability insurance.

The applicant for a permit to hold a special event shall agree to indemnify and hold harmless the city, its servants, agents and employees, for any and all claims caused by or arising out of the activities permitted. The applicant shall provide an appropriate policy of insurance as determined by the mayor, listing the city as an additional insured to protect the city from liability which might arise from the special event.

(Ord. No. 107-83, § 6, 9-8-83; Ord. No. 22-87, § 31, 5-28-87; Ord. No. 16-10, § 192, 9-9-10; Ord. No. 31-10, § 1, 12-16-10; Ord. No. 16-10, § 192, 9-9-10; Ord. No. 31-10, § 1, 12-16-10)

Sec. 11-4-178. - Schedule of fees, performance bonds, and exemptions.

(a) The schedule of fees, bonds, and exemptions for special events shall be as follows:

Event	User Fee	Performance Bond
Run, walk or bikeathon		
Up to 5K	$100.00	$500.00
Over 5K to 10K	150.00	500.00
Over 10K	250.00	500.00
Parades	150.00	500.00
Police escorts (except for funerals)	250.00	.00
Single day event, projected to be attended by less than 2,500 persons	250.00	500.00
Multiday event or event projected to be attended by 2,500 or more persons	250.00	1,000.00
Event in public right-of-way for which admission is charged	500.00	1,000.00

For-profit event	Actual cost to service the event as determined by mayor	1,000.00

(b) The city may waive one (1) or more of the enumerated charges for nonprofit organizations based upon experience with previous events, size, duration, location, nature of the event and the likelihood of unremoved litter or damage to property. In the event that the nonprofit organization demonstrates that it has contracted for cleanup activities with a city-approved group, the performance bond shall be waived.

(c) Neighborhood or block parties shall be exempt from the provisions of this article so long as no commercial activity is conducted, no admission fee is charged, and members of the general public are not allowed access. Provided, however, that individuals or organizations should notify the mayor's office when a neighborhood party is planned so that police, fire, and other emergency service organizations will be aware of the time, place, and scope of the event.

(d) The closing fee set forth in this article shall not be construed as being in lieu of or replacing other fees or charges imposed for labor, materials, police or fire protection services, or any other charges for city services incidental to the assembly or street closing and other fees shall still be levied and collected in addition to the closing fee herein provided.

(e) Political or public issue events shall be exempt from the provisions of section 11-4-173. Individuals or organizations planning such an event shall notify the mayor's office when a political or public issue event is planned so that police, fire, and other emergency service organizations will be aware of the time, place, and scope of the event and the name or names of persons in charge.

(f) Funeral processions shall be exempt from the terms of this article.

(Ord. No. 107-83, § 7, 9-8-83; Ord. No. 22-87, § 31, 5-28-87; Ord. No. 17-90, § 3, 3-22-90; Ord. No. 27-94, § 1, 7-28-94; Ord. No. 16-10, § 193, 9-9-10)

Sec. 11-4-179. - Admissions charge.

The city may grant permission to the sponsor of an event in a public right-of-way to charge an admission fee for attendance at the event. Consideration and granting of such permission shall be based upon the location and duration of the event, its impact upon traffic circulation, provisions for emergency access and crowd safety and control, the frequency of events at the location, and other appropriate factors.

(Ord. No. 17-90, § 4, 3-22-90)

Sec. 11-4-180. - Reduction or waiver of fees, deposit or insurance.

(a) The director may reduce or waive the user fee, insurance requirements and/or clean-up deposit if the director, in consultation with the risk manager and city attorney's office, determines that (1) the event is exclusively or primarily for speech or other expressive activity protected by the First Amendment to the United States Constitution, and (2) these requirements would be unduly burdensome or cannot be met due to the applicant's indigency or insolvency.

(b) The applicant shall file an affidavit approved by the director stating that it is made under oath, under penalty of perjury, that the applicant believes the special event's purpose is exclusively or primarily for such First Amendment speech or expression purposes, and that the applicant has determined that the cost of obtaining the required insurance, the cost of the clean-up deposit, and/or the user fee

is so financially burdensome that it would constitute an unreasonable restriction on the right of First Amendment expression.

(c) The director shall grant or deny a waiver within seven (7) days of receipt of the waiver by the parks and recreation department. An applicant that is denied a waiver may appeal the denial to the city council using the same procedure as that described in section 11-4-174. If a waiver is not denied within seven (7) days after receipt of same, then it shall be deemed granted.

(Ord. No. 27-09, § 3, 8-13-09; Ord. No. 16-10, § 194, 9-9-10)

Sec. 11-4-181. - Ancillary, temporary off-street parking.

(1) The mayor may issue single event or multiple date event permits to applicants who are, or are acting on behalf of, the owners of undeveloped or partially developed property for the purpose of allowing that property to be utilized as an ancillary, temporary parking lot for the use of patrons attending a permitted special event, a sporting event or an entertainment event to which the public or a segment thereof has been invited. When such use of property for purposes of parking has been permitted by the mayor, the provisions of section 12-3-3 of the Land Development Code shall not be applicable during the period of time covered by the permit. In the application of a permitting process, the mayor may develop reasonable criteria for such use, and the criteria shall include, at a minimum, the following elements:

   (a) The special event, sporting event or entertainment event must conform to all requirements of the City Code.

   (b) The owner of the property to be used for temporary parking must provide a suitable hold harmless agreement in favor of the City of Pensacola.

   (c) Proper ingress and egress to the property must be provided in order to insure that no damage to a sidewalk or curb occurs and that the flow of traffic on adjacent city streets, sidewalks and rights-of-way are not unduly interfered with.

   (d) The property must be maintained in such a manner that erosion or other stormwater control measures are not adversely impacted.

   (e) Immediately following the use of the property as a permitted, ancillary temporary parking lot, the owner shall insure that it is cleaned of any litter or debris.

   (f) The applicant must certify that the temporary off-street parking area is ADA compliant.

   (g) The mayor shall develop a form for the use of applicants, and application must be made no less than ten (10) days prior to the event taking place. Each individual parcel shall require a separate permit. One (1) permit may be issued to cover more than a single date where events are scheduled to occur over or on more than one (1) such date, but each permit shall specify the date or dates to which it is directed.

   (h) An application fee in the amount of ten dollars ($10.00) per day for each day covered by a permit shall be charged for each permit issued.

(2) The use of undeveloped or partially developed property which does not otherwise meet the requirements of the City Code for use as a parking lot without having obtained a permit pursuant to the provisions of this section of the Code will subject the owner or person acting on behalf of the owner of the property to the penalties set forth in section 13-1-7 and section 13-2-3 of the City Code.

(Ord. No. 11-12, § 1, 5-24-12)

Sec. 11-4-182. - Use of rights-of-way by wireless communications facilities.

(a) *Definitions.* The definitions of all applicable terms shall be as provided in Chapter 12-14 of the Code of the City of Pensacola, Florida, with the exception that the following terms shall be defined as provided in F.S. § 337.401(7)(b):

(1) Antenna;

(2) Applicable codes;

(3) Applicant;

(4) Application;

(5) Authority;

(6) Authority utility pole;

(7) Collocate or collocation;

(8) FCC;

(9) Micro wireless facility;

(10) Small wireless facility;

(11) Utility pole;

(12) Wireless facility;

(13) Wireless infrastructure provider;

(14) Wireless provider;

(15) Wireless services;

(16) Wireless service provider;

(17) Wireless support structure.

(b) *Generally.* The placement of telecommunication towers and antennae anywhere in the corporate limits of the City of Pensacola shall in all cases be subject to the city's zoning and land use regulations, including those set forth in Title XII, the Land Development Code. Where placement of a wireless antenna in the public right-of-way has been approved by the city and to the extent not inconsistent with any city zoning and land use regulations, a wireless antenna attached to a permitted and legally maintained vertical structure in the public right-of-way, such as a utility pole, shall, unless otherwise agreed to by the city in writing:

(1) Not extend more than ten (10) feet above the highest point of the vertical structure;

(2) Not have any type of lighted signal, lights, or illuminations unless required by an applicable federal, state, or local rule, regulation or law;

(3) Comply with any applicable Federal Communications Commission Emissions Standards;

(4) Comply with any applicable local building codes in terms of design, construction and installation; and

(5) Not contain any commercial advertising thereon.

(c) *Rules and regulations.* The mayor is authorized to administratively promulgate such rules and regulations as may be necessary and appropriate to regulate the placement of wireless facilities and infrastructure in the public right-of-way in conformity with applicable provisions of state law, and to designate such staff as necessary to receive, process and make determinations with respect to applications for the placement of wireless facilities and infrastructure. Such rules and regulations shall be subject to the following criteria:

(1) The registration fee required of applicants for the placement of wireless facilities and infrastructure shall be reasonably calculated to equal the city's cost of receiving, assessing, determining, awarding and maintain records with respect to each application, whether for an

individual facility or for multiple facilities covered by a single application, but such fee shall not exceed one hundred dollars ($100.00) per placement of each wireless facility.

(2) The permit fee for the placement of wireless facilities on poles or other structures owned by the City of Pensacola shall be one hundred fifty dollars ($150.00) per facility per year.

(3) All fees imposed shall be reasonable and nondiscriminatory and not based upon any services provided by the applicant.

(4) All provisions of federal and state statutes, rules and regulations, and the provisions of the Code of the City of Pensacola, Florida, pertaining to historic preservation and the historic districts regulated by the city, which have not been preempted or superseded by F.S. § 337.401(7), shall continue to be enforced and shall not be repealed, abated or waived by this section.

(5) All applications by small and micro wireless facilities providers and installers to place utility poles and other supporting structures in the public rights-of-way shall be processed in accordance with F.S. § 337.401(6), and shall be subject to the codes, policies, practices, and rules and regulations of the city with respect to the placement of such poles and other supporting structures in the public rights-of-way.

(d) *Prohibited collocations, attachments, installations and services.* The provisions of this section 11-4-182 of the Code of the City of Pensacola, Florida, does not authorize, and the City hereby prohibits, the following:

(1) This section does not authorize a person or entity to collocate or attach wireless facilities, including any antenna, micro wireless facility, or small wireless facility, on a privately owned utility pole, a privately owned wireless support structure, or other private property without the consent of the property owner.

(2) The approval of the installation, placement, maintenance, or operation of a small wireless facility pursuant to this section does not authorize the provision of any voice, data, or video services or the installation, placement, maintenance, or operation of any communication facilities other than small wireless facilities in the public right-of-way.

(3) This section does not affect any provisions relating to pass-through providers contained in this Code of Ordinances and contained in F.S. § 337.401(6), Florida Statutes.

(4) This section does not authorize a person or entity to collocate small wireless facilities or micro wireless facilities on a city utility pole or erect a wireless support structure in a location subject to covenants, conditions, restrictions, articles of incorporation, and bylaws of a homeowners' association. This paragraph does not apply to the installation, placement, maintenance, or replacement of micro wireless facilities on any existing and duly authorized aerial communications facilities.

(Ord. No. 03-18, § 1, 2-8-18)

CHAPTER 13-1. CODE ENFORCEMENT AUTHORITY[2]

Footnotes:

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Editor's note— Ord. No. 17-11, §§ 1—13, adopted September 8, 2011, repealed the former Ch. 13-1, §§ 13-1-1—13-1-12, and enacted a new Ch. 13-1 as set out herein. The former Ch. 13-1 pertained to code enforcement board and derived from Ord. No. 43-90, § 3, 9-13-90; Ord. No. 8-93, §§ 1—5, 4-8-93; Ord. No. 1-96, §§ 1—5, 1-11-96; Ord. No. 49-99, §§ 1—6, 11-18-99; Ord. No. 12-01, §§ 1—4, 3-22-01; Ord. No. 16-10, §§ 231—235, 9-9-10.

Sec. 13-1-1. - Code enforcement authority established.

There is hereby established by the city council a code enforcement authority pursuant to the provisions of F.S. Ch. 162. The authority shall be identified and known as the "Pensacola Code Enforcement Authority." The mission of the authority shall be to serve as the city's agency for the receipt, investigation, adjudication and other processing of instances of violations of code provisions pertaining to the appearance, use and condition of real property in the city, and other code violations as may be in the best enforcement interests of the city, and to provide for quasi-judicial hearings and enforcement measures to accomplish its mission. The authority shall be organized and staffed in a manner as determined by the mayor.

(Ord. No. 17-11, § 1, 9-8-11)

Sec. 13-1-2. - Definitions.

City shall mean the City of Pensacola, Florida.

Code enforcement officer shall mean those persons designated by the mayor whose duty it is to ensure compliance with the Code of the City of Pensacola, Florida. For purposes of this chapter and chapter 13-2 of the Code, code inspector, enforcement officer, and any other employee or agent so designated by the mayor under the provisions of this title of this Code shall have the same meaning.

Codes and ordinances shall mean the Code of the City of Pensacola, Florida, and all ordinances adopted by reference to any of the foregoing chapters, as now exiting or as may be amended or created by ordinances from time to time.

Cost of repairs shall mean all costs inclusive of personnel costs incurred by the city in order to make all reasonable repairs required to bring property into code compliance and to initiate and prosecute code compliance process and procedures.

Governing body shall mean the City Council of the City of Pensacola.

Irreparable or *irreversible* shall mean incapable of being rectified, repaired, or corrected or not reasonably possible to reverse.

Itinerant or *transient* shall mean any act, activity or condition in violation of this Code which moves from place to place within the City of Pensacola, or is temporary in nature.

Nuisance shall mean those conditions defined as nuisances in Florida Statues and in other provisions of the Code of Ordinances, as the code may be amended from time to time.

Person shall mean an individual, a group of two (2) or more individuals who are jointly responsible for a code violation or the correction of a code violation, and any entity or business, regardless of form,

which is responsible for a code violation, the correction of a code violation, or the ownership of real property upon which a code violation occurred or exists.

Repeat violation shall mean a violation of a provision of a code or ordinance by a person who has been previously found through a code enforcement board or any other judicial or quasi-judicial process, to have violated or who has admitted violating the same provision within five (5) years prior to the violation, notwithstanding whether the violations occur or may have occurred at different locations.

Responsible party shall mean the violator, the record owner of property, the officers and agents of a record owner, tenants or other persons in lawful possession with the consent of the record owner, and persons and entities holding a recorded security interest in property who have been provided with notice of the existence of one or more code violations on such property and information that the violation(s) have not been cured by an owner or person in possession.

Special master shall mean the hearing officer(s) designated by the city council as special magistrates having the authority to conduct quasi-judicial hearings and assess fines against code violators and such other authority as may be conferred by F.S. Ch. 162, or any other law. The city council may, by ordinance, confer additional authority and responsibility upon special masters, including the responsibility and authority to serve as hearing officers in proceedings not involving municipal code violations.

Violator shall mean the person responsible for the code violation.

(Ord. No. 17-11, § 2, 9-8-11)

Sec. 13-1-3. - Creation of code enforcement special master.

In order to promote, protect and improve the health, safety, and welfare of the citizens of the city, the city council hereby creates the position of the Code Enforcement Special Master, who shall have the authority to hold hearings, command compliance and impose administrative fines and other non-criminal penalties and otherwise provide an equitable, expeditious, effective and cost-effective method of enforcing codes and ordinances. The special masters so appointed shall have all authority conferred upon special magistrates and code enforcement boards by Chapter 162, Florida Statutes, and such additional authority as may be created and placed upon them by law, including by ordinance of the city council.

(Ord. No. 17-11, § 3, 9-8-11)

Sec. 13-1-4. - Special master authority and qualifications.

(a) The city council shall designate one (1) or more special masters who shall have the authority to hold hearings, command compliance, and assess fines against violators of the city codes and ordinances. Each special master shall have the authority to:

    (1) Subpoena alleged violators and witnesses to hearings through service by the chief of police if the person or entity being subpoenaed is located in the city limits, or through service by the Escambia County Sheriff;

    (2) Subpoena evidence to hearings;

    (3) Take testimony under oath or affirmation;

    (4) Issue orders having the force of law to command whatever steps may be reasonably necessary to bring a violation into compliance; and

    (5) Conduct hearings in an orderly manner, in accordance with the requirements of due process and all requirements of law.

    (6) Impose fines upon violators and persons responsible, pursuant to law.

(7) Upon entering a finding that a violation or repeat violation exists, a special master may simultaneously or at a later time direct the responsible party to take steps to cure the violation within a reasonable, specified period of time, and may further direct that in the event that the responsible party fails to cure the violation in the time specified, the city may enter upon the property and cure or remove the violation, either by doing so directly or by a third party contract. The order shall further provide that in the event the city cures or removes the violation itself or by third party contract, the reasonable cost to the city for its time, labor, and expenses or contract payment shall be borne by the responsible party and shall become a lien upon any and all real or personal property of the responsible party, wherever situate, enforceable according to law. Such lien and the debt, which it reflects, shall constitute a special assessment by the city upon the property which was the subject of the violation, for the improvement of such property.

(b) No special master shall have the power to initiate enforcement proceedings.

(c) Special masters shall be members of the Florida Bar in good standing, shall have no less than five (5) years' experience practicing law, which experience shall include courtroom and administrative hearing experience. Special masters shall not be employees of the city or hold any other office with the city government. Special masters appointed by the city council shall hold office until such time as they are removed with or without cause by the city council pursuant to the City Charter, and shall comply with the Code of Ethics of the State of Florida and the City of Pensacola.

(d) The city council may, by ordinance, specify that the special masters appointed under this section shall perform additional duties as hearing officers conducting quasi-judicial hearings as council may, in its discretion, so designate.

(Ord. No. 17-11, § 4, 9-8-11)

Sec. 13-1-5. - Enforcement procedures.

Except in instances where a code inspector has reason to believe that a code violation presents an immediate and serious threat to public health, safety and welfare, or where an alternative code enforcement process has been initiated, the code enforcement procedure under this chapter shall be as follows:

(1) The code inspector shall initiate enforcement proceedings with respect to the City Code, based upon complaints or information coming to the attention of the inspector from another individual, or based upon the inspector's own observation or investigation.

(2) Where the code inspector finds or is made aware of an apparent code violation, the code inspector shall notify the suspected violator and such notice of violation shall provide the suspected violator with a reasonable period of time within which to correct the apparent violation. Should the violation continue beyond the time specified for correction, the code inspector shall notify the code enforcement authority staff and request that a hearing be scheduled before a special master. A hearing before the special master shall be scheduled and notice shall be provided to the violator as provided in section 13-1-10. A case may be presented to the special master even if the violation has been corrected prior to the hearing, and the notice shall so state.

(3) If a repeat violation is found, the code inspector shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code inspector, upon notifying the violator of a repeat violation, shall notify the enforcement authority administrative staff and request that a hearing before a special master be scheduled. The code enforcement authority shall schedule a hearing before a special master and shall provide notice pursuant to F.S. § 162.12. The case may be presented to the special master even if the repeat violation has been corrected prior to the hearing, and the notice shall so state. If the repeat violation has been corrected, the code enforcement authority retains the right to schedule a hearing to determine costs and impose the payment of reasonable enforcement fees upon the repeat violator. The

repeat violator may choose to waive his or her rights to this hearing and pay said costs as determined by the special master.

(4) If the code inspector has reason to believe a violation or the condition causing the violation presents a serious threat to the public health, safety or welfare, or if the violation is irreparable or irreversible in nature, the code inspector shall make a reasonable effort to notify the alleged violator, and may immediately proceed to request a hearing before a special master.

(5) If the owner of property which is subject to an enforcement proceeding before a special master or a court or which has an unsatisfied, recorded code enforcement lien upon the property transfers ownership of such property between the time the initial pleading was served and the time of the hearing, such owner shall:

(a) Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee.

(b) Deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the code enforcement proceeding received by the transferor.

(c) Disclose, in writing, to the prospective transferee that the new owner will be responsible for compliance with the applicable code and with orders issued in the code enforcement proceeding.

(d) File a notice with the code enforcement authority of the transfer of the property, with the identity and address of the new owner and copies of the disclosures made to the new owner, within five (5) days after the date of transfer.

(e) A failure to make the disclosures described in subsections (a), (b) and (c) above, before the transfer, creates a rebuttable presumption of fraud. If the property is transferred before the hearing, the proceeding shall not be dismissed, but the new owner shall be provided a reasonable period of time to correct the violation before the hearing is held.

(6) Whenever a person has been notified of an apparent code violation by any code inspector, he or she may, within ten (10) days of such notification, request a hearing before a special master. The code enforcement authority staff shall schedule a hearing and provide notice to the person requesting the hearing in the same manner as if the hearing had been requested by a code inspector.

(Ord. No. 17-11, § 5, 9-8-11)

Sec. 13-1-6. - Hearing procedures.

(a) The code enforcement authority shall schedule hearings by a special master at such times as the necessity for such hearings or the responsibilities of the office shall require. If a hearing has previously been conducted before a special master involving a parcel of property or a violator, every reasonable effort shall be made to schedule subsequent hearings involving that property or violator before the same special master, unless circumstances warrant otherwise.

(b) Minutes of proceedings shall be kept of all hearings held by special masters and all such hearings and proceedings shall be open to the public, however, special masters shall retain the quasi-judicial authority to sequester witnesses prior to their giving testimony.

(c) Each case coming before a special master shall be presented by a code inspector or other member of the administrative staff of the code enforcement authority, or by the city attorney or his or her designee. If the city prevails in prosecuting a case before the special master or in a subsequent court proceeding, it shall be entitled to recover all costs incurred in prosecuting the case and such costs may be included in a lien authorized herein.

(d) All testimony before a special master shall be taken under oath and recorded in a manner appropriate for judicial certiorari review. All persons seeking a judicial review of the final orders of a

special master shall do so by writ of certiorari to Circuit Court and shall be responsible for proper preparation of the record for such review. The special master may take testimony from a code inspector, the alleged violator, a person claiming to be aggrieved by the alleged code violation, or knowledge of the violation or circumstances pertaining to it. The special master shall not be bound by the formal rules of evidence; however, fundamental due process and the requirements of law shall be observed and shall govern each hearing.

(e) The burden of proof shall be upon the city to show, by clear and convincing evidence, that a code violation exists or did exist.

(f) Special masters may, at any hearing, set a future hearing date in order to continue a hearing, review the circumstances of an established violation in order to determine subsequent acts of compliance or impose or amend an appropriate penalty or remedy. However, when a code violation has been found to exist by a special master, no continuance or extension of time may be granted in excess of fourteen (14) days without the consent of the code enforcement authority, which consent shall appear in written form in the record of proceedings, and which may further be conditioned upon a commitment by the violator, property owner or other responsible party to take reasonable steps to effectuate compliance or satisfy a fine or lien. In cases where an uncorrected code violation has been found by a special master, and in cases involving repeat violations, no more than one continuance may be granted in the absence of exigent circumstances without the consent of the code enforcement authority.

(g) At the conclusion of a hearing, the special master shall prepare and issue findings of fact, based upon the evidence of record, and conclusions of law, and shall issue an order affording the proper relief. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed and, pursuant to F.S. § 162.09(1), the cost of repairs may be included along with the fine if the order is not complied with by said date. A certified copy of the order may be recorded in public records of Escambia 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 the order is recorded in the public records pursuant to the subsection and the order is complied with by the date specified in the order, the 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.

(Ord. No. 17-11, § 6, 9-8-11)

Sec. 13-1-7. - Administrative fines, costs of repair, liens and foreclosure.

(a) The special master, upon notification by the code inspector that an order of the special master has not been complied with by the time set or, upon finding that a repeat violation has been committed, may order the violator to pay a fine for each day the violation continues past the date set by the special master for compliance 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 subsection 13-1-5(4), the code enforcement authority, as the entity that notifies the mayor and city council so reasonable repairs may be made, shall notify the governing body, and may make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine imposed pursuant to this section. Making such repairs does not create a continuing obligation on the part of the governing body to make further repairs or to maintain the property and does not create any liability against the governing body for any damages to the property if such repairs were completed in good faith.

(b) A fine imposed pursuant to this section shall not exceed two hundred fifty ($250.00) dollars per day for a first violation and shall not exceed five hundred ($500.00) dollars per day for a repeat violation, and in addition, may include all costs of repairs pursuant to this section. However if the special master finds the violation to be irreparable or irreversible in nature, it may impose a fine not to

exceed five thousand ($5,000.00) dollars per violation. If a finding of a violation or a repeat violation has been made as provided in this section, a hearing shall not be necessary for issuance of the order imposing the fine. If, after due notice and hearing, the special master finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine as specified in this section.

(c) In determining the amount of any fine, the special master shall consider the following factors:

i. The gravity of the violation;

ii. The actions taken by the violator to correct the violation; and

iii. Any previous violations committed by the violator.

(d) The special master may reduce a fine imposed pursuant to this section, prior to the recording of a lien.

(e) A certified copy of an order imposing a fine, or a fine plus repair costs may be recorded in the public records of Escambia County and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order shall be enforceable in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property of the violator, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this section shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit filed pursuant to this section.

(f) After three (3) months from the filing of any such lien which remains unpaid, the code enforcement authority may request the city attorney's office to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest.

(Ord. No. 17-11, § 7, 9-8-11)

Sec. 13-1-8. - Duration of lien.

No lien provided under this chapter shall continue for a period longer than twenty (20) years after the certified copy of an order imposing a fine has been recorded, unless within that time an action is commenced in a court of competent jurisdiction in an action to foreclose on a lien or for a money judgment. The prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that it incurs in the action. The local governing body shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

(Ord. No. 17-11, § 8, 9-8-11)

Sec. 13-1-9. - Appeals.

Any aggrieved party, including the city, may appeal a final administrative order of a special master to the circuit court. Such appeal shall be by writ of certiorari and shall not be a de novo hearing but shall be limited to appellate review of the record created before the special master and shall be limited to determining whether the proceedings below are based upon competent and substantial evidence and whether they conform to the essential requirements of law. An appeal shall be filed within thirty (30) days of the execution of the order to be appealed.

(Ord. No. 17-11, § 9, 9-8-11)

Sec. 13-1-10. - Notices.

(a) All notices required to be provided by this chapter shall be by:

(1) Certified mail, return receipt requested in the manner provided by F.S. section 162.12;

(2) Hand delivery by the sheriff or officer of the Pensacola Police Department, enforcement officer, code inspector, or other person designated by the city council;

(3) Leaving the notice at the violator's usual place of residence with any person residing therein who is above fifteen (15) years of age and informing such person of the contents of the notice; or

(4) In the case of commercial premises, leaving the notice with the manager or other person in charge.

(b) In addition, at the option of the special master, notice may also be served by publication or posting as provided in F.S. § 162.12, as may be amended.

(c) Evidence that an attempt has been made to hand deliver or mail notice as provided above, together with proof of publication or posting as provided above, shall be sufficient to show that the notice requirements of this part have been met, without regard to whether or not the alleged violator actually received such notice.

(Ord. No. 17-11, § 10, 9-8-11)

Sec. 13-1-11. - Actions for money judgments.

Pursuant to the provisions of F.S. § 162.125, upon authorization by the mayor, the city attorney or his or her designee may pursue an action for a money judgment based upon code enforcement fines when such an action is deemed to be in the best interests of the city by the mayor. With the concurrence of the mayor, the city attorney may enter into a contract to secure the pursuit of judgments and collections based upon such code enforcement fines and liens.

(Ord. No. 17-11, § 11, 9-8-11)

Sec. 13-1-12. - Provisions of chapter supplemental and non-exclusive.

The provisions of this chapter are not exclusive and are additional or supplemental means of obtaining compliance with the Code of the City of Pensacola, Florida. Nothing contained herein shall prohibit the City of Pensacola from enforcing the Code of the City of Pensacola, Florida, by any other lawful means.

(Ord. No. 17-11, § 12, 9-8-11)

REPEAL SECTION 13-1-13.

CHAPTER 13-2. CODE ENFORCEMENT OFFICERS

Sec. 13-2-1. - Code enforcement officers designation.

(a) The mayor is authorized to designate employees or agents of the city as code enforcement officers. These employees or agents may include, but are not limited to, code inspectors, enforcement officers, enforcement specialists, law enforcement officers, animal control officers, or fire safety inspectors. For purposes of this chapter and Chapter 13-1 of this Code, code inspector and enforcement officer shall refer to any employee or agent as designated by the mayor.

(b) A designated code enforcement officer is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted provision of the Code of the City of Pensacola, Florida, and that the county court for Escambia County will hear the charge.

(Ord. No. 43-90, § 3, 9-13-90; Ord. No. 1-96, § 6, 1-11-96; Ord. No. 49-99, § 6, 11-18-99; Ord. No. 12-01, § 5, 3-22-01)

Sec. 13-2-2. - Authority to issue citations and citations procedure.

(a) Prior to issuing a citation, a designated code enforcement officer shall provide notice to the person that the person has committed a violation of a code provision and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than thirty (30) days. If, upon personal investigation, a designated code enforcement officer finds that the person has not corrected the violation within the time period, a code enforcement officer may issue a citation to the person who has committed the violation. A code enforcement officer does not have to provide the person with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if a repeat violation is found or if the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible.

(b) Any violation of the Code of the City of Pensacola, Florida, which is sought to be enforced by issuance of a citation by a code enforcement officer shall be deemed to be a civil infraction. The maximum civil penalty shall not exceed five hundred dollars ($500.00), and a civil penalty of less than five hundred dollars ($500.00) shall be imposed if the person who has committed the civil infraction does not contest the citation.

(c) A citation issued by a designated code enforcement officer shall be in a form prescribed by the mayor and shall contain:

(1) The date and time of issuance.

(2) The name and address of the person to whom the citation is issued.

(3) The date and time the civil infraction was committed.

(4) The facts constituting reasonable cause.

(5) The number or section of the Code or ordinance violated.

(6) The name and authority of the code enforcement officer.

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

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

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

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

(d) After issuing a citation to a person, the code enforcement officer shall deposit the original citation and one (1) copy of the citation with the county court.

(e) Once a code enforcement officer issues a citation, no code enforcement officer shall have the authority to void a citation but must deposit the citation with the county court as provided in this section.

(f) Citations issued by a designated code enforcement officer may be contested in the county court for Escambia County.

(g) Any person who willfully refuses to sign and accept a citation issued by a designated code enforcement officer shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or F.S. § 775.083.

(h) The code enforcement officer may specify a mandatory court appearance should there be irreparable damage or irreversible damage or if there exists a serious threat to the health, safety, and welfare of the citizens of the city. The code enforcement officer shall specify a mandatory court appearance after a fourth offense if a violation of the same provision of the code is committed by the same violator.

(i) For violations of any duly enacted code or ordinance of the city, the schedule of civil penalties for violations which are not contested shall be as follows:

1st offense $150.00

2nd offense 225.00

3rd offense 325.00

4th offense 450.00

5th or more offenses ..... Mandatory court appearance

(j) For violations of any duly enacted code or ordinance of the city, if the person elects to contest the citation and is found to be in violation by the court, the court shall assess a civil penalty that is greater than the amount the person would have been assessed if the person had not contested the citation for the same offense under subsection (i), except that the court assessment shall not exceed five hundred dollars ($500.00) per infraction.

(k) (1) Any person cited with a violation of this section may pay the civil penalty within fifteen (15) days of the date of receiving the citation.

(2) If a person fails to pay the civil penalty within fifteen (15) days of receipt of the citation, the clerk of court shall issue a delinquent notice. An additional amount of ten dollars ($10.00) shall be assessed as a late fee for each penalty paid after the initial fifteen (15) days to be retained by the clerk of court to cover administrative costs.

(3) If a person fails to respond to the above delinquent notice, the court may enter a judgment against the person cited for the sum of the civil penalty plus delinquent fee, and any costs assessed by the court.

(l) In addition to any civil penalty imposed under this section, the court may assess costs. The Clerk of the Court of Escambia County shall collect and distribute the civil penalties, late fees, and any costs assessed by the court under this section. All civil penalties received by the clerk of the court, excluding costs imposed by the court under this section, shall be paid monthly to the City of Pensacola. The clerk of court is authorized to retain five dollars ($5.00) of each civil penalty collected to cover administrative costs.

(m) If a person fails to pay the civil penalty or request a hearing, fails to appear in court to contest the citation when a hearing has been requested, or fails to appear as may be required by paragraph (h), the court may issue an order to show cause upon the request of the City of Pensacola. This order shall require such person to appear before the court to explain why actions on the citation have not been taken. If any person who is issued such an order fails to appear in response to the court's directive, that person may be held in contempt of court. In addition to any of the foregoing, the court may also enter judgment for an amount greater than the civil penalty provided for in subsection (i), but not to exceed five hundred dollars ($500.00) per infraction.

(n) The terms and provisions of this chapter shall apply to and include all violations of the City of Pensacola's duly enacted codes or ordinances, as may be adopted, and as may be amended or replaced, for which enforcement is pursued under this chapter.

(o) The provisions of this chapter shall not apply to the enforcement pursuant to F.S. § 553.79 and § 553.80, of the Florida Building Code, adopted pursuant to F.S. § 553.73 as applied to construction, provided that a building permit is either not required or has been issued by the county or the municipality.

(Ord. No. 12-01, § 6, 3-22-01; Ord. No. 15-08, § 1, 2-13-08; Ord. No. 14-11, § 1, 7-21-11)

Sec. 13-2-3. - Notice to appear.

(a) Notwithstanding F.S. § 34.07, a designated code enforcement officer, is authorized to issue a notice to appear at any hearing conducted by a county court if the officer, based upon personal investigation, has reasonable cause to believe that the person has violated a code or ordinance. A notice to appear means a written order issued by a code enforcement officer in lieu of physical arrest requiring a person accused of violating the law to appear in a designated court at a specified date and time.

(b) Prior to issuing a notice to appear, a code enforcement officer shall provide written notice to the person that the person has committed a violation of the code or ordinance and shall establish a reasonable time period within which the person must correct the violation, except as provided in subsection (c) below. Such time period shall be no fewer than five (5) days and no more than thirty (30) days. If, upon personal investigation, the code enforcement officer finds that the person has not corrected the violation within the prescribed time period, the code enforcement officer may issue a notice to appear to the person who has committed the violation.

(c) Notwithstanding subsection (b) above, the code enforcement officer is not required to provide the person with a reasonable time to correct the violation prior to issuing a notice to appear and may immediately issue a notice to appear if a repeat violation is found, if the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or that the violator is engaged in conduct or activities of an itinerant or transient nature as defined in Chapter 13-1 of this Code of the City of Pensacola, or if the violation is irreparable or irreversible.

(Ord. No. 12-01, § 7, 3-22-01)

Sec. 13-2-4. - Provisions of chapter supplemental.

The provisions of this chapter are an additional and supplemental means of enforcing the codes or ordinances of the City of Pensacola, Florida, and may be used for the enforcement of any code provision, or for the enforcement of all code provisions. Nothing contained in this chapter shall prohibit the city from enforcing the provisions of its code by any other lawful means.

(Ord. No. 12-01, § 8, 3-22-01)

ARTICLE 1. - GENERAL.

Sec. 14-1-1. - Purpose.

The purpose of this chapter is to comply with Florida Statutes, Chapters 489, 553 and 633 and to provide rules and regulations to improve public safety by: promoting the control and abatement of fire hazards; providing uniform minimum standards, regulations and requirements for safe and stable design, methods of construction, installation and uses of materials in electrical wiring, plumbing, including irrigation systems, natural and liquified petroleum gas piping, mechanical systems or equipment and providing for assurance of the qualifications and competency of those persons installing and inspecting the same; regulating the use of structures, premises, and open areas; establishing the responsibilities and procedures for construction, unsafe building and minimum housing code enforcement; and setting forth the standards for compliance and achievement of these objectives in order to afford reasonable protection for public safety, health, and general welfare.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-2. - Application.

This chapter and all of the model technical codes adopted by reference herein shall apply to all existing structures, to all new structures and to all alterations to any new or existing structure, both private and public, located within the corporate limits of the City of Pensacola, except those which are specifically exempted by State or Federal Statutes or State administrative rules.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-3. - State Minimum Building Construction Standards adopted.

The Building Construction Standards, specified in Chapter 553, Florida Statutes, the Florida Administrative Codes applicable thereto, the Florida Building Code, and all editions and revisions thereto as may be adopted by the Florida Building Commission as the state minimum building codes, including those specific state codes relating to electrical, glass, manufactured buildings, accessibility by handicapped persons, thermal efficiency, energy conservation, and radon resistant construction, save and except those portions which are deleted, modified, or amended as contained in this chapter, are hereby adopted for the purpose of governing the construction, erection, enlargement, alteration, repair, demolition, use, occupancy, proximity and maintenance of buildings and other structures within the city.

(Ord. No. 19-02, § 1, 9-12-02)

Secs. 14-1-4—14-1-20. - Reserved.

ARTICLE II. - DEPARTMENT OF INSPECTION SERVICES

Sec. 14-1-21. - Department of Inspection Services established; director; powers and duties.

(a) There shall be an Inspection Services function within the administrative service of the City of Pensacola, the head of which shall serve at the pleasure of the mayor and also serve in the capacity of building official as defined in the Florida Statutes and the model technical codes subsequently adopted herein. The department shall review, monitor, and make recommendations concerning city policy and administration functions regarding the subjects of building inspection, minimum housing, unsafe building abatement, and other inspection functions assigned to that department; shall assist with the duties of other departments pertinent to the inspections function within the corporate limits of

the City of Pensacola; and shall perform such other duties as prescribed by the mayor and the technical codes as adopted herein.

(b) The Inspection Services function and the Building Department as defined in the technical codes shall be one and the same. All regulations and procedures for the organization, operation and administration of the Building Department shall apply to the Inspection Services function unless modified by this chapter or by state statute.

(Ord. No. 19-02, § 1, 9-12-02; Ord. No. 16-10, § 236, 9-9-10)

Sec. 14-1-22. - Inspectors; qualifications; authority and duties.

(a) Where the term "inspector" is used it shall mean the mayor's duly appointed representative of the Building Official, appointed to represent the city in the enforcement of these codes and shall include the titles inspector, chief inspector, code inspector, inspection supervisor or plans examiner as referred to in the Florida Statutes, the Administrative Codes of Florida, or any city code or the codes adopted by reference, herein. A person appointed to fill the office of inspector shall meet the qualifications of the Florida Statutes, and the technical codes and laws of the City of Pensacola.

(b) It shall be unlawful for a city employee, while holding the office of building official or inspector, to engage in any way, directly or indirectly, personally or in connection with another person, firm or corporation, in the business of inspection, construction, installation, maintenance or the sale of material, components or devices used in the construction or maintenance of any structure or system regulated by this Code, or in any other way to be involved in an industry regulated by this code except for the performance of their official duties.

(c) It shall be the duty of each inspector to see that all laws governing construction and land use are strictly complied with. They shall keep records of inspections made and other official work performed under the provisions of this Code.

(d) A city inspector shall have the right to issue a stop work order or to void a permit issued by the department whenever the inspector determines that the work being done is not in conformance with approved plans or any part of the Codes of the City of Pensacola for which such inspector has been given the responsibility and authority for administration or enforcement.

(e) A city inspector shall have the right, during reasonable hours, to enter any building or property in the discharge of official duties.

(f) In the case of emergency, a city inspector shall have the right, in the discharge of official duties, to enter any structure, building or property, manhole or subway, or to climb any pole for the purpose of examining and testing systems therein or thereon and shall have the authority to cause the disconnection, in the case of emergency, of any service connection, line, wire, pipe, or like device, where dangerous to life or property, or where such service connection may interfere with the work of the fire department.

(g) City inspectors are hereby empowered to order the discontinuance of service to any wiring, device and/or equipment found to be defectively installed or not in accordance with the provisions of this code, until such wiring, device, and equipment and its installation have been made safe by the owner as directed by the building official.

(h) Upon completion of an inspection, if a structure or an installation is found not to be in compliance with this Code, the inspector shall immediately notify the person, firm or corporation erecting, using or owning the structure or installing the system, of the defects which have been found and explain the corrective action required and establish the time period in which compliance is to be accomplished.

(i) A city inspector, when designated by the mayor as a code enforcement officer in accordance with Title XIII of the City Code and applicable Florida Statutes, may issue citations to persons violating the contractor licensing laws of the city, county or state and to persons failing to obtain required

permits, unless such action is prohibited elsewhere in this code or in the Florida Statutes. Such citations shall be processed in accordance with F.S. § 489.127 and Title XIII, Code of the City of Pensacola.

(Ord. No. 19-02, § 1, 9-12-02; Ord. No. 16-10, § 237, 9-9-10)

Secs. 14-1-23—14-1-40. - Reserved.

ARTICLE III. - CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS AND AUTHORITY

Sec. 14-1-41. - Authority.

(a) There is hereby established a Construction Board of Adjustment and Appeals (CBAA).

(b) The Construction Board of Adjustment and Appeals established herein shall have jurisdiction over all technical codes, including the Florida Building Code, the National Electric Code, and the International Property Maintenance Code, but excepting the Life Safety and Fire Prevention Codes, adopted hereafter.

(c) The Construction Board of Adjustments and Appeals shall have the power to hear appeals of decisions and interpretations of the building official and consider variances of the technical codes.

(d) The owner of a building, structure or service system, or his duly authorized agent, may appeal a decision of the building official if the building official rejected or refused to approve the manner of construction or material proposed to be used in the installation or alteration of a building or structure or service system, the provisions of the code do not apply to the specific case, that an equally good or more desirable form of installation can be employed, or the true intent or meaning of the code has been misconstrued or incorrectly interpreted.

(e) The Construction Board of Adjustments and Appeals, when so appealed to and after a hearing, may vary the application of any provision of the technical codes to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of the technical codes or public interest.

(f) Notice of appeals to the Construction Board of Adjustments and Appeals shall be in writing and filed within fifteen (15) calendar days after the decision is rendered by the building official. Appeals shall be in a form acceptable to the CBAA.

(g) The Board of Appeals provided for in the International Property Maintenance Code and the Construction Board of Adjustment and Appeals, as established herein, shall be one and the same. There shall be no fee for an appeal to said board unless provided for by ordinance hereafter adopted, except as provided in section 7-14-4 of the Code of the City of Pensacola.

(Ord. No. 19-02, § 1, 9-12-02; Ord. No. 08-08, § 1, 1-31-08)

Sec. 14-1-42. - Membership; organization.

(a) The seven (7) members of the City of Pensacola Construction Board of Adjustment and Appeals shall be individuals with knowledge and experience in the technical codes and shall include one (1) registered architect, one (1) registered engineer, one (1) general or building contractor, one (1) electrical contractor, one (1) plumbing and gas contractor, one (1) mechanical contractor and one (1) member at large from the public. The two (2) alternates shall be one (1) member at large from the construction industry and one (1) member at large from the public. The members shall be appointed by the city council and shall serve without compensation.

(b) The appointments to the Construction Board of Adjustment and Appeals shall be as follows:

1. Two (2) members appointed for a term of one (1) year each.
2. Three (3) members appointed for a term of two (2) years each.
3. Two (2) members appointed for a term of three (3) years each.

(c) After the appointments provided for in section 3 of Ordinance No. 8-94, appointments shall be made for a term of three (3) years. Appointments to fill any vacancy on the board shall be for the remainder of the unexpired term of the member.

(d) Alternate members shall be appointed for a term of two (2) years.

(e) Alternate members of the board may attend all meetings of the board and participate in all discussions but shall vote only in the absence, disability or disqualification of a regular member. When an alternate member acts, the minutes of the meeting shall reflect the absent, disabled, or disqualified member in whose place and stead the alternate is acting.

(f) The members of the CBAA shall elect, from their appointed membership, a chair and a vice chair, whose terms shall be for one (1) year. A member may be reelected as chairman or vice chairman as long as remaining a member of the board. The chairman and vice chairman shall vote on all issues brought before the board; however, no member shall act in a case in which that member has a personal or financial interest.

(g) If any regular member fails to attend two (2) of three (3) successive meetings without cause and without prior approval of the chairman, the CBAA shall declare the member's office vacant, and request that the city council promptly fill such vacancy.

(h) Members of the CBAA may be suspended and removed from membership on the CBAA for cause by the city council, upon recommendation by either the CBAA or the mayor.

(i) The Building Official or his appointed representative shall serve as the secretary to the CBAA.

(Ord. No. 19-02, § 1, 9-12-02; Ord. No. 16-10, § 238, 9-9-10)

Sec. 14-1-43. - Rule making authority.

The CBAA is authorized to make such rules not inconsistent with law which are necessary to carry out the duties and authority conferred upon it by this chapter.

(Ord. No. 19-02, § 1, 9-12-02)

Secs. 14-1-44—14-1-60. - Reserved.

ARTICLE IV. - CONTRACTOR CERTIFICATION

Sec. 14-1-61. - Acceptance of contractors' certificates of competency issued by county.

(a) No person or business entity shall engage in the business of contracting within the city in any category of construction contracting as defined in Chapter 489, Florida Statutes or applicable Escambia County regulations without having first obtained a contractor certificate of competency (license) in the appropriate category from the Florida Construction Industry Licensing Board (CILB), the Florida Electrical Contractor's Licensing Board (ECLB), the Escambia County Contractor Competency Board, the Escambia County Board of Electrical Examiners, or the Escambia County Board of Plumbing Examiners, except that any person or business entity possessing a City of Pensacola contractor's certificate of competency (license) which was current and valid on or before September 12, 2002, shall be allowed to engage in the business of contracting providing that such certificate of competency is maintained by biennial renewal as required by section 7-14-3 of the Code of the City of Pensacola. Each business entity engaging in the business of contracting in the

City of Pensacola must have a full time person who holds either a State of Florida certification, or an Escambia County or City of Pensacola certification which has been registered with the State of Florida, unless exempted from registration by applicable Florida law, designated as the qualifying agent for that business entity.

(b) Contractor's certificates of competency issued by Escambia County pursuant to County Ordinance No. 90-4, Escambia County Ordinance No. 94-18, Escambia County Ordinance No. 94-2, and subsequent amendments thereto, are hereby accepted by the city as evidence of the competency of the qualifying business or individual to perform the services or trade provided for in any such certificate.

(c) All persons certified under the authority of the Escambia County Contractor Competency Board, Escambia County Board of Electrical Examiners, the Escambia County Board of Plumbing Examiners, the Florida Construction Industry Licensing Board, or the Florida Electrical Contractor Licensing Board contracting within the city shall comply with the requirements, as identified in this chapter, and failure to do so shall be punishable pursuant to the Codes of the City of Pensacola, including but not limited to, section 1-1-8, section 14-3-4 or F.S. §§ 775.082, 775.083, and 775.084.

(d) Acceptance of Escambia County certificates of competency and the requirement herein that individuals or businesses contracting within the city comply with Escambia County Ordinances shall in no way alter or preclude the necessity for complying with the other requirements of the Code of the City of Pensacola.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-62. - Gas installers and gas contractors.

(a) No person or business entity shall engage in the business of installing, altering or repairing, within the city, any natural gas piping or gas appliance, device or equipment for which a permit is required by this code, unless the person is the holder of either a City of Pensacola or an Escambia County gas contractor certificate issued by the Department of Agriculture and Consumer Services or is certified by the State of Florida as a plumbing contractor or the person or business entity employs a full time person who qualifies the business by holding either a City of Pensacola or an Escambia County master gas installer certification and is designated as the supervisor of gas installations for that person or entity. Persons or business entities engaged in the installation of liquified petroleum gas shall hold a liquified petroleum gas installation contractor certificate, issued by the Department of Agriculture and Consumer Services, and be licensed in accordance with Florida Statutes; or shall employ a full time person who qualifies the business by holding the required certification, registration or license.

(b) Upon the date of adoption of this ordinance, the City of Pensacola shall no longer issue gas installers certificates of competency. Those persons holding current City of Pensacola certificates of competency as of the date of adoption of this ordinance shall be allowed to renew and exercise the privileges of the same within the city as long as they remain active in the business of installing gas piping or appliances and renew their certificate biennially, as required by section 7-14-3 of this Code. City certificate holders shall be subject to regulation and discipline by the Construction Board of Adjustment and Appeals.

(c) All persons certified as a master gas installer or journeyman gas installer under the authority of the Escambia County Board of Plumbing Examiners, pursuant to county ordinance, are hereby accepted by the city as having the competency to perform the services provided for in the Escambia County ordinance establishing such certificate. Holders of Escambia County competency certificates contracting within the city shall be subject to the appeals and complaints hearing procedure of the Escambia County Board of Plumbing Examiners regarding all work done within the city.

(d) Acceptance of Escambia County certificates of competency and the requirement herein that individuals or businesses contracting within the city comply with Escambia County Ordinances shall in no way alter or preclude the necessity for complying with requirements of the City codes and

failure to do so shall be punishable pursuant to the Codes of the City of Pensacola, including but not limited to, section 1-1-8, section 14-3-4, or F.S. §§ 775.082, 775.083, and 775.084.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-63. - Plumbers and plumbing contractors.

(a) No person or business entity shall engage in the business of installing, altering or repairing, within the city, any plumbing system, fixture, device or equipment for which a permit is required by this code, unless the person is the holder of either a City of Pensacola or an Escambia County plumbing contractor certificate currently registered with the State of Florida or is certified by the State of Florida as a plumbing contractor or the person or business entity employs a full time supervisor of plumbing installations who qualifies the business by holding the required certification or registration.

(b) Upon the date of adoption of this ordinance, the City of Pensacola shall no longer issue plumbing certificates of competency. Those persons holding current City of Pensacola certificates of competency shall be allowed to renew and exercise the privileges of the same within the city as long as they remain active in the business of installing plumbing systems or fixtures and renew their certificate biennially, as required by section 7-14-3 of this Code. City certificate holders shall be subject to regulation and discipline by the Construction Board of Adjustment and Appeals.

(c) All persons certified as a master plumber, journeyman plumber, lawn sprinkler system installer, or plumbing contractor under the authority of the Escambia County Board of Plumbing Examiners, pursuant to county ordinance, are hereby accepted by the city as having the competency to perform the services provided for in the Escambia County ordinance establishing such certificate. Holders of Escambia County competency certificates contracting within the city shall be subject to the appeals and complaints hearing procedure of the Escambia County Board of Plumbing Examiners regarding all work done within the city.

(d) Acceptance of Escambia County certificates of competency and the requirement herein that individuals or businesses contracting within the city comply with Escambia County Ordinances shall in no way alter or preclude the necessity for complying with the requirements of the city codes and failure to do so shall be punishable pursuant to the Codes of the City of Pensacola, including but not limited to, section 1-1-8, section 14-3-4, or F.S. §§ 775.082, 775.083, and 775.084.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-64. - Irrigation/sprinkler system installers.

(a) No person or business entity shall engage in the business of installing, altering or repairing, within the city, any irrigation system, fixture, device or equipment for which a permit is required by this code, unless the person is the holder of either a City of Pensacola or an Escambia County irrigation/ sprinkler system installer certificate, master plumber certificate or plumbing contractor certificate currently registered with the State of Florida or is certified by the State of Florida as a plumbing contractor or the person or business entity employs a full time person who qualifies the business by holding the required certification and registration.

(b) Upon the date of adoption of this ordinance, the City of Pensacola shall no longer issue irrigation/sprinkler system installer certificates of competency. Those persons holding current city certificates of competency shall be allowed to renew and exercise the privileges of the same within the city as long as they remain active in the business of installing irrigation/sprinkler plumbing systems and renew their certificate biennially, as required by section 7-14-3 of this Code. City certificate holders shall be subject to regulation and discipline by the Construction Board of Adjustment and Appeals.

(c) All persons certified as a master plumber, or an irrigation/sprinkler installer or plumbing contractor under the authority of the Escambia County Board of Plumbing Examiners, pursuant to county

ordinance, are hereby accepted by the city as having the competency to perform the services provided for in the Escambia County ordinance establishing such certificate. Holders of Escambia County competency certificates contracting within the city shall be subject to the appeals and complaints hearing procedure of the Escambia County Board of Plumbing Examiners regarding all work done within the city.

(d) Acceptance of Escambia County certificates of competency and the requirement herein that individuals or businesses contracting within the city comply with Escambia County Ordinances shall in no way alter or preclude the necessity for complying with the requirements of the City Codes and failure to do so shall be punishable pursuant to the Codes of the City of Pensacola, including but not limited to, section 1-1-8, section 14-3-4, or F.S. §§ 775-082, 775.083, and 775.084.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-65. - Reserved.

Sec. 14-1-66. - Journeymen and master electricians.

(a) A journeyman electrician is a person who possesses the necessary qualifications, training and technical knowledge to install electrical wiring, apparatus or equipment for light, heat or power, and who is capable of doing electrical work according to the plans and specifications furnished him or her and in accordance with this Code, and the requirements established by the Escambia County Board of Electrical Examiners and who has been tested and certified as such by the Escambia County Board of Electrical Examiners, or the holder of a City of Pensacola certificate of competency which was current and valid upon the adoption of this chapter.

(b) A master electrician is a person who possesses the necessary qualifications, training, and technical knowledge to plan, lay out and supervise the installation of electrical wiring, apparatus or equipment for light, heat or power and who has demonstrated qualification under the provisions of this Code and the requirements established by the Escambia County Board of Electrical Examiners and who has been tested and certified, as such, by the Escambia County Board of Electrical Examiners, or the holder of a City of Pensacola certificate of competency which was current and valid upon the adoption of this chapter.

(c) Upon the date of adoption of this ordinance, the City of Pensacola shall no longer issue journeyman electrician or master electrician certificates of competency. Those persons holding current City of Pensacola certificates of competency, as of the date of adoption of this ordinance, shall be allowed to renew and exercise the privileges of the same within the city as long as they remain active in electrical work as permitted by this Code and renew their certificate biennially, as required by section 7-14-3 of this Code. City certificate holders shall be subject to regulation and discipline by the Escambia County Board of Electrical Examiners.

(d) Subsequent to the effective date of this chapter, a person desiring to obtain a certificate of competency for a journeyman electrician or master electrician, as defined in this section must satisfy all requirements of the Escambia County Board of Electrical Examiners. Pursuant to section 14-1-61 journeyman and master electricians licensed by the Escambia County Board of Electrical Examiners shall be authorized to conduct work as defined in this section.

(e) Acceptance of Escambia County certificate of competency and the requirement herein that individuals or businesses contracting within the city comply with Escambia County Ordinances shall in no way alter or preclude the necessity for complying with the other requirements of the Code of the City of Pensacola and failure to do so shall be punishable pursuant to the Codes of the City of Pensacola, including but not limited to, section 1-1-8, section 14-3-4, or F.S. §§ 775-082, 775,083, and 775.084.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-67. - Maintenance electricians.

(a) A maintenance electrician is a person who possesses the necessary qualifications and is certified by the Escambia County Board of Electrical Examiners to keep in repair, and/or maintain or operate machinery, elevators, or equipment in specific buildings or plants as an employee of the owners or operators of such buildings or plants. This person is restricted from doing any electrical work which requires an electrical permit from the City of Pensacola.

(b) Upon the date of adoption of this ordinance, the City of Pensacola shall no longer issue maintenance electrician certificates of competency. Those persons holding current City of Pensacola certificates of competency shall be allowed to renew and exercise the privileges of the same within the city as long as they remain active in electrical work as permitted by this Code and renew their certificate biennially, as required by section 7-14-3 of this Code. City certificate holders shall be subject to regulation and discipline by the Escambia County Board of Electrical Examiners. Nothing in this section shall be construed as authorizing any maintenance electrician to engage in business as an electrician, nor as authorizing any such individual to do electrical work other than in or on the property of their employer. Maintenance electricians shall not be allowed to make new installations or perform new construction under this provision. Upon leaving the employment for which the maintenance electrician certificate of competency was issued, such certificate of competency shall become null and void.

(c) Subsequent to the effective date of this ordinance, a person desiring to obtain a certificate of competency for a maintenance electrician, as defined in this section must satisfy all requirements of the Escambia County Board of Electrical Examiners. Pursuant to section 14-1-61 maintenance electricians licensed by the Escambia County Board of Electrical Examiners shall be authorized to conduct work as defined in this section.

(d) Acceptance of Escambia County certificate of competency and the requirement herein that individuals or businesses contracting within the city comply with Escambia County Ordinances shall in no way alter or preclude the necessity for complying with the other requirements of the Code of the City of Pensacola and failure to do so shall be punishable pursuant to the Codes of the City of Pensacola, including but not limited to, section 1-1-8, section 14-3-4, or F.S. §§ 775-082, 775.083, and 775.084.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-68. - Electrical contractors.

(a) As of the effective date of this chapter, a person or entity desiring to engage in electrical contracting, as defined in Chapter 489 Part II, Florida Statutes, must satisfy all requirements of the Escambia County Board of Electrical Examiners for certification as an electrical contractor.

(b) No person or business entity shall engage in the business of installing, altering or repairing within the city, any electrical wiring, device or equipment for which a permit is required by this code unless: the person is certified or licensed and authorized to do such work as provided for in section 14-1-61 of this chapter. Those persons designated as qualifying agents shall comply with all requirements of the Florida Statutes and administrative rules of the Florida Electrical Contractor's Licensing Board concerning notifications.

(c) Upon the date of adoption of this chapter, the City of Pensacola shall no longer issue electrical contractor certificates of competency. Those persons holding current City of Pensacola certificates of competency shall be allowed to renew and exercise the privileges of the same within the city as long as they remain active in electrical contracting work as permitted by this Code and renew their certificate biennially, as required by section 7-14-3 of this Code. City certificate holders shall be subject to regulation and discipline by the Escambia County Board of Electrical Examiners.

(d) Acceptance of Escambia County certificate of competency and the requirement herein that individuals or businesses contracting within the city comply with Escambia County Ordinances shall

in no way alter or preclude the necessity for complying with the other requirements of the Code of the City of Pensacola and failure to do so shall be punishable pursuant to the Codes of the City of Pensacola, including but not limited to, section 1-1-8, section 14-3-4, or F.S. §§ 775-082, 775.083, and 775.084.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-69. - Alarm system contractors.

No person or business entity shall engage in the business of installing, altering or repairing, within the city, any alarm system wiring, device or equipment for which a permit is required by this code unless the person is the holder of an Escambia County alarm system contractor certificate currently registered with the State of Florida or is a State certified alarm system contractor; or the person or business entity employs a full time person who holds such a registration or certificate and is designated as the qualifying agent. Those persons designated as qualifying agents shall comply with all requirements of the Florida Statutes and administrative rules of the Florida Electrical Contractor Licensing Board concerning notifications.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-70. - Liability insurance required.

Contractors doing business in the city shall be required to carry bodily injury and property damage insurance in the amounts specified in Rule 61G4-15.003, Florida Administrative Code.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-71. - Reserved.

REPEAL SECTION 14-1-72.

Sec. 14-1-73. - Prohibitions; violations.

(a) It is unlawful for any person to engage in the business or act in the capacity of a contractor or certificate holder in the City of Pensacola without having been duly certified or registered as required under the provisions of state law and the Code of the City of Pensacola.

(b) It is a violation of this Code for any person to:

1. Falsely hold themselves out as one duly certified as required by the provisions of this Code;
2. Falsely impersonate one duly certified as required by the provisions of this Code;
3. Present as their own the certificate or registration of another;
4. Give false or forged evidence for the purpose of obtaining a certificate or registration;
5. Use or attempt to use a certificate or registration which has expired, or has been suspended or revoked.

(Ord. No. 19-02, § 1, 9-12-02)

Secs. 14-1-74—14-1-90. - Reserved.

REPEAL ARTICLE V.

ARTICLE V. - PERMITS—CODE COMPLIANCE

Sec. 14-1-111. - Permit—Fee.

No construction permit authorized or required by this Code shall be issued by the inspection services department until the applicant therefor pays the appropriate fee for the permit and the rights and privileges provided therein.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-112. - Same—Term.

Every construction permit issued shall become invalid unless the work authorized by such permit is commenced within six (6) months after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of three (3) months after the time the work is commenced, except that re-roofing permits shall be good for only three (3) weeks and demolition permits for only ninety (90) days, unless the permit holder shall have obtained an extension from the Building Official. "Work," as used herein, shall be defined as progress evidenced by at least one satisfactory inspection during any six (6) month period.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-113. - Same—Deviation.

The construction permit, when issued, shall be for such installation as is described in the application and plans and no deviation shall be made from the installation so described without the written approval of the inspection services department. If any deviation from the original permit is made another permit covering the deviation may be required.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-114. - Damage exceeding fifty percent of appraised taxable value.

Whenever a building has deteriorated, been destroyed, or demolished to the extent that the cost of improvement, renovation or repair work will exceed fifty (50) percent of the appraised taxable value established prior to the destruction or demolition, then it shall be required that the entire structure be reworked to meet the requirements of the current construction, life safety and fire prevention codes.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-115. - Stop work order.

Whenever improvement work on any premises within the city whether permitted or not, is being done contrary to the provisions of this or any other code of the City of Pensacola, the code inspector observing such work shall issue a written stop work order or other correction notice to the person or firm responsible for the work. The person responsible shall cease work until the proposed work is approved or until corrections in compliance with the correction notice have been made. The Building Official may, at his

discretion, revoke any permit issued for improvements if the person responsible fails to comply with a written stop work or correction notice.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-116. - Conformance with regulations and technical codes.

Any person, firm or corporation engaged in a business regulated by this Code, whose work does not conform to the regulations and technical codes adopted herein, shall on notice from the building official make necessary changes or corrections so as to conform to these regulations and technical codes; if changes have not been made after ten (10) days' notice from the building official, the building official may then refuse to issue any more permits, for any project, to that person, firm or corporation until such work has fully complied with these regulations and codes.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-117. - Permit appeals.

A person, firm or corporation which is denied a permit or has a permit revoked shall have the right to appeal, in writing, the decision of the Building Official to the Construction Board of Adjustment and Appeals within fifteen (15) days of such action. The Construction Board of Adjustment and Appeals shall meet and decide the appeal of the permit denied or revoked within fifteen (15) business days of receipt by the Building Official of the written appeal.

(Ord. No. 19-02, § 1, 9-12-02)

Secs. 14-1-118—14-1-130. - Reserved.

ARTICLE VI. - BUILDINGS[3]

Footnotes:

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Cross reference— Barbed wire fences unlawful without planks, § 8-1-8; code enforcement, Title XIII.

Sec. 14-1-131. - Florida Building Code—Adopted.

Pursuant to F.S. § 553.73, and other applicable provisions of law, the Florida Building Code and all subsequent editions and revisions thereto as may be adopted by the State of Florida Building Commission as the state minimum building code, save and except the portions which are deleted, modified, or amended as contained in this chapter, are hereby adopted for the purpose of governing the construction, erection, enlargement, alteration, repair, demolition, use, occupancy, proximity and maintenance of buildings and other structures within the city. Not less than one (1) copy of the foregoing codes has been filed for more than ten (10) days preceding passage of this chapter and is now filed in the office of the City Building Official.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-132. - Same—Amendments.

At the time of excavation and during construction of a swimming pool an effective safety barrier as defined in Section 424.2.2 of the Florida Building Code shall be installed and maintained so as to enclose all four sides of the excavation or swimming pool whenever persons constructing the pool are not at the site and the permanent enclosure has not been installed.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-133. - Local government amendments to Florida Building Code.

The Florida Building Code permits local governments to adopt amendments which are more stringent than the minimum standards in state statutes, and amendments to the technical provisions of the Florida Building Code which apply solely within the jurisdiction of the local government. Pursuant to the provisions of F.S. § 553.73(4), the following amendments are adopted and applicable within the city limits of the City of Pensacola:

(a) Section 1612.4.2 of the Florida Building Code, Building, is amended to provide:

Elevation requirements. The minimum elevation requirements shall be as specified in ASCE 24 or the base flood elevation plus 3 feet (914 mm), whichever is higher.

(b) Section R322.2.1 of the Florida Building Code, Residential, is amended to provide:

R322.2.1 Elevation requirements.

1. Buildings and structures in flood hazard areas including flood hazard areas designated as Coastal A Zones, shall have the lowest floors elevated to or above the base flood elevation plus 3 feet (914 mm),or the design flood elevation, whichever is higher.
2. In areas of shallow flooding (AO zones), buildings and structures shall have the lowest floor (including basement) elevated to a height above the highest adjacent grade of not less than the depth number specified in feet (mm) on the FIRM plus 3 feet (914 mm), or not less than 3 feet (915 mm) if a depth number is not specified.
3. Basement floors that are below grade on all sides shall be elevated to or above base flood elevation 3 feet (914 mm), or the design flood elevation, whichever is higher.

   Exception: Enclosed areas below the design flood elevation, including basements with floors that are not below grade on all sides, shall meet the requirements of Section 322.2.2.

(c) Section R322.2.2 of the Florida Building Code, Building, is amended to provide:

R322.2.2 Enclosed areas below design flood elevation.

Enclosed areas, including crawl spaces, that are below the design flood elevation shall:

1. Be used solely for parking of vehicles, building access or storage. The interior portion of such enclosed areas shall not be partitioned or finished into separate rooms except for stairwells, ramps, and elevators, unless a partition is required by the fire code. The limitation on partitions does not apply to load bearing walls interior to perimeter wall (crawlspace) foundations. Access to enclosed areas shall be the minimum necessary to allow for the parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the building (stairway or elevator).

(d) Section R322.3.2 of the Florida Building Code, Building, is amended to provide:

R322.3.2 Elevation requirements.

1. Buildings and structures erected within coastal high-hazard areas and Coastal A Zones, shall be elevated so that the bottom of the lowest horizontal structure members supporting the lowest floor, with the exception of pilings, pile caps, columns, grade beams and bracing, is elevated to or above the base flood elevation plus 3 feet (914 mm) or the design flood elevation, whichever is higher.

2. Basement floors that are below grade on all sides are prohibited.

3. The use of fill for structural support is prohibited.

4. Minor grading, and the placement of minor quantities of fill, shall be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.

5. Walls and partitions enclosing areas below the design flood elevation shall meet the requirements of Sections R322.3.4 and R322.3.5.

(e) Section R322.3.4 of the Florida Building Code, Building, is amended to provide:

R322.3.4 Walls below design flood elevation.

Walls are permitted below the elevated floor, provided that such walls are not part of the structural support of the building or structure and:

1. Electrical, mechanical, and plumbing system components are not to be mounted on or penetrate through walls that are designed to break away under flood loads; and

2. Are constructed with insect screening or open lattice; or

3. Are designed to break away or collapse without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Such walls, framing and connections shall have a design safe loading resistance of not less than 10 (470 Pa) and no more than 20 pounds per square foot (958 Pa); or

4. Where wind loading values of this code exceed 20 pounds per square foot (958 Pa), the construction documents shall include documentation prepared and sealed by a registered design professional that:

4.1. The walls below the design flood elevation have been designed to collapse from a water load less than that which would occur during the design flood.

4.2. The elevated portion of the building and supporting foundation system have been designed to withstand the effects of wind and flood loads acting simultaneously on all building components (structural and nonstructural). Water loading values used shall be those associated with the design flood. Wind loading values used shall be those required by this code.

(f) Section R322.3.5 of the Florida Building Code, Building, is amended to provide:

R322.3.5 Enclosed areas below the design flood elevation.

Enclosed areas below the design flood elevation shall be used solely for parking of vehicles, building access or storage. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms except for stairwells, ramps, and elevators, unless a partition is required by the fire code. Access to enclosed areas shall be the minimum necessary to allow for the parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the building (stairway or elevator).

(Ord. No. 16-19, § 3, 8-8-19)

Sec. 14-1-134. - Building permits.

(a) In addition to the requirements specified in the Florida Building Code, as adopted herein, applications for and issuance of construction permits shall be in accordance with Chapter 12-12, Code of the City of Pensacola.

(b) Applications for building permits shall be accompanied by the following information and materials:

1. Two (2) or more complete sets of building construction plans and specifications, signed by the designer, and, when required, sealed by an appropriately certified professional, drawn in sufficient detail to be reviewed for compliance with the requirements of the technical codes, Florida Statutes and the Land Development Code contained in Chapter 12.
2. Proof of sewer tap from Escambia County Utilities Authority, as appropriate.
3. Completed, current Florida thermal efficiency code compliance certification forms, when applicable, pursuant to Florida Statutes, Chapter 553.

(c) One (1) copy of the plans shall be returned to the applicant by the building official after designated agents have marked as approved. This copy is to be maintained at the job site and available for review by city inspectors at any time that work is in progress. A second copy of the plans, similarly marked, shall be retained by the Building Official. Additional copies, when required, will be distributed to the appropriate authorities.

(d) When a building permit is required, no permits for electrical, plumbing, gas, mechanical or other building service system shall be issued until after the building permit has been issued.

(e) No building permit shall be issued by the city on any parcel of property subject to its jurisdiction when there is a pending request for a change of zoning classification for the parcel; unless the use for which the permit is requested is permitted in both the present zoning classification and the zoning classification requested.

(f) A building permit issued by the inspection services department shall be required for all swimming pool installations, and all regulations concerning the issuance of a building permit shall likewise apply to swimming pool permits.

(g) Electrical and plumbing permits shall be required in accordance with the electrical and plumbing codes adopted herein.

(h) A separate building permit shall be required for erecting enclosure fencing or walls.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-135. - Moving of buildings.

(a) No building, structure or assembly which exceeds the maximum highway limits of the state shall be moved over the public streets and thoroughfares of the city until a permit for the movement shall have been issued by the Building Official.

(b) Permit application forms shall be completed to show the route and time when any such move is requested under the authority of the permit, and shall contain the prior approval of the Police Department, Fire Department and the Traffic Engineer before issuance by the Building Official.

(c) All structures relocated within or brought into the city must be located, modified, remodeled or repaired so as to be in total compliance with the codes of the city. Such work is to commence immediately upon location or relocation within the city and to be actively continued until completed. Structures which are not located, modified and repaired, as required, shall be considered as unsafe structures and the Building Official shall take action in accordance with the International Property Maintenance Code or other applicable provisions of this Code.

(d) Before a permit to move a structure into or within the city is issued, a sewer tap, as appropriate, and a permit for an approved foundation and site plan shall have been obtained.

(Ord. No. 19-02, § 1, 9-12-02; Ord. No. 08-08, § 2, 1-31-08)

Sec. 14-1-136. - Demolition.

(a) The demolition of buildings and structures shall be controlled by provisions of the Florida Building Code and the International Property Maintenance Code, as adopted herein, by those additional provisions, outlined for special review districts, contained in Chapter 12-2, Code of the City of Pensacola and those guidelines as established in this part.

(b) No building or structure shall be demolished, razed, dismantled or removed in whole or in part without first obtaining a permit issued by the Building Official of the city. A permit issued for demolition shall be valid for ninety (90) days. Extensions for periods not exceeding thirty (30) days each may be granted in writing by the building official.

(c) Applications for demolition permits must include an affidavit, signed by the applicant or the property owner, indicating that all gas, water and electrical utilities have been cut off or disconnected. Utilities shall be cut off at the property line or off premises when a building or structure is to be totally demolished.

(d) Demolition permits for structures larger than three thousand (3,000) square feet in floor area or over thirty-five (35) feet in height at any point shall require a current certificate of insurance showing general liability coverage of at least three hundred thousand dollars ($300,000.00), per occurrence and per accident, for products and completed operations.

(e) When required by the Building Official, the Florida Building Code, or by the International Property Maintenance Code, as adopted herein, barricades and other shielding shall be used to protect adjacent property and the public. At the end of each working day the remainder of the structure shall be left in a stable condition with no dangerous unsupported roofs, walls or other elements. Fencing or continuous security guard(s) may be required.

(f) All footings, foundations, piers, etc. of one- and two-family dwellings which have been demolished, shall be removed to a depth of not less than twelve (12) inches below the natural ground level. Utility supply and sewer piping shall be removed so as to be flush with grade level. The footings, foundations, utility supply and sewer piping and all pilings of structures larger than a one- or two-family dwelling shall be removed to not less than four (4) feet below the natural ground level. Remaining sections of footings, foundations, pilings, and piping may be buried provided they have not been disturbed from their original position and are surrounded by compacted earth or other permitted backfill. All excavations are to be filled to the natural grade; unnatural hills or mounds of earth are to be leveled or removed.

(g) Debris and waste materials shall not be allowed to accumulate or be buried on the premises. Usable, recyclable by products of demolition including, but not limited to, steel beams and rip-rap may be stored only where permitted by the provisions of Chapter 12-2, Code of the City of Pensacola.

(h) Demolition work shall be conducted in compliance with the noise regulations for construction contained in the Code of the City of Pensacola.

(i) The owner of a building or structure or his duly authorized agent may appeal a decision or requirement of the Building Official, concerning demolition, to the Construction Board of Adjustment and Appeals. Filing of an appeal will stay the work until a decision has been rendered by the board. When an appeal is made, the Building Official shall require appropriate safeguards to protect the public and adjacent buildings. If deemed necessary, an immediate meeting of the Construction Board of Adjustment and Appeals shall be called by the chair of the board.

(Ord. No. 19-02, § 1, 9-12-02; Ord. No. 08-08, § 3, 1-31-08)

Sec. 14-1-137. - Damage to city rights-of-way or property.

Any damage to city right-of-way or property, including damage to sidewalks, driveways, curbs, paving, trees, grass and shrubbery resulting from the moving, construction, erection, enlargement, alteration, repair, or demolition procedure including the erection and removal of fences, barriers or walkways, shall be repaired or replaced as required by the mayor.

(Ord. No. 19-02, § 1, 9-12-02; Ord. No. 16-10, § 239, 9-9-10)

Sec. 14-1-138. - Tents.

(a) A building permit shall be required for any tent larger than one hundred (100) square feet in size erected in the city.

(b) Issuance of a building permit for erection of a tent shall require prior approval of the fire department. The fire department shall be responsible for determining the adequacy of the flame retardant quality of the tent and other fire suppression equipment requirements.

(c) Unless waived by the Building Official, application for a tent permit shall include a fully dimensional site plan showing the proposed location of the tent, location of any other permanent or temporary site improvements, on-site parking and, if required, portable sanitary facilities.

(d) Sanitary facilities shall exist or be provided within one hundred (100) feet of any tent and in the same minimum fixture count as is required in the Florida Building Code—Plumbing, as adopted herein, for permanent structures of the same use or occupancy as is intended for the tent. The mayor may extend such distance for community events. The minimum fixture count may be reduced by the Building Official when he determines that the number of facilities will be in excess of the actual number required based upon existing permanent facilities and intended use of the tent.

(e) When a proposed tent location is in a parking lot intended to be used by persons frequenting a permanent structure, no more than two (2) percent of the parking required in chapter 12 shall be lost due to erection of the tent.

(f) Wind load requirements contained in the Florida Building Code, as adopted herein, and all other requirements of this Code and the Land Development Code contained in chapter 12 shall apply to tents which will be in place for more than fifteen (15) days.

(g) All electrical service to a tent shall comply with the requirements of the National Electrical Code as adopted herein.

(Ord. No. 19-02, § 1, 9-12-02; Ord. No. 16-10, § 240, 9-9-10)

REPEAL SECTION 14-1-139.

Sec. 14-1-140. - Costs incurred by city declared lien; collection; enforcement.

(a) All expenses incurred by the city in abating an unsafe building condition in accordance with the International Property Maintenance Code, Florida Building Code, or other provision of this Code shall be reimbursed by the legal or beneficial owner and shall constitute a lien against the property until paid, including statutory interest. The city may recover such expenses by any means authorized by law or equity. "Expenses" shall include, but not be limited to, costs incurred in ascertaining ownership, architectural or engineering consultation, mailing or delivery of notices, contracts for demolition or repair, recording fees, and taxable costs of litigation including reasonable attorney's fees.

(b) The Building Official shall certify to the mayor that the specific work has been completed. The mayor shall then prepare and process a complete assessment of all costs including, but not limited to, all expenses listed in the preceding paragraph or other legitimate expenses that may have occurred

before, during or after proceedings necessary to eliminate the illegal condition of buildings or structures described herein.

(c) Furthermore, the assessment is declared a lien upon the land until paid, and to have equal dignity with other liens for ad valorem taxes. The mayor shall file for public record the claims of liens against the property cleared, or abated of the condition, or condemned building setting forth the amount of the lien, a description of the property involved, and that the lien is claimed pursuant to the provisions of this section. The lien shall be signed and sworn to by the mayor. Monies received from enforcement of the lien shall be collected and deposited in the special assessment fund. The lien shall be enforced as otherwise provided for by law.

(Ord. No. 19-02, § 1, 9-12-02; Ord. No. 08-08, § 5, 1-31-08; Ord. No. 16-10, § 241, 9-9-10)

Secs. 14-1-141—14-1-160. - Reserved.

ARTICLE VIII. - ELECTRICITY[4]

Footnotes:

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State Law reference— Minimum electrical standards, F.S. § 553.15 et seq.; inspection warrants, F.S. § 933.20 et seq.

Sec. 14-1-161. - Short title.

This article shall be known and may be cited as the City of Pensacola Electrical Code.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-162. - National Electrical Code adopted.

(a) The National Electrical Code (NFPA-70), 1999 edition copyrighted by the National Fire Protection Association, as may be amended, is hereby adopted for the purpose of establishing rules and regulations for the installation, alteration and removal of electrical wiring and equipment, and the whole thereof, save and except such portions as are deleted, modified, or amended as contained in this article, of which not less than one copy of the foregoing code has been filed for more than ten (10) days preceding passage of this section, and now is filed in the office of the Building Official of the city. The same is hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling in electrical construction within the corporate limits of the city.

(b) In application and administration of the National Electrical Code, the "authority having jurisdiction" shall be the building official as designated by the mayor, or his designated representative.

(c) The administrative chapter of the 2001 Florida Building Code, as adopted and amended herein, shall apply to this Code. The authority of the Construction Board of Adjustment and Appeals referred to in section 14-1-41 of the Code of the City of Pensacola shall apply equally to the Florida Building Code-Fuel Gas.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-163. - Same—Amendments.

The amendments to the National Electrical Code shall be as set out in this section. All references to section and chapter numbers in the text of this section shall be construed as if followed by the words, "of the National Electrical Code," unless clearly indicating to the contrary.

A. *Article 680—Swimming, Pools, Fountains, and Similar Installations.*

(1) All electrical circuits, regardless of the voltage or current rating, installed in a swimming pool or spa area shall be installed by a licensed electrical contractor and proper permits and inspections shall be required.

(Ord. No. 19-02, § 1, 9-12-02)

REPEAL SECTION 14-1-164.

REPEAL SECTION 14-1-165.

Sec. 14-1-166. - Electrical permits.

(a) Unless specifically exempted in this Code or by the Building Official, no wiring, devices, or equipment for the transmission, distribution, or utilization of electrical energy for light, alarms, power, heat, electronic communication, radio transmission and reception, lightning protection or other purpose shall be installed within or on any structure nor shall any alteration or addition be made in any such existing wiring, devices, or equipment without first securing an electrical permit from the inspection services department.

(b) Application for an electrical permits shall be made on forms provided in writing, by the person, or person(s) authorized to represent a business entity, planning to install the work, and the permit, when approved, shall be issued to such applicant. The person or business entity making application for such permit shall describe the work to be done including the size of conductors to be used in or upon any building for all services, mains, feeders, and sub-feeders, the areas to be served by such conductors, and shall, when required by the Building Official or his designated representative, file with the inspection services department complete plans and specifications for the installations, showing details as may be necessary to determine whether the installation as described will be in conformity with the requirements of this Code. When a building permit is also required, electrical permits, for other than temporary power poles, shall not be issued until after the building permit has been issued.

(c) Electrical plans for all buildings requiring emergency means of egress shall show the location of all fire escape lights, exit signs and emergency lights and such locations shall have the approval of the Building Official and the Fire Marshal before an electrical permit is issued for their installation.

(d) The permit, when issued, shall be for such installation as is described in the application and plans, and no deviation shall be made from the installation so described without the written approval of the authority having jurisdiction. If any deviation from the original permit is made, another permit covering the deviation may be required.

(e) Every permit issued shall become invalid unless the work authorized by such permit is commenced within six (6) months after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of six (6) months after the time the work is commenced. One (1) or more extensions of time, for periods not more than ninety (90) days each, may be allowed for the permit. The extension shall be requested in writing and justifiable cause demonstrated. Extensions shall be in writing by the Building Official.

(f) Exemption for companies or businesses regulated by the Florida Public Service Commission: Alterations or additions to wiring, devices, or equipment for the transmission of electrical energy where such alterations or additions are for the sole purpose of providing energy management capability related to utility programs approved or endorsed by the Florida Public Service Commission (FPSC) shall be exempt from the requirement of this section, including inspections, except for the

requirements contained in subsection (f). This exemption shall apply only to a company or business authorized by the FPSC to establish such a program. All work herein described shall be performed by a contractor, appropriately licensed by the State of Florida and/or local government. This exemption shall not apply unless prior to implementing such a program, the company or business provides to the city an agreement agreeing to indemnify and hold harmless the City of Pensacola for any and all work performed under the FPSC approved program in a form acceptable to the city attorney. This exemption in no manner creates any obligation nor creates any liability on the part of the city to inspect or approve the work described herein.

(Ord. No. 19-02, § 1, 9-12-02)

Secs. 14-1-169—14-1-190. - Reserved.

REPEAL SECTION 14-1-167.

Sec. 14-1-168. - Tampering with grounding or equipment prohibited.

(a) It shall be unlawful for any person, firm or corporation not having first obtained a permit to remove ground clamps from water pipes, or to in any way tamper with an electrical installation, and thereby increase the hazard to life and property.

(b) It shall be unlawful for anyone to tamper with or alter in any way, equipment owned by the utility company without expressed permission of that utility company.

(Ord. No. 19-02, § 1, 9-12-02)

Secs. 14-1-169—14-1-190. - Reserved.

ARTICLE VIII. - GAS

Footnotes:

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State Law reference— Protection of underground gas pipelines, F.S. § 553.851.

Sec. 14-1-191. - Short title.

This article shall be known and may be cited as the City of Pensacola Gas Code.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-192. - Florida Building Code—Fuel Gas adopted.

Pursuant to F.S. § 553.73, and other applicable provisions of law, the Florida Building Code-Fuel Gas and subsequent editions and revisions thereto as may be adopted by the State of Florida Building Commission as the state minimum building code, are hereby adopted by the city for the purposes of establishing the minimum requirements for safe installation, including alterations, repairs, replacement,

equipment, appliances, fixtures, fittings, piping and appurtenances thereto, of both natural and liquefied petroleum gas, save and except such portions as are deleted, modified, or amended as contained in this article. Not less than one (1) copy of the foregoing code has been filed for more than ten (10) days preceding passage of this ordinance, and is now filed in the office of the City Building Official. Such edition of the Florida Building Code-Fuel Gas is hereby adopted and incorporated as fully as if set out at length in this section and the provisions thereof shall be deemed the minimum for controlling gas piping construction within the city.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-193. - Same—Amendments.

The administrative chapter of the Florida Building Code, as adopted and amended herein, shall apply to this Code. The authority of the Construction Board of Adjustment and Appeals referred to in section 14-1-41 of the Code of the City of Pensacola shall apply equally to the Florida Building Code-Fuel Gas.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-194. - LPG reference standards.

The standards published by the National Fire Protection Association, in particular NFPA 54 and 58, shall be used in the administration of liquefied petroleum gas installations.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-195. - Gas permits.

(a) No piping, devices or equipment for the transmission, distribution, or utilization of gaseous fuel, shall be installed within or on any structure nor shall any alteration or addition be made in any such existing piping, devices, or equipment without first securing a gas permit from the inspection services department.

(b) Application for a gas permit shall be made on forms provided, in writing, by the person, or person(s) authorized to represent a business entity, planning to do the work, and the permit, when approved, shall be issued to such applicant. The person, or business entity, making application for such permit shall state in the application the system pressure, size and type of piping to be used in or upon any building for all services, mains, feeders and sub-feeders, the areas and equipment or appliances to be served by such piping, and shall, when required by the department, file with the inspection services department complete plans and specifications for the installations and equipment or appliances, showing details as may be necessary to determine whether the installation as described will be in conformity with the requirements of this Code. When a building permit is also required gas permits shall not be issued until after the building permit has been issued.

(Ord. No. 19-02, § 1, 9-12-02)

REPEAL SECTION 14-1-196.

Sec. 14-1-197. - Investigation of complaints.

The Building Official shall cause to be examined all premises about which a complaint concerning the gas piping, appliance installation or ventilation is made and shall, upon evidence of the unsafe or unfinished condition thereof, condemn same and notify the owner or agent of the premises to arrange the gas piping, ventilation or appliance installation in compliance with this Code.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-198. - Unlawful installations and connections.

(a) It shall be unlawful for any person to fail to place the gas piping or appliance installation on the premises or building in proper and safe condition in accordance with the provisions of this Code within a reasonable time fixed by the Building Official or Fire Marshal, or for any person to interfere with the Gas Inspector, Fire Inspector, Fire Marshal or the Building Official in the proper and lawful performance of their duties.

(b) It shall be unlawful for any person to make a direct connection of any pipeline or device to any gas service built and maintained by the city gas company.

(Ord. No. 19-02, § 1, 9-12-02)

Secs. 14-1-199—14-1-220. - Reserved.

ARTICLE IX. - MINIMUM HOUSING[6]

Footnotes:

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Cross reference— Fair housing, Ch. 5-2, Art. II; code enforcement, Title XIII.

Sec. 14-1-221. - Short title.

This article shall be known and may be cited as the City of Pensacola Minimum Housing Code.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-222. - International Property Maintenance Code adopted.

The International Property Maintenance Code, published by the International Code Council, Inc., as may be amended, is hereby adopted and incorporated as fully as if set out at length in this section and the provisions thereof shall be deemed the minimum housing standards essential for safe and healthful living within the city, save and except such portions as are deleted, modified, or amended as contained in this article. Not less than one (1) copy of the foregoing code has been filed for more than ten (10) days preceding passage of this chapter, and is now filed in the office of the city Building Official.

(Ord. No. 19-02, § 1, 9-12-02; Ord. No. 08-08, § 6, 1-31-08)

Sec. 14-1-223. - Same—Amendments.

The following sections of the International Property Maintenance Code are hereby amended as follows:

(a) *Section 101.1. Title:* Revise to read as follows: These regulations shall be known as the Property Maintenance Code of the City of Pensacola hereinafter referred to as "this code."

(b) *Section 102.3. Application of other codes.* Revise to read as follows: Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures of the Florida Building Code, Florida Residential Code, Florida Fuel Gas Code, Florida Mechanical Code, Florida Plumbing Code and the National Electrical Code. Nothing in this code shall be construed to cancel, modify or set aside any provision of the Land Development Code of the City of Pensacola.

(c) *Section 103. DEPARTMENT OF PROPERTY MAINTENANCE.* Revise title to read: DIVISION OF PROPERTY MAINTENANCE.

(d) *Section 103.2. Appointment.* Revise to read as follows: The code official shall be appointed by the chief appointing authority of the jurisdiction.

(e) *Section 103.4. Liability.* Delete this paragraph in its entirety.

(f) *Section 103.5. Fees.* Delete this paragraph in its entirety.

(g) *Section 107.4. Penalties.* Delete this paragraph in its entirety.

(h) *Section 108.4. Placarding.* Delete this paragraph in its entirety.

(i) *Section 108.4.1. Placard removal.* Delete this paragraph in its entirety.

(j) *Section 108.5. Prohibited occupancy.* Revise to read as follows: Any occupied structure condemned by the code official shall be vacated as ordered by the code official. Any person who shall occupy a premises or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a premises or operate placarded equipment shall be liable for the penalties provided by this code.

(k) *Section 109.5. Costs of emergency repairs.* Revise to read as follows: Cost incurred in the performance of emergency work shall be paid by the jurisdiction. The jurisdiction may institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of said costs.

(l) *Section 201.3. Terms defined in other codes.* Revise to read as follows: Where terms are not defined in this code and are defined in the Florida Building Code, Florida Residential Code, Florida Fuel Gas Code, Florida Mechanical Code, Florida Plumbing Code and the National Electrical Code, such terms shall have the meanings ascribed to them as stated in those codes.

(m) *Section 302.4. Weeds.* In the first sentence after the words "in excess of" insert the following: twelve (12) inches in height.

(n) *Section 302.9. Defacement of Property.* Revise to read as follows: No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti. It shall be the responsibility of the owner of the property to restore said surface to an approved state of maintenance and repair within seven (7) days of notification.

Exception: The 17 th Street CSX Railroad Trestle shall be exempted from the provisions of this section.

(o) *Section 304.19. Glass panes in windows and doors.* Create this paragraph to read as follows: All glass panes intended for an exterior window or door must be in place and free of all cracks, paint, or any removable covering. Plexiglas or any other type of plastic material may not be substituted for a glass pane in any exterior window or door.

(p) *Section 304.20. Temporarily securing windows and doors.* Create this paragraph to read as follows: Should an exterior window or door be broken or damaged in such a way to allow outside elements to freely enter the premises, plywood may be temporarily placed over the damaged exterior opening for a period of up to two (2) weeks to secure the building and make arrangements for a more permanent repair. Plywood covering an exterior window or door for more than fourteen (14) days after an incident that resulted in damage to the window or door shall not be allowed except in circumstances where the damage was caused by a natural disaster or Act of God. In situations where the damage was caused by the effects of a natural disaster or Act of God, plywood may stay in place to protect

the building opening for a period of not more than six (6) months from the date of original damage in order to allow the property owner to repair the damaged window or door.

(q) *Section 304.21. Sign frames and posts.* Create this paragraph to read as follows: Within thirty (30) days of an occupant vacating a premise within the Downtown Improvement Board District, all exterior signage, including frames, posts, anchors, support members, and electrical connections, that were used to promote the former occupant or to promote the services or products offered by the departed occupant must be removed from the premises. No unused sign frames, guidelines, anchors, poles, or other structural supports associated with the prior signage or occupant may be left on the exterior of the premises unless it is being used for its intended purpose by a new and subsequent occupant within the aforementioned thirty (30) day period.

(r) *Section 304.22. Cleaning sidewalks.* Create this paragraph to read as follows: The public sidewalks abutting any premises where an occupant sells alcoholic beverages or provides outside seating on the public sidewalks for its consumption must be cleaned using a power washer at least once a month. Such power washing must be performed in a manner sufficient to remove gum, food, beverages, and other foreign fluids or waste materials from the sidewalks without damaging the sidewalks themselves.

(s) *Section 401.3. Alternate Devices:* Replace International Building Code with Florida Building Code.

(t) *Section 505.1. General:* Replace International Plumbing Code with Florida Plumbing Code.

(u) *Section 602.2. Residential occupancies.* Replace International Plumbing Code with Florida Plumbing Code.

(v) *Section 602.3. Heat supply.* Exceptions: 1. Replace International Plumbing Code with Florida Plumbing Code.

(w) *Section 604.2. Services.* Replace ICC Electrical Code with National Electrical Code.

(x) *Section 702.1. General.* Replace International Fire Code with NFPA 101.

(y) *Section 702.2. Aisles.* Replace International Fire Code with NFPA 101.

(z) *Section 702.3. Locked doors.* Replace International Building Code with Florida Building Code.

(a.a.) *Section 704.1. General.* Replace International Fire Code with NFPA 101.

(b.b.) *Section 704.2. Smoke alarms.* Replace International Fire Code with NFPA 101.

(Ord. No. 19-02, § 1, 9-12-02; Ord. No. 08-08, § 7, 1-31-08)

Sec. 14-1-224. - Burglar bars.

(a) All burglar bars, grids, screens or other security closures installed on exits required by the Florida Building Code, the International Property Maintenance Code or the Life Safety Code shall comply with the requirements of these codes regarding openings for egress.

(b) Any burglar bar, shutter, grid or other closure installed on bedroom window openings required for emergency egress shall be treated as a door for purposes of applying these codes and shall be able to be opened from the inside, without the use of a key, tool, special knowledge or effort and shall, when so opened, remain open without the use of additional support.

(Ord. No. 19-02, § 1, 9-12-02; Ord. No. 08-08, § 8, 1-31-08)

Secs. 14-1-225—14-1-240. - Reserved.

ARTICLE X. - MECHANICAL[7]

Footnotes:

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Cross reference— Code enforcement, Title XIII.

Sec. 14-1-241. - Short title.

This article shall be known and may be cited as the City of Pensacola Mechanical Code.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-242. - Florida Building Code—Mechanical adopted.

Pursuant to F.S. § 553.73, and other applicable provisions of law, the 2001 Florida Building Code—Mechanical, and subsequent editions and revisions thereto as may be adopted by the State of Florida Building Commission as the state minimum building code, are hereby adopted and incorporated as fully as if set out at length in this section and the provisions thereof shall be deemed the minimum requirements of the city for safe mechanical installations, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings, and appurtenances thereto so as to safeguard life, health and public welfare and the protection of property, save and except such portions as are deleted, modified, or amended as contained in this article. Not less than one (1) copy of the foregoing code has been filed for more than ten (10) days preceding passage of this chapter, and is now filed in the office of the City Building Official.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-243. - Same—Amendments.

(a) The administrative chapter of the Florida Building Code, as adopted and amended herein, shall apply to this Code. The authority of the Construction Board of Adjustment and Appeals referred to in section 14-1-41 of the Code of the City of Pensacola shall apply equally in this Code.

(b) No person shall suspend an air conditioning machine from any building, or from the windows of any building or aperture of any building, so that the air conditioning machine extends beyond the wall of the building, over the streets of the city or above any sidewalk, passageway, thoroughfare, public way, courtyard or assembly yard where the general public shall move or congregate, unless the person or the owner of the building shall first obtain a permit for the same from the Building Official.

(c) Air conditioning machines suspended in the manner described in the preceding paragraph shall be so constructed and installed that they will withstand wind pressure of at least forty (40) pounds per square foot of surface, and shall be otherwise structurally safe, and shall be securely anchored or otherwise fastened, suspended or supported so that, in the opinion of the Building Official of the city, they are not a menace to persons or property.

(d) The owner or person in control of any air conditioning machine, suspended over or extending into a public right-of-way, sidewalk, street, public way, courtyard or assembly yard used by the general public in the city shall indemnify, defend and hold harmless the city from and against any and all claims, demands, actions, judgments, costs, attorney's fees, or expenses for bodily injury, including death, or property damage arising out of or in connection with the installation or existence of said machine.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-244. - Mechanical permits.

(a) No mechanical devices or equipment used for processing chemicals, gases or other materials or for heating, cooling, ventilation, refrigeration, incinerating, power, drying or the transmission and distribution of conditioned air shall be installed within or on any structure nor shall any alteration or addition be made in any such existing mechanical system or equipment without first securing a mechanical permit from the inspection services department.

(b) Application for a mechanical permit shall be made, in writing, on forms provided describing the work to be done by the person, or person authorized to represent the business entity, planning to install the work, and the permit, when approved, shall be issued to such applicant. The person or business entity, making application for such permit shall, when required by the department, file with the inspection services department complete plans and specifications for the installation, showing details as may be necessary to determine whether the installation as described will be in conformity with the requirements of this Code. When a building permit is also required mechanical permits shall not be issued until after the building permit has been issued.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-245. - Maintenance of safe conditions.

It shall be unlawful for any person to fail to place the mechanical system or equipment on the premises or building in proper and safe condition in accordance with the provisions of this Code within reasonable a time fixed by the Building Official, or to interfere with the inspector or the Building Official in the proper and lawful performance of their duties.

(Ord. No. 19-02, § 1, 9-12-02)

Secs. 14-1-246—14-1-260. - Reserved.

ARTICLE XI. - PLUMBING[8]

Footnotes:

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Cross reference— Code enforcement, Title XIII.

State Law reference— Plumbing, F.S. § 553.01 et seq.; minimum plumbing standards, F.S. § 553.06.

Sec. 14-1-261. - Short title.

This article shall be known and may be cited as the City of Pensacola Plumbing Code.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-262. - Application.

The City Plumbing Code shall apply to the practice, materials, and fixtures, new and existing, used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances and appurtenances in connection with any of the following: sanitary drainage or storm drainage facilities, venting systems, and the public or private water supply system within or adjacent to any building structure or conveyance. This code shall also apply to the practice and materials used in the installation, maintenance, extension or alteration of storm water drainage, irrigation, sewage and water supply systems of any premises to their connection with any point of public supply or disposal or other

acceptable terminal located within the corporate limits of the City of Pensacola, except those which are specifically exempted by state or federal statutes.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-263. - Florida Building Code—Plumbing adopted.

Pursuant to Chapter 553, Florida Statutes, and other applicable provisions of law, the 2001 Florida Building Code—Plumbing and subsequent editions and revisions thereto as may be adopted by the State of Florida Building Commission as the state minimum building code, are hereby adopted by the city and incorporated as fully as if set out at length in this section and the provisions thereof shall be deemed the minimum requirements for safe plumbing, save and except such portions as are deleted, modified, or amended as contained in this article. Not less than one (1) copy of the foregoing code has been filed for more than ten (10) days preceding passage of this ordinance, and is now filed in the office of the Building Official.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-264. - Same—Amendments.

(a) The administrative chapter of the Florida Building Code, as adopted and amended herein, shall apply to this Code. The authority of the Construction Board of Adjustment and Appeals referred to in section 14-1-41 of the Code of the City of Pensacola shall apply equally to the Florida Building Code—Plumbing.

(b) Back flow preventers shall be installed on all water meters or water services in accordance with the cross connection and back flow prevention program established by the water purveyors of Escambia County, and all new and retrofit plumbing connections shall provide for thermal expansion in the water system.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-265. - Plumbing and lawn sprinkler permits.

(a) No piping, devices or equipment for the transmission, distribution, or utilization of potable water, or for the sanitary disposal of sewage shall be installed within or on any structure nor shall any alteration or addition be made in any such existing piping, devices, or equipment without first securing a plumbing permit from the city, as required by the City Plumbing Code.

(b) No wells, connections, valves, piping, distribution heads or other devices or equipment for the utilization of water, from any source, for the irrigation of landscaping, plants, or trees, shall be installed or modified without first securing a plumbing permit from the city.

(c) Lawn sprinkler system installer certificate holders shall be allowed to obtain permits for the installation, maintenance, repair, alteration and extension of lawn and landscape planting irrigation systems including valves, vacuum breakers, and back flow preventers or any other equipment for that purpose authorized by the Building Official. A lawn sprinkler system installer certificate holder may connect a sprinkler system to potable water sources. The scope of work and connections to any water source shall be in accordance with the City Plumbing Code.

(d) Application for a plumbing permit shall be made on forms provided, in writing, by the person, or person(s) authorized to represent a business entity, planning to install the work, and the permit, when approved, shall be issued to such applicant. The person or business entity making application for such permit shall state the size piping to be used for all services, mains, feeders and sub-feeders, the areas to be served by such piping, and shall, when required by the department, file with the

inspection services department complete plans and specifications for the installations, showing details as may be necessary to determine whether the installation as described will be in conformity with the requirements of this Code. When a building permit is also required, no plumbing permit shall be issued until after the building permit has been issued.

(e) No plumbing permit shall be issued for new installations unless the applicant provides proof of sewer tap or septic tank approval.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-266. - Contractor requirements.

(a) All plumbing contractors shall have a business telephone attended during normal business hours.

(b) No contractor shall allow any work to be done on a job requiring a plumbing permit without a person, in the possession of a certification as either a journeyman or master plumber, on the job in a supervisory capacity. In the case of irrigation system installations, a person in the possession of a specialty plumber (irrigation systems) certification shall be on the job in a supervisory capacity.

(c) Persons or business entities actively engaged in the installation of water filtration, distillation and purification equipment shall not be required to hold plumber certification, however, such persons or business entities shall be required to obtain permits and inspections for initial installation or removal of such systems or whenever breaking a service line is required. The servicing of water filtration, distillation and purification equipment once having been installed and inspected shall not require permitting or inspection unless breaking a service line is required.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-267. - Investigation of complaints.

The Building Official shall cause to be examined all premises about which a complaint concerning the plumbing, fixture or appliance installation or ventilation is made and shall, upon evidence of the unsafe, unhealthy or unfinished condition thereof, condemn same and notify the owner or agent of the premises to arrange the plumbing, ventilation or appliance installation in compliance with this Code.

(Ord. No. 19-02, § 1, 9-12-02)

Sec. 14-1-268. - Unlawful connections and installations.

(a) It shall be unlawful for any person to make a direct connection of any pipeline to any water, sewer or storm water drainage service built and maintained by the City or the Escambia County Utilities Authority without having first obtained the required tap, permits and inspections therefor.

(b) It shall be unlawful for any person to fail to place the plumbing or appliance installation on the premises or building in proper and safe condition in accordance with the provisions of this Code within reasonable time fixed by the building official, or to interfere with the plumbing inspector or the Building Official in the proper and lawful performance of their duties.

(Ord. No. 19-02, § 1, 9-12-02)

Secs. 14-1-269—14-1-290. - Reserved.

ARTICLE XIII. - GREEN BUILDING CERTIFICATION

Sec. 14-1-291. - Definitions.

City: The City of Pensacola, Florida.

Construction: Any project associated with the creation, development, or erection of any building eligible for the program.

FGBC: Acronym for the Florida Green Building Coalition, Inc., a Florida 501(c) 3 not-for-profit corporation whose mission is to establish and maintain a Florida system of statewide green building standards and third party certification programs with environmental and economic benefits.

GHDS: Acronym for the Green Home Designation Standard of the Florida Green Building Coalition, Inc.

Green building: A designation given to buildings that have achieved the requirements of the green building rating system defined in this green building program.

Green building authority: The US Green Building Council (USGBC), the Florida Green Building Coalition (FGBC), the National Association of Home Builders (NAHB), Green Globes (operated by the Green Building Initiative), or equivalent certifying authority. Approved equal rating systems will be determined by the city's LEED accredited staff.

Green building program: The program outlined in this article for obtaining incentives for green buildings and developments.

LEED: The Leadership in Energy and Environmental Design Rating System of the USGBC.

NAHB: National Association of Home Builders.

Private: Property not owned by the jurisdiction.

Program certification: Final designation awarded to a program participant for satisfying all requirements associated with the program for a particular project.

Program participant: Any person or entity seeking program certification for a particular project.

Project: Any construction associated with the creation, development, or erection of any building eligible for the program.

USGBC: Acronym for the United States Green Building Council, a non-profit organization whose mission is to transform the way buildings and communities are designed, built and operated, enabling an environmentally and socially responsible, healthy and prosperous environment that improves quality of life.

(Ord. No. 19-12, § 1, 8-9-12, eff. 10-1-12)

Sec. 14-1-292. - Purpose.

The City of Pensacola finds that sustainable "green building" practices can significantly lower the energy and water consumption of buildings, operating costs, and the amount of solid waste generated while improving occupant health and productivity which are critical to public welfare. The purpose of this article is to define a certification-based "green building" program with incentives that will promote a more sustainable city in both the public and private sector.

(Ord. No. 19-12, § 1, 8-9-12, eff. 10-1-12)

Sec. 14-1-293. - Participation requirements.

For all non-city sponsored projects, and for all projects upon the Florida constitutional homestead of an existing residence this program shall be voluntary. For any city-owned civic or office construction

projects, the city is expected to participate in the program unless the mayor determines that the cost (e.g. time, function, or funding) associated with participating in the program significantly outweighs the benefits of participating; however, the city shall ensure compliance with federal and state regulations. The mayor shall develop parameters for the green building program.

The construction of any city-owned or sponsored new building(s), affordable housing units, and major additions, shall meet at least a minimum certification as designated by a green building authority.

City-sponsored buildings include those projects where the city has donated property or provided monetary contributions. Adherence to the aforementioned "green building" ordinance shall be a condition to such sponsorship; however, this requirement may be waived or modified by the mayor.

(Ord. No. 19-12, § 1, 8-9-12, eff. 10-1-12)

Sec. 14-1-294. - Designation of responsibility for administration and implementation.

The program shall be administered by the city which shall be responsible for:

(a) Funding the program through annual funds budgeted and appropriated by city council;

(b Marketing the program to the Pensacola community by any reasonably effective means, including but not limited to print advertising, press releases, television advertising, or advertising in monthly mailers;

(c) Developing any appropriate or necessary application procedures, including but not limited to, the program application form;

(d) Providing an incentive award to any program participant who has successfully satisfied the requirements associated with that incentive; and

(e) Resolving disputes that may arise from implementing the program.

(Ord. No. 19-12, § 1, 8-9-12, eff. 10-1-12)

Sec. 14-1-295. - Green building standards.

For city-constructed or sponsored buildings and developments the following certification shall apply based on project type:

(a) Neighborhood developments that are owned, funded, or sponsored by the City shall satisfy the requirements associated with either:

(1) The current Green Development Designation Standard of the FGBC; or

(2) The current LEED for Neighborhood Development rating system program; or

(3) The ICC 700 National Green Building Standard; or

(4) An equivalent program using as a standard equivalent green building certification analysis.

(b) New residential projects that are owned, funded, or sponsored by the city shall satisfy the requirements associated with either:

(1) The current Green Home Designation Standard of the FGBC; or

(2) The current LEED for Homes® program; or

(3) The current Hi-Rise Residential Standard of the FGBC for projects above three (3) stories; or

(4) The ICC 700 National Green Building Standard; or

(5) An equivalent program using as a standard equivalent green building certification analysis.

(c) Additions and renovations of existing homes that are owned, funded, or sponsored by the city and exceed fifty (50) percent of the just market value as listed on the Escambia County Property Appraisers website or from a certified appraisal shall meet requirements of either:

(1) The current Green Home Designation Standard of the FGBC; or

(2) The current LEED for Homes® program; or

(3) The current Green Hi-Rise Residential Standard of the FGBC for projects above three (3) stories; or

(4) The ICC 700 National Green Building Standard; or

(5) An equivalent program using as a standard equivalent green building certification analysis.

(d) New commercial, industrial, and institutional buildings that are owned, funded, or sponsored by the city shall satisfy all of the requirements associated with either:

(1) The current Green Commercial Building Standard of the FGBC; or

(2) The current LEED for Core and Shell program; or

(3) The current LEED for New Construction or derived USGBC LEED rating system (e.g., LEED for Schools, LEED for Health Care, LEED for Retail); or

(4) An equivalent program using as a standard equivalent green building certification analysis.

(e) Additions and remodeling of existing commercial, industrial, and institutional buildings that are owned, funded, or sponsored by the city and exceed fifty (50) percent of the just market value as listed on the Escambia County Property Appraisers website or from a certified appraisal shall satisfy all of the requirements associated with either:

(1) The current Green Commercial Designation Standard of the FGBC; or

(2) The current LEED for Existing Buildings: Operations & Maintenance program; or

(3) The current LEED for Commercial Interiors program; or

(4) An equivalent program using as a standard equivalent green building certification analysis.

(f) Rating system versions. City buildings or city-sponsored private buildings participating in the green building program shall be bound by the standard designated for the type of building unless the program participant requests to be certified under a more current version of a designated standard and the request is approved by the city's inspections services department.

(Ord. No. 19-12, § 1, 8-9-12, eff. 10-1-12)

Sec. 14-1-296. - Voluntary green building incentives.

The city offers assistance in the "green building" certification process, and encourages builders and developers to employ green building strategies that conserve water and energy, reduce the generation of solid waste, and improve occupant health and productivity. To encourage private builders and developers to voluntarily construct buildings as described in section 14-1-295 green building standards and receive the corresponding certification, the city shall provide incentives on the stipulation that the builder or developer furnish a copy of the project's green building certificate to the city's inspection services department. Incentives include fast track building permitting (five-day maximum for commercial, two (2) days for residential), a twenty-five (25) percent density bonus, recognition at a city council meeting, inclusion of project details on the city's green building webpage, informative banners placed at the project site, and a twenty-five (25) percent reduced parking requirement. The city shall offer a rebate to private, voluntary residential projects that covers the initial fee associated with applying for project certification until all allocated annual funding has been distributed. Additionally, for the purpose of publicly recognizing outstanding commitment to green building, the program shall provide an award called the Green Building Award to be awarded annually by the mayor.

(Ord. No. 19-12, § 1, 8-9-12, eff. 10-1-12)

Sec. 14-1-297. - Certification.

At the time of preliminary concept review, the developer shall be required to submit a green building checklist to inspections services to serve as a good faith demonstration of the developer's intent to achieve certification and the methods that will be utilized to achieve said certification. The most recent LEED Scorecard, most recent version of the FGBC checklist, the ICC 700 National Green Building Standard Scoring Tool, or equivalent green building certificate checklist shall be submitted depending on the certification the developer is seeking. Each project shall be subject to certification by a qualified third party inspector or city inspector who has been trained and certified as a certifier for the appropriate green building certification for which the builder or developer is seeking. For the purpose of this section of the program, "third party" means any person or entity authorized according to the requirements of the standard in section 14-1-295 green building standards for a particular project.

(Ord. No. 19-12, § 1, 8-9-12, eff. 10-1-12)

Sec. 14-1-298. - Education and training.

(a) The city, in conjunction with a green building authority, shall conduct at least one training workshop per year for the purpose of educating potential or current program participants, city staff, elected officials, and the general public about the program.

(b) The city shall make available a meeting space at a government facility for green building programs offered by organizations that are of a general nature (not product specific).

(Ord. No. 19-12, § 1, 8-9-12, eff. 10-1-12)

Secs. 14-1-299—14-1-320. - Reserved.

CHAPTER 14-2. FIRE CODES[9]

Footnotes:

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Cross reference— Administration, Title II; departments enumerated, § 2-4-3; property insurance premium tax, § 3-4-81; health and sanitation, Title IV; fees, Ch. 7-14; false police and fire alarms, § 8-1-15; airports and aircraft, Ch. 10-2; fire prevention at the airport, § 10-2-11; traffic and vehicles, Title XI; streets, sidewalks and other public places, Ch. 11-4; zoning districts, Ch. 12-2; signs, Ch. 12-4.

State Law reference— Fire prevention and control, F.S. Ch. 633; sale of fireworks, F.S. Ch. 791.02; explosives, F.S. Ch. 552.

ARTICLE I. - GENERAL

Sec. 14-2-1. - Short title.

This chapter of the Code of the City of Pensacola, Florida may be cited as the "City of Pensacola Fire Code."

(Ord. No. 8-94, § 4, 2-10-94)

Sec. 14-2-2. - Purpose.

The purpose of this chapter is to create compliance with F.S. Chs. 633 and 553, and Florida Administrative Code 69A, as those provisions may be amended from time to time, and to provide rules and regulations to improve public safety by: regulating the use of structures; promoting the control and abatement of fire hazards; and regulating the use of structures, promoting the control and abatement of fire hazards; and regulating the installation, use and maintenance of equipment for fire protection.

(Ord. No. 8-94, § 4, 2-10-94; Ord. No. 08-18, § 1, 5-10-18)

Sec. 14-2-3. - Fire Codes—Adopted.

(a) *Generally.* Pursuant to F.S. § 633.202 and other applicable provisions of law, the Florida Fire Prevention Code, NFPA 1, "Fire Code" and NFPA 101 "Life Safety Code" of the National Fire Protection Association, and its incorporated standards and codes as published in the National Fire Codes of the National Fire Protection Association, as those provisions may be amended from time to time, save and except such portions as are hereafter deleted, modified or amended, and is hereby adopted by the city, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion. The same is hereby incorporated as fully as if set out at length herein. A copy of NFPA 1 has been for more than ten (10) days preceding passage of this ordinance and is now on fire in the office of the city fire chief.

(b) *Amendments.* The following section(s) of the Fire Prevention Code adopted by subsection (a) of this section are amended as follows:

3-6 Key Boxes.

The authority having jurisdiction shall have the authority to require a knox (key) box to be installed in an accessible location in cases where:

a. A building or other structure is protected by an automatic suppression or standpipe system.

b. A building or other structure is protected by an automatic alarm system.

c. A property is protected by a locked fence or gate and immediate access to the property is necessary for life saving or firefighting purposes.

d. Access to or within a building is difficult because of security, and immediate access to the property is necessary for life saving or firefighting purposes.

The knox (key) box shall be a type approved by the authority having jurisdiction and shall contain keys necessary to gain access as required by the authority having jurisdiction. The operator of the premises shall immediately notify the authority having jurisdiction. The operator of the premises shall immediately notify the authority having jurisdiction, and provide the new key(s), any time a lock is changed or re-keyed and a key(s) to that lock is contained in the key box.

(Ord. No. 8-94, § 4, 2-10-94; Ord. No. 15-98, § 1, 4-9-98; Ord. No. 19-00, § 1, 3-23-00; Ord. No. 08-18, § 2, 5-10-18)

Sec. 14-2-4. - Reserved.

Editor's note— Ord. No. 08-18, § 3, adopted May 10, 2018, repealed § 14-2-4, which pertained to Life Safety Code—Adopted. See Code Comparative Table for complete derivation.

Sec. 14-2-5. - Life Safety Code—Automatic fire extinguishers.

Notwithstanding the provisions of the Life Safety Code, and pursuant to F.S. § 553.895, automatic fire extinguishment protection which conforms with the standards adopted by this code shall be required on all floors of any newly constructed building having three (3) or more stories, regardless of occupancy, except for single family and two family dwellings. For the purposes of this section, "newly constructed building" is defined as any building for which a building permit for new construction is issued after the effective date of the ordinance from which this section is derived. Nothing in this section shall be construed to excuse any requirements for automatic fire extinguishment protection set forth elsewhere in this code.

(Ord. No. 8-94, § 4, 2-10-94)

Sec. 14-2-6. - Additional firefighters and officers for temporary service.

In case of riot, conflagration or emergency, the mayor may appoint additional firefighters and officers for temporary service.

(Ord. No. 8-94, § 4, 2-10-94; Ord. No. 08-18, § 4, 5-10-18)

Sec. 14-2-7. - Authority of chief to destroy building to prevent spread of fire.

Whenever any building in the city shall be on fire, it shall be lawful for the fire chief to order and direct the building or any other building which he may deem hazardous and likely to communicate fire to buildings, or any part of the building, to be pulled down or destroyed; and no action shall be maintained against the fire chief or any person acting under his authority.

(Ord. No. 8-94, § 4, 2-10-94; Ord. No. 08-18, § 5, 5-10-18)

Secs. 14-2-8—14-2-20. - Reserved.

ARTICLE II. - BUREAU OF FIRE PREVENTION

REPEAL SECTION 14-2-21.

Sec. 14-2-22. - Survey of premises and specification of equipment.

The fire marshal shall survey each commercial and industrial establishment, mercantile, educational and institutional occupancy, place of assembly, hotel, multifamily dwelling and trailer camp and shall specify suitable fire-detecting devices or extinguishing appliances which shall be provided in or near boiler rooms, kitchens or restaurants, clubs and like establishments, storage rooms involving considerable combustible material, rooms in which hazardous manufacturing processes are involved, repair garages and other places of a generally hazardous nature. Such devices or appliances may consist of automatic fire-alarm systems, automatic sprinkler or water-spray systems, standpipe and hose, fixed or portable fire extinguisher of a type suitable for the probable class of fire, manual or automatic covers, or carbon dioxide or other special fire-extinguishing systems. In special hazardous processes or storage, appliances of more than one type or special systems may be required.

(Ord. No. 8-94, § 4, 2-10-94)

Sec. 14-2-23. - Reserved.

Editor's note— Ord. No. 08-18, § 6, adopted May 10, 2018, repealed § 14-2-23, which pertained to reports and recommendations. See Code Comparative Table for complete derivation.

Secs. 14-2-24—14-2-40. - Reserved.

ARTICLE III. - FIRE PREVENTION BOARD OF APPEALS

Sec. 14-2-41. - Membership; organization.

(a) A fire prevention board of appeals is hereby created for the purpose of hearing appeals from decisions made by the Fire Marshal of the City of Pensacola, pursuant to F.S. § 553.73. The City Council of the City of Pensacola, Florida, shall appoint five (5) members and two (2) alternate members to the board, which members shall have expertise in building construction and fire safety standards. Members shall serve for a term of three (3) years, except for initial appointments which shall be with two (2) members serving for a term of one year, two (2) members serving for a term of two (2) years, and one member serving for a term of three (3) years. No more than one of said members or their alternates shall be engaged in the same business, profession, or line of endeavor.

(b) Once appointed, the board shall establish rules and regulations for the conduct of its business.

(Ord. No. 8-94, § 4, 2-10-94)

Sec. 14-2-42. - Fire prevention board of appeals—Continuity.

The current members of the board, previously appointed by the city council, shall continue in their appointed positions until the end of the existing term of their appointment or their resignation.

(Ord. No. 8-94, § 4, 2-10-94)

Sec. 14-2-43. - Authority.

(a) All decisions of the fire marshal shall be in writing. Any person claiming to be aggrieved by a decision of the fire marshal may appeal that decision by filing a written request for appeal, stating the reasons therefor, within thirty (30) days to the fire prevention board of appeals. Upon the filing of such an appeal, the fire marshal shall forthwith transmit to the board all documents constituting the record of the action from which the appeal is taken. A fee in the amount of fifty dollars ($50.00) shall be paid to the City of Pensacola upon filing an appeal from a decision of the fire marshal.

(b) The fire prevention board of appeals shall conduct a hearing on each appeal filed, providing reasonable notice to the party requesting the appeal and to the fire marshal. Pending final decision of the board, the order of the fire marshal shall be stayed unless it is determined by the fire marshal that there is an immediate fire hazard to life or property.

(c) All decisions of the fire prevention board of appeals shall be in writing and shall be binding upon all persons affected thereby. Decisions of general application shall be indexed by building and fire code sections and shall be available for inspection during normal business hours.

(d) In the event of a conflict between the applicable minimum building code and the applicable minimum fire safety code, it shall be resolved by agreement between the building official and the fire marshal in favor of the requirement of the code which offers the greatest degree of life safety or alternatives which would provide an equivalent degree of life safety and an equivalent method of construction. Any decision made by the fire marshal and the building official may be appealed to the fire prevention board of appeals as provided herein. If the decision of the fire marshal and the building official is to apply the provisions of either the applicable minimum building code or the applicable minimum fire safety code, the fire prevention board of appeals may not alter the decision unless the

board determines that the application of such code is not reasonable. If the decision of the fire marshal and the building official is to adopt an alternative to the codes, the fire prevention board of appeals shall give due regard to the decision rendered by the fire marshal and the building official and may modify that decision if the fire prevention board of appeals adopts a better alternative, taking into consideration all relevant circumstances. In any case in which the fire prevention board of appeals adopts alternatives to the decision rendered by the fire marshal and the building official, such alternatives shall provide an equivalent degree of life safety and an equivalent method of construction as the decision rendered by the fire marshal and the building official.

(e) In the event that the building official and the fire marshal are unable to agree on a resolution of a conflict between the applicable building code and the applicable fire code, a joint meeting between the fire prevention board of appeals and the construction board of adjustment and appeals may be scheduled to resolve the issue. For purposes of resolving conflicts by meeting in joint session, the joint boards shall select a chairman who shall serve a one-year term. The chairman for the calendar year 1993 shall be selected from the membership of the construction board of adjustment and appeals, and the chairman shall thereafter alternate annually between the two (2) boards. In order to establish a quorum of joint boards, there shall be present at least three (3) members from each board. The chairman of the joint boards will vote only to break tie decisions. No additional fee shall be required in the event that an appellant requests a joint board meeting to resolve a conflict.

(f) Any person aggrieved by any decision of the board may apply to the Circuit Court of the First Judicial Circuit of Florida within thirty (30) days after rendition of the decision by the board. Review in the circuit court shall be by petition for writ of certiorari or such other procedure as may be authorized by law.

(Ord. No. 8-94, § 4, 2-10-94)

Secs. 14-2-44—14-2-60. - Reserved.

ARTICLE IV. - PROHIBITED—UNLAWFUL ACTS

Sec. 14-2-61. - Obstructing fire hydrants.

It shall be unlawful for any person to park a vehicle of any kind or leave standing the same within fifteen (15) feet of any fire hydrant, or place any goods, material or other obstructions within fifteen (15) feet of any fire hydrant, or to in any manner impede the free access to or the immediate connection with any fire hydrant by the fire department.

(Ord. No. 8-94, § 4, 2-10-94)

Sec. 14-2-62. - Damaging fire department property.

It shall be unlawful to damage or injure any property of the fire department.

(Ord. No. 8-94, § 4, 2-10-94)

Sec. 14-2-63. - Interference with fire department employees.

It shall be unlawful to interfere with or obstruct any officer or employee of the fire department in the performance of any duty.

(Ord. No. 8-94, § 4, 2-10-94)

Sec. 14-2-64. - Obstructing streets and alleys.

No person shall close or obstruct for the free passage of pedestrian and vehicular traffic any existing public way or alley either private or public on any public street within the city, without prior approval of the mayor. All existing alleys providing ingress and egress to commercial establishments and providing ingress and egress for the fire department of the city and public utilities of the city shall be kept unobstructed and free and clear for that traffic.

(Ord. No. 8-94, § 4, 2-10-94; Ord. No. 08-18, § 7, 5-10-18)

Sec. 14-2-65. - Refusal to aid fire department.

It shall be unlawful for any able-bodied citizen, when called upon at or about any conflagration by the chief of the fire department or officers of the police, to fail or refuse to render service in such manner as may deem proper.

(Ord. No. 8-94, § 4, 2-10-94)

Sec. 14-2-66. - Accumulations of combustibles.

It shall be unlawful for any person to allow the accumulation of trash, packing boxes or combustible material of any kind whatsoever, except fuel to be used on the premises, to remain upon any premises unless the same be maintained under a permit issued by the chief of the fire department.

(Ord. No. 8-94, § 4, 2-10-94)

Sec. 14-2-67. - Possession or sale of fireworks and other explosive devices.

It shall be unlawful to sell or keep or expose for sale within the city any firecracker, torpedo, skyrocket, roman candle, DA60 bomb, or toy pistol charged with gunpowder or with any fulminating, detonating or explosive material and any fireworks containing any explosives or flammable compound or any tablets or other device containing any explosive substance; provided, however, that nothing herein shall prohibit the sale or possession of what are commonly known as "sparklers" approved by the State Fire Marshal's Office pursuant to F.S. § 791.013(1).

(Ord. No. 8-94, § 4, 2-10-94; Ord. No. 08-18, § 8, 5-10-18)

Sec. 14-2-68. - Discharge of fireworks.

It shall be unlawful for any person to discharge or explode in or upon any street, public way or park within the city, or upon any private premises within the city, any fireworks of the character defined in section 14-2-67, unless the discharging or exploding be performed under the direction, supervision and control of the city and a permit has been issued by the city so to do; provided, however, that nothing contained herein shall prohibit the use of what are commonly known as "sparklers" as defined in F.S. § 791.01(8).

(Ord. No. 8-94, § 4, 2-10-94; Ord. No. 08-18, § 9, 5-10-18)

Sec. 14-2-69. - Possession, use or transportation of explosives.

Permits to keep, have, use, store or transport any explosives as provided for in F.S. Ch. 552, or in the Fire Prevention Codes, as adopted herein, shall only be issued upon application in writing to the chief of the fire department. The permits shall be revocable at any time by the chief of the fire department on ten (10) days' notice to the parties to whom granted.

(Ord. No. 8-94, § 4, 2-10-94)

Sec. 14-2-70. - Spark arresters on certain equipment.

It shall be unlawful to operate in the city, or cause to be operated, in or about or upon any street, wharf or dock, or in or about any mill, factory or shop or private premises within a radius of two hundred (200) feet of any building, any engine from the smokestack of which burning sparks or cinders are emitted, without first providing a smokestack with a sufficient spark arrester or other device to effectually prevent the escape of burning sparks or cinders therefrom; providing nothing herein shall be construed to apply to smokestacks or engines which make no use of forced draft in any form and when those smokestacks are sixty (60) feet in height and at least ten (10) feet above the highest point of any building within the radius of two hundred (200) feet.

(Ord. No. 8-94, § 4, 2-10-94)

Sec. 14-2-71. - Outdoor fires.

It shall be unlawful to build, ignite, maintain outdoor fires or conduct open burning of any kind within the city limits of Pensacola. This shall include the burning of rubbish, trash and combustible waste materials. Examples include but are not limited to; leaves, grass, shrubbery, tree branches, treated wood, paper, plastics, copper and tires.

Permanent barbecues, portable barbecues, outdoor fireplaces, fire pits, Chiminea's or grills shall not be used for the disposal of rubbish, trash or combustible waste material. These items shall be used for the purposes intended by the manufacturer only. All lids and spark guards shall be used while any such units are in use.

Any person found to be in violation of this code shall be subject to penalties set forth in section 1-1-8 of the City Code; or pursuant to chapter 13 of this Code. Any investigating officer may cause an illegal burn to be extinguished.

(Ord. No. 08-18, § 10, 5-10-18)

CHAPTER 14-3. VIOLATIONS AND PENALTIES[10]

Footnotes:

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Cross reference— Administration, Title II; health and sanitation, Title IV; control of erosion, sedimentation and runoff, Ch. 12-9; code enforcement, Title XIII; building construction standards, Ch. 14-1; fire codes, Ch. 14-2.

Sec. 14-3-1. - Title.

The title of this chapter shall be "Violations and Penalties."

(Ord. No. 8-94, § 5, 2-10-94)

Sec. 14-3-2. - Unlawful actions.

(a) It shall be unlawful for any person to interfere with any city officer or employee charged with the responsibility of enforcing this title during the performance of any duties established herein or in any other codes or ordinances of the city.

(b) It shall be unlawful to occupy, operate or use a structure or an installation found not to be in compliance with this code, unless approved by the building official.

(c) It shall be unlawful for the person or persons responsible for work upon which a "stop work" or a "correction notice" has been issued to fail to comply with the stop work or correction notice as directed.

(d) It shall be unlawful for any person to violate this code or any of the provisions of the technical codes, life safety code, or fire prevention code and incorporated standards, as hereby adopted; to permit or maintain such violation; to refuse to obey any provision or regulation except as variation may be allowed by the action of the city, in writing. Proof of such unlawful act or omission shall be deemed prima facie evidence that such act is that of the owner or other person in control of the premises. Prosecution or lack thereof of either the owner, occupant, or the person in charge shall not be deemed to relieve any of the others. All persons shall be required to correct or remedy violations or defects within a reasonable time; and when not otherwise specified, each ten (10) days that prohibited conditions are maintained, beyond the specified reasonable time, shall constitute a separate offense.

(Ord. No. 8-94, § 5, 2-10-94)

Sec. 14-3-3. - Nuisance.

It shall be unlawful for any person owning, leasing, occupying or having charge of any premises in this city to maintain, or permit to exist, such premises in such manner as to constitute a nuisance by allowing any one (1) or more of the following conditions to exist thereon. The following shall be defined as nuisances:

(1) Any public nuisance known at common law or in equity jurisprudence.

(2) Any attractive nuisance which may prove detrimental to children whether in a building, or upon an unoccupied lot. This includes, but is not limited to, any abandoned wells, shafts, basements, swimming pools, or excavations; abandoned refrigerators and abandoned, dismantled or wrecked motor vehicles or parts thereof; any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation which may prove a hazard for inquisitive minors.

(3) Whatever is dangerous to human life or is detrimental to health, as determined by the building official or the chief of the fire department.

(4) Overcrowding a room with occupants.

(5) Insufficient ventilation or illumination.

(6) Inadequate or unsanitary sewage or plumbing facilities.

(7) Uncleanliness, as determined by the building official.

(8) Any place or premises which have been used on more than two (2) occasions as the site of the unlawful sale or delivery of controlled substances.

(9) A condition likely to harbor rats, vermin or other similar creatures constituting a health hazard.

(10) A condition which causes appreciable harm or material detriment to the aesthetic and/or property values of surrounding property.

(11) Dead, decayed, diseased or hazardous trees, weeds and other vegetation.

(12) Unsecured openings, including broken window glass, in a vacant building which invites trespassers and malicious mischief.

(13) Land, the topography, geology or configuration of which whether in natural state or as a result of grading operations, excavation or fill, causes erosion, subsidence or surface water drainage problems of such magnitude as to be injurious or potentially injurious to adjacent properties or to the public health, safety and welfare.

(14) Any building or premises declared to be a nuisance by the mayor or the city council.

(15) Any items stored openly exposed to the elements.

(Ord. No. 8-94, § 5, 2-10-94; Ord. No. 15-11, § 1, 7-21-11)

Sec. 14-3-4. - Penalties.

(a) Any person, firm or corporation who shall violate any of the provisions of this code for which no specific penalty has been provided or who shall fail, neglect or refuse to comply with any order of the building official or the chief of the fire department or who shall willfully aid or assist in the violation of the provisions of the code, shall be subject to penalties specified by the code enforcement board established in Title XIII, or provided in Title I, section 1-1-8, Penalty for Violations.

(b) The imposition of one penalty for any violation shall not excuse the violation or permit it to continue.

(c) The application of the above penalties shall not be held to prevent the enforced removal of prohibited conditions.

(Ord. No. 8-94, § 4, 2-10-94)

TITLE XII. - LAND DEVELOPMENT CODE[1]

CHAPTERS

Footnotes:

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Editor's note— Section 2 of Ord. No. 10-92, adopted March 26, 1992, repealed and replaced Chs. 12-1 through 12-13 of Title XII, to read as herein set out. Former Chs. 12-1 through 12-13, set out the land development code. For a comprehensive listing of ordinances from which the repealed provisions derived, please refer to the Code Comparative Table beginning on page 3917. Nonsubstantive editorial

changes to the text and format have been made; otherwise, said provisions are set out as enacted. Amendments are represented by a history note following the affected section. Absence of such a note indicates the section remains unchanged.

Cross reference— Administration, Title II; health and sanitation, Title IV; fair housing, § 5-2-15 et seq.; parks and recreation, Ch. 6-3; public enterprises and utilities, Title X.

CHAPTER 12-0. COMPREHENSIVE PLAN[2]

Footnotes:

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Editor's note— This chapter was created by Ord. No. 49-90, adopted Oct. 14, 1990, § 2 of which reads as follows:

"Section 2. Severability.

A. If any section, paragraph, subdivision, clause, sentence, or provision of this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this ordinance. But the effect thereof shall be confined to this section, paragraph, subdivision, clause, sentence, or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

B. In the event that the entire Comprehensive Plan shall be adjudged by any court of competent jurisdiction to be invalid, the amendment of the previously existing Comprehensive Plan shall be deemed invalid. The preceding, unamended Comprehensive Plan shall stand as the Comprehensive Plan for Pensacola."

Sec. 12-0-1. - Authority.

This chapter is adopted in compliance with, and pursuant to the Community Planning Act, F.S. § 163.3161, et seq. (Ord. No. 49-90, § 1, 10-4-90)

Sec. 12-0-2. - Purpose and intent.

(a) It is hereby declared that the purpose and intent of this chapter is to encourage the most appropriate use of land, water, and resources consistent with the public interest; and deal effectively with future problems that may result from the use and development of land within the city. Through the use of the plan, and those elements and subelements thereto adopted herein by this chapter, it is the intent of the city council to preserve, promote, protect, and improve the public health, safety, comfort, good order, appearance, convenience, law enforcement and fire prevention, and general welfare; prevent the overcrowding of land and avoid undue concentration of populations; facilitate the adequate and efficient provision of transportation, water, sewerage, parks and recreation facilities, solid waste, drainage, and other services; and conserve, appropriately develop, utilize, and protect natural and historic resources; to adequately plan for and guide growth and development within the city, to coordinate local decisions relating to growth and development and to ensure that the existing rights of property owners be preserved in accord with the Constitution of the State of Florida and of the United States.

(b) The provisions of the plan, its elements, and its subelement adopted by this chapter are declared to be the minimum requirements necessary to accomplish the aforesaid stated intent, purpose, and objectives of this chapter; and they are declared to be the minimum requirements to maintain, through orderly growth and development, the character and stability of present and future land use and development within the city. Nothing in the Comprehensive Plan is to be construed to limit the

powers and authority of the city council to enact ordinances, rules or regulations that are more restrictive than the provisions of this chapter.

(c) Nothing in the Comprehensive Plan, or in the land use regulations adopted consistent with its requirements, shall be construed or applied so as to result in an unconstitutional temporary or permanent taking of private property or the abrogation of validly existing vested rights.

(Ord. No. 49-90, § 1, 10-4-90)

Sec. 12-0-3. - Adoption of Comprehensive Plan.

The 1990 City of Pensacola Comprehensive Plan Goals, Objectives and Policies and maps for future land use, traffic circulation, natural resources, archaeological and architectural resources, mass transit, port aviation and related facilities, and recreation and open space were adopted in conformance with, and pursuant to, provisions of the Local Government Comprehensive Planning and Land Development Regulations Act, F.S. § 163.3184 et seq. They have been substantially amended twice and currently conform to the provisions of the Community Planning Act, F.S. § 163.3161, et. seq. The adoption of the plan and its subsequent amendments supersedes all previous Comprehensive Plans.

(Ord. No. 49-90, § 1, 10-4-90)

Sec. 12-0-4. - Administration.

The mayor, or designee, shall be responsible for the general administration of the Comprehensive Plan. The planning services department shall be responsible for reviewing all codes and ordinances, pursuant to F.S. § 163.3194(2), to identify those that pertain to land development for submission to the planning board for their review, consideration, and recommendation to the city council. The planning services department shall be responsible for evaluating all development orders pursuant to the plan.

(Ord. No. 49-90, § 1, 10-4-90; Ord. No. 16-10, § 195, 9-9-10)

Sec. 12-0-5. - Appeals.

(a) Appeals relating to any administrative decision or determination concerning implementation or application of the Comprehensive Plan's provisions shall follow an administrative procedure requiring first a review and decision by the planning services department (or in the case of application for a building permit, by the building official) which decision will be final. Appeals of the planning services department's or building official's decision may be made to the planning board. The planning board decision may be appealed to the city council. The city council shall establish procedures and proceedings and times for appeals. Any party challenging an administrative decision or determination concerning implementation or application of the plan's provisions must exhaust this appeal process before any action is deemed final by any court or quasi-judicial proceeding.

(b) *Protection of vested rights.*

(1) *Definition of final local development order.* For purpose of the plan, a final local development order shall be that last approval necessary to carry out the development provided that the proposed project has been precisely defined and development has commenced and is continuing in good faith. No development order that has been issued shall be deemed final if a period of one year has expired without issuance of a building permit for the development or if following issuance of a building permit, construction has not commenced within six (6) months and continued in good faith.

(2) *Special exemptions based on previous approval of development orders.*

a. Notwithstanding any other provisions of the Comprehensive Plan, it shall be the policy of the city to consider granting special exemption status to a development that may be deemed inconsistent with a policy or operative provision in the Comprehensive Plan, if a project phase or a project as indicated in an approved development order in its entirety is completely contained on a site for which one or more of the following development orders has received final approval by the city and development has commenced and is continuing in good faith, prior to the date of adoption of the Comprehensive Plan:

    1. Final approved development orders relating to a Development of Regional Impact (DRI) pursuant to F.S. Ch. 380.

    2. Valid and approved final local development order.

b. Additionally, it shall be the policy of the city to consider granting special exemption status to a proposed development that may be deemed inconsistent with a policy or operative provision in the Comprehensive Plan if that project in its entirety or project phase as indicated in an approved development order is completely contained on a site which has one of the following determinations, provided development commences within one year of the determination and continues in good faith.

    1. A development order or right determined to be "vested" pursuant to any prior judicial determination or any judicial determination by an appropriate court overturning a vested right determination made through any administrative procedure subsequently established by the city council.

    2. A development order or right determined to be "vested" pursuant to a vested right determination made through any administrative procedure subsequently established by the city council based on the owner's establishment by the presentation, at a public hearing, or competent, substantial evidence that he or she acted in good faith and in reasonable reliance upon some act or omission of the city and has made such a substantial change in position or has incurred such extensive obligations and expenses that it would be highly inequitable and unjust to destroy the rights he or she has acquired. A land use designation in a prior Comprehensive Plan, or a zoning designation, is not sufficient to constitute an act or omission of the city. The treatment of similar cases by Florida courts, as reviewed by the city attorney, as well as recommendations of staff shall be relevant to the determination of the extent of vested rights established, if any.

c. Projects with special exemptions under subparagraphs a.1. and a.2. above shall not be required to comply with the provisions of the Comprehensive Plan as to concurrency. Development orders determined to have "vested rights" under subparagraphs b.1. and b.2. above, shall be required to comply with the provisions of the Comprehensive Plan except to the extent provided in the vested rights determination or judicial order.

d. To the extent that any subsequent amendment to development orders with a special exemption status established pursuant to the foregoing procedures, may alter existing development rights otherwise preserved under the special exemption status, such subsequent amendments shall not qualify for the special exemption and shall be reviewed in accordance with the then-existing Comprehensive Plan.

e. It is not the intent of this section to preclude the consideration of appropriate extensions of development orders or phasing deadlines. Special exemption status shall, however, terminate upon expiration, repeal or, recession of any approved development order that created the special exemption status on the project or project phase or extension thereof. Any project, or all phases thereof, that are made a special exemption under this policy, or any development that does not comply with the then existing Comprehensive Plan, and shall lose such special exemption status upon the expiration of any final plan or permit, for the missing of any phasing deadline for such project.

f. In the event that a phased project in its entirety qualifies as a special exemption, succeeding phases of that project shall retain that status so long as the following conditions are met:

1. For the first phase, no more than one year has passed since the approval of the final site plan and/or no more than six (6) months has passed since the issuance of a building permit and the commencement of development, which must continue in good faith.

2. Each subsequent phase shall utilize the initial final site plan approval date as a base and the approved phase number will be the date in years for required commencement of development for that phase (example: in a three (3) phased project the third phase shall commence development within three (3) years of the initial final site plan approval.) All phases must continue development in good faith to retain special exemption status.

g. Any proposed development considered under the special exemption provisions of this section must be consistent with the development orders previously approved and issued prior to the plan adoption for the proposed project or project phase. A developer may elect to be processed under the Comprehensive Plan, in its entirety, as it exists at the time of the request for development order approval. Unless a developer indicates that the special exemption provisions, as set forth above, apply to a request for development order approval at the time of application for such development order, then such project shall be processed under the terms of the Comprehensive Plan in existence at the time of such application.

h. Nothing in this section precludes review of a proposed project or project phase that has been determined to have special exemption status under this section for compliance with other applicable development regulations not contained in the Comprehensive Plan. Nothing in this section precludes review of a proposed project or project phase that has been determined to have special exemption status under this section for compliance with the provisions of the Comprehensive Plan provided that requiring compliance with those provisions shall not substantially impair rights deemed to be vested pursuant to this section.

(Ord. No. 49-90, § 1, 10-4-90)

Sec. 12-0-6. - Legal status of Comprehensive Plan.

(a) After and from the effective date of this chapter, all development undertaken by and all actions taken in regard to development orders of the city council shall be consistent with the plan adopted herein.

(b) The city council shall be the sole authority for enacting or implementing the provisions of the Comprehensive Plan, unless otherwise delegated to a specific designee.

(c) All land development regulations enacted or amended shall be consistent with the plan adopted herein by this chapter, and any land development regulations existing at the time of adoption that are not consistent with the adopted Comprehensive Plan shall be amended so as to be consistent.

No land development regulations, land development codes, or amendment thereto shall be adopted by the city council until such regulations, code, or amendment has been referred to the planning board for review and recommendation as to the consistency of such proposals to the plan.

(d) For purposes of this section, the term "land development regulations" and "regulations for the development of land" shall include land-use and zoning designations, zoning regulations, subdivision regulations, or other regulations, codes or ordinances controlling the development or use of land within the city.

(e) It is the specific intent of this chapter that the plan adopted herein shall have the legal status set forth in F.S. § 163.3194, as amended. No public or private development of land within the city shall be permitted, except in conformity with the plan adopted herein.

(Ord. No. 49-90, § 1, 10-4-90)

Sec. 12-0-7. - Reserved.

Editor's note— Section 1 of Ord. No. 10-92, adopted March 26, 1992, repealed § 12-0-7. Former § 12-0-7 pertained to concurrency management and monitoring and derived from Ord. No. 49-90, § 1, adopted Oct. 4, 1990 and Ord. No. 24-91, § 1, adopted April 25, 1991.

Sec. 12-0-8. - Public participation.

The following public participation procedures are hereby adopted by city council pursuant to F.S. Ch. 163, Part II, and Rule 9J-5.004, Florida Administrative Code for the purpose of ensuring continued provision of public participation in the city's planning process including the consideration of amendments to the city's Comprehensive Plan and evaluation and appraisal reviews:

(a) Provisions to assure that real property owners are put on notice, through advertisement in a newspaper of general circulation in the area or other method adopted by the local government, of official actions that will affect the use of their property.

(b) Provisions for notice to keep the general public informed.

(c) Provisions to assure that there are opportunities for the public to provide written comments.

(d) Provisions to assure that the required public hearings are held.

(e) Provisions to assure the consideration of and response to public comments.

The city will make executive summaries of the Comprehensive Plan available to the general public and continue to provide information at regular intervals during the planning process to keep citizens aware of planning activities.

(Ord. No. 49-90, § 1, 10-4-90)

CHAPTER 12-1. GENERAL PROVISIONS

Sec. 12-1-1. - Short title.

This title shall be known and may be cited as "The City of Pensacola Land Development Code" and may also be referred to as the "Land Development Code," "LDC," "Land Development Regulations" or "Zoning Code." The term "this title" when used herein shall refer to "The City of Pensacola Land Development Code."

Sec. 12-1-2. - Authority and purpose.

This title is adopted pursuant to the authority granted by F.S. § 166.021; F.S. Ch. 163, Part III; and other applicable provisions of law for the purpose of adopting and codifying comprehensive land development regulations for the city. The council finds that the regulations set forth in this title are a necessary and proper means for planning and regulating the development of land in the city and for otherwise protecting and promoting the public health, safety and general welfare of its citizens.

Sec. 12-1-3. - Relationship to the City of Pensacola Comprehensive Plan.

The regulations and requirements herein set forth are established in accordance with the City of Pensacola's Comprehensive Plan to encourage the most appropriate use of land throughout the city with reasonable consideration, among other things, of the prevailing land uses, growth characteristics and character of the respective districts and their suitability for particular uses. Specifically, this title provides regulations to implement applicable goals, objectives and policies of the city's adopted Comprehensive Plan.

The city will amend its land development code consistent with requirements of F.S. Ch. 163.3184 so that future growth and development will continue to be managed through the preparation, adoption, implementation and enforcement of land development regulations that are consistent with the Comprehensive Plan.

Sec. 12-1-4. - Buildings to conform to regulations.

No structure shall be erected or reconstructed, nor shall any building or land be used in a manner that does not comply with all the district regulations established by this title for the district in which the building or land is located. Provided, however, lots may be developed in accordance with the building setback requirements set forth in a recorded subdivision plat for a single-family residential development notwithstanding any inconsistency with later amendments to the building setback requirements of this title. Nothing in this title shall be construed to authorize development that is inconsistent with the City's Comprehensive Plan.

The owner of every structure hereafter erected, reconstructed or structurally altered shall provide proof of a recorded perpetual access easement to a public street or right-of-way; however, all residential lots shall abut a public street or right-of-way or private street except for lots fronting on Bayou Chico, Bayou Texar, Pensacola Bay and Escambia Bay when proof of recorded access easement is provided. In R-1AAAA, R-1AAA, R-1AA, R-1A, and R-ZL zones, there shall be no more than one single-family residence or duplex per lot except as provided for in section 12-2-52.

(Ord. No. 39-92, § 1, 12-17-92; Ord. No. 11-94, § 1, 4-14-94; Ord. No. 13-06, § 1, 4-27-06)

Sec. 12-1-5. - Interpretation, conflicts and omissions.

In interpreting and applying the provisions of this title, the minimum requirements for the promotion of the public health, safety, and general welfare of the community shall be adhered to. The city shall not interfere with, nullify, amend nor be responsible for enforcing covenants, deed restrictions or other agreements between private parties; provided, however, that where this title imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, deed restrictions or agreements, the provisions of this title shall prevail.

In the event there is not a particular use listed anywhere in this title that corresponds with a proposed use, then it shall be interpreted that the use described in this title having the most similar characteristics as the use in question shall apply.

The provisions of this title shall not affect, alter, nullify, amend or modify the existing provisions of any code or any ordinance relating to and controlling, regulating or affecting the sale of alcoholic beverages or any ordinance relating to health, safety and sanitation. With respect to the Pensacola Historic District, the North Hill Preservation District, and the Old East Hill Preservation District only the Zoning Board of Adjustment may make any administrative interpretation allowing a proposed use other than those expressly permitted by the applicable district regulations.

(Ord. No. 15-00, § 1, 3-23-00; Ord. No. 13-06, § 2, 4-27-06)

Sec. 12-1-6. - Nonconforming lots, structures and uses.

(A) *Intent.* Within the districts established by this title, or amendments that may later be adopted, there may exist lots, structures, uses of land and or structures, and/or characteristics of use that would be prohibited, regulated, or restricted under the terms of this title or future amendments. It is the intent of this title to allow these nonconformities to exist but not to encourage their continuation. Such uses are declared by this title to be nonconforming and incompatible with permitted uses in the districts involved.

(B) *Nonconforming lots; lots of record.* Where a lot or parcel of land has an area or a width less than the minimum required for a residential use, and was owned as a separate unit as shown of record on July 23, 1965, such lot or parcel of land shall be considered a lot of record and may be used only for a single-family dwelling. Where a lot or parcel of land is determined to be a lot of record, such lot may be used as a residential building site, provided said lot complies with the following minimum yard requirements:

Front yard—Twenty (20) feet.

Side yard—Four (4) feet.

Rear yard—Ten (10) feet.

Lots of record are exempt from corner lot and visibility triangle requirements except for placement of the dwelling.

(C) *Nonconforming structures.* Where a legal structure exists that would not be permitted under the terms of this title by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure shall be declared a nonconforming structure and may be maintained provided that no such structure shall be enlarged in a way that increases its nonconformity.

(D) *Nonconforming uses of land and structures.* Where a legal use of land exists that would not be permitted under the terms of this title, as enacted or amended, such use shall be declared a nonconforming use and may be continued subject to the following provisions:

(1) Extension of nonconforming use. No such nonconforming use may be extended to occupy any greater area of land or extended to occupy any land outside any buildings on the same parcel.

(2) Discontinuance of nonconforming use. If a nonconforming use is discontinued, removed or abandoned for a period of not less than three hundred sixty-five (365) days, any future use of the land and structure shall be in conformity with the provisions of this title.

(3) Where the cessation of a nonconforming use is the result of fire, explosion or other casualty, or act of God, or the public enemy the nonconforming use shall not be declared discontinued until six (6) months after the initial three hundred sixty-five (365) day period. Additional time may be granted by the zoning board of adjustment upon proof by the landowner that the landowner has proceeded with diligence to restore the use and circumstances beyond the landowner's control have made the period of time inadequate.

(4) Nothing in this title shall be interpreted as authorization for, or approval of, continuation of any illegal use of a building, structure, premises or land, in violation of any ordinance in effect at the time of the passage of this title. The casual, intermittent, temporary, or illegal use of land, building or structure for any length of time shall not be sufficient to establish the existence of a nonconforming use.

(E) *Change in nonconforming use.*

(1) There may be a change in tenant, ownership or management of a nonconforming use provided there is no change in the nature or character of such nonconforming use.

(2) A nonconforming use may be changed to a different nonconforming use, provided, however that the proposed use is permitted within the same zoning district as the existing nonconforming use or a use in a more restricted zoning district.

(3) When a nonconforming use is changed to another nonconforming use permitted in a more restricted zoning district, the new use may not be changed back to a nonconforming use permitted in a less restricted zoning district.

(4) When a nonconforming use has been changed to a conforming use, the conforming use may not be changed back to a nonconforming use.

(F) *Restoration.* Nonconforming fences may be repaired or replaced after obtaining the proper permit without the necessity of following the requirements listed in this subsection. Nothing in this title shall be taken to prevent the restoration of any other non-conforming structure or a building housing a non-conforming use destroyed to the extent of not more than seventy-five (75) percent of its value by fire, explosion, or other casualty, or act of God, or the public enemy. A non-conforming structure or a building housing an existing nonconforming use destroyed to the extent of more than seventy-five (75) percent may be reconstructed and the nonconforming use continued provided the following requirements are complied with:

(1) *Public hearing.* A public hearing is held after notification of same being mailed to each owner of property within five hundred (500) feet of the property in question subject to regulations in subsections 12-12-3(F)(1)(g) and (i).

(2) *City council approval.* Five (5) members of the city council must vote in favor of a permit to allow the reconstruction of a nonconforming structure and/or the continuance of a nonconforming use in order for same to be effective.

(3) *Building restrictions.* The structure, as reconstructed, shall not exceed the its former dimensions, either in ground floor area, total floor space, or number of stories unless it complies with all the lot line and setback restrictions of the particular zoning district in which the property in question is located.

(4) *Appeals.* Once such a petition has been denied, it shall not again be entertained for one year after the date of denial.

(G) *Governmental right-of-way takings.* If, as a result of governmental right-of-way takings, by either negotiation or condemnation, existing building or vehicular use areas or other permitted uses would, but for this subsection, become non-conforming or further non-conforming with the setback and landscape provision of this title, the following provisions shall apply:

(1) Subject to the procedure set forth in paragraph (4), existing building and vehicular use areas or other permitted uses that are not within the part taken, but which, because of the taking, do not comply with the setback, landscape or other requirements of this title, shall not be required to be reconstructed to meet such requirements and the remainders shall be deemed thereafter to be conforming properties. The exemption thus created shall constitute a covenant of compliance running with the use of the land.

(2) Subject to the procedure set forth in paragraph (4), any conforming building or vehicular use areas or other permitted uses taken either totally or partially may be relocated on the remainder of the site without being required to comply with the setback provisions of this title except that the relocated building or vehicular use areas or other permitted uses shall be set back as far as is physically feasible without reducing the utility or use of the relocated building or vehicular use areas or other permitted uses below its pre-taking utility use. The exemption thus created shall constitute a covenant of compliance running with the land.

(3) Any properties exempt according to paragraphs (1) and (2) above that are thereafter destroyed, other than by voluntary demolition, to an extent of more than seventy-five (75) percent of the value at the time of destruction, may be restored but only to the pre-destruction condition.

(4) As to the exemptions in paragraphs (1) and (2) above, either the condemning authority or the landowner or both of them may apply in writing to the planning services department for a determination that the granting of the exemption will not result in a condition dangerous to the health, safety, or welfare of the general public. The planning services department shall, within thirty (30) days of the filing of application, determine whether or not the exemption to the

setback granted by this section will endanger the health, safety, or welfare of the general public. If the planning services department determines that the granting of the exemption under this section will not constitute a danger to the health, safety, or welfare of the general public, the planning services department shall issue a signed letter to all parties granting exemption. The letter shall specify the details of the exemption in a form recordable in the Public Records of Escambia County, Florida. If the application is denied, the planning services department shall issue a signed letter to the applicant specifying the specific health or safety ground upon which the denial is based.

(5) Any development permits or variances necessary to relocate building or vehicular use areas or other permitted uses taken or partially taken may be applied for by the condemning authority and granted for the property in question.

(Ord. No. 32-92, § 1, 10-8-92; Ord. No. 33-95, § 1, 8-10-95; Ord. No. 45-96, § 1, 9-12-96; Ord. No. 13-06, § 3, 4-27-06; Ord. No. 16-10, § 196, 9-9-10)

Sec. 12-1-7. - Concurrency management and monitoring.

(A) *Concurrency management.* The city adopted a concurrency management system, effective May 1, 1991, to ensure that public facilities and services needed to support development are available concurrent with the impacts of such developments. In determining the availability of services or facilities, a developer may propose, and the city may approve, developments in stages or phases so that facilities and services needed for each phase will be available in accordance with the standards required by (1), (2), and (3) of this section.

(1) *Potable water, sanitary sewer, solid waste, and drainage.* The following standards shall be met to satisfy the concurrency requirement:

(a) The necessary facilities and services are in place at the time a development permit is issued; or,

(b) A development permit is issued subject to the condition that the necessary facilities and services will be in place when the impacts of the development occur; or,

(c) The necessary facilities are under construction at the time a permit is issued; or,

(d) The necessary facilities and services are guaranteed in an enforceable development agreement that includes the provisions of (1)(a), (1)(b) or (1)(c) of this section. An enforceable development agreement may include, but is not limited to, development agreements pursuant to F.S. § 163.3220 et seq., or an agreement or development order issued pursuant to F.S. Ch. 380. The agreement must guarantee that the necessary facilities and services will be in place when the impacts of the development occur.

(2) *Recreation and open space.* The city shall satisfy the concurrency requirement by complying with the standards in subparagraphs (1)(a), (1)(b), (1)(c) or (1)(d), or by ensuring that the following standards will be met:

(a) At the time the development permit is issued, the necessary facilities and services are the subject of a binding executed contract that provides for the commencement of the actual construction of the required facilities, or the provision of services within one year of the issuance of the development permit; or,

(b) The necessary facilities and services are guaranteed in an enforceable agreement that requires the commencement of the actual construction of facilities or the provision of services within one year of the issuance of the applicable development order. An enforceable development agreement may include, but is not limited to, development agreements pursuant to F.S. § 163.3220 et seq., or an agreement or development order issued pursuant to F.S. Ch. 380.

(3) *Roads designated in the Comprehensive Plan.* The city shall satisfy the concurrency requirement by complying with the standards in subparagraphs (1)(a), (1)(b), (1)(c), (1)(d), (2)(a), or (2)(b). In addition, in areas in which the city has committed to provide the necessary public facilities and services in accordance with its five-year schedule of capital improvements, the following provisions shall apply:

(a) The capital improvements element and a five-year schedule of capital improvements that, in addition to meeting all the other statutory and rule requirements, must be financially feasible. The capital improvements element and schedule of capital improvements may recognize and include transportation projects including in the first three (3) years of the applicable, adopted Florida Department of Transportation five-year work program.

(b) The five-year schedule of capital improvements that includes both necessary facilities to maintain the adopted level of service standards to serve the new development proposed to be permitted and the necessary facilities required to eliminate that portion of existing deficiencies that are a priority to be eliminated during the five-year period under the city's plan schedule of capital improvements pursuant to (1)(a) of this section.

(c) A realistic, financially feasible funding system based on currently available revenue sources that are adequate to fund the public facilities required to serve the development authorized by the development order and development permit and which public facilities are included in the five-year schedule of capital improvements.

(d) The five-year schedule of capital improvements shall include the estimated date of commencement of actual construction and the estimated date of project completion.

(e) Actual construction of roads and the provision of services must be scheduled to commence in or before the third year of the five-year schedule of capital improvements.

(f) An amendment to the Comprehensive Plan shall be required to eliminate, defer, or delay construction of any roads or service that is needed to maintain the adopted level of service standard and that is listed in the five-year schedule of improvements.

(B) *Concurrency review.* The concurrency review shall compare the available and reserved capacity of the facility or service to the demand projected for the proposed development. The available capacity shall be determined by adding the total of the existing excess capacity and the total future capacity of any proposed construction and/or expansion of facilities that meets the requirements of subsection 12-1-7(A).

(2) *Burden of showing compliance.* The burden of showing compliance with the adopted levels of service and meeting the concurrency evaluation shall be upon the applicant. The city may require whatever documentation is necessary to make a determination.

(3) *Exemptions.*

(a) Final approved development orders relating to a development of regional impact project, pursuant to F.S. Ch. 380, are exempt from concurrency review.

(b) Any applicant for a building permit or development order who alleges that this chapter, as applied, constitutes or would constitute a temporary or permanent taking of private property or an abrogation of vested rights must affirmatively demonstrate that either site construction approval or residential subdivision infrastructure approval has been granted by the city engineer on or before May 1, 1991, that construction commenced within six (6) months of the granting of such approval, and that construction has proceeded at a reasonable pace toward completion.

(C) *Action upon failure to show available capacity.* Where available capacity cannot be shown, the following methods may be used to maintain adopted level of service.

(1) *Level of service improvements.* The project owner or developer may provide the necessary improvements to maintain level of service. In such case the application shall include: appropriate plans for improvements; documentation that such improvements are designed to

provide the capacity necessary to achieve or maintain the level of service; and, recordable instruments guaranteeing the construction, consistent with calculations of capacity above.

(2) *Project alteration.* The proposed project may be altered such that projected level of service is no less than the adopted level of service.

(Ord. No. 13-92, § 1, 5-28-92; Ord. No. 8-99, § 1, 2-11-99; Ord. No. 16-10, § 197, 9-9-10)

Sec. 12-1-8. - General interpretative terms.

For the purpose of this title, certain words, terms and symbols are to be interpreted as follows, unless the context clearly indicates otherwise:

Conflicts. The particular shall control the general. In case of any difference of meaning or implication between the text of these zoning regulations and any caption, figure, illustration, summary table, or illustrative table, the text shall control.

Figures, Tables and Illustrations. Any chart or graphic presentation in this title that is specifically designated as a "Figure" or "Table" shall be deemed to be a part of the text of the title and controlling on all development. Wherever illustrations are not specifically so designated, they are provided only as aids to the user of the chapter and shall not be deemed a part of its text.

Guidelines; Regulations; Standards. Guidelines are encouraged and recommended but not mandatory; Regulations and Standards are mandatory.

Interpretation of Undefined Terms. Terms not otherwise defined herein shall be interpreted first by reference to the city's adopted Comprehensive Plan, if specifically defined therein; secondly, by reference to generally accepted building code, engineering, planning or other professional terminology if technical; and otherwise according to common usage, unless the context clearly indicates otherwise.

Shall; Should; May; Includes. The word "shall" is mandatory; the word "should" is directive but not mandatory; the word "may" is permissive. The word "includes" shall not limit a term to the specific examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

Tense; Number. Words used in the present tense can include the future; words in the masculine gender can include the feminine and neuter, and vice versa; words in the singular number can include the plural; and words in the plural can include the singular, unless the obvious construction of the wording indicates otherwise.

CHAPTER 12-2. ZONING DISTRICTS

ARTICLE I. - IN GENERAL

Sec. 12-2-1. - Establishment of future land use and zoning districts and official maps.

(A) *Establishment of districts.* For the purposes of this title, the City of Pensacola is divided into future land use and zoning districts in the manner provided for elsewhere in this title. Each land use district shall contain a set of zoning districts that may be permitted within its boundaries and are consistent with its allowable uses.

(B) *Official maps.* The boundaries of the future land use and zoning districts are hereby established and shall be delineated on official maps for the city entitled "The Future Land Use Map for the Comprehensive Plan of the City of Pensacola" and "The Zoning Map of the City of Pensacola" which, with all explanatory matter set forth thereon, are incorporated in and hereby made a part of this title. The official land use and zoning maps shall be identified by the signature of the mayor, attested by the city clerk, and bearing the seal of the city under the following words: "This is to certify that this is the Official Future Land Use Map referred to in section 12-0-3 of the Code of the City of

Pensacola" and "This is to certify that this is the Official Zoning Map referred to in section 12-2-1 of the City of Pensacola Land Development Code," together with the date of certification.

If changes are made in district boundaries or other matter portrayed on the official land use or zoning map, such changes shall be made on the official maps promptly after the amendments have been approved by the city council. A land use and/or zoning number and an ordinance number shall be given to each change and a file of such changes kept by the city.

(C) *Interpretation of district boundaries.* Where uncertainty exists as to the boundaries of districts as shown on the official land use or zoning map, the following rules shall apply.

(a) Where district boundaries appear to follow centerlines of streets, alleys, easements, railroads and the like, they shall be construed as following centerlines.

(b) Where district boundaries appear to follow lot, property or similar lines, they shall be construed as following such lines.

(c) In subdivided property or where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions, shall be determined by use of the scale appearing on the map.

(d) Where a district boundary line divides a lot or parcel of land the uses permitted in the zoning district on either portion of the lot may be extended a distance not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

(e) Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.

(f) Boundaries indicated as following shorelines shall be construed to follow the mean high water line and, in the event of change in the shoreline, shall be construed as moving within the high water mark; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.

(g) All areas within the corporate limits of the city that are underwater and are not shown as included within any district shall be subject to all of the regulations of the district that immediately adjoins the water area. If the water area joins two (2) or more districts, the boundaries of each district shall be construed to extend into the water area in a straight line until they meet the other district.

(D) *Future land use and zoning districts.* In the establishment, by this chapter, of the respective zoning districts, the city council has given due and careful consideration to the peculiar suitability of each district for the particular regulations applied thereto, and the necessary, proper and comprehensive groupings and arrangements of the various uses and densities of population in accordance with a well considered plan for the development of the city.

In order to regulate and limit the height and size of buildings, to regulate and limit the intensity of the use of lot areas, to regulate and determine the areas of open spaces surrounding buildings, to classify, regulate and restrict the location of trades and industries, and to regulate the location of buildings designed for specified industrial, business, residential, and other uses, the city is hereby divided into the following districts:

CONSERVATION LAND USE—CO	
CO	Conservation zoning district.
LOW DENSITY RESIDENTIAL LAND USE—LDR	

R-1AAAAA	Single-family zoning district.
R-1AAAA	Single-family zoning district.
R-IAAA	Single-family zoning district.
MEDIUM DENSITY RESIDENTIAL LAND USE—MDR	
R-1AA	One and two-family zoning district.
R-1A	One and two-family zoning district.
HIGH DENSITY RESIDENTIAL LAND USE—HDR	
R-ZL	Zero lot line dwelling zoning district.
R-2A	Multiple-family zoning district.
R-2B	Multiple-family zoning district.
OFFICE LAND USE—O	
R-2	Residential/office zoning district.
RESIDENTIAL/NEIGHBORHOOD COMMERCIAL LAND USE—RNC	
R-NC	Residential/neighborhood commercial zoning district.
COMMERCIAL LAND USE—C	
C-1	Commercial zoning district (retail).
C-2A	Commercial zoning district (retail).
C-2	Commercial zoning district (retail).
C-3	Commercial zoning district (wholesale and light industry).

INDUSTRIAL LAND USE—ID	
M-1	Light industrial zoning district.
M-2	Heavy industrial zoning district.
HISTORIC AND PRESERVATION LAND USE—HP	
HR-1	Historic one-and two-family zoning district.
HR-2	Historic multiple-family zoning district.
HC-1	Historic commercial zoning district.
HC-2	Historic commercial zoning district.
PR-1AAA	North Hill Preservation single-family zoning district.
PR-2	North Hill Preservation multiple-family zoning district.
PC-1	North Hill Preservation commercial zoning district.
OEHR-2	Old East Hill residential/office district.
OEHC-1	Old East Hill neighborhood commercial district.
OEHC-2	Old East Hill retail commercial district.
OEHC-3	Old East Hill commercial district.
AIRPORT LAND USE—A	
ARZ	Airport restricted zoning district.
ATZ-1	Airport transition zoning district 1.
ATZ-2	Airport transition zoning district 2.
REDEVELOPMENT LAND USE—R	

GRD	Gateway redevelopment zoning district.
GRD-1	Gateway redevelopment district, Aragon redevelopment area.
WRD	Waterfront redevelopment zoning district.
BUSINESS—B	
SPBD	South Palafox Business zoning district.
INTERSTATE CORRIDOR LAND USE—IC	
IC	Interstate Corridor zoning district.
SPECIAL ZONING DISTRICT	
SSD	Site Specific Development zoning district.
NEIGHBORHOOD LAND USE—N	
May include several zoning districts, depending on the regulations for the individual neighborhood districts.	

(Ord. No. 29-93, § 1, 11-18-93; Ord. No. 13-06, § 4, 4-27-06; Ord. No. 28-07, § 1, 6-14-07)

Sec. 12-2-2. - Conservation land use district.

The regulations in this section shall be applicable to the Conservation Zoning District: CO.

(A) *Purpose of district.* The conservation land use district is established to preserve open space as necessary for protecting water resources, preserving scenic areas, preserving historic sites, providing parklands and wilderness reserves, conserving endemic vegetation, preventing flood damage and soil erosion.

(B) *Generalized uses permitted.*

(a) Wildlife and vegetation conservation:

Wildlife refuge, nature trails and related facilities.

(b) Recreational facilities:

Passive recreation.

Bike trails.

Jogging trails.

(c) Other similar and compatible conservation and recreational uses:

Boat moorings, fishing piers, drainage areas, etc.

(C) *Specific plans for each district.* For each conservation district site plan review shall be subject to the procedure described in section 12-2-81. In addition, site plans shall include the following provisions:

- Location and characteristics of all environmental features such as wetlands, trees, bluffs and wildlife areas;
- Location of all transportation and utility rights-of-way and easements;
- Location and characteristics of allowable types of development, and;
- Any other factors deemed relevant to the health, safety, preservation and protection, or welfare of lands within or surrounding the designated areas.

Sec. 12-2-3. - Low density residential land use district.

The regulations in this section shall be applicable to the single-family zoning districts: R-1AAAAA, R-1AAAA, and R-1AAA.

(A) *Purpose of district.* The low density residential land use district is established for the purpose of providing and preserving areas of single-family, low intensity development at a maximum density of four and eight-tenths (4.8) dwelling units per acre in areas deemed suitable because of compatibility with existing development and/or the environmental character of the areas. The nature of the use of property is basically the same in all three (3) single-family zoning districts. Variation among the R-1AAAAA, R-1AAAA and R-1AAA districts is in requirements for lot area, lot width, and minimum yards.

(B) *Uses permitted.*

(a) Single-family detached dwellings.

(b) Accessory residential units subject to regulations in section 12-2-52.

(c) Community residential homes licensed by the Florida Department of Health and Rehabilitative Services with six (6) or fewer residents providing that it is not to be located within one thousand (1,000) feet of another such home, measured from property line to property line. If it is proposed to be within one thousand (1,000) feet of another such home it shall be permitted with city council approval after public notification of property owners in a five-hundred-foot radius.

(d) Schools and educational institutions having a curriculum the same as ordinarily given in public schools and colleges subject to regulations in section 12-2-65.

(e) Libraries and community centers opened to the public and buildings used exclusively by the federal, state, county and city government for public purposes subject to regulations in section 12-2-61.

(f) Churches, Sunday school buildings and parish houses subject to regulations in section 12-2-57.

(g) Home occupations subject to regulations in section 12-2-33.

(h) Municipally owned and operated parks and playgrounds.

(j) Minor structures for the following utilities: unoccupied gas, water and sewer substations or pump stations, electrical substations and telephone substations subject to regulations in section 12-2-59.

(k) Accessory structures, buildings and uses customarily incidental to the above uses not involving the conduct of a business subject to regulations in section 12-2-31.

(l) Family day care homes licensed by the Florida Department of Children and Family Services as defined in the Florida Statutes.

(C) *Development permitted.*

(a) Conventional subdivision subject to regulations in section 12-2-76.

(b) Special planned development subject to regulations in section 12-2-77.

(D) *Regulations for development within the low density residential zoning districts.* Table 12-2.1 describes requirements for the three (3) single-family residential zoning districts:

TABLE 12-2.1
REGULATIONS FOR THE LOW DENSITY RESIDENTIAL ZONING DISTRICTS

Standards	R-1AAAAA	R-1AAAA	R-1AAA
Maximum Residential Gross Density	2.2 units per acre	3.6 units per acre	4.8 units per acre
Minimum Lot Area	20,000 s.f.	12,000 s.f.	9,000 s.f.
Lot Width at Minimum Building Setback Line	100 feet	80 feet	75 feet
Minimum Lot Width at Street R-O-W Line	50 feet		
Minimum Yard Requirements (Minimum Building Setback Lines) Front Yard Side Yard Rear Yard	 60 feet 10 feet 60 feet	 30 feet 8 feet 30 feet	 30 feet 7.5 feet 30 feet
Off-Street Parking Spaces	1 space/unit		
Maximum Building Height (Except as provided in section 12-2-39)	35 feet		

(Ord. No. 6-93, § 2, 3-25-93; Ord. No. 6-02, § 2, 1-24-02)

Sec. 12-2-4. - Medium density residential land use district regulations.

The regulations in this section shall be applicable to the one-and two-family zoning districts: R-1AA, R-1A and R-1B.

(A) *Purpose of district.* The medium density residential land use district is established for the purpose of providing a mixture of one- and two-family dwellings with a maximum density of seventeen and four-tenths (17.4) dwelling units per acre. Recognizing that, for the most part, these zoning districts are

located in older areas of the city, the zoning regulations are intended to promote infill development which is in character with the density, intensity and scale of the existing neighborhoods.

(B) *Uses permitted.*

(a) Single-family detached dwellings.

(b) Accessory residential units subject to regulations in section 12-2-52

(c) Single-family attached dwellings (townhouse construction, maximum two (2) units).

(d) Two-family attached dwellings (duplex).

(e) Community residential homes licensed by the Florida Department of Health and Rehabilitative Services with six (6) or fewer residents providing that it is not to be located within one thousand (1,000) feet of another such home. If it is proposed to be within one thousand (1,000) feet of another home it shall be permitted with city council approval after public notification of property owners in a five hundred-foot radius.

(f) Cemeteries, when:

1. Seventy-five (75) percent of all owners of adjacent dwellings within one hundred seventy-five (175) feet of the boundary of the cemetery give their written consent, and;

2. The provisions of section 12-2-56 have been met.

(g) Residential design manufactured homes are permitted in the R-1A district, with a maximum density of twelve and four-tenths (12.4) units per acre subject to regulations in section 12-2-62

(h) Schools and educational institutions having a curriculum the same as ordinarily given in public schools and colleges subject to regulations in section 12-2-65

(i) Libraries and community centers opened to the public and buildings used exclusively by the federal, state, county and city government for public purposes subject to regulations in section 12-2-61

(j) Churches, Sunday school buildings and parish houses subject to regulations in section 12-2-57

(k) Home occupations subject to regulations in section 12-2-33

(l) Municipally owned and operated parks and playgrounds.

(n) Minor structures for the following utilities: unoccupied gas, water and sewer substations of pump stations, electrical substations and telephone substations subject to regulations in section 12-2-59

(o) Accessory structures, buildings and uses customarily incidental to the above uses not involving the conduct of a business subject to regulations in section 12-2-31

(p) Family day care homes licensed by the Florida Department of Children and Family Services as defined in the Florida Statutes.

(C) *Conditional uses permitted.*

(a) Residential design manufactured homes when proposed in the R-1AA zoning district subject to regulations in section 12-2-62.

(b) Bed and breakfast subject to regulations in section 12-2-55.

(c) Childcare facilities subject to regulations in section 12-2-58.

(d) Accessory office units subject to regulations in section 12-2-51.

(D) *Development permitted.*

(a) Conventional subdivision subject to regulations in section 12-2-76.

(b) Special planned development subject to regulations in section 12-2-77.

(E) *Regulations for development within the medium density residential land use district.* Tables 12-2.2 and 12-2.2A describe requirements for the one-and two-family residential zoning districts.

TABLE 12-2.2
REGULATIONS FOR THE MEDIUM DENSITY RESIDENTIAL ZONING DISTRICTS

Standards	R-1AA			R-1A		
	Single Family Detached	Two-Family Attached (Duplex)	**Single Family Attached (Townhouses)	Single Family Detached	Two-Family Attached (Duplex)	**Single Family Attached (Townhouses)
Maximum Residential Gross Density	8.7 units per acre	11.6 units per acre	11.6 units per acre	12.4 units per acre	17.4 units per acre	17.4 units per acre
Minimum Lot Area	5,000 s.f.	7,500 s.f.	3,750 s.f.	3,500 s.f.	5,000 s.f.	2,500 s.f.
Lot Width at Minimum Building Setback Line	40 feet	60 feet	30 feet	30 feet	50 feet	25 feet
Minimum Lot Width at Street R-O-W Line	40 feet	50 feet	25 feet	30 feet	50 feet	25 feet
Minimum Yard Requirements *Front Yard Side Yard Rear Yard	(Minimum Building Setbacks) 30 feet 6 feet 30 feet			(Minimum Building Setbacks) 20 feet 5 feet 25 feet		
Off-Street Parking	1 space/unit		2 sp./unit	1 space/unit		2 sp./unit
Maximum Building Height	35 feet (Except as provided in Sec. 12-2-39)			35 feet (Except as provided in Sec. 12-2-39)		

* The front yard depths in the R-1AA and R-1A districts shall not be less than the average depths of all front and street side yards located on either side of the block face, up to the minimum yard requirement; in case there are no other dwellings in the block, the front yard depths shall be no less than the footages noted.

** Each single-family attached dwelling unit must be located on its own lot. If a development requires

subdivision procedures it shall be subject to and must comply with subdivision regulations as set forth in Chapter 12-8.
*** All future residential development on parcels changed to a Medium Density Residential (MDR) zoning district via the passage of Ord. No. 23-16, effective on August 18, 2016, shall be considered legal non-conforming and may utilize the R-1A zoning district standards applicable to lot width, lot area and setbacks.

TABLE 12-2.2A

Standards	R-1B		
	Single-family Detached	Two-Family Attached (Duplex)	**Single-family Attached (Townhouses)
Maximum Residential Gross Density	8.7 units per acre	11.6 units per acre	17.4 units per acre
Minimum Yard Requirements *Front Yard Side Yard Rear Yard	(Minimum Building Setbacks) 10 feet 5 feet 10 feet		
Off-Street Parking	1 space/unit		
Maximum Building Height	45 feet (Except as provided in Sec. 12-2-39)		
Lot Coverage Requirements For All Single-Family, Duplex, Townhouse or Zero-Lot-Line Residential Units	Maximum 50% (See Note 4)		
Lot Coverage Requirements For All Development Other Than Single-Family, Duplex, Townhouse or Zero-Lot-Line Residential Units: The maximum combined area occupied by all	Building Height 1—4 stories 5—7 stories 8—9 stories	Building Coverage 30% 25% 20%	

principal and accessory buildings	(See note 4)		

* The front yard depths in the R-1AA, R-1A and R-1B districts shall not be less than the average depths of all front and street side yards located on either side of the block face, up to the minimum yard requirement; in case there are no other dwellings in the block, the front yard depths shall be no less than the footages noted.

** Each single-family attached dwelling unit must be located on its own lot. If a Development requires subdivision procedures it shall be subject to and must comply with subdivision regulations as set forth in Chapter 12-8.

(Ord. No. 6-93, § 2, 3-25-93; Ord. No. 29-93, § 2, 11-18-93; Ord. No. 45-96, § 2 (Exhibit 1), 9-12-96; Ord. No. 6-02, § 2, 1-24-02; Ord. No. 11-16, § 1, 5-12-16; Ord. No. 23-16, § 1, 8-11-16)

Sec. 12-2-5. - High density residential land use district regulations.

The regulations in this section shall apply to the zero lot line zoning district (R-ZL) and to the multiple family zoning districts (R-2A and R-2B).

(A) *R-ZL, zero lot line zoning district.*

(B) *R-2A, multiple-family zoning district.*

(1) *Purpose of district.* The R-2A zoning district is established to provide for the efficient use of land for multifamily residential development. As a buffer between low and medium density residential developments and commercial, industrial, major transportation arteries, or other uses that are not compatible with a low-density residential environment, the R-2A zoning district shall encourage the establishment and maintenance of a suitable residential environment for high-density housing. The zoning regulations are intended to provide for development criteria to maintain a high standard of quality in development of multifamily housing.

(2) *Uses permitted.*

(a) Where any use other than a single-family, duplex or zero-lot-line development abuts an R-1AAAAA through R-ZL zoning district, there shall be a twenty (20) foot yard unless the two (2) districts are separated by a public street, body of water, or similar manmade or natural buffer of equal width. The following developments shall comply with the minimum standards for the R-1A zoning district for single-family detached dwellings in section 12-2-4(E):

1. Single-family detached dwellings with a maximum density of twelve and eight-tenths (12.8) units per acre.

2. Community residential homes licensed by the Florida Department of Health and Rehabilitative Services with:

a. Six (6) or fewer residents providing that it is not to be located within one thousand (1,000) feet of another such home, measured from property line to property line.

b. Seven (7) to fourteen (14) residents providing such home is not within one thousand two hundred (1,200) feet of another such home in a multi-family district, and that the home is not within five hundred (500) feet of a single-family zoning district.

If it is proposed to be within the distance limits noted, measured from property line to property or district line, it shall be permitted with city council approval after public notification of property owners in a five hundred (500) foot radius.

3. Residential design manufactured homes at a density of up to twelve and eight-tenths (12.8) units per acre subject to regulations in section 12-2-62.

4. Bed and breakfast subject to regulations in section 12-2-55.

5. Childcare facilities subject to regulations in section 12-2-58.

6. Schools and educational institutions having a curriculum the same as ordinarily given in public schools and colleges subject to regulations in section 12-2-65.

7. Libraries and community centers opened to the public and buildings used exclusively by the federal, state, county and city government for public purposes subject to regulations in section 12-2-61.

8. Churches, Sunday school buildings and parish houses subject to regulations in section 12-2-57.

(b) Single-family attached (townhouse and quadraplex construction) and detached zero lot line dwellings with a maximum density of twenty-one and eight-tenths (21.8) units per acre. Development must comply with the minimum standards established for the R-ZL zoning district in section 12-2-5(A)(5).

(c) Two-family attached dwellings (duplexes) with a maximum density of seventeen and four-tenths (17.4) units per acre. Development must comply with the minimum standards established for the R-1A zoning district for duplex dwellings in section 12-2-4(E).

(d) Multiple-family attached dwellings, at a maximum gross density of thirty-five (35) units per acre, when in compliance with the minimum standards established in Table 12-2.4.

(e) Manufactured home park subject to regulations in section 12-2-62(E).

(f) Home occupations subject to regulations in section 12-2-33.

(g) Municipally owned and operated parks and playgrounds.

(i) Minor structures for the following utilities: unoccupied gas, water and sewer substations or pump stations, electrical substations and telephone substations subject to regulations in section 12-2-59.

(j) Accessory structures, buildings and uses customarily incidental to the above uses not involving the conduct of a business subject to regulations in section 12-2-31.

(3) *Development permitted.*

(a) Conventional subdivision subject to regulations in section 12-2-76.

(b) Special planned development subject to regulations in section 12-2-77.

(4) *Regulations.* All multiple-family residential and other permitted non-residential uses are required to comply with design standards and are encouraged to follow design guidelines

as established in subsection 12-2-82. Table 12-2.4 describes height, area and yard requirements for multi-family developments in the R-2A zoning district.

(5) *Additional regulations.* In addition to the regulations established above in section 12-2-5(B)(4), all multiple family dwelling developments will be subject to, and must comply with, the following regulations:

(a) Supplementary district regulations subject to regulations in section 12-2-31 to 12-2-50.

(b) Off-street parking subject to regulations in Chapter 12-3.

(c) Signs subject to regulations in Chapter 12-4.

(d) Tree/landscape regulations subject to regulations in Chapter 12-6.

(e) Stormwater management and control of erosion, sedimentation and runoff subject to regulations in Chapter 12-9.

TABLE 12-2.3
REGULATIONS FOR THE R-ZL ZONING DISTRICT

STANDARDS	SINGLE-FAMILY ATTACHED		SINGLE-FAMILY DETACHED
	*Townhouse Construction	Quadraplex Construction	Zero-lot-line Development
MAXIMUM RESIDENTIAL GROSS DENSITY	21.8 units per acre	13.6 units per acre	17.4 units per acre
MINIMUM LOT AREA	2,000 s.f.	3,200 s.f.	2,500 s.f.
MINIMUM LOT WIDTH	20 feet	40 feet	30 feet
MINIMUM YARD REQUIREMENTS (Minimum Building Setback Lines)			(Refer to Note 1)
FRONT YARD	Refer to Notes 1 and 2	30 feet	20 feet
SIDE YARD		10 feet	8 feet
REAR YARD		N/A	20 feet
MAXIMUM BUILDING HEIGHT	35 feet (Except as provided in section 12-2-39)		
MAXIMUM LOT COVERAGE	The maximum combined area of all principal and accessory buildings shall be 50%.		
SITES FOR PUBLIC USE	New subdivisions shall comply with section 12-8-6 applicable to sites for public use.		

*No row of attached single-family dwellings shall exceed eight (8) units

Note 1: In no case shall a townhouse or a zero lot line dwelling be built closer than ten (10) feet to the lot line of an adjacent lot than is zoned R-1A, R-1AA, R-1AAA, R-1AAAA, or the perimeter boundary of the development. The minimum side yard for a corner lot shall not be less than ten (10) feet from the

street right-of-way line. The rear yard of a zero lot line development may be decreased by one foot for each one foot increase in the side yard, but the rear yard shall not be less than ten (10) feet.

Note 2: Each row of attached (townhouse) units shall be separated from the next row of units by an open side yard of not less than sixteen (16) feet. This yard may either be divided between the adjoining lots or maintained in common ownership by an approved homeowners association. Attached single-family dwellings having only one common wall are required to have minimum eight-foot side yards. There shall be a front and rear yard for each lot, one of which shall be a minimum of twenty (20) feet in depth to accommodate on-site parking. The other yard shall be a minimum of fifteen (15) feet in depth. Where attached dwelling lots back up to each other, a five-foot access easement shall be maintained along the rear of each lot. This easement can be either part of the rear yard of each lot or a commonly owned ten-foot access easement maintained by a homeowners association. This easement must be kept clear of fences, landscaping, or other barriers.

Note 3: *Maintenance and drainage easements.* A perpetual four-foot building wall maintenance easement shall be provided on the lot adjacent to the zero lot line property line, which, with the exception of fences shall be kept clear of structures. This easement shall be shown on the subdivision plat and shall be incorporated into each deed transferring title to the property. The wall shall be maintained in it's original color, and treatment unless otherwise agreed to in writing by the two (2) affected lot owners. Roof overhangs may penetrate the easement of the adjacent lot a maximum of twenty-four (24) inches, but the roof shall be so designed that water runoff from the dwelling placed on the lot line is limited to the easement area.

Openings prohibited on the zero lot line side. The wall of the dwelling located on the lot line shall have no windows, doors, air conditioning units, or any other a type of openings, provided, however, that atriums or courts shall be permitted on the zero lot line side when the court or atrium is enclosed by three (3) walls of the dwelling unit.

TABLE 12-2.4
REGULATIONS FOR MULTI-FAMILY DEVELOPMENT IN THE R-2A ZONING DISTRICT

Standards	Building Within 100 Feet of a Single-Family or Zero-Lot-Line Zoning District	Building Over 100 Feet From a Single-Family or Zero-Lot-Line Zoning District
Minimum Lot Area	20,000 square feet	
Minimum Lot Width	100 feet	
Maximum Building Height (At building setback line)	35 feet	35 feet (Also see Note 2)
Minimum Yard Requirements		

*Front Yard	20 feet	15 feet
Side Yard	5 feet	5 feet
Rear Yard	25 feet (Also see Note 1)	20 feet (Also see Note 2)
Minimum Floor Area	350 square feet for efficiencies providing that the per unit average floor area for the project is 600 square feet	
Maximum Building Coverage		
	Building Height	Building Coverage
	1—4 stories	30%
	5—7 stories	25%
	8—9 stories	20%
	0—13 stories	7%
	Over 13 stories	5%
Maximum Lot Coverage	75%	
Minimum Landscape Area	25%	
Recreation/Open Space	5% of lot area provided in addition to landscape area (see subsection 12-2-82(C)(4).	

• Front yard depths in the R-2A districts shall not be less than the average depths of all front and street side yards located on either side of the block face, up to the minimum yard requirement; in case there are no other dwellings, the front yard depth shall be no less than the footages noted.

Note 1: Where a multi-family development abuts an R-1AAAAA through R-ZL zoning district, there shall be a twenty (20) foot yard unless the two (2) districts are separated by a public street, body of water, or similar manmade or natural buffer of equal width.

Note 2: Above the height permitted at the building setback lines three (3) feet may be added to the height of the building for each foot the building is set back from the building setback lines up to a maximum height of one hundred fifty (150) feet. All multi-family developments over thirty-five (35) feet in height must submit a development plan pursuant to section 12-2-81(A)(2).

(C) *R-2B, multiple-family zoning district.*

(1) *Purpose of district.* The R-2B zoning district is established to provide for the efficient use of land for multifamily residential development. As a buffer between low and medium density residential developments and commercial, industrial, major transportation arteries, or other uses that are not compatible with a low-density residential environment, the R-2B zoning district shall encourage the establishment and maintenance of a suitable residential environment for high-density housing. The zoning regulations are intended to provide for development criteria to maintain a high standard of quality in development of multifamily housing.

(2) *Uses permitted.*

(a) Where any use other than a single-family, duplex or zero-lot-line development abuts an R-1AAAAA through R-ZL zoning district, there shall be a twenty (20) foot yard unless the two (2) districts are separated by a public street, body of water, or similar manmade or natural buffer of equal width. The following developments shall comply with the minimum standards for the R-1A zoning district for single-family detached dwellings in section 12-2-4(E):

1. Single-family detached dwellings with a maximum density of twelve and eight-tenths (12.8) units per acre.

2. Community residential homes licensed by the Florida Department of Health and Rehabilitative Services with:

a. Six (6) or fewer residents providing that it is not to be located within one thousand (1,000) feet of another such home, measured from property line to property line.

b. Seven (7) to fourteen (14) residents providing such home is not within one thousand two hundred (1,200) feet of another such home in a multi-family district, and that the home is not within five hundred (500) feet of a single-family zoning district.

If it is proposed to be within the distance limits noted, measured from property line to property or district line, it shall be permitted with city council approval after public notification of property owners in a five hundred (500) foot radius.

3. Residential design manufactured homes at a density of up to twelve and eight-tenths (12.8) units per acre subject to regulations in section 12-2-62.

4. Bed and breakfast subject to regulations in section 12-2-55.

5. Childcare facilities subject to regulations in section 12-2-58.

6. Schools and educational institutions having a curriculum the same as ordinarily given in public schools and colleges subject to regulations in section 12-2-65.

7. Libraries and community centers opened to the public and buildings used exclusively by the federal, state, county and city government for public purposes subject to regulations in section 12-2-61.

8. Churches, Sunday school buildings and parish houses subject to regulations in section 12-2-57.

(b) Single-family attached (townhouse and quadraplex construction) and detached zero lot line dwellings with a maximum density of twenty-one and eight-tenths (21.8) units per acre. Development must comply with the minimum standards established for the R-ZL zoning district in section 12-2-5(A)(5).

(c) Two-family attached dwellings (duplexes) with a maximum density of seventeen and four-tenths (17.4) units per acre. Development must comply with the minimum standards established for the R-1A zoning district for duplex dwellings in section 12-2-4(E).

(d) Multiple-family attached dwellings, at a maximum gross density of thirty-five (35) units per acre, when in compliance with the minimum standards established in Table 12-2.5.

(e) Manufactured home park subject to regulations in section 12-2-62(E).

(f) Home occupations subject to regulations in section 12-2-33.

(g) Municipally owned and operated parks and playgrounds.

(i) Minor structures for the following utilities: Unoccupied gas, water and sewer substations or pump stations, electrical substations and telephone substations subject to regulations in section 12-2-59.

(j) Accessory structures, buildings and uses customarily incidental to the above uses not involving the conduct of a business subject to regulations in section 12-2-31.

(3) *Development permitted.*

(a) Conventional subdivision subject to regulations in section 12-2-76.

(b) Special planned development subject to regulations in section 12-2-77.

(4) *Regulations.* All multiple-family residential and other permitted non-residential uses are required to comply with design standards and are encouraged to follow design guidelines as established in section 12-2-82. Table 12-2.5 describes height, area and yard requirements for multi-family developments in the R-2B zoning district.

(5) *Additional regulations.* In addition to the regulations established above in section 12-2-5(B)(4), all multiple family dwelling developments will be subject to, and must comply with, the following regulations:

(a) Supplementary district regulations subject to regulations in section 12-2-31 to 12-2-50.

(b) Off-street parking subject to regulations in Chapter 12-3.

(c) Signs subject to regulations in Chapter 12-4.

(d) Tree/landscape regulations subject to regulations in Chapter 12-6.

(e) Stormwater management and control of erosion, sedimentation and runoff subject to regulations in Chapter 12-9.

TABLE 12-2.5 (A)

REGULATIONS FOR MULTI-FAMILY DEVELOPMENT IN THE R-2B ZONING DISTRICT: BUILDING WITHIN 70 FEET OF A SINGLE-FAMILY OR ZERO-LOT-LINE ZONING DISTRICT

Standards	Building Within 70 Feet of a Single-Family or Zero-Lot- Line Zoning District

Minimum Lot Area	20,000 square feet
Minimum Lot Width	100 feet
Maximum Building Height (At building setback line)	45 feet 3 habitable stories
Minimum Yard Requirements	
Front Yard (see Note 1)	20 feet
Side Yard	5 feet
Rear Yard	25 feet (Also see Note 2)
Minimum Floor Area	350 square feet for efficiencies providing that the per unit average floor area for the project is 600 square feet
Maximum Building Coverage	30%
Maximum Lot Coverage	75%
Minimum Landscape Area	25%
Recreation/Open Space	5% of lot area provided in addition to landscape area (see subsection 12-2-82(C)(4)).

Note 1: Front yard depths in the R-2B districts shall not be less than the average depths of all front and street side yards located on either side of the block face, up to the minimum yard requirement; in case there are no other dwellings, the front yard depth shall be no less than the footages noted.

Note 2: Where a multi-family development abuts an R-1AAAAA through R-ZL zoning district, there shall be a twenty (20) foot yard unless the two (2) districts are separated by a public street, body of water, or similar manmade or natural buffer of equal width.

Note 3: All multi-family developments over forty-five (45) feet in height must submit a development plan pursuant to section 12-2-81(A)(2).

TABLE 12-2.5(B)
REGULATIONS FOR MULTI-FAMILY DEVELOPMENT IN THE R-2B ZONING DISTRICT: BUILDING OVER 70 FEET FROM A SINGLE-FAMILY OR ZERO-LOT-LINE ZONING DISTRICT

Standards	Building Over 70 Feet From a Single-Family or Zero-Lot-Line Zoning District (See Note 1)
Minimum Lot Area	20,000 square feet
Minimum Lot Width	100 feet
Maximum Building Height	70 feet and 6 habitable stories

Minimum Yard Requirements

	Number of Habitable Stories (feet)				
		1—3 (45 feet)	4 (50 feet)	5 (60 feet)	6 (70 feet)
	Front	15 feet	20 feet	25 feet	30 feet
	Side	5 feet	10 feet	15 feet	20 feet
	Rear	20 feet	25 feet	30 feet	30 feet

(Also see Notes 2, 3 and 4)

Minimum Floor Area	350 square feet for efficiencies providing that the per unit average floor area for the project is 600 square feet

Maximum Building Coverage

	Building Height	Building Coverage
	1—4 habitable stories	30%
	5—6 habitable stories	25%

Maximum Lot Coverage	75%
Minimum Landscape Area	25%
Recreation/Open Space	5% of lot area provided in addition to landscape area (see subsection 12-2-82(C)(4)).

Note 1: Where a building is located within an area of special flood hazard as defined in Chapter 12-10 and is elevated above the base flood elevation so that the height measured from existing grade exceeds seventy (70) feet, the seventy (70) foot distance requirement from a single-family or zero lot line zoning district shall be increased to a distance not less than the height of the building measured from existing grade.

Note 2: Front yard depths in the R-2B districts shall not be less than the average depths of all front and street side yards located on either side of the block face, up to the minimum yard requirement; in case there are no other dwellings, the front yard depth shall be no less than the footages noted.

Note 3: Where a multi-family development abuts an R-1AAAAA through R-ZL zoning district, there shall be a twenty (20) foot yard unless the two (2) districts are separated by a public street, body of water, or similar manmade or natural buffer of equal width.

Note 4: All multi-family developments over forty-five (45) feet in height must submit a development plan pursuant to section 12-2-81(A)(2).

(Ord. No. 13-92, § 3, 5-28-92; Ord. No. 6-93, § 3, 3-25-93; Ord. No. 29-93, § 3, 11-18-93; Ord. No. 3-94, § 1, 1-13-94; Ord. No. 33-95, § 2 (Exhibit 1), 8-10-95; Ord. No. 9-96, § 1, 1-25-96; Ord. No. 45-96, § 2 (Exhibit 1), 9-12-96; Ord. No. 6-02, § 2, 1-24-02; Ord. No. 28-07, § 2, 6-14-07)

Sec. 12-2-6. - Residential/office land use district.

The regulations in this section shall be applicable to the residential/office zoning district: R-2.

(A) *Purpose of district.* The residential/office land use district is established for the purpose of providing for a mixture of residential housing types and densities and office uses. Residential and office uses shall be allowed within the same structure. When the R-2 zoning district is located in older, developed areas of the city, the zoning regulations are intended to provide for residential or office infill development at a density, character and scale compatible with the surrounding area. In some cases the R-2 district is also intended as a transition area between commercial and residential uses.

(B) *Uses permitted.*

(a) Single-family detached dwellings; Two-family attached dwellings (duplexes).

(b) Single-family attached (townhouse and quadruplex construction) and detached zero lot line dwellings. The development must comply with the minimum standards established for the R-ZL zoning district in section 12-2-5(A)(5).

(c) Multiple-family attached dwellings (three or more dwelling units), at a maximum gross density of thirty-five (35) units per acre.

(d) Community residential homes licensed by the Florida Department of Health and Rehabilitative Services with:

1. Six (6) or fewer residents providing that it is not to be located within one thousand (1,000) feet of another such home, measured from property line to property line.

2. Seven (7) to fourteen (14) residents providing such home is not within one thousand two hundred (1,200) feet of another such home in a multi-family district, and that the home is not within five hundred (500) feet of a single-family zoning district. If it is proposed to be within the distance limits noted, measured from property line to property or district line, it shall be permitted with city council approval after public notification of property owners in a five hundred-foot radius.

(e) Cemeteries, subject to regulations in section 12-2-56.

(f) Home occupations, subject to regulations in section 12-2-33.

(g) Municipally owned and operated parks and playgrounds.

(i) Minor structures for the following utilities: unoccupied gas, water and sewer substations of pump stations, electrical substations and telephone substations subject to regulations in section 12-2-59.

(j) Childcare facilities subject to regulations in section 12-2-58.

(k) Private clubs and lodges, except those operated as commercial enterprises.

(l) Boarding and lodging houses.

(m) Bed and breakfast subject to regulations in section 12-2-55.

(n) Dormitories.

(o) Office buildings.

(p) Hospitals, clinics (except animal hospitals and clinics).

(q) Nursing homes, rest homes, convalescent homes.

(r) Schools and educational institutions having a curriculum the same as ordinarily given in public schools and colleges subject to regulations in section 12-2-65.

(s) Libraries and community centers opened to the public and buildings used exclusively by the federal, state, county and city government for public purposes subject to regulations in section 12-2-61.

(t) Churches, Sunday school buildings and parish houses subject to regulations in section 12-2-57.

(u) Social services homes/centers.

(v) Banks and financial institutions.

(w) Barber and beauty shops are permitted uses provided that they are located with property frontage on a four-lane roadway facility. Such properties must be proven to be a lot of record that was owned as a separate unit as shown of record on or prior to February 18, 2016.

(x) Accessory structures, buildings and uses customarily incidental to any of the above uses subject to regulations in section 12-2-31.

(y) Studios as defined in section 12-14-1.

(C) *Development permitted.*

(a) Conventional subdivision subject to regulations in section 12-2-76.

(b) Special planned development subject to regulations in section 12-2-77.

(D) *Regulations.* All developments are required to comply with design standards and are encouraged to follow design guidelines as established in section 12-2-82. Table 12-2.5 describes height, area and yard requirements for the residential/office zoning district:

TABLE 12-2.5
REGULATIONS FOR THE R-2 ZONING DISTRICT

Standards	Within 100 Feet of a Residential Zoning District	More Than 100 Feet From a Residential Zoning District
Minimum Yard Requirements *Front Yard Side Yard Rear Yard	15 feet (Also 5 feet see 15 feet Note 1)	10 feet (Also 5 feet see 10 feet Note 1)
Maximum Building Height (At Building Setback Line)	45 feet	45 feet (Also see Note 2)
Lot Coverage Requirements For All Single-Family, Duplex, Townhouse or Zero- Lot-Line Residential Units	The maximum combined area occupied by all principal and accessory buildings shall not exceed 50%. (See Note 3)	
Lot Coverage Requirements For All Development Other Than Single-Family, Duplex, Townhouse or Zero- Lot-Line Residential Units:	Building Height 1—4 stories 5—7 stories (See note 3) 8—9 stories	Building Coverage 30% 25% 20%

The maximum combined area occupied by all principal and accessory buildings		

* Front yard depths in the R-2 district shall not be less than the average depths of all front and street side yards located on either side of the block face, up to the minimum yard requirements; in case there are no other structures on the block the front yard depth shall not be less than footages noted.

Note 1: Where any use other than a single-family, duplex or zero lot-line development abuts an R-1AAAAA through R-ZL zoning district, there shall be a twenty-foot yard unless the two (2) districts are separated by a public street, body of water, or similar manmade or natural buffer of equal width.

Note 2: Above the height permitted at the building setback lines three (3) feet may be added to the height of the building for each foot the building is set back from the building setback lines up to a maximum height of one hundred (100) feet. All buildings exceeding forty-five (45) feet in height must submit a preliminary development plan that must be reviewed by the planning board and city council pursuant to section 12-2-81.

Note 3: When a mixed residential/non-residential development is proposed, the lot coverage requirements shall be the most restrictive of the proposed uses.

(E) *Additional regulations.* In addition to the regulations established above in section 12-2-6(D), all R-2 developments will be subject to, and must comply with, the following regulations:

- Supplementary district regulations subject to regulations in sections 12-2-31 to 12-2-50.
- Off-street parking subject to regulations in Chapter 12-3.
- Signs subject to regulations in Chapter 12-4.
- Tree/landscape regulations subject to regulations in Chapter 12-6.
- Stormwater management and control of erosion, sedimentation and runoff subject to regulations Chapter 12-9.

(Ord. No. 6-93, § 4, 3-25-93; Ord. No. 29-93, § 4, 11-18-93; Ord. No. 3-94, § 2, 1-13-94; Ord. No. 33-95, § 2 (Exhibit 1), 8-10-95; Ord. No. 9-96, §§ 2, 3, 1-25-96; Ord. No. 45-96, § 2 (Exhibit 1), 9-12-96; Ord. No. 6-02, § 2, 1-24-02; Ord. No. 13-14, § 1, 3-27-14; Ord. No. 10-15, § 1, 5-14-15; Ord. No. 05-16, § 1, 2-11-16)

Sec. 12-2-7. - Residential/neighborhood commercial land use district.

The regulations in this section shall be applicable to the residential/neighborhood commercial zoning district: R-NC and the residential/neighborhood commercial B: R-NCB.

(A) *Purpose of district.* The residential/neighborhood commercial land use district is established for the purpose of providing for a mixture of residential housing types and densities, professional uses and certain types of neighborhood convenience-shopping-retail sales and service uses. Residential and office or commercial uses shall be allowed within the same structure. When the R-NC/R-NCB zone is

established in older sections of the community in which by custom and tradition the intermixing of such uses has been found to be necessary and desirable, the zoning regulations are intended to provide for infill development at a density, character and scale compatible with the surrounding area. When the R-NC/R-NCB zoning district is located in newer developing areas where it is necessary and desirable to create a transition zone between a residential and a commercial district, the zoning regulations are intended to provide for mixed office, commercial and residential development.

(B) *Uses permitted.*

(1) R-NC residential neighborhood commercial zoning district.

(a) Any use permitted in the R-2 district.

(b) Residential design manufactured homes subject to regulations in section 12-2-62.

(c) Manufactured home parks subject to regulations in section 12-2-62(D).

(d) The following uses, with no outside storage or work permitted, except as provided herein:

1. Retail food and drugstore (including medical marijuana dispensaries and liquor package store).
2. Personal service shops as defined in section 12-14-1.
3. Clothing and fabric stores.
4. Home furnishing, hardware and appliance stores.
5. Specialty shops.
6. Bakeries, whose products are sold at retail and only on the premises.
7. Consignment and Vintage clothing shops.
8. Floral shops.
9. Health clubs, spas, and exercise centers.
10. Martial arts studios.
11. Laundromats and dry cleaners using combustible or flammable liquids of solvents with a flash point of one hundred ninety (190) degrees Fahrenheit or greater.
12. Laundry and dry cleaning pick-up stations.
13. Outdoor sales of trees, shrubs, plants and related landscaping materials as an accessory to indoor retail sales uses permitted by this paragraph, provided that the area is enclosed within a fence attached to the rear or side of the main building, and provided that the outdoor area does not exceed twenty (20) percent of the total area of the main building.
14. Restaurants.
15. Studios as defined in section 12-14-1.
16. Mortuary and funeral parlors.
17. Appliance repair shops.
18. Gasoline and service stations with up to three (3) wreckers. Minor repair work not involving major motor or drive train repairs, straightening of body parts, painting, welding, or other major mechanical and body work involving noise, glare, fumes, or smoke, is permitted within a building.
19. Tattoo parlor/studio.

20. Accessory buildings and uses customarily incidental to the above uses. (2) R-NCB residential neighborhood commercial - B zoning district.

(a) Any use permitted in the R-2 district with the exception of cemeteries.

(b) The following uses, with no outside storage or work permitted, except as provided herein:

1. Retail food and drugstore (including medical marijuana dispensaries but excluding liquor package store).
2. Personal service shops as defined in section 12-14-1
3. Clothing and fabric stores.
4. Home furnishing, hardware and appliance stores.
5. Specialty shops.
6. Bakeries, whose products are sold at retail and only on the premises.
7. Consignment and vintage clothing shops.
8. Floral shops.
9. Health clubs, spas, and exercise centers.
10. Martial arts studios.
11. Laundry and dry cleaning pick-up stations.
12. Outdoor sales of trees, shrubs, plants and related landscaping materials as an accessory to indoor retail sales uses permitted by this paragraph, provided that the area is enclosed within a fence attached to the rear or side of the main building, and provided that the outdoor area does not exceed twenty (20) percent of the total area of the main building.
13. Restaurants.
14. Studios as defined in section 12-14-1
15. Appliance repair shops.

16. Accessory buildings and uses customarily incidental to the above uses. (C) *Development permitted.*

(a) Conventional subdivision subject to regulations in section 12-2-76.

(b) Special planned development subject to regulations in section 12-2-77.

(D) *Regulations.* All developments are required to comply with design standards and are encouraged to follow design guidelines as established in section 12-2-82. Table 12-2.6 on the following page, describes height, area and yard requirements for the residential/neighborhood commercial zoning district and the residential/neighborhood commercial B zoning district:

TABLE 12-2.6
REGULATIONS FOR THE R-NC/R-NCB ZONING DISTRICTS

Standards	Within 100 Feet of a Residential Zoning District	More Than 100 Feet From a Residential Zoning District
Minimum Yard Requirements (Minimum Building Setbacks) *Front Yard Side Yard Rear Yard	 15 feet (Also see Note 1) 5 feet 15 feet	 10 feet (Also see Note 1) 5 feet 10 feet

Maximum Building Height (At Building Setback Line)	35 feet	45 feet (Also see Note 2)
Lot Coverage Requirements For All Single-Family, Duplex, Townhouse or Zero- Lot-Line Residential Units	Maximum 50% (See Note 4)	
Lot Coverage Requirements For All Development Other Than Single-Family, Duplex, Townhouse or Zero- Lot-Line Residential Units: The maximum combined area occupied by all principal and accessory buildings	Building Height 1—4 stories 5—7 stories 8—9 stories (See note 4)	Building Coverage 30% 25% 20%
Maximum Floor Area for All Uses Listed Under section 12-2-7(B)(d)	4,000 Square Feet (See Note 3)	

* Front yard depths in the R-NC/R-NCB district shall not be less than the average depths of all front and street side yards located on either side of the block face, up to the minimum yard requirements; in case there are no other structures on the block the front yard depths shall not be less than the footages noted.

Note 1: Where any of the uses permitted in an R-NC/R-NCB district other than single-family, duplex or zero-lot-line residential are contiguous to an R-1AAAAA through R-ZL zoning district, there shall be a twenty-foot yard unless the two (2) districts are separated by a public street, body of water, or similar manmade or natural buffer of equal width.

Note 2: Above the height permitted at the building setback lines three (3) feet may be added to the height of the building for each foot the building is set back from the front, side and rear building setback lines up to a maximum height of one hundred (100) feet. Any building exceeding forty-five (45) feet in height must submit a preliminary development plan that must be reviewed by the planning board and city council pursuant to section 12-2-81(A)(2).

Note 3: An exception to the four thousand (4,000) square feet area may be granted upon submittal of a preliminary development plan (refer to section 12-2-81(A)(3)) to the planning board for review.

Note 4: When a mixed residential/non-residential development is proposed, the lot coverage requirements shall be the most restrictive of the proposed uses.

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(E) *Additional regulations.* In addition to the regulations established above in subsection 12-2-7(D), all R-NC/R-NCB developments will be subject to, and must comply with, the following regulations:

(a) Supplementary district regulations subject to regulations in sections 12-2-31 to 12-2-50.

(b) Off-street parking subject to regulations in chapter 12-3.

(c) Signs subject to regulations in chapter 12-4.

(d) Tree/landscape regulations subject to regulations in chapter 12-6.

(e) Stormwater management and control of erosion, sedimentation and runoff subject to regulations in chapter 12-9.

(f) Alcoholic beverages regulations subject to chapter 7-4 of this Code.

(Ord. No. 6-93, § 5, 3-25-93; Ord. No. 29-93, § 5, 11-18-93; Ord. No. 3-94, § 3, 1-13-94; Ord. No. 33-95, § 2 (Exhibit 1), 8-10-95; Ord. No. 45-96, § 2 (Exhibit 1), 9-12-96; Ord. No. 40-99, § 1, 10-14-99; Ord. No. 13-12, § 1, 6-14-12; Ord. No. 13-14, § 2, 3-27-14; Ord. No. 01-16, § 1, 1-14-16; Ord. No. 12-16, § 1, 5-12-16)

Sec. 12-2-8. - Commercial land use district.

The regulations in this section shall be applicable to the retail and downtown commercial and wholesale and light industry zoning districts: C-1, C-2A, C-2, and C-3.

(A) *Purpose of district.* The commercial land use district is established for the purpose of providing areas of commercial development ranging from compact shopping areas to limited industrial/high intensity commercial uses. Conventional residential use is allowed as well as residential uses on upper floors above ground floor commercial or office uses and in other types of mixed use development. New development and redevelopment projects are strongly encouraged to follow the city's design standards and guidelines contained in section 12-2-82.

The C-1 zoning district's regulations are intended to provide for conveniently supplying the immediate needs of the community where the types of services rendered and the commodities sold are those that are needed frequently. The C-1 zoning district is intended to provide a transitional buffer between mixed-use neighborhood commercial areas and more intense commercial zoning. The downtown and retail commercial (C-2A and C-2) zoning districts' regulations are intended to provide for major commercial areas intended primarily for retail sales and service establishments oriented to a general community and/or regional market. The C-3 wholesale and light industry zoning district's regulations are intended to provide for general commercial services, wholesale distribution, storage and light fabrication.

The downtown retail commercial (C-2A) zoning district's regulations are intended to provide a mix of restaurants, retail sales, entertainment, and service establishments with an emphasis on pedestrian-oriented ground floor shops and market spaces.

The commercial retail (C-2) zoning district's regulations are intended to provide for major commercial areas intended primarily for retail sales and service establishments oriented to a general community and/or regional market.

The C-3 wholesale and light industry zoning district's regulations are intended to provide for general commercial services, wholesale distribution, storage and light fabrication.

(B) *Uses permitted.*

(1) *C-1, retail commercial zoning district.* Any use permitted in the R-NC district and the following uses, with no outside storage or repair work permitted:

(a) Retail sales and services.

(b) Motels/hotels.

(c) Vending machine when as accessory to a business establishment and located on the same parcel of land as the business.

(d) Car washes.

(e) Movie theaters, except drive-in theaters.

(f) Open air sales of trees, plants and shrubs. The business shall include a permanent sales or office building (including restrooms) on the site.

(g) Pet shops with all uses inside the principal building.

(h) Parking lots and parking garages.

(i) Pest extermination services.

(j) Animal hospitals and veterinary clinics with fully enclosed kennels and no outside runs or exercise areas.

(k) Business schools.

(l) Trade schools.

(m) Medical marijuana dispensary.

(n) Recreation or amusement places operated for profit.

(o) Accessory buildings and uses customarily incidental to the above uses.

(2) *C-2A, downtown retail commercial district.* Any use permitted in the C-1 district with the exception of manufactured home parks, and Conditional Uses. The following uses with no outside storage or repair work permitted:

(a) Bars.

(b) Pool halls.

(c) Newspaper offices and printing firms.

(d) Marinas.

(e) Major public utility buildings and structures including radio and television broadcasting station.

(f) Accessory buildings and uses customarily incidental to the above uses.

(3) *C-2, commercial district (retail).* Any use permitted in the C-2A district and the following uses with no outside storage or repair work permitted:

(a) Cabinet shops and upholstery shops.

(b) Electric motor repair and rebuilding.

(c) Garages for the repair and overhauling of automobiles.

(d) Sign shop.

(e) Accessory buildings and uses customarily incidental to the above uses.

(4) *C-3, commercial zoning district (wholesale and limited industry).*

(a) Any use permitted in the C-2 district. Outside storage and work shall be permitted for those uses and the following uses, but shall be screened by an opaque fence or wall at least eight (8) feet high at installation. Vegetation shall also be used as a screen and shall provide seventy-five (75) percent opacity. The vegetative screen shall be located on the exterior of the required fence.

(b) Outside kennels, runs or exercise areas for animals subject to regulations in section 12-2-54.

(c) Growing and wholesale of retail sales of trees, shrubs and plants.

(d) Bakeries, wholesale.

(e) Ice cream factories and dairies.

(f) Quick-freeze plants and frozen food lockers.

(g) Boat sales and repair.

(h) Outdoor theaters.

(i) Industrial Research laboratories and pharmaceutical companies

(j) Truck sales and repair.

(k) Light metal fabrication and assembly.

(l) Contractors shops.

(m) Adult entertainment establishments subject to the requirements of chapter 7-3 of this Code.

(n) Industrial laundries and dry cleaners using combustible or flammable liquids or solvents with a flash point of one hundred ninety (190) degrees Fahrenheit or less which provide industrial type cleaning, including linen supply, rug and carpet cleaning, and diaper service.

(o) Retail lumber and building materials.

(p) Warehouses.

(q) Plumbing and electrical shops.

(r) New car and used car lots, including trucks which do not exceed five thousand (5,000) pounds.

(s) Car rental agencies and storage, including trucks which do not exceed five thousand (5,000) pounds.

(t) Pawnshops and secondhand stores.

(u) Mini-storage warehouses.

(v) Advanced manufacturing and/or processing operations provided that such use does not constitute a nuisance due to emission of dust, odor, gas, smoke, fumes, or noise.

(w) Accessory buildings and uses customarily incidental to the above uses.

(C) *Regulations.* All developments are required to comply with design standards and are strongly encouraged to follow design guidelines as established in section 12-2-82.

TABLE 12-2.7
REGULATIONS FOR THE COMMERCIAL ZONING DISTRICTS

Standards	C-1	C-2A	C-2 and C-3
Minimum Yard Requirements (Minimum Building Setbacks)	There shall be no yard requirements, except that where any nonresidential use is contiguous to a residential zoning district there shall be a twenty-foot (20') yard unless the two (2) districts are separated by a public street, body of water, or similar manmade or natural buffer of equal width.		

	Inside the C-2A District and Dense Business Area: There shall be a maximum allowed front yard setback of 10'.		
Maximum Building Height	No building shall exceed forty-five (45) feet in height at the property or setback lines. (See Note 1)	No building shall exceed one hundred (100) feet in height at the property or setback lines. (See Note 1)	
Lot Coverage Requirements (The maximum combined area occupied by all principal and accessory buildings)	Shall not exceed seventy-five (75) percent of the total site area for buildings up to one hundred (100) feet in height. For buildings over one hundred (100) feet in height, lot coverage shall not exceed sixty-five (65) percent.	Shall not exceed one hundred (100) percent of the total site area for buildings up to one hundred (100) feet in height. For buildings over one hundred (100) in height, lot coverage shall not exceed ninety (90) percent.	Inside the dense business area: shall not exceed one hundred (100) percent of the total site area for buildings up to one hundred (100) feet in height. For buildings over one hundred (100) feet in height, lot coverage shall not exceed ninety (90) percent (with the exception of the C-2A zoning district). Outside the dense business area: shall not exceed seventy-five (75) percent of the total site area for buildings up to one hundred (100) feet in height. For buildings over one hundred (100) feet in height, lot coverage shall not exceed sixty-five (65) percent.

Maximum Density Multiple Family Dwellings	.35 dwelling units per acre.	135 dwelling units per acre.	Inside the dense business area: One hundred thirty-five (135) dwelling units per acre. Outside the dense business area: Thirty-five (35) dwelling units per acre.

Note 1: Three (3) feet may be added to the height of the building for each foot the building elevation is stair-stepped or recessed back from the property or setback lines beginning at the height permitted up to a maximum height of one hundred fifty (150) feet.

(D) Reserved.

(E) *Additional regulations.* In addition to the regulations established above in section 12-2-8(C), all developments within the commercial zoning districts will be subject to, and must comply with, the following regulations:

- Supplementary district regulations subject to regulations in sections 12-2-31 to 12-2-50.
- Off-street parking subject to regulations in Chapter 12-3.
- Signs subject to regulations in Chapter 12-4.
- Tree/landscape regulations subject to regulations in Chapter 12-6.
- Stormwater management and control of erosion, sedimentation and runoff subject to regulations in Chapter 12-9.
- Alcoholic beverages regulations subject to Chapter 7-4 of this Code.

(Ord. No. 25-92, § 1, 7-23-92; Ord. No. 6-93, § 6, 3-25-93; Ord. No. 29-93, § 6, 11-18-93; Ord. No. 3-94, § 4, 1-13-94; Ord. No. 44-94, § 1, 10-13-94; Ord. No. 33-95, § 2 (Exhibit 1), 8-10-95; Ord. No. 40-99, §§ 2, 3, 10-14-99; Ord. No. 17-06, § 1, 7-27-06; Ord. No. 11-09, § 1, 4-9-09; Ord. No. 13-12, § 1, 6-14-12; Ord. No. 12-13, § 1, 5-9-13; Ord. No. 40-13, § 1, 11-14-13; Ord. No. 01-16, § 1, 1-14-16; Ord. No. 06-17, § 1, 3-9-17; Ord. No. 12-19, § 1, 5-16-19)

Sec. 12-2-9. - Industrial land use district.

The regulations in this section shall apply to the light industrial (wholesale and light industry) and heavy industrial zoning districts: M-1 and M-2.

(A) *Purpose of district.* The industrial land use district is established for the purpose of providing areas for industrial development for a community and regionally oriented service area. The industrial zoning district's regulations are intended to facilitate the manufacturing, warehousing, distribution, wholesaling and other industrial functions of the city and the region. New residential uses are prohibited in the M-2 zoning district. The industrial district regulations are designed to:

• Encourage the formation and continuance of a compatible environment for industries, especially those which require large tracts of land and/or employ large numbers of workers;

• Protect and reserve undeveloped areas that are suitable for industries;

• Discourage development of new residential or other uses capable of adversely affecting or being affected by the industrial character of this district; and

• Provide an opportunity for review by the planning board and approval by the city council for specific uses that may be an environmental nuisance to the community.

(B) *Uses permitted.*

(1) M-1, light industrial district.

(a) Any use permitted in the C-3 district.

(b) Outdoor storage and work, but shall be screened by an opaque fence or wall at least eight (8) feet high at installation. Vegetation shall also be used as a screen and shall provide seventy-five (75) percent opacity. The vegetative screen shall be located on the exterior of the required fence, and shall be subject to the regulations contained in section 12-6 of this chapter.

(c) Wholesale business.

(d) Lumber, building material yards.

(e) Furniture manufacture/repair.

(f) Assembly of electrical appliances, instruments, etc.

(g) Welding and metal fabrication, except the fabrication of iron and steel or other metal for structural purposes, such as bridges, buildings, radio and television towers, oil derricks, and sections for ships, boats and barges.

(h) Processing/packaging/distribution.

(i) Canning plants.

(j) Ice plant/storage buildings.

(k) Bottling plants.

(l) Stone yard or monument works.

(m) Manufacturing uses of a scale and intensity likely to be capable of producing sound, vibration, odor, etc. that is incompatible with the general commercial districts.

(n) Conditional uses permitted:

1. Residential and non-residential community correction centers, probation offices, and parole offices provided that no such site shall be located any closer than one-quarter mile, one thousand three hundred twenty (1,320) feet, from a school for children in grade 12 or lower, licensed day care center facility, park, playground, nursing home, convalescent center, hospital, association for disabled population, mental health center, youth center, group home for disabled population or youth, or other place where children or a population especially vulnerable to crime due to age or physical or mental disability regularly congregates.

(2) M-2, heavy industrial district.

(a) Any use permitted in the M-1 district.

(b) Any use or the expansion of any use or building not permitted in the preceding district may be permitted upon development plan review by the planning board and city council approval subject to regulations in section 12-2-81.

(C) *Regulations.* All developments are required to comply with design standards and are encouraged to follow the design guidelines as established in section 12-2-82. Table 12-2-8, describes requirements for the industrial zoning districts.

TABLE 12-2.8
REGULATIONS FOR THE INDUSTRIAL ZONING DISTRICTS

Standards	M-1	M-2
Minimum Yard Requirements (Minimum Building Setbacks)	There shall be no yard requirements, except that where any nonresidential use is contiguous to a residential zoning district there shall be a twenty-foot yard, or for industrial uses a forty-foot yard, unless the two (2) districts are separated by a public street, body of water, or similar manmade or natural buffer of equal width.	
Maximum Building Height	No building shall exceed forty-five (45) feet in height at the property or building setback lines if contiguous to a residential district. Above the height permitted three (3) feet may be added to the height of the building for each foot the building is set back from the property lines up to a maximum height of one hundred (100) feet. If not contiguous to a residential zoning district no building shall exceed one hundred (100) feet in height at the property lines.	
Lot Coverage Requirements	The maximum combined area occupied by all principal and accessory buildings shall not exceed seventy-five (75) percent of the total site area.	

(D) *Additional regulations.* In addition to the regulations established above in section 12-2-9(C), all developments within the industrial zoning districts will be subject to, and must comply with, the following regulations:

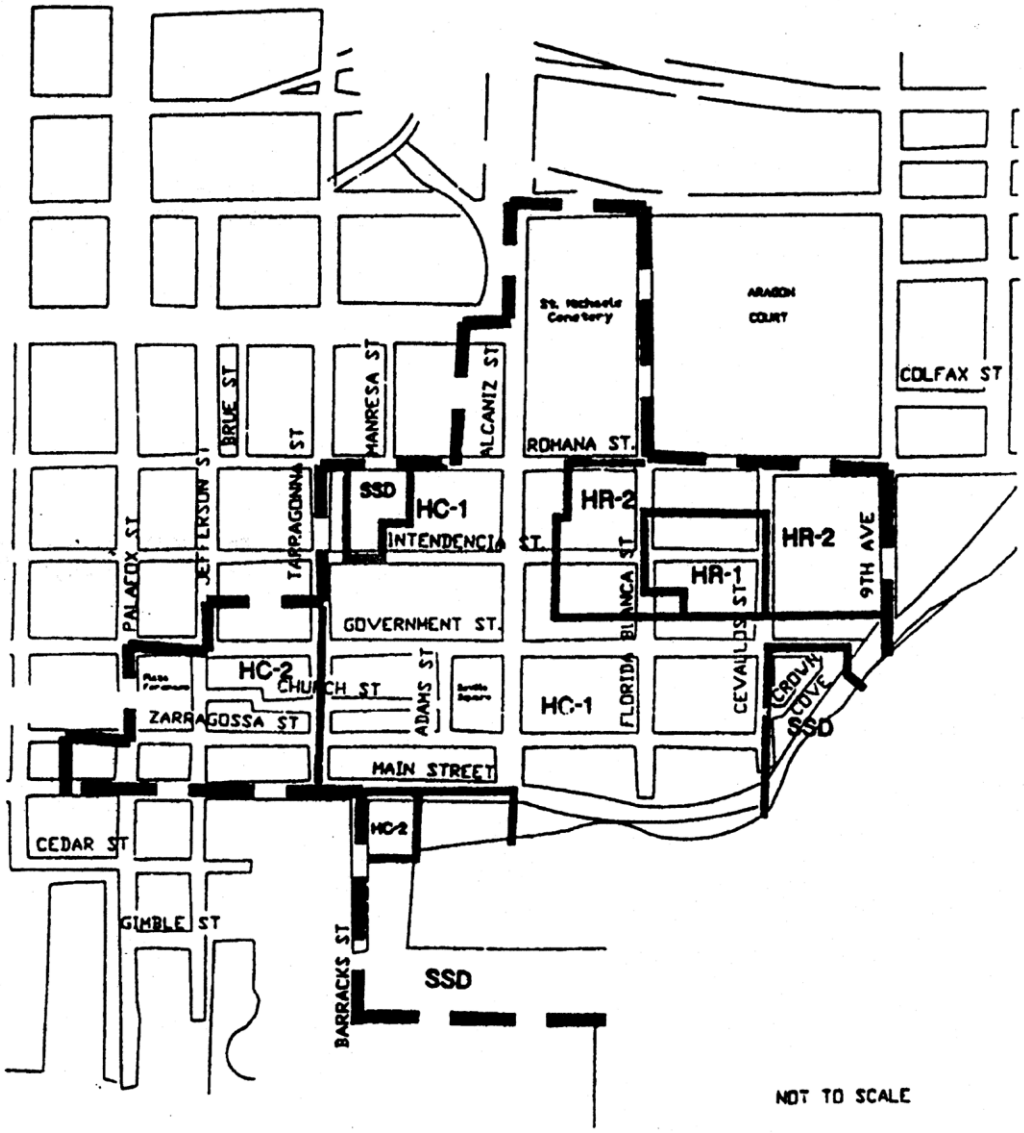
- Supplementary district regulations subject to regulations in sections 12-2-31 to 12-2-50.
- Off-street parking subject to regulations in Chapter 12-3.
- Signs subject to regulations in Chapter 12-4.
- Tree/landscape regulations in Chapter 12-6.

- Stormwater management and control of erosion, sedimentation and runoff subject to regulations in Chapter 12-9.
- Alcoholic beverages regulations subject to Chapter 7-4 of this Code.

(Ord. No. 1-95, §§ 1, 2, 1-2-95; Ord. No. 33-95, § 2 (Exhibit 1), 8-10-95; Ord. No. 9-96, § 4, 1-25-96; Ord. No. 40-99, §§ 4, 5, 10-14-99; Ord. No. 13-12, § 1, 6-14-12; Ord. No. 01-15, § 1, 2-12-15; Ord. No. 09-18, § 1, 5-10-18)

Sec. 12-2-10. - Historic and preservation land use district.

The regulations in this section shall be applicable to the Pensacola Historic District, the North Hill Preservation District and the Old East Hill Preservation District: HR-1, HR-2, HC-1, HC-2, PR-1AAA, PR-2, PC-1, OEHR-2, OEHC-1, OEHC-2 and OEHC-3.



(A) *Historic zoning districts: HR-1, HR-2, HC-1 and HC-2.*

(1) *Purpose.* The historic zoning districts are established to preserve the development pattern and distinctive architectural character of the district through the restoration of existing buildings and construction of compatible new buildings. The official listing of the Pensacola Historic District (which includes all areas designated as historic zoning districts) on the National Register of Historic Places and the authority of the architectural review board reinforce this special character. Zoning regulations are intended to ensure that future development is compatible with and enhances the pedestrian scale of the existing structures and period architectural character of the districts.

(2) *Character of the district.* The Historic District is characterized by lots with narrow street frontage (based on the original British city plan, c. 1765), and the concentration of Frame Vernacular,

Folk Victorian and Creole homes which date from the early 19th Century and form a consistent architectural edge along the street grid. These buildings and historic sites and their period architecture make the district unique and worthy of continuing preservation efforts. The district is an established business area, residential neighborhood and tourist attraction, containing historic sites and museums, a variety of specialty retail shops, restaurants, small offices, and residences.

(3) *Uses permitted.*

(a) HR-1, one- and two-family.

1. Single-family and two-family (duplex) dwellings.
2. Libraries, community centers and buildings used exclusively by the federal, state, county or city government for public purposes.
3. Churches, Sunday school buildings and parish houses.
4. Home occupations allowing: Not more than sixty (60) percent of the floor area of the total buildings on the lot to be used for a home occupation; Retail sales shall be allowed, limited to uses listed as conditional uses in subsection (b)6., below; Two (2) nonfamily members shall be allowed as employees in the home occupation; and a sign for the business not to exceed three (3) square feet shall be allowed.
5. Publicly owned or operated parks and playgrounds.
6. Community residential homes licensed by the Florida Department of Health and Rehabilitative Services with six (6) or fewer residents providing that it is not to be located within one thousand (1,000) feet of another such home. If it is proposed to be within one thousand (1,000) feet of another such home, measured from property line to property line, it shall be permitted with city council approval after public notification of property owners in a five-hundred-foot radius.
7. Bed and breakfast subject to regulations in section 12-2-55.
8. Conditional uses permitted:
    a. Single-family attached dwellings (townhouses).
    b. Multiple-family dwellings.
9. Accessory buildings and uses customarily incidental to any of the above uses, including storage garages, when located on the same lot and not involving the conduct of business.
10. Family day care homes licensed by the Florida Department of Children and Family Services as defined in the Florida Statutes.

(b) HR-2, multiple family and office.

1. Any use permitted in the HR-1 district, including conditional uses.
2. Boarding and lodging houses.
3. Offices under five thousand (5,000) square feet.
4. Community residential homes licensed by the Florida Department of Health and Rehabilitative Services with seven (7) to fourteen (14) residents providing that it is not to be located within one thousand two hundred (1,200) feet of another such home in a multifamily district, and that the home is not within five hundred (500) feet of a single-family zoning district. If it is proposed to be within one thousand two hundred (1,200) feet of another such home in a multifamily district, measured from property line to property line, and/or within five hundred (500) feet of a single-family zoning district, measured from property line to district line, it shall be permitted with city council approval after public notification of property owners in a five-hundred-foot radius.

5. Childcare facilities subject to regulations in section 12-2-58.

6. Conditional use permitted:

   The following uses limited to a maximum area of 3,000 square feet:

   a. Antique shops.

   b. Bakeries whose products are sold at retail and only on the premises.

   c. Grocery stores.

   d. Barbershops and beauty parlors.

   e. Laundromats, including dry-cleaning pick-up stations.

   f. Clothing and fabric shops.

   g. Studios.

   h. Vending machines when an accessory to a business establishment and located in the same building as the business.

   i. Small appliance repair shops.

   j. Floral gardens and shops.

   k. Hand craft shops for custom work or making custom items not involving noise, odor, or chemical waste.

   l. Secondhand stores.

   m. Specialty shops.

7. Accessory buildings and uses customarily incidental to any of the above uses, including storage garages, when located on the same lot.

(c) HC-1, historical commercial district:

1. Any use permitted in the HR-2 district, including the conditional uses, with no size limitations.

2. Small appliance repair shops.

3. Marinas.

4. Restaurants (except drive-ins).

5. Motels.

6. Commercial parking lots.

7. Accessory buildings and uses customarily incidental to any of the above uses, including storage garages, when located on the same lot.

(d) HC-2, historical commercial district:

1. Any use permitted in the HC-1district.

2. Private clubs and lodges except those operated as commercial enterprises.

3. Health clubs, spas and exercise centers.

4. Tavern, lounges, nightclubs, cocktail bars.

5. Accessory buildings and uses customarily incidental to any of the above uses, including storage garages, when located on the same lot.

6. Adult entertainment establishments subject to the requirements of Chapter 7-3 of this Code when located within the dense business area as defined in Chapter 12-14, Definitions.

(4) *Procedure for review.*

(a) Review and approval by the architectural review board: All activities regulated by this subsection shall be subject to review and approval by the architectural review board as established in section 12-13-3. The board shall adopt written rules and procedures for abbreviated review for paint colors, minor repairs and minor deviations in projects already approved by the board. This process may authorize the board to designate one of its members to undertake such abbreviated review without the necessity for review by the entire board, provided, however, such abbreviated review process shall require review by the staff of West Florida Historic Preservation, Inc. If agreement cannot be reached as it pertains to such request for abbreviated review by the board designee and West Florida Historic Preservation, Inc. staff, then the matter will be referred to the entire board for a decision.

(b) Decisions.

1. General consideration. The board shall consider plans for existing buildings based on their classification as contributing, non-contributing or modern infill as depicted on the map entitled "Pensacola Historic District" adopted herein, and shall review these plans based on regulations described herein for each of these building classifications. In their review of plans for both existing buildings and new construction, the board shall consider exterior design and appearance of the building, including the front, sides, rear and roof; materials, textures and colors; plot plans or site layout, including features such as walls, walks, terraces, off-street paved areas, plantings, accessory buildings, signs and other appurtenances; and relation of the building to immediate surroundings and to the district in which it is located or to be located. The term "exterior" shall be deemed to include all of the outer surfaces of the building and exterior site work, including painting, and is not restricted to those exteriors visible from a public street or place. The board shall consider requests for design materials, alterations or additions, construction methods, paint colors or any other elements regulated herein, which do not meet the regulations as established in this subsection, when documentary proof in the form of photographs, property surveys, indication of structural foundations, drawings, descriptive essays and similar evidence can be provided. The board shall not consider interior design or plan. The board shall not exercise any control over land use or construction standards such as are controlled by this chapter and Chapter 7-13.

2. Rules governing decisions. Before approving the plans for any proposed building located or to be located in a district, the board shall find:

a. In the case of a proposed alteration or addition to an existing building, that such alteration or addition will not impair the architectural or historic value of the building.

b. In the case of a proposed new building, that such building will not, in itself or by reason of its location on the site, impair the architectural or historic value of buildings on adjacent sites or in the immediate vicinity. No plans for new building will be approved if that building will be injurious to the general visual character of the district in which it is to be located considering visual compatibility standards such as height, proportion, shape, scale, style, materials and colors.

3. No provision of this section shall be interpreted to prevent the restoration or reconstruction of any historic building or feature (as listed by the Historic Pensacola Preservation Board) in its original style, dimensions or position on its original structural foundation.

(c) Plan submission: Every activity that requires plans in order to erect, construct, demolish, renovate or alter an exterior of a building, sign or exterior site work, located or to be located in the historic zoning districts shall be accompanied with drawings or sketches. All drawings must be drawn to scale and be legible. The minimum size scale for site plans is 1″ = 30′0″; the minimum scale for floor plans is 1/8″ = 1′0″; and the minimum scale for exterior elevations is 1/8″ = 1′0″. The scale for other items, such as signs and details, shall be as large as necessary to fully define the detail of those items. Major projects with very large buildings may vary from the scale referenced above for ease of presentation.

1. Site plan:
    a. Indicate overall property dimensions and building size and location on the property.
    b. Indicate relationship of adjacent buildings, if any.
    c. Indicate layout of all driveways and parking on the site.
    d. Indicate all fences, and signs with dimensions as required to show exact locations.
    e. Indicate existing trees and existing and new landscaping.
2. Floor plan:
    a. Indicate locations and sizes of all exterior doors and windows.
    b. Indicate all porches, steps, ramps and handrails.
    c. For renovations or additions to existing buildings, indicate all existing conditions and features as well as the revised conditions and features and the relationship of both.
3. Exterior elevations:
    a. Indicate all four (4) elevations of the exterior of the building.
    b. Indicate the relationship of this project to adjacent structures, if any.
    c. Indicate exposed foundation walls, including the type of material, screening, dimensions, and architectural elements.
    d. Indicate exterior wall materials, including type of materials, dimensions, architectural elements and color.
    e. Indicate exterior windows and doors, including type, style, dimensions, materials, architectural elements, trim, and colors.
    f. Indicate all porches, steps, and ramps, including type of materials, dimensions, architectural elements and color.
    g. Indicate all porch, stair, and ramp railings, including type of material, dimensions, architectural elements, trim, and color.
    h. Indicate roofs, including type of material, dimensions, architectural elements, associated trims and flashing, and color.
    i. Indicate all signs, whether they are built mounted or freestanding, including material, style, architectural elements, size and type of letters, and color. The signs must be drawn to scale in accurate relationship to the building and the site.
4. Miscellaneous:
    a. Show enlarged details of any special features of either the building or the site that cannot be clearly depicted in any of the above-referenced drawings.

(d) Submission of photographs.

1. Renovations/additions to existing buildings:

    a. Provide at least four (4) overall photographs per building so that all sides are clearly shown. In addition, photographs depicting the "streetscape" — that is, the immediate vicinity and all adjacent buildings — should be supplied.

    b. If doors and/or windows are to be modified, provide a photograph of each door to be changed and at least one representative photograph of the type of window to be altered and replaced.

    c. Provide any additional photographs as required to show specific details of any site or building conditions that will be altered or modified in any way by the proposed construction.

2. New construction:

    a. Provide photographs of the site for the proposed new construction in sufficient quantity to indicate all existing site features, such as trees, fences, sidewalks, driveways, and topography.

    b. Provide photographs of the adjoining "streetscape," including adjacent buildings to indicate the relationship of the new construction to these adjacent properties.

(e) Submission of descriptive product literature/brochures:

1. Provide samples, photographs, or detailed, legible product literature on all windows, doors and shutters proposed for use in the project. The information must be sufficiently detailed to show style, dimensions, detailing, material type, and color.

2. Provide descriptive literature, samples, or photographs showing specific detailed information about signs and letters, if necessary to augment or clarify information shown on the drawings. The information must be sufficiently detailed to show style, dimensions, detailing, material type, and color.

3. Provide samples or descriptive literature on roofing material and trip to augment the information on the drawings. The information must indicate dimensions, details, material, color and style.

4. Provide samples or literature on any exterior light fixtures or other exterior ornamental features, such as wrought iron, railings, columns, posts, balusters, and newels. Indicate size, style, material, detailing and color.

(f) Conceptual approval is permitted by the board only when the applicant specifies on their application that is the approval they are seeking. Conceptual approval applications shall be complete with the exception of final details such as material and color selections. Conceptual approval by the board does not permit the issuance of a building permit.

(5) *Regulations and guidelines for any development within the historic zoning districts.* These regulations and guidelines are intended to address the design and construction of elements common to any development within the Historic District that requires review and approval by the architectural review board. Regulations and guidelines which relate specifically to new construction and/or structural rehabilitation and repair to existing buildings, applicable to building heights, setbacks, architectural elements and construction types, are established in paragraphs (6) through (8) below. Illustrations, photographs and descriptive examples of many of the design elements described in this subsection can be found in the document prepared by the Florida Northwest Chapter of the American Institute of Architects entitled "Seville Historic District Guideline Study."

(a) Building height limit. No building shall exceed the following height limit established by zone: HR-1 (one- and two-family), HR-2 (multiple-family), HC-1 (historic commercial), HC-2 (historic commercial)—thirty-five (35) feet.

1. Bayfront Parkway setback/height requirement. The following height/setback requirement shall be observed along Bayfront Parkway between Tarragona Street and 9th Avenue (Setback distance measured from northern right-of-way line) to create a scenic open space image along the parkway.

Building height	Building setback
20 feet	20 feet
25 feet	25 feet
30 feet	30 feet
35 feet (Maximum height)	35 feet

(b) Protection of trees. It is the intent of this section to recognize the contribution of shade trees and certain flowering trees to the overall character of the historic zoning districts and to ensure the preservation of such trees as described below:

1. Any of the following "specimen tree" species having a minimum trunk diameter of eight (8) inches (twenty-five and one-tenths (25.1) inches in circumference) at a height of one (1) foot above grade: Live Oak, Water Oak, Pecan, and Magnolia having a minimum trunk diameter of six (6) inches (eighteen and eight-tenths (18.8) inches in circumference) at a height of one (1) foot above grade, and;

2. Any of the following flowering trees with a minimum trunk diameter of four (4) inches (twelve and fifty-five one hundredths (12.55) inches in circumference) at a height of one (1) foot above grade: Redbud, Dogwood, and Crape Myrtle.

   No person, organization, society, association or corporation, or any agent or representative thereof, directly or indirectly, shall cut down, destroy, undertake tree removal, or effectively destroy through damaging, any specimen or flowering tree, whether it be on private property or right-of-way within the district, without first having obtained a permit from the city to do so. Refer to section 12-6-7 for tree removal permit application procedures and guidelines.

(c) Fences. The majority of original fences in the Historic District were constructed of wood with a paint finish in many varying ornamental designs. To a lesser extent, fences may have been constructed of brick or wrought iron. The style of the fence and the materials used typically related directly to the style and type of materials used for the building on the property.

All developments in the historic zoning districts shall comply with fence regulations as established in section 12-2-40(A) through (D), applicable to maximum heights permitted. In addition, the following provisions apply:

1. Chain-link, concrete block and barbed-wire are prohibited fence materials in the Historic District. Approved materials will include but not necessarily be limited to wood, brick, stone and wrought iron.

2. All wood or wrought iron fences shall be painted if the principal building is painted. Wood fences shall be constructed utilizing one of a variety of "picket" designs,

especially a design that will reflect details similar to those on the building. It is recommended that the use of wrought iron or brick fences be constructed in conjunction with buildings that use masonry materials in their construction.

(d) Signs. Those few signs that may have originally been used in the Historic District, including those which were used in the commercial areas, were typically smaller in scale than many signs in current use. Ordinarily, their style was complementary to the style of the building on the property. The support structure and trim work on a sign was typically ornamental, as well as functional.

Refer to sections 12-4-2 and 12-4-3 for general sign standards and criteria and for a description of sign area calculations. In addition to the prohibited signs listed below, all signs listed in section 12-4-7 are prohibited within the Historic District. The design, color scheme and materials of all signs shall be subject to approval by the architectural review board. All official signs within the District will be authorized, created, erected and maintained by the city of Pensacola or the Historic Pensacola Preservation Board using as their guide the document entitled "A Uniform System for Official Signs in the Seville Square Historical District." This document also includes recommendations for and descriptive drawings of commercial signs appropriate to the district.

1. Permitted signs.

a. Temporary accessory signs.

• One (1) non-illuminated sign advertising the sale, lease, or rental of the lot or building, said sign not exceeding six (6) square feet in area.

• One (1) non-illuminated sign not more than fifty (50) square feet in area in connection with new construction work and displayed only during such time as the actual construction work is in progress.

b. Permanent accessory signs.

• One (1) sign per lot per street frontage for churches, schools, apartment buildings, boarding or lodging houses, libraries, community centers, commercial buildings (including retail and office buildings) or historic sites serving as identification and/or bulletin boards not to exceed twelve (12) square feet in area and having a maximum height of eight (8) feet, provided, however that signs projecting from a building or extending over public property shall maintain a clear height of nine (9) feet six (6) inches above the public property and shall not exceed a height of twelve (12) feet six (6) inches. The sign may be mounted to the face of a wall of the building, hung from a bracket that is mounted to a wall of a building, hung from other ornamental elements on the building, or may be freestanding. Attached or wall signs may be placed on the front or one (1) side of the building. The sign may be illuminated provided the source of light is not visible beyond the property line of the lot on which the sign is located.

• One (1) non-illuminated nameplate designating the name of the occupant of the property; the nameplate shall not be larger than three (3) square feet and shall be attached flat against the wall of the building.

• Municipal or state installed directional signs, historical markers and other signs of a general public interest when approved by the mayor and board.

2. Prohibited signs.

a. Any sign using plastic materials for lettering or background.

b. Internally illuminated signs.

c. Portable signs.

d. Nonaccessory signs.

(e) Screening. The following uses must be screened from adjoining property and from public view with fencing and/or landscaping or a combination of the two (2) approved by the board:

1. Parking lots.

2. Dumpsters or trash handling areas.

3. Service entrances or utility facilities.

4. Loading docks or spaces.

(f) Landscaping. Within the original Historic District development, the majority of each site not covered by a building was typically planted in trees, shrubbery or ground cover. No formal landscape style has been found to predominate in the district. The following regulations apply for landscaping:

1. Within the front yard setback the use of grass, ground cover or shrubs is required and trees are encouraged in all areas not covered by a drive or walkway.

2. The use of brick or concrete pavers set on sand may be allowed in the front yard in addition to drives or walkways, with board approval based on the need and suitability of such pavement.

(g) Driveways, sidewalks and off-street parking. Original driveways in the Historic District were probably unimproved or sidewalks were typically constructed of brick, cobblestones or small concrete pavers using two different colors laid at diagonals in an alternating fashion. Parking lots were not a common facility in the Historic District. The following regulations and guidelines apply to driveways, sidewalks and parking lots in the Historic District:

1. Driveways. Unless otherwise approved by the board, each building site shall be allowed one driveway, standard concrete ribbons, or access drive to a parking lot. No new driveways or access drives to parking lots may be permitted directly from Bayfront Parkway to any development where alternative access from the inland street grid is available.

a. Where asphalt or concrete is used as a driveway material, the use of an appropriate coloring agent is required.

b. From the street pavement edge to the building setback the only materials allowed shall be shell, brick, concrete pavers, colored asphalt and approved stamped concrete or #57 granite or marble chips.

2. Sidewalks. Construction, repair and maintenance of sidewalks are all required on public rights-of-way within the district. Sidewalks shall be constructed of the following materials or combination of materials and approved by the board:

a. Brick pavers;

b. Concrete pavers;

c. Poured concrete stamped with an ornamental pattern and colored with a coloring agent;

d. A combination of concrete with brick or concrete paver bands along the edges of the sidewalk. This combination may also include transverse brick or concrete paver bands spaced at regular intervals.

Walkways shall be provided from the street side sidewalk to the front entrance as approved by the board.

3. Off-street parking. Off-street parking is not required in the HC-1 and HC-2 zoning districts. Because parking lots have not been a common land use in the district, their location is encouraged behind the structures which they serve.

   a. Parking lots shall be screened from view of adjacent property and the street by fencing, landscaping or a combination of the two approved by the board.

   b. Materials for parking lots shall be concrete, concrete or brick pavers, asphalt, oyster shells, clam shells or #57 granite or marble chips. Where asphalt or concrete are used, the use of a coloring agent is required. The use of acceptable stamped patterns on poured concrete is also encouraged.

(h) Paint colors. The architectural review board has adopted palettes of historic colors from several paint manufacturers that represent acceptable historic colors for use in the Historic District. Samples of these palettes can be reviewed at the Historic Pensacola Preservation Board and at the office of the building inspector.

(i) Residential accessory structures. Residential accessory structures shall comply with regulations set forth in section 12-2-31 except that the following shall apply: Accessory structures shall not exceed one story in height for a maximum in height of twenty-five (25) feet in order for the accessory structure to match the style, roof pitch, or other design features of the main residential structure.

(j) Additional regulations. In addition to the regulations established above in subsections 12-2-10(A)(5)(a) through (i), any permitted use within the Historic District where alcoholic beverages are ordinarily sold is subject to the requirements of Chapter 7-4 of this Code.

(6) *Restoration, rehabilitation, alterations or additions to existing contributing structures in the Historic District.* The Secretary of the Interior's standards for rehabilitation, codified at 37 CFR 67, and the related guidelines for rehabilitating historic buildings shall form the basis for rehabilitation of existing contributing structures. The following regulations and guidelines for specific building elements are intended to further refine some of the general recommendations found in the Department of Interior's document to reflect local conditions in the rehabilitation of structures. In the case of a conflict between the Department of Interior's publication and the regulations set forth herein, the more restrictive shall apply. The "Seville Historic District Guideline Study" describes the building styles that are typical in the Historic District. This definition of styles should be consulted to insure that the proper elements are used in combination in lieu of combining elements that, although they may be typical to the district, are not appropriate for use together on the same building.

For all of the following elements, the documented building materials, types, styles and construction methods shall be duplicated when making repairs, alterations and/or additions to contributing structures. Any variance from the original materials, styles, etc. shall be approved only if circumstances unique to each project are found to warrant such variances. The following regulations and guidelines shall apply to renovations, repairs and alterations to contributing structures which may or may not have documentary proof of the original elements and to alterations or additions to a contributing structure which seek to reflect the original elements.

(a) Exterior lighting. Exterior lighting in the district in its original development typically consisted of post mounted street lights and building mounted lights adjacent to entryways. Occasionally, post lights were used adjacent to the entry sidewalks to buildings. Lamps were typically ornamental in design with glass lenses and were mounted on ornamental cast iron or wooden posts.

1. Exterior lighting fixtures shall be in a design typical to the district in a pre-1925 Era. They shall be constructed of brass, copper, or painted steel and have clear lenses.

2. If exterior lighting is detached from the building, the fixtures shall be post mounted and used adjacent to sidewalk or driveway entrances or around parking lots. If post mounted lights are used, they shall not exceed twelve (12) feet in height.

3. The light element itself shall be a true gas lamp or shall be electrically operated using incandescent or high pressure sodium lamps. Fluorescent and mercury vapor lamps are prohibited.

4. The use of pole mounted high pressure sodium utility/security lights is discouraged. If absolutely necessary, they will be considered, but only in the rear portions of the property.

(b) Exterior walls. The two (2) building materials basic to the Historic District are clapboard style wood siding and brick masonry, the former being most prevalent. In general, the wood siding is associated with the residential-type buildings and the brick masonry is associated with more commercially-oriented buildings. Brick is used in predominantly wooden structures only for foundation piers and for fireplaces and chimneys.

1. Vinyl or metal siding is prohibited.

2. Wood siding and trim shall be finished with paint, utilizing colors approved by the board. If documentary evidence is submitted showing that the original structure was unpainted, the board may not require a paint finish unless the condition of the wood warrants its use.

3. Foundation piers shall be exposed brick masonry or sand textured plaster over masonry. If infill between piers was original then it must be duplicated. It is encouraged that infill of wood lattice panels is utilized.

(c) Roofs. The gable roof is the most typical in the Historic District. On shotgun house types or buildings placed on narrow deep lots the gable-end is usually oriented toward the street. On the creole type houses or buildings having larger street frontages the gable-end is typically oriented towards the side yard. Some hip roofs are found in newer, typically larger than average buildings. Dormers are found typically in association with the creole type houses. The roof slope is at least six (6) on twelve (12), but can be found to slope as much as twelve (12) on twelve (12). Roofing materials typically consisted of wood shingles, tin and corrugated metal panels.

1. The combination of varying roof styles or shapes on a single building is prohibited. The only exception to this is when a three-sided hip roof is used over a porch on the front of a gable roofed building.

2. In order to protect the architectural integrity of the district and structure, roof materials original to each structure should be used. Alternatives to the materials may be considered on a case-by-case basis, but shall match the scale, texture, and coloration of the historic roofing material. Unless original to the structure, the following materials shall be prohibited: less than thirty (30) year fiberglass or asphalt dimensional shingles, rolled roofing, and metal shingles. Thirty (30) year or forty (40) year dimensional shingles may be permitted. Provided, however, existing flat-roofed commercial structures may retain the same style roof and continue to use built-up or single-ply roofing.

3. Eave metal and flashing shall be naturally weathered copper or galvanized steel, or may be painted.

4. Gutters and downspouts are discouraged within the district except on brick commercial buildings.

(d) Porches. The porch, consisting of raised floor platform, sheltering roof, supporting columns, handrails and balustrade, and connecting steps is typical to wood structures in the district.

1. Porches are required in any renovation or alteration of a contributing structure that originally had a porch, and are encouraged as additions when the style of the building will allow it.

2. The original materials, method of construction and style of building elements shall be duplicated when making repairs, alterations or additions to existing porches.

3. The size and design of all porch elements, i.e., the flooring, the columns, the handrails, the pickets, the roof beam, the floor support piers, and any other ornamentation shall be consistent with any one single style that is typical to the district. The elements shall maintain proper historical scale, dimensions and detailing.

(e) Doors. Entrance doors made up of a solid wood frame, with an infill of raised wood panels below and glazed panels above, are historically correct for the district. Single doorways with a glazed transom above allowed for both light and ventilation to enter the entrance way or entrance foyer of the building. Double doors were usually associated with a larger home or building layout.

The placement of the doorway was not necessarily in the center of the front wall; in fact it was usually off to one side in most cases, specifically in the shotgun house types. The larger creole cottage, and French creole house type, normally had the front door centered, leading to a center hallway or stair hall.

1. Doors are to be fabricated of solid wood, with three (3) horizontal rails and two (2) vertical stiles. The lower infill panels shall be constructed of wood and shall be located below the locking device with glazed panels located above the locking device. The top of the upper glazed panels can be semi-circular/half rounded. Beveled glass is encouraged.

2. Panel infill may vary slightly from that noted in Item a. above, but usually shall not exceed six (6) panels. Variations must be approved by the architectural review board.

3. Trim or casing shall be used on all doors and sidelights and shall typically range in width between 5″ and 8″.

(f) Windows. Traditionally the windows employed in the Seville Historic District were constructed of wood and were the double hung or triple hung type. The windows opening toward the front porch of the building usually were triple hung with the sill close to or almost flush with the adjacent floors. This allowed for optimum flow of air, and for passage to and from the exterior space. The other windows of the building had the normal placement of the window sill at approximately thirty (30) inches above finished floor. Typical windows ranged in width from thirty-two (32) to thirty-six (36) inches and ranged in height from six (6) to seven (7) feet exclusive of trim dimensions. The taller windows, when double hung, frequently had the lower section greater in vertical dimension than the upper section, giving freer movement through to the adjacent porch or veranda.

1. Windows are to be fabricated of wood and must, in the judgement of the architectural review board, closely approximate the scale and configuration of the original window designs.

2. The window proportions/dimensions will be decidedly vertical, following the historic appearance and character of those encountered throughout the district.

3. Window sections shall typically be divided into two (2) to six (6) panes, and in the usual double hung window, the layout of window panes will be six (6) over six (6). All windows shall have true divided lites. Any variation to this division of the window opening shall be approved by the architectural review board.

4. The window frame will be given a paint finish appropriate to the color scheme of the exterior of the building.

5. Window trim or casing is to be a nominal five (5) inch member at the two (2) sides and the head.

6. Other than the full height windows at the front porch and smaller windows at kitchens and bathrooms, all remaining windows shall be proportioned with the height between two (2) and two and one-half (2½) times the width. The sill height for standard windows shall be approximately thirty (30) inches above finished floor.

7. Glass for use in windows shall typically be clear, but a light tinted glass will be given consideration by the architectural review board.

(g) Shutters. Shutters are an exterior ornamental and functional architectural feature that have traditionally been used on windows, and occasionally, on doors within the Historic District. On renovation projects to existing contributing structures, it is recommended that shutters not be installed unless they were original to the structure.

1. If shutters are to be used on a project, they must be dimensioned to the proper size so that they would completely cover the window both in width and height if they were closed.

2. The shutters must be installed in a manner that will appear identical to an original operable installation. Shutters installed currently are not required to be operational, but rather can be fixed in place; however, they must be installed with some space between the back of the shutter and the exterior wall surface material and must overlap the door or window trim in a fashion identical to an original operable installation.

3. The style of the shutters must be louvered, flat vertical boards or panelled boards, with final determination being based on compatibility with the overall building design.

(h) Chimneys. Chimneys constructed of brick masonry, exposed or cement plastered, are typical to original construction in the district.

The chimney in the Historic District is that necessary element usually serving back-to-back fireplaces, and as such, would not be located on the exterior wall of the building. Consequently, the appropriate location for chimneys would be projecting through some portion of the roof of the building, in lieu of being placed on an exterior wall.

1. The chimney or chimneys are to be located within the slope of the roof, rather than being placed on an exterior wall, and shall extend above the roof ridge line.

2. The chimney or chimneys are to be constructed of masonry with the exposed surface to be brick or sand textured plaster. Rough texture stucco is prohibited.

3. The finished exposed surface of chimneys are to be left natural without any paint finish.

4. Flashing shall consist of galvanized steel, copper sheet metal or painted aluminum.

5. The extent of simplicity or ornamentation shall be commensurate with the overall style and size of the building on which the chimney is constructed.

6. The use in contributing structures of prefabricated fireplaces with steel chimneys is prohibited.

(i) Trim and miscellaneous ornament. Most trim, except for window and door casings/trim, was used more for decorative than functional purposes. Trim and ornament was almost always constructed of wood, and was painted to match other elements (doors, windows, porches, et cetera) of the building. Ornament on masonry buildings was typically limited to corbling or other decorative use of brick at window openings, door openings, columns, parapet walls and on major facades above the windows and doors.

1. In renovation work, only that decorative trim or ornament historically significant to the specific building will be permitted.

2. The scale and profile/shape of existing ornament used within the district will dictate approval for all new proposals.

3. Trim and ornament, where used, is to be fabricated of wood.

4. Trim and ornament will be painted to match, or be coordinated with, door and window casings, porch railings, porch columns, and basic projecting elements of the building.

(j) Miscellaneous mechanical equipment.

1. Air conditioning condensing units shall not be mounted on any roof where they are visible from any street.

2. Air conditioning condensing units that are mounted on the ground shall be in either side yards or rear yards. No equipment shall be installed in a front yard.

3. Visual screening consisting of ornamental fencing or landscaping shall be installed around all air conditioning condensing units to conceal them from view from any adjacent street or property owner.

4. Exhaust fans or other building penetrations as may be required by other authorities shall be allowed to penetrate the wall or the roof but only in locations where they can be concealed from view from any street. No penetrations shall be allowed on the front of the building. They may be allowed on side walls if they are properly screened. It is desirable that any penetrations occur on rear walls or the rear side of roofs.

(k) Accessibility ramps and outdoor stairs.

1. Whenever possible, accessibility ramps and outdoor stairways shall be located to the side or the rear of the property.

2. The design of accessibility ramps and outdoor stairs shall be consistent with the architectural style of the building.

3. Building elements, materials and construction methods shall be consistent with the existing structure.

(7) *Renovation, alterations and additions to noncontributing and modern infill structures within the Historic District.* Many of the existing structures within the district do not meet the criteria established for contributing structures, even though they may be similar in style to the historic structures, and some structures are modern in style with no relation to the historic structures. All of these buildings shall be recognized as products of their own time. The regulations and guidelines established in paragraph (5), relating to streetscape elements, and paint colors described in paragraph (6)(c) shall apply to noncontributing and modern infill structures. In review of these structures the board may make recommendations as to the use of particular building elements that will improve both the appearance of the individual structure, its relationship with surrounding structures and the overall district character.

(8) *New construction in the Historic District.* This subsection does not intend to mandate construction of new buildings of historical design. New construction shall complement original historic buildings or shall be built in a manner that is complementary to the overall character of the district in scale, building materials, and colors.

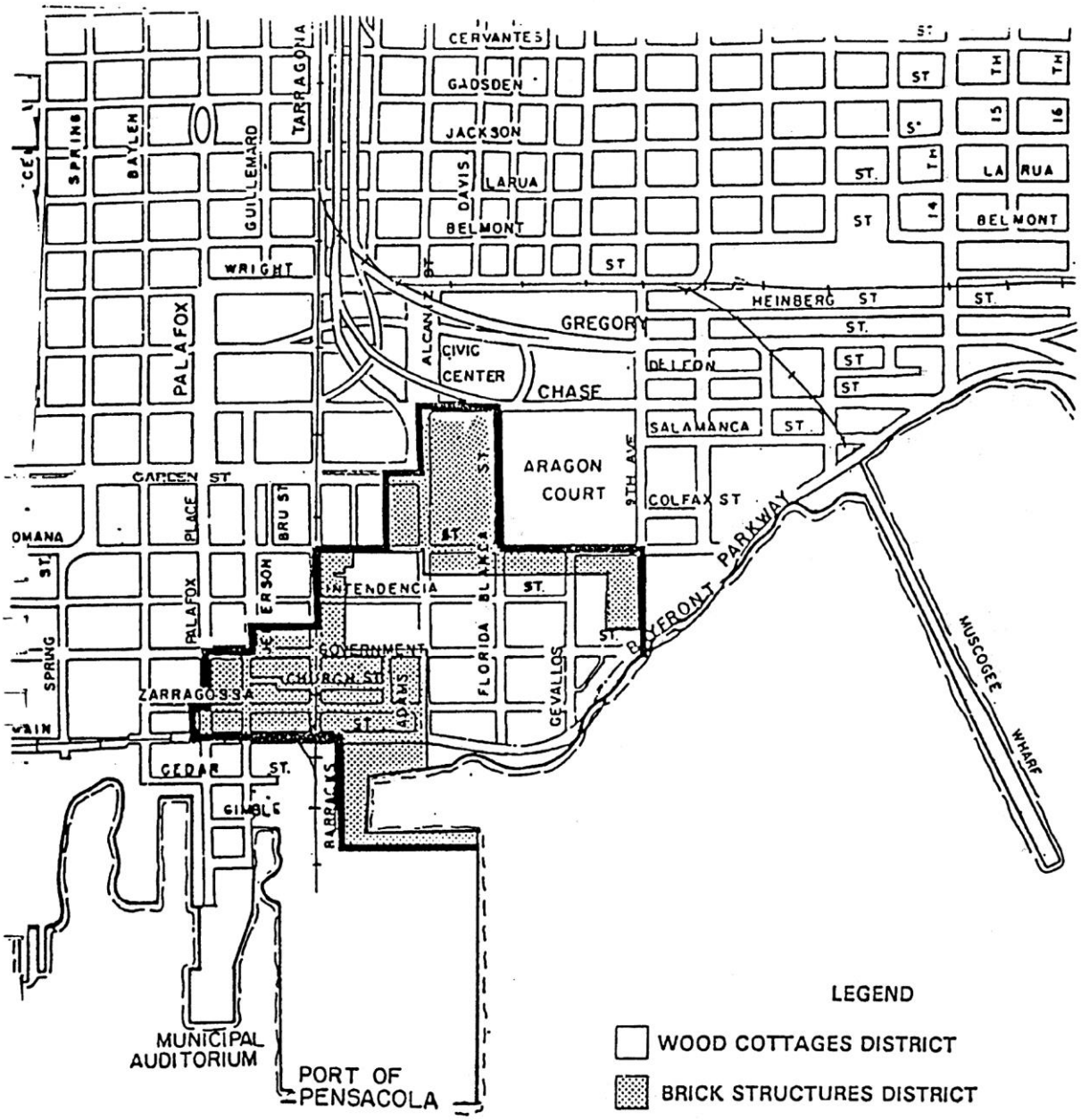
For purposes of describing the scale and character required in new construction within the Historic District, the district is herein subdivided into two (2) general building style districts as shown on Map 12-2.1: the "residential" wood cottages district and the "commercial" brick structures district. Within the wood cottages district all new construction shall conform to the building types I and II, described herein, in scale, building materials and colors. Within the brick structures district all new construction shall conform to the building types I, II, or III (described herein) in scale, building materials and colors. The regulations for the two (2) building style

districts will establish building heights and setbacks and will illustrate relationships between the streetscape, the building and exterior architectural elements of the building. The streetscape element regulations established in paragraph (5), above, are applicable to all new construction in the Historic District, no matter what style building. If new construction is intended to match historical designs, then the building elements described in paragraphs (6)(a) to (l). should be utilized as guidelines. If it is to be a replica of a historic building, the building must be of a historic style characteristic of the Pensacola Historic District.

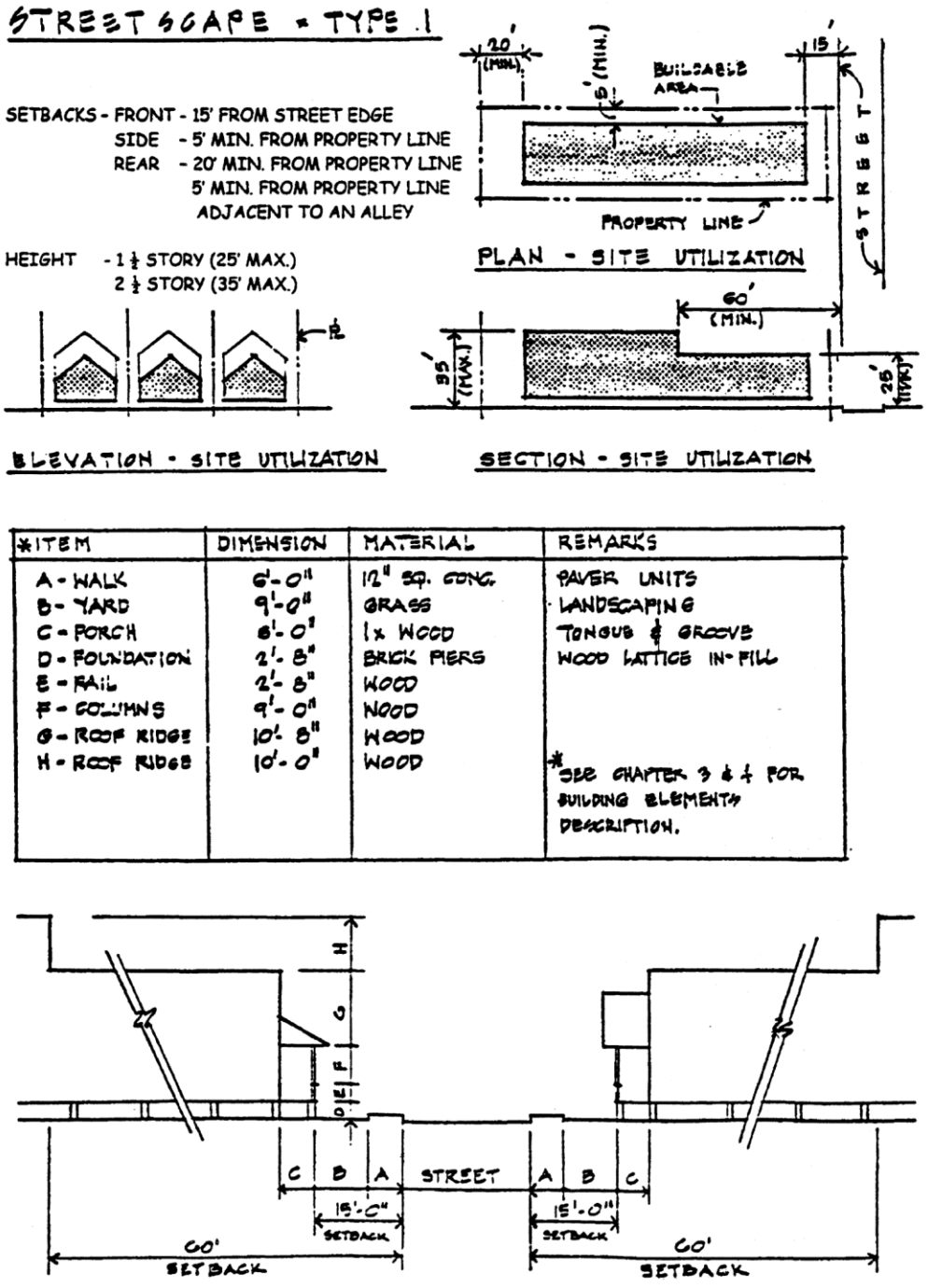
(a) Figure 12-2.1 illustrates the scale and characteristics of building types I and II for the wood cottages district.

(b) Figure 12-2.2 illustrates the scale and characteristics of building type III for the brick structures district.

(c) Aragon subdivision Block "L" & "N" and lots within Privateer's Alley shall conform to Section 12-2-12(B)(5)(j), GRD-1 Architectural Review Standards, with the exception of section 12-2-12(B)(5)(j)5., Doors. Exterior doors shall comply with 12-2-10(A)(6)(e) of this section.



MAP 12-2.1—HISTORIC BUILDING STYLE DISTRICTS



*ITEM	DIMENSION	MATERIAL	REMARKS
A - WALK	6'-0"	12" SQ. CONC.	PAVER UNITS
B - YARD	9'-0"	GRASS	LANDSCAPING
C - PORCH	8'-0"	1x WOOD	TONGUE & GROOVE
D - FOUNDATION	2'-8"	BRICK PIERS	WOOD LATTICE IN-FILL
E - RAIL	2'-8"	WOOD	
F - COLUMNS	9'-0"	WOOD	
G - ROOF RIDGE	10'-8"	WOOD	
H - ROOF RIDGE	10'-0"	WOOD	

*SEE CHAPTER 3 & 4 FOR BUILDING ELEMENTS DESCRIPTION.

FIGURE 12-2.1—WOOD COTTAGES DISTRICT—Streetscape, Type 1

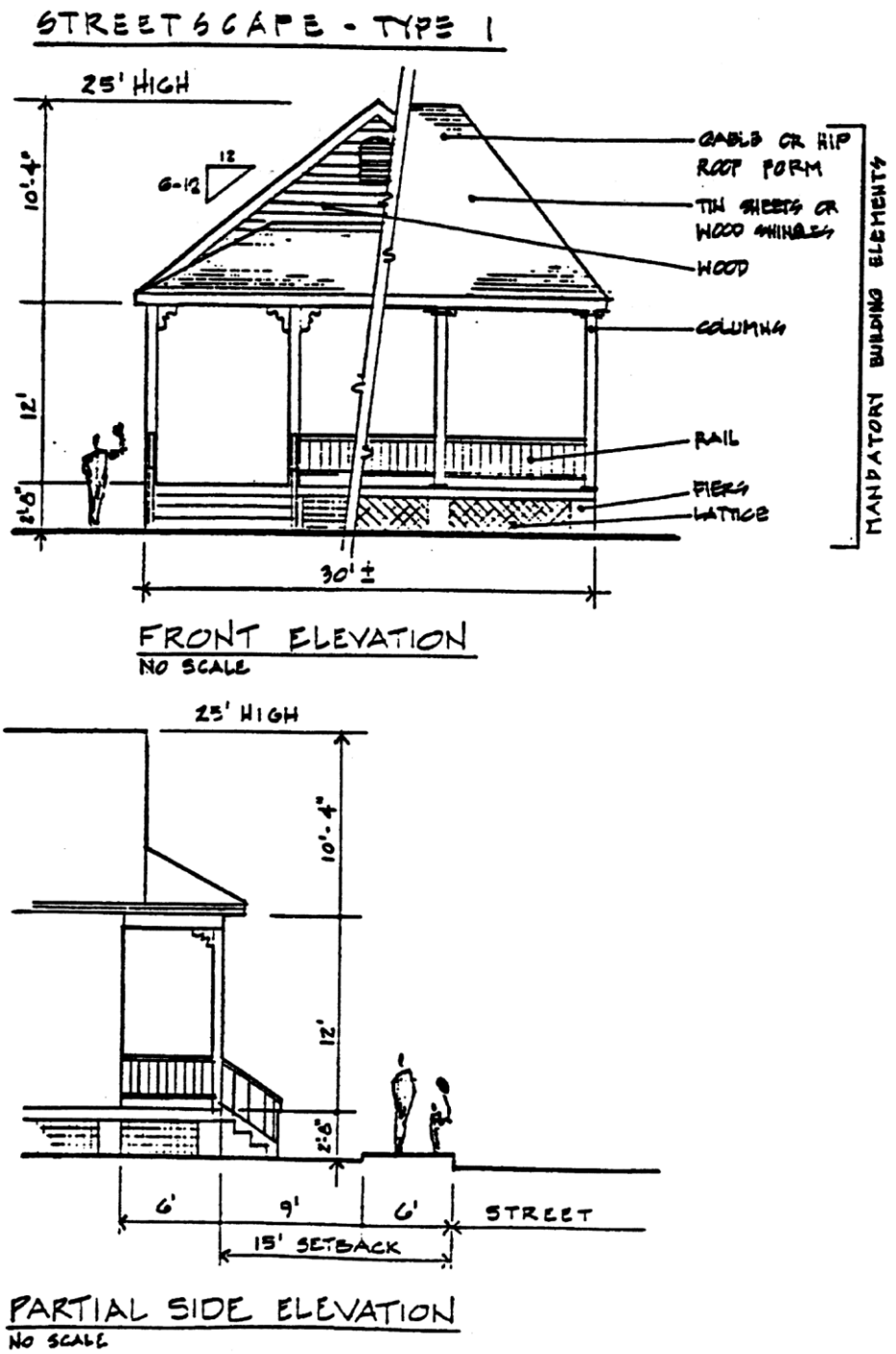
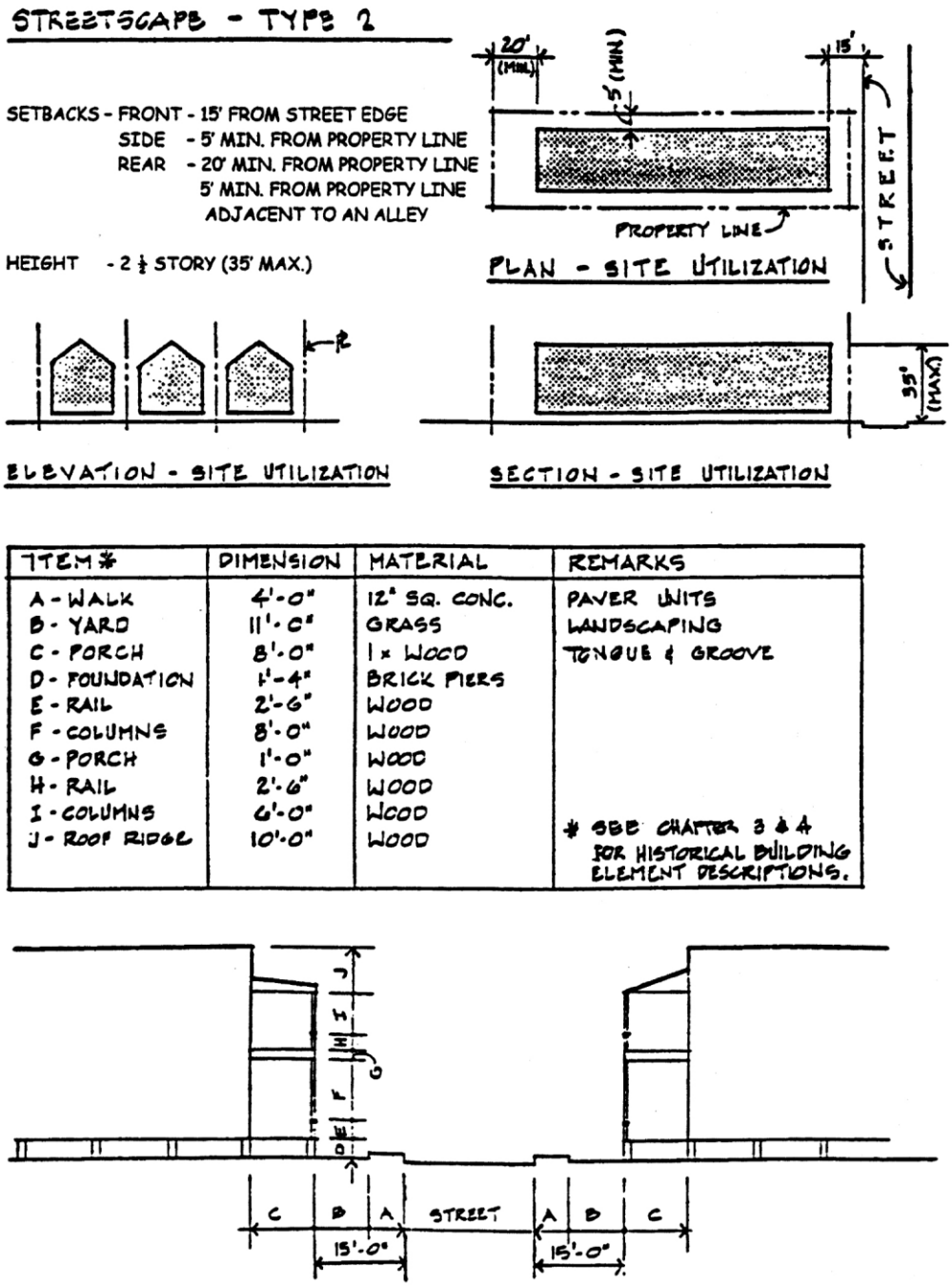


FIGURE 12-2.1—WOOD COTTAGES DISTRICT—Streetscape, Type 1



ITEM *	DIMENSION	MATERIAL	REMARKS
A - WALK	4'-0"	12" SQ. CONC.	PAVER UNITS
B - YARD	11'-0"	GRASS	LANDSCAPING
C - PORCH	8'-0"	1 x WOOD	TONGUE & GROOVE
D - FOUNDATION	1'-4"	BRICK PIERS	
E - RAIL	2'-6"	WOOD	
F - COLUMNS	8'-0"	WOOD	
G - PORCH	1'-0"	WOOD	
H - RAIL	2'-6"	WOOD	
I - COLUMNS	6'-0"	WOOD	
J - ROOF RIDGE	10'-0"	WOOD	* SEE CHAPTER 3 & 4 FOR HISTORICAL BUILDING ELEMENT DESCRIPTIONS.

FIGURE 12-2.1—WOOD COTTAGES DISTRICT—Streetscape, Type 2

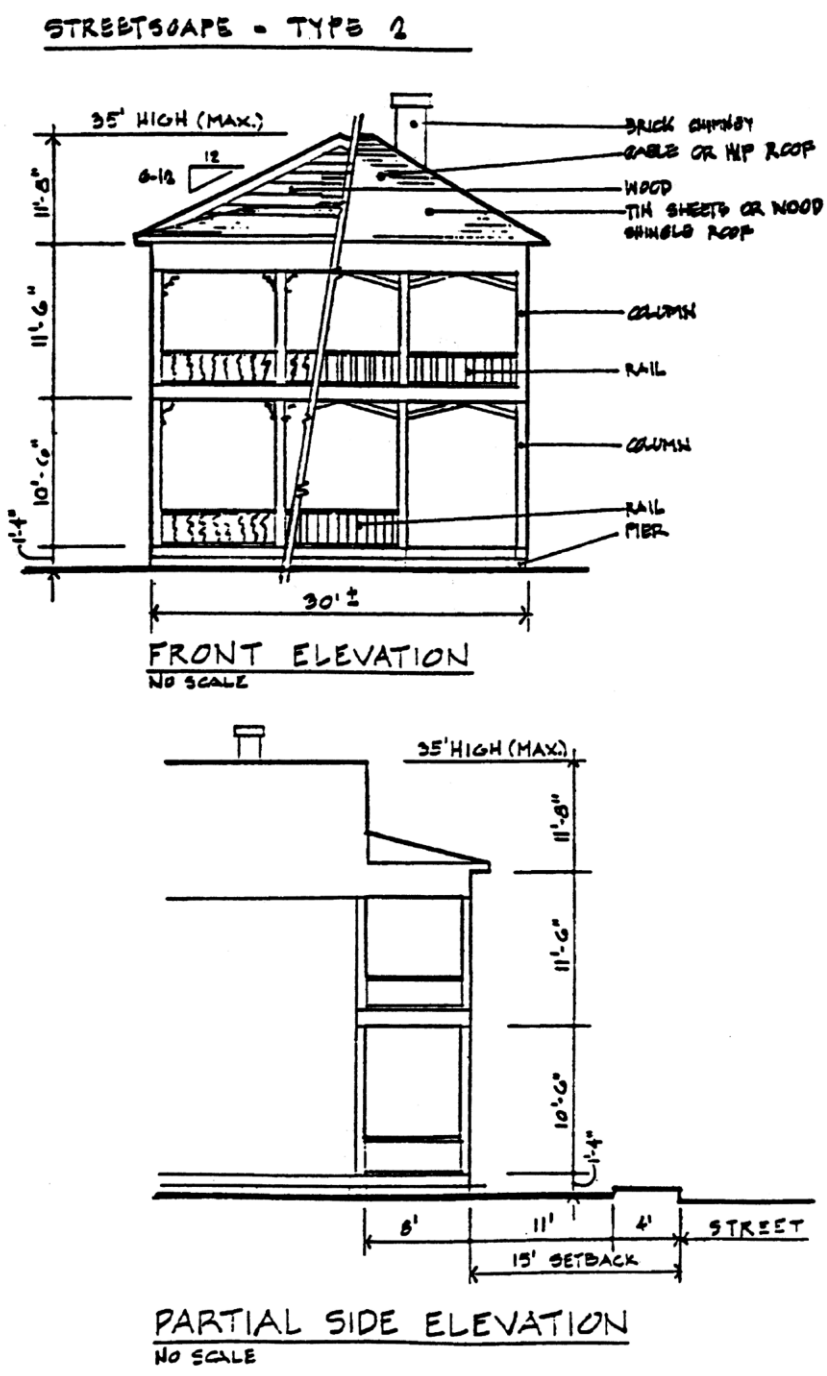
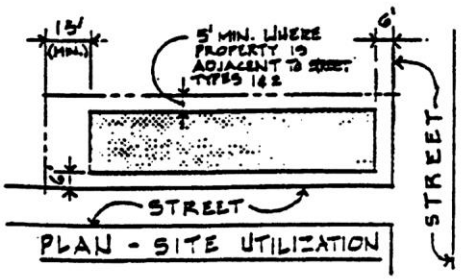


FIGURE 12-2.1—WOOD COTTAGES DISTRICT—Streetscape, Type 2

STREETSCAPE - TYPE 3

SETBACKS - FRONT - 6' FROM STREET EDGE
SIDE - 5' MIN. FROM PROPERTY LINE
0' MIN. FROM PROPERTY LINE FOR LOTS WITHIN ARAGON S/D PRIVATEER'S ALLEY
REAR - 15' MIN. FROM PROPERTY LINE
5' MIN. FROM PROPERTY LINE ADJACENT TO AN ALLEY OR WITHIN ARAGON S/D PRIVATEER'S ALLEY

*HEIGHT - BUILDING HEIGHT SHALL BE LIMITED TO THE ADJACENT LOT'S STREETSCAPE TYPE.



PLAN - SITE UTILIZATION

ELEVATION - SITE UTILIZATION

SECTION - SITE UTILIZATION

ITEM	DIMENSION	MATERIAL	REMARKS
A - WALK B - ROOF RIDGE OR PARAPET	6'-0" *	12" SQ. CONC. BRICK	PAVER UNITS SEE HEIGHT LIMIT, ABOVE ARAGON S/D BLK. "L" & "N" AND LOTS WITHIN PRIVATEER'S ALLEY SHALL CONFORM TO SECTION 12-2-12(B)(5)(j), GRD-1 ARCHITECTURAL REVIEW STANDARDS WITH THE EXCEPTION OF SEC. 12-2-12(B)(5)(j)5., DOORS. EXTERIOR DOORS SHALL COMPLY WITH 12-2-10(A)(6)(e) OF THIS SECTION.

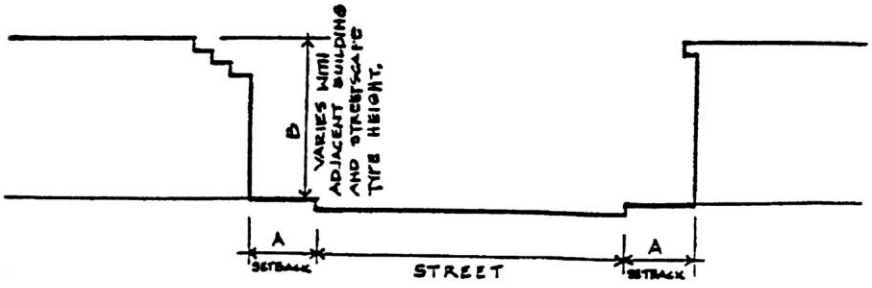


FIGURE 12-2.2—BRICK STRUCTURES DISTRICT—Streetscape, Type 3

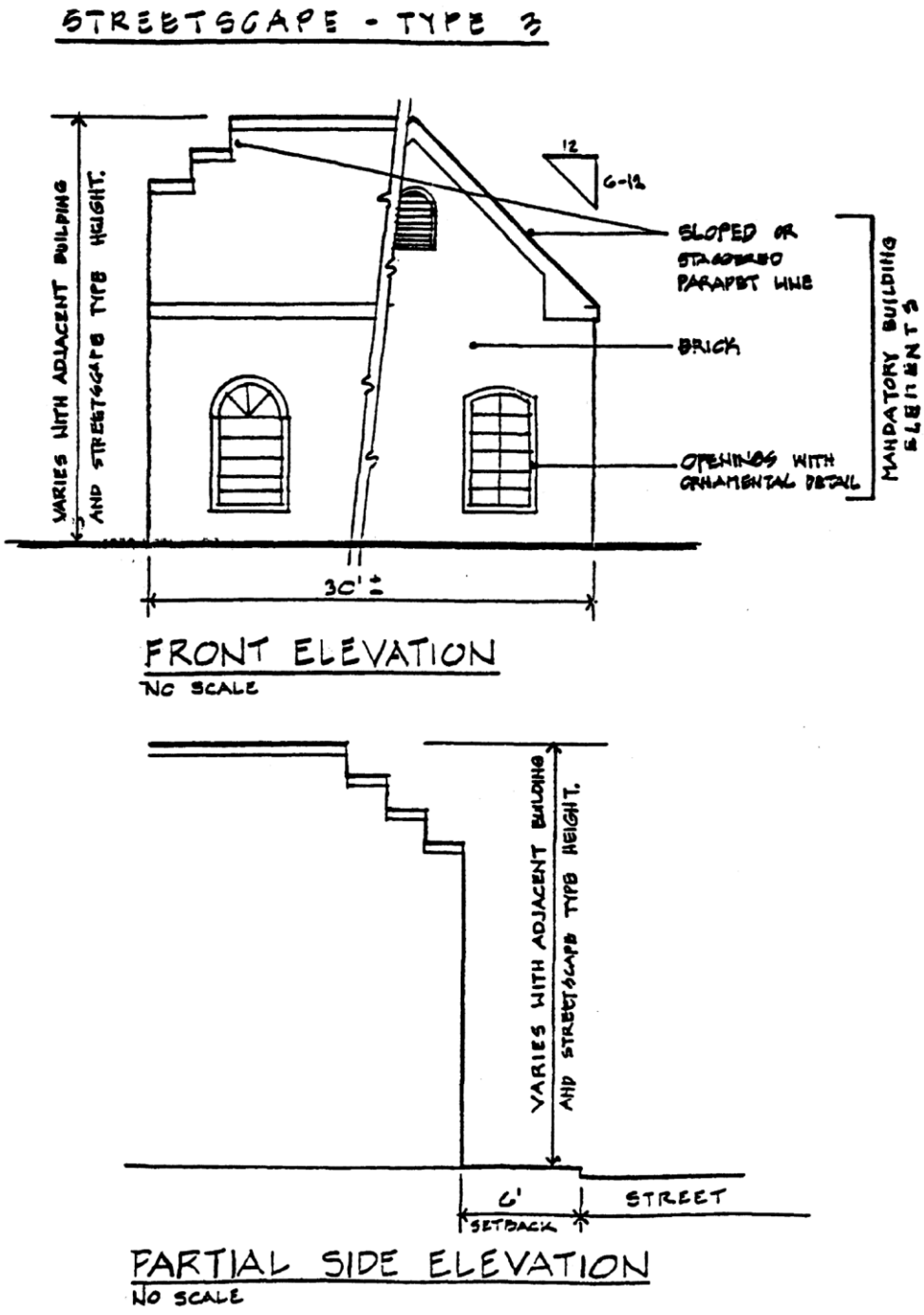


FIGURE 12-2.2—BRICK STRUCTURES DISTRICT—Streetscape, Type 3

(9) *Demolition of contributing structures.* Demolition of a contributing structure constitutes an irreplaceable loss to the quality and character of the Historic District and is strongly discouraged. Therefore, no permit shall be issued for demolition of a contributing structure unless the owner demonstrates to the board clear and convincing evidence of unreasonable hardship. Provided, however, nothing herein shall prohibit the demolition of a contributing

structure if the building official determines that there is no reasonable alternative to demolition in order to bring the structure in compliance with the unsafe building code. When the owner fails to prove unreasonable economic hardship the applicant may provide to the board additional information that may show unusual and compelling circumstances in order to receive board recommendation for demolition of the contributing structure.

The board shall be guided in its decision by balancing the historic, architectural, cultural and/or archaeological value of the particular structure against the special merit of the proposed replacement project.

(a) Unreasonable economic hardship. When a claim of unreasonable economic hardship is made, the public benefits obtained from retaining the historic resource must be analyzed and duly considered by the board. The owner shall submit to the board for its recommendation the following information:

1. For all property:

    a. The assessed value of the land and improvements thereon according to the two (2) most recent assessments;

    b. Real estate taxes for the previous two (2) years;

    c. The date of purchase of the property or other means of acquisition of title, such as by gift or inheritance, and the party from whom purchased or otherwise acquired;

    d. Annual debt service, if any, for the previous two (2) years;

    e. All appraisals obtained within the previous two (2) years by the owner or applicant in connection with his or her purchase, financing or ownership of the property;

    f. Any listing of the property for sale or rent, price asked and offers received, if any;

    g. Any consideration by the owner as to profitable adaptive uses for the property;

    h. Replacement construction plans for the contributing structure in question;

    i. Financial proof of the ability to complete the replacement project which may include but not be limited to a performance bond, a letter of credit, a trust for completion of improvements, or a letter of commitment from a financial institution; and

    j. The current fair market value of the property, as determined by at least two (2) independent appraisals made by appraisers with competent credentials.

2. For income-producing property:

    a. Annual gross income from the property for the previous two (2) years;

    b. Itemized operating and maintenance expenses for the previous two (2) years, including proof that adequate and competent management procedures were followed;

    c. Annual cash flow, if any, for the previous two (2) years; and

    d. Proof that efforts have been made by the owner to obtain a reasonable return on his or her investment based on previous service.

The applicant shall submit all necessary materials to the board at least fifteen (15) days prior to the board hearing in order that staff may review and comment and/or consult on the case. Staff and/or professional comments shall be forwarded to the board for consideration and review and made available to the applicant for consideration prior to the hearing.

The board may require that an applicant furnish such additional information that is relevant to its determination of unreasonable economic hardship and may require that such additional information be furnished under seal. The board or its agent may also furnish additional information as the board believes is relevant. The board shall also state which form of financial proof it deems relevant and necessary to a particular case.

In the event that any of the required information is not reasonably available to the applicant and cannot be obtained by the applicant, the applicant shall file with his or her affidavit a statement of the information that cannot be obtained and shall describe the reasons why such information cannot be obtained.

(b) Unusual and compelling circumstances and demolition of a contributing structure. When an applicant fails to prove economic hardship in the case of a contributing structure, the applicant may provide to the board additional information that may show unusual and compelling circumstances in order to receive board recommendation for demolition of the contributing structure. The board, using criteria set forth in this subsection, shall determine whether unusual and compelling circumstances exist and shall be guided in its recommendation in such instances by the following additional considerations:

1. The historic or architectural significance of the structure;
2. The importance of the structure to the integrity of the Historic District;
3. The difficulty or the impossibility of reproducing such a structure because of its design, texture, material, detail, or unique location;
4. Whether the structure is one of the last remaining examples of its kind in the Historic District;
5. Whether there are definite plans for reuse of the property if the proposed demolition is carried out and what effect such plans will have on the architectural, cultural, historical, archaeological, social, aesthetic, or environmental character of the surrounding area, as well as the economic impact of the new development; and
6. Whether reasonable measures can be taken to save the structure from further deterioration, collapse, arson, vandalism or neglect.

(c) Recommendation of demolition. Should the applicant for demolition of a contributing structure satisfy the board that he or she will suffer an economic hardship if a demolition permit is not recommended, or, if in failing to demonstrate economic hardship, the applicant demonstrates unusual and compelling circumstances that dictate demolition of the contributing structure, either a recommendation for demolition or a recommendation for a six-month moratorium on the demolition shall be made.

In the event that the board recommends a six-month moratorium on the demolition, within the moratorium period, the board shall consult with the Historic Pensacola Preservation Board, the city of Pensacola and any other applicable public or private agencies to ascertain whether any of these agencies or corporations can preserve or cause to be preserved such architectural or historically valuable buildings. If no agencies or organizations are prepared to preserve the building(s) or cause their preservation, then the board shall recommend approval of the demolition.

Following recommendation for approval of demolition, the applicant must seek approval of replacement plans prior to receiving a demolition permit and other building permits. Replacement plans for this purpose shall include, but shall not be restricted to, project concept, preliminary elevations and site plans, and adequate working drawings for at least the foundation plan that will enable the applicant to receive a permit for foundation construction. The board may waive the requirements for replacement plans under extreme, unusual and compelling circumstances or public safety purposes.

Applicants that have received a recommendation for demolition shall be permitted to receive such demolition permit without additional board action on demolition, following the board's recommendation of a permit for new construction.

(d) Prevention of demolition by neglect.

1. All contributing structures within the Historic District shall be preserved against decay and deterioration and kept free from certain structural defects by the owner thereof or such other person or persons who may have legal custody and control thereof. The owner or other person having such legal custody and control shall repair such building, object, site, or structure if it is found to have any of the following defects:

   a. Deteriorated or inadequate foundation. Defective or deteriorated flooring or floor supports or flooring or floor supports of insufficient size to carry imposed loads with safety;

   b. Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration. Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety;

   c. Members of ceilings, roofs, ceiling and roof supports or other horizontal members that sag, split, or buckle due to defective materials or deterioration. Members of ceilings, roofs, ceiling and roof supports or other horizontal members that are of insufficient size to carry imposed loads with safety;

   d. Fireplaces or chimneys that list, bulge or settle due to defective materials or deterioration. Fireplaces or chimneys that are of insufficient size or strength to carry imposed loads with safety;

   e. Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors. Defective protection or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other protective covering. Any fault or defect in the building that renders same structurally unsafe or not properly watertight.

   In addition, the owner or other person having legal custody and control of an historic landmark or a building, object, site, or structure located in an historic district shall keep all property, including vacant property, clear of all weeds, fallen trees or limbs, debris, abandoned vehicles, and all other refuse.

2. The board, on its own initiative, may file a petition with the building official requesting that he or she proceed to require correction of defects or repairs to any structure covered by a. above so that such structure shall be preserved and protected in accordance with the purposes of this ordinance and the public safety and housing ordinance.

(10) *Other demolition permits.* All applications for permits to demolish structures other than contributing structures shall be referred to the board for the purpose of determining whether or not the structure may have historical, cultural, architectural, or archaeological significance. Such determination shall be made in accordance with the criteria found in paragraph (9)(b)1. to 6., above.

The board shall make such determination within thirty (30) days after receipt of the completed application and shall notify the building official in writing. If the structure is determined to have no cultural, historical, architectural, or archaeological significance, a demolition permit may be issued immediately, provided such application otherwise complies with the provisions of all city code requirements.

If said structure is determined by the board to have historical significance, the board shall make such information available to the Preservation Board for review and recommendation as to significance. If the board concurs in the significance, using criteria set forth in paragraph (9)(b)1. to

6., above, the board shall recommend to the city council that the structure be designated a contributing structure.

Upon such a recommendation by the board, issuance of any permit shall be governed by paragraph (9)(c), above.

(11) *Treatment of site following demolition.* Following the demolition or removal of any buildings, objects or structures located in the Historic District, the owner or other person having legal custody and control thereof shall (1) remove all traces of previous construction, including foundation, (2) grade, level, sod and/or seed the lot to prevent erosion and improve drainage, and (3) repair at his or her own expense any damage to public rights-of-way, including sidewalks, curb and streets, that may have occurred in the course of removing the building, object, or structure and its appurtenances.

(B) *North Hill preservation zoning districts. PR-1AAA, PR-2, PC-1.*

(1) *Purpose.* The North Hill preservation zoning districts are established to preserve the unique architecture and landscape character of the North Hill area, and to promote orderly redevelopment that complements and enhances the architecture of this area of the city.

(2) *Character of the district.* The North Hill Preservation District is characterized by mostly residential structures built between 1870 and the 1930's. Queen Anne, Neoclassical, Tudor Revival, Craftsman Bungalow, Art Moderne and Mediterranean Revival are among the architectural styles found in North Hill. North Hill is listed on the National Register of Historic Places.

(3) *Uses permitted.*

(a) PR-1AAA, single-family district.

1. Single-family dwellings at a maximum density of 4.8 units per acre.
2. Home occupations, as regulated in section 12-2-33.
3. Community residential homes licensed by the Florida Department of Health and Rehabilitative Services with six (6) or fewer residents providing that it is not to be located within one thousand (1,000) feet of another such home. If it is proposed to be within one thousand (1,000) feet of another such home, measured from property line to property line, it shall be permitted with city council approval after public notification of property owners in a five-hundred-foot radius.
4. Municipally owned or operated parks or playgrounds.
5. Public schools and educational institutions having a curriculum the same as ordinarily given in public schools and colleges.
6. Libraries, community centers and buildings used exclusively by the federal, state, regional, county and city government for public purposes.
7. Churches, Sunday school buildings and parish houses.
8. Conditional uses permitted: Two-family dwellings (duplex) at a maximum density of 9.6 units per acre.
9. Accessory buildings and uses customarily incidental to the above uses not involving the conduct of a business.
10. Family day care homes licensed by the Florida Department of Children and Family Services as defined in the Florida Statutes.

(b) PR-2, multiple-family district.

1. Any use permitted in the PR-1AAA district.

2. Single-family, two-family and multifamily residential attached or detached units with a maximum density of thirty-five (35) dwelling units per acre.

3. Community residential homes licensed by the Florida Department of Health and Rehabilitative Services with seven (7) to fourteen (14) residents providing that it is not to be located within one thousand two hundred (1,200) feet of another such home in a multifamily district, and that the home is not within five hundred (500) feet of a single-family zoning district. If it is proposed to be within one thousand two hundred (1,200) feet of another such home in a multifamily district and/or within five hundred (500) feet of a single-family zoning district it shall be permitted with city council approval after public notification of property owners in a five-hundred-foot radius.

4. Bed and breakfast subject to regulations in section 12-2-55.

5. Conditional uses permitted:

   a. Private clubs and lodges except those operated primarily as commercial enterprises.

   b. Office buildings (under five thousand (5,000) square feet).

   c. Antique shops—No outside displays.

   d. Art galleries—No outside displays.

   e. Social services homes/centers.

   f. Boarding and lodging houses.

   g. Childcare facilities subject to regulations in section 12-2-58.

6. Accessory buildings. Buildings and uses customarily incidental to any of the above uses, including storage garages when located on the same lot not involving the conduct of a business.

(c) PC-1, preservation commercial district.

1. Any use permitted in the PR-2 district, including conditional uses.

2. Hand craft shops for custom work or making custom items not involving unreasonable noise, odor or chemical waste.

3. Office buildings (under seven thousand (7,000) square feet).

4. Barbershops and beauty parlors.

5. Florists.

6. Studios.

7. Vending machines when an accessory to a business establishment and located inside the same building as the business.

8. Conditional uses permitted:

   a. Gas stations.

   b. Other retail shops.

   c. Office buildings (over seven thousand (7,000) square feet).

   d. Restaurants, with the exception of drive-in restaurants.

9. Accessory buildings and uses customarily incidental to the above uses.

(4) *Procedure for review.*

(a) Review and approval. All activities regulated by this subsection shall be subject to review and approval by the architectural review board as established in section 12-13-3. The

board shall adopt written rules and procedures for abbreviated review for paint colors, minor repairs and minor deviations in projects already approved by the board. This process may authorize the board to designate one of its members to undertake such abbreviated review without the necessity for review by the entire board, provided, however such abbreviated review process shall require review by the staff of the Historic Pensacola Preservation Board. If agreement cannot be reached as it pertains to such request for abbreviated review by the board designee and Historic Pensacola Preservation Board staff, then the matter will be referred to the entire board for a decision.

(b) Decisions.

1. General consideration. The board shall consider plans for existing buildings based on its classification as contributing, non-contributing or modern infill as depicted on the map entitled "North Hill Preservation District" adopted herein, and shall review these plans based on regulations described herein for each of these building classifications. In its review of plans for both existing buildings and new construction, the board shall consider exterior design and appearance of the building, including the front, sides, rear and roof; materials, textures and colors; plot plans or site layout, including features such as walls, walks, terraces, off-street paved areas, plantings, accessory buildings, signs and other appurtenances; and relation of the building to immediate surroundings and to the district in which it is located or to be located. The term "exterior" shall be deemed to include all of the outer surfaces of the building and exterior site work, and is not restricted to those exteriors visible from a public street or place. The board shall consider requests for design materials, alterations or additions, construction methods, paint colors or any other elements regulated herein, which do not meet the regulations as established in this subsection, when documentary proof in the form of photographs, property surveys, indication of structural foundations, drawings, descriptive essays and similar evidence can be provided. The board shall not consider interior design or plan. The board shall not exercise any control over land use or construction standards such as are controlled by this chapter and Chapter 12-5.

2. Rules governing decisions. Before approving the plans for any proposed building located or to be located in a district, the board shall find:

   a. In the case of a proposed alteration or addition to an existing building, that such alteration or addition will not impair the architectural or historic value of the building.

   b. In the case of a proposed new building, that such building will not, in itself or by reason of its location on the site, impair the architectural or historic value of buildings on adjacent sites or in the immediate vicinity. No plans for new building will be approved if that building will be injurious to the general visual character of the district in which it is to be located considering visual compatibility standards such as height, proportion, shape, scale, style, materials and colors.

3. No provision of this section shall be interpreted to prevent the restoration or reconstruction of any historic building or feature (as listed by the Historic Pensacola Preservation Board) in its original style, dimensions or position on its original structural foundation.

(c) Plan submission. Every application for a building permit to erect, construct, demolish, renovate or alter an exterior of a building, sign or exterior site work (i.e., paving and landscaping), located or to be located in the North Hill Preservation District, shall be accompanied with plans for the proposed work pursuant to subsections 12-2-10(A)(4)(c) to (e), applicable to the Historic District.

(5) *Regulations and guidelines for any development within the preservation district.* These regulations and guidelines are intended to address the design and construction of elements common to any development within the North Hill preservation district which requires review

and approval by the architectural review board. Regulations and guidelines that relate specifically to new construction and/or structural rehabilitation and repair to existing buildings, applicable to building heights, setbacks, architectural elements and construction types, are established in paragraphs (6) through (8) below.

(a) Off-street parking. All development within the North Hill preservation district shall comply with the regulations established in Chapter 12-3. Parking lots shall comply with the requirements of Chapter 12-6. Design of and paving materials for parking lots, spaces and driveways shall be subject to approval of the architectural review board. For all parking lots, a solid wall, fence or compact hedge not less than four (4) feet high shall be erected along the lot line(s) when autos or lots are visible from the street or from an adjacent residential lot.

(b) Signs. Refer to sections 12-4-2 and 12-4-3 for general sign standards and criteria and for a description of sign area calculations. The location, design and materials of all accessory signs, historical markers and other signs of general public interest shall be subject to the review and approval of the architectural review board. Only the following signs shall be permitted in the North Hill preservation district:

1. Temporary accessory signs.

    a. One (1) non-illuminated sign advertising the sale, lease or rental of the lot or building, said sign not exceeding six (6) square feet of area.

    b. One (1) non-illuminated sign not more than fifty (50) square feet in area in connection with new construction work, and displayed only during such time as the actual construction work is in progress.

2. Permanent accessory signs.

    a. One (1) sign per street frontage for churches, schools, boarding and lodging houses, libraries, and community centers, multiple-family dwellings and historic sites serving as identification and/or bulletin boards not to exceed twelve (12) square feet in area. The signs shall be placed flat against the wall of the building, perpendicular or may be freestanding. Such signs may be illuminated provided that the source of light shall not be visible beyond the property line of the lot on which the sign is located.

    b. Commercial establishments may have one (1) attached or one (1) freestanding sign per street frontage not to exceed twelve (12) square feet provided that the freestanding sign be no closer to any property line than five (5) feet. The attached or wall signs may be placed on the front or one side of the building. As used herein, "commercial establishments" shall mean an establishment wherein products are available for purchase. Such signs may be illuminated provided the source of light shall not be visible beyond the property line of the lot on which the sign is located. Office complexes may have one freestanding sign per street frontage not to exceed twelve (12) square feet.

    c. One (1) non-illuminated nameplate designating the name of the occupant of the property; the nameplate shall not be larger than one hundred (100) square inches and may be attached to the dwelling. This section shall be applicable to occupants and home occupations.

    d. Municipal or state installed directional signs, historical markers and other signs of a general public interest when approved by the mayor and board.

    e. The maximum height for freestanding signs shall be eight (8) feet. No attached sign shall extend above the eave line of a building to which it is attached.

(c) Protection of trees. The purpose of this subsection is to establish protective regulations for specified trees within the North Hill preservation zoning districts. It is the intent of this subsection to recognize the contribution of shade trees and certain flowering trees to the

overall character of the preservation district and to ensure the preservation of such trees as described below.

1. Any of the following species having a minimum trunk diameter of eight (8) inches (twenty-five and one-tenth (25.1) inches in circumference) at a height of one (1) foot above grade: Live Oak and Water Oak; Magnolia having a minimum trunk diameter of six (6) inches (eighteen and eight-tenths (18.8) inches in circumference) at a height of one (1) foot above grade; and any of the following flowering trees with a minimum trunk diameter of four (4) inches (twelve and fifty-five one hundredths (12.55) inches in circumference) at a height of one (1) foot above grade: Redbud, Dogwood, and Crape myrtle.

2. Tree removal: No person, organization, society, association or corporation, or any agent or representative thereof, directly or indirectly, shall cut down, destroy, remove, or effectively destroy through damaging, any specimen tree, whether it be on private property or right-of-way within the defined limits of the preservation district of the city, without first having obtained a permit from the city to do so. Refer to section 12-6-7 for application procedures and guidelines for a tree removal permit.

3. In addition to the specific tree preservation provisions outlined in this subsection, the provisions of Chapter 12-6 shall be applicable in this district.

(d) Fences. All developments in the North Hill preservation zoning districts shall comply with fence regulations as established in section 12-2-40. Fences are subject to approval by the architectural review board. Approved materials will include but not necessarily be limited to wood, brick, stone or wrought iron. No concrete block or barbed-wire will be permitted. Chain-link fences shall be permitted in side and rear yard only with board approval.

(e) Paint colors. The architectural review board has adopted palettes of historic colors from several paint manufacturers that represent acceptable historic colors for use in the Preservation District. Samples of these palettes can be reviewed at the Historic Pensacola Preservation Board and at the office of the building inspector.

(f) Residential accessory structures. Residential accessory structures shall comply with regulations set forth in section 12-2-31 except that the following shall apply: Accessory structures shall not exceed one story in height for a maximum in height of twenty-five (25) feet in order for the accessory structure to match the style, roof pitch, or other design features of the main residential structure.

(g) Additional regulations. In addition to the regulations established above in subsections 12-2-10(B)(5)(a) through (f), any permitted use within the North Hill preservation district where alcoholic beverages are ordinarily sold is subject to the requirements of chapter 7-4 of this Code.

(6) *Restoration, rehabilitation, alterations or additions to existing contributing structures in the North Hill preservation district.* The document entitled "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings," published by the United States Department of Interior in 1983, shall form the basis for rehabilitation of existing contributing buildings. The proper building elements should be used in combinations that are appropriate for use together on the same building.

Documented building materials, types, styles and construction methods shall be duplicated when making repairs, alterations and/or additions to contributing structures. Any variance from the original materials, styles, etc. shall be approved only if circumstances unique to each project are found to warrant such variances.

Regulations established in Table 12-2.9 shall apply to alterations and additions to contributing structures. The regulations and guidelines established in paragraph (5), relating to streetscape elements, shall apply to contributing structures.

(7) *Renovation, alterations and additions to noncontributing and modern infill structures within the North Hill preservation district.* Many of the existing structures within the district do not meet the criteria established for "contributing" structures, even though they may be similar in style to the historic structures, and some structures are modern in style with no relation to the historic structures. All of these buildings shall be recognized as products of their own time. The regulations and guidelines established in paragraph (5), relating to streetscape elements, shall apply to noncontributing and modern infill structures. Regulations established in Table 12-2.9 below, shall apply to alterations and additions to existing noncontributing structures. The architectural review board has adopted palettes of historic colors from several paint manufacturers that represent acceptable historic colors for use in the district. Only paint colors approved by the board shall be permitted.

In review of these structures the board may make recommendations as to the use of particular building elements that will improve both the appearance of the individual structure, its relationship with surrounding structures and the overall district character.

(8) *Regulations for new construction and additions to existing structures in the North Hill preservation district.* New construction is encouraged to be built in a manner that is complementary to the overall character of the district in scale, building materials and colors. The regulations established in paragraph (5), relating to streetscape elements, shall apply to new construction. Table 12-2.9 describes height, area and yard requirements for new construction and, where applicable, for additions to existing structures in the North Hill preservation district.

TABLE 12-2.9
REGULATIONS FOR THE NORTH HILL PRESERVATION ZONING DISTRICTS

Standards	PR-1AAA	PR-2	PC-1
Minimum Yard Requirement (Minimum Building Setbacks) Front Yard Side Yard Rear Yard	 *30 feet 9 feet 30 feet	 *15 feet 7.5 feet 25 feet	None 5′ (for dwellings or wood frame structures only) 15′
Minimum Lot Area for Residential Uses	9,000 s.f.	9,000 s.f. for single-family and 10,000 s.f. for multi-family	None
Minimum Lot Width at Street Row Line	50 feet	50 feet	None

Minimum Lot Width at Building Setback Line	75 feet	75 feet	None
Maximum Building Height (Except as Provided in Section 12-2-39)	35 feet	35 feet	45 feet
Minimum Floor Area	N/A	600 s.f. per dwelling unit for multi-family	None

* Front yard depths in the North Hill Preservation zoning district shall not be less than the average depths of the front yards located on the block, up to the minimum yard requirement; in case there are no other dwellings, the front yard depths shall be no less than the footages noted.

(9) *Demolition of structures within the North Hill Preservation District.* The demolition provisions established in subsection 12-2-10(A)(9) to (11), applicable to contributing and noncontributing structures within the historic district, shall apply in the preservation district.

(C) *Old East Hill preservation zoning districts. OEHR-2, OEHC-1, OEHC-2 and OEHC-3.*

(1) *Purpose.* The Old East Hill preservation zoning districts are established to preserve the existing residential and commercial development pattern and distinctive architectural character of the structures within the district. The regulations are intended to preserve, through the restoration of existing buildings and construction of compatible new buildings, the scale of the existing structures and the diversity of original architectural styles.

(2) *Character of the district.* The Old East Hill neighborhood was developed over a fifty-year period, from 1870 to the 1920's. The architecture of the district is primarily vernacular, but there are also a few properties that display influences of the major architectural styles of the time, such as Craftsman, Mission and Queen Anne styles.

(3) *Boundaries and zoning classifications.* The boundaries of the Old East Hill preservation district shall be identified as per a map and legal description, and the zoning classifications of properties within the district shall be identified as per a map, filed in the office of the city clerk.

(4) *Uses permitted.*

(a) *OEHR-2, residential/office district.*

1. Single-family detached dwellings.
2. Single-family attached (townhouse or quadraplex type construction) and detached zero-lot-line dwellings. Development must comply with the minimum standards established for the R-ZL zoning district in section 12-2-5(A)(5).
3. Two-family attached dwellings (duplex).
4. Multiple-family attached dwellings (three or more dwelling units).

5. Community residential homes licensed by the Florida Department of Health and Rehabilitative Services with seven (7) to fourteen (14) residents providing that it is not to be located within one thousand two hundred (1,200) feet of another such home in a multi-family district, and that the home is not within five hundred (500) feet of a single-family zoning district. If it is proposed to be within one thousand two hundred (1,200) feet of another such home in a multi-family district and/or within five hundred (500) feet of a single-family zoning district it shall be permitted with city council approval after public notification of property owners in a five hundred-foot radius
6. Home occupations subject to regulations in section 12-2-10(A)(3)(a)4.
7. Bed and breakfast subject to regulations in section 12-2-55.
8. Boarding and lodging houses.
9. Office buildings.
10. Studios.
11. Municipally owned or operated parks or playgrounds.
12. Public schools and educational institutions having a curriculum the same as ordinarily given in public schools and colleges subject to regulations in section 12-2-65.
13. Libraries, community centers and buildings used exclusively by the federal, state, regional, county and city government for public purposes subject to regulations in section 12-2-61.
14. Churches, Sunday school buildings and parish houses subject to regulations in section 12-2-57.
15. Minor structures for the following utilities: unoccupied gas, water and sewer substations or pumpstations, electrical substations and telephone substations subject to regulations in section 12-2-59.
16. Accessory structures, buildings and uses customarily incidental to the above uses subject to regulations in section 12-2-31, except that the following shall apply:
    a. Accessory structures shall not exceed one-story in height for a maximum height of twenty-five (25) feet in order for the accessory structure to match the style, roof pitch, or other design features of the main residential structure.
    b. The wall of an accessory structure shall not be located any closer than six (6) feet to the wall of the main residential structure.
17. Family day care homes licensed by the Florida Department of Children and Family Services as defined in the Florida Statutes.

(b) *OEHC-1, neighborhood commercial district.*

1. Any use permitted in the OEHR-2 district.
2. Child care facilities subject to regulations in section 12-2-58.
3. Nursing homes, rest homes, convalescent homes.
4. Parking lots.
5. The following uses, retail only, with no outside storage or work permitted, except as provided herein:
    a. Food and drugstore.
    b. Personal service shops.
    c. Clothing and fabric stores.

d. Home furnishing, hardware and appliance stores.

e. Craft and specialty shops.

f. Banks.

g. Bakeries.

h. Secondhand stores.

i. Floral shops.

j. Martial arts studios.

k. Outdoor sales of trees, shrubs, plants and related landscaping materials as an accessory to indoor retail sales uses permitted by this paragraph, provided that the area is enclosed within a fence attached to the rear or side of the main building, and provided that the outdoor area does not exceed twenty (20) percent of the total area of the main building.

l. Restaurants.

m. Mortuary and funeral parlors.

n. Pet shops with all uses inside the principal building.

o. Printing firms.

p. Business schools.

q. Upholstery shops.

6. Conditional uses permitted. Animal hospitals, veterinary clinics and pet resorts with fully enclosed kennels and no outside runs. Outside exercise areas permitted only if supervised and limited to five (5) or fewer animals.

(c) *OEHC-2, retail commercial district.*

1. Any use permitted in the OEHC-1 district.

2. Open air sales of trees, plants and shrubs. The business shall include a permanent sales or office building (including restrooms) on the site.

3. Hospitals, clinics.

4. Private clubs and lodges, except those operated as commercial enterprises.

5. Electric motor repair and rebuilding.

6. Appliance repair shop.

7. Garages for the repair and overhauling of automobiles.

8. Sign shop.

9. Photo shop.

10. Plumbing and electrical shop.

11. Pest extermination services.

(d) *OEHC-3, commercial district.*

1. Any use permitted in the OEHC-2 district.

2. Dive shop.

3. Fitness center.

4. Theater, except for drive-in.

5. Taverns, lounges, nightclubs, cocktail bars.

(5) *Procedure for review of plans.*

(a) *Plan submission.* Every application for a building permit to erect, construct, demolish, renovate or alter an exterior of a building or sign, located or to be located in the Old East Hill Preservation District, shall be accompanied with plans as necessary to describe the scope of the proposed work pursuant to paragraph 12-2-10(A)(4)(c) to (e).

(b) *Review and approval.* All such plans shall be subject to review and approval by the architectural review board established in section 12-13-3. The board shall adopt written rules and procedures for abbreviated review for minor repairs and minor deviations in projects already approved by the board. This process may authorize the board to designate one of its members to undertake such abbreviated review by the entire board, provided, however, such abbreviated review process shall require review by the staff of West Florida Historic Preservation, Inc. If agreement cannot be reached as it pertains to such request for abbreviated review by the board designee and West Florida Historic Preservation, Inc. staff, then the matter will be referred to the entire board for a decision.

(c) *Decisions.*

1. General consideration. The board shall consider plans for existing buildings based on its classification as contributing, non-contributing or modern infill as depicted on the map entitled "Old East Hill Preservation District" adopted herein, and shall review these plans based on regulations described herein for each of these building classifications. In its review of plans for both existing buildings and new construction, the board shall consider exterior design and appearance of the building, including the front, sides, rear and roof; materials and textures; plot plans or site layout, including features such as walls, walks, terraces, off-street paved areas, plantings, accessory buildings, signs and other appurtenances; and relation of the building to immediate surroundings and to the district in which it is located or to be located. The term "exterior" shall be deemed to include all of the outer surfaces of the building and exterior site work, and is not restricted to those exteriors visible from a public street or place. The board shall consider requests for design materials, alterations or additions, construction methods or any other elements regulated herein, which do not meet the regulations as established in this subsection, when documentary proof in the form of photographs, property surveys, indication of structural foundations, drawings, descriptive essays and similar evidence can be provided. The board shall not consider interior design or plan. The board shall not exercise any control over land use or construction standards such as are controlled by this chapter and chapter 7-13.

2. Rules governing decisions. Before approving the plans for any proposed building located or to be located in a district, the board shall find:

a. In the case of a proposed alteration or addition to an existing building, that such alteration or addition will not impair the architectural or historic value of the building.

b. In the case of a proposed new building, that such building will not, in itself or by reason of its location on the site, impair the architectural or historic value of buildings on adjacent sites or in the immediate vicinity. No plans for new building will be approved if that building will be injurious to the general visual character of the district in which it is to be located considering visual compatibility standards such as height, proportion, shape, scale, style and materials.

3. No provision of this section shall be interpreted to prevent the restoration or reconstruction of any historic building or feature (as listed by West Florida Historic Preservation, Inc.) in its original style, dimensions or position on its original structural foundation.

4. No provision of this section shall be interpreted to require a property owner to make modifications, repairs or improvements to property when the owner does not otherwise intend to make any modifications, repairs or improvements to the property, unless required by chapter 7-13.

(6) *Regulations and guidelines for any development within the Old East Hill preservation district.* These regulations and guidelines are intended to address the design and construction of elements common to any development within the Old East Hill preservation district which requires review and approval by the architectural review board. Regulations and guidelines that relate specifically to new construction and/or structural rehabilitation and repair to existing buildings, applicable to building heights, setbacks, architectural elements and construction types, are established in paragraphs (6) through (8) below.

(a) *Off-street parking.* Design of, and paving materials for, parking lots, spaces and driveways shall be subject to approval of the architectural review board. For all parking lots, a solid wall, fence or compact hedge not less than three (3) feet high shall be erected along the lot line(s) when automobiles or parking lots are visible from the street or from an adjacent residential lot.

1. OEHR-2 district. All non-residential development shall comply with off-street parking requirements established in chapter 12-3.

2. OEHC-1, OEHC-2 and OEHC-3 districts. All non-residential development shall comply with off-street parking requirements established in chapter 12-3. The required parking may be provided off-site by the owner/developer as specified in section 12-3-1(D).

(b) *Landscaping.* Landscape area requirements and landscape requirements for parking lots within the OEHR-2, OEHC-1 and OEHC-2 districts shall comply with regulations established in section 12-6-3 for the R-2, C-1 and C-2 zoning districts.

(c) *Signs.* Refer to sections 12-4-2 and 12-4-3 for general sign standards and criteria and for a description of sign area calculations. The location, design and materials of all accessory signs, historical markers and other signs of general public interest shall be subject to the review and approval of the architectural review board. Only the following signs shall be permitted in the Old East Hill preservation district:

1. Temporary accessory signs.

a. One non-illuminated sign advertising the sale, lease or rental of the lot or building, said sign not exceeding six (6) square feet of area.

b. One non-illuminated sign not more than fifty (50) square feet in area in connection with new construction work, and displayed only during such time as the actual construction work is in progress.

2. Permanent accessory signs.

a. North 9th Avenue, Wright Street, Alcaniz Street and Davis Street. For churches, schools, apartment buildings, boarding or lodging houses, libraries, community centers, commercial buildings (including office and retail buildings) or historic sites serving as identification and/or bulletin boards, one freestanding or projecting sign and one attached wall sign or combination of wall signs placed on the front or one side of the building not to exceed fifty (50) square feet in area. The signs may be painted on the building, mounted to the face of the wall of the building, hung from a bracket that is mounted to a wall of a building, hung from other ornamental elements on the building, or may be freestanding. Signs projecting from a building or extending over public property shall maintain a clear height of nine (9) feet, six (6) inches above the public property and shall not exceed a height of twelve (12) feet. Freestanding signs shall not exceed a height of twelve (12) feet.

b. All other streets in the district. One sign per lot per street frontage for churches, schools, apartment buildings, boarding or lodging houses, libraries, community centers, commercial buildings (including office and retail buildings) or historic sites serving as identification and/or bulletin boards not to exceed twelve (12) square feet in area and eight (8) feet in height, provided, however that signs projecting from a building or extending over public property shall maintain a clear height of nine (9) feet six (6) inches above the public property and shall not exceed a height of twelve (12) feet six (6) inches. The sign may be mounted to the face of the wall of the building, hung from a bracket that is mounted to a wall of a building, hung from other ornamental elements on the building, or may be freestanding. The sign may be illuminated provided that the source of light is not visible beyond the property line of the lot on which the sign is located.

c. One non-illuminated nameplate designating the name of the occupant of the property; the nameplate shall not be larger than three (3) square feet and shall be attached to the dwelling. This section shall be applicable to occupants and home occupations.

d. Municipal or state installed directional signs, historical markers and other signs of a general public interest when approved by the board.

(d) *Fences.* All developments in the Old East Hill preservation zoning districts shall comply with fence regulations as established in section 12-2-40. Fences are subject to approval by the architectural review board. Approved materials will include but not necessarily be limited to wood, brick, stone or wrought iron. No concrete block or barbed-wire fences will be permitted. Chain-link fences shall be permitted in side and rear yard only.

(e) *Additional regulations.* In addition to the regulations established above in subsections 12-2-10(C)(6)(a) through (d), any permitted use within the Old East Hill preservation district where alcoholic beverages are ordinarily sold is subject to the requirements of Chapter 7-4 of this Code.

(7) *Restoration, rehabilitation, alterations or additions to existing contributing structures in the Old East Hill preservation district.* The Secretary of the Interior's standards for rehabilitation, codified at 37 CFR 67, and the related guidelines for rehabilitating historic buildings shall form the basis for rehabilitation of existing contributing buildings. The proper building elements should be used in combinations that are appropriate for use together on the same building. Documented building materials, types, styles and construction methods shall be duplicated when making repairs, alterations and/or additions to contributing structures. Any variance from the original materials, styles, etc. shall be approved only if circumstances unique to each project are found to warrant such variances.

The regulations established in paragraph (6), relating to streetscape elements, shall apply to contributing structures. Regulations established in Table 12-2.10 shall apply to alterations and additions to contributing structures.

(8) *Renovation, alterations and additions to non-contributing and modern infill structures within the Old East Hill preservation district.* Many of the existing structures within the district do not meet the criteria established for contributing structures, even though they may be similar in style to the historic structures, and some structures are modern in style with no relation to the historic structures. All of these buildings shall be recognized as products of their own time. The regulations established in paragraph (6), relating to streetscape elements, shall apply to non-contributing and modern infill structures. Regulations established in Table 12-2.10 shall apply to alterations and additions to existing non-contributing structures.

In review of these structures the board may make recommendations as to the use of particular building elements that will improve both the appearance of the individual structure, its relationship with surrounding structures and the overall district character.

(9) *Regulations for new construction in the Old East Hill preservation district.* New construction shall be built in a manner that is complementary to the overall character of the district in height, proportion, shape, scale, style and building materials. The regulations established in paragraph (6), relating to streetscape elements, shall apply to new construction. Table 12-2.10 describes height, area and yard requirements for new construction in the Old East Hill preservation district.

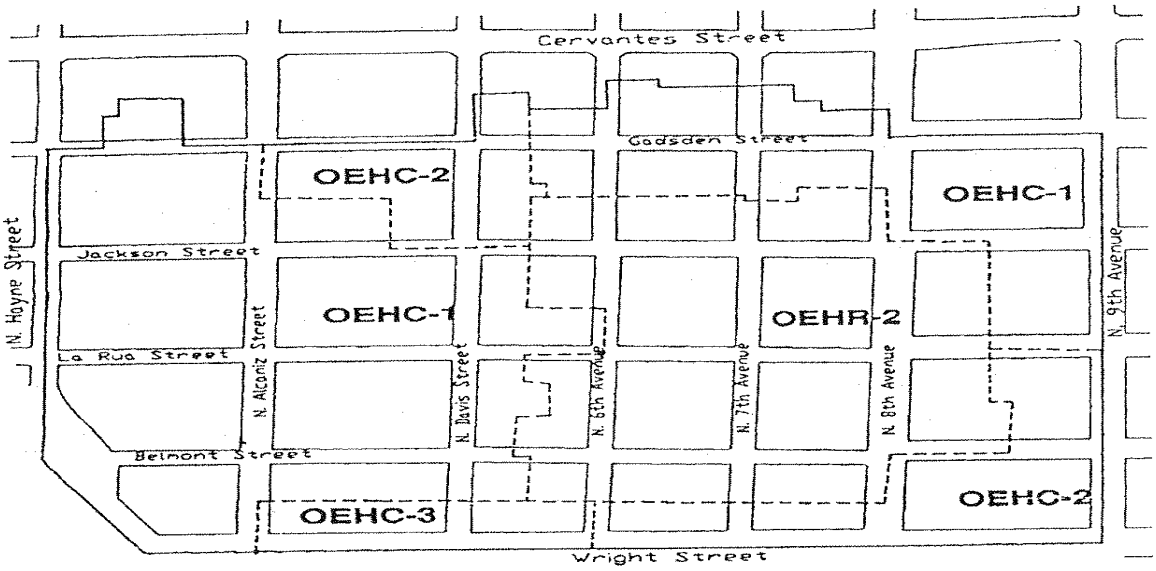
(10) *Demolition of structures within the Old East Hill preservation district.* The demolition provisions established in section 12-2-10(A)(9) to (11), applicable to contributing and non-contributing structures within the Historic District, shall apply in the preservation district.

TABLE 12-2.10
REGULATIONS FOR OLD EAST HILL PRESERVATION ZONING DISTRICTS

Standards	OEHR-2	OEHC-1	OEHC-2	OEHC-3
Minimum Yard Requirement (Minimum Building Setbacks)				
Front Yard Side Yard Rear Yard	*15 feet 5 feet 15 feet	There shall be a 5' side yard setback, but no front or rear yard setbacks, unless this chapter requires a larger yard or buffer yard.		None
Minimum Lot Area For Residential Uses				
Single-family Detached Residential Duplex Residential Multi-family Residential	3,500 s.f. 5,000 s.f. 9,000 s.f.	None		
Minimum Lot Width at Street Row Line	30 feet	None		

Minimum Lot Width at Building Setback Line	30 feet	None	
Maximum Lot Coverage	N/A	The maximum combined area of all principal and accessory buildings shall not exceed 50% of the square footage of the lot.	None
Maximum Building Height (except as provided in section 12-2-39)	Residential buildings shall not exceed two (2) stories in height, with a usable attic. No building shall exceed thirty-five (35) feet in height, except that three (3) feet may be added to the height of the building for each foot the building is set back from the building setback or property lines to a maximum height of 45' with approval of the architectural review board.		
Minimum Floor Area For Multi-Family Developments	600 square feet per dwelling unit		
* Front yard depths in the Old East Hill preservation zoning district shall not be less than the average depths of all of the front yards facing the street on the block, up to the minimum yard requirement; in case there are no other dwellings, the front yard depth shall be no less than the footage noted.			

(Ord. No. 6-93, §§ 7, 8, 3-25-93; Ord. No. 17-93, § 1, 6-10-93; Ord. No. 29-93, §§ 7—12, 11-18-93; Ord. No. 32-93, §§ 1, 2, 12-16-93; Ord. No. 3-94, §§ 5, 6, 1-13-94; Ord. No. 11-94, § 2, 4-14-94; Ord. No. 9-96, §§ 5—8, 1-25-96; Ord. No. 35-97, §§ 1—3, 10-23-97; Ord. No. 40-99, §§ 6—9, 10-14-99; Ord. No. 44-99, § 1, 11-18-99; Ord. No. 13-00, § 1, 3-9-00; Ord. No. 50-00, §§ 1, 2, 10-26-00; Ord. No. 2-01, §§ 1—3, 1-11-01; Ord. No. 6-02, § 2, 1-24-02; Ord. No. 22-02, § 1, 9-26-02; Ord. No. 13-06, §§ 5—9, 4-27-06; Ord. No. 03-09, § 1, 1-8-09; Ord. No. 16-10, §§ 198, 199, 9-9-10; Ord. No. 05-17, § 1, 3-9-17; Ord. No. 11-18, § 1, 9-13-18)



Old East Hill Preservation District

Sec. 12-2-11. - Airport land use district.

The regulations in this section shall be applicable to the airport restricted and airport transition zoning districts: ARZ, ATZ-1 and ATZ-2.

(A) *Purpose of district.* The airport land use district is established for the purpose of regulating land, owned by the Pensacola International Airport or immediately adjacent to the airport, which is considered sensitive due to its relationship to the runways and its location within noise zones "A" and "B" as defined in Chapter 12-11 of this title. Land zoned ARZ is owned by the city and allows only open space, recreational or commercial and industrial uses customarily related to airport operations. The areas designated as airport transitional zones are permitted a range of uses.

(B) *Uses permitted.*

(1) *ARZ, airport restricted zone (city-owned property).*

(a) The following three (3) sections of the airport restricted zone are limited to specific uses as defined below:

1. *ARZ-1.* The parcel of land located north of Summit Boulevard between two (2) airport transition zones (includes the Scott Tennis Center and airport drainage system). Uses within this zone will be limited to those uses described below in subsections (b) and (c).

2. *ARZ east of runway 8/26.* The parcel of land on the eastern end of runway 8/26, located between Avenida Marina and Gaberonne Subdivision and between Spanish Trail and Scenic Highway. All land within this zone outside of the fifteen (15) acres required for clear zone at the eastern end of runway 8/26 will be retained as open space.

3. *ARZ south of runway 17/35.* The parcel of land at the southern end of runway 17/35, located north of Heyward Drive and east of Firestone Boulevard. All land within this zone outside of the twenty-eight and five-tenths (28.5) acres required for clear zone at the southern end of runway 17/35 will be retained as open space.

(b) Airport, airport terminal, air cargo facilities, and uses customarily related to airport operations and expansions.

(c) Golf course, tennis court, driving range, par three course, outdoor recreational facilities, provided that no such uses shall include seating or structures to accommodate more than one hundred (100) spectators or occupants.

(d) Service establishments such as auto rental and travel agencies, commercial parking lots and garages, automobile service station and similar service facilities.

(e) Warehousing and storage facilities.

(f) Industrial uses compatible with airport operations.

(g) Commercial uses to include hotels, motels, extended stay facilities, pharmacy, restaurant and drive through facilities, banks, office, post secondary education facilities, meeting facilities, dry cleaner, health club, exercise center, martial arts facility, bakery, floral shop, day care/child care facility, medical clinic, doctor and dentist offices, and retail services to include specialty shops and studios; or other similar or compatible uses.

(h) Other uses that the city council may deem compatible with airport operations and surrounding land uses pursuant to the city's Comprehensive Plan and the Airport Master Plan and as such uses that meet the FAA's requirements for airport activities.

(2) *ATZ-1, airport transitional zone.*

(a) Single-family residential, attached or detached, 0—5 units per acre;

(b) Home occupations, subject to regulations in section 12-2-33;

(c) Offices;

(d) Family day care homes licensed by the Florida Department of Children and Family Services as defined in the Florida Statutes.

(e) Recreational facilities - Not for profit.

(f) Conditional uses permitted:

a. Communications towers in accordance with section 12-2-44.

b. Rooftop mounted antennas in accordance with section 12-2-45.

(3) *ATZ-2, airport transitional zone.*

(a) Any use allowed in the ATZ-1;

(b) Retail and service commercial; and,

(c) Aviation related facilities;

(d) Conditional uses permitted:

a. Communications towers in accordance with section 12-2-44.

b. Rooftop mounted antennas in accordance with section 12-2-45.

(C) *Review and approval process.* All private, nonaviation related development in the ARZ zone and all developments other than single-family residential within approved subdivisions within the ATZ-1 and ATZ-2 zones must comply with the development plan review and approval process as established in section 12-2-81.

(D) *Regulations.* All development shall comply with applicable height and noise regulations as set forth in Chapter 12-11. All development must comply with design standards and is encouraged to follow design guidelines as established in section 12-2-82. All private, nonaviation related development within the ARZ zone and all development within ATZ-1 and ATZ-2 zones must comply with the following regulations:

(1) *Airport land use restrictions.* Notwithstanding any provision to the contrary in this chapter, no use may be made of land or water within any zone established by this chapter in such a manner as to interfere with the operation of an airborne aircraft. The following special requirements shall apply to each permitted use:

(a) All lights or illumination used in conjunction with street, parking, signs or use of land structures shall be arranged and operated in such a manner that is not misleading or dangerous to aircraft operating from a public airport or in the vicinity thereof.

(b) No operations of any type shall produce electronic interference with navigation signals or radio communication between the airport and aircraft.

(c) No continuous commercial or industrial operations of any type shall produce smoke, glare or other visual hazards, within three (3) statute miles of any usable runway of a public airport, which would limit the use of the airport.

(d) Sanitary landfills will be considered as an incompatible use if located within areas established for the airport through the application of the following criteria:

1. Landfills located within ten thousand (10,000) feet of any runway used or planned to be used by turbine aircraft.

2. Landfills located within five thousand (5,000) feet of any runway used only by nonturbine aircraft.

3. Landfills outside the above perimeters but within conical surfaces described by FAR Part 77 and applied to an airport will be reviewed on a case-by-case basis.

4. Any landfill located and constructed in a manner that attracts or sustains hazardous bird movements from feeding, water, or roosting areas into, or across, the runways or approach and departure patterns of aircraft. The landfill operator must incorporate bird management techniques or other practices to minimize bird hazards to airborne aircraft.

(e) Obstruction lighting. Notwithstanding any provisions of section 12-11-2, the owner of any structure over one hundred fifty (150) feet above ground level shall install lighting on such structure in accordance with Federal Aviation Administration Advisory Circular 70/7460-1 and amendments thereto. Additionally, the high-intensity white obstruction lights shall be installed on a high structure that exceeds seven hundred forty-nine (749) feet above mean sea level. The high-intensity white obstruction lights must be in accordance with Federal Aviation Administration Advisory Circular 70/7460-1 and amendments thereto.

(f) Noise Zones. The noise zones based on the Pensacola International Airport FAR part 150 Study adopted in 1990 and contained in Section 12-11-3 shall establish standards for construction materials for sound level reduction with respect to exterior noise resulting from the legal and normal operations at the Pensacola International Airport. It also establishes permitted land uses and construction materials in these noise zones.

(g) Variances. Any person desiring to erect or increase the height of any structure(s), or use his or her property not in accordance with the regulations prescribed in this chapter, may apply to the zoning board of adjustment for a variance from such regulations. No

application for variance to the requirements of this part may be considered by the zoning board of adjustment unless a copy of the application has been furnished to the building official and the airport manager.

(h) Hazard marking and lighting. Any permit or variance granted shall require the owner to mark and light the structure in accordance with FAA Advisory Circular 70/7460-1 or subsequent revisions. The permit may be conditioned to permit Escambia County or the city at its own expense, to install, operate and maintain such markers and lights as may be necessary to indicate to pilots the presence of an airspace hazard if special conditions so warrant.

(i) Nonconforming uses. The regulations prescribed by this subsection shall not be construed to require the removal, lowering or other changes or alteration of any existing structure not conforming to the regulations as of the effective date of this chapter. Nothing herein contained shall require any change in the construction or alteration of which was begun prior to the effective date of this chapter, and is diligently prosecuted and completed within two (2) years thereof.

Before any nonconforming structure may be replaced, substantially altered, repaired or rebuilt, a permit must be secured from the building official or his or her duly appointed designee. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming structure to become a greater hazard to air navigation than it was as of the effective date of this chapter. Whenever the building official determines that a nonconforming use or nonconforming structure has been abandoned or that the cost of repair, reconstruction, or restoration exceeds the value of the structure, no permit shall be granted that would allow said structure to be repaired, reconstructed, or restored except by a conforming structure.

(j) Administration and enforcement. It shall be the duty of the building official, or his or her duly appointed designee, to administer and enforce the regulations prescribed herein within the territorial limits over which the city has jurisdiction. Prior to the issuance or denial of a tall structure permit by the building official, the Federal Aviation Administration must review the proposed structure plans and issue a determination of hazard/no hazard. In the event that the building official finds any violation of the regulations contained herein, he or she shall give written notice to the person responsible for such violation. Such notice shall indicate the nature of the violation and the necessary action to correct or abate the violation.

(2) *Minimum lot size and yard requirements/lot coverage.* There are no minimum requirements for lot size or yards, except that the development plan shall take into consideration the general development character of adjacent land uses. The maximum combined area occupied by all principal and accessory buildings shall be fifty (50) percent.

(3) *Maximum height of structures.* For the ATZ-1 and ATZ-2 zoning districts the maximum height for residential structures is thirty-five (35) feet and for office, commercial or aviation-related facilities, is forty-five (45) feet. Communications towers and rooftop-mounted antennas may be permitted within the ATZ-1 and ATZ-2 districts upon conditional use permit approval in accordance with Section 12-2-79. Provided, however that no structure shall exceed height limitations established in section 12-11-2(A).

(4) *Additional regulations.* In addition to the regulations established above all development must comply with the following regulations:

(a) Supplementary district regulations. (Refer to sections 12-2-31 to 12-2-50).

(b) Signs. (Refer to Chapter 12-4).

(c) Tree/landscape. (Refer to Chapter 12-6).

(d) Subdivision. (Refer to Chapter 12-8).

(e) Stormwater management, and control of erosion, sedimentation and runoff. (Refer to Chapter 12-9).

(Ord. No. 33-95, § 3, 8-10-95; Ord. No. 6-02, § 2, 1-24-02; Ord. No. 12-03, § 1, 5-8-03; Ord. No. 02-09, § 1, 1-8-09; Ord. No. 13-17, § 1, 6-8-17; Ord. No. 14-19, § 1, 7-18-19)

Sec. 12-2-12. - Redevelopment land use district.

The regulations in this section shall be applicable to the gateway and waterfront redevelopment zoning districts: GRD and WRD.

(A) *GRD, Gateway Redevelopment District.*

(1) *Purpose of district.* The Gateway Redevelopment District is established to promote the orderly redevelopment of the southern gateway to the city in order to enhance its visual appearance, preserve a unique shoreline vista, improve traffic safety, and encourage a high quality of site planning and architectural design. Site specific analysis of each development proposal within the Gateway District is intended to ensure that the scenic orientation and open space image of the Bayfront Parkway is maintained, the development character of the Chase-Gregory corridor is upgraded, and the boundary of the adjacent historic district is positively reinforced.

(2) *Uses permitted.*

(a) Single-family residential (attached or detached) at a maximum density of seventeen and four-tenths (17.4) units per acre. Multi-family residential at a maximum density of one hundred (100) dwelling units per acre.

(b) Home occupations, subject to regulations in section 12-2-13.

(c) Offices.

(d) Adult entertainment establishments subject to the requirements of Chapter 7-3 of this Code when located within the dense business area as defined in Chapter 12-14, Definitions.

(e) All commercial uses permitted in the C-2A zone, with no outside storage or repair work allowed, with the exception:

1. Mortuaries and funeral parlors.

2. Appliance and repair shops.

3. Public parking lots and parking garages.

4. New car lots or used car lots.

5. Public utility plants, transmission and generating stations, including radio and television broadcasting stations.

6. Car or truck rental agencies or storage facilities.

(f) Family day care homes licensed by the Florida Department of Children and Family Services as defined in the Florida Statutes.

(3) *Procedure for review of plans.*

(a) Plan submission: All development plans must comply with development plan requirements set forth in subsections 12-2-81(C) and (D), and design standards and guidelines established in section 12-2-82. Every application for a new certificate of occupancy or a building permit to erect, construct, demolish, renovate or alter a building or sign, or exterior site work (i.e., paving and landscaping of off-street parking areas), located or to be located in the Gateway Redevelopment District shall be accompanied with drawings or sketches with sufficient detail to show, as far as they relate to exterior appearances, the architectural design of the building, sign, or exterior work (both before and after the proposed work is

done in cases of altering, renovating, demolishing or razing a building or structure) including proposed materials, textures and colors, and the plot plan or site layout including all site improvements or features such as walls, fences, walks, terraces, plantings, accessory buildings, paved areas, signs, lights, awnings, canopies and other appurtenances.

(b) Review and approval. All plans shall be subject to the review and approval of the planning board established in Chapter 12-13. At the time of review the board may require that any aspect of the overall site plan which does not meet the standards established in this section be incorporated and brought into compliance within a time limit approved by the board.

(c) Abbreviated review. Sign requests, paint colors, fencing, and emergency repairs that are consistent with the regulations and guidelines set forth in this section, may be approved by letter to the building official from the planning board secretary and the chairperson of the board. This provision is made in an effort to save the applicant and the board time for routine approval matters. If agreement cannot be reached as it pertains to such requests by the board secretary and chairperson, then the matter will be referred to the board for a decision.

(d) Final development plan. If the planning board approves a preliminary development plan, the owner shall submit a final development plan in accordance with the procedure set forth below within six (6) months of the date of approval of the preliminary plan of development. For good cause shown, the planning board may, in its discretion, extend the time within which to file the final development plan for successive periods, the total of which shall not be more than an additional six (6) months. The final development plan shall be in basic conformity with the preliminary plan of development and comply with the other provisions of section 12-2-81 pertaining to the final development plan. If the applicant submits a final development plan that conforms to all the conditions and provisions of this chapter, then the planning board shall conclude its consideration at its next regularly scheduled meeting.

(4) *Regulations.* Except where specific approval is granted by the planning board for a variance due to unique and peculiar circumstances or needs resulting from the use, size, configuration or location of a site, requiring the modification of the regulations set forth below the regulations shall be as follows:

(a) Signs. Refer to sections 12-4-2 and 12-4-3 for general sign regulations and for a description of sign area calculations. In addition, the following regulations shall be applicable to signs only in the Gateway Redevelopment District.

1. Number of signs. Each parcel under single ownership shall be limited to one sign per street adjacent to the parcel; provided, however, if there exists more than one establishment on the parcel, there may be one attached sign per establishment.

2. Signs extending over public property. Signs extending over public property shall maintain a clear height of nine (9) feet above the sidewalk and no part of such signs shall be closer than eighteen (18) inches to the vertical plane of the curb line or edge of pavement.

3. Permitted signs.

a. Gregory, Chase and Alcaniz Streets, 9th Avenue.

- Attached signs:

Height. No sign may extend above the roof line of the building to which it is attached. For purposes of this section roof surfaces constructed at an angle of seventy-five (75) degrees or more from horizontal shall be regarded as wall space.

Size. Ten (10) percent of the building elevation square footage (wall area) which fronts on a public street, not to exceed fifty (50) square feet.

- Freestanding signs:

Maximum sign height—20 feet.

Maximum area for sign face—50 square feet.

b. Bayfront Parkway.

- Attached signs:

Height. No sign shall extend above the roof line of a building to which it is attached.

Size. Ten (10) percent of the building elevation square footage (wall area) which fronts on a public street, not to exceed fifty (50) square feet.

- Freestanding signs:

Distance from Curb (Feet)	Maximum Area Sign Face (Square Feet)	Maximum Sign Height (Feet)
10	20	5
20	35	7
30	50	9

c. All other streets and areas within the Gateway Redevelopment District:

- Attached signs:

Height. No sign shall extend above the main roof line of a building to which it is attached.

Size. Ten (10) percent of the building elevation square footage (wall area) which fronts on a public street, not to exceed twenty-five (25) square feet.

- Freestanding signs:

Distance from Curb (Feet)	Maximum Area Sign Face (Square Feet)	Maximum Sign Height (Feet)
10	20	5
20	35	7

30	50	9

4. Other permitted signs:

   a. Signs shall not exceed three (3) square feet in size.

   c. Official traffic signs or signals, informational signs erected by a government agency and temporary signs indicating danger.

5. Submission and review of sign plans. It shall be the responsibility of the contractor or owner requesting a sign permit to furnish two (2) plans of sign drawn to scale, including sign face area calculations, wind load calculations and construction materials to be used.

6. Review of sign plans. All permanent signs within the Gateway Redevelopment District shall be reviewed as follows:

   a. The contractor or owner shall submit sign plans for the proposed sign as required herein. The planning services department shall review the sign based on the requirements set forth in this section and the guidelines set forth in subsection (5)(b)7. herein and forward a recommendation to the planning board.

   b. The planning board shall review the planning staff recommendation concerning the sign and approve, or disapprove, the sign, it shall give the owner written reasons for such action.

   c. The owner shall have the right to appeal an adverse decision of the planning board to the city council within thirty (30) days of the decision of the planning board.

7. Prohibited signs. Refer to section 12-4-7 for prohibited signs. In addition the following signs are prohibited within the Gateway Redevelopment District:

   a. Portable signs are prohibited except as permitted in section 12-4-6(E).

   b. Signs that are abandoned or create a safety hazard are not permitted. Abandoned signs are those advertising a business that becomes vacant and is unoccupied for a period of ninety (90) days or more.

   c. Signs that are not securely fixed on a permanent foundation are prohibited.

   d. Signs that are not consistent with the standards of this section are not permitted.

8. Temporary signs: Only the following temporary signs shall be permitted in the Gateway Redevelopment District:

   a. Temporary banners indicating that a noncommercial special event, such as a fair, carnival, festival or similar happening, is to take place, are permitted with the following conditions:

      • Such signs may be erected no sooner than two (2) weeks before the event;

      • Such signs must be removed no later than three (3) days after the event.

      • Banners extending over street rights-of-way require approval from the mayor.

   b. One non-illuminated sign per street frontage advertising the sale, lease or rental of the lot or building upon which the sign is located. Such sign shall not exceed

twelve (12) square feet in size, and shall be removed immediately after occupancy.

c. One non-illuminated sign not more than fifty (50) square feet in area in connection with the new construction work and displayed only during such time as the actual construction work is in progress.

d. Temporary signs permitted in section 12-4-6(H).

9. Nonconforming signs:

a. Compliance period. All existing signs that do not conform to the requirements of this section shall be made to comply by April 24, 1991. Provided, however, existing portable signs must be removed immediately.

b. Removal of nonconforming signs. The building official shall notify the owner of a nonconforming sign in writing of compliance period specified above. Nonconforming signs shall either be removed or brought up to the requirements stated herein within the period of time prescribed in the compliance schedule. Thereafter, the owner of such sign shall have thirty (30) days to comply with the order to remove the nonconforming sign, or bring it into compliance. Upon expiration of the thirty-day period, if no action has been taken by the owner, he or she shall be deemed to be in violation of this section and the building official may take lawful enforcement action.

(b) Off-street parking. The following off-street parking requirements shall apply to all lots, parcels or tracts in the Gateway Redevelopment District:

1. Off-street parking requirements in the district shall be based on the requirements set forth in Chapter 12-3 of the code. The required parking may be provided off-site by the owner/developer as specified in section 12-3-1(D).

2. Off-street parking and service areas are prohibited within the Bayfront Parkway setback described in subsection (c) herein, unless these requirements cannot be met anywhere else on the site due to its size or configuration.

3. Screening. Screening shall be provided along the edges of all parking areas visible from street rights-of-way. The screening may take the form of:

A solid wall or fence (chain-link fences are prohibited) with a minimum height of four (4) feet that is compatible in design and materials with on-site architecture and nearby development; or an earth berm approximately three (3) feet in height that is landscaped to provide screening effective within three (3) years; or a combination of walls or fences and landscape screening; or landscape screening designed to provide positive screening within three (3) years.

(c) Street setback. The following building setbacks shall apply to the district:

1. Bayfront Parkway setback/height requirements. All buildings located adjacent to the Bayfront Parkway shall be set back a minimum of fifty (50) feet from the northern parkway right-of-way line. At this minimum setback, building height may not exceed fifty (50) feet. Above fifty (50) feet in height, an additional one-foot setback shall be required for each additional two (2) feet in building height. This setback is intended as a landscaped buffer zone that preserves the open space character of the parkway.

2. Gregory, Alcaniz and Chase Streets, 9th Avenue. Ten (10) feet from the right-of-way line.

3. All other streets. Five (5) feet from the right-of-way line.

(d) Street frontage. Every lot, tract, or parcel of land utilized for any purpose permitted in this district shall have a street frontage of not less than fifty (50) feet. Any lot of record on the

effective date of this title which is less than fifty (50) feet may be used as a site for only one establishment listed as a permitted use in paragraph (2) herein.

(e) Building height. No building shall exceed a maximum height of one hundred (100) feet.

(f) Vehicular access. Access to the following streets shall be limited as follows:

1. Bayfront Parkway. No access shall be permitted from the parkway unless no other means exist for ingress and egress from the site.

2. Gregory Street, Chase Street, Alcaniz Street, 9th Avenue and 14th Avenue. For each lot, tract, or parcel under single ownership, the maximum number of access points shall not exceed two (2) per street footage if driveway spacing standards can be met pursuant to section 12-4-82(C)(2).

(g) Landscaping. Landscaping requirements in the Gateway Redevelopment District shall be based on applicable requirements of Chapter 12-6. All service areas (i.e., trash collection containers, compactors, loading docks) shall be screened from street and adjacent buildings by one of the following techniques:

- Fence or wall, six (6) feet high;
- Vegetation, six (6) feet high (within three (3) years);
- A combination or the above.

(h) Underground utility services. All new building construction or additions of floor area to existing structures along Bayfront Parkway, Chase Street, Gregory Street, 9th Avenue and all property fronting Salamanca Street, shall be required to install underground utilities.

(i) Lot coverage. The total coverage of all development sites within the Gateway Redevelopment District, including all structures, parking areas, driveways and all other impervious surfaces, shall not exceed seventy-five (75) percent.

(j) Sidewalks. Developers of new construction or redevelopment projects shall repair, reconstruct, or construct new sidewalks on all sides of property fronting on a street.

(k) Consideration of floodprone areas. Portions of the district are within the one hundred-year floodplain. Site planning shall consider the special needs of floodprone areas.

(l) Storm drainage. Adequate storm drainage must be provided to prevent flooding or erosion. The surface drainage after development should not exceed the surface drainage before development. Flexibility in this guideline shall be considered by the city engineer based on capacity of nearby off-site stormwater drainage systems, the surrounding topography and the natural drainage pattern of the area.

(m) All mechanical equipment, satellite dishes and other similar equipment should be completely screened by the architecture of the structure, or fences, walls, or vegetation.

(n) Exemptions. All detached single-family and duplex residential development proposals are exempt from the provisions of this section and shall be developed in accordance with R-1A regulations set forth in section 12-2-4(E), with the exception of the height requirements.

(5) *Development guidelines.* The Gateway Redevelopment District is characterized by a variety of architectural styles with no common theme. The intent of these guidelines is to reduce the level of contrast between buildings and to create a more compatible appearance in architectural design, scale, materials and colors. All development within the Gateway Redevelopment District is encouraged to follow design guidelines as established in subsection 12-2-82(D). In addition, the following site planning guidelines shall be used by the planning board in the review and approval of all development plans:

(a) Site planning. The integration of site features such as building arrangement, landscaping and parking lot layout is critical in producing a pleasant and functional living or working

environment. In reviewing development proposals, the following guidelines shall be taken into consideration.

1. Maximum preservation of bay views: Considering the bayfront location within the district, the placement of buildings, signs, service areas, parking and landscaping shall be planned to maximize the preservation of views of the bay and to protect the bayfront's scenic open space character. To prevent the effect of a "wall" of development along the inland edge of the parkway, the long axis of all buildings located on the corridor should be oriented parallel to the inland street grid, rather than parallel to the parkway itself. The preservation of ample open space between buildings, and the creation of a campus-like development pattern, are encouraged especially in the bayfront area. In addition, site planning throughout the district should recognize existing topographical variations and maximize this variation to maintain bay views.

2. Development coordination: The preservation of bay views and the creation of a campus character development pattern cannot be achieved through the site planning of any single development; all development efforts within the district must be coordinated to achieve these objectives.

3. Off-street parking and service: Off-street parking shall be discouraged within all street setbacks. Where possible, any service areas (i.e. trash collection, loading docks) shall be located to be screened by the building itself; otherwise, walls, fences, landscaping and earth berms shall be used to achieve effective screening.

(b) Architectural design and building elements.

1. Buildings or structures that are part of a present or future group or complex shall have a unity of character and design. The relationship of forms and the use, texture, and color of materials shall be such as to create a harmonious whole.

2. Buildings or structures located along strips of land or on single sites and not a part of a unified multibuilding complex shall strive to achieve visual harmony with the surroundings. It is not to be inferred that buildings must look alike or be of the same style to be compatible with the intent of the district. Compatibility can be achieved through the proper consideration of scale, proportions, site planning, landscaping, materials and use of color.

3. Materials such as metal and plastic shall be discouraged on exterior surfaces of buildings.

4. Severe or angular roof lines that exceed a pitch of 12-12 (forty-five degree angle) are discouraged. Exceptions to this guideline (i.e., churches) shall be considered on a case-by-case basis.

5. Bright colors and intensely contrasting color schemes are discouraged within the district.

6. Proposed development adjacent to the historic district should give special consideration to visual compatibility in scale and architectural design in order to positively reinforce the character of the historic area and provide a buffer and transition.

7. The following guidelines concerning design, materials, lighting, landscaping, and positioning of permitted signs shall be considered:

   a. Design/materials. The architectural character of the building to which the sign relates should be reflected in the lettering of the sign, the materials used for the supporting structure and the sign face.

   b. Lighting. Indirect and internal lighting is encouraged. Neon and exposed fluorescent lighting is not encouraged.

d. Landscaping. The landscaping and positioning of the sign should compliment the overall site plan and landscaping of the development.

(6) *Maintenance standards.* The following maintenance standards shall be applied to all structures and land parcels respectively, whether occupied or vacant within the Gateway Redevelopment District, subject to review and approval by the planning board. Properties that do not conform to the maintenance standards described in subparagraphs (a) to (g) shall be made to comply as required by the city inspections office based on regular inspections or complaints.

(a) Building fronts, rears, and sides abutting streets and public areas. Rotten or weakened portions shall be removed, repaired or replaced.

(b) Windows. All windows must be tight-fitting. All broken and missing windows shall be replaced with new glass.

(c) Show windows and storefronts. All damaged, sagging or otherwise deteriorated storefronts, show windows or entrances shall be repaired or replaced.

(d) Exterior walls.

1. Existing miscellaneous elements on the building walls, such as empty electrical conduit, unused signs and/or sign brackets, etc., shall be removed.

2. Sheet metal gutters, downspouts and copings shall be repaired or replaced as necessary and shall be neatly located and securely installed.

3. All exterior finishes and appurtenances such as paint, awnings, etc. shall be kept in a state of repair.

(e) Roofs.

1. All auxiliary structures on the roofs shall be kept clean, repaired or replaced.

2. Roofs shall be cleaned and kept free of trash, debris or any other elements that are not a permanent part of the building.

(f) Front, rear, and side yards, parking areas and vacant parcels.

1. When a front, rear or side yard, parking area or vacant parcel exists or is created through demolition, the owner may utilize the space in accordance with the provisions of the zoning district, provided, however, that the site shall be properly maintained free of weeds, litter, and garbage.

2. Any landscaping that was installed to comply with regulations of this subsection must be maintained.

(g) Walls, fences, signs. Walls, fences, signs and other accessory structures shall be repaired and maintained.

(B) *GRD-1, Gateway redevelopment district, Aragon redevelopment area.*

(1) *Purpose of district.* The Gateway Redevelopment District, Aragon Redevelopment Area is established to promote the orderly development of the southern gateway to the city in order to enhance its visual appearance, preserve a unique shoreline vista, improve traffic safety, and encourage a high quality of site planning and architectural design. Site specific analysis of development proposed within the district is intended to ensure that the scenic orientation and open space image of the Bayfront Parkway is maintained and the boundary of the adjacent historic district is positively reinforced. Zoning regulations are intended to ensure that future development is compatible with and enhances the pedestrian scale of the existing structures and period architectural character of the adjacent historic district.

(2) *Urban character of the district.* The Aragon redevelopment area is characterized by integration of houses, shops, and work places. Mixed land use is encouraged by allowing home occupations and first floor work spaces with apartments and townhouses above. The historic

district is the basis for district architectural guidelines, which reflect the scale and lot sizes, and the list of permitted uses is similar to those uses permitted in the historic district to the south.

(3) *Uses permitted.*

(a) GRD-1, residential uses.

1. Single-family and multi-family residential (attached or detached) at a maximum overall density of seventeen and four tenths (17.4) units per acre.

2. Bed and breakfast (subject to section 12-2-55).

3. Home occupations allowing: Not more than sixty (60) percent of the floor area of the total buildings on the lot to be used for a home occupation; Retail sales shall be allowed limited to uses listed as conditional uses in subsection (3)(c)1., below: Two (2) non-family members as employees in the home occupation; and a sign for the business not to exceed three (3) square feet shall be allowed.

4. Community residential homes licensed by the Florida Department of Children and Family Services with six (6) or fewer residents providing that it is not to be located within one thousand (1,000) feet of another such home. If it is proposed to be within one thousand (1,000) feet of another such home, measured from property line to property line, it shall be permitted with city council approval after public notification of property owners in a five hundred-foot radius.

5. Limited office space allowed only with residential use occupying a minimum of fifty (50) percent of total building square footage of principal and outbuildings.

6. Family day care homes licensed by the Florida Department of Children and Family Services as defined in the Florida Statutes.

(b) GRD-1, public uses.

1. Meeting hall, U.S. Post Office pavilion, buildings used for community purposes, not to exceed five thousand (5,000) square feet.

2. Publicly owned or operated parks and playgrounds.

3. Churches, Sunday school buildings and parish houses.

(c) GRD-1, commercial uses.

1. The following uses limited to a maximum area of five thousand (5,000) square feet:

a. Antique shops.

b. Art galleries.

c. Bakeries whose products are sold at retail and only on the premises.

d. Banks (except drive-through).

e. Barbershops and beauty shops.

f. Childcare facilities (subject to section 12-2-58).

g. Health clubs, spas, and exercise centers.

h. Jewelers.

i. Laundry and dry cleaning pick-up stations.

j. Office buildings.

k. Restaurants (except drive-ins).

l. Retail sales and services.

m. Retail food and drugstore.

n. Specialty shops.

o. Studios.

(d) GRD-1, miscellaneous uses.

1. Outbuildings and uses can include:

- Garage apartments
- Carriage house
- Studios
- Granny flats
- Storage buildings
- Garages
- Swimming pools
- Hot tubs
- Offices

Refer to Aragon Urban Regulations in Aragon Design Code for maximum impervious surface per lot type.

2. Minor structures for utilities (gas, water, sewer, electric, telephone).

(4) *Procedure for review.*

(a) Review and approval by the planning board: All activities regulated by this subsection, including preliminary and final site plan review, shall be subject to review and approval by the planning board as established in subsection 12-13-2. Abbreviated review for paint colors, minor repairs and minor deviations in projects already approved by the board shall be in accordance with subsection 12-13-2(K). If agreement cannot be reached as it pertains to such request for abbreviated review by the board secretary and chairperson then the matter will be referred to the planning board for a decision.

(b) Decisions.

1. General consideration. The board shall consider plans for buildings based on regulations described herein. In their review of plans for new construction, the board shall consider exterior design and appearance of the building, including the front, sides, rear and roof; materials, textures and colors; plot plans or site layout, including features such as walls, walks, terraces, off-street paved areas, plantings, accessory buildings, signs and other appurtenances; and relation of the building to the immediate surroundings and to the district in which it is located. The term "exterior" shall be deemed to include all of the outer surfaces of the building and exterior site work, including painting, and is not restricted to those exteriors visible from a public street or place.

2. Rules governing decisions. Before approving the plans for any proposed building located or to be located in a district, the board shall find:

a. In the case of a proposed new building, that such building will not, in itself or by reason of its location on the site, impair the architectural or historic value of buildings in the immediate vicinity. No plans for new building will be approved if that building will be injurious to the general visual character of the district in which

it is to be located considering visual compatibility standards such as height, proportion, shape, scale, style, materials and colors.

b. In the case of a proposed alteration or addition to an existing building, that such alteration or addition will not impair the architectural value of the building.

(c) Plan submission: Every activity that requires plans in order to erect, construct, demolish, renovate or alter an exterior of a building, sign or exterior site work, located or to be located in the GRD-1 district shall be accompanied with drawings or sketches. All drawings must be drawn to scale and be legible. The minimum size scale for site plans is 1" = 20'0"; the minimum scale for floor plans is 1/8 " = 1'0"; and the minimum scale for exterior elevations is 1/8 " = 1'0". The scale for other items, such as signs and details, shall be as large as necessary to fully define the detail of those items. Major projects with very large buildings may vary from the scale referenced above for ease of presentation.

1. Site plan:

   a. Indicate overall property dimensions and building size, and building setback line and building frontage zone.

   b. Indicate relationship of adjacent buildings, if any.

   c. Indicate layout of all driveways and parking on the site including materials.

   d. Indicate all fences, including materials, dimensions, architectural elements and color, and signs, with dimensions as required to show exact locations.

   e. Indicate existing trees and existing and new landscaping.

2. Floor plan:

   a. Indicate locations and sizes of all exterior doors and windows.

   b. Indicate all porches, steps, ramps and handrails.

   c. For renovations or additions to existing buildings, indicate all existing conditions and features as well as the revised conditions and features and the relationship of both.

3. Exterior elevations:

   a. Indicate all four (4) elevations of the exterior of the building.

   b. Indicate the relationship of this project to adjacent structures, if any.

   c. Indicate exposed foundation walls, including the type of material, screening, dimensions, and architectural elements.

   d. Indicate exterior wall materials, including type of materials, dimensions, architectural elements and color.

   e. Indicate exterior windows and doors, including type, style, dimensions, materials, architectural elements, trim, and colors.

   f. Indicate all porches, including ceilings, steps, and ramps, including type of materials, dimensions, architectural elements and color.

   g. Indicate all porch, stair, and ramp railings, including type of material, dimensions, architectural elements, trim, and color.

   h. Indicate roofs, including type of material, dimensions, architectural elements, associated trims and flashing, and color.

   i. Indicate all signs, whether they are building mounted or freestanding, including material, style, architectural elements, size and type of letters, and color. The signs must be drawn to scale in accurate relationship to the building and the site.

4. Miscellaneous:

   a. Show enlarged details of any special features of either the building or the site that cannot be clearly depicted in any of the above-referenced drawings.

(d) Submission of photographs.

1. Provide photographs of the site for the proposed new construction in sufficient quantity to indicate all existing site features, such as trees, fences, sidewalks, driveways, and topography.

2. Provide photographs of the adjoining "street scape," including adjacent buildings to indicate the relationship of the new construction to these adjacent properties.

(e) Submission of descriptive product literature/brochures:

1. Provide samples, photographs, or detailed, legible product literature on all windows, doors and shutters proposed for use in the project. The information must be sufficiently detailed to show style, dimensions, detailing, material type, and color.

2. Provide descriptive literature, samples, or photographs showing specific detailed information about signs and letters, if necessary to augment or clarify information shown on the drawings. The information must be sufficiently detailed to show style, dimensions, detailing, material type, and color.

3. Provide samples or descriptive literature on roofing material and type to augment the information on the drawings. The information must indicate dimensions, details, material, color and style.

4. Provide samples or literature on any exterior light fixtures or other exterior ornamental features, such as wrought iron, railings, columns, posts, balusters, and newels. Indicate size, style, material, detailing and color.

(5) *Regulations for any development within the GRD-1 zoning district.* These regulations are intended to address the design and construction of elements common to any development within the GRD-1 zoning district which requires review and approval by the planning board. Regulations and standards that relate specifically to new construction and/or structural rehabilitation and repairs to existing buildings, applicable to building heights, setbacks, architectural elements and construction types, are established below (more specifically addressed in Figure 12.2.2.B, Urban Regulations). The Aragon Design Code describes the building types and architectural styles that are considered to be compatible with the intent of the GRD-1 regulations. This definition of styles should be consulted to insure that the proper elements are used in combination in lieu of combining elements that are not appropriate for use together on the same building. Amendments to the Aragon Design Code may be made by the city council following a recommendation of the planning board and a public hearing before the city council, without necessity for amending this chapter.

(a) *Building height limit.* No building shall exceed the following height limits: Type I Townhouses and Type III Park Houses shall not exceed fifty-five (55) feet or three and one-half (3½) stories. Type II Cottages, Type IV Sideyard House, Type V Small Cottage, and Type VI Row House shall not exceed forty-five (45) feet or two and one-half (2½) stories. No outbuilding shall exceed thirty-five (35) feet or two and one-half (2½) stories. Refer to Aragon Design Code.

(b) *Landscaping:*

1. Landscaping requirements in the GRD-1 district shall be based on Aragon Design Code.

2. All service areas (i.e., dumpsters or trash handling areas, service entrances or utility facilities, loading docks or space) must be screened from adjoining property and from public view by one (1) of the following:

- Fence or wall, six (6) feet high;
- Vegetation, six (6) feet high (within three (3) years);
- A combination of the above.

(c) Protection of trees. It is the intent of this section to recognize the contribution of shade trees and certain flowering trees to the overall character of the Aragon redevelopment area and to ensure the preservation of such trees as described below:

1. Any of the following species having a minimum trunk diameter of eight (8) inches (twenty-five and one-tenth (25.1) inches in circumference) at a height of one (1) foot above grade: Live Oak and Water Oak; Magnolia having a minimum trunk diameter of six (6) inches (eighteen and eight-tenths (18.8) inches in circumference) at a height of one (1) foot above grade, and;
2. Any of the following flowering trees with a minimum trunk diameter of four (4) inches (twelve and fifty-five one hundredths (12.55) inches in circumference) at a height of one (1) foot above grade: Redbud, Dogwood, and Crape myrtle.

   No person, organization, society, association or corporation, or any agent or representative thereof, directly or indirectly, shall cut down, destroy, undertake tree removal, or effectively destroy through damaging, any specimen or flowering tree, whether it be on private property or right-of-way within the GRD-1 district, without first having obtained a permit from the city to do so. Refer to section 12-6-7 for tree removal permit application procedures and guidelines.

(d) *Fences.* Original fences in the older sections of the city were constructed of wood with a paint finish in many varying ornamental designs, or may have been constructed of brick or wrought iron. The style of the fence and the materials used typically related directly to the style and type of materials used for the building on the property. Refer to Aragon Design Code for required types of fences at different locations.

On every corner lot on both public and private streets intersecting 9th Avenue a sight triangle described by the intersection of the projection of the outer curb (next to the driving lane) lines extended, and a line joining the points on those lines thirty (30) feet from said intersection shall be clear of any structure, solid waste container, parked vehicles, including recreational vehicles, or planting of such nature and dimension as to obstruct lateral vision, provided that this requirement shall generally not apply to tree trunks trimmed of foliage to eight (8) feet, and newly planted material with immature crown development allowing visibility, or a post, column, or similar structure that is no greater than one foot in cross-section diameter. Lateral vision shall be maintained between a height of three (3) feet and eight (8) feet above grade. All other streets and intersections within the GRD-1 district shall be exempt from the requirements of section 12-2-35, Required Visibility Triangle. In addition the following provisions apply:

1. Chain-link, exposed masonry block and barbed-wire are prohibited fence materials in the GRD-1 district. Approved materials will include but not necessarily be limited to wood, brick, stone (base only) and wrought iron, or stucco. Materials can be used in combination.
2. All wood or wrought iron fences shall be painted if the principal building is painted. Wood fences shall be constructed utilizing one of a variety of designs, especially a design that will reflect details similar to those on the building. It is recommended that the use of wrought iron or brick fences be constructed in conjunction with buildings that use masonry materials in their construction or at locations requiring them. "Dog ear pickets" are not acceptable. Refer to Architectural Standards in Aragon Design Code.

3. Fences in the required front yard will be no higher than four (4) feet and six (6) feet, six (6) inches in the side and rear yards. On corner lots, fences constructed within the required street side yard shall not exceed four (4) feet in height if the fence would obstruct the visibility from an adjacent residential driveway. Otherwise fences within the required street side yard may be built to a maximum of six (6) feet, six (6) inches.

(e) *Signage:*

• Informational signs—All informational signs, even if erected on private property, are subject to regulations contained in this section.

• Commercial signs—It is the intent of the Aragon redevelopment area to recapture the turn-of-the century feeling of commerce in Aragon's core neighborhood. To this end, special consideration will be given to a variety of painted signs on brick and stucco walls, building cornices, canopies and awnings, even on sidewalks and curbs.

• Sign style shall be complementary to the style of the building on the property. In the older sections of the city the support structure and trim work on a sign was typically ornamental, as well as functional.

Refer to sections 12-4-2 and 12-4-3 for general sign standards and criteria and for a description of sign area calculations. In addition to the prohibited signs listed below, all signs listed in section 12-4-7 are prohibited within the GRD-1 district. The design, color scheme and materials of all signs shall be subject to approval by the planning board. Only the following signs shall be permitted in the GRD-1 district.

1. Permitted signs.

   a. Temporary accessory signs.

      • One (1) non-illuminated sign advertising the sale, lease, or rental of the lot or building, said sign not exceeding two (2) square feet in area.

      • One (1) non-illuminated sign per street frontage, not more than thirty-two (32) square feet in area in connection with new construction work related to Aragon's development, community sites, parks, or Privateer's Alley.

   b. Permanent accessory signs.

      • Each mixed use or commercial property shall be limited to one (1) sign per lot for Type II through VI. The sign may be placed on the street side or alley frontage. Type I shall be limited to one (1) sign per street and one (1) for alley frontage. The sign may be projected from the building, a wall-mounted sign, or a painted sign. Signs projecting from a building or extending over public property shall maintain a clear height of nine (9) feet six (6) inches above the public property and shall not extend above the roof line on which it is attached. The sign may be mounted to or painted on the face of a wall of the building, hung from a bracket that is mounted to a wall of a building, or hung from other ornamental elements on the building. Attached or wall signs may be placed on the front or one (1) side of the building. The sign may be illuminated provided the source of light is not visible beyond the property line of the lot on which the sign is located.

      • Advertising display area:

        GRD-1, Type II through Type VI residential home occupation and mixed use lots are not to exceed ten (10) square feet.

        GRD-1, Type I commercial lots are not to exceed thirty-five (35) square feet per street front.

A combination of two (2) attached wall signs may be used, but shall not exceed a total of thirty-five (35) square feet.

If fronting an alley the size shall not exceed twelve (12) square feet.

- One (1) non-illuminated nameplate designating the name of the occupant of the property; the nameplate shall not be larger than three (3) square feet and shall be attached flat against the wall of the building.
- Municipal or state installed directional signs, historical markers and other signs of a general public interest when approved by the mayor and board.

2. Prohibited signs.

a. Any sign using plastic materials for lettering or background.

b. Internally illuminated signs.

c. Portable signs.

d. Nonaccessory signs.

e. Back lit canvas awnings.

f. Flashing, strobe, or neon signs.

g. Neon signs placed inside a window.

(f) *Driveways and sidewalks.* The following regulations and standards apply to driveways and sidewalks in the GRD-1 District:

1. Driveways shall be allowed at locations indicated in the Aragon Design Code.

a. Where asphalt or concrete is used as a driveway material, the use of an appropriate coloring agent is allowed.

b. From the street pavement edge to the building setback the only materials allowed shall be brick, concrete pavers, colored or approved stamped concrete or poured concrete.

2. Sidewalks, construction, repair and maintenance of sidewalks are all required on public rights-of-way within the district. Sidewalks shall be constructed of concrete, a combination of concrete and either brick, concrete pavers or concrete poured and stamped with an ornamental pattern or smooth finish.

(g) *Off-street parking.* Off-street parking is required in the GRD-1 district. The requirements for off-street parking in this district recognize that the Aragon redevelopment area forms a transition neighborhood between the adjacent historic district to the south, where off-street parking is not required in the historic commercial zoning districts and the remainder of the Gateway Redevelopment District where conventional off-street parking requirements apply. The off-street parking requirements in the GRD-1 district reflect a land use pattern that encourages small scale commercial land uses adjacent to residential uses that are accessible through a network of pedestrian improvements, such as sidewalks, plazas and open spaces. Because parking areas were not a common land use in the older sections of the city, their location is set forth in the standards.

1. Residential uses.

Single-family and accessory unit—One (1) space/unit.

Townhouse and multi-family—One (1) space/unit.

Bed and breakfast—One (1) space per owner plus one (1) space/sleeping room.

Home occupation—One (1) space/non-family employee.

Community residential home—One (1) space/two (2) beds.

2. Public uses.

   Meeting hall, U.S. Post Office pavilion, buildings used exclusively for federal, state, county or city governments for public purposes—One (1) space/five hundred (500) square feet.

   Publicly owned or operated parks and playgrounds—None required.

   Churches, Sunday school buildings and parish houses—One (1) space/four (4) fixed seats.

3. Commercial uses.

   Antique shops—One (1) space/five hundred (500) square feet.

   Art galleries—One (1) space/five hundred (500) square feet.

   Bakeries (retail only)—One (1) space/five hundred (500) square feet.

   Barbershops and beauty shops—One (1) space/station and one (1) space/employee.

   Day care centers—One (1) space/employee plus one (1) space/classroom.

   Health clubs, spas and exercise centers—One (1) space/three hundred (300) square feet.

   Jewelers—One (1) space/five hundred (500) square feet.

   Laundry and dry cleaning pick-up stations—One (1) space/employee.

   Office buildings—One (1) space/five hundred (500) square feet.

   Restaurants (except drive-ins)—One (1) space/five hundred (500) square feet.

   Retail sales and services—One (1) space/five hundred (500) square feet.

   Retail food and drugstore—One (1) space/five hundred (500) square feet.

   Specialty shops—One (1) space/five hundred (500) square feet.

   Studios—One (1) space/fifty (50) square feet unless owner occupied.

4. For Type I Townhouse the uses identified in subsections (g)1., 2., and 3. above, on-street parking on Romana Street and 9th Avenue within five hundred (500) feet of the building may be used towards this requirement for nonemployee parking only. One (1) off-street parking space shall be required for each employee in the building.

5. Parking shall be screened from view of adjacent property and the street by fencing, landscaping or a combination of the two approved by the board, except in alley locations.

6. Materials for parking areas shall be concrete, concrete or brick pavers, asphalt, oyster shells, clam shells or #57 granite, pea gravel or marble chips. Where asphalt or concrete are used, the use of a coloring agent is allowed. The use of acceptable stamped patterns on poured concrete is encouraged.

7. For Type I Townhouse as an option to providing the required off-street parking as specified in subsections (g)1., 2., and 3. above, the required parking may be provided off-site by the owner/developer as specified in subsection 12-3-1(D).

(h) *Paint colors.* The planning board has adopted palettes of colors considered compatible with historic colors from several paint manufacturers that represent acceptable colors for use in the GRD-1 district. Samples of these palettes can be reviewed at the office of the building inspector or the Secretary of the GRD Board.

(i) *Outbuildings.* Outbuildings shall not exceed a maximum height of thirty-five (35) feet. The accessory structure shall match the style, roof pitch, and other design features of the main residential structure.

(j) *Architectural review standards (See Figure 12.2.2.B).*

1. Exterior lighting. Exterior lighting in the district will be post mounted street lights and building mounted lights adjacent to entryways or landscaping lights that are shielded. Lamps shall be typically ornamental in design and appropriate for the building style. Refer to Aragon Design Code, Architectural Standards.

    a. Exterior lighting fixtures must be appropriate for building style. Refer to Aragon Design Code, Architectural Standards.

    b. Exterior. Where exterior lighting is allowed to be detached from the building, the fixtures visible from off-premises (other than landscape lighting that is permitted) shall be post mounted and used adjacent to sidewalk or driveway entrances or around parking. If post mounted lights are used, they shall not exceed twelve (12) feet in height. Exterior lights shall be placed so that they do not shine directly at neighbors.

    c. The light element itself shall be a true gas lamp or shall be electrically operated using incandescent, halogen, metal halide or high pressure sodium lamps. Fluorescent and mercury vapor lamps are prohibited.

    d. The use of pole mounted high pressure sodium utility/security lights is prohibited.

2. Exterior building walls. Exterior treatments will be of wood, cedar shingles, wood clapboard, board and batten or board on board, fiber-cement smooth lap siding (Hardiplank), brick, stone for Craftsman style buildings, or stucco. Building wall finish must be appropriate for building style (Refer to Aragon Design Code, Architectural Standards). Individual windows and porch openings, when rectangular, shall be square or vertical proportion and have multiple lights, unless architectural style dictates other combinations. Chimneys shall be architecturally compatible with the style. All primary structures are required to elevate their first finished floor eighteen (18) to thirty-six (36) inches above grade, except Type I Townhouse. Base treatment shall be articulated.

    a. Vinyl or metal siding is prohibited.

    b. Wood siding and trim shall be finished with paint or stain, utilizing colors approved by the board.

    c. Foundation piers shall be exposed brick masonry or sand textured plaster over masonry. If in-fill between piers is proposed, piers shall be skirted and screened in an opaque manner. It is encouraged that in-fill panels of wood lattice be utilized or brick screens where appropriate.

3. Roofs. Roofs may be of metal, wood shake, dimensional asphalt shingle, slate, diamond shape asphalt shingles or single ply membrane or built up (for flat roofs), and must be of the appropriate architectural style. Roof pitch for sloped roofs above the main body shall be at least 8 on 12 on one- and two-story buildings and 6 on 12 on buildings with three (3) stories, unless architectural style dictates other slope, for example Craftsman. Eaves shall be appropriate for the architectural style. Shed roofs shall be allowed only against a principal building or perimeter wall. Flat roofs shall not be permitted without parapets, cornices, eaves overhangs boxed with modillions, dentrils, or other moldings. The maximum size of the roof deck, window's walks,

towers, turrets, etc. is two hundred (200) square feet, with the maximum height of ten (10) feet above the maximum allowable building height.

a. Eaves and soffits may be: wood, painted or stained; smooth finish or sand textured stucco soffits, if detailed appropriately; or fiber-cement, if detailed appropriately ("Hardisoffit" of Hardipanel" vertical siding panels). Eaves shall be appropriate for architectural style and type.

b. Flashing may be anodized or pre-finished aluminum, galvanized steel of naturally weathered copper.

c. Gutters and downspouts may be anodized or pre-finished aluminum, galvanized steel or naturally weathered copper.

4. Balconies and porches. Front porches are required for all Type II through Type V principal structures, and porches or balconies are required for Type I and Type VI principal structures. Type I principal structure balconies supported by columns, the outside edge of the columns shall be located at the outside edge of the public sidewalk, and the balcony shall not extend past the columns. Balconies shall not be cantilevered more than eight (8) feet. See Figure 12.2.2.B for balcony and porch dimensions.

5. Doors. Entrance doors with an in-fill of raised panels below and glazed panels above were typically used in older sections of the city. Single doorways with a glazed transom above allows for both light and ventilation to enter the entrance way or entrance foyer of the building. Double doors are usually associated with a larger home or building layout.

a. Doors are to be appropriate for building style and type. Entrance doors shall be fabricated of solid wood, metal, or fiberglass. Refer to Aragon Design Code, Architectural Standards and Architectural Styles.

6. Windows. Individual windows shall have vertical proportion.

a. Windows are to be fabricated of wood or vinyl clad wood windows. Solid vinyl windows may be used if the components (jamb, sash, frame, sill, etc.) are sized and proportioned to duplicate wood. Steel or aluminum windows are prohibited.

b. All individual windows shall conform to vertical proportions of not less than 1:1.5, unless architectural styles dictate otherwise. Assemblage of complying window units to create large window openings is acceptable. Kitchen and bathroom windows are considered exceptions and are not regulated by vertical proportions, but are subject to approval if they detract from the overall vertical orientation.

c. Window sections shall be appropriate for style. Refer to Aragon Design Code.

d. The window frame will be given a paint finish appropriate to the color scheme of the exterior of the building.

e. Window trim or casing is to be a nominal five (5) inch member at all sides, head and sill.

f. Glass for use in windows shall typically be clear, but a light tinted glass will be given consideration by the planning board.

g. Highly reflected glazing is prohibited. Insulated glass units are encouraged.

7. Shutters. Shutters are an exterior ornamental and functional architectural feature that have traditionally been used on windows, and occasionally, on doors.

a. Shutters may be operable or fixed.

b. If shutters are to be used on a project, they must be dimensioned to the proper size so that they would completely cover the window both in width and height if they were closed.

c. The style of the shutters must be louvered, flat vertical boards or paneled boards, with final determination being based on compatibility with the overall building design.

d. Shutter to be fabricated of wood or vinyl.

e. Shutter are to be appropriate for building style and type. Refer to Aragon Design Code, Architectural Styles.

8. Chimneys. Chimneys constructed of brick masonry, exposed or cement plastered, are architecturally compatible.

a. The chimney or chimneys are to be constructed of masonry with the exposed surface to be brick or sand textured plaster. Rough texture stucco is prohibited.

b. The finished exposed surface of chimneys are to be left natural without any paint finish, unless the chimney is plastered or stuccoed.

c. Flashing shall consist of galvanized steel, copper sheet metal or painted aluminum.

d. The extent of simplicity or ornamentation shall be commensurate with the overall style and size of the building on which the chimney is constructed.

9. Trim and miscellaneous ornament.

a. Trim and ornament, where used, is to be fabricated of wood, stucco or stone.

b. Trim and ornament will be painted to match, or be coordinated with, door and window casings, porch railings, porch columns, and basic projecting elements of the building.

10. Miscellaneous mechanical equipment.

a. Air conditioning condensing units shall not be mounted on any roof where they are visible from any street.

b. Air conditioning condensing units that are mounted on the ground shall be in either side yards or rear yards.

c. Visual screening consisting of ornamental fencing or landscaping shall be installed around all air conditioning condensing units to conceal them from view from any adjacent street or property owner.

d. Exhaust fans or other building penetrations as may be required by other authorities shall be allowed to penetrate the wall or the roof but only in locations where they can be concealed from view from any street. No penetrations shall be allowed on the front of the building. They may be allowed on side walls if they are properly screened. It is desirable that any penetrations occur on rear walls or the rear side of roofs.

11. Accessibility ramps and outdoor stairs.

a. Whenever possible, accessibility ramps and outdoor stairways shall be located to the side or the rear of the property.

b. The design of accessibility ramps and outdoor stairs shall be consistent with the architectural style of the building.

c. Building elements, materials and construction methods shall be consistent with the existing structure.

12. Outbuildings.

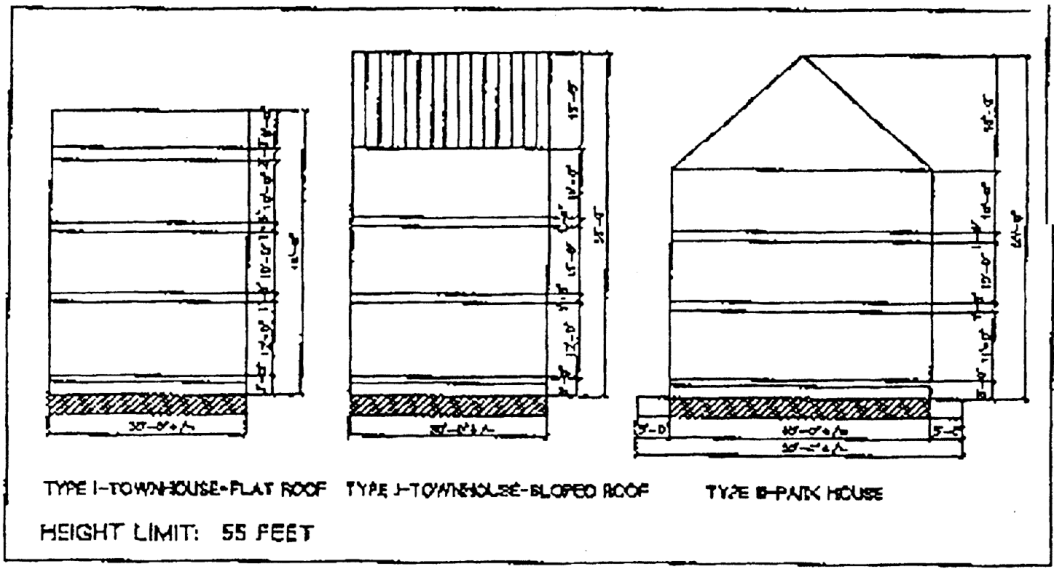
a. Outbuildings shall be detailed in a manner similar to the house. Detached garages are strongly encouraged.

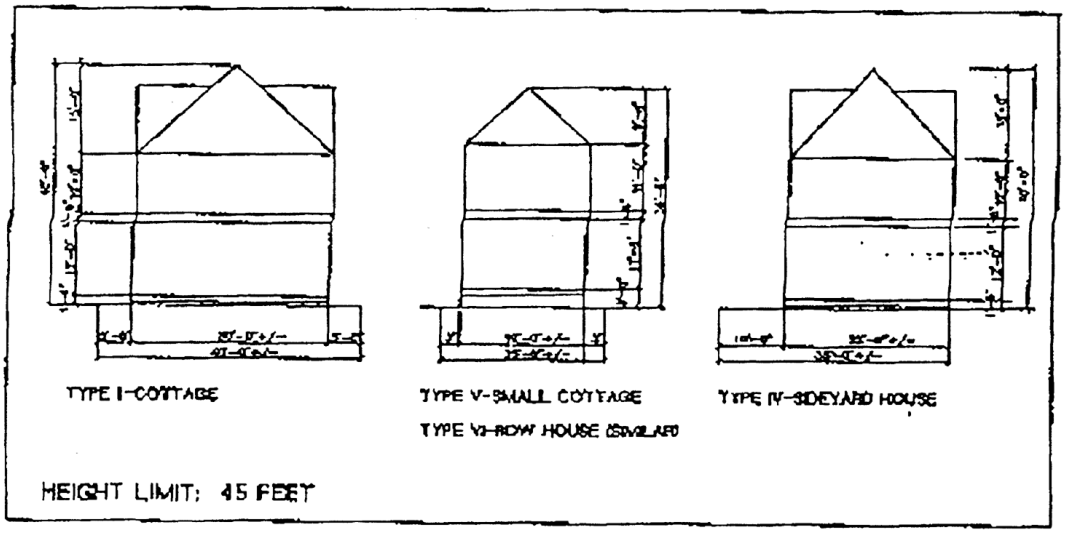
b. Accessory dwelling units are permitted and encouraged, and shall be detailed in a manner similar to the house.

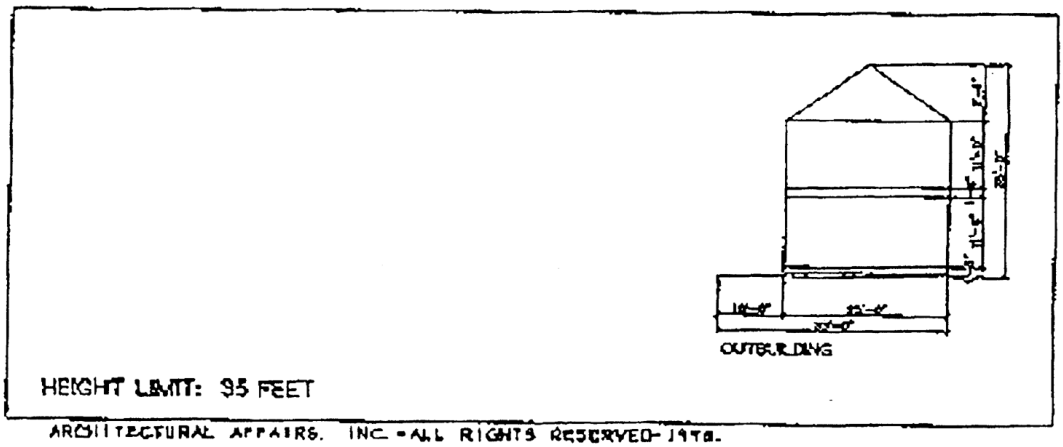
(k) Additional regulations. In addition to the regulations established above in section 12-2-10(B)(5)(a) through (j), any permitted use within the GRD-1 zoning district where alcoholic beverages are ordinarily sold is subject to the requirements of Chapter 7-4, Alcoholic Beverages, of this Code.

(6) *Procedures for review of renovation, alterations, and additions to structures within the GRD-1 district.* The regulations and standards established in subsections 12-2-12(b)(1) through (5) above, shall apply to all plans for the renovation, alteration and addition to structures within the GRD-1 district.

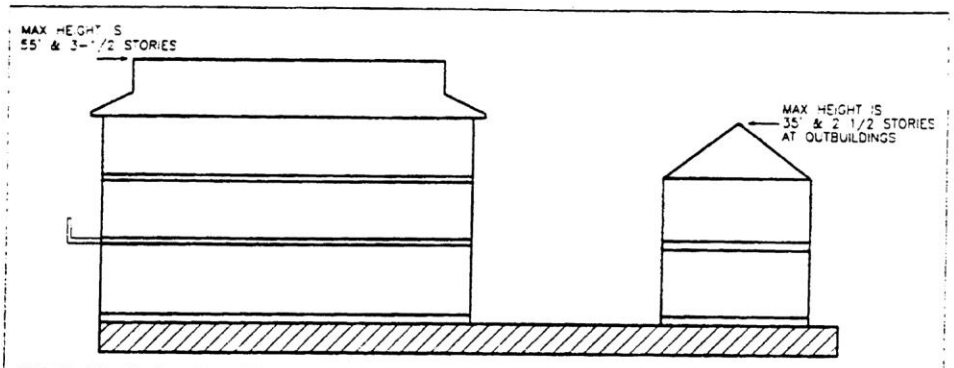
a. Abbreviated review. Sign requests, paint colors, fencing, and emergency repairs that are consistent with the regulations and standards set forth in subsection 12-2-12(B) may be approved by letter to the building official from the board secretary and the chairperson of the planning board. If agreement cannot be reached as it pertains to such request for abbreviated review by the board secretary and chairperson, then the matter will be referred to the entire board for a decision.





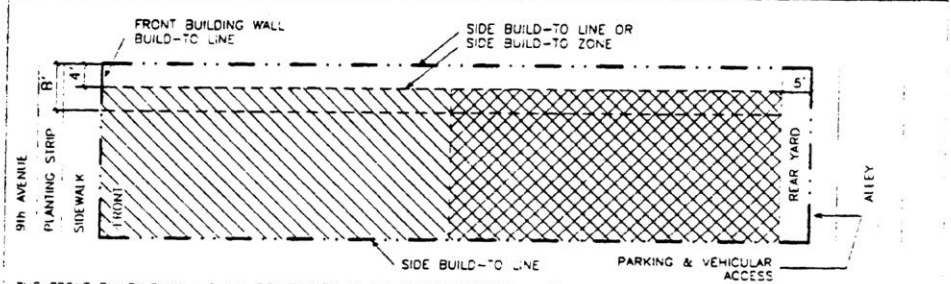


ARAGON MAXIMUM HEIGHTS



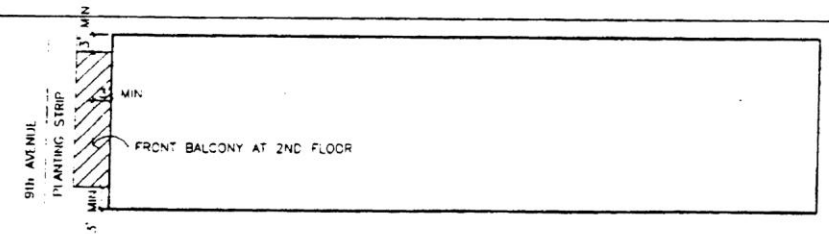
THE PRINCIPAL BUILDING SHALL BE NO HIGHER THAN 55 FEET AND HAVE A MINIMUM OF TWO STORIES. MINIMUM HEIGHT FOR PRINCIPAL BUILDING IS 26 FEET.
OUTBUILDINGS SHALL BE NO HIGHER THAN 35 FEET.

HEIGHT



THE FRONT BUILDING WALL SHALL BE LOCATED AT THE FRONT PROPERTY LINE.
SIDE BUILD-TO LINE ON ONE SIDE IS THE PROPERTY LINE. OTHER SIDE MUST BUILD TO EITHER THE PROPERTY LINE OR BUILD TO BETWEEN 4 AND 8 FEET FROM THE PROPERTY LINE. OWNER MAY SELECT WHICH SIDE TO USE FOR BUILD-TO LINE. THE REAR SETBACK IS 5 FEET; CANTILEVERED BALCONIES CAN ENCROACH INTO REAR SETBACK.
OUTBUILDINGS, PARKING, AND VEHICULAR ACCESS ARE LOCATED AT THE REAR 50% OF THE SITE (ALLEY).
TOTAL LOT COVERAGE OF IMPERVIOUS AREA SHALL NOT EXCEED 80% OF THE LOT.

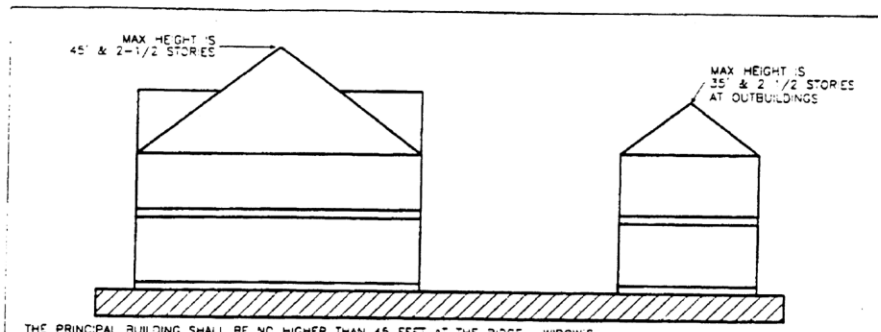
SITING — PRINCIPAL BUILDING ZONE — OUTBUILDING ZONE



BALCONIES ARE REQUIRED ALONG THE FRONT OF THE BUILDING AND SHALL BE CONSTRUCTED WITH THE FOLLOWING DIMENSIONS:
BALCONIES CONSTRUCTED WITH A CANTILEVERED DESIGN (NO VERTICAL SUPPORTS TO THE GROUND) SHALL BE A MINIMUM OF 3 FEET DEEP AND SHALL NOT EXTEND BEYOND THE OUTSIDE EDGE OF THE PUBLIC SIDEWALK.
BALCONIES CONSTRUCTED WITH VERTICAL SUPPORTS TO THE GROUND SHALL NOT EXTEND BEYOND THE OUTSIDE EDGE OF THE PUBLIC SIDEWALK AND THE VERTICAL SUPPORTS SHALL BE PLACED ON THE OUTSIDE EDGE OF THE PUBLIC SIDEWALK.
FRONT BALCONIES SHALL NOT BE LOCATED CLOSER THAN 3 FEET FROM THE SIDE PROPERTY LINE EXCEPT AT SIDE STREET PROPERTY LINES AT CORNER LOTS.
NOTE: TWO LOTS CAN BE CONSOLIDATED FOR THE PURPOSE OF CONSTRUCTING A SINGLE BUILDING. THE MINIMUM NUMBER OF UNITS MUST EQUAL THE NUMBER OF LOTS.

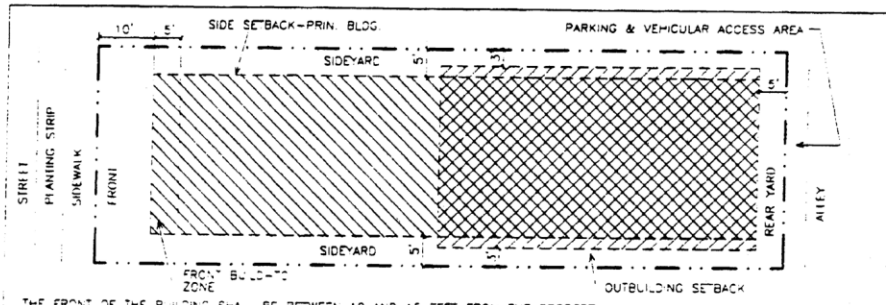
ELEMENTS

ARAGON TOWNHOUSE—TYPE I



THE PRINCIPAL BUILDING SHALL BE NO HIGHER THAN 45 FEET AT THE RIDGE. WIDOW'S WALKS, ROOF DECKS, TOWERS, TURRETS, AND CUPOLAS CAN BE 10 FEET ABOVE MAXIMUM ALLOWABLE HEIGHT. THE MINIMUM DISTANCE FROM GRADE TO 1ST FLOOR CEILING HEIGHT SHALL BE 13 FEET 6 INCHES AT PRINCIPAL BUILDING.
OUTBUILDINGS SHALL BE NO HIGHER THAN 35 FEET AT THE RIDGE.

HEIGHT

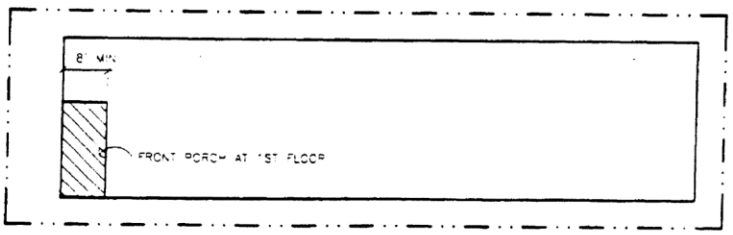


THE FRONT OF THE BUILDING SHALL BE BETWEEN 10 AND 15 FEET FROM THE PROPERTY LINE. THE BUILDING SHALL BE BUILT TO AT LEAST 50% OF THE LOT WIDTH AT THE FRONT BUILD-TO ZONE. SIDE SETBACK FOR PRINCIPAL BUILDING IS 5 FEET AND FOR OUTBUILDINGS IS 3 FEET.
THE REAR SETBACK IS 5 FEET; CANTILEVERED BALCONIES CAN ENCROACH INTO THE REAR SETBACK.
OUTBUILDINGS, PARKING, AND VEHICULAR ACCESS ARE LOCATED AT THE REAR 50% OF THE SITE (ALLEY).
TOTAL LOT COVERAGE OF IMPERVIOUS AREA SHALL NOT EXCEED 75% OF THE LOT.

SITING

PRINCIPAL BUILDING ZONE

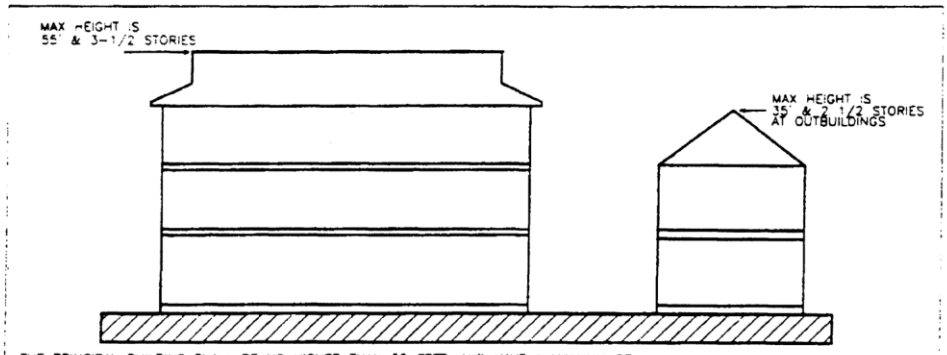
OUTBUILDING ZONE



A FRONT PORCH IS REQUIRED ON THE 1ST FLOOR.
THE PORCH SHALL BE AT LEAST 8 FEET DEEP. THE WIDTH SHALL BE AT LEAST 60% OF THE WIDTH OF THE BUILDING.

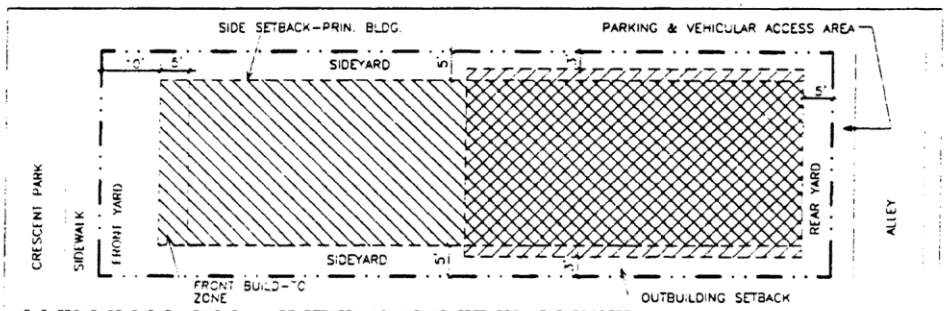
ELEMENTS

ARAGON COTTAGE—TYPE II



THE PRINCIPAL BUILDING SHALL BE NO HIGHER THAN 55 FEET, AND HAVE A MINIMUM OF TWO STORIES. THE MINIMUM DISTANCE FROM GRADE TO 2ND STORY CEILING HEIGHT SHALL BE 21 FEET 6 INCHES AT PRINCIPAL BUILDING.
OUTBUILDINGS SHALL BE NO HIGHER THAN 35 FEET AT THE RIDGE

HEIGHT

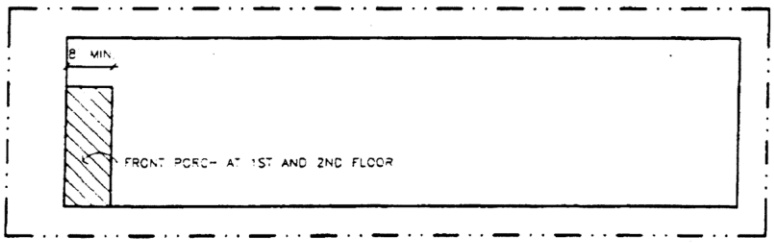


THE FRONT OF THE BUILDING SHALL BE BETWEEN 10 AND 15 FEET FROM THE PROPERTY LINE. THE BUILDING SHALL BE BUILT TO AT LEAST 50% OF THE LOT WIDTH AT THE FRONT BUILD-TO ZONE. SIDE SETBACK FOR PRINCIPAL BUILDING IS 5 FEET AND FOR OUTBUILDINGS IS 3 FEET.
THE REAR SETBACK IS 5 FEET; CANTILEVERED BALCONIES CAN ENCROACH INTO THE REAR SETBACK.
OUTBUILDINGS, PARKING, AND VEHICULAR ACCESS ARE LOCATED AT THE REAR 50% OF THE SITE (ALLEY).
TOTAL LOT COVERAGE OF IMPERVIOUS AREA SHALL NOT EXCEED 75% OF THE LOT.

SITING

PRINCIPAL BUILDING ZONE

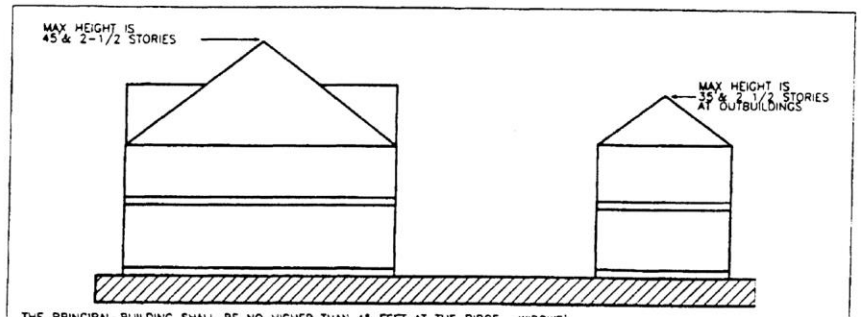
OUTBUILDING ZONE



A FRONT PORCH IS REQUIRED AT BOTH THE 1ST AND 2ND FLOORS OF THE BUILDING.
THE PORCH SHALL BE AT LEAST 8 FEET DEEP. THE WIDTH SHALL BE AT LEAST 75% OF THE WIDTH OF THE BUILDING.

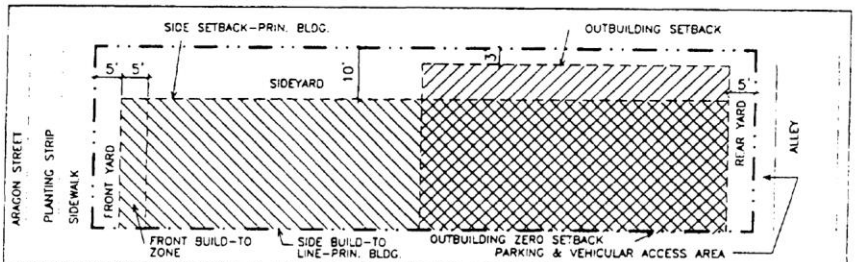
ELEMENTS

ARAGON PARK HOUSE—TYPE III



THE PRINCIPAL BUILDING SHALL BE NO HIGHER THAN 45 FEET AT THE RIDGE. WIDOWS' WALKS, ROOF DECKS, TOWERS, TURRETS, AND CUPOLAS CAN BE 10 FEET ABOVE MAXIMUM ALLOWABLE HEIGHT. THE MINIMUM DISTANCE FROM GRADE TO 1ST STORY CEILING HEIGHT SHALL BE 13 FEET 6 INCHES AT PRINCIPAL BUILDING.
OUTBUILDINGS SHALL BE NO HIGHER THAN 35 FEET AT THE RIDGE.

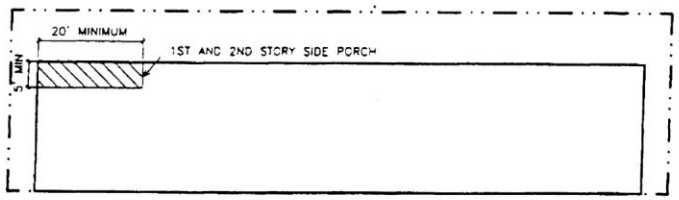
HEIGHT



THE FRONT OF THE BUILDING SHALL BE BETWEEN 5 AND 10 FEET FROM THE PROPERTY LINE. THE BUILDING SHALL BE BUILT TO AT LEAST 60% OF THE LOT WIDTH AT THE FRONT BUILD–TO ZONE. FOR PRINCIPAL BUILDING, THE SIDE BUILD–TO LINE IS THE PROPERTY LINE ON ONE SIDE; THE SIDE SETBACK ON THE OTHER SIDE IS 10 FEET. FOR OUTBUILDINGS, THERE IS NO SIDE SETBACK ON ONE SIDE; THE SIDE SETBACK ON THE OTHER SIDE IS 3 FEET.
THE REAR SETBACK IS 5 FEET; CANTILEVERED BALCONIES CAN ENCROACH INTO THE REAR SETBACK.
OUTBUILDINGS, PARKING, AND VEHICULAR ACCESS ARE LOCATED AT THE REAR 50% OF THE SITE (ALLEY).
TOTAL LOT COVERAGE OF IMPERVIOUS AREA SHALL NOT EXCEED 75% OF THE LOT.

A NON–EXCLUSIVE EASEMENT NOT TO EXCEED 3'–0" IS GRANTED ON THE LOT ADJACENT TO BUILD–TO LINE PROPERTY LINE FOR ENCROACHMENTS INCLUDING ROOF OVERHANGS, DOWNSPOUTS, AND FOUNDATION FOOTINGS, AND FOR MAINTENANCE OF EXTERIOR AND GARDEN WALLS ON PROPERTY LINE.

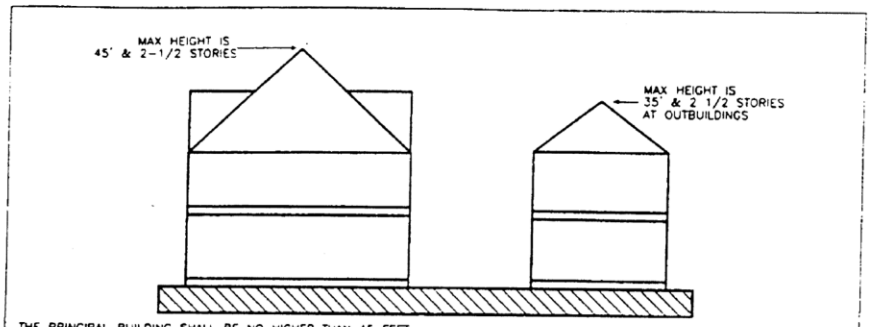
SITING — PRINCIPAL BUILDING ZONE — OUTBUILDING ZONE



A SIDEYARD PORCH IS REQUIRED ALONG THE SIDE OF THE BUILDING AT BOTH THE 1ST FLOOR AND 2ND FLOOR FOR 2 STORY BUILDINGS AND ON THE FIRST FLOOR AT 1 STORY BUILDINGS. THE PORCH SHALL BE AT LEAST 5 FEET WIDE AND SHALL EXTEND FROM THE FRONT FACADE AT LEAST 20 FEET DEEP, ALONG THE SIDE OF THE BUILDING.

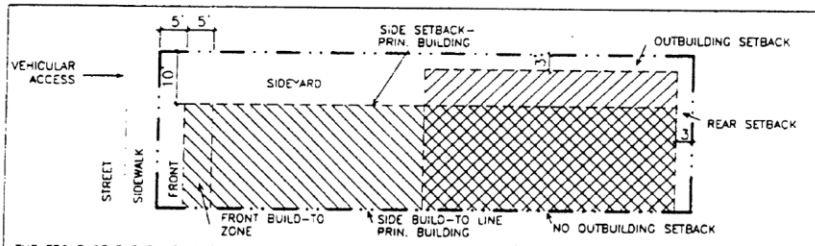
ELEMENTS

ARAGON SIDEYARD HOUSE WITH ALLEY ACCESS—TYPE IVA



THE PRINCIPAL BUILDING SHALL BE NO HIGHER THAN 45 FEET.
THE MINIMUM DISTANCE FROM GRADE TO 1ST FLOOR CEILING HEIGHT SHALL BE 13 FEET 6 INCHES AT PRINCIPAL BUILDING.
OUTBUILDINGS SHALL BE NO HIGHER THAN 35 FEET AT THE RIDGE.

HEIGHT



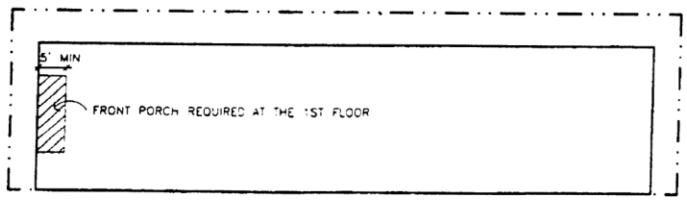
THE FRONT OF THE BUILDING SHALL BE BETWEEN 5 AND 10 FEET FROM THE PROPERTY LINE.
THE BUILDING SHALL BE BUILT TO AT LEAST 50% OF THE LOT WIDTH AT THE FRONT BUILD-TO ZONE.
FOR PRINCIPAL BUILDING, THE SIDE BUILD-TO LINE IS THE PROPERTY LINE ON ONE SIDE;
THE SIDE SETBACK ON THE OTHER SIDE IS 10 FEET. FOR OUTBUILDINGS, THERE IS NO SIDE SETBACK ON ONE SIDE; THE SIDE SETBACK ON THE OTHER IS 3 FEET. THE REAR SETBACK IS 3 FEET.
WITHIN THE REQUIRED SIDE YARD, A DRIVEWAY ACCESS SHALL BE REQUIRED, UNLESS DRIVEWAY ACCESS IS SHARED BETWEEN LOTS WITH A DEDICATED SHARED ACCESS EASEMENT. VEHICULAR ACCESS IS FROM THE STREET.
PARKING IS LOCATED IN THE SIDE YARD OR REAR YARD. OUTBUILDINGS ARE LOCATED AT THE REAR 50% OF THE LOT.
TOTAL LOT COVERAGE OF IMPERVIOUS AREA SHALL NOT EXCEED 75% OF THE LOT.

A NON-EXCLUSIVE EASEMENT NOT TO EXCEED 3'-0" IS GRANTED ON THE LOT ADJACENT TO BUILD-TO LINE PROPERTY LINE FOR ENCROACHMENTS INCLUDING ROOF OVERHANGS, DOWNSPOUTS, AND FOUNDATION FOOTINGS, AND FOR MAINTENANCE OF EXTERIOR AND GARDEN WALLS ON PROPERTY LINE.

SITING-INTERIOR LOTS

PRINCIPAL BUILDING ZONE

OUTBUILDING ZONE

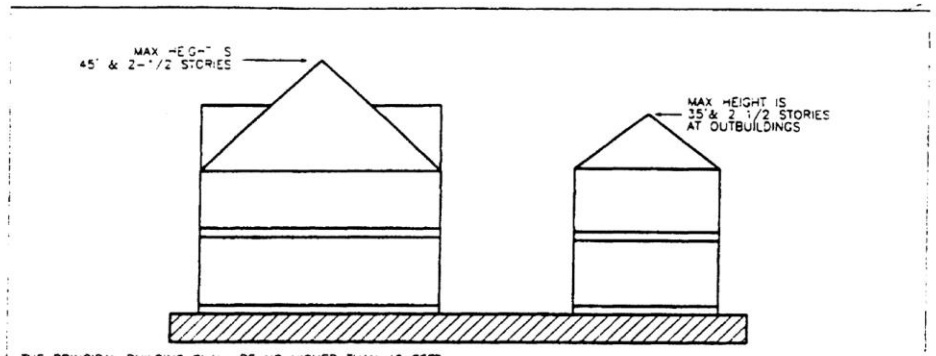


A FRONT PORCH IS REQUIRED ALONG THE FRONT OF THE BUILDING ON THE 1ST FLOOR. THE PORCH SHALL BE AT LEAST 5 FEET DEEP. THE WIDTH SHALL BE A MINIMUM OF 50% OF THE WIDTH OF THE BUILDING.

NOTE
FOR LOTS DESIGNATED AS "FAMILY GROUP," UP TO FOUR LOTS COULD BE CONSOLIDATED FOR THE PURPOSE OF CONSTRUCTING MULTIPLE UNITS WHICH SHARE A COURTYARD, PARKING, OR OTHER CENTRAL SPACE. THE MINIMUM NUMBER OF UNITS MUST EQUAL THE NUMBER OF LOTS CONSOLIDATED.

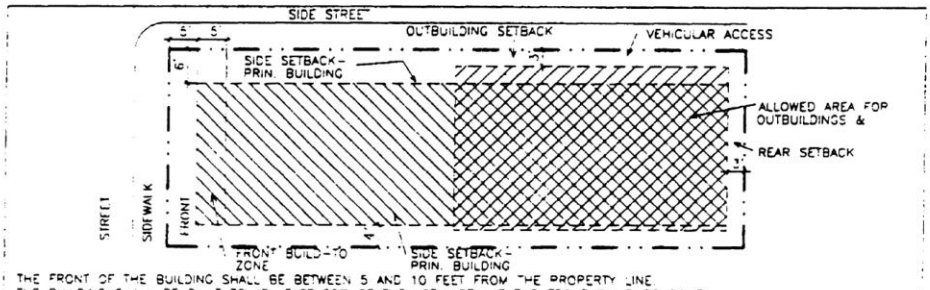
ELEMENTS

ARAGON SIDEYARD HOUSE WITH STREET ACCESS—TYPE IVB-INTERIOR LOTS



THE PRINCIPAL BUILDING SHALL BE NO HIGHER THAN 45 FEET.
OUTBUILDINGS SHALL BE NO HIGHER THAN 35 FEET AT THE RIDGE.
THE MINIMUM DISTANCE FROM GRADE TO 1ST FLOOR CEILING HEIGHT SHALL BE 13'-6" AT PRINCIPAL BUILDING.

HEIGHT

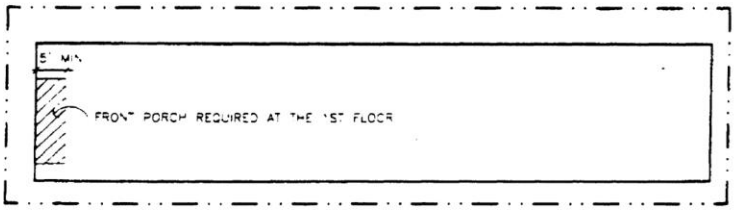


THE FRONT OF THE BUILDING SHALL BE BETWEEN 5 AND 10 FEET FROM THE PROPERTY LINE.
THE BUILDING SHALL BE BUILT TO AT LEAST 50% OF THE LOT WIDTH AT THE FRONT BUILD-TO ZONE.
FOR PRINCIPAL BUILDING, THE SIDE SETBACK IS 6 FEET AT THE SIDE STREET AND 4 FEET FOR THE OTHER SIDE. FOR OUTBUILDINGS, THE SIDE SETBACK IS 3 FEET.
THE REAR SETBACK IS 3 FEET.
A DRIVEWAY ACCESS SHALL BE REQUIRED FROM THE SIDE STREET, UNLESS DRIVEWAY ACCESS IS SHARED BETWEEN LOTS WITH A DEDICATED SHARED ACCESS EASEMENT.
OUTBUILDINGS, PARKING, AND VEHICULAR ACCESS ARE LOCATED AT THE REAR 50% OF THE SITE.
TOTAL LOT COVERAGE OF IMPERVIOUS AREA SHALL NOT EXCEED 75% OF THE LOT.

SITING—CORNER LOTS

PRINCIPAL BUILDING ZONE

OUTBUILDING ZONE

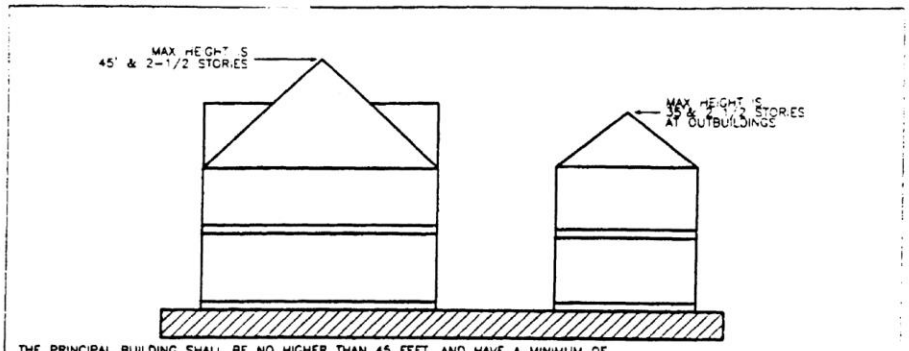


A FRONT PORCH IS REQUIRED ALONG THE FRONT OF THE BUILDING ON THE 1ST FLOOR. THE PORCH SHALL BE AT LEAST 5 FEET DEEP. THE WIDTH SHALL BE A MINIMUM OF 50% OF THE WIDTH OF THE BUILDING.

NOTE:
FOR LOTS DESIGNATED AS FAMILY GROUP, UP TO FOUR LOTS COULD BE CONSOLIDATED FOR THE PURPOSE OF CONSTRUCTING MULTIPLE UNITS WHICH SHARE A COURTYARD, PARKING, OR OTHER CENTRAL SPACE. THE MINIMUM NUMBER OF UNITS MUST EQUAL THE NUMBER OF LOTS CONSOLIDATED.

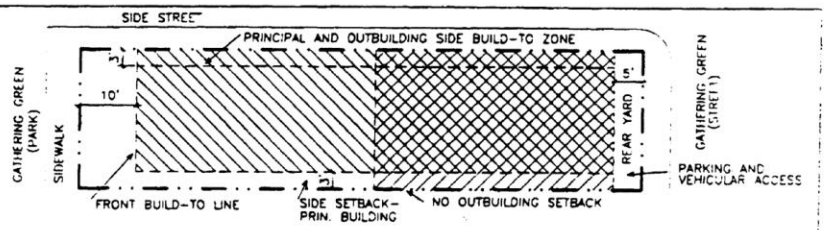
ELEMENTS

ARAGON SIDEYARD HOUSE WITH STREET ACCESS—TYPE IVB-CORNER LOTS



THE PRINCIPAL BUILDING SHALL BE NO HIGHER THAN 45 FEET, AND HAVE A MINIMUM OF TWO STORIES. OUTBUILDINGS SHALL BE NO HIGHER THAN 35 FEET AT THE RIDGE. THE MINIMUM DISTANCE FROM GRADE TO 2ND FLOOR CEILING HEIGHT SHALL BE 24 FEET 6 INCHES AT PRINCIPAL BUILDING.

HEIGHT

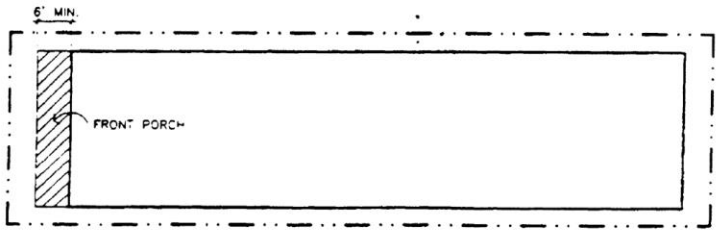


THE FRONT OF THE BUILDING SHALL BE LOCATED 10 FEET FROM THE PARK FRONT PROPERTY LINE. THE BUILDING SHALL BE BUILT TO AT LEAST 60% OF THE LOT WIDTH AT THE FRONT SETBACK. FOR PRINCIPAL BUILDING AND OUTBUILDINGS, THE SIDE BUILD-TO ZONE IS UP TO 3 FEET FROM THE NORTH PROPERTY LINE. THE SIDE SETBACK ON THE OTHER SIDE IS 3 FEET FOR PRINCIPAL BUILDING. FOR OUTBUILDINGS, THERE IS NO SETBACK. THE REAR SETBACK IS 5 FEET; CANTILEVERED BALCONIES CAN ENCROACH INTO REAR SETBACK. OUTBUILDINGS, PARKING, AND VEHICULAR ACCESS ARE LOCATED AT THE REAR 50% OF THE SITE (STREET). TOTAL LOT COVERAGE OF IMPERVIOUS AREA SHALL NOT EXCEED 75% OF THE LOT.

SITING—NORTH CORNER LOTS

PRINCIPAL BUILDING ZONE

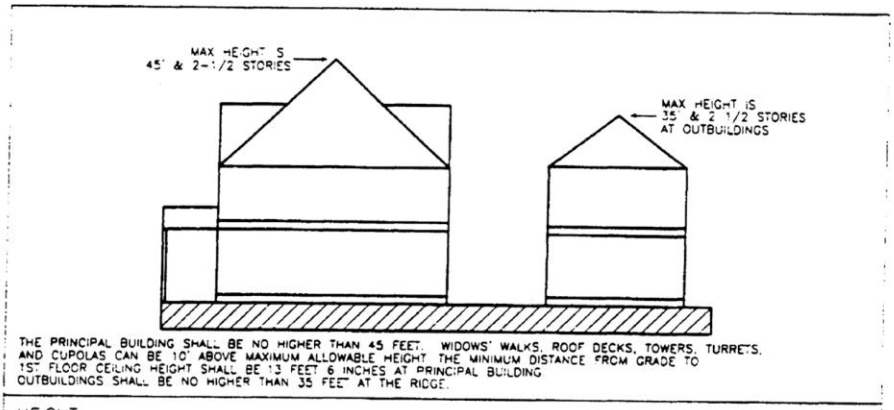
OUTBUILDING ZONE



A FRONT PORCH IS REQUIRED ON THE 1ST AND 2ND FLOORS. THE PORCH SHALL BE AT LEAST 6 FEET DEEP. THE WIDTH SHALL BE 100% OF THE WIDTH OF THE BUILDING.

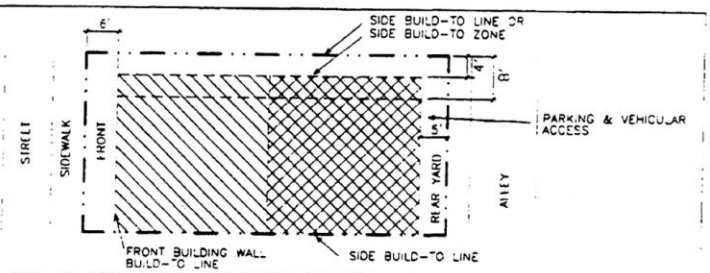
ELEMENTS

ARAGON SMALL COTTAGE—TYPE V-NORTH CORNER LOTS



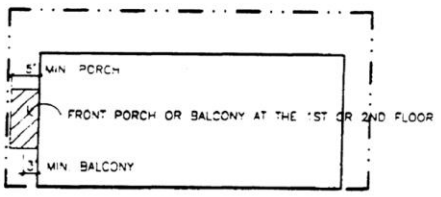
THE PRINCIPAL BUILDING SHALL BE NO HIGHER THAN 45 FEET. WIDOWS' WALKS, ROOF DECKS, TOWERS, TURRETS, AND CUPOLAS CAN BE 10' ABOVE MAXIMUM ALLOWABLE HEIGHT. THE MINIMUM DISTANCE FROM GRADE TO 1ST FLOOR CEILING HEIGHT SHALL BE 13 FEET 6 INCHES AT PRINCIPAL BUILDING. OUTBUILDINGS SHALL BE NO HIGHER THAN 35 FEET AT THE RIDGE.

HEIGHT



THE FRONT BUILDING WALL SHALL BE LOCATED 6 FEET FROM THE FRONT PROPERTY LINE.
THERE IS NO FRONT SETBACK FOR OPEN PORCHES AND BALCONIES.
SIDE BUILD-TO LINE ON ONE SIDE IS THE PROPERTY LINE. OTHER SIDE MUST EITHER BUILD TO PROPERTY LINE OR BUILD TO BETWEEN 4 AND 8 FEET FROM THE PROPERTY LINE. OWNER MAY SELECT WHICH SIDE TO USE FOR BUILD-TO LINE. THE REAR SETBACK IS 5 FEET. CANTILEVERED BALCONIES CAN ENCROACH INTO REAR SETBACK.
OUTBUILDINGS, PARKING, AND VEHICULAR ACCESS ARE LOCATED AT THE REAR 50% OF THE SITE (ALLEY).
TOTAL LOT COVERAGE OF IMPERVIOUS AREA SHALL NOT EXCEED 80% OF THE LOT.

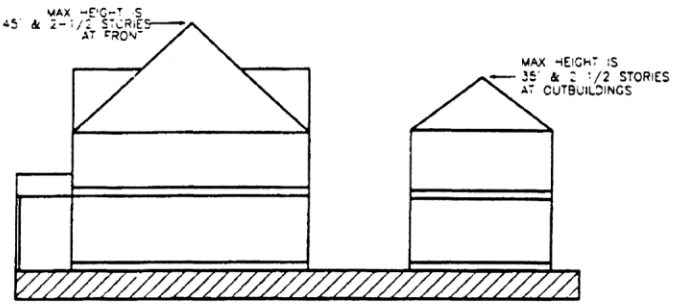
SITING-LOTS D-1 THRU D-5 PRINCIPAL BUILDING ZONE OUTBUILDING ZONE



A FRONT PORCH OR BALCONY IS REQUIRED ALONG THE FRONT OF THE BUILDING ON THE 1ST OR 2ND FLOOR. THE PORCH OR BALCONY SHALL BE LOCATED BETWEEN THE FRONT PROPERTY LINE AND THE FRONT BUILDING WALL BUILD-TO LINE. THE PORCH SHALL BE AT LEAST 5 FEET DEEP OR THE BALCONY SHALL BE AT LEAST 3 FEET DEEP. THE WIDTH SHALL BE A MINIMUM OF 25% OF THE WIDTH OF THE BUILDING.
FRONT PORCHES OR BALCONIES SHALL NOT BE LOCATED CLOSER THAN 3 FEET FROM THE SIDE PROPERTY LINE, EXCEPT AT SIDE STREET PROPERTY LINES AT CORNER LOTS.
NOTE:
FOR LOTS DESIGNATED AS "FAMILY GROUP" UP TO FOUR LOTS COULD BE CONSOLIDATED FOR THE PURPOSE OF CONSTRUCTING MULTIPLE UNITS WHICH SHARE A COURTYARD, PARKING, OR OTHER CENTRAL SPACE. THE MINIMUM NUMBER OF UNITS MUST EQUAL THE NUMBER OF LOTS CONSOLIDATED.

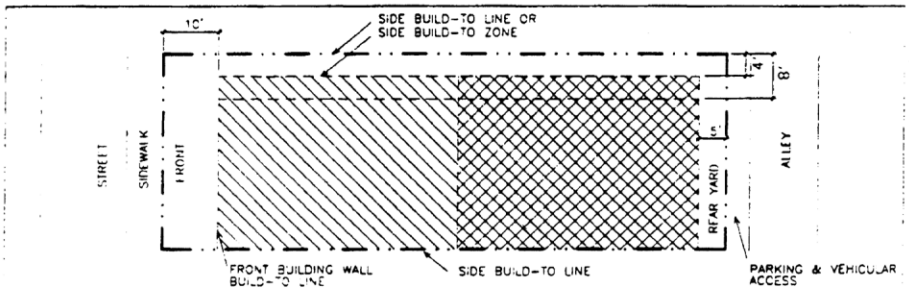
ELEMENTS

ARAGON ROW HOUSE—TYPE VI-LOTS D-1 THRU D-5



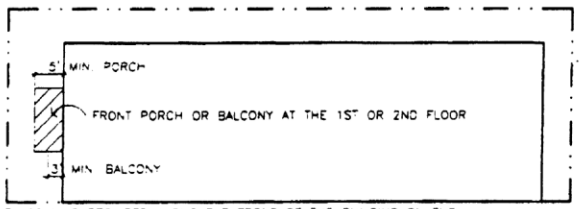
THE PRINCIPAL BUILDING SHALL BE NO HIGHER THAN 45 FEET. WIDOWS' WALKS, ROOF DECKS, TOWERS, TURRETS, AND CUPOLAS CAN BE 10' ABOVE MAXIMUM ALLOWABLE HEIGHT. OUTBUILDINGS SHALL BE NO HIGHER THAN 35 FEET AT THE RIDGE. THE MINIMUM DISTANCE FROM GRADE TO 1ST FLOOR CEILING HEIGHT SHALL BE 13 FEET 6 INCHES AT PRINCIPAL BLDG.

HEIGHT



THE FRONT BUILDING WALL SHALL BE LOCATED 10 FEET FROM THE FRONT PROPERTY LINE.
THERE IS NO FRONT SETBACK FOR OPEN PORCHES AND BALCONIES.
SIDE BUILD-TO LINE ON ONE SIDE IS THE PROPERTY LINE. OTHER SIDE MUST EITHER BUILD TO PROPERTY LINE OR BUILD TO BETWEEN 4 AND 8 FEET OF THE PROPERTY LINE. OWNER MAY SELECT WHICH SIDE TO USE AS THE BUILD-TO LINE. THE REAR SETBACK IS 5 FEET; CANTILEVERED BALCONIES CAN ENCROACH INTO REAR SETBACK.
OUTBUILDINGS, PARKING, AND VEHICULAR ACCESS ARE LOCATED AT THE REAR 50% OF THE SITE (ALLEY).
TOTAL LOT COVERAGE OF IMPERVIOUS AREA SHALL NOT EXCEED 80% OF THE LOT.

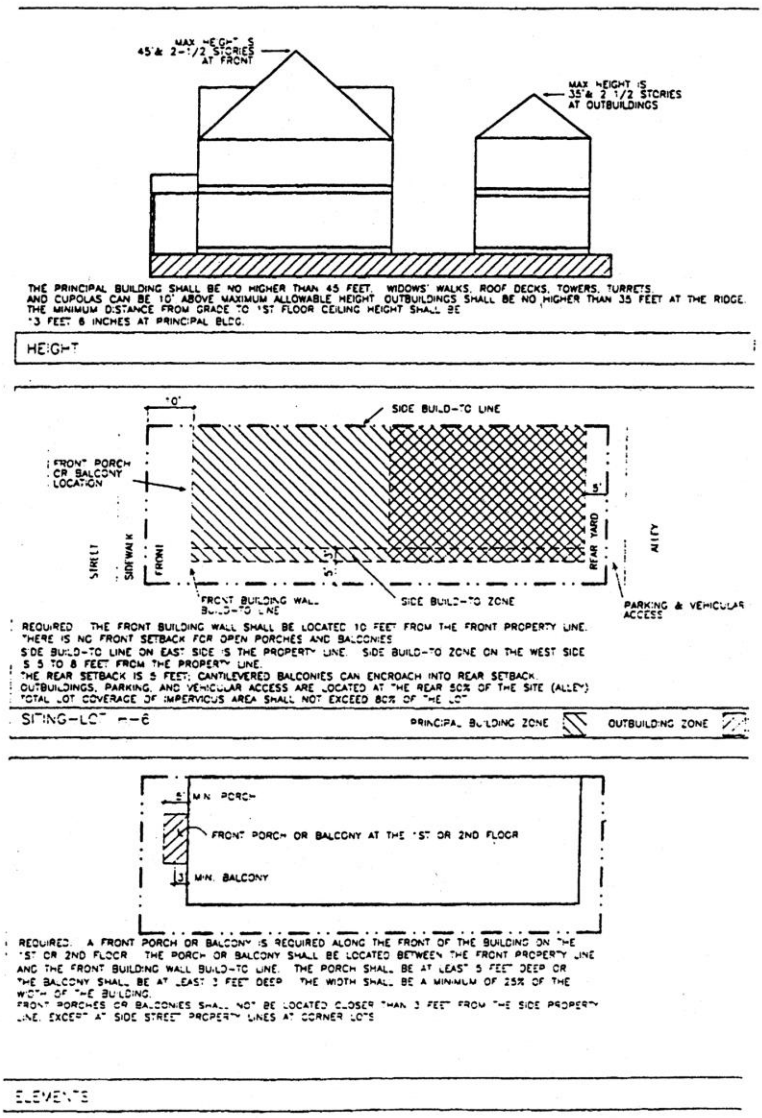
SITING-LOTS D-6 THRU 10 & H-7 THRU H-10 PRINCIPAL BUILDING ZONE OUTBUILDING ZONE



A FRONT PORCH OR BALCONY IS REQUIRED ALONG THE FRONT OF THE BUILDING ON THE 1ST OR 2ND FLOOR. THE PORCH OR BALCONY SHALL BE LOCATED BETWEEN THE FRONT PROPERTY LINE AND THE FRONT BUILDING WALL BUILD-TO LINE. THE PORCH SHALL BE AT LEAST 5 FEET DEEP OR THE BALCONY SHALL BE AT LEAST 3 FEET DEEP. THE WIDTH SHALL BE A MINIMUM OF 25% OF THE WIDTH OF THE BUILDING.
FRONT PORCHES OR BALCONIES SHALL NOT BE LOCATED CLOSER THAN 3 FEET FROM THE SIDE PROPERTY LINE, EXCEPT AT SIDE STREET PROPERTY LINES AT CORNER LOTS.

ELEMENTS

ARAGON ROW HOUSE—TYPE VI-LOTS D-6 THRU 10 & H-7 THRU H-10



ARAGON ROW HOUSE—TYPE VI-LOT H-6

(C) *WRD, waterfront redevelopment district.*

(1) *Purpose of district.* The waterfront redevelopment district is established to promote redevelopment of the city's downtown waterfront with a compatible mixture of water-dependent and water-related uses that preserve the unique shoreline vista and scenic opportunities, provide public access, create a cultural meeting place for the public, preserve the working waterfront activities historically located in the waterfront area, and encourage a high quality of site planning and architectural design. Site specific analysis of each development proposal within the district is intended to ensure that the scenic vistas and marine-oriented image of the district are maintained, that the development character of the waterfront is upgraded and that the boundaries of the adjacent special districts are positively reinforced.

(2) *Uses permitted.*

(a) Single-family residential (attached or detached) at a maximum density of seventeen and four-tenths (17.4) units per acre. Multi-family residential at a maximum density of sixty (60) dwelling units per acre.

(b) Home occupations, subject to regulations in section 12-2-33.

(c) Offices.

(d) Libraries and community centers opened to the public and buildings used exclusively by the federal, state, county and city government for public purposes.

(e) Hotels/motels.

(f) Marinas.

(g) Parking garages.

(h) The following retail sales and services:

1. Retail food and drug stores (including medical marijuana dispensaries and package liquor store).
2. Personal service shops.
3. Clothing stores.
4. Specialty shops.
5. Banks.
6. Bakeries whose products are sold at retail on the premises.
7. Antique shops.
8. Floral shops.
9. Health clubs, spa and exercise centers.
10. Laundromats.
11. Laundry and dry cleaning pick-up stations.
12. Restaurants.
13. Studios.
14. Art galleries.
15. Sale or rental of sporting goods or equipment including instructions in skiing, sailing, or scuba diving.
16. Boat rentals waterside only with limited upland storage.
17. Bars.
18. Commercial fishing.
19. Ferry and passenger terminals.
20. Cruise ship operations.

(i) Family day care homes licensed by the Florida Department of Children and Family Services as defined in the Florida Statutes.

(3) *Procedure for review of plans.*

(a) Plan submission. Every application to construct a new structure in the waterfront redevelopment district shall be subject to the development plan review and approval procedure established in section 12-2-81. Every application for a new certificate of

occupancy or a building permit to erect, construct, demolish, renovate or alter a building or sign, or exterior site work (i.e., paving and landscaping of off-street parking areas), located or to be located in the waterfront redevelopment district shall be accompanied with drawings or sketches with sufficient detail to show, as far as they relate to exterior appearances, the architectural design of the building, sign, or exterior work (both before and after the proposed work is done in cases of altering, renovating, demolishing or razing a building or structure) including proposed materials, textures and colors, and the plot plan or site layout including all site improvements or features such as walls, fences, walks, terraces, plantings, accessory buildings, paved areas, signs, lights, awnings, canopies and other appurtenances. All developments within the waterfront redevelopment district must comply with design standards as established in section 12-2-82.

(b) Review and approval. All plans shall be subject to the review and approval of the planning board established in Chapter 12-13. At the time of review the board may require that any aspect of the overall site plan that does not meet the standards established in this section be incorporated and brought into compliance within a time limit approved by the board. Review by the planning board of applications for zoning variances shall be as provided for under section 12-13-2(F)(f).

(c) Abbreviated review. Sign requests, paint colors, fencing, and emergency repairs that are consistent with the regulations and guidelines set forth in this section, may be approved by letter to the building official from the planning board secretary and the chairperson of the board. This provision is made in an effort to save the applicant and the board time for routine approval matters. If agreement cannot be reached as it pertains to such requests by the board secretary and chairperson, then the matter will be referred to the board for a decision.

(4) *Regulations.*

(a) Signs. The following provisions shall be applicable to signs in the district.

1. Number of signs. Each parcel shall be limited to one (1) sign per street frontage; provided, however, if there exists more than one establishment on the parcel, there may be one attached sign per establishment.

2. Signs extending over public property. Signs extending over public property shall maintain a clear height of nine (9) feet above the sidewalk and no part of such signs shall be closer than eighteen (18) inches to the vertical plane of the curb line or edge of the pavement.

3. Sign size and height limitations.

a. Attached signs:

Size: Ten (10) percent of the building elevation square footage (wall area) that fronts on a public street, not to exceed fifty (50) square feet. Buildings exceeding five (5) stories in height; one attached wall sign or combination of wall signs not to exceed two hundred (200) square feet and mounted on the fifth floor or above.

Height: No sign may extend above the roof line of the building to which it is attached. For the purposes of this section roof surfaces constructed at an angle of sixty-five (65) degrees or more from horizontal shall be regarded as walls.

b. Freestanding signs.

Size: Fifty (50) square feet.

Height: Ten (10) feet (top of sign).

4. Other permitted signs.

    a. Signs shall not exceed two (2) square feet in size.

    c. Official traffic signs or signals, informational signs erected by a government agency and temporary signs indicating danger.

5. Prohibited signs. Refer to section 12-4-7 for a description of prohibited signs. In addition the following signs are prohibited within the district:

    a. Portable signs.

    b. Signs that are abandoned or create a safety hazard. Abandoned signs are those advertising a business that becomes vacant and is unoccupied for a period of ninety (90) days or more.

    c. Signs that are not securely fixed on a permanent foundation.

    d. Strings of light bulbs, other than holiday decorations, streamers and pennants.

    e. Signs that present an optical illusion, incorporated projected images, or emit sound.

    f. Secondary advertising signs (i.e., signs that advertise a brand name product in addition to the name of the business).

6. Temporary signs. The following temporary signs shall be permitted in the district:

    a. Temporary banners indicating that a noncommercial special event such as a fair, carnival, festival or similar happening is to take place, are permitted with the following conditions: Such banners may be erected no sooner than two (2) weeks before the event and banners extending over street rights-of-way require approval from the mayor.

    b. One non-illuminated sign per street frontage advertising the sale, lease or rental of the lot or building upon which the sign is located. Such sign shall not exceed twelve (12) square feet in size, and shall be removed immediately after occupancy.

    c. One non-illuminated sign not more than fifty (50) square feet in area in connection with new construction work and displayed only during such time as the actual construction work is in progress.

(b) Off-street parking. The following off-street parking requirement shall apply to all lots, parcels, or tracts in the district: Off-street parking requirements in the waterfront redevelopment district shall be based on the requirements set forth in Chapter 12-3. The required parking may be provided off-site by the owner/developer as specified in subsection 12-3-1(D). Screening shall be provided along the edges of all parking areas visible from the street rights-of-way. This screening may take the form of:

- A solid wall or fence (chain-link fences are prohibited) with a minimum height of four (4) feet that is compatible in design and materials with on-site architecture and nearby development; or
- An earth berm approximately three (3) feet in height that is landscaped to provide positive screening effective within three (3) years; or
- A combination of walls or fences and landscape screening, or landscape screening designed to provide positive screening within three (3) years.

(c) Vehicular access. For each lot, tract or parcel under single ownership, the maximum number of access points shall not exceed two (2) per street frontage.

(d) Landscaping. Landscaping requirements in the district shall conform to the requirements of Chapter 12-6. All service areas (i.e., trash collection containers, compactors, loading

docks) shall be screened with at least seventy-five (75) percent opacity from the street and adjacent buildings by one of the following techniques:

- Fence or wall and gate, six (6) feet high;
- Vegetation, six (6) feet high (within three (3) years); or
- A combination of the above.

(e) Underground utility services. All new building construction or additions of floor area to existing structures shall be required to install underground utilities on the site.

(f) Lot coverage. The total coverage of the site including all structures, parking areas, driveways and all other impervious surfaces shall not exceed seventy-five (75) percent.

(g) Setback/height requirements. No building shall exceed a maximum height of sixty (60) feet in the waterfront redevelopment district.

1. *Shoreline setback/height requirements.* All buildings shall be set back a minimum of thirty (30) feet from the shoreline or the bulkhead line. At this minimum setback line, the building height may not exceed thirty-five (35) feet. Above thirty-five (35) feet in height, an additional one foot in building height may be permitted for each additional one (1) foot in setback with a maximum building height of sixty (60) feet. The minimum setback from the shoreline may be decreased by the planning board and the council during the review process to permit reuse of existing buildings, structures or foundations with a lesser setback.

2. *Main Street setback/height requirements.* All buildings shall be setback a minimum of sixty (60) feet from the centerline of Main Street. At this minimum setback line, the building height may not exceed sixty (60) feet.

(h) Additional regulations. In addition to the regulations established above in subsections 12-2-12(C)(4)(a) through (g), any permitted use within the WRD zoning district where alcoholic beverages are ordinarily sold is subject to the requirements of Chapter 7-4 of this Code.

(5) *Regulations.* All developments within the waterfront redevelopment district are encouraged to follow the design guidelines established in subsection 12-2-82(D). In addition, the following site planning guidelines should be taken into consideration in the required development plans.

(a) Site planning. The integration of site features such as building arrangement, landscaping, parking lot layout, public access points, building orientation, and scenic vantage points is critical in producing a pleasant and functional living or working environment. In reviewing development proposals, the following guidelines shall be taken into consideration:

1. *Maximum preservation of waterfront views.* Considering the waterfront location of the district, the placement of buildings, signs, service areas, parking and landscaping shall be planned to maximize the preservation of views of the bay and to protect the waterfront scenic open space character. To prevent the effect of a "wall" of development along the edge of the waterfront and adjacent streets, open space should be encouraged between buildings and under elevated buildings. Pedestrian circulation systems should be designed to form a convenient, interconnected network through buildings, landscaped open spaces and public walkways. The longer side of each building should be sited perpendicular to the water's edge in order to preserve water views from the street.

2. *Building orientation.* Buildings should be oriented to maximize the waterfront view potential within the district while maintaining quality facade treatment and design on the streetside. Structures should be positioned to provide viewing opportunities of the water and the shoreline edge between buildings. The location of solid waste receptacles, service entrances, loading docks, storage buildings and mechanical and air conditioning equipment and other items typically situated at the backside of

buildings should be discouraged within the area between the building and the water's edge.

3. *Off-street parking and service.* Off-street parking shall be discourage within the shoreline setback area. Where possible, service areas (i.e., trash collection, loading docks) shall be located to be screened by the building itself; otherwise, walls, fences, landscaping and earth berms shall be used to achieve effective screening.

(b) Aesthetic considerations. Development projects within the district are not subject to special architectural review and approval. In lieu of a special separate review procedure, the following general architectural and aesthetic design criteria will be considered to enhance the character of the district:

1. Buildings or structures that are part of a present or future group or complex shall have a unity of character and design. The relationship of forms and the use, texture, and color of materials shall be such as to create a harmonious whole.

2. Natural materials such as brick, wood and stucco should be encouraged. Materials such as metal and plastic shall be discouraged on exterior surfaces of buildings.

3. All mechanical equipment, satellite dishes and other similar equipment should be completely screened by the architecture of the structure, or fences, walls or vegetation.

4. Proposed developments within the Waterfront Redevelopment District that are located adjacent to a historic district should give special consideration to visual compatibility in scale and architectural design in order to positively reinforce the character of the historic area and provide a buffer and transition.

5. Projects should be encouraged that enhance the setting or provide for adaptive reuse of historic buildings and sites.

(c) Landscaping guidelines. Landscaping should be used to enhance waterfront views and vistas and to screen undesirable features. Low lying plant material should be used in open areas to retain views of the water. Trees should be selectively utilized and carefully located along the waterfront in both public and private developments in order to maintain existing views as much as possible. Plantings should be coordinated near buildings to provide view corridors.

(d) Sign guidelines.

1. Design/materials. The architectural character of the building to which the sign relates should be reflected in the lettering of the sign, and the materials used for the supporting structure and the sign face.

2. Lighting. Indirect and internal lighting is encouraged. Neon and exposed fluorescent lighting is not encouraged.

4. Landscaping. The landscaping and positioning of the sign should complement the overall site plan and landscaping of the development.

(D) *WRD-1, Waterfront Redevelopment District-1.*

(1) *Purpose of district.* The waterfront redevelopment district is established to promote redevelopment of the city's downtown waterfront with a compatible mixture of uses that further the goals of downtown Pensacola's Comprehensive Plan, encourage a walkable mixed use urban environment, preserve the unique shoreline scenic opportunities, provide continuous public waterfront access, create cultural meeting places for the public, and encourage a high quality of site planning and architectural design. Site specific analysis of each development proposal within the district is intended to ensure that the scenic vistas of the district are maintained, that the development character of the waterfront is upgraded and that the boundaries of the adjacent special districts are positively reinforced.

(2) *Uses permitted.*

(a) Single-family residential (attached or detached) at a maximum density of seventeen and four-tenths (17.4) units per acre. Multi-family residential at a maximum density of sixty (60) dwelling units per acre.

(b) Home occupations, subject to regulations in section 12-2-33.

(c) Offices.

(d) Libraries and community centers opened to the public and buildings used exclusively by the federal, state, county and city government for public purposes.

(e) Hotels/motels.

(f) Marinas.

(g) Parking garages.

(h) The following retail sales and services:

1. Retail food and drug stores (including medical marijuana dispensaries and package liquor store).
2. Personal service shops.
3. Clothing stores.
4. Specialty shops.
5. Banks.
6. Bakeries whose products are sold at retail on the premises.
7. Antique shops.
8. Floral shops.
9. Health clubs, spa and exercise centers.
10. Laundromats.
11. Laundry and dry cleaning pick-up stations.
12. Restaurants.
13. Studios.
14. Art galleries.
15. Sale or rental of sporting goods or equipment including instructions in skiing, sailing, or scuba diving.
16. Boat rentals waterside only with limited upland storage.
17. Bars.
18. Commercial fishing.
19. Ferry and passenger terminals.
20. Cruise ship operations.

(i) Family day care homes licensed by the Florida Department of Children and Family Services as defined in the Florida Statutes.

(3) *Procedure for review of plans.*

(a) *Plan submission.* Every application to construct a new structure in the waterfront redevelopment district-1 shall be subject to the development plan review and approval procedure established in section 12-2-81. Every application for a new certificate of

occupancy or a building permit to erect, construct, demolish, renovate or alter a building or sign, or exterior site work (i.e., paving and landscaping of off-street parking areas), located or to be located in the waterfront redevelopment district-1 shall be accompanied with drawings or sketches with sufficient detail to show, as far as they relate to exterior appearances, the architectural design of the building, sign, or exterior work (both before and after the proposed work is done in cases of altering, renovating, demolishing or razing a building or structure) including proposed materials, textures and colors, and the plot plan or site layout including all site improvements or features such as walls, fences, walks, terraces, plantings, accessory buildings, paved areas, signs, lights, awnings, canopies and other appurtenances. All developments within the waterfront redevelopment district must comply with design standards as established in section 12-2-82.

(b) *Review and approval.* All plans shall be subject to the review and approval of the planning board established in Chapter 12-13. At the time of review the board may require that any aspect of the overall site plan that does not meet the standards established in this section be incorporated and brought into compliance within a time limit approved by the board. Review by the planning board of applications for zoning variances shall be as provided for under section 12-13-2(F)(f).

(c) *Abbreviated review.* Sign requests, paint colors, fencing, and emergency repairs that are consistent with the regulations and guidelines set forth in this section, may be approved by letter to the building official from the planning board secretary and the chairperson of the board. This provision is made in an effort to save the applicant and the board time for routine approval matters. If agreement cannot be reached as it pertains to such requests by the board secretary and chairperson, then the matter will be referred to the board for a decision.

(4) *Regulations.*

(a) *Signs.* The following provisions shall be applicable to signs in the district.

1. *Number of signs.* Each parcel shall be limited to one (1) sign per street frontage; provided, however, if there exists more than one (1) establishment on the parcel, there may be one (1) attached sign per establishment. Additionally, retail sales and services may have an A-frame sign in addition to the one (1) sign per frontage.

2. *Signs extending over public property.* Signs extending over public property shall maintain a clear height of nine (9) feet above the sidewalk and no part of such signs shall be closer than eighteen (18) inches to the vertical plane of the curb line or edge of the pavement.

3. *Sign size and height limitations.*

a. *Attached signs:*

Size: Ten (10) percent of the building elevation square footage (wall area) that fronts on a public street, not to exceed fifty (50) square feet. Buildings exceeding five (5) stories in height; one (1) attached wall sign or combination of wall signs not to exceed two hundred (200) square feet and mounted on the fifth floor or above.

Height: No sign may extend above the roof line of the building to which it is attached. For the purposes of this section roof surfaces constructed at an angle of sixty-five (65) degrees or more from horizontal shall be regarded as walls.

b. *Freestanding signs.*

Size: Fifty (50) square feet.

Height: Ten (10) feet (top of sign).

c. *A-frame sign.*

Size: Ten (10) square feet.

Height: Forty-two (42) inches (top of sign).

4. *Other permitted signs.*

a. Signs shall not exceed two (2) square feet in size.

c. Official traffic signs or signals, informational signs erected by a government agency and temporary signs indicating danger.

5. *Prohibited signs.* Refer to section 12-4-7 for a description of prohibited signs. In addition the following signs are prohibited within the district:

a. Signs that are abandoned or create a safety hazard. Abandoned signs are those advertising a business that becomes vacant and is unoccupied for a period of ninety (90) days or more.

b. Signs that present an optical illusion, incorporated projected images, or emit sound.

c. Secondary advertising signs (i.e., signs that advertise a brand name product in addition to the name of the business).

6. *Temporary signs.* The following temporary signs shall be permitted in the district:

a. Temporary banners indicating that a noncommercial special event such as a fair, carnival, festival or similar happening is to take place, are permitted with the following conditions: Such banners may be erected no sooner than two (2) weeks before the event and banners extending over street rights-of-way require approval from the mayor.

b. One (1) non-illuminated sign per street frontage advertising the sale, lease or rental of the lot or building upon which the sign is located. Such sign shall not exceed twelve (12) square feet in size, and shall be removed immediately after occupancy.

c. One (1) non-illuminated sign not more than fifty (50) square feet in area in connection with new construction work and displayed only during such time as the actual construction work is in progress.

(b) *Off-street parking.* The following off-street parking requirement shall apply to all lots, parcels, or tracts in the district: Off-street parking requirements in the waterfront redevelopment district-1 shall be based on the requirements set forth in subsection 12-3-1(D)(7). The required parking may be provided off-site by the owner/developer as specified in subsection 12-3-1(D). Screening shall be provided along the edges of all parking areas visible from the street rights-of-way. This screening may take the form of:

• A solid wall or fence (chain-link fences are prohibited) with a minimum height of four (4) feet that is compatible in design and materials with on-site architecture and nearby development; or

• Landscaping approximately three (3) feet in height that is landscaped to provide positive screening effective within three (3) years; or

• A combination of walls or fences and landscape screening, or landscape screening designed to provide positive screening within three (3) years.

(c) *Vehicular access.* For each lot, tract or parcel under single ownership, the maximum number of access points shall not exceed two (2) per street frontage.

(d) *Landscaping.* Landscaping requirements in the district shall conform to the requirements of Chapter 12-6. All service areas (i.e., trash collection containers, compactors, loading docks) shall be screened with at least seventy-five (75) percent opacity from the street and adjacent buildings by one of the following techniques:

- Fence or wall and gate, six (6) feet high;
- Vegetation, six (6) feet high (within three (3) years); or
- A combination of the above.

(e) *Underground utility services.* All new building construction or additions of floor area to existing structures shall be required to install underground utilities on the site.

(f) *Lot coverage.* The total coverage of the site including all structures, parking areas, driveways and all other impervious surfaces shall not exceed ninety-five (95) percent.

(g) *Setback/height requirements.* No building shall exceed a maximum height of six (6) stories in the waterfront redevelopment district-1, as defined in section 12-2-25, community redevelopment area (CRA) urban design overlay district.

1. *Shoreline setback/height requirements.* All buildings shall be set back a minimum of thirty (30) feet from the shoreline or the bulkhead line. The minimum setback from the shoreline may be decreased by the planning board and the council during the review process to permit reuse of existing buildings, structures or foundations with a lesser setback.

2. *Main Street setback/height requirements.* All buildings shall be setback a minimum of sixty (60) feet from the centerline of Main Street. At this minimum setback line, the building height may not exceed six (6) stories.

3. All other setbacks shall be as specified on the regulating plan.

(h) *Additional regulations.* In addition to the regulations established above in subsections 12-2-12(C)(4)(a) through (g), any permitted use within the WRD-1 zoning district where alcoholic beverages are ordinarily sold is subject to the requirements of Chapter 7-4 of this Code.

(5) *Regulations.* All developments within the waterfront redevelopment district-1 are encouraged to follow the design guidelines established in subsection 12-2-82(D). In addition, the following site planning guidelines should be taken into consideration in the required development plans.

(a) *Site planning.* The integration of site features such as building arrangement, landscaping, parking lot layout, public access points, building orientation, and scenic vantage points is critical in producing a pleasant and functional living or working environment. In reviewing development proposals, the following guidelines shall be taken into consideration:

1. *Maximum preservation of waterfront views.* Considering the waterfront location of the district, the placement of buildings, signs, service areas, parking and landscaping shall be planned to maximize the preservation of views of the bay and to protect the waterfront scenic open space character. To prevent the effect of a "wall" of development along the edge of the waterfront and adjacent streets, open space should be encouraged between buildings and under elevated buildings. Pedestrian circulation systems should be designed to form a convenient, interconnected network through buildings, landscaped open spaces and public walkways. The longer side of each building should be sited perpendicular to the water's edge in order to preserve water views from the street.

2. *Building orientation.* Buildings should be oriented to maximize the waterfront view potential within the district while maintaining quality facade treatment and design on the streetside. Structures should be positioned to provide viewing opportunities of the water and the shoreline edge between buildings. The location of solid waste receptacles, service entrances, loading docks, storage buildings and mechanical and air conditioning equipment and other items typically situated at the backside of buildings should be discouraged within the area between the building and the water's edge.

3. *Off-street parking and service.* Off-street parking shall be discourage within the shoreline setback area. Where possible, service areas (i.e., trash collection, loading docks) shall be located to be screened by the building itself; otherwise, walls, fences, landscaping and earth berms shall be used to achieve effective screening.

(b) *Aesthetic considerations.* Development projects within the district are not subject to special architectural review and approval, however compliance with the CRA Overlay Standards and Guidelines as defined in section 12-2-25, community redevelopment area (CRA) urban design overlay district is encouraged. In lieu of a special separate review procedure, the following general architectural and aesthetic design criteria will be considered to enhance the character of the district:

1. Buildings or structures should have a unity of character and design. The relationship of forms and the use, texture, and color of materials shall be such as to create a harmonious whole.

2. Natural materials such as brick, wood and stucco should be encouraged. Materials such as metal and plastic shall be discouraged on exterior surfaces of buildings.

3. All mechanical equipment, satellite dishes and other similar equipment should be completely screened by the architecture of the structure, or fences, walls or vegetation.

4. Proposed developments within the waterfront redevelopment district-1 which are located adjacent to a historic district should give special consideration to visual compatibility in scale and architectural design in order to positively reinforce the character of the historic area and provide a buffer and transition.

5. Projects should be encouraged that enhance the setting or provide for adaptive reuse of historic buildings and sites.

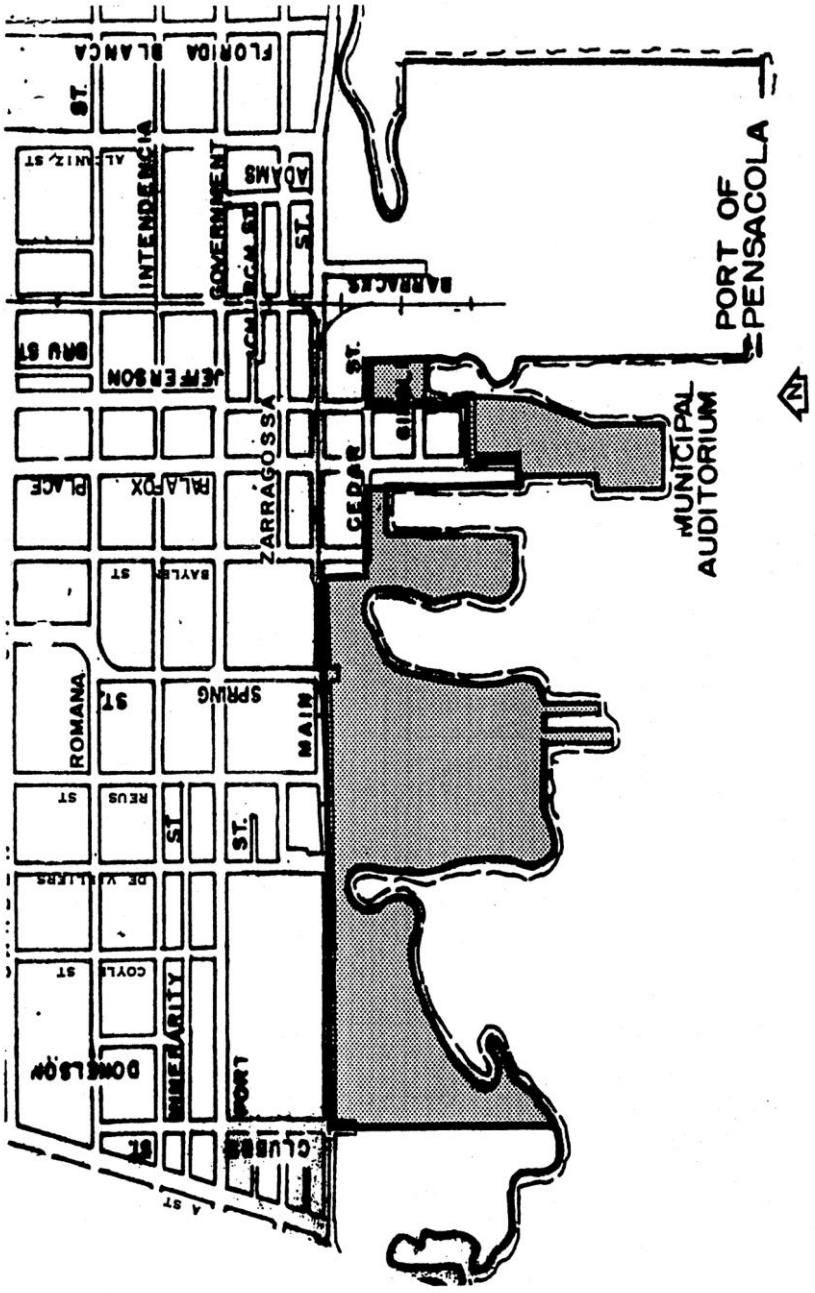
(c) *Landscaping guidelines.* Landscaping should be used to enhance waterfront views and vistas and to screen undesirable features. Low lying plant material should be used in open areas to retain views of the water. Trees should be selectively utilized and carefully located along the waterfront in both public and private developments in order to maintain existing views as much as possible. Plantings should be coordinated near buildings to provide view corridors.

(d) *Sign guidelines.*

1. *Design/materials.* The architectural character of the building to which the sign relates should be reflected in the lettering of the sign, and the materials used for the supporting structure and the sign face.

2. *Lighting.* Indirect and internal lighting is encouraged. Neon and exposed fluorescent lighting is not permitted.

4. *Landscaping.* The landscaping and positioning of the sign should complement the overall site plan and landscaping of the development.



Waterfront Development District

(Ord. No. 25-92, § 2, 7-23-92; Ord. No. 6-93, § 9, 3-25-93; Ord. No. 21-93, § 1, 8-16-93; Ord. No. 29-93, §§ 13, 14, 11-18-93; Ord. No. 33-95, §§ 4, 5, 8-10-95; Ord. No. 9-96, § 9, 1-25-96; Ord. No. 45-96, § 3, 9-12-96; Ord. No. 33-98, § 2, 9-10-98; Ord. No. 40-99, §§ 10—13, 10-14-99; Ord. No. 43-99, § 1, 11-18-99; Ord. No. 12-00, § 1, 3-9-00; Ord. No. 50-00, § 3, 10-26-00; Ord. No. 3-01, § 2, 1-11-01; Ord. No. 6-01, §§ 1—3, 1-25-01; Ord. No. 6-02, § 2, 1-24-02; Ord. No. 13-06, § 10, 4-27-06; Ord. No. 17-06, §§ 2, 3, 7-27-06; Ord. No. 16-10, §§ 200—202, 9-9-

10; Ord. No. 06-16, §§ 1, 2, 2-11-16; Ord. No. 20-19, § 3, 9-26-19; Ord. No. 27-19, § 1, 11-14-19)

Sec. 12-2-13. - South Palafox business district.

The regulations in this section shall be applicable to the South Palafox business district: SPBD.

(A) *Purpose of district.* The South Palafox business district is established to promote the compatible redevelopment of the city's historic downtown waterfront by encouraging high quality site planning and architectural design that is compatible with both the historic character of the existing structures and the waterfront activities. The zoning regulations are intended to help avoid excessive building height and mass and vehicular congestion.

(B) *Uses permitted.*

(a) Single-family residential (attached or detached) at a maximum density of seventeen and four-tenths (17.4) units per acre. Multi-family residential at a maximum density of one hundred eight (108) dwelling units per acre.

(b) Home occupations, subject to regulations in section 12-2-33.

(c) Offices.

(d) Libraries and community centers opened to the public and buildings used exclusively by the federal, state, county and city government for public purposes.

(e) Hotels/motels.

(f) Marinas.

(g) Parking garages.

(h) The following retail sales and services with no outside storage or major repair work permitted:

1. Retail food and drug stores (including medical marijuana dispensaries and liquor package store).
2. Personal service shops.
3. Clothing stores.
4. Specialty shops.
5. Banks.
6. Bakeries, whose products are sold at retail on the premises.
7. Antique shops.
8. Floral shops.
9. Health clubs, spas and exercise centers.
10. Laundromats and dry cleaners.
11. Restaurants.
12. Studios.
13. Art galleries.
14. Bars.

(i) Retail sales and services with outside storage or major repair work permitted.

1. Sale or rental of sporting goods or equipment including instructions in skiing, sailing, or scuba diving.

2. Boat sales/rentals.

3. Boat fueling.

4. Commercial fishing.

(j) Accessory buildings and uses customarily incidental to the above uses.

(k) Family day care homes licensed by the Florida Department of Children and Family Services as defined in the Florida Statutes.

(C) *Procedure for the review of plans.*

(1) *Plan submission.* Every application to construct a new structure in the South Palafox business district shall be subject to the development plan review and approval procedure established in section 12-2-81. Every application for a new certificate of occupancy or a building permit to erect, construct, demolish, renovate or alter a building or sign, or exterior site work (i.e., paving and landscaping of off-street parking areas), located or to be located in the South Palafox business district shall be accompanied with drawings or sketches with sufficient detail to show, as far as they relate to exterior appearances, the architectural design of the building, sign, or exterior work (both before and after the proposed work is done in cases of altering, renovating, demolishing or razing a building or structure) including proposed materials, textures and colors, and the plot plan or site layout including all site improvements or features such as walls, fences, walks, terraces, plantings, accessory buildings, paved areas, signs, lights, awnings, canopies and other appurtenances. All developments within the South Palafox business district must comply with design standards as established in section 12-2-82.

(2) *Review and approval.* All plans shall be subject to the review and approval of the planning board established in Chapter 12-13. At the time of review the board may require that any aspect of the overall site plan which does not meet the standards established in this section be incorporated and brought into compliance within a time limit approved by the board.

(3) *Abbreviated review.* Sign requests, paint colors, fencing, and emergency repairs that are consistent with the regulations and guidelines set forth in this section, may be approved by letter to the building official from the planning board secretary and the chairperson of the board. This provision is made in an effort to save the applicant and the board time for routine approval matters. If agreement cannot be reached as it pertains to such requests by the board secretary and chairperson, then the matter will be referred to the board for a decision.

(D) *Regulations.*

(1) *Building height and setback.* Buildings and other structures may be constructed to a maximum height of eighty (80) feet above the required flood plain elevation. There shall be no minimum front, rear or side yard buildings setback requirements, except as may be necessary to comply with applicable fire safety codes.

(2) *Signs.* Any proposed new, altered or replacement sign may not impair the architectural or historical value of buildings within the district. Such sign shall be consistent with the character of the South Palafox Business District. The sign's lettering and construction should complement the building to which it is attached.

(a) *Permitted signs.* See section 12-4-3 for sign area calculation.

1. Temporary accessory signs.

• One (1) non-illuminated sign advertising the sale, lease, or rental of the lot or building, said sign not to exceed six (6) square feet in area.

• One (1) non-illuminated sign not more than fifty (50) square feet in area in connection with new construction work and displayed only during such time as the actual construction work is in progress.

2. Portable signs. Businesses located within the South Palafox Business District may place one (1) portable (two-sided A-Frame) sign on the sidewalk adjacent to the business location subject to the following conditions:

   • The maximum size of the sign shall not exceed two (2) feet wide by three (3) feet high;

   • The sidewalk width shall be a minimum of eight (8) feet;

   • A one-time fee of forty dollars ($40.00) shall be paid to the City of Pensacola for a license to use the sidewalk for placement of a sign;

   • A license to use agreement, with proof of insurance, shall be required to use an identified area of the sidewalk for locating a sign;

   • The sign shall be removed from the sidewalk at the close of business hours daily;

   • Signs shall require approval by the planning board.

3. Permanent accessory signs.

   • One (1) sign per street frontage subject to the following limitations:

Building Size	Area Limits
1 Story	12 sq. ft.
2 Story	24 sq. ft.
3 Story	32 sq. ft.
4 Story	42 sq. ft.
5 Story	48 sq. ft.
6 Stories and over	60 sq. ft.

Sign height. No attached sign shall extend above the eave line of a building to which it is attached. Roof surfaces constructed at an angle of sixty-five (65) degrees or more from horizontal shall be regarded as wall space. Signs projecting from a building or extending over public property shall maintain a clear height of nine (9) feet six (6) inches. The sign may be mounted to the face of a wall of the building, hung from a bracket that is mounted to a wall of a building, hung from other ornamental element on the building. Attached or wall signs may be placed on the front or one side of the building. The sign may be illuminated provided the source of light is not visible beyond the property line of the lot on which the sign is located.

• One (1) non-illuminated nameplate designating the name of the occupant of the property; the nameplate shall not be larger than three (3) square feet and shall be attached flat against the wall of the building.

• Municipal or state installed directional signs, historical markers and other signs of a general public interest when approved by the mayor.

(b) *Prohibited signs.*

1. Any sign using plastic materials for lettering or background.
2. Internally illuminated signs or awnings.
3. Portable signs (except as noted in subsection (D)(2)(a)2. above).
4. Nonaccessory signs.
5. Rooftop signs.
6. Any sign containing or illuminated by flashing or intermittent lights if changing degrees of intensity.
7. Signs with visible motion.
8. Signs that incorporate projected images or emit sound.
9. Strings of light bulbs other than holiday decorations.
10. Gas or hot-air balloons-type signs.
11. Banners, pennants and streamers except on a temporary basis as provided for in section 12-4-6.
12. Signs that are posted, painted, or otherwise affixed to any rock, fence, tree or utility pole.
13. Signs that are not securely fixed on a substantial structure.
14. Signs that are not in good repair or that may create a hazardous condition.
15. Signs that are illegal under state laws and regulations.
16. Nonaccessory signs attached to any craft or structure in or on a water body designed or used for the primary purpose of displaying advertisements. Provided, however, that this provision shall not apply to any craft or structure that displays an advertisement or business notice of its owner, so long as such craft or structure is engaged in the usual business or regular work of the owner, and not used merely, mainly or primarily to display advertisement.

(3) *Vehicular access.* For each lot, tract or parcel under single ownership, the maximum number of vehicular access points shall not exceed two (2) per street frontage. Provided, however, for each fifty (50) feet of street frontage in excess of one hundred (100) feet, one (1) additional access may be permitted.

(4) *Landscaping.* Landscaping shall be subject to applicable provisions of section 12-6-3. In addition all service areas (i.e., trash collection containers, compactors, loading docks) shall be screened from street and adjacent buildings by one (1) of the following techniques:

• Fence or wall and gate, six (6) feet high;

• Vegetation; six (6) feet high (within three (3) years);

• A combination of the above.

(5) *Underground utility services.* All new building construction or increases of floor area of fifty (50) percent or more to existing structures shall be required to install underground utilities on the site.

(6) *Off-street parking.* New construction of buildings that do not exceed forty (40) feet in height, or the renovation of existing buildings that do not exceed forty (40) feet in height shall be exempt from the off-street parking requirements set forth in section 12-3-1. The off-street parking requirements set forth in said section shall be required for the gross floor area contained in newly constructed or renovated buildings above the forty-foot elevation. The required parking may be provided by the owner on the same parcel of property proposed for development, or off-site as specified in subsection 12-3-1(D). In addition to the requirements of section 12-3-1, screening shall be provided along the edges of all parking areas visible from the street rights-of-way. This screening may take the form of:

A solid wall or fence (chain-link fences are prohibited) with a minimum height of four (4) feet that is compatible in design and materials with on-site architecture and nearby development, or an earth berm approximately three (3) feet in height that is landscaped to provide positive screening effective within three (3) years, or a combination of walls or fences and landscape screening, or landscape screening design to provide positive screening within three (3) years.

(7) *Buildings fronts, rears, and sides abutting streets and public areas.* All structural and decorative elements of building fronts, rears, and sides abutting streets or public improvement areas shall be repaired or replaced to match as closely as possible the original materials and construction of that building or be compatible with the SPBD architectural character.

(8) *Walls and fences.* The size, design and placement of these features within the South Palafox Business District shall be consistent with the architectural character within the immediate area of their location.

(9) *Paint colors.* Planning board-approved paint palettes from several manufacturers, that represent acceptable historic colors for use in the South Palafox Business District, shall be maintained in the planning office for public review.

(10) *Additional regulations.* In addition to the regulations established above in subsections 12-2-13(D)(1) through (6), any permitted use within the South Palafox Business district where alcoholic beverages are ordinarily sold is subject to the requirements of Chapter 7-4 of this Code.

(E) *Development guidelines.* All development shall be subject to the provisions of subsection 12-2-82(D) and the following provisions:

(1) *Site planning.* The integration of site features such as building arrangement, landscaping, parking lot layout, building orientation, and scenic vantage points is critical in producing a pleasant and functional living or working environment. In reviewing development proposals, the following guidelines shall be taken into consideration:

(a) Waterfront character. Considering the waterfront location of the district, the placement of buildings, signs, service areas, parking and landscaping should be planned to maximize the preservation of views of the bay and to protect the waterfront scenic open space character.

(b) Service areas and mechanical equipment. Where possible, service areas (i.e., trash collection, loading docks), mechanical equipment, satellite dishes and all similar equipment shall be located to be screened by the building itself; otherwise, walls, fences, landscaping or earth berms shall be used to achieve effective screening.

(c) Aesthetic considerations. Development projects within the district are not subject to special architectural review and approval. In lieu of a special separate review procedure, the following general architectural and aesthetic design criteria will be considered to enhance the character of the district:

1. Buildings or structures that are part of a present or future group or complex shall have a unity of character and design. The relationship of forms and the use, texture, and color of materials shall be such as to create a harmonious whole.

2. Natural materials such as brick, wood and stucco should be encouraged. Materials such as metal and plastic shall be discouraged on exterior surfaces of buildings.

(d) Proposed developments within the district, that are located adjacent to a historic district should give special consideration to visual compatibility in scale and architectural design in order to positively reinforce the character of the historic area and provide a buffer and transition.

(e) Projects should be encouraged that enhance the setting or provide for adaptive reuse of historic buildings and sites.

(2) *Landscaping guidelines.*

(a) Landscaping should be used to enhance waterfront views and vistas and to screen undesirable features.

(b) Low lying plant material should be used in open areas to retain views of the water.

(c) Trees should be selectively utilized and carefully located along the waterfront in both public and private developments in order to maintain existing views as much as possible.

(d) Plantings should be coordinated near buildings to provide view corridors.

(F) *District rehabilitation, repair and maintenance standards.* The following rehabilitation, repair and maintenance standards shall be applied to all existing structures and land parcels respectively, whether occupied or vacant within the South Palafox Business District. These standards shall be considered by the Planning Board when reviewing development plans in other areas of the South Palafox Business District.

(1) *Building fronts, rears, and sides abutting streets and public areas.* Rotten or weakened portions shall be removed, repaired and replaced to match as closely as possible the original materials and construction of that building or be compatible with the SPBD architectural character.

(2) *Windows.*

(a) All windows must be tight fitting and have sashes of proper size and design. Sashes with rotten wood, broken joints or loose mullions or muntins shall be replaced. All broken and missing windows shall be replaced with new glass.

(b) Windows openings in upper floors of the front of the building shall not be filled or boarded-up. Window panes shall not be painted.

(3) *Show windows and storefronts.* All damaged, sagging or otherwise deteriorated storefronts, show windows or entrances shall be repaired or replaced.

(4) *Exterior walls.*

(a) Existing miscellaneous elements on the building walls, such as empty electrical conduit, unused signs and/or sign brackets, etc., shall be removed.

(b) Sheet metal gutters, downspouts and copings shall be repaired or replaced as necessary.

(c) Rear and side walls shall be repaired and finished as necessary to cover evenly all miscellaneous patched and filled areas to present an even and uniform surface.

(5) *Roofs.* Roofs shall be cleaned and kept free of trash, debris or any other element, that is not a permanent part of the building.

(6) *Front, rear, and side yards, parking areas and vacant parcels.* When a front, rear or side yard, parking area or vacant parcel exists or is created through demolition, the owner may utilize the space in accordance with the provisions of the zoning district in which the space is located,

provided, however, that the site shall be properly maintained free of weeds, litter, and garbage in accordance with applicable provisions of the code.

(7) *Walls, fences, signs.* Walls, fences, signs and other accessory structures shall be properly maintained.

(G) *Survey and classification.*

(1) *Survey and classification.* A survey of the district to determine in which areas historical themes are appropriate, and to classify buildings, by architectural design, and materials as historically significant, supportive, neutral, and nonconforming shall be available at the offices of the Historic Pensacola Preservation Board.

(Ord. No. 34-99, §§ 1—4, 9-9-99; Ord. No. 40-99, §§ 14—16, 10-14-99; Ord. No. 3-01, § 2, 1-11-01; Ord. No. 6-02, § 2, 1-24-02; Ord. No. 17-06, § 4, 7-27-06; Ord. No. 16-10, § 203, 9-9-10)

Sec. 12-2-14. - Interstate corridor land use district.

The regulations in this section shall be applicable to the interstate corridor zoning district: IC.

(A) *Purpose of district.* The purpose of this district is to provide for nonhighway land uses both below and adjoining the Interstate 110 corridor on land owned by the Florida Department of Transportation and leased by the city of Pensacola as shown in the Site Development Plan in the DOT "Corridor Location, Design and Multiple Use Report: Interstate 110, Pensacola, Escambia County, Florida, 1972."

(B) *Permitted uses.*

(a) Recreation and open space facilities, and community centers owned and operated by the city.

(b) Public utilities and city government buildings and facilities.

(c) Service commercial and light industrial uses with site plan approval from city council.

(d) Public transportation facilities.

(e) Tourist commercial.

(f) Community commercial.

(C) *Procedure for review of plans.* Every application for development or redevelopment in the interstate corridor zoning district shall be subject to the development plan review and approval procedure established in section 12-2-81. All development must comply with design standards established in subsection 12-2-82(C) and is encouraged to follow design guidelines established in subsection 12-2-82(D).

Sec. 12-2-15. - Site specific zoning district.

The regulations in this section shall be applicable to the site specific development zoning district: SSD.

(A) *Purpose of district.* This section is enacted to provide for the option of amending an approved final development plan for any parcel of property that was zoned SSD (site specific development) prior to May 1, 1990. Subsequent to May 1, 1990 no rezonings to SSD have been allowed.

(B) *Minor changes to an approved SSD final development plan.* Minor changes to a final development plan may be approved by the mayor, city engineer, the planning services department and building official when in their opinion the changes do not make major changes in the arrangement of buildings or other major features of the final development plan.

(C) *Major changes to an approved SSD final development plan.* Major changes such as, but not limited to, changes in land use or an increase or decrease in the area covered by the final development plan may be made only by following the procedures outlined in filing a new preliminary development plan as described in section 12-2-81.

(Ord. No. 16-10, § 204, 9-9-10)

Sec. 12-2-16. - Neighborhood land use.

(A) *Purpose of district.* The purpose of this district is to provide for land uses and aesthetic considerations that are distinctive and unique to neighborhoods defined by specific geographic boundaries as established in this chapter.

(B) *Permitted uses.* In the absence of an approved Neighborhood Master Plan land use shall be permitted as designated by the city's zoning regulations.

(C) *Procedure for review of plans.* If a review board has been established in this title for a special neighborhood district, every application for development or redevelopment shall be subject to review and approval by said board.

(Ord. No. 6-93, § 10, 3-25-93)

Secs. 12-2-17—12-2-20. - Reserved.

ARTICLE II. - SPECIAL AESTHETIC REVIEW DISTRICTS

Sec. 12-2-21. - Palafox historic business district.

(A) *Purpose.* The Palafox historic business district is established to preserve the existing development pattern and distinctive architectural character of the historic downtown commercial district. The regulations are intended to preserve, through the restoration of existing buildings and construction of compatible new buildings, the scale of the existing structures and the diversity of original architectural styles, and to encourage a compact, convenient arrangement of buildings.

(B) *Character of the district.* The Palafox historic business district is characterized by sites and facilities of historical value to the city. These buildings and historic sites and their period architecture (i.e., Sullivanesque, Classical Revival, Renaissance Revival, and Commercial Masonry) blend with an overall pattern of harmony, make the district unique and represent the diversity of business activity and commercial architecture over a long period of Pensacola history. The district is an established business area, tourist attraction, containing historic sites, and a variety of specialty retail shops, restaurants, private and governmental offices, and entertainment centers.

(C) *Historic theme area.* That portion of Palafox Place between Garden Street and Main Street is hereby designated a historical theme area, with a theme based on materials, signs, canopies, facades or other features as they existed in 1925 or earlier.

(D) *Boundaries of the district.* The boundaries of the Palafox historic business district shall be the same as the Pensacola downtown improvement district as adopted pursuant to section 3-1-10 of the code, plus the west 14.25 feet of lot 214 and all of lots 215 and 216, old city tract.

(E) *Procedure for review and submission of development plan.*

(1) *Submission of plans.* Every application for a building permit to erect, construct, renovate and/or alter an exterior of a building, or sign, located or to be located in the district shall be accompanied by plans for the proposed work. As used herein, "plans" shall mean drawings or sketches with sufficient detail to show, as far as they relate to exterior appearance, the architectural design of the building or sign, (both before and after the proposed work is done in

the cases of altering, renovating, demolishing or razing a building or structure) including proposed materials, textures and colors, and the plat plan or site layout, including all site improvements or features such as walls, fences, walks, terraces, plantings, accessory buildings, paved areas, signs, lights, awnings, canopies and other appurtenances. Such plans shall be promptly forwarded by the building official to the architectural review board.

(2) *General conditions, procedures and standards.* Prior to submitting a formal application for approval of a proposed exterior alteration, the owner(s) shall confer with the staff of the architectural review board, who will seek the advice of the downtown improvement board staff, the Historic Pensacola Preservation Board staff and appropriate city staff if necessary to review:

(a) The relationship between the proposed exterior alteration or proposed exterior to buildings in the immediate surroundings and to the district in which it is located or to be located.

(b) At the time of the predevelopment conference, the applicant shall provide a sketch plan indicating the location of the proposed exterior alteration and its relationship to surrounding properties. The advisory meeting should provide insight to both the developer, the city, the downtown improvement board, and the Historic Pensacola Preservation Board staff regarding potential development problems that might otherwise result in costly plan revisions or unnecessary delay in development.

(3) *Review and approval by the architectural review board.* All such plans shall be subject to review and approval by the architectural review board as established in section 12-13-3 and in accordance with the provisions of section 12-2-10(A)(4)(a) through (c), applicable to the historic zoning districts. The board shall adopt written rules and procedures for abbreviated review for paint colors, minor repairs, emergency repairs and minor deviations in projects already approved by the board. This process may authorize the board to designate one of its members to undertake such abbreviated review without the necessity for review by the entire board, provided, however such abbreviated review process shall require review by the director of the downtown improvement board and the staff of the Historic Pensacola Preservation Board. If agreement cannot be reached as it pertains to an abbreviated review by the board designee, director of the downtown improvement board, Historic Pensacola Preservation Board staff and secretary to the architectural review board then the matter will be referred to the full board for a decision.

(F) *Architectural review of proposed exterior development.*

(1) *General considerations.* The board shall consider plans for existing buildings based on their classification as significant, supportive, compatible or nonconforming as defined and documented in files located at the office of the downtown improvement board. In reviewing the plans, the board shall consider exterior design and appearance of the building, including the front, sides, rear and roof, materials, textures and colors; plot plan or site layout, including features such as walls, walks, terraces, plantings, accessory buildings, signs, lights, awnings, canopies, and other appurtenances; and conformity to plans and themes promulgated, approved and/or amended from time to time by the city council; and relation of the building to immediate surroundings and to the district in which it is located or to be located. The term "exterior" shall be deemed to include all of the outer surfaces of the building and is not restricted to those exteriors visible from a public street or place. The board shall not consider interior design or plan. The board shall not exercise any control over land use, which is governed by particular provisions of this title, or over construction, which is governed by Chapter 14-1.

(2) *Decision guidelines.* Every decision of the board, in their review of plans for buildings or signs located or to be located in the district, shall be in the form of a written order stating the findings of the board, its decision and the reasons therefor, and shall be filed with and posted with the building permit on site. Before approving the plans for any proposed building, or signs located or to be located in the district, the board shall find:

(a) In the case of a proposed alteration or addition to an existing building, that such alteration or addition will not impair the architectural or historic value of the building or if due to a new

use for the building the impairment is minor considering visual compatibility standards such as height, proportion, shape, and scale.

(b) In the case of a proposed new building, that such building will not, in itself or by reason of its location on the site, impair the architectural or historic value or character of buildings on adjacent sites or in the immediate vicinity.

(c) In the case of a proposed new building, that such building will not be injurious to the general visual character of the district in which it is to be located considering visual compatibility standards such as height, proportion, shape, and scale.

(d) In the case of the proposed razing or demolition of an existing building, that the regulations established in section 12-2-10(A)(9) to (11) shall apply.

(e) In the case of a proposed addition to an existing building or the base of a proposed new building, or building relocation, that such addition, new building or relocation will not adversely affect downtown redevelopment plans or programs or the Comprehensive Plan of the city.

(3) *Recommendation for changes.* The board shall not disapprove any plans without giving its recommendations for changes necessary to be made before the plans will be reconsidered. Such recommendations may be general in scope, and compliance with them shall qualify the plans for reconsideration by the board.

(4) *Board review standards.* The architectural review board shall use the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitation of Historic Buildings as the general governing standards for existing structures. New construction shall maintain scale and quality of design. All new construction shall be reviewed in terms of massing, rhythm, materials and details, building elements and site. Generally, all structures should be compatible in these categories to surrounding structures. In addition the following standards shall apply:

(a) Signs. In the case of any proposed new or altered sign, that the sign will not impair the architectural or historical value of any building to which it is attached, nor any adjacent building, and that such sign is consistent with the theme and spirit of the block where it is to be located, and that such sign is consistent with the following provisions:

1. Within the Palafox historic business district, signs protruding into or overhanging the public right-of-way are permitted subject to prior approval by the board, and are subject to removal on thirty (30) days notice if the city actually requires the space for any public purpose. Such signs must be of a character and size consistent with maintenance of the theme and character of the district. Existing overhanging signs are hereby approved and will not require further board approval unless altered.

2. Businesses located within the Palafox Historic Business District may place one portable (two-sided A-frame) sign on the sidewalk adjacent to the business location subject to the following conditions:

a. The maximum size of the sign shall not exceed two (2) feet wide by three (3) feet high;

b. The sidewalk width shall be a minimum of eight (8) feet;

c. A one time fee of forty dollars ($40.00) shall be paid to the City of Pensacola for a license to use the sidewalk for placement of a sign;

d. A license to use agreement, with proof of insurance, shall be required to use an identified area of the sidewalk for locating a sign;

e. The sign shall be removed from the sidewalk at the close of business hours daily;

f. Signs shall require approval by the Downtown Improvement Board and Architectural Review Board.

3. Rooftop signs are prohibited, provided the business for which the sign is erected remains continuously in business, existing signs violating this provision may continue in use. Upon application to and approval by the board, such existing signs may be permitted to remain in place for a longer period if the board finds that the sign is consistent with the theme and character of the district.

4. Whirling and flashing signs attached to a building are prohibited, unless such signs replicate an original sign used at that location in the historical theme area. Balloon-type, portable or nonaccessory signs are prohibited.

5. Internally illuminated signs shall be prohibited.

(b) Building fronts, rears, and sides abutting streets and public areas. All structural and decorative elements of building fronts, rears, and sides abutting streets or public improvement areas shall be repaired or replaced to match as closely as possible the original materials and construction of that building.

(c) Windows.

1. Window openings in upper floors of the front of the building shall not be covered from the outside.

2. Window panes shall not be painted.

3. The number of window panes and use of shutters should reflect the style and period of the structure.

4. Windows not in front of buildings shall be kept properly repaired or, with fire department approval, may be closed, in which case sills, lintels and frame must be retained and the new enclosure recessed from the exterior face of the wall.

(d) Show windows and storefronts:

1. A show window shall include the building face, porches, and entrance area leading to the door, sidelights, transoms, display platforms, and devices including lighting and signage designated to be viewed from the public right-of-way.

2. Show windows, entrances, signs, lighting, sun protection, porches, security grilles, etc., shall be compatible with the original scale and character of the structure and the surrounding structures.

3. Show windows shall not be painted for advertising purposes but may be painted for authorized identification of the place of business as authorized by the architectural review board.

4. Show windows with aluminum trim, mullions, or muntins shall be placed or painted consistent with and compatible to the overall facade design as authorized by the Board.

5. Solid or permanently closed or covered storefronts shall not be permitted, unless treated as an integral part of the building facade using wall materials and window detailing compatible with the upper floors, or other building surfaces.

(e) Exterior walls:

1. All exterior front or side walls that have not been wholly or partially resurfaced or built over shall be repaired or replaced in a manner approved by the Board. Existing painted masonry walls shall have loose material removed and painted a single color except for trim that may be another color. Patched walls shall match the existing adjacent surfaces as to materials, color, bond and joining.

2. Historic painted advertising on walls should be preserved at the discretion of the board.

3. Rear and side walls, where visible from any of the streets or alleys, shall be finished so as to harmonize with the front of the building.

(f) Roofs:

1. Chimneys, elevator penthouses or other auxiliary structures on the roofs shall be repaired or replaced to match as closely as possible the original.

2. Any mechanical equipment placed on a roof shall be so located as to be hidden from view or to be as inconspicuous from view as possible. Equipment shall be screened with suitable elements of a permanent nature or finished in such a manner as to be compatible with the character of the building or to minimize its visibility.

(g) Walls and fences. The size, design and placement of these features within the Palafox historic business district shall be consistent with the architectural character within the immediate area of their location.

(h) Landscaping and screening. Landscaping and screening requirements in the Palafox historic business district shall be based on applicable requirements of Chapter 12-6. All service areas (i.e. trash collection containers, compactors, loading docks) shall be fully screened from street and adjacent buildings by one of the following techniques: Fence or wall, six (6) feet high; Vegetation six (6) feet high (within three (3) years); A combination of the above.

(5) *Review.* Any person aggrieved by a decision of the board may, within fifteen (15) days thereafter, apply to the city council for review of the board's decision. He or she shall file with the city clerk a written notice requesting the council to review said decision.

(G) *District rehabilitation, repair and maintenance guidelines.* The following rehabilitation, repair and maintenance standards shall be applied to all existing structures and land parcels respectively, whether occupied or vacant within the Palafox Historic Theme Area. These standards shall be considered as guidelines by the board when reviewing development plans in other areas of the Pensacola historic business district. In cases where an owner owns property comprising a total city block, the board shall consider the burden on the owner and may approve an incremental adherence to the standards or guidelines.

(1) *Building fronts, rears, and sides abutting streets and public areas.* Rotten or weakened portions shall be removed, repaired and replaced to match as closely as possible the original.

(2) *Windows.*

(a) All windows must be tight-fitting and have sashes of proper size and design. Sashes with rotten wood, broken joints or loose mullions or muntins shall be replaced. All broken and missing windows shall be replaced with new glass.

(b) Window openings in upper floors of the front of the building shall not be filled or boarded-up. Window panes shall not be painted.

(3) *Show windows and storefronts.* All damaged, sagging or otherwise deteriorated storefronts, show windows or entrances shall be repaired or replaced.

(4) *Exterior walls.*

(a) Existing miscellaneous elements on the building walls, such as empty electrical conduit, unused signs and/or sign brackets, etc., shall be removed.

(b) Sheet metal gutters, downspouts and copings shall be repaired or replaced as necessary.

(c) Rear and side walls shall be repaired and finished as necessary to cover evenly all miscellaneous patched and filled areas to present an even and uniform surface.

(5) *Roofs.* Roofs shall be cleaned and kept free of trash, debris or any other element that is not a permanent part of the building.

(6) *Auxiliary structures.* Structures, at the rear of buildings, attached or unattached to the principal structure, that are structurally deficient shall be properly repaired or demolished as authorized by the architectural review board.

(7) *Front, rear, and side yards, parking areas and vacant parcels.* When a front, rear or side yard, parking area or vacant parcel exists or is created through demolition, the owner may utilize the space in accordance with the provisions of the zoning district in which the space is located, provided, however, that the site shall be properly maintained free of weeds, litter, and garbage in accordance with applicable provisions of the code.

(8) *Walls, fences, signs.* Walls, fences, signs and other accessory structures shall be properly maintained.

(H) *Survey, classification and technical assistance.*

(1) *Survey and classification.* A survey of the district to determine in which areas historical themes are appropriate, and to classify buildings, by architectural design, and materials as historically significant, supportive, neutral, and nonconforming shall be available at the offices of the downtown improvement board and the Community Redevelopment Agency of Pensacola.

(2) *Technical assistance.* Within the limits of staff capability and availability of funds, the board may provide sketches or renderings to property owners and/or merchants, showing suitable designs and themes for facade improvement.

(Ord. No. 28-94, § 2, 9-18-94; Ord. No. 45-96, § 4, 9-12-96; Ord. No. 8-99, § 2, 2-11-99; Ord. No. 16-10, § 205, 9-9-10; Ord. No. 31-17, § 1, 12-14-17)

Sec. 12-2-22. - Governmental center district.

(A) *Purpose of district.* The purpose for the establishment of this district is to provide the redevelopment of a centralized area for government related land use; and to encourage a coordinated architectural character within the district.

(B) *Procedure for review of plans.*

(1) *Submission of plans.* Every application for a building permit to erect, construct, renovate and/or alter an exterior of a building, or sign, located or to be located in the district shall be accompanied by plans for the proposed work. As used herein, "plans" shall mean drawings or sketches with sufficient detail to show, as far as they relate to exterior appearance, the architectural design of the building or sign, (both before and after the proposed work is done in the cases of altering, renovating, demolishing or razing a building or structure) including proposed materials, textures and colors, and the plat plan or site layout, including all site improvements or features such as walls, fences, walks, terraces, plantings, accessory buildings, paved areas, signs, lights, awnings, canopies, screening and other appurtenances. Such plans shall be promptly forwarded by the building official to the architectural review board.

(2) *Review and approval by the architectural review board.* All such plans shall be subject to review and approval by the architectural review board as established in section 12-13-3 and in accordance with the provisions of section 12-2-10(A)(4)(a) through (c), applicable to the historic zoning districts. The board shall adopt written rules and procedures for abbreviated review for paint colors, minor repairs, emergency repairs and minor deviations in projects already approved by the board. This process may authorize the board to designate one of its members to undertake such abbreviated review without the necessity for review by the entire board, provided, however such abbreviated review process shall require review by the director of the downtown improvement board and the staff of the Historic Pensacola Preservation Board. If agreement cannot be reached as it pertains to an abbreviated review by the board designee, director of the downtown improvement board, Historic Pensacola Preservation Board staff and secretary to the architectural review board then the matter will be referred to the full board for a decision.

(3) *Notification and building permit.* Upon receiving the order of the board, the board's secretary shall thereupon notify the applicant of the board's decision. If the board approves the plans, and if all other requirements of the city have been met, the building official shall issue a permit for the proposed building or sign. If the board disapproves the plans, the building official shall not issue such permit. In a case where the board disapproves the plans, the secretary of the board shall furnish the applicant with a copy of the board's written order, and may at the discretion of the board include recommendations for changes necessary to be made before the board will reconsider the plans.

(4) *Failure to review plans.* If no action upon plans submitted to the board has been taken at the expiration of thirty-one (31) days from the date of submission of the application for a building permit and required plans to the board, such plans shall be deemed to have been approved, and if all other requirements of the city have been met, the building official shall issue a permit for the proposed building or sign.

(C) *Decisions.* Every decision of the board, in their review of plans for building or signs located or to be located in the district, shall be in the form of a written order stating the finding of the board, its decision and the reasons therefor. The board may at its discretion make recommendations for changes necessary to be made before the plans will be reconsidered. If recommendations for changes are made by the board, they may be general in scope and compliance with them shall only qualify the plans for reconsideration by the board but compliance with recommendations shall not bind or stop the board from disapproving the plans under reconsideration.

(a) Proposed plans shall be approved unless the board finds that the proposed erection, construction, renovation and/or alteration is not compatible with the built environment of the governmental center district.

(b) The board shall not consider interior design or plan. The board shall not exercise any control over land use, such as is governed by the city's zoning ordinance, Chapters 12-2 and 12-3 hereof, or over construction, such as is governed by the city's building codes.

(c) Plans for proposed new or altered signs shall be approved unless the board finds that the sign is inconsistent with the theme and character of the district, or that such sign does not comply with the requirements of the code or with any of the following provisions:

1. The board may adopt and promulgate rules and regulations controlling the number and size of signs, their heights and materials, relating such rules to the number of square feet served, frontage, and type of business. Such rules and regulations shall be subject to review and approval by the city council.

2. Within the governmental center district, roof signs, flashing and/or rotating signs, and signs protruding into or overhanging the public right-of-way are hereby prohibited except as set forth herein.

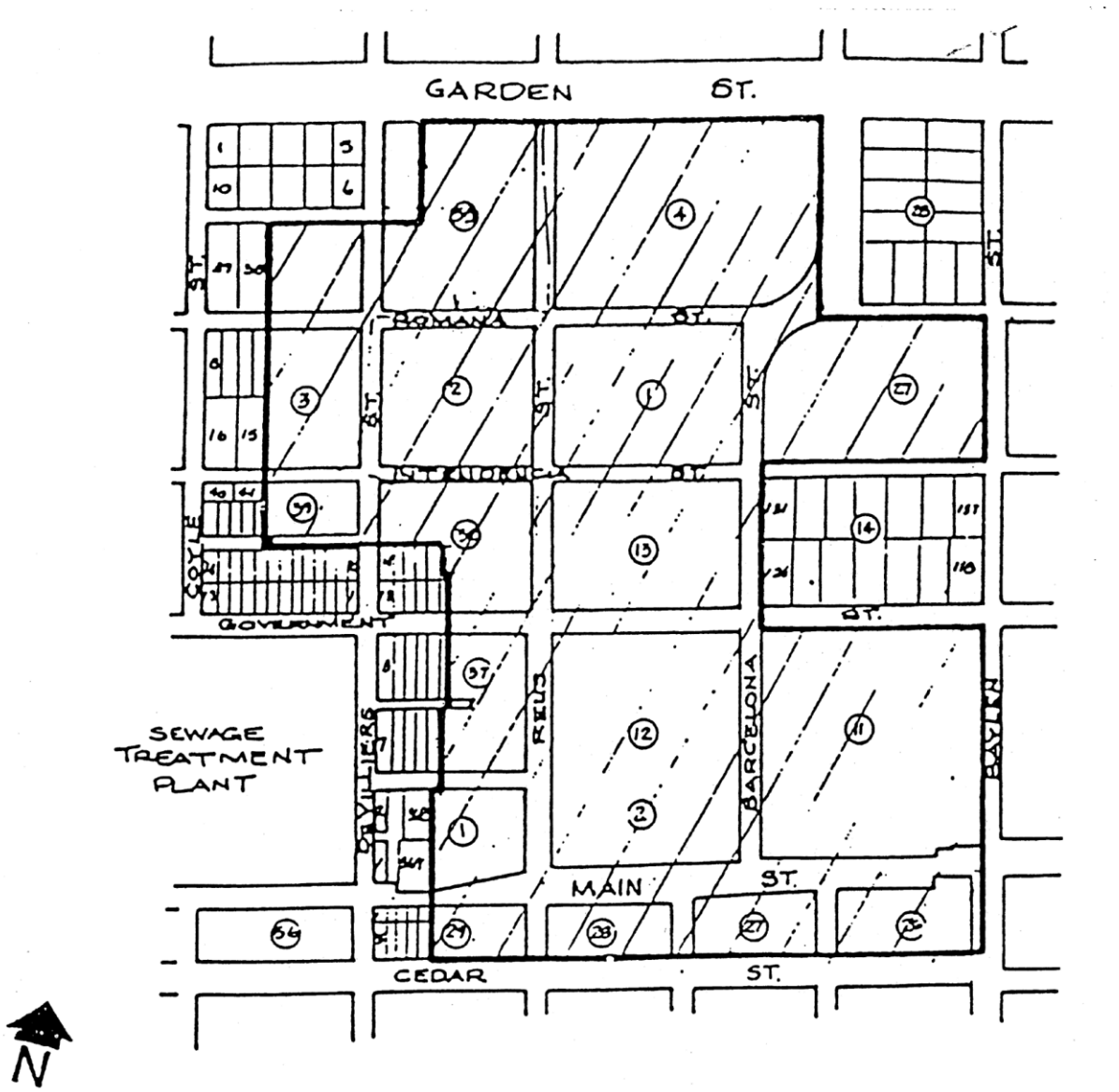
3. Signs existing prior to February 22, 1979, may remain until the business for which the sign was erected ceases to do business at that location or until the property on which such sign is located is acquired for a public purpose, which ever shall first occur.

4. On application to the approval of the board, rules relating to the number and size of signs may be waived for grand openings, special sales, going-out-of-business sales, and similar occasions when consistent with the city code.

(D) *Disqualification of member from voting.* Any member of the board who shall be employed to design or construct a building or who shall have any proprietary tenancy or personal interest in such building requiring approval of plans by the board shall be disqualified from voting thereon.

(E) *Boundaries of the district.* The boundaries of the governmental center district shall be as outlined on Map 12-2.2.

(Ord. No. 45-96, § 5, 9-12-96)



MAP 12-2.2
GOVERNMENTAL CENTER DISTRICT

Sec. 12-2-23. - Airport development corridor overlay district.

(A) *Creation and description of corridor.* There is hereby created the airport development corridor overlay district within the area described as follows: all property within one hundred (100) feet of either side of the centerline of 12th Avenue between the south line of the city airport property zoned

ARZ (Airport Restricted Zone) and the north line of Underwood Avenue, and all property within one hundred (100) feet of either side of the centerline of Airport Boulevard between 9th Avenue and 12th Avenue.

(B) *Purpose.* The purpose for creating the airport development corridor is to promote orderly development along major roadways accessing the Pensacola International Airport in order to enhance the corridor's visual appearance as an entranceway into the city. Review of each development proposal, with special emphasis on similar style signage, landscaping requirements and access management, is intended to encourage a high quality of site planning.

(C) *General conditions, procedures and standards.* Prior to obtaining construction permits the developer shall submit a site plan to and meet with the Planning services department staff and obtain its approval of the following:

(a) The relationship between the proposed development plan and the surrounding land uses.

(b) The character and/or design of the following factors:

1. Traffic egress and ingress to the site;
2. Signage;
3. Provision of open space and visual corridors;
4. Preservation of existing vegetation and proposed landscaping; and
5. Fencing and screening if applicable.

(D) *Development requirements.*

(1) *Permitted land uses.* Land uses within the airport development corridor shall be those permitted within the underlying zoning district classifications.

(2) *Signs.* The provisions set forth in Chapter 12-4 shall generally apply within the airport development corridor except as described below:

(a) Permanent accessory signs. The provisions set forth in section 12-4-4 shall be applied to signs constructed within the airport development corridor.

(b) Existing nonconforming permanent accessory signs. Existing nonconforming permanent accessory signs shall be permitted, however no such sign may be enlarged or altered in a way that increases its nonconformity. The sign may be reconstructed if destroyed by fire, explosion, or other casualty, or act of God, or the public enemy, however new construction must duplicate the original sign or the sign must comply with the regulations described herein.

(c) Nonaccessory signs. New nonaccessory signs shall be prohibited. Existing nonaccessory signs on the date of adoption of this ordinance may continue in place. Provided, however, any such existing signs located within one hundred fifty (150) feet of the intersection of 12th Avenue and Airport Boulevard may be relocated or reconstructed, one time only to a location more than one hundred fifty (150) feet from the intersection of 12th Avenue and Airport Boulevard, on or before March 1, 1993, subject to the spacing requirements set forth in section 12-4-5(D)(2).

(d) Temporary signs. Temporary sign requirements shall be subject to the provisions set forth in section 12-4-6.

(e) Prohibited signs. In addition to the prohibition of billboards, prohibited signs within the airport development corridor shall be subject to the provisions set forth in section 12-4-7.

(f) Guidelines for aesthetic design of signs:

1. The use of monument signs (a sign that is not mounted on a pole) is recommended within the corridor.

2. Design materials. The architectural character of the building to which the sign relates should be reflected in the lettering and materials used in the sign.

3. Lighting. Indirect or internal lighting.

(3) *Landscaping and buffer requirements.* Landscaping and buffer requirements shall be subject to the minimum provisions set forth in Chapter 12-6, with the additional requirements described below:

(a) Preservation of existing trees. Where it is not absolutely necessary for construction of buildings, egress and ingress points, and visual clearance for signs, existing trees having a minimum trunk diameter of eight (8) inches at a height of four (4) feet above the ground shall be protected.

(b) Guidelines for other landscaping. Preservation of other existing vegetation and new plantings of understory vegetation is encouraged to visually link development to the wooded character of the airport property and the grounds of the Pensacola State College campus.

(4) *Vehicular access.* For each lot tract or parcel under single ownership it is recommended that access points be limited to one per street frontage. In the event that more than one access point is necessary for vehicular safety or engineering reasons a maximum of two (2) access points on one street frontage will be permitted.

(5) *Fencing and screening.* No concrete block or barbed-wire fences will be permitted. Approved materials will include but not necessarily be limited to wood, brick, stone or wrought iron and combinations thereof. Chain-link fences shall be permitted only if used in conjunction with vegetation plantings for at least partial screening.

(6) *Off-street parking.* Placement of off-street parking outside the airport development corridor is encouraged.

(E) *Contents of the development plan.* The site plan(s) and elevation(s) depicting the proposed project within the airport development corridor shall contain all the elements at the scale designated in section 12-2-81.

(F) *Appeals.* Anyone wishing to appeal the decision of the planning staff may petition the city council.

(Ord. No. 28-92, § 1, 8-27-92)

Sec. 12-2-24. - North 9th Avenue corridor management overlay district.

(A) *Creation and description of the overlay district.* There is hereby created the North 9th Avenue corridor management overlay district within the area described as follows: All properties abutting North 9th Avenue between Fairfield Drive and Bayou Boulevard.

(B) *Purpose.* The purpose of this overlay district is to establish specific criteria to address access management of vehicular traffic and to enhance safety in the district for both pedestrians and the operators of motor vehicles. Further, creation of the district will allow for the orderly rezoning and redevelopment of the district over time, allow for a compatible mixture of residential and business uses, maintain the residential appearance and quality of the district by implementation of design standards, and enhance the corridor's visual appearance. These objectives will be accomplished through comprehensive site planning on the part of the developer, combined with site plan review and approval by the planning board, planning staff, the city engineer and the district office of the Florida Department of Transportation.

(C) *Permitted land uses.* Land uses within the North 9th Avenue corridor management overlay district are those permitted in the underlying zoning district classifications.

(D) *General conditions, procedures and standards.*

(1) Rezoning requests alone will not require submission of a site plan.

(2) Prior to making application for a building permit and/or obtaining a certificate of occupancy for non-residential development, the developer must submit a site plan that meets the access management requirements and design standards listed below to the planning board for aesthetic review. The developer shall submit this site plan to the planning services division and meet with the planning staff and the city engineer to obtain their input and/or review of the following prior to or concurrent with the planning board submittal:

(a) The relationship between the proposed development plan and the surrounding land uses.

(b) The character and/or design of the following factors:

1. traffic egress and ingress to the site;

2. parking;

3. provision of open space and visual corridors;

4. preservation of existing vegetation and proposed landscaping;

5. applicable screening, fencing and buffering;

6. signage; and

7. preservation of the residential quality of the district through architectural and design standards as outlined in paragraph (F) below.

(3) Procedure for review of plans.

(a) Plan submission: All development plans must comply with development plan requirements set forth in subsections 12-2-81(C) and (D), and design standards and guidelines established in section 12-2-82. Every application for a new certificate of occupancy or a building permit to erect, construct, demolish, renovate or alter a building or sign, or exterior site work (i.e., paving and landscaping of off-street parking areas), located or to be located in the North 9th Avenue corridor management overlay district shall be accompanied with drawings or sketches with sufficient detail to show, as far as they relate to exterior appearances, design of the site, signage, or exterior work (both before and after the proposed work is done in cases of altering, renovating, demolishing or razing a building or structure) including proposed materials, textures and colors, and the plot plan or site layout including all site improvements or features such as walls, fences, walks, terraces, plantings, accessory buildings, paved areas, signs, lights, awnings, canopies and other appurtenances.

(b) Review and approval. All plans shall be subject to the review and approval of the planning board established in chapter 12-13. At the time of review the board may require that any aspect of the overall site plan that does not meet the standards established in this section be incorporated and brought into compliance within a time limit approved by the board.

(c) Final development plan. If the planning board approves a preliminary development plan, the owner shall submit a final development plan in accordance with the procedure set forth below within six (6) months of the date of approval of the preliminary plan of development. For good cause shown, the planning board may, in its discretion, extend the time within which to file the final development plan for successive periods, the total of which shall not be more than an additional six (6) months. The final development plan shall be in basic conformity with the preliminary plan of development and comply with the other provisions of section 12-2-81 pertaining to the final development plan. If the applicant submits a final development plan that conforms to all the conditions and provisions of this chapter, then the planning board shall conclude its consideration at its next regularly scheduled meeting.

(E) *Development requirements.*

(1) *Access management.* In keeping with the district's goal of access management of vehicular traffic, each non-residential lot or parcel under single ownership must address access management objectives in its initial site plan.

In the interest of vehicular safety, traffic circulation, and roadway level of service (LOS), driveways to non-residential parcels of property must be at least two hundred forty-five (245) feet from the next adjacent driveway in either direction. This requirement can be accomplished by one of the following methods:

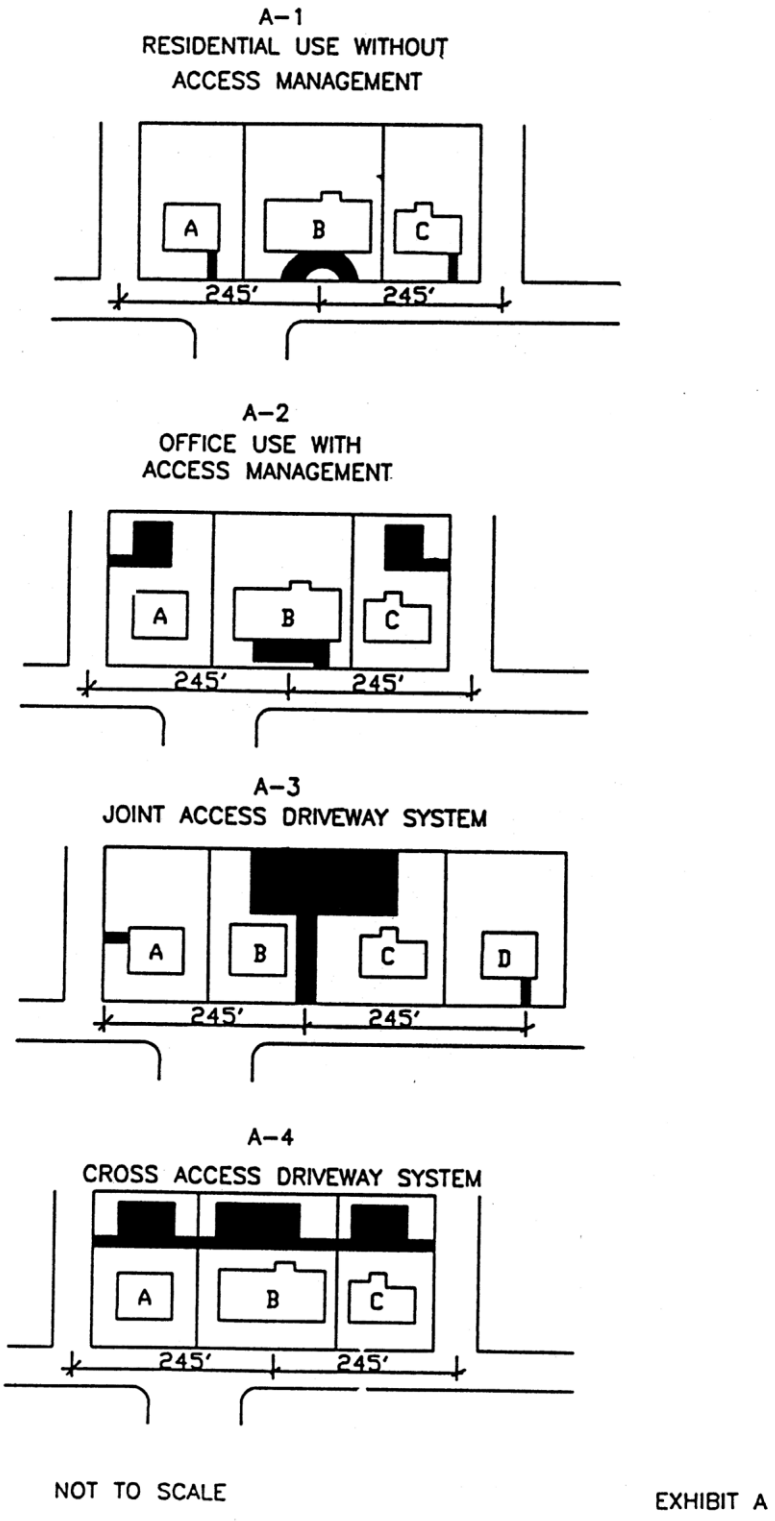
(a) A property owner requesting approval of non-residential use shall own a sufficiently sized parcel of land so as to gain the required frontage on North 9th Avenue to meet the two hundred forty-five-foot spacing requirement.

(b) A property owner may assemble multiple parcels of land so as to achieve the two hundred forty-five-foot spacing requirement.

(c) In the event that the two hundred forty-five-foot spacing requirement cannot be met on an individual parcel, One (1) driveway will be allowed; however an access management plan incorporating the concept of shared driveways with adjoining parcels that will accomplish this spacing requirement must be submitted to, and approved by, the planning staff.

Under this scenario, existing driveways will be designated interim driveways until such time as shared access development plans can be completed and shared driveways are constructed. To accomplish this objective, property owners must submit an easement allowing cross access to and from other properties served by joint and cross access drives and an agreement within their deed that the remaining access rights will be relinquished to the city and that preexisting driveways along the thoroughfare will be closed and eliminated after construction of the joint access system. These easements will be recorded by the city in the Public Records of Escambia County and be kept on file in the city's planning services division. A joint maintenance agreement should also be established in order to define the maintenance responsibilities of the property owners. See Exhibits A-1, A-2, A-3, and A-4.

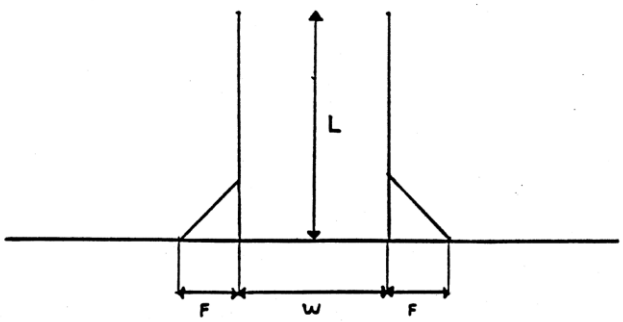
Unless the minimum spacing requirement of two hundred forty-five (245) feet between connections can be met, parcels located on corner lots shall use the side street for full-access connections and have limited access to North 9th Avenue. Direct access to North 9th Avenue shall be allowed in the form of directional openings designed to enhance the safety and operation of the roadway. Driveway connections on corner side streets shall provide a corner clearance of one hundred twenty (120) feet from the travel lane of North 9th Avenue. This distance may be reduced if the depth of the lot cannot support this distance or if the location is within a primary portion of the lesser classified roadway and could pose a conflict or nuisance with the surrounding existing residential uses, such as in the case of direct alignment with an existing residential driveway or dwelling.



(2) *Driveway design.* In order to permit a safe transition from the roadway to the site, two-way driveways must have a minimum width of twenty-four (24) feet and a maximum of thirty-six (36) feet and a minimum flare of ten (10) feet on both sides in accordance with Florida Department of Transportation Standard Index 515, Roadways and Traffic Design Standard Indices, latest edition. Further, to prevent the stacking of vehicles on the roadway, driveways should have a

minimum length of thirty-six (36) feet from the edge of the roadway to the beginning of the parking area for business developments. See Exhibit B below. As long as the roadway remains under FDOT maintenance, a copy of the FDOT Pre-Application Meeting Notes should be provided to the city during the site plan submittal process to allow staff to review for consistency with the state requirements as well as city standards.

FDOT DRIVEWAY DESIGN STANDARDS[1]



CONNECTION WIDTH	"W"	24' Min. 36' Max.
FLARE (Drop Curb)	"F"	10' Min.
DRIVEWAY LENGTH	"L"	36' Min.

[1] Florida Department of Transportation Standard Index 515, Roadways and Traffic Design Standard Indices, latest edition.

EXHIBIT B

(3) *Off-street parking.* Off-street parking must be provided as required for the specific use of the property as set forth in chapter 12-3. The design of parking lots must meet the minimum requirements as set forth in chapter 12-3. Additionally, parking areas shall be placed towards the rear of the site for business establishments. Where the constraints of the lot limit parking at the rear of the site, additional landscaping shall be required within the parking area and along the front of the property to soften the streetscape and enhance the aesthetic appearance of the development.

(4) *Landscaping and buffers.* Landscaping and buffer requirements are subject to the minimum provisions set forth in chapter 12-2, section 12-2-32 and chapter 12-6. When off-street parking is located at the front of the project, a year-round landscaped hedge or low wall along the street edge of the parking lot must be used as a means of buffering. Additional design standards are outlined in section 12-2-24(F) below.

(5) *Signs.* Refer to chapter 12-4 for general sign standards and criteria and for a description of sign area calculations. The specific standards as outlined in section 12-2-24(F) shall be applied to all signage within this district.

(6) Reserved.

(F) *Design standards:*

(1) *Landscaping and buffers.* Preservation of existing vegetation is required and new plantings of native, non-invasive understory vegetation is strongly encouraged to visually link the development to the wooded character and mature landscape of the district.

(2) *Signage.*

(a) *Freestanding signs.* Freestanding signage shall observe a maximum overall sign height of eight (8) feet with a maximum sign face area of thirty-two (32) square feet. Monument signs are required; however, if a pole sign is existing, decorative covers to conceal the frame are required. Additionally, landscaping at the base of all freestanding signage is required.

(b) *Design materials.* The architectural character of the building to which the sign relates should be reflected in the lettering and materials used in the sign.

(c) *Lighting.*

1. In addition to the standards within sections 12-3-3 and 12-4-2, parking lot lighting and lighting on buildings shall be direct (downlighting) to promote dark sky lighting and minimize light pollution. The maximum allowed trespass of light at the property line shall not exceed .5 foot-candles. Parking lot lighting shall be full cutoff to minimize light pollution and nuisances.

2. Freestanding signs may be uplit with shielded landscape lighting to promote dark sky lighting and minimize light pollution and nuisances.

3. Signage may not be internally illuminated. However back-lighting of letters will be permissible with opaque faces to create the effect of channel letters.

4. Electronic reader boards shall not be allowed within this district.

(3) *Architectural design and building elements.*

(a) Buildings or structures that are part of a present or future group or complex shall have a unity of character and design. The relationship of forms and the use, texture, and color of materials should be such as to create a harmonious whole within the residential context and nature of the district.

(b) Buildings or structures located along strips of land or on single sites and not a part of a unified multi-building complex shall strive to achieve visual harmony with the surroundings. It is not inferred that the buildings must look alike or be of the same style to be compatible with the district. Compatibility can be achieved through the proper consideration of scale, proportions, site planning, landscaping, materials and use of color.

(4) *Fencing and screening.* Approved materials for non-residential developments include wood, brick, stucco finished masonry, stone, or wrought iron, and combinations of these materials. Synthetic materials with the appearance of approved materials are included. Black powder-coated chain link fences will be permitted for new non-residential developments if screened in their entirety by appropriate vegetation. Exposed concrete block and barbed-wire are prohibited within the district.

(G) *Contents of the development plan.* The site plan(s) and elevation(s) depicting the proposed project within the overlay district must contain all the elements at the scale designated in section 12-2-81(C) and (D).

(H) *Conformity.* Existing commercial developments are required to comply with the above standards with respect to landscaping, lighting, signage and fencing by December 31, 2024. Compliance will be required for all redevelopment that exceeds fifty (50) percent of the value of the building.

(Ord. No. 33-96, § 1, 7-25-96; Ord. No. 01-17, § 1, 1-12-17)

Sec. 12-2-25. - Community redevelopment area (CRA) urban design overlay district.

The regulations in this section shall be applicable to the community redevelopment area (CRA) urban design overlay district (CRAUDOD).

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(A) *Intent.* The requirements set forth in this section are intended to:

(1) Preserve and maintain the urban pattern and architectural character of Pensacola's community redevelopment areas, while encouraging new construction that is compatible with that heritage, but also reflective of its time.

(2) Improve the physical appearance of the community redevelopment areas with urban design standards that provide more predictable results in terms of the form and character of buildings.

(3) Support the removal of blight within the community redevelopment areas by encouraging quality redevelopment.

(4) Support the future growth of Pensacola, to ensure compatible and cohesive development, to remain resilient long-term, and to support the goals, objectives and policies of the city's comprehensive plan and community redevelopment area master plans.

(5) Coordinate the placement, orientation, and design of buildings to ensure a coherent and walkable streetscape and traditional urban character by creating well-defined street edges with continuous building walls, articulated facades, and architectural features that create visual interest and an attractive pedestrian environment.

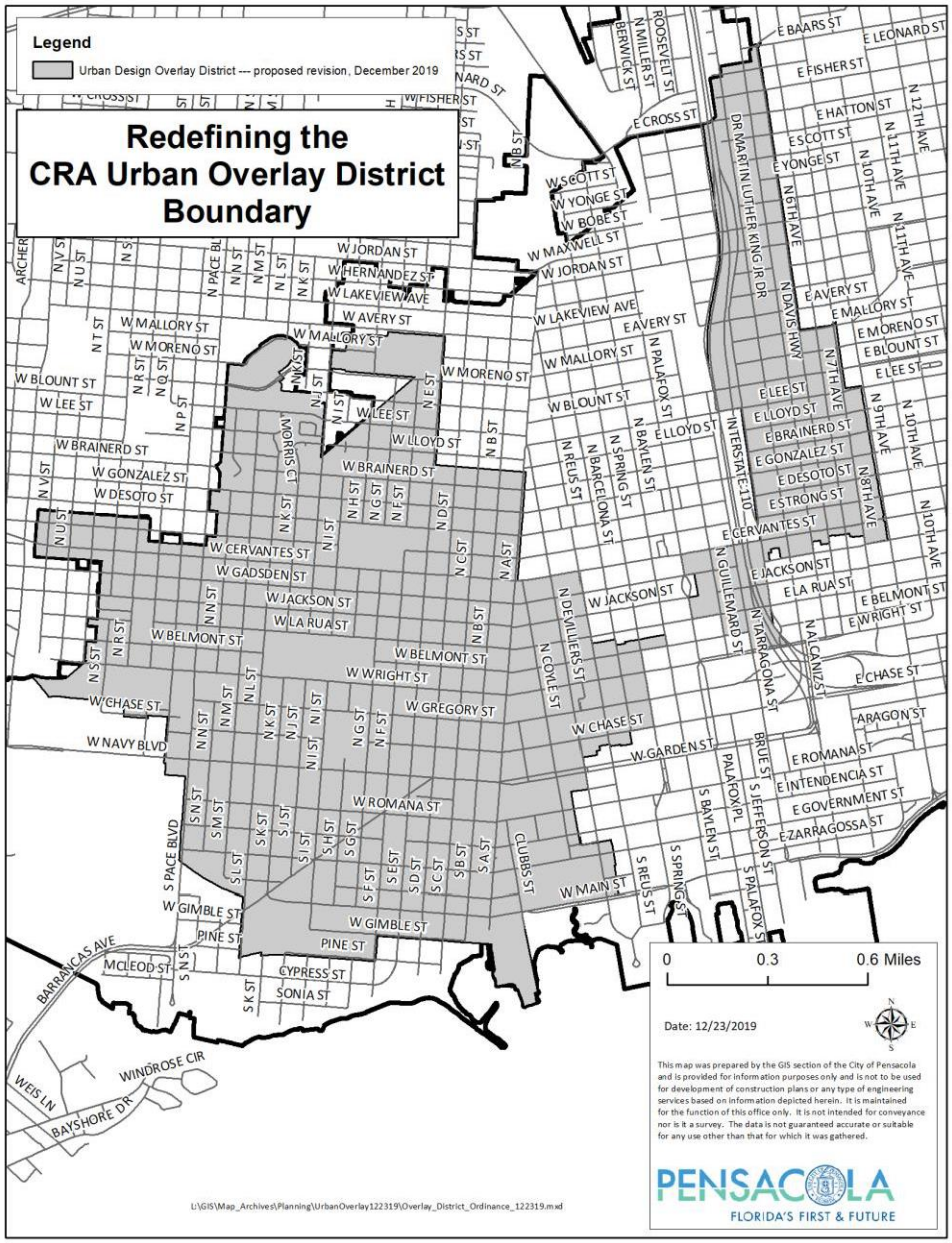
(6) Capitalize on opportunities to attract and grow a variety of residential building types, retail, service, and cultural establishments to serve local needs, create regional attractions and a robust economic base.

(7) Enable and encourage mixed-use development within the community redevelopment areas in support of viable and diverse locally-oriented business and cultural institutions.

(8) Achieve context-based development and complete streets.

(B) *Boundaries of the district.* The boundaries of the CRA urban design overlay district shall be as outlined on Figure 12-2-25.1. A more detailed map of the boundaries of the overlay is on file in the City of Pensacola Office of the City Clerk.

Figure 12-2-25.1 - CRA Urban Design Overlay District Boundaries



(C) *Applicability.*

(1) These standards shall apply to all new construction within the CRA urban design overlay district. For purposes of section 12-2-25, "new construction" includes construction on a parcel that is vacant or becomes vacant following demolition of an existing structure(s) on the parcel; it also includes construction of a free-standing accessory building and ancillary improvements on a parcel, but does not include an addition to a current structure.

(2) This section [section 12-2-25, CRA urban design overlay district] shall apply as an overlay to the underlying land development regulations. The land development regulations contained within Title XII (Land Development Code) shall apply unless pre-empted by this section. Where a conflict exists between this section and the underlying land development regulations, contained within Title XII (Land Development Code), this section shall prevail.

(3) Standards, activated by "shall", are regulatory in nature, as defined within section 12-1-8 (general interpretative terms). Deviations from these standards shall only be permitted by variance in accordance with section 12-12-2 (appeals and variances).

(4) Guidelines, activated by "should", are encouraged and recommended but not mandatory, as defined within section 12-1-8 (general interpretative terms). Developments subject to this overlay district are encouraged to incorporate them as appropriate in order to enhance and complement the built and natural environment. The intent is to create the highest level of design quality while providing the needed flexibility for creative site design.

(5) Figures, tables and illustrations shall be interpreted as defined in section 12-1-8 (general interpretative terms) unless the context clearly indicates otherwise.

(6) The provisions of this section are not intended to supersede, conflict with or replace any requirement in federal or state law pertaining to design, construction or accommodation requirements pertaining to persons with disabilities, and it is hereby declared to be the intent of the City of Pensacola that such requirements in federal or state law shall prevail over any provisions of this section to the extent of any conflict.

(D) *Existing conditions.* Existing buildings and structures that do not conform to the requirements of this overlay district may be occupied, operated, repaired, renovated or otherwise continue in use in their existing non-conforming state unless demolished and rebuilt.

(E) *Procedure for review.* All development regulated by this subsection shall be subject to the submission requirements contained within section 12-12-5 (building permits), section 12-2-81 (development plan requirements), and section 12-2-82 (design standards and guidelines), as applicable. In addition to the plan submission requirements listed in section 12-12-5 and 12- 2-81, drawings illustrating compliance with section 12-2-25 (CRA urban design overlay district) shall be provided. Plans shall include drawings or sketches with sufficient detail to show, as far as they relate to exterior appearance, the architectural design of the building, including proposed materials, textures, and colors, and the plat plan or site layout, including all site improvements or features such as walls, fences, walkways, terraces, landscaping, accessory buildings, paved areas, signs, lights, awnings, canopies, screening, and other appurtenances. Façade and frontage yard types shall be specified along frontages in accordance with Table 12-2-25.10 (Façade Types) and Table 12-2-25.9 (Frontage Yard Types).

(F) *Appeals and variances.* Appeals and variances shall be subject to section 12-12-2 (appeals and variances).

(G) *Urban design standards and guidelines.*

(1) *Building height.*

(a) *Intent.* Within the overlay district, height for single-family residential types will be measured in feet and multi-family, mixed-use and non- residential buildings will be measured in stories. Measuring height in stories rather than feet has numerous benefits which include: a) to provide greater creativity for a natural variety of roof forms; b) to recognize the need of different users, as commercial floor plates are different than residential floor plates; c) to remove the incentive to create short floorplates, and instead encourage more gracious floor-to-ceiling heights for environmental health, without penalizing property owners; and d) to protect the historical proportions of Pensacola's community redevelopment areas.

(b) Maximum building heights for principal and accessory buildings shall be as defined by the form standards in Tables 12-2-25.3 to 12-2-25.8.

(c) Building height is measured as follows:

(i) Where maximum height is specified, the measurement shall be taken from the finished grade at the front of the building.

(ii) Building height shall be measured in feet for single-family residential types as defined in the form standards in Tables 12-2-25.3 to 12-2-25.8 and as follows:

a. For pitched roof buildings, to the bottom of the lowest eave of the principal structure.

b. For flat roof buildings, to the bottom of the parapet.

c. Minimum floor to ceiling height in single-family residential types shall be nine (9) feet per floor.

(iii) Building height shall be measured in stories for multi-family, mixed use and nonresidential buildings as follows:

a. Multi-family buildings shall be limited by ground floor story and above ground story height in accordance with Table 12-2-25.1:

Table 12-2-25.1 Multi-family Story Height Requirements

Zoning Category	Ground Floor Story Height		Above Ground Story Height
	Max.	Min.	Max.
R-2A through C-3	16 ft.	12 ft.	14 ft.

b. Mixed use and non-residential buildings shall be limited by ground floor story and above ground story height in accordance with Table 12-2-25.2.

Table 12-2-25.2 Mixed Use/Non-Residential Story Height Requirements

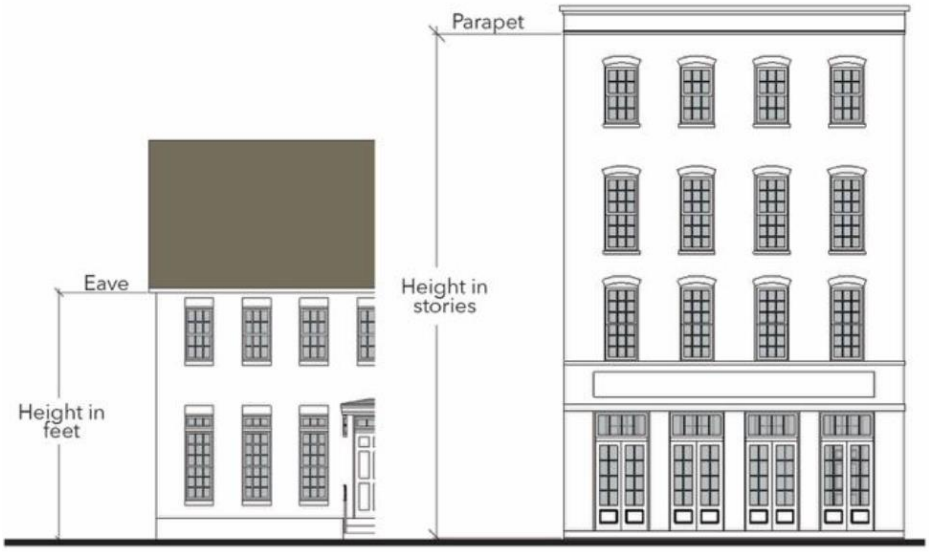
Zoning Category	Ground Floor Story Height		Above Ground Story Height
	Max.	Min.	Max.
R-1AAA through R-2A	16 ft.	12 ft.	14 ft.
R-NC, R-NCB and R-2	20 ft.	14 ft.	14 ft.
C-1, C-2, C-2A and C-3	24 ft.	14 ft.	14 ft.

c. Stories are measured from finished floor to finished floor with the exception of one-story buildings that shall be measured floor to ceiling.

d. Story heights that exceed the maximum permitted height specified in Tables 12-2-25.1 and 12-2-25.2 shall count as two (2) stories. Height defined within this subsection shall not supersede height as defined by the Florida Building Code.

(iv) See Illustration 12-2-25.1 for a depiction of height measurements in feet and stories.

Illustration 12-2-25.1 - Measuring Building Height



(d) Parking garages shall not exceed the height of the principal building on the site. Parking garages shall not be subject to floor to floor height requirements according to section 12-2-25(G)(1)(c)(iii). Stand-alone parking garages shall only conform to the number of stories permitted within the form standards in Tables 12-2-25.3 to 12-2-25.8.

(e) *Roof pitch.*

(i) Gable or hipped roofs shall have a minimum pitch of 6:12 and a maximum pitch of 12:12.

(ii) Shed roofs shall have a minimum pitch of 4:12.

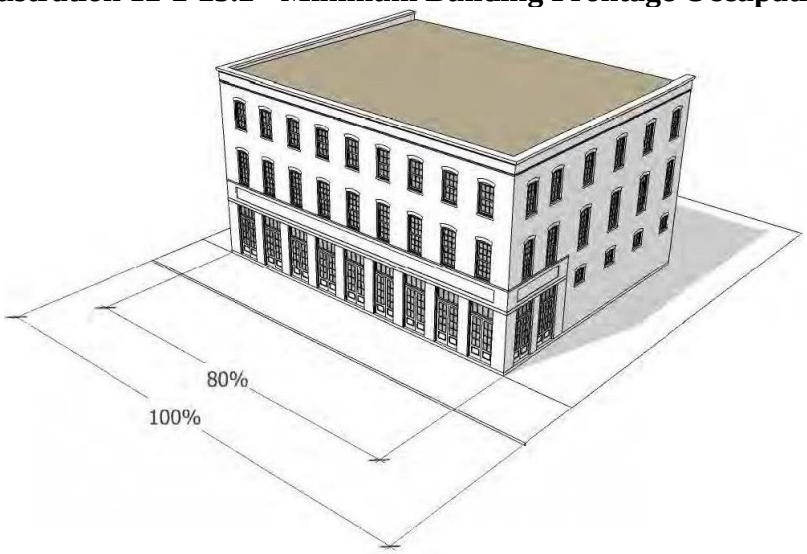
(2) *Building orientation.*

(a) *Intent.* Buildings should have their principal pedestrian entrance along a street, pedestrian way or open space, with the exception of entrances off a courtyard, visible from public rights-of-way.

(b) Building frontage occupation shall conform to the form standards in Tables 12-2-25.3 to 12-2-25.8.

(c) Buildings shall be oriented so that the principal façade is parallel to the street it faces for the minimum building frontage occupation required in the form standards in Tables 12-2-25.3 to 12-2-25.8. See Illustration 12-2-25.2 for a depiction of minimum frontage occupation requirements.

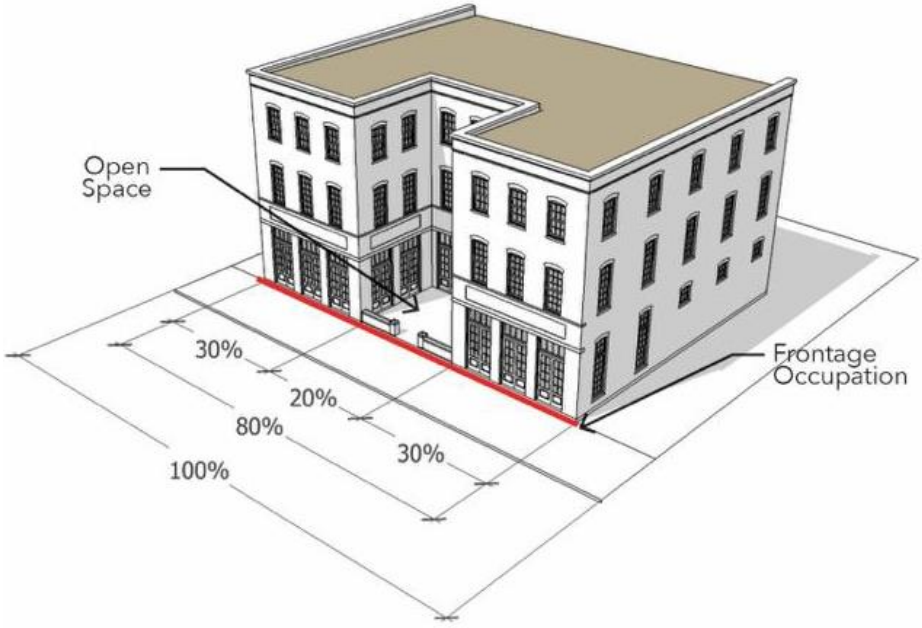
Illustration 12-2-25.2 - Minimum Building Frontage Occupation



(d) Lot width shall be measured along the right-of-way at the front property line. Lot width measurements at the building setback line and minimum lot area shall not apply.

(e) Forecourts, courtyards and other such defined open spaces shall count towards minimum frontage requirements. See Illustration 12-2-25.3 for an illustration depicting minimum frontage occupation requirements with open space.

Illustration 12-2-25.3 - Minimum Building Frontage Occupation with Open Space



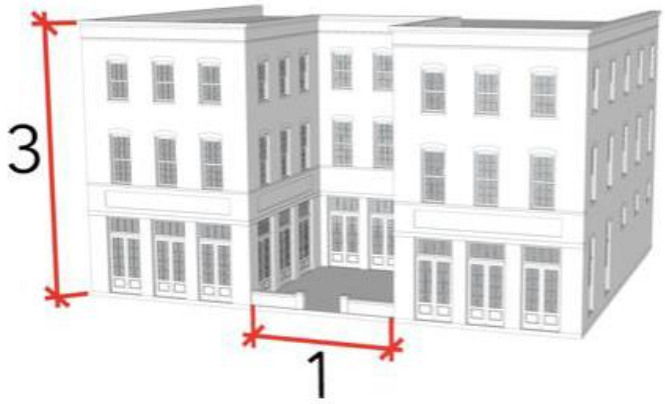
(f) Ground floor units in multi-family residential buildings shall provide landscaping, walls, and/or fences that provide some privacy for the building.

(3) *Building massing.*

(a) Intent. Buildings should be designed in proportions that reflect human-scaled pedestrian movement, and to encourage interest at the street level.

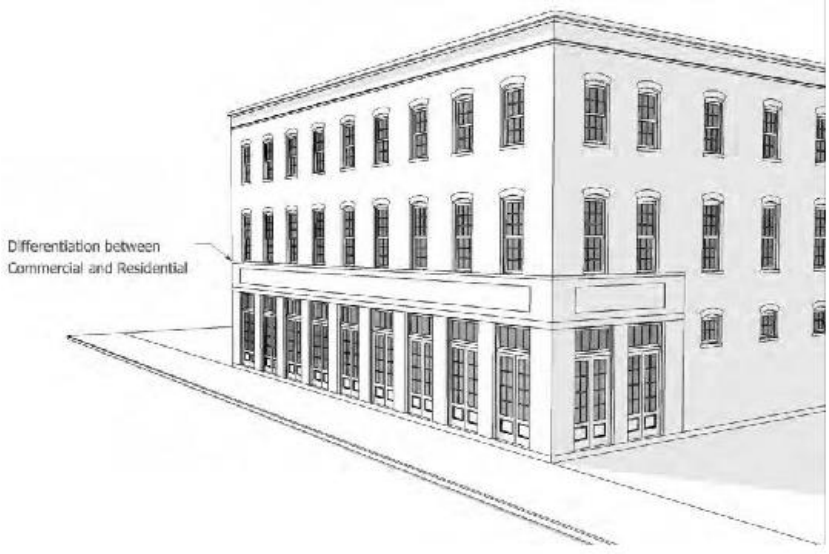
(b) Where provided, multi-family building courtyards shall maintain a minimum width to height ratio of 1 to 3 in at least one (1) dimension in order to avoid light well conditions. Courtyards should be wider than the minimum where possible. See Illustration 12-2-25.4 for depiction of courtyard ratio measurements.

Illustration 12-2-25.4 - Courtyard Height to Width Ratio Measurements



(c) The design and façade treatment of mixed-use buildings shall differentiate commercial from residential uses with distinguishing expression lines (such as cornices, projections, banding, awnings, terraces, etc.), changes in fenestration, façade articulation and/or material changes. See Illustration 12-2-25.5 for depiction of mixed-use building differentiation of uses.

Illustration 12-2-25.5 - Mixed Use Building Differentiation of Uses



(d) Single-family units shall be distinguished from abutting units with changes in unit entry, plane, color, materials, front porches, front stoops, fenestration, and/or building elements such as railings.

(e) All service and loading areas shall be entirely screened from public right-of-way as follows:

(i) Equipment shall be screened.

(ii) If outdoor storage areas are separate from the building they serve, the fence materials shall be limited to masonry, concrete, stucco, wood, PVC and metal, excluding chain-link.

(f) HVAC and mechanical equipment are restricted as follows:

(i) They shall be prohibited in frontage yards.

(ii) They shall be integrated into the overall building design and not be visible from adjoining streets and or open spaces.

(iii) Through-wall units shall be prohibited along street frontages and open spaces, unless recessed within a balcony.

(g) Mechanical equipment on roofs shall be visually screened from the street with parapets or other types of visual screens of the minimum height necessary to conceal the same.

(h) Roof top parking shall be visually screened with articulated parapet walls or other architectural treatment.

(i) Exterior wall materials prohibited for all single-family residential types shall include:

(i) Corrugated metal panels; and

(ii) Exposed concrete block.

(j) Material requirements contained within section 12-2-82(C)(8) (design standards and guidelines) shall apply within the CRA urban design overlay district.

(4) *Form standards.*

(i) Form standards within the CRA urban design overlay district shall be as defined in Tables 12-2-25.3 to 12-2-25.8.

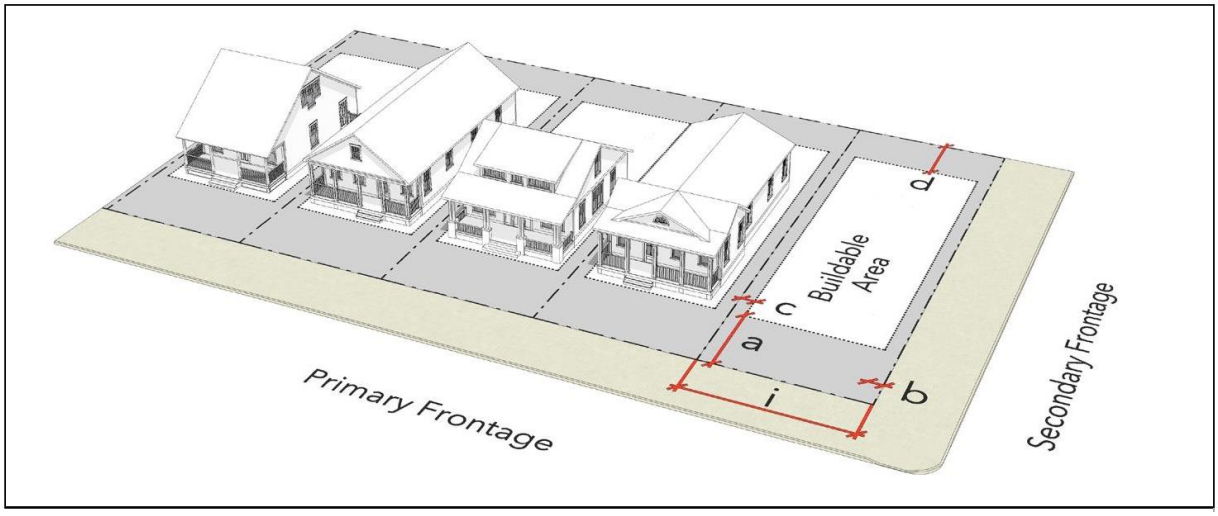
(ii) Exceptions to form standards.

a. Front setbacks in R-1AAA, R-1AA, and R-1A shall not be less than the average setback of all frontage yards (front and exterior side yards) located on either side of the block face, up to the minimum front setback defined in form standards in Tables 12-2-25.3 and 12-2-25.5. In cases where no other dwellings exist within the block, the front setback shall be no less than the front setback defined in form standards in Tables 12-2-25.3 and 12-2-25.5.

b. Each single-family attached dwelling unit shall be located on its own lot. If a development requires subdivision procedures, it shall be subject to and must comply with subdivision regulations as set forth in Chapter 12-8.

c. Where lot occupation and setback standards differ from the dense business area (DBA), as defined in Chapter 12-14 (definitions), the standards in the DBA shall prevail.

Table 12-2-25.3 - Single-Family Detached and Two-Family Attached (Duplex) Residential Building Types - R-1AAA through R-1A



Setbacks - Principal Building (feet)		
a	Front	20 min.
b	Front, Secondary(4)	5 min.
c	Side (Interior)(4)	5 min.
d	Rear	30 min./20 min. (30' lots)
Frontage (min.)		
	Primary	45%/40% (lots < 42')
Lot Occupation(5)		
i	Lot Width(3)	30 ft. min.
	Lot Coverage	50% max.
Building Height (max.)		
	Principal Building(1)	35 ft.
	Accessory Building(1)	24 ft.
Parking (min.)		

	Off-street(2)	1/unit
Setbacks - Accessory Building (feet)		
a	Front	50 min.
b	Front, Secondary(4)	5 min.
c	Side (Interior)	1 min.
d	Rear	3 min.
Frontage Yard Types		
Standard		Permitted
Shallow		Not Permitted
Urban		Not Permitted
Pedestrian Forecourt		Not Permitted
Vehicular Forecourt		Not Permitted
Facade Types		
Porch		Permitted
Stoop		Not Permitted
Common Entry		Not Permitted
Gallery		Not Permitted
Storefront		Not Permitted

Notes:

(1) Measured according to section 12-2-25(G)(1)(c).

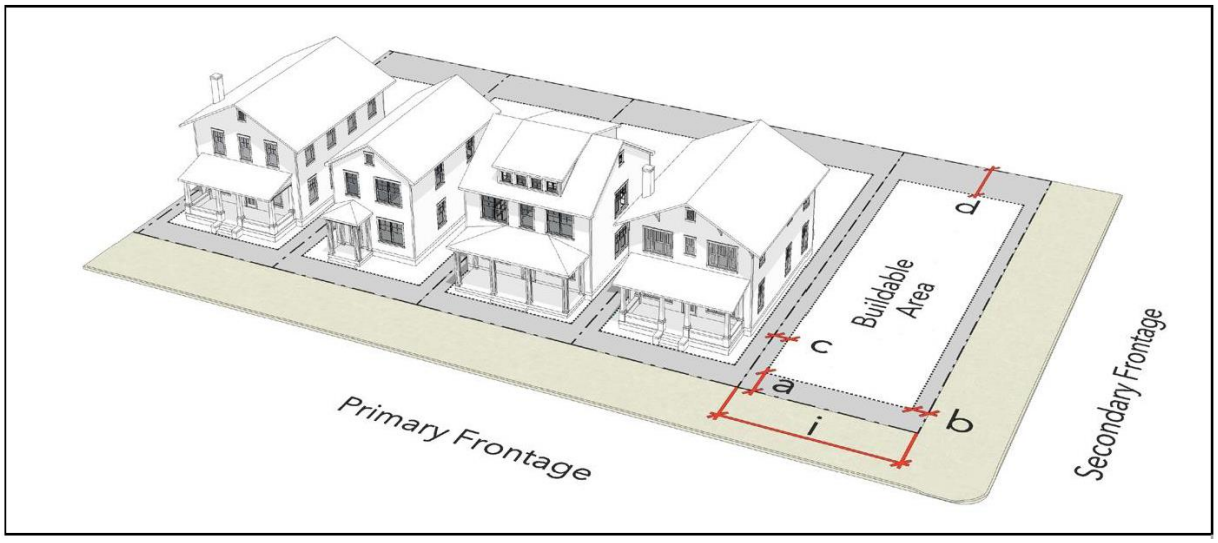
(2) See section 12-2-25(G)(8)(b) for exceptions.

(3) Lot width shall only be measured from the right-of-way line. Lot width at the building setback line shall not apply.

(4) Minimum setback for thirty-foot lots shall be three (3) feet measured from the finished wall or the minimum setback required per applicable Florida Building Code.

(5) Minimum lot area shall not apply.

Table 12-2-25.4 - Single-Family Detached and Two-Family Attached (Duplex) Residential Building Types- R-1B through C-3



Setbacks - Principal Building (feet)		
a	Front	8 min./20 max.
b	Front, Secondary(4)	5 min.
c	Side (Interior)(4)	5 min.
d	Rear	25 min./20 min. (30' lots)
Frontage (min.)		
	Primary	45%/40% (lots < 42')
Lot Occupation(5)		
i	Lot Width(3)	30 ft. min.

	Lot Coverage	50% max.
Building Height (max.)		
	Principal Building(1)	35 ft.
	Accessory Building(1)	24 ft.
Parking (min.)		
	Off-street(2)	1/unit
Setbacks - Accessory Building (feet)		
a	Front	50 min.
b	Front, Secondary(4)	5 min.
c	Side (Interior)	1 min.
d	Rear	3 min.
Frontage Yard Types		
Standard		Permitted
Shallow		Permitted
Urban		Not Permitted
Pedestrian Forecourt		Not Permitted
Vehicular Forecourt		Not Permitted
Facade Types		
Porch		Permitted
Stoop		Not Permitted

Common Entry	Not Permitted
Gallery	Not Permitted
Storefront	Not Permitted

Notes:

(1) Measured according to section 12-2-25(G)(1)(c).

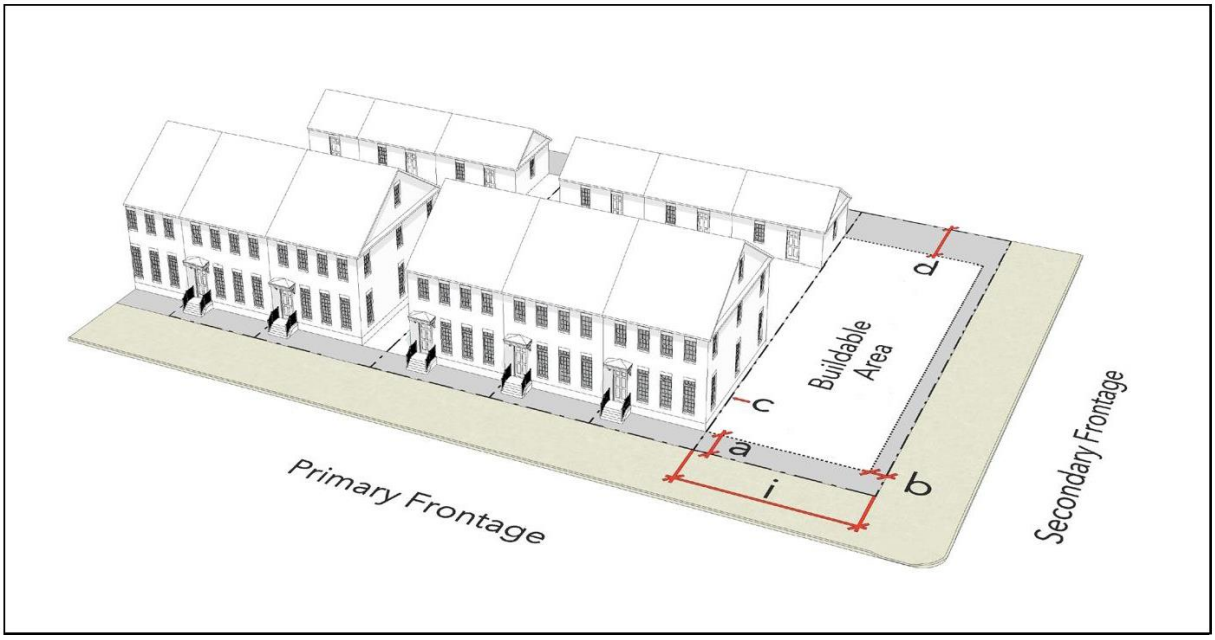
(2) See section 12-2-25(G)(8)(b) for exceptions.

(3) Lot width shall only be measured from the right-of-way line. Lot width at the building setback line shall not apply.

(4) Minimum setback for thirty-foot lots shall be three (3) feet measured from the finished wall or the minimum setback required per applicable Florida Building Code.

(5) Minimum lot area shall not apply.

Table 12-2-25.5 - Single-Family Attached (Townhouse) Residential Building Types - R-1AA through C-3



Setbacks - Principal Building (feet)		
a	Front	8 min.

b	Front, Secondary	5 min.
c	Side (Interior)(1)	0 or 5 min.
d	Rear	25 min.
Frontage (min.)		
	Primary	80%
Lot Occupation(3)		
i	Lot Width	16 ft. min.
	Lot Coverage	75% max.
Building Height (max.)		
	Principal Building(2)	45 ft.
	Accessory Building(2)	24 ft.
Parking (min.)		
	Off-street	1/unit
Setbacks - Accessory Building (feet)		
a	Front	50 min.
b	Front, Secondary	5 min.
c	Side (Interior)	1 min.
d	Rear	3 min.
Frontage Yard Types		
Standard		Not Permitted

Shallow	Permitted
Urban	Not Permitted
Pedestrian Forecourt	Not Permitted
Vehicular Forecourt	Not Permitted
Facade Types	
Porch	Permitted
Stoop	Permitted
Common Entry	Not Permitted
Gallery	Not Permitted
Storefront	Not Permitted

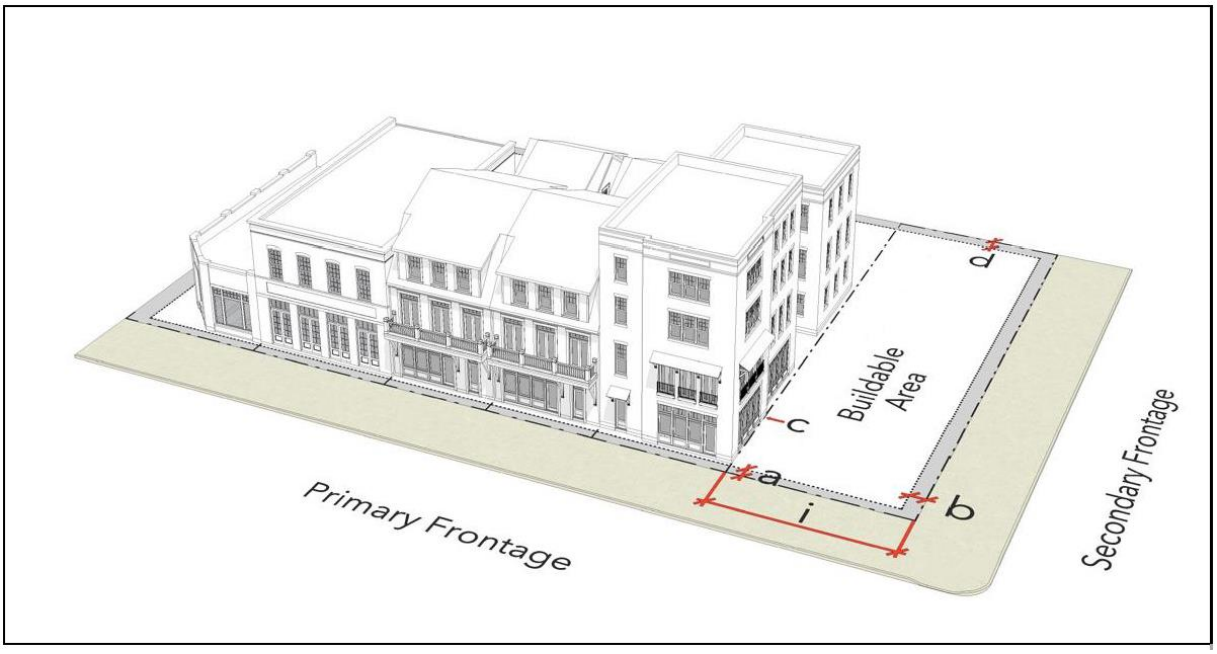
Notes:

(1) Zero (0) foot min (attached/zero lot line buildings)/five-foot min. (detached buildings).

(2) Measured according to section 12-2-25(G)(1)(c).

(3) Minimum lot area shall not apply.

Table 12-2-25.6 - Multi-Family, Mixed Use, Neighborhood Commercial and Commercial Building Types



Setbacks - Principal Building (feet)		
a	Front (Com./Res.)(1)	5 max./15 max.
b	Front, Secondary (Com./Res.)	5 max./15 max.
c	Side (Interior)(3)	0 or 5 min.
d	Rear	none
Frontage (min.)		
	Primary	80%
Lot Occupation(4)		
i	Lot Width	16 ft. min.
	Lot Coverage	75% max.
Building Height (max.)		
	Principal Building(2)	4 stories

	Accessory Building(2)	N/A
Off-Street Parking (min.)		
Residential		1/unit
Commercial		Per section 12-2-25(G)(8)
Setbacks - Accessory Building (feet)		
Front		N/A
Front, Secondary		N/A
Side (Interior)		N/A
Rear		N/A
Frontage Yard Types		
Standard		Not Permitted
Shallow		Permitted
Urban		Permitted
Pedestrian Forecourt		Permitted
Vehicular Forecourt		Permitted
Facade Types		
Porch		Not Permitted
Stoop		Permitted
Common Entry		Permitted
Gallery		Permitted

Storefront	Permitted

Notes:

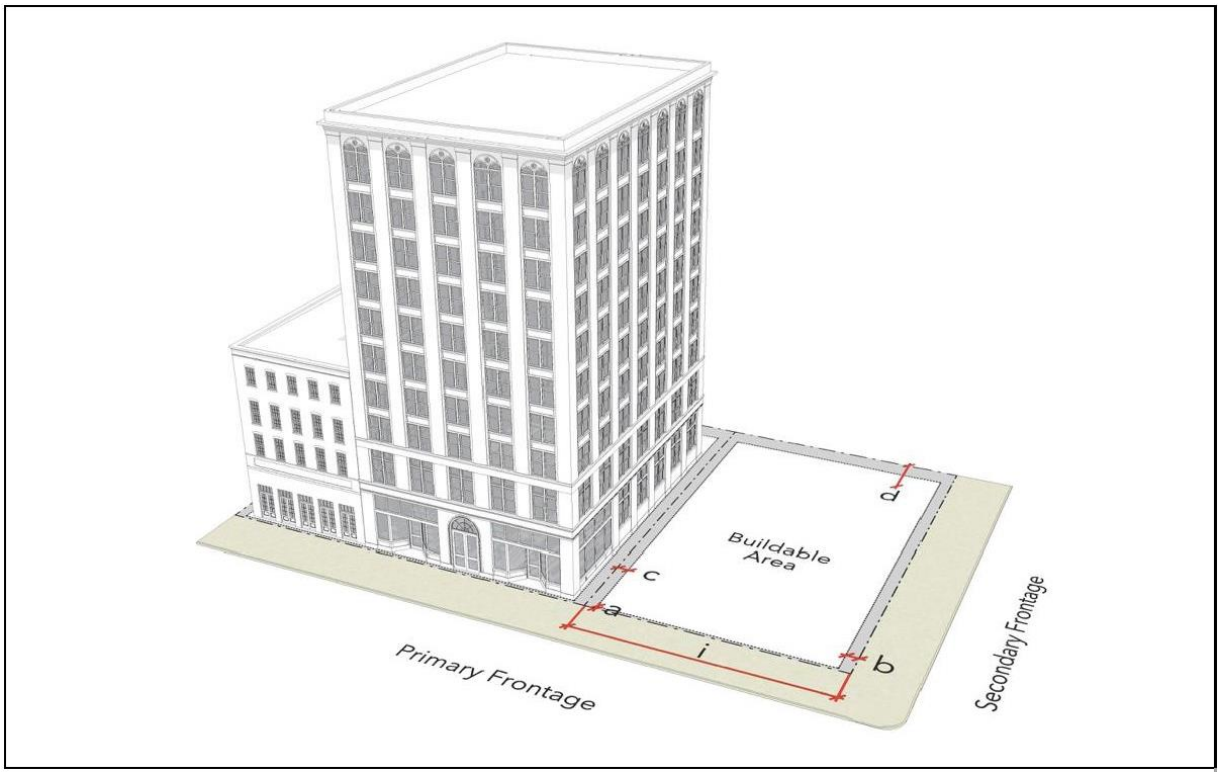
(1) Lots within the dense business area shall be permitted the lesser front setback.

(2) Measured according to section 12-2-25(G)(1)(c).

(3) Zero (0) foot min (attached/zero lot line buildings)/five-foot min (detached buildings).

(4) Minimum lot area shall not apply.

Table 12-2-25.7 - Multi-Family, Mixed Use and Commercial Building Types - C-2A, C-2, C-3*



Setbacks - Principal Building (feet)		
a	Front (Com./Res.)(1)	5 max./15 max.
b	Front, Secondary (Com./Res.)	5 max./15 max.
c	Side (Interior)(3)	0 or 5 min.

d	Rear	none
Frontage (min.)		
	Primary	80%
Lot Occupation(4)		
i	Lot Width	16 ft. min.
	Lot Coverage	100% max.
Building Height (max.)		
	Principal Building(2)	10 stories
	Accessory Building	N/A
Off-Street Parking (min.)		
Residential		1/unit
Commercial		Per section 12-2-25(G)(8)
Setbacks - Accessory Building (feet)		
Front		N/A
Front, Secondary		N/A
Side (Interior)		N/A
Rear		N/A
Frontage Yard Types		
Standard		Not Permitted
Shallow		Permitted

Urban	Permitted
Pedestrian Forecourt	Permitted
Vehicular Forecourt	Permitted
Facade Types	
Porch	Not Permitted
Stoop	Not Permitted
Common Entry	Permitted
Gallery	Permitted
Storefront	Permitted

Notes:

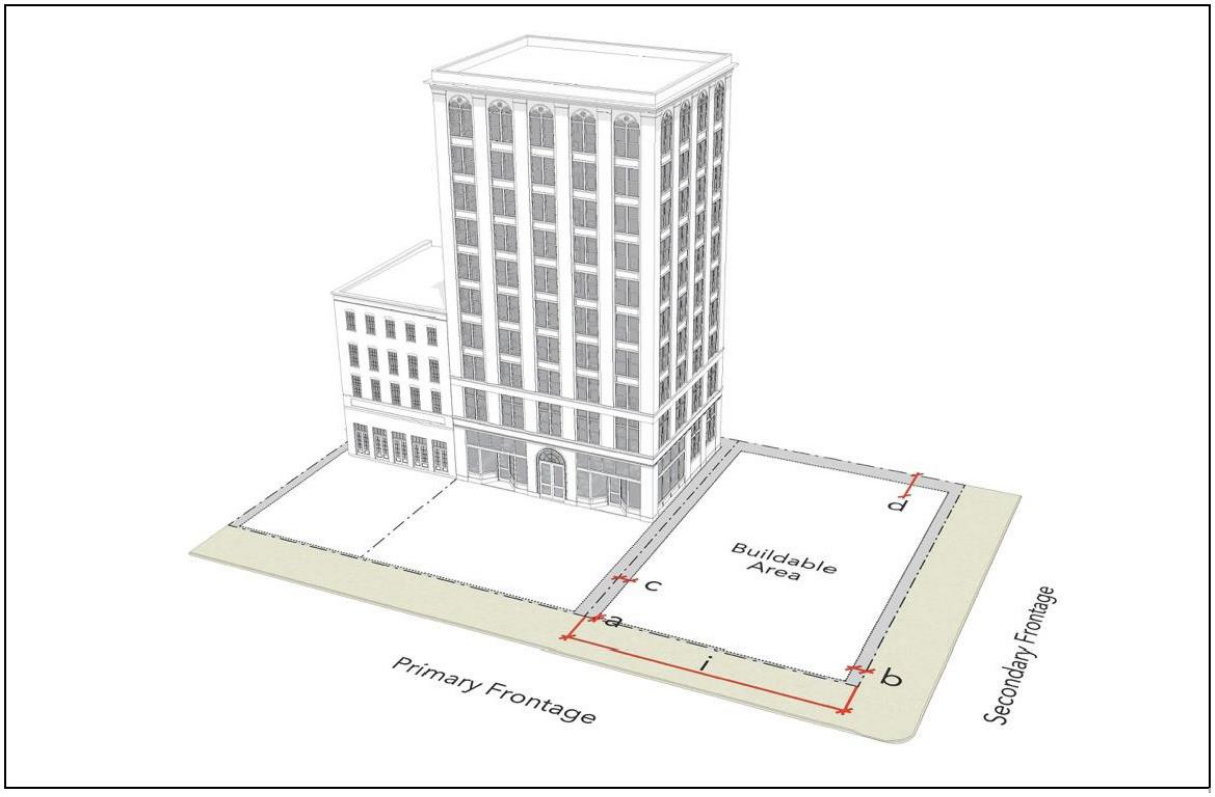
(1) Lots within the dense business area shall be permitted the lesser front setback.

(2) Measured according to section 12-2-25(G)(1)(c).

(3) Zero (0) foot min (attached/zero lot line buildings)/five-foot min (detached buildings).

(4) Minimum lot area shall not apply.

Table 12-2-25.8 - Hybrid Commercial: Multi-family, Mixed Use and Commercial Building Types - C-3 along C3C FDOT Context Zone



Setbacks - Principal Building (feet)		
a	Front	60 max.
b	Front, Secondary	40 max.
c	Side (Interior)(2)	0 or 5 min.
d	Rear	none
Frontage (min.)		
	Primary	60%
Lot Occupation(3)		
i	Lot Width	16 ft. min.
	Lot Coverage	100% max.

Building Height (max.)		
	Principal Building(1)	10 stories
	Accessory Building	N/A
Off-Street Parking (min.)		
Residential		1/unit
Commercial		Per section 12-2-25(G)(8)
Setbacks - Accessory Building (feet)		
Front		N/A
Front, Secondary		N/A
Side (Interior)		N/A
Rear		N/A
Frontage Yard Types		
Standard		Not Permitted
Shallow		Permitted
Urban		Permitted
Pedestrian Forecourt		Permitted
Vehicular Forecourt		Permitted
Facade Types		
Porch		Not Permitted
Stoop		Not Permitted

Common Entry	Permitted
Gallery	Permitted
Storefront	Permitted

Notes:

(1) Measured according to section 12-2-25(G)(1)(c).

(2) Zero (0) foot min (attached/zero lot line buildings)/five-foot min (detached buildings).

(3) Minimum lot area shall not apply.

(5) *Frontage types.*

(a) *Intent.* New buildings proposed for existing neighborhoods should be compatible with or complement the architectural character and siting pattern of neighboring buildings. Maintaining a consistent street-wall is a fundamental component for a vibrant pedestrian life and a well-defined public realm. Buildings closely aligned to the street edge with consistent setbacks, provide a clear sense of enclosure of streets, enabling them to function as pedestrian-scaled outdoor rooms. The placement of buildings along the edge of the sidewalk should be given particular attention, as it is that portion of the buildings that is the primary contributor to pedestrian activity.

(b) Frontage yard type shall be selected and specified along frontages in accordance with the frontage yard types in Table 12-2-25.9 and subject to the standards and guidelines in this section, including the form standards in Tables 12-2-25.3 to 12-2-25.8.

(c) In addition to the frontage yard type standards contained within Table 12-2-25.9, the following shall be required:

(i) Frontage yards shall be wholly open to the sky and unobstructed, except for trees, roof projections, and permitted encroachments attached to principal buildings.

(ii) Impervious surfaces and walkways in frontage yards shall be subject to the following requirements:

a. Where single-family attached units occupy a common site, each attached single-family unit with an entrance towards a frontage shall have a walkway connecting the sidewalk to the attached single-family entrance. See Table 12-2-25.9.A (Frontage Yard Types - Shallow Yard) for an illustration depicting single-family attached walkway connections.

b. At cluster courts, the shared court shall have a walkway connecting the sidewalk at the primary frontage with building entries. See Table 12-2-25.9.B (Frontage Yard Types - Cluster Court) for an illustration depicting cluster court walkway connections.

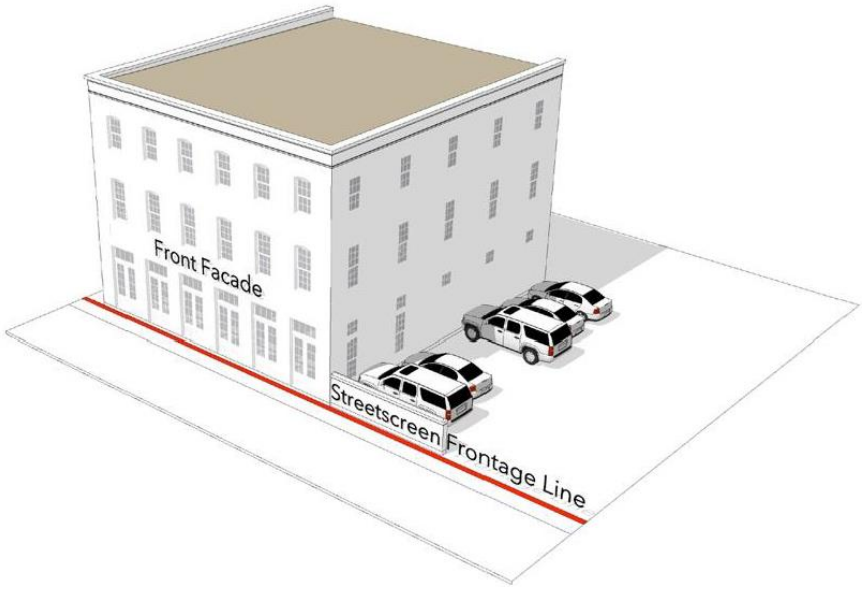
(iii) For multi-family, mixed use and non- residential types, any portion of a frontage not occupied by buildings, driveways, or walkways shall be lined with a streetscreen as follows:

a. Streetscreens shall meet the fencing and wall standards according to the frontage yard types specified in Table 12-2-25.9.

b. Streetscreens, up to twenty-four (24) feet long, shall count towards minimum frontage requirements.

c. Streetscreens shall be coplanar with the primary building façade, as depicted in Illustration 12-2-25.6 below.

Illustration 12-2-25.6 - Streetscreen Illustrated



(iv) Street trees and landscaping in frontage yards shall comply with the requirements of section 12- 2-25(H).

(v) Stormwater ponds shall be prohibited along frontages.

(vi) Frontage yard setbacks shall be as follows:

a. Buildings shall be set back in accordance with the form standards specified in Tables 12-2-25.3 to 12-2-25.8.

b. Where maximum setbacks are specified, they pertain only to the amount of building façade required to meet the minimum building frontage occupation requirements defined in the form standards specified in Tables 12-2-25.3 to 12-2-25.8.

Table 12-2-25.9 - Frontage Yard Types

A. Standard Yard (Fenced or not)

Illustration	
Surface	Fifty (50) percent minimum shall be pervious material. A minimum of one (1) tree is required per section 12-2-25(F)(1). Paving is limited to walkways, and driveways.
Walkways	One (1) per frontage connecting the sidewalk at the primary frontage with building entries.
Fencing	Permitted along frontage lines, and according to section 12-2-25(E)(8).
B. Cluster Court	
Illustration	
Surface	A minimum fifty (50) percent of the court shall be landscaped with ground cover, trees, or understory trees. Paving is limited to walkways, and driveways.
Walkways	Court shall be a minimum twenty (20) feet wide and a min. one thousand (1,000) square feet in size, and shall have a walkway connecting the sidewalk at the primary frontage with building entries.
Fencing	Permitted except along street frontages, fronted by a shared court, according to section 12-2-25(E)(8).

C. Shallow Yard	
Illustration	
Surface	Maximum setback of eight (8) feet. Fifty (50) percent minimum shall be landscaped in R-1A, and R-1B and up to one hundred (100) percent may be paved in R-NC and R-NCB.
Walkways	One (1) per frontage connecting the sidewalk at the primary frontage with building entries.
Fencing	Permitted interior to the building setback line at primary street frontages. Permitted at or interior to secondary street frontage lines according to section 12-2-25(E)(8).
D. Urban Yard	
Illustration	
Surface	Shall be paved at sidewalk grade.
Walkways	Shall be paved at sidewalk grade. Vegetation is permitted in raised containers.
Fencing	Not permitted
E. Pedestrian Forecourt	

Illustration	
Surface	Minimum eighty (80) percent paving.
Fencing	Permitted at or interior to building setback lines and according to section 12-2-25(E)(8).
Area	Forecourt: A minimum twenty (20) feet wide up to thirty (30) percent of the allowable frontage, and a maximum fifty (50) feet deep.
Activation	Shall be lined with habitable space on three (3) sides, or on two (2) sides at corner sites.
F. Vehicular Forecourt	
Illustration	
Surface	Driveway shall be paved at sidewalk grade. The remainder of front setback may be paved or landscaped.
Fencing	Low wall, maximum twenty-four (24) inches high, of either brick or stone is permitted.
Area	Forecourt: Four thousand two hundred (4,200) square feet maximum.
Activation	Shall be lined with habitable space on three (3) sides, or on two (2) sides at corner sites.

(6) *Building elements.*

(a) *Intent.* Buildings should be architecturally articulated with such elements as distinguishing expression lines, changes in fenestration, material and/or color and designed in proportions that reflect human-scaled pedestrian movement to encourage interest at the street level.

(b) *Façade types.* Façade types shall be as follows:

(i) Porches, stoops, common entries, galleries and storefronts shall constitute allowable façade types as defined in Table 12-2-25.10 in accordance with the form standards in Tables 12-2-25.3 to 12-2-25.8.

(ii) Façade types shall be selected and specified along frontages in accordance with Table 12- 2-25.10.

a. Porches shall not be required for single-family detached and two-family (duplex).

(iii) Projections into setbacks shall be permitted as follows:

a. Roof overhangs, cornices, window and door surrounds and other facade decoration may project up to two (2) feet.

b. Where permitted, shading devices may project into the front setback up to the property line with a minimum eight-foot clearance.

c. Balconies may project up to three (3) feet.

d. Bay windows may project up to three (3) feet.

e. Porches and stoops may project in accordance with the façade types defined in Table 12-2-25.10.

f. Projections shall not, in any instance, exceed beyond the property line.

Table 12-2-25.10 - Facade Types

<table>
<tr><td colspan="3">A: Porch</td></tr>
<tr><td>Entry Grade</td><td colspan="2">Minimum eighteen (18) inches above finished grade</td></tr>
<tr><td rowspan="4">Requirements</td><td>• Required at the primary building entrance.</td><td rowspan="4">  </td></tr>
<tr><td>• Porches shall be a minimum six (6) feet in depth.</td></tr>
<tr><td>• Porches and related structures may project into front setbacks a maximum ten (10) feet.</td></tr>
<tr><td>• Porch openings shall be vertical in proportion.</td></tr>
</table>

	• Porches shall be a maximum ten (10) feet in height. Columns shall have a minimum diameter of six (6) inches, and should have a capital and a base.	
B: Stoop		
Entry Grade	Minimum thirty-four (34) inches above finished grade.	
Requirements	• A stoop is required at building entrances, projecting from the facade.	
	• Wood is prohibited for stoop railings.	
	• Stoops and related structures may project into front setbacks up to one hundred (100) percent.	
C: Common Entry		
Entry Grade	Minimum eighteen (18) inches and a maximum twenty-four (24) inches above finished grade	
Requirements	• A single collective entry to a multi- family lobby is required at the primary building entrance.	
	• Canopies and awnings are permitted to project into front setbacks up to one hundred (100) percent of their depth.	
D: Gallery		
Entry Grade	At sidewalk grade	
Requirements	• Where a gallery occurs, it is required along a minimum of eighty (80) percent of the frontage.	
	• Encroachments are permitted according to	

	section 12-2-25(E)(7).	
	• Awnings are not permitted in galleries.	
E: Storefront		
Entry Grade	At sidewalk grade	
Requirements	• A storefront is required at the primary entrance of the tenant space. Storefronts are permitted according to section 12-2-25(G)(6)(d).	

(c) *Building entries.* Building entries shall be as follows:

(i) Building entrances shall be clearly visible from the street.

(ii) One (1) building entry shall be provided every eighty (80) feet of facade leading to a habitable space.

(iii) Building entries for mixed-use buildings shall differentiate entrances for residential and commercial uses.

(iv) Entries for multi-family buildings shall provide protection from the elements with canopies, marquees, recesses or roof overhangs.

(v) Residential building entries shall be restricted as follows:

a. Single-family and multi-family residential buildings shall be raised above finished grade, at the front of the building, according to façade types defined in Table 12-2-25.10.

b. In no instance shall single-family and multi-family residential building entries be raised less than eighteen (18) inches above finished grade.

c. Entry grade shall be measured from the finished grade to the first finished floor.

(vi) Mixed-use and commercial building entries shall be at sidewalk grade.

(d) *Storefronts.*

(i) Intent. Storefronts should be architecturally articulated through the varied use of high-quality durable materials, display windows, entrances, awnings and buildings signs. Their signage, glazing and doors should be conceived as a unified design. High

quality, durable materials are especially important at street level within reach of pedestrians.

(ii) Storefronts shall provide a minimum of seventy (70) percent glazing (void to solid ratio of surface area along principal facades at the ground level).

(iii) Extruded aluminum storefront frames are discouraged, and where used, shall present a simple, relatively flat profile to avoid heavily extruded profiles.

(iv) Opaque, smoked, and reflective glass on storefront windows shall be prohibited. Low-E shall be permitted as per Florida Building Code.

(v) Materials for storefronts shall consist of stone, brick, concrete, stucco, metal, glass, cementitious siding and/or wood. Construction detail and finish shall adhere to craftsman standards.

(vi) Outdoor dining areas on sidewalks and/or within the public right-of-way shall be permitted subject to the following standards:

a. Outdoor dining areas shall be separated from public walkways and streets using railings, fences, bollards, planters, and/or landscaping.

b. A minimum unobstructed pedestrian path of at least six (6) feet wide shall be provided along public rights-of-way.

c. Outdoor dining areas within the public right-of-way shall comply with section 12-12-7 (license to use).

(7) *Building encroachments.*

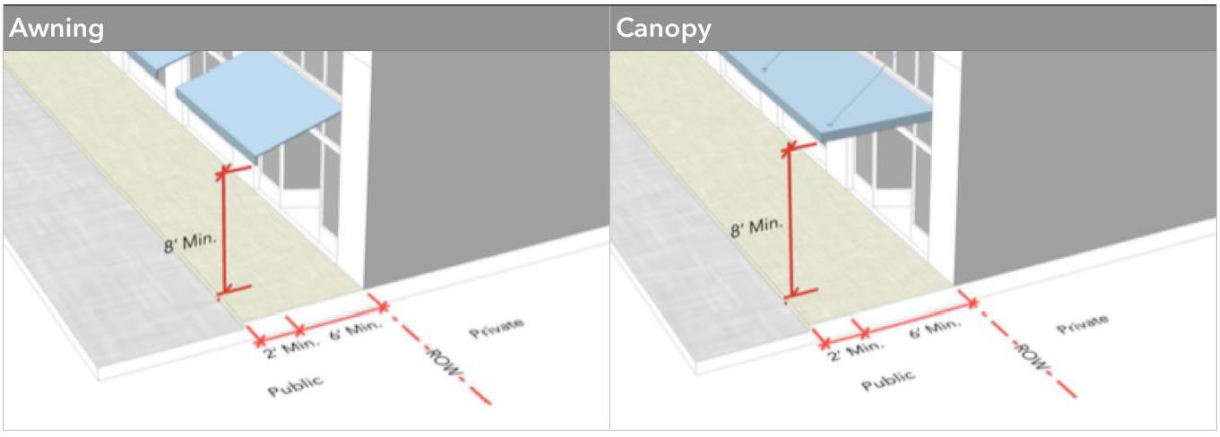
(a) Encroachments located within the public right-of-way shall comply with section 12-12-7 (license to use), section 12-2-35 (visibility triangle) and any clearance standards established by the Engineering Division of the City of Pensacola Public Works and Facilities Department and the Florida Greenbook.

(b) Awnings for storefronts and canopies are not subject to section 12-12-7 (license to use) but shall be restricted as follows:

(i) Awning and canopies may project into the public right-of-way, up to a maximum of two (2) feet from the curb.

(ii) Awnings and canopies shall be a minimum of six (6) feet in depth and have a minimum of eight (8) feet of vertical clearance. See Illustration 12-2-25.7 for a depiction of awning and canopy encroachment measurements.

Illustration 12-2-25.7 - Awning and Canopy Encroachment Measurements



(c) Galleries shall be restricted as follows:

(i) Galleries shall be subject to and shall comply with section 12-12-7 (license to use).

(ii) Galleries shall not alter height or width along a building façade.

(iii) Galleries shall be a minimum of eight (8) feet in depth and a minimum of twelve (12) feet in height, maintaining a 1.2:1 to a 2:1 height to width ratio, as depicted in Illustration 12-2-25.8.

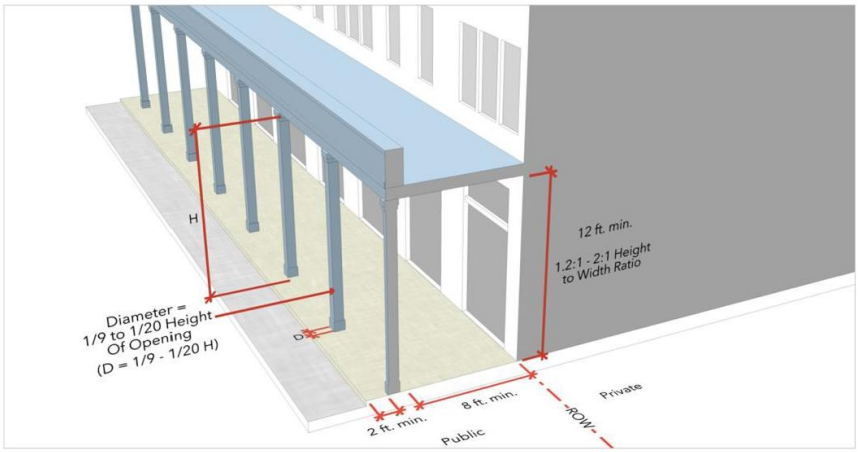
(iv) Gallery columns should have a diameter between 1/9 and 1/20 their height, measured from the base to the bottom of the entablature, as depicted in Illustration 12-2-25.8, and should have a capital and a base.

(v) Galleries should encroach into building setbacks.

(vi) Galleries should encroach over sidewalks.

(vii) Where galleries encroach over sidewalks, they shall not extend beyond a maximum of two (2) feet from the curb, as depicted in Illustration 12-2-25.8.

Illustration 12-2-25.8 - Gallery Encroachments



(8) *Parking access, design and reductions.*

(a) Intent. The intent of these standards is to guide the placement and design of parking, when it is provided. Vehicular parking spaces should be carefully integrated to avoid the negative impacts of large surface parking areas on the pedestrian environment. In general, parking supply should be shared by multiple users and property owners to facilitate the ability to "park once and walk." On-street parallel parking is encouraged on both sides of the street to provide a supply of convenient shared parking, and as a means to provide a protective buffer for pedestrians on the sidewalk. Where surface parking is permitted, it should be hidden or screened from the pedestrian realm by use of garden walls and narrow landscape edges. Parking garages, where provided, should be masked from frontages by liner buildings no less than twenty-four (24) feet in depth. They are encouraged to be designed for possible future conversion to other non-parking functions, including office, residential and/or commercial use.

(b) All parking access and design shall comply with the form standards in Tables 12-2-25.3 to 12-2-25.8 and the following:

(i) Parking standards in the dense business area (DBA) defined in Chapter 12-14 (definitions) shall take precedence over the form standards in Tables 12-2-25.3 to 12-2-25.8 and those included in this subsection.

(ii) Minimum parking requirements are as follows:

a. Parking requirements shall be in accordance with section 12-3-1(B) (parking requirements for specific land uses) with the following exception:

1. Off-street parking requirements for residential use types shall be one (1) space per unit unless otherwise exempted.

b. Shared parking shall be according to section 12-3-1(D) (off-site parking).

c. Parking reductions shall be calculated according to Table 12.3-1 (Downtown Pensacola CRA Parking Reductions).

d. Lots thirty (30) feet or less in width shall not be subject to minimum parking requirements, except for:

1. Lots fronting streets where on-street parking is not permitted.

e. Lots less than forty-two (42) feet wide shall be accessed from a rear lane, where possible. Where not possible, the following exceptions shall be permitted, in coordination with the Engineering Division of the City of Pensacola Public Works and Facilities Department:

1. Parking in the rear of the lot, subject to accessory structure setbacks as defined within the form standards in Tables 12-2-25.3 to 12-2-25.8. Shared driveways are encouraged.

2. A single-car garage, subject to the minimum frontage occupation requirements defined within the form standards in Tables 12-2-25.3 to 12-2-25.8.

3. Driveways shall be exempt from minimum width and spacing requirements defined in section 12-2-25(I)(2)(d).

f. Lots shall be accessed through a rear lane when the development is over seventy-five (75) percent of the block.

(iii) Vehicular parking location is restricted as follows:

a. Single-family residential types.

1. Residential off-street parking, where required, shall be provided within garages, carports or on driveways for all single-family residential types.

2. Uncovered parking shall be permitted the entire length of the driveway, including within the front setback, but not beyond the property line.

3. Single-family detached and two-family (duplex) off-street parking.

A. Covered or garage parking for single-family detached and two-family (duplex) buildings shall be setback a minimum twenty (20) feet behind the principal building façade. See Illustration 12-2-25.9 for a depiction of covered parking placement for single-family detached and two-family attached (duplex) buildings.

Illustration 12-2-25.9 - Garage Locations Illustrated

B. The outer edge of driveways shall be placed a maximum of two (2) feet from either side property line. See Illustration 12-2-25.10 for a depiction of driveway placement for single-family detached and two-family attached (duplex) buildings on thirty (30) feet wide lots.

Illustration 12-2-25.10 - Driveway Locations Illustrated

4. Single-family attached. Off-street parking for single-family attached residential types shall only be permitted in the rear fifty (50) percent of the lot.
5. Tandem parking is encouraged.
6. Shared driveways are encouraged.

b. Multi-family, mixed use and non-residential types.

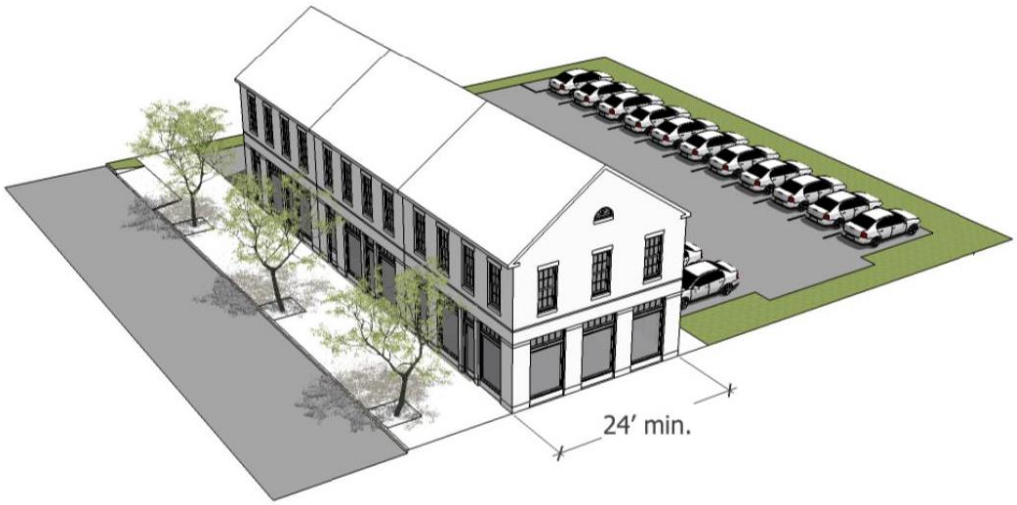
1. Off-street parking shall not be permitted within the front setback area. Exceptions include:

A. Properties adjacent to a thoroughfare identified as an FDOT C3C Suburban Commercial Context Classification Zone as defined within section 12-2-25(I)(1)(b)(context classification). Such properties shall conform to the form standards according to Table 12-2-25.8 (Hybrid Commercial).

2. Off-street parking shall be masked from frontages by liner buildings no less than twenty-four (24) feet in depth to achieve the minimum frontage occupation. See Illustration 12-2-25.11 depicting off-street parking lot

masking with liner buildings and section 12-2-25(G)(5)(c)(iii) for permitted streetscreen requirements.

Illustration 12-2-25.11 - Parking Lot Masking with Liner Buildings



3. The ground floor of commercial buildings with a gross floor area less than one thousand five hundred (1,500) square feet shall be exempt from parking requirements.

(iv) Bicycle parking.

a. Minimum bicycle parking requirements shall be as follows:

1. Bicycle parking shall not be required for single-family residential or multi-family residential with less than eight (8) units.

2. Bicycle parking requirements shall be according to Table 12-2-25.11.

Table 12-2-25.11 Minimum Required Bicycle Parking

Building Type	**Location**	**R-2A through C-2A**	**C-2, C-3***
Multi-Family	Primary & Secondary Frontages	Minimum 0.25 spaces per unit	Minimum 0.50 spaces per unit
Non-Residential	Primary & Secondary Frontages	Minimum 0.50 spaces per 1,000 square feet	Minimum 0.75 spaces per 1,000 square feet

*Excluding C3C Context Zones.

3. Bicycle parking locations within the public right-of-way shall be coordinated with the Engineering Division of the City of Pensacola Public Works and

Facilities Department and subject to section 12-12-7 (license to use), and minimum clearance distances.

b. Bicycle parking configuration shall be as follows:

1. Bicycle racks shall not be located within:

A. Five (5) feet of fire hydrants.

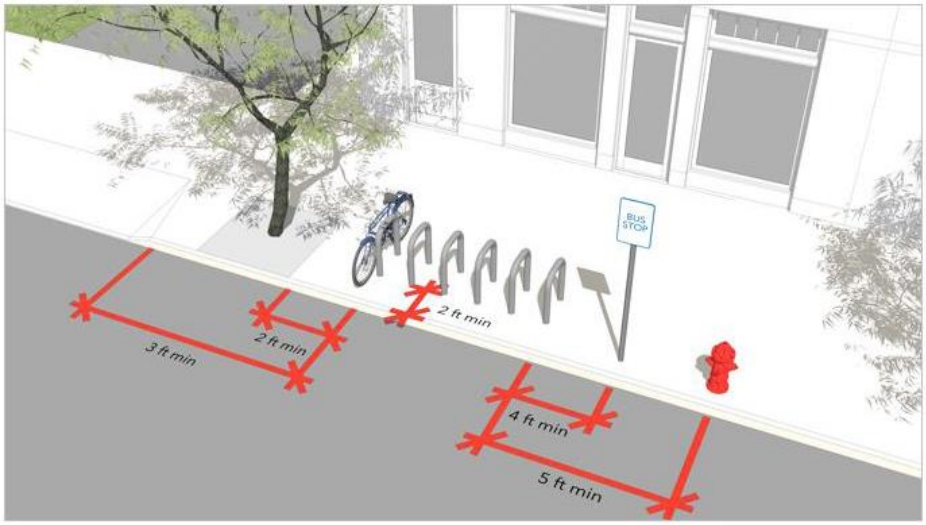
B. Four (4) feet of loading zones and bus stop markers.

C. Three (3) feet of driveways and manholes.

D. Two (2) feet of utility meters and tree planters.

See Illustration 12-2-25.12 for a depiction of bicycle parking clearances.

Illustration 12-2-25.12 - Bicycle Rack Clearances



c. Bicycle parking located along private or public streets shall be subject to the following:

1. Bicycle racks installed parallel to curbs shall be set back from the curb a minimum of two (2) feet, as illustrated in Illustration 12-2-25.11.

2. Bicycle racks installed perpendicular to curbs shall allow for a minimum clearance of two (2) feet at the curb and six (6) feet of pedestrian way with a fifty-six (56) cm or twenty-two (22) in bicycle properly locked to the rack.

3. Bicycle racks should be spaced a minimum of thirty-six (36) inches apart.

4. Bicycle racks shall allow bicycle frames to be locked at two (2) points of contact with the rack.

(9) *Fences and walls.*

(a) Where provided, fences and walls shall provide full enclosure.

(b) Fences and walls shall be restricted according to frontage yard types in Table 12-2-25.9 and section 12-2-35 (visibility triangles).

(c) Height of fences and walls shall comply with the following:

(i) Height shall be limited to a minimum thirty (30) inches and a maximum forty-two (42) inches within the front setback.

(ii) Height shall be limited to eight (8) feet behind the building face at non-frontages.

(d) Materials for fences and walls shall be limited as follows:

(i) Approved materials shall include, but are not limited to wood, brick, stone, and wrought iron.

(ii) Vinyl is discouraged on all frontages.

(iii) Chain-link, exposed concrete block, barbed wire and razor wire shall be prohibited.

(iv) Wood fences shall have the finished side to the public frontage.

(v) Where hedges are utilized along frontages, they shall be maintained in accordance with section 12-2-25(H)(2)(e).

(10) *Windows and glazing.*

(a) Windows shall meet the following requirements:

(i) Windows on frontages shall be square or vertical in proportion, with the exception of transoms and special windows.

(ii) Windows should have muntins for residential building types, which should be vertical in proportion.

(iii) Single panes of glass shall not exceed twenty (20) square feet for residential building types.

(b) Glazing shall meet the following requirements:

(i) Storefront glazing requirements shall be according to Table 12-2-25.12.

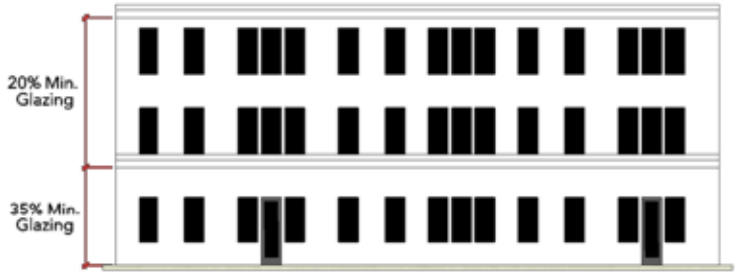
(ii) For residential and mixed-use buildings, excluding commercial uses at grade, the percentage of glazed wall area shall be a minimum twenty (20) percent.

(iii) Reflective and tinted windows shall be prohibited for residential buildings.

(iv) Stained, reflective and tinted windows shall be prohibited at ground floor commercial uses. Low-E is permitted as per Florida Building Code.

Table 12-2-25.12 - Glazing Requirements

Residential	
At & Above Grade	Minimum 20% along frontages
	
Multi-Family & Office	

Above Grade	Minimum 20% along frontages
At Grade	Minimum 35% along frontages
	
Mixed-use	
Above Grade	Minimum 20% along frontages
At Grade	Minimum 70% along frontages
	

(11) *Lighting on private property.*

(a) Lighting shall be arranged to be contained on-site and to reflect away from adjacent property.

(H) *Landscape standards and guidelines.*

(1) *Intent.* Supplement the urban canopy, accommodate stormwater, increase access to open space and facilitate pedestrian movement throughout the existing block patterns to meet the urban design goals of the community redevelopment agency. A healthy tree canopy contributes to the health of citizens and the environment, and is fundamental to a vibrant pedestrian life and a well-defined public realm. Trees closely aligned to the street edge with consistent setbacks, provide a clear sense of enclosure of streets, enabling them to function as pedestrian-scaled outdoor rooms. The placement of trees along the edge of the sidewalk should be given particular attention as a major contributor to pedestrian activity. Trees and other native plants placed in drainage rights-of-way and parking islands contribute to the control of stormwater quantity and quality.

(2) *Landscape on private property.*

(a) Landscaping in frontage yards are subject to the requirements of the frontage yard types in Table 12-2-25.9, and section 12-2-25 (visibility triangles), and the following:

(i) For single-family detached and two-family lots, one (1) tree for every lot or for every fifty (50) feet of linear frontage along the right-of-way shall be preserved or planted. Trees planted to meet this requirement shall be as follows:

a. Measured at diameter breast height (DBH), as described in section 12-6-2(E)(DBH).

b. For lots with a front setback of less than eight (8) feet where planting in front yards is not possible, required trees shall be planted elsewhere on the block itself.

(ii) Ground vegetation or shrub plantings with spines, thorns, or needles that may present hazards to pedestrians, bicyclists, or vehicles shall be maintained a minimum distance of two (2) feet from the edge of walkways and sidewalks.

(iii) In single-family detached and two-family lots, trees shall be protected in accordance with section 12-2-10(A)(5)(b) (protection of trees).

(iv) When off-street parking is located in front or side setbacks, a year-round streetscreen along the street edge(s) of the parking lot shall be installed as a means of buffering, according to section 12-6-3(B) (off-street parking and vehicle use areas).

(v) Hedges planted along street rights-of-way shall be between three (3) and five (5) feet in height at maturity.

(b) Minimum landscape area requirements of the development site for all building types except single-family detached and two-family attached (duplex) shall be according to Table 12-2-25.13. Landscape requirements for single-family detached and two-family attached shall be in accordance with section 12-2-25(H)(2)(a) and Table 12-2-25.9, frontage types.

Table 12-2-25.13 Minimum Landscape Area Requirements

Zoning District	**Percent**
R-1AAA through R-2	25
R-NC, R-NCB, C-1, C-2, C-2A, C-3, M-1, M-2	15

(3) *Buffer yards.*

(a) In addition to the buffer yard requirements of section 12-2-32 the following shall apply:

(i) Berms shall not be installed as part of a required buffer without review and approval by the Engineering Division of the City of Pensacola Public Works and Facilities Department to ensure a proposed berm will not have a detrimental effect on adjacent properties by impeding or diverting stormwater flow.

(ii) Berms shall be planted and stabilized to prevent erosion.

(iii) Buffer yards may be used to create rain gardens or other stormwater facilities with the selection of appropriate plant material, according to the city's approved plant list and approval by the a engineering division of the city's public works and facilities department.

(iv) Plants in these stormwater facilities shall be selected to meet any applicable buffer yard screening requirements, and they should be tolerant of periodic inundation and drought. It is recommended that native plants be selected from the Florida Friendly Landscaping Guide to Plant Selection and Landscape Design, Northern Region, and Waterwise Landscapes by the South Florida Water Management District, according to Table 12-2-25.14.

Table 12-2-25.14 - Bioretention & Rainwater Garden Plant List

Flowers	
Common Name	**Scientific Name**
Blue Flag Iris	Iris Hexagona
Cardinal Flower	Loblia Cardinalis
Chipola Coreopsis	Coreopsis Integrifolia
Goldenrod	Solidago spp.
Swamp Sunflower	Helianthus Angustifolius
Spider Lily	Hymenocallis Latifolia
Swamp Lily	Crinum Americanum
Swamp Milkweed	Asclepias Perennis
Grasses	
Common Name	**Scientific Name**
Blue-Eyed Grass	Sisyrinchium Atlanticum Bicknell
Florida Gamma Grass	Tripsacum Floridanum
Muhly Grass	Muhlenbergia Capillaris

Path or Soft Rush	Juncus spp.
Rainlily	Zephryanthes spp.
River Oats	Chasmanthium Latifolium
Wiregrass	Aristida Stricta
Shrubs	
Common Name	**Scientific Name**
Beautyberry	Callicarpa Americana
Buttonbush	Cephalanthus Occidentalis
Virginia Willow	Itea Virginica
Wax Myrtle	Myrica Cerifera

(4) *Street trees in the public right-of-way.*

(a) Street trees shall be provided in the public right-of-way for all developments except single-family detached and two-family (duplex), in accordance with section 11-4-88 (placement of trees and poles), section 12-6-3 (landscaping requirements) and this subsection.

(b) Where street trees cannot reasonably be planted, payment in lieu of planting shall be made to a new and dedicated CRA tree planting fund, at the value established in subsection 12-6-6(B)(5).

(c) Street tree planting, and maintenance requirements shall be as follows:

(i) For each lot, one (1) tree shall be provided on an average of thirty-five (35) linear feet of public right-of-way frontage, where no underground utility conflicts exist.

(ii) Where greenways exist, trees shall be required to be planted within the greenway. The following exceptions shall apply:

a. Where no greenway exists or where the greenway is less than three (3) feet wide, between sidewalk and curb, required street trees shall be planted on the block.

b. Where planting within the greenway is infeasible due to utility conflicts, required street trees shall be planted on the block

(iii) Trees planted three (3) feet or less from a public sidewalk shall have a minimum clearance of six (6) feet and six (6) inches (6'-6") between the public walking surface and the lowest branches at planting.

(iv) Mature trees shall be maintained at a minimum clearance of eight (8) feet above the public walking surface.

(v) Trees planted within the public right-of-way shall include a root barrier to prevent the shifting of sidewalks at maturity.

(vi) Installation of tree pits and grates within the public right-of-way shall be coordinated with the City of Pensacola Public Works and Facilities Department for style consistency. Installed tree pits and grates shall be maintained by the property owner in perpetuity.

(vii) Where possible, trees may be clustered together to share soil space.

(d) Tree selection shall be limited to those allowable plantings contained within the tree replant list specified in Appendix B (Tree Replant List). The following conditions shall apply:

(i) Where overhead utilities occur, a tree with smaller size at maturity shall be selected.

(e) Tree selection and placement shall be coordinated with the Engineering Division of the City of Pensacola Public Works and Facilities Department and subject to section 12-2-35 (visibility triangle) and section 12-2-7 (license to use).

(f) Mixed-use and non-residential building types shall comply with the following:

(i) Where galleries are not provided, street trees shall be planted, unless in conflict with underground utilities. Where there are overhead utilities, appropriate species from the tree replant list specified in Appendix B shall be selected.

(ii) Where a gallery is provided, and the greenway that occurs between the sidewalk and the back of curb is less than three (3) feet wide, no street trees shall be required.

(iii) Where a greenway at least three (3) feet wide occurs between the gallery and the back of curb, and no overhead or underground utilities prevent street tree installation, planting of a street tree shall be required.

(iv) Where paved surface occurs between the gallery and curb, installation of street trees in individual tree pits with tree grates, or linear planters with pervious pavers between several trees, shall be required.

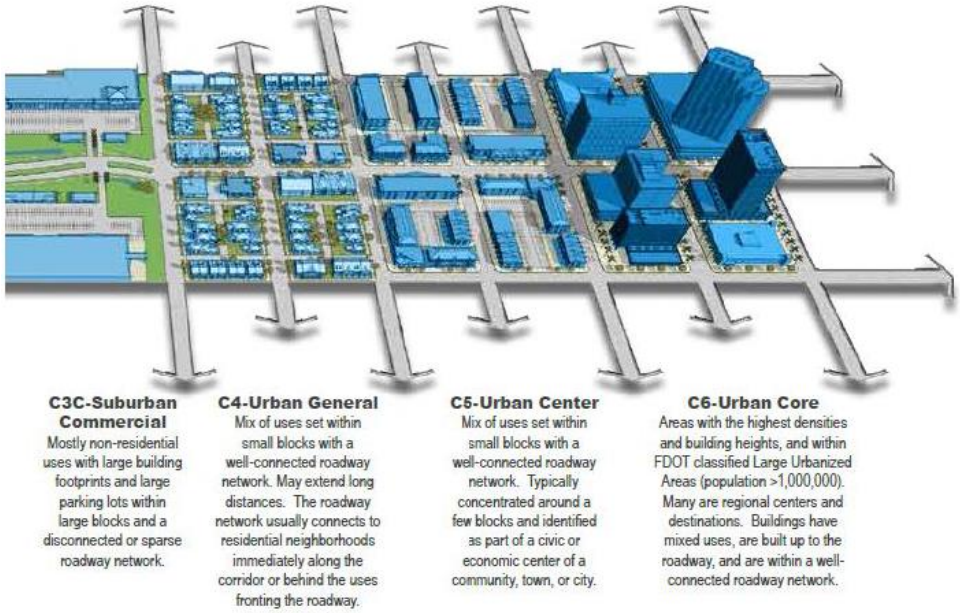
(v) Where trees are planted in sidewalk planters, the minimum sidewalk planting pit dimensions shall be four feet by four feet (4' × 4').

(l) *Thoroughfare standards and guidelines.*

(1) *Context classification.*

(a) The context classification system, as developed by FDOT and described within the FDOT Complete Streets Manual, shall be adopted to identify place and guide streets and other transportation features, and to allow transportation to support adjacent land uses. See Illustration 12-2-25.13 depicting context classification zones.

Illustration 12-2-25.13 - Context Classification Zones Illustrated



(b) Streets shall be classified in accordance with the zoning to context classification translations specified in Table 12-2-25.15.

Table 12-2-25.15 - Zoning to Context Classification Translation

Context Classification (FDOT) Zone	**Zoning District**
C4 - Urban General	R-1AAA through R-2
C5 - Urban Center	R-NC through C-3
C3C - Suburban Commercial	C-3 adjacent to M-1 or M-2. Limited to segments that abut such zoning districts. M-1 M-2

(2) *Street design.*

(a) Design of local streets shall be guided by the Florida Greenbook, Chapter 19 Traditional Neighborhood Design.

(b) Where a greenway of at least five (5) feet exists, driveway approaches and curb cuts shall not be permitted to interrupt the sidewalks.

(c) *Sidewalks.* Sidewalks shall be required on all street frontages in residential, nonresidential, commercial and industrial developments in accordance with standards established by the Engineering Division of the City's Public Works and Facilities and the Florida Greenbook.

(d) *Driveways and curb cuts.* Driveway, driveway approaches and curb cut requirements shall be as follows:

(i) *Single-family residential types.* Driveway and curb cut widths for single-family residential types shall be according to Table 12-2-25.16.

Table 12-2-25.16 Single-family Residential Driveway and Curb Cut Widths

Driveway Type	Minimum Width	Maximum Width
Single-Use	10 feet	20 feet
Joint-Use	10 feet	22 feet

(ii) Multifamily, mixed use and non-residential types. Driveway and curb cut widths for multi-family and non-residential types shall be according to Table 12-2-25.17.

Table 12-2-25.17 Multi-family/Non-Residential Driveway and Curb Cut Widths

Driveway Type	Minimum Width	Maximum Width
All	12 feet	24 feet

(iii) Driveway and curb cut spacing on a single property shall be a minimum of forty-two (42) feet with the following exception:

a. Lots equal to or less than forty-two (42) feet wide shall be limited to one (1) driveway and curb cut.

(J) *Definitions.* [Definitions enumerated.] As limited to section 12-2-25 (CRA urban design overlay district) unless context clearly indicates otherwise.

Building height, multi-family and non-residential means the vertical distance of a building measured by stories. The restrictions to story height are according to section 12-2-25(G)(1)(c).

Building height, single-family residential means the vertical distance of a building measured from the finished grade to the bottom of the eave for pitched roof buildings or the bottom of the parapet for flat roof buildings.

Cluster court means a collection of buildings on a semi-public, privately owned open space.

Colonnade means a row of columns joined by an entablature. Colonnades may cover sidewalks and may front storefronts.

Complete street means a thoroughfare that is designed giving each user an equal level of priority including pedestrians, cyclists, transit users, and drivers.

Craftsman standards means a baseline of construction quality denoting a finished project.

[FDOT] Distinct Context Classifications Zone means classifications, along with functional classification and design speed, determine the corresponding thoroughfare design standards within the Florida Design Manual. (http://www.fdot.gov/roadway/CSI/files/FDOT-context-classification.pdf)

Eave means the edge of the roof that meets or overhangs the walls of a building.

Encroachment means certain permitted building elements that may cross established setbacks or rights-of-way.

Entablature means a horizontal, continuous building element supported by columns or a wall.

Facade, building means the exterior wall of a building that faces a frontage line.

Facade type means the different configurations of building elements that make up a building facade, such as a storefront, porch, etc. See Table 12-2-25.10.

Figures and tables mean any chart or graphic presentation in this title that is specifically designated as a "Figure" or "Table" shall be deemed to be a part of the text of the title and controlling on all development.

Frontage line means a property line bordering a public frontage. Facades facing frontage lines define the public realm and are therefore more regulated than the elevations facing other property lines.

(Building) Frontage occupation means the length of the frontage that is occupied by a building or a building and open space.

Frontage, primary means the frontage facing a public space such as a street of higher pedestrian importance (i.e. traffic volume, number of lanes, etc.). Typically, the shorter side of a lot.

Frontage, secondary means the frontage facing the public space such as a street that is of lesser pedestrian importance (i.e. traffic volume, number of lanes, etc.). Typically, the longer side of the lot.

Frontage yard type means the configuration of the area between the facade of the building and the frontage line such as a standard, shallow, cluster court, etc. See Table 12-2-25.9.

Frontage yard type (cluster court) means a frontage yard type where a group of houses has their primary facades facing a common green or open space that is horizontal to the primary frontage.

Frontage yard type (pedestrian forecourt) means a frontage yard type where the primary facade is located near the lot line with an area setback to accommodate open space and the primary entrance of the building.

Frontage yard type (shallow) means a frontage yard type where the facade is slightly setback from the lot line.

Frontage yard type (standard) means a frontage yard type where the facade is set back from the lot line. Fences are permitted and the setbacks are visually continuous with adjacent yards.

Frontage yard type (urban yard) means a frontage yard type where the facade is at or near the lot line and the surface is paved.

Frontage yard type (vehicular forecourt) means a frontage yard type where the primary facade is located near the lot line with an area setback to accommodate a driveway meant for passenger loading and unloading.

Gallery means a covered sidewalk in front of a storefront that supports either a roof or outdoor balcony above.

Habitable space means building space which use involves human presence with direct view of the enfronting streets or public or private open space, excluding parking garages, self-service storage facilities, warehouses, and display windows separated from retail activity.

Human-scaled means buildings and their elements designed to be comfortably viewed and experienced by people on foot.

Hybrid commercial means a commercial type in the C3C FDOT Context Zone that transitions between urban and suburban types, typically permitting one (1) row of parking at the frontage.

Liner building means a building specifically designed to mask a parking lot or a parking structure from a frontage.

Parallel means two (2) lines or planes that are equidistant apart and do not touch on an infinite plane.

Parapet means the extension of a false front or wall above a roof line.

Parkway, greenway, verge means the planting strip between the edge of the road and sidewalk or right-of-way, which may be used for tree planting. See sections 11-4-86 through 11-4-88.

Paving means to cover or lay with concrete, stones, bricks, tiles, wood or the like to make a firm, level surface. The term paving in this part includes all pavement materials, both pervious and impervious.

Pervious means materials or natural earth that allows for the natural percolation of water.

Porch means a private façade type that is an open-air room appended to the mass of a building with a floor and roof but no walls on at least two (2) sides.

Principal building means the main building on a lot, usually located toward the frontage.

Principal building facade means the front of the building that faces the front of the lot.

Single-family residential means a single-family ownership on a single lot. Multiple ownership on a single lot is not construed as a single-family type. Single-family is restricted to the following types on their own lots: detached single-family, attached single-family and two-family attached (duplex).

Stoop means a private façade type wherein the façade is aligned close to the front property line with the first story elevated for privacy with an exterior stair and landing at the entrance. This type is suitable for ground-floor residential uses at short setbacks with townhouses and apartment buildings. Stoops may encroach into the setback.

Streetscreen means a freestanding wall built along the frontage line, or aligned with the facade. It may mask a parking lot from the thoroughfare, provide privacy to a side yard, and/or strengthen the spatial definition of the public realm.

Travel mode means the different means of transport around an area including by foot, bicycle, public transit, and car.

Walkability means a measurement of comfort, convenience, safety, and ease of pedestrian movement throughout an area.

(Ord. No. 13-19, § 1, 5-30-19; Ord. No. 05-20, § 1, 2-13-20)

ARTICLE III. - RESOURCE PROTECTION OVERLAY DISTRICTS

Sec. 12-2-26. - Wellhead protection district.

(A) *Purpose and findings.* The purpose of this section is to avoid risks of damage to sources of drinking water by prohibiting within close proximity of public water wells certain land uses, facilities and activities that involve a reasonable likelihood of discharges of pollutants into or upon surface or ground waters. The council finds that the land uses, facilities and activities identified in this section involve a reasonable likelihood of discharges of pollutants into or upon surface or ground waters and, therefor, that the prohibition of such land uses within wellhead protection areas is necessary to avoid risks of damage to sources of drinking water.

(B) *Location of wellhead protection areas.* Wellhead protection areas are located within a radius of two hundred (200) feet of the public supply water wells located as follows and specifically identified on maps available in the building inspections and planning offices:

- Cervantes and "I" Streets.
- DeSoto and Guillemard Streets.
- Lee and Tarragona Streets.
- Jordan and Guillemard Streets.
- Mallory Street and 10th Avenue.
- Royce Street and Skyline Drive.
- Cordova Place Subdivision and Airport Property.
- Hidden Oaks Final Edition Subdivision and Airport Property.
- 9th Avenue and Underwood Road.
- 9th Avenue and McAllister Boulevard.
- Davis Highway and Burgess Road.

(C) *Prohibited installations.*

(1) *Prohibited land uses, facilities or activities.* Except as provided in subparagraph (2), the following land uses, facilities or activities are prohibited within wellhead protection areas:

(a) Automobile, truck or boat sales, rental, storage, maintenance or repair;

(b) Battery manufacturing, rebuilding or storage;

(c) Building or road contractor facilities other than offices;

(d) Chemical manufacturing, production, sales, storage, transfer or disposal facilities;

(e) Dry cleaners or laundries;

(f) Electroplating;

(g) Equipment or machinery sales, rental, storage, maintenance or repair;

(h) Furniture production, repair or refinishing;

(i) Gasoline stations or other refueling facilities;

(j) Laboratories;

(k) Landscape maintenance services;

(l) Liquid bulk plants or terminals;

(m) Man-made pits, ponds, lagoons or retention or impoundment areas;

(n) Medical or veterinary clinics;

(o) Paint sales, production or contracting facilities;

(p) Pest control services;

(q) Photography processing;

(r) Printing or copying equipment;

(s) Septic tanks;

(t) Storage tanks;

(u) Swimming pools;

(v) Wood, coal or fuel yards, and;

(w) Wood preservation.

(2) *Exceptions.* Any of the land uses, facilities or activities identified in subparagraph (1) lawfully in existence within a wellhead protection area on June 1, 1991, may continue to exist on the parcel upon which is located and permits for its replacement or repair may be granted; but such land uses, facilities, and activities may not be added to or expanded.

Sec. 12-2-27. - Bayou Texar shoreline protection district.

(A) *Purpose.* The purpose of this district is to establish standards that recognize and protect the environmental resources of the Bayou Texar shoreline. This section ensures the preservation of the natural buffering effect of open spaces along the shoreline for storm surge abatement and the filtering of stormwater runoff; and enhances the public's recreational and aesthetic utilization of the shoreline and adjacent waters.

(B) *Shoreline protection zone.* The Bayou Texar shoreline protection zone includes all property abutting Bayou Texar bounded on the north by the 12th Avenue bridge and on the south by the L & N trestle located at the mouth of the bayou.

(C) *Permitted land use.* Land use shall be permitted in the shoreline protection zone as designated by the City of Pensacola Comprehensive Plan and zoning regulations.

(D) *Procedure for review of plans.* Prior to the issuance of a building permit for construction within the Bayou Texar shoreline protection district the owner, developer or contractor shall submit to the city planning and engineering departments a drainage plan indicating soil erosion and sedimentation control measures that will be undertaken to prevent runoff into Bayou Texar during construction and indicating methods to accommodate stormwater runoff on-site during and after construction. The drainage plan shall include the following information:

(a) Existing topographical contours of the site (two-foot intervals).

(b) Location of all structures, parking areas, curb cuts and other construction activities that could contribute to removal of vegetation, erosion and stormwater runoff.

(c) Design of grades and retention measures to control stormwater runoff during and after construction, including type of surfacing material to be used, vegetation to be removed, and revegetation of the site.

(1) *Review and approval.* The required drainage plan shall be subject to the review and approval of the planning services department and city engineer. If the developer intends to request a waiver of any of the provisions of this section concerning the drainage plan, the request must be submitted, in writing, with the drainage plan to the planning services department and the city engineer. The request shall itemize and shall state the reason(s) for which each waiver is requested. When considering waivers, the planning services department and the city engineer shall review the Comprehensive Plan objectives and policies pertaining to coastal management and conservation to determine if the waiver request is consistent with the intent of said plan.

(2) *Exemptions.* Operations that shall be exempt from this section are set forth below. However, any exemption from this section does not relieve responsibility to take all action necessary to prevent erosion and sedimentation from occurring.

(a) Home gardening or other similar activity not expected to contribute to any on-site generated erosion or chemical pollution.

(b) Emergency repairs such as those on public and private utilities and roadways systems.

(E) *Regulations.*

(1) *Shoreline setback.* All habitable structures shall observe the following minimum setback from the mean high water line. Docks and boathouses shall conform to the regulations set forth in section 12-2-37 of this article.

(a) R-2, R-2A and R-ZL zones shall require a twenty-foot setback from the mean high water line of the bayou.

(b) R-1AA, R-1AAA and R-1AAAA zones shall require a thirty-foot setback from the mean high water line of Bayou Texar.

(c) R-1AAAAA shall require a sixty-foot setback from the mean high water line of Bayou Texar.

(d) Lots of record shall require a minimum twenty-foot setback from the mean high water line of Bayou Texar.

(2) *Required yards.* The front and rear yard requirements shall be the same as the applicable zoning district requirements. Each required side yard shall be ten (10) percent of the lot width, not to exceed fifteen (15) feet. For lots of record the front and rear yard requirements shall be the same as described in section 12-1-6(B), and the required side yards shall be ten (10) percent of the lot width, not to exceed ten (10) feet.

(3) *Protection of trees.* No person, organization, society, association or corporation, or any agent or representative thereof, directly or indirectly, shall cut down, destroy, undertake tree removal, or effectively destroy through damaging, any tree listed in Chapter 12-6, Appendix A, "Protected Tree List," whether it be on private property or public right-of-way within the Bayou Texar shoreline protection district, without first having obtained a permit from the city to do so. Refer to section 12-6-7 for tree removal permit application procedures and guidelines.

(F) *Development guidelines.* The following guidelines should be utilized in the review of each development proposal within the district. The adoption of guidelines herein are intended to provide flexibility in the development of property within the district in a manner that balances the interests of the property owner with the public's need for assurance that development will be orderly and consistent with the intent of this section. Individual parcels of property may have physical attributes that justify departure from regulatory norms when strict application of such norms would deny a property owner a reasonable use of his or her property and when deviation from such norms is consistent with the intent of this regulation as described herein.

(a) Structures should be sited to retain the maximum amount of open space for natural stormwater retention.

(b) Where possible and practical, existing vegetation, including shoreline vegetation, should be maintained as a buffer between development and the surface waters of Bayou Texar.

(c) Development within the shoreline protection zone which would be dependent on future bulkheading or other shoreline fortification for protection shall be discouraged.

(G) *Public access to the shoreline.* All extensions of street rights-of-way that are perpendicular to or otherwise intersect Bayou Texar within the shoreline protection zone shall be reserved for public use unless officially vacated by city council action.

(H) *Conflicts.* It is not intended that this section interfere with or abrogate or annul any other ordinances, rules, or regulations except where this section imposes a greater restriction upon land within a zone.

(Ord. No. 8-99, § 3, 2-11-99)

Sec. 12-2-28. - Escambia Bay shoreline protection district.

(A) *Purpose.* The purpose of this district is to establish standards that recognize and protect the unique scenic vistas and environmental resources of the Escambia Bay shoreline. The regulations for this district shall provide for the alleviation of the harmful and damaging effects of on-site generated erosion and runoff caused by clearing the natural vegetation, changing the existing contours of the

land and/or not adequately addressing stormwater runoff. These regulations also ensure the preservation of the bluffs, the wetland areas and scenic views along the Bay.

(B) *Escambia Bay shoreline protection district boundaries.* The Escambia Bay shoreline protection district includes all property within the city limits bounded by Scenic Highway on the west and the Escambia Bay shoreline on the east, beginning at Mallory Street and continuing north to the city limits line.

(C) *Permitted land use.* Land use shall be permitted in the Escambia Bay shoreline protection district as designated by the City of Pensacola Comprehensive Plan and zoning regulations.

(D) *Procedure for review of plans.* The procedure established in section 12-2-27(D), applicable to the Bayou Texar shoreline protection district shall be followed for the Escambia Bay shoreline protection district.

(E) *Regulations.*

(1) *Building setbacks.*

(a) There shall be a minimum setback of thirty (30) feet on both sides of the L & N rail right-of-way line for habitable structures.

(b) There shall be a minimum setback of thirty (30) feet from the mean high water line of Escambia Bay for habitable structures.

(2) *Required yards.* The front and rear yard requirements shall be the same as the zoning district requirements as described in section 12-2-2, except that if overall lot coverage requirements otherwise specified in this section are more restrictive, those shall supersede yard requirements. Each required side yard shall be ten (10) percent of the lot width, not to exceed fifteen (15) feet. For lots of record the front and rear yard requirements shall be the same as described in section 12-1-6(B), and the required side yards shall be ten (10) percent of the lot width, not to exceed ten (10) feet.

(3) *Protection of trees.* No person, organization, society, association or corporation, or any agent or representative thereof, directly or indirectly, shall cut down, destroy, undertake tree removal, or effectively destroy through damaging, any tree listed in Chapter 12-6, Appendix A, "Protected Tree List," whether it be on private property or public right-of-way within the Escambia Bay shoreline protection district, without first having obtained a permit from the city to do so. Refer to section 12-6-7 for tree removal permit application procedures and guidelines.

(4) *Lot coverage.* Total coverage of all development sites within the Escambia Bay Shoreline Protection District, including all structures, parking areas, driveways and all other impervious surfaces, shall not exceed seventy-five (75) percent.

(5) *Protection of bluffs.*

(a) Structures allowed on the bluffs. Only the following structures shall be allowed to be built on the bluffs:

1. Elevated buildings, walkways, steps and decks;

2. Pilings and footings necessary for construction of buildings, walkways, steps or decks; and

3. Access roads or driveways that are essential to the economically viable use of the development.

(b) Vegetation. Clearing of the natural vegetation covering the bluffs within the Escambia Bay shoreline protection district is prohibited except for the minimum area needed for construction of allowable structures. As soon as the construction processes are completed, vegetation must be replanted in all disturbed areas.

(c) Construction. Development that would require alteration of the bluffs shall be prohibited except for approved access roads. Grading and other site preparation shall be kept to an

absolute minimum, and shall not be undertaken any longer than thirty (30) days from the proposed start of actual construction.

(F) *Development guidelines.* The following guidelines should be utilized in the review of each development proposal within the district. The adoption of guidelines herein are intended to provide flexibility in the development of property within the district in a manner that balances the interests of the property owner with the public's need for assurance that development will be orderly and consistent with the intent of this section. Individual parcels of property may have physical attributes which justify departure from regulatory norms when strict application of such norms would deny a property owner a reasonable use of his or her property and when deviation from such norms is consistent with the intent of this regulation as described herein.

(1) *Site planning.* All structures should be designed in a manner that complements the natural contours of the site. Developments should take into account the topography, soils, geology, hydrology and other natural conditions existing on the proposed site;

(2) *Preservation of existing vegetation, except as provided in paragraph (E)(5)(b).* Where possible and practical, existing vegetation, including trees that are not required to be protected under this section and existing shrubs and understory vegetation, should be left undisturbed, especially in the wetland areas. When vegetation is disturbed, the use of native vegetation is encouraged for replanting.

(G) *Conflicts.* It is not intended that this section interfere with or abrogate or annul any other ordinances, rules, or regulations except where this section imposes a greater restriction upon land within a zone.

Secs. 12-2-29, 12-2-30. - Reserved.

ARTICLE IV. - NEIGHBORHOOD PRESERVATION STANDARDS

Sec. 12-2-31. - Accessory uses and structure standards.

In addition to the principal uses that are designated herein as being permitted within the several zoning districts established by this title, it is intended that certain uses which are customarily and clearly accessory to such principal uses, which do not include structures or structural features inconsistent with the principal uses, and which are provided electrical and plumbing service from the main building service shall also be permitted.

For the purposes of this chapter, therefore, each of the following uses is considered to be a customary accessory use, and as such, may be situated on the same lot with the principal use or uses to which it serves as an accessory.

(A) *Uses and structures customarily accessory to dwellings.*

(a) Private garage.

(b) Open storage space or parking area for motor vehicles provided that such space shall not be used for more than one (1) commercial vehicle licensed by the State of Florida as one (1) ton or more in capacity per family residing on the premises.

(c) Shed or building for the storage of equipment.

(d) Children's playhouse.

(e) Private swimming pool, bathhouse or cabana, tennis courts, and private recreation for tenants of principal buildings.

(f) Structures designed and used for purposes of shelter in the event of manmade or natural catastrophes.

(g) Noncommercial flower, ornamental shrub or vegetable greenhouse.

(h) Television antenna or satellite TV receiving dish.

(i) Attached or detached, uncovered decks.

(j) Solar panels.

(k) Screened enclosures.

(B) *Uses customarily accessory to multi-family residential, retail business, office uses, and commercial recreation facilities.*

(a) Completely enclosed building not to exceed forty-nine (49) percent of the floor area of the main structure for the storage of supplies, stock, merchandise or equipment for the principal business.

(b) Lounge as an accessory use to a package liquor store, not to exceed forty-nine (49) percent of the floor area of the package store.

(c) Lounge as an accessory use to a restaurant, not to exceed forty-nine (49) percent of the floor area of the restaurant.

(d) Car wash as an accessory use to a service station not to exceed forty-nine (49) percent of the square footage of the total site.

(e) Restaurants, cafes, coffee shops and small scale retail uses are permitted as an accessory use in multifamily developments over twenty (20) units in size, and office buildings over four thousand (4,000) square feet, Such accessory uses shall be clearly subordinate to the principal use, shall be located on the first floor within the multi-family or office structure, and shall not exceed ten (10) percent of the gross floor area of the structure in which it is located.

(f) Standards for accessory structures shall be as follows:

1) The use shall be clearly incidental to the use of the principal building, and shall comply with all other city regulations. No accessory structure shall be used for activities not permitted in the zoning district except as noted above.

2) No insignia or design of any kind may be painted or affixed to an accessory use or structure except such signs as are permitted in the provisions of Chapter 12-4.

3) Detached vending and transaction machines shall meet the following restrictions:

a. Placement must be outside required landscape islands and stormwater management systems.

b. Anchoring to trees, traffic signs, fire hydrants, fire connectors, lift stations or other site infrastructure is prohibited.

c. Dispensers and service machines placed in parking lots shall have a finished exterior of brick, stucco, stone, metal or stained wood and shall not contain windmills or similar objects.

d. A sloped roof with a peak or parapet roof is preferred to be affixed to dispensers placed in parking lots with shingle, tile or other roof material in accordance with Florida Building Codes. Screened mechanical rooftops, and other screening or railings with no more than fifty (50) percent openings, may be used subject to approval by the planning board.

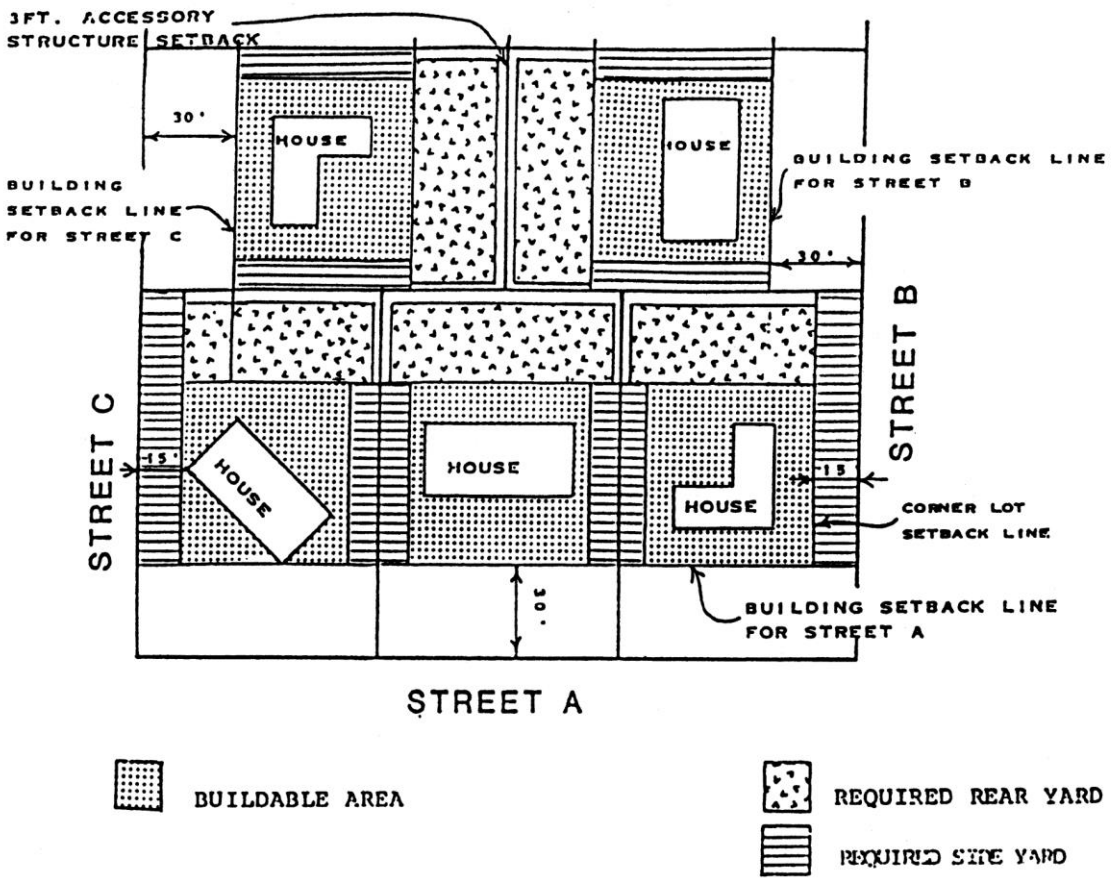
e. Signage may not exceed twenty-five (25) percent of the proposed street elevation.

(C) *Uses customarily accessory to cemeteries.* A chapel is an accessory use to a cemetery.

(D) *Residential accessory structures standards.*

(a) Accessory structures shall not be permitted in any required front or required side yard except as exempted in this section. Accessory structures shall be permitted in a required rear yard. Figure 12-2.3 shows permitted locations for residential accessory structures.

FIGURE 12-2.3
PERMITTED LOCATION OF RESIDENTIAL ACCESSORY STRUCTURES



1. Permitted only in shaded areas noted as buildable area or required rear yard as shown above.
2. Shall occupy not more than twenty-five (25) percent of required rear yard area. For purposes of calculating this percentage in a corner lot rear yard, the yard shall be measured from the interior side lot line to the street right-of-way line. Swimming pools and their surrounding decking shall be exempt from this calculation.
3. Except for corner lots, accessory structures shall not be located closer than three (3) feet from a property line in a required rear yard.
4. No part of an accessory structure may be located any closer than four (4) feet to any part of the main dwelling unit. An open covered walkway no more than six (6) feet wide may connect the main structure to the accessory structure.
5. Maximum height shall be determined as follows:
   (a) Accessory structures located within three (3) feet of the side and rear property lines shall have a maximum allowed height of fifteen (15) feet.

(b) Accessory structures exceeding fifteen (15) feet must meet the side yard setback requirements of the principal dwelling unit. For every additional one (1) foot that an accessory dwelling unit is setback from the rear property line above and beyond five (5) feet, an additional one (1) foot in height shall be allowed up to a maximum allowed height of twenty (20) feet as measured at the roof peak.

6. Accessory dwelling units must meet the requirements set forth in section 12-2-52.

(Ord. No. 6-93, § 11, 3-25-93; Ord. No. 13-06, § 11, 4-27-06; Ord. No. 45-07, § 1, 9-13-07; Ord. No. 40-13, § 2, 11-14-13; Ord. No. 25-19, § 1, 10-24-19)

Sec. 12-2-32. - Buffer yards.

(A) *Purpose.* The purpose of establishing buffer yard and screening requirements is to protect and preserve the appearance, character and value of property within the city and to recognize that the transition between certain uses requires attention to eliminate or minimize potential nuisances such as dirt, litter, glare of lights, signs, parking areas and different building styles and scales associated with different land uses. The buffer yard and screening requirements are not meant to replace regulations for specific zoning district side and rear property line requirements, except that buffer yard and screening requirements may be more stringent than specific zoning district regulations.

(B) *Application of buffer yard and screening requirements.* The provisions of this section must be met at the time that building sites are developed or redeveloped.

(C) *Locations for required buffer yards and screening of specific uses or facilities.*

(1) *Required buffer yards.*

(a) Within or adjacent to a residential zoning district. Any developing land use other than a single-family or duplex residential land use, adjacent to a single-family or duplex residential land use or a vacant parcel, shall be responsible for providing a buffer yard.

(b) Within or adjacent to a cumulative zoning district. Any developing land use other than a single-family or duplex residential land use, adjacent to a single-family or duplex residential land use, shall be responsible for providing a buffer yard. A developing land use adjacent to a vacant parcel within or adjacent to a cumulative zoning district shall not be responsible for providing a buffer yard.

(c) Adjacent to a historic or preservation land use district. Any developing land use other than a single-family or duplex residential land use, adjacent to any existing land use or a vacant parcel in a historic or preservation land use district shall be responsible for providing a buffer yard.

(2) *Specific uses or facilities.* The following specific uses or facilities must be screened from public view from a public street and from adjoining property when the subject site is zoned or adjacent to property zoned residential, historic or preservation, redevelopment or airport. Screening material shall meet the requirements of subsection (D)(2)(a).

(a) Dumpsters or trash handling areas.

(b) Service entrances or utility facilities.

(c) Loading docks or spaces.

(D) *Requirements for buffer yards.*

(1) *Description of buffer yard.* Where relationships exist between land uses or zoning districts that would require a buffer yard, as described in paragraph (C)(1) above, a ten (10) foot buffer yard shall be required. Said buffer yard shall extend the entire length of the common property line or zoning district boundary except when the boundary is located within a public street or right-of-

way. The buffer yard may be located within a larger required yard or may supersede the requirements for smaller required yards depending on the specific zoning district regulations.

(2) *Buffer material requirements.* A buffer yard must contain trees and screening materials as specified in this paragraph.

(a) Screening materials. A buffer yard must contain one or more of the following type screening materials sufficient to provide a minimum of seventy-five (75) percent opacity for that area between the finished grade level at the common boundary line and six (6) feet above said level and horizontally along the length of all common boundaries: fence, wall, hedge, landscaping, earth berm or any combination of these. The composition of the screening material and its placement within the buffer yard or surrounding the use or facility to be screened will be left up to the discretion of the developer so long as the purpose and requirements of this section are met. A fence or earth berm that is located within the required buffer yard must comply with maximum height requirements established in section 12-2-40, applicable to fences.

(b) The minimum height for screening will be six (6) feet (at maturity for vegetation).

(c) Trees must be installed as part of the screening material. One tree must be installed for each twenty-five (25) linear feet of majority portion thereof, with a minimum of fifty (50) percent of said trees being shade trees. Trees shall be spaced so as to allow mature growth of shade trees. Trees may be evergreen or deciduous as long as they are of a variety approved by the city, and said trees must be at least three (3) inches in diameter (nine and four-tenths (9.4) inches in circumference) measured one (1) foot above grade at the time of planting. Protection of existing healthy trees within a required buffer yard is encouraged, and when existing trees are protected the spacing requirements and the number of trees required may be adjusted to take into account the growth characteristics of the trees.

(d) Shrubs used in any screening or landscaping may be of evergreen or deciduous varieties. They must be at least two (2) feet tall when planted and no further apart than five (5) feet. They must be of a variety and adequately maintained so that a minimum height of six (6) feet could be expected as normal growth within three (3) years of planting. Protection of existing healthy shrubs is encouraged, and when existing shrubs are protected the spacing requirements may be adjusted to take into account the growth characteristics of the shrubs. Table 12-2.11 lists recommended vegetation for screening.

(e) Any earth berm used to meet the requirements of this section must be stabilized to prevent erosion and must be landscaped with grasses, shrubs, or other materials.

(f) Grass, other ground cover or permeable mulching material shall be planted or placed on all areas of the buffer yard required by this section that are not occupied by other landscape materials.

(g) There are other landscaping and tree planting requirements contained in Chapter 12-6. Nothing in this section will exempt any development from complying with those other requirements when they would require a higher level of performance.

TABLE 12-2.11
RECOMMENDED VEGETATION LIST
FOR BUFFER YARD VISUAL SCREEN

Ligustrum (Ligustrum japonicum)
Azalea (Rhododendron indicum, Rhododendron simsii, Rhododendron

obtusum)
Red top (Photinia glabra and Photinia fraseri)
Cleyera (Cleyera japonica)
Wax Myrtle (Myrica cerifera)
Pampas grass (Cortaderia selloana)
Thorny elaeagnus (Elaeagnus pungens)
Silverberry (Elaeagnus macrophylla)
English holly (Ilex aquifolium)
Chinese holly (Ilex cornuta)
Japanese holly (Ilex crenata)
Yaupon holly (Ilex vomitoria)
Oleander (Nerium oleander)
Chinese juniper (Juniperus chinensis)
Savin juniper (Juniperus chinensis)
Rocky Mountain juniper (Juniperus scopulorum)
Suggested planting sizes:
One-gallon plant. Approximately 15—24 inches in height.
Three-gallon plant. Approximately 24—36 inches in height.

(E) *Alternative screen methods.* Under certain circumstances the application of the standards above is either inappropriate or ineffective in achieving the purposes of this section. When the site design, topography, unique relationships to other properties, natural vegetation, or other special

considerations exist relative to the proposed development, the developer may submit a specific plan for screening.

(F) *Use of existing screening.* When a lot is to be developed so that a buffer yard is required and that lot abuts an existing hedge, fence or other screening facility on the adjoining lot, then that existing screen may be used to satisfy the buffer screening material requirements of this ordinance; however, the ten (10) foot buffer yard must be provided. The existing screen must meet the minimum standards for screening established by this section and it must be protected from damage by pedestrians or motor vehicles. The burden to provide the necessary screening remains with the use to be screened and is a continuing obligation that runs with the land so long as the original relationship exists.

(G) *Hardship determination.* If the city engineer and planner determine that the construction of a buffer yard required by this chapter would create a hardship because of the unique and peculiar circumstances or needs resulting from the size, configuration or location of the site or for the renovation of existing structures or vehicular use areas, the above stated city staff may approve a buffer yard with a width no less than five (5) feet, provided such buffer yard meets the visual screening requirements of this section.

(Ord. No. 13-92, § 2, 5-28-92; Ord. No. 29-93, § 15, 11-18-93; Ord. No. 50-00, § 4, 10-26-00)

Sec. 12-2-33. - Home occupation permits.

(A) *Findings.* The city recognizes that tangible benefits will be gained by allowing residents to earn income from occupations conducted within their homes. These benefits include in part:

(a) A reduction in automobile trips;

(b) Encouraging more citizens, including the handicapped, the aged, and parents of small children, to participate in the workforce; and

(c) Allowing many of these citizens to have jobs while meeting various family obligations.

(B) *Purpose.* The city recognizes that its residents should expect their neighborhoods to be quiet and safe places to live and that home occupations should not be allowed to alter the primarily residential character of these neighborhoods. Home occupations should not be allowed to create a nuisance of any kind or to endanger the health or safety of residents of the neighborhood. For these reasons, it is the purpose of this section to:

(a) Protect residential areas from the adverse impacts of activities associated with home occupations;

(b) Permit residents of the community a broad choice in the use of their homes as a place of livelihood for the production or supplementation of personal and family income;

(c) Establish criteria, development standards and performance standards for home occupations conducted in dwelling units.

(C) *Permits.* A person desiring a home occupation permit shall make an application in the planning services department. A person may only apply for a home occupation permit to be used at his/her primary place of residence.

(1) *Occupational license required.* All home occupations shall be required to obtain an occupational license concurrent with the application for a home occupation permit.

(2) *Acknowledgement of applicant required.* An applicant for a home occupation permit shall, at the time of application, sign an acknowledgement stating that the applicant:

(a) Agrees to comply with the standards set forth in this section;

(b) Agrees to comply with the conditions imposed by the city to insure compliance with such standards;

(c) Acknowledges that a departure therefrom may result in a revocation of the home occupation permit; and

(d) Acknowledges that the city shall have the right to reasonably inspect the premises upon that the home occupation is conducted to insure compliance with the foregoing standards and conditions, and to investigate complaints, if any, from neighbors.

(3) *Application for a permit.* Such application for a permit shall include the following:

(a) Name of applicant;

(b) The exact nature of the home occupation;

(c) Location of dwelling unit where the home occupation will be conducted;

(d) Total floor area of the dwelling unit;

(e) Area of room or rooms to be utilized in the conduct of the home occupation; and

(f) A sketch with dimensions showing the floor plan and the area to be utilized for the conduct of the home occupation. This sketch must show the location and nature of all equipment to be utilized in the conduct of the home occupation, as well as the locations for storage of materials used in the conduct of the home occupation and the identity and nature of these materials. If the nature of the business is such that clients or customers will visit the premises, then the sketch must show available off street parking and the ingress/egress to be used.

If the proposed home occupation complies with all of the requirements of subsection (D) of this section, the Planning services department shall issue the home occupation permit. Home occupation permits are non-transferable, except that, in the case of death, should a surviving spouse or child residing at the same address desire to continue the home occupation, written notice to that effect shall be given to the Planning services department and the permit may be transferred. Such home occupation permit cannot be used by the applicant for any premises other than that for which it was granted.

(4) *Revocation of a home occupation permit.* Any person may seek revocation of a home occupation permit by making application therefor to the building official, and an investigation will be made to determine whether the permit holder is conducting such home occupation in a lawful manner as prescribed in this section. In the event that the building official determines that the permit holder is in violation of the provisions of this section, the permit shall be immediately revoked. The decision of the building official shall be subject to appeal to the board of adjustment as prescribed in section 12-12-2. During such an appeal, the action of the Inspection Services Department is stayed. If the Inspection Services Department determines that the public safety is at risk, appropriate regulating agencies and authorities shall be immediately notified.

The following shall be considered as grounds for the revocation of a home occupation permit:

(a) Any change in use or any change in extent or nature of use or area of the dwelling unit being used, that is different from that specified in the granted home occupation permit form, that is not first approved by the city planner shall be grounds for the revocation of a home occupation permit. The operator of a home occupation must apply for a new home occupation permit prior to any such changes;

(b) Any change in use, extent of use, area of the dwelling unit being used, or mechanical or electrical equipment being used that results in conditions not in accordance with the provisions of the required conditions of subsection (D) shall result in immediate revocation of the home occupation permit;

The following conditions shall apply for home occupation permits that have been revoked:

(a) Initial revocation: Reapplication may only occur when the condition(s) causing the revocation has been corrected;

(b) Second revocation: Reapplication may only occur after one (1) year and when the condition(s) causing the revocation has been corrected;

(c) Third revocation: The home occupation permit shall not be reissued.

(D) *Required conditions.* All permitted home occupations shall comply with the following standards and criteria:

(1) The home occupation may be conducted within the principal building or in an accessory building, except for any related activities conducted off the premises.

(2) No person other than a member of the family residing on the premises shall be employed or engaged in the home occupation at the premises.

(3) There shall be no alteration or change to the outside appearance, character or use of the building or premises, or other visible evidence of the conduct of such home occupation, including outside storage or signs pertaining to the home occupation. There shall be no display of products visible in any manner from the outside of the dwelling.

(4) No home occupation shall occupy more than five hundred (500) square feet. When located within the principal building, no home occupation shall occupy more space than twenty-five (25) percent of the total floor area of the dwelling unit, provided that in no event shall such home occupation occupy more than five hundred (500) square feet.

(5) No commodities or goods of any kind shall be sold on the premises with the following exceptions:

(a) The sale and display of items produced or fabricated on the premises as part of the home occupation, such as art and handicrafts, is permitted. In no instance is any outside display allowed.

(b) Orders made by phone, mail or sales party may be filled on the premises.

(6) No equipment or process shall be used in such home occupation that creates prolonged noise, sound or vibration. Heat, glare, fumes, dust, odors or electrical interference detectable to the normal senses outside the dwelling, or in multiple-family dwellings, detectable to the normal senses beyond the walls of the dwelling unit shall not be permitted. Combustible materials located anywhere on the premises in quantities that are in violation of the city's fire code shall not be permitted. No equipment shall be used that creates any visual or audible interference in any radio, telephone or television receivers off the premises, or causes fluctuations in line voltage off the premises.

(7) No articles or materials used in connection with such home occupation shall be stored on the premises other than in the area permitted for the home occupation, and any area used for storage shall be counted toward the maximum permissible floor area used for such home occupation.

(8) No home occupation shall be permitted that involves the visitation of clients, customers, salesmen, suppliers or any other persons to the premises that would generate vehicular traffic in excess of two (2) vehicles concurrently or more than twelve (12) vehicles per day.

(9) The total number of home occupations conducted within a dwelling unit is not limited, except that the cumulative impact of all home occupations conducted within the dwelling shall not exceed the limits of one (1) home occupation as established in this subsection.

(10) There shall be no illegal discharge of any materials, fluids or gases into the sewer system or any other manner of discharging such items in violation of any applicable government code.

(11) Home occupations shall comply with all local, state or federal regulations pertinent to the activity pursued, and shall not be construed as an exemption from such regulations.

(E) *Prohibited activities.* A home occupation permit shall not be issued for any of the following uses or for a home occupation that requires any of the following activities:

(a) Activities regulated by the Federal Bureau of Alcohol, Tobacco and Firearms;

(b) Activities that produce hazardous wastes regulated by the United States Environmental Protection Agency or the Florida Department of Environmental Protection;

(c) Beauty/barber shops with more than two (2) chairs;

(d) Group instruction of more than two (2) students at one (1) time;

(e) Outdoor repair shops;

(f) Provision of transportation services such as taxi or limousine service;

(g) Sales of food or drink to the public on the premises;

(h) Sales of retail items other than described in subsection (D)(5); and,

(i) Sales, service or repair of motorized vehicles.

(Ord. No. 45-96, § 7, 9-12-96; Ord. No. 44-99, § 2, 11-18-99)

Sec. 12-2-34. - Reserved.

Editor's note— Ord. No. 14-13, § 1, adopted May 9, 2013, repealed § 12-2-34, which pertained to street setback requirements. See Code Comparative Table for complete derivation.

Sec. 12-2-35. - Required visibility triangle.

(A) *Location and general provisions.* On every corner lot on both public and private streets, the triangle formed by the street right-of-way lines of such lot and a line drawn between points on such street lines which are thirty (30) feet from the intersection thereof shall be clear of any structure, solid waste container, parked vehicles, major recreational equipment, or planting of such nature and dimension as to obstruct lateral vision, provided that this requirement shall generally not apply to the trunk of a tree (but usually shall apply to branches or foliage), or a post, column, or similar structure which is no greater than one foot in cross-section diameter.

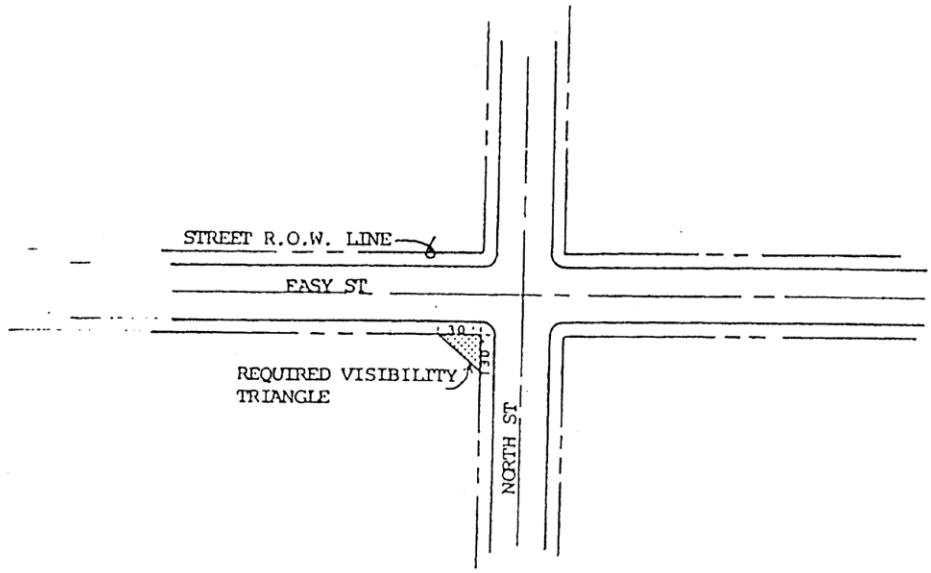


FIGURE 12-2.4
VISIBILITY TRIANGLE

(B) *Vertical clearance.* Lateral vision shall be maintained between a height of three (3) feet and eight (8) feet above the average elevation of the existing surface of both streets measured along the centerlines adjacent to the visibility triangle.

(C) *Exemptions.*

(a) The C-2A and HC-1 zoning districts shall be exempt from the visibility triangle provision.

(b) Lots of record shall be exempt from the visibility triangle provision.

(c) Transparent fences including chain link, wrought iron and similar materials.

(D) *Hardship determination.* If the city engineer and planner determine that the visibility triangle required by this section would create a hardship because of the unique and particular circumstances or needs resulting from the size, configuration or location of the site or for the renovation of existing structures or vehicular use areas, the above stated city staff may approve a visibility triangle of no less than fifteen (15) feet from the intersection.

(Ord. No. 8-99, § 4, 2-11-99; Ord. No. 22-02, § 1, 9-26-02)

Sec. 12-2-36. - Parking and storage of major recreational equipment.

(A) *General requirements.*

(a) Parking or storage of major recreational equipment, except for loading and unloading not to exceed twenty-four (24) hours, shall not be permitted in any portion of any public right-of-way.

(b) Repairing or maintaining major recreational equipment, except repairs necessitated by an emergency, shall not be permitted in any portion of any public right-of-way.

(c) Major recreational equipment shall not be parked or stored on any vacant lot except where such vacant lot adjoins a lot on which a principal structure under the same ownership is located.

(d) Major recreational equipment may not be parked or stored on a parking lot for the principal purpose of displaying such equipment for sale except on parking lots where the sale of vehicles

and major recreational equipment is a duly authorized permitted use (i.e. new and used car lot, major recreational equipment sales lot);

(e) Major recreational equipment may not be used for storage of goods, materials or equipment other than those items considered to be part of the vehicle or major recreational equipment essential for its immediate use.

(f) Parking or storage of major recreational equipment is allowed in duly authorized facilities designed for storage and parking of major recreational equipment and on residential premises as provided in section 12-2-36(B).

(B) *Residential requirements.* Parking or storage of major recreational equipment on residential premises shall be allowed as shown in Figure 12-2.5 subject to the following conditions:

(a) May be parked or stored in:

1. Permanent equipment enclosures such as carports or garages;

2. The driveway of the owner's residence but not in any portion of any public right-of-way;

3. Rear yards not closer than three (3) feet to the rear and side property lines;

4. The front yard except in the required visibility triangle (refer to section 12-2-35) but only perpendicular to the front lot line and within fifteen (15) feet of either side lot line; or

5. One of the required side yards but not both. May be parked on corner lots in the required street side yard except in the required visibility triangle.

(b) May be parked anywhere on residential premises not to exceed twenty-four (24) hours during loading or unloading.

(c) Shall not be used for living, sleeping or housekeeping purposes while stored on a residential premises.

(d) Shall not be connected to any utilities except electricity.

(e) May not be parked or stored in required parking spaces of multiple-family developments.

(f) Must be maintained in an operable condition and must be properly licensed in accordance with all laws of the State of Florida.

(Ord. No. 8-95, § 1, 2-23-95; Ord. No. 23-02, § 1, 9-26-02)

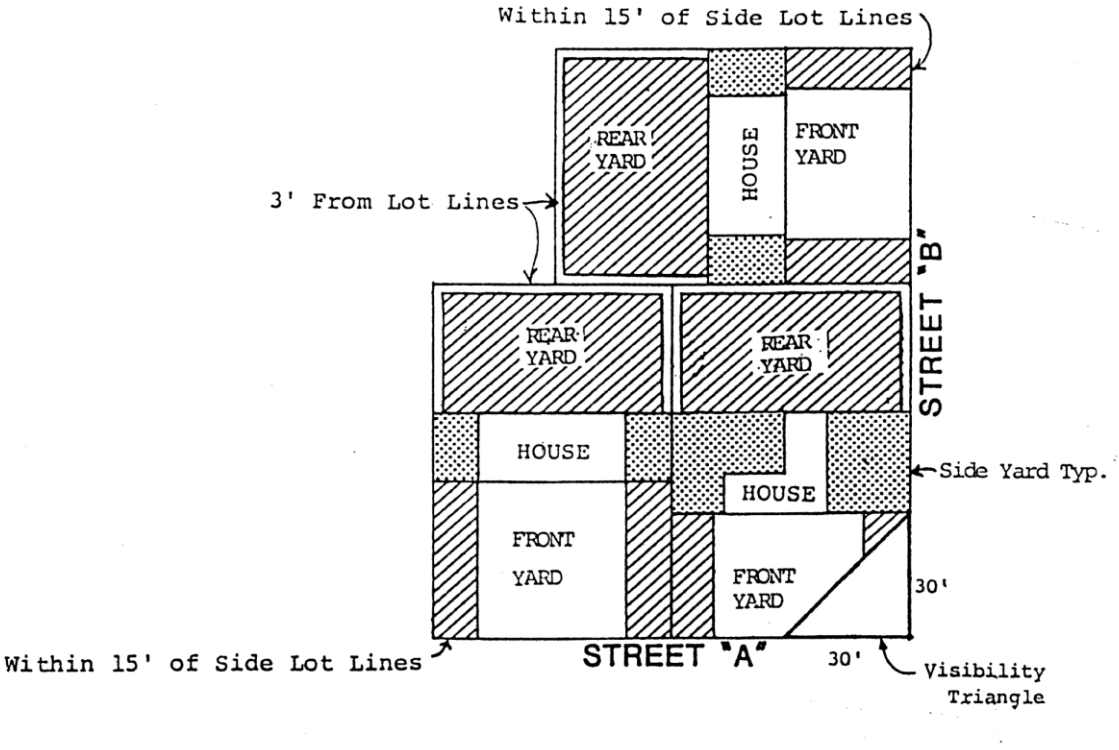


FIGURE 12-2.5
STORAGE OF MAJOR RECREATIONAL VEHICLES

Sec. 12-2-37. - Boathouses, piers and docks, all residential zones.

In a residential zone, bordering upon either Bayou Chico, Bayou Texar, Pensacola Bay or Escambia Bay within the city limits, piers, docks and boathouses may be built provided that all permits have been obtained from the Florida Department of Environmental Protection and the Army Corps of Engineers prior to city building permit application. No piers, docks or boathouses shall be built along the shores in or upon the waters of Bayou Texar or Bayou Chico, Pensacola Bay and Escambia Bay except those that shall conform to the following regulations:

(a) No pier, dock and/or boathouse shall be constructed or altered hereafter without first obtaining a permit from the building inspector and upon the submission of plans and a plat describing the proposed construction.

(b) No boathouse, pier, dock or approach to the said boathouse shall be closer to the side lot lines of the designated lots (lot line measured at right angle from shoreline) in any subdivision bordering Bayou Texar, Bayou Chico, Pensacola Bay or Escambia Bay than a minimum footage of ten (10) feet, nor shall any boathouse extend to a height of more than fifteen (15) feet from the above mean low tide.

(c) The square foot area of any boathouse shall not exceed forty (40) percent of the total area of the principal dwelling unit and that an uncovered platform at the end of a pier or dock shall not exceed two hundred fifty (250) square feet.

(d) No boathouse shall be used for living quarters, and the use of boathouses shall be confined to the housing of boating and related equipment.

(Ord. No. 22-02, § 1, 9-26-02; Ord. No. 19-16, § 1, 7-14-16)

Sec. 12-2-38. - Private streets.

(A) *Permitted locations.* Private streets may be constructed in residential and non-residential developments and subdivisions.

(B) *Construction of private streets.*

(a) Private streets shall be constructed solely at the expense of the developer or the homeowners' association and shall have a hard surface travel way of a minimum of twelve (12) feet per travel lane and a minimum of two (2) lanes per street, or twenty-four (24) feet of pavement in a two-way street. Narrower pavement widths may be approved by the planning board and city council upon recommendation by the city engineer.

(b) Private streets shall be contained within a private ingress and egress easement, private right-of-way or private common area of sufficient width to contain the roadway, sidewalks and any utilities.

(c) Private streets shall be designed and constructed in accordance with the requirements of section 12-2-82 and Chapter 12-8 where a subdivision is involved.

(C) *Maintenance of private streets.* The owner(s) of a development that includes private streets shall utilize one of the following general plans for providing for the ownership and maintenance of the private streets.

(a) Establish an association or nonprofit corporation of all individuals and entities owning property within the development.

(b) Owner to retain ownership control of such area and be responsible for the maintenance thereof.

(c) Any other method proposed by the owner that is acceptable to the city council. Said proposed alternative method shall serve the purpose of providing for the ownership, use, and maintenance, of the private streets.

(Ord. No. 13-06, § 12, 4-27-06)

Sec. 12-2-39. - Height exceptions.

The following height exceptions qualify or supplement as the case may be, the district regulations or requirements appearing elsewhere in this land development code:

(a) Public or semipublic buildings, schools, and churches or temples, where permitted in an R-1AAAAA, R-1AAAA, R-1AAA, R-1AA, R-1A, R-ZL zoning district or in the North Hill Preservation District, may be erected to a height not exceeding seventy-five (75) feet when the

front, rear and side yards are increased an additional foot for each foot such buildings exceed the height limit otherwise provided in the district in which the building is built.

(b) Single- and two-family dwellings in a residential district may be increased in height by not more than ten (10) feet when two (2) side yards of not less than fifteen (15) feet each are provided.

(c) The height limitations contained in this chapter do not apply to chimneys, water tanks or towers, elevator bulkheads, stacks, ornamental towers or spires, monuments, cupolas, domes, false mansards, parapet walls and necessary mechanical appurtenances usually required to be placed above the roof level and not intended for human occupancy. However, the heights of these structures or appurtenances shall not exceed the height limitations prescribed by the Federal Aviation Administration within the flight approach zone patterns of the Pensacola International Airport. (Refer to Chapter 12-11 of this title).

(d) Private radio antenna towers provided same are established pursuant to the following conditions:

1. Private radio antenna towers are permitted up to seventy-five (75) feet above grade. Height of tower to be measured from grade to the uppermost portion of the tower and its appurtenances, said distance to be measured when tower is extended to its greatest height.

2. Private radio antenna towers shall be permitted in the side yard other than the required side yard, and in the rear yard.

3. A private radio antenna tower shall not be constructed without a building permit. Antenna towers shall meet the minimum requirements of Chapter 14-1. Any portion of an antenna tower above seventy-five (75) feet in height shall require a variance from the zoning board of adjustment (ZBA).

(Ord. No. 6-93, § 12, 3-25-93; Ord. No. 29-93, § 16, 11-18-93)

Sec. 12-2-40. - Fences.

(A) *General provisions.*

(1) *Visibility triangle requirements.* All opaque fences shall conform to the required visibility triangle requirements as set forth in section 12-2-35.

(2) *Prohibited fences.* No electrical fences or fences with cutting edges, including, but not limited to, fences using razor, ribbon or concertina wire, shall be permitted within the city. Notwithstanding the foregoing, electrical fences may be used at wildlife sanctuaries permitted by the U.S. Department of Wildlife and Fisheries to harbor and protect federally protected and/or endangered species. Electrical fences must be wholly within the interior of such sanctuaries and may not be used as perimeter fences. Site plans and installation diagrams must be submitted to the City Planning services department and the building official for review and approval. Electrical fences may not be in use during hour of operation when the public is present and appropriate warning signs must be attached to electrical fences.

(3) *Pillars and posts.* Pillars and posts may extend up to twelve (12) inches above the height limitations of this section, provided such pillars and posts are no less than eight (8) feet apart.

(4) *Existing nonconforming fences.* Existing nonconforming fences in any zoning district may be repaired or replaced, with the exception of opaque fences in a visibility triangle.

(B) *Regulations for the R-1AAAAA, R-1AAAA, R-1AAA, R-1AA, R-1A, R-ZL, R-2A, R-2, R-NC, R-NCB, WRD, GRD and airport zoning districts.*

(1) *Maximum height of fences.* Fences may be built to the maximum heights within required yards as follows:

Required front yard	4 feet, 6 inches
Required side yard	6 feet, 6 inches
Required rear yard	6 feet, 6 inches

On corner lots, fences constructed within the required street side yard shall not exceed four (4) feet in height if the fence would obstruct the visibility from an adjacent residential driveway. Otherwise fences within the required street side yard may be built to a maximum of six (6) feet, six (6) inches.

(a) Fences may be built to the maximum height allowed for structures in the zoning district at the building setback line or within the buildable area of a site.

(b) Multifamily developments having a building site area of at least one acre and street frontage of at least two-hundred (200) feet shall be permitted fences six (6) feet, six (6) inches in height along property lines surrounding the development around the perimeter. All fences shall conform to visibility triangle requirements as set forth in section 12-2-35.

(c) Subdivisions having an area of at least one acre and street frontage of at least two hundred (200) feet shall be permitted fences six (6) feet, six (6) inches along property lines surrounding the subdivision around the perimeter. All fences shall conform to visibility triangle requirements as set forth in section 12-2-35.

(2) *Barbed wire fences.* In residential districts, barbed wire fences shall be permitted only to surround a public utility and federal, state, county or municipal property. Any such fence may incorporate three (3) strands of barbed wire only on top of a solid or chain-link fence at least six (6) feet high, but no higher than eight (8) feet.

(3) *Location of fences.* Fences shall be permitted to the right-of-way line of a public street.

(C) *Regulations for the historic and preservation zoning districts.* All requirements must be met as established in sections 12-2-10(A)(5)(c) and 12-2-10(B)(5)(d), and in addition the following provisions apply:

(a) No concrete block or barbed wire fences will be permitted. Approved fence materials will include, but are not limited to wood, brick, stone or wrought iron. Chain link fences shall be permitted in the PR-1AAA, PR-2 AND PC-1 zoning districts in side and rear yards only with the approval of the architectural review board.

(b) Fences are subject to approval by the architectural review board.

(D) *Regulations for the commercial and industrial zoning districts.* All requirements established in subsection (A) must be met and in addition the following provisions apply: There shall be no maximum height for fences in these districts except as provided in subparagraphs (b) and (c), below.

(a) Fences incorporating barbed-wire are permitted provided that barbed-wire may be used only on top of a six-foot-high or higher solid or chain-link fence surrounding a public utility, uses permitted in a C-3, M-1 or M-2 zoning district and federal, state, county or municipal property.

(b) Where a dwelling is located in a commercial, industrial or redevelopment district, subsection (B) shall regulate fences for that dwelling.

(c) Where a dwelling unit is located adjacent to an industrial or commercial use, a fence may be constructed to a maximum height of eight (8) feet, six (6) inches on the property line contiguous to the industrial or commercial use.

(Ord. No. 6-93, § 13, 3-25-93; Ord. No. 29-93, §§ 17, 18, 11-18-93; Ord. No. 25-97, § 1, 7-10-97; Ord. No. 22-02, § 1, 9-26-02)

Sec. 12-2-41. - Yard requirements.

(A) *General requirements:*

(a) Except as otherwise specified herein, every lot shall have a front yard, side yards, and a rear yard with minimum depths not less than those specified for the respective zone and as illustrated in Figure 12-2.6.

(b) Side yard requirements for dwellings shall be waived where dwellings are erected above stores or shops; however, such dwellings shall meet the same yard requirements established for the ground floor commercial structure.

(c) Every part of a required yard shall be open from its lowest point to the sky unobstructed, except for that portion occupied by permitted accessory structures, trees and shrubs and the ordinary projection of sills, belt courses, cornices, buttresses, ornamental features and eaves; provided, however, none of the above projections shall project into a required yard more than twenty-four (24) inches.

Open or enclosed fire escapes, outside stairways and landings projecting into a minimum yard or court not more than three and one-half (3.5) feet and the ordinary projections of chimneys and flues may be permitted by the building official.

(B) *Corner lots.* On lots having frontage on more than one street at an intersection, a required front yard shall only be required on one street frontage; the required side yard fronting the other street shall be reduced by fifty (50) percent of the required front yard for the district.

(C) *Double frontage or through lots.* On lots having frontage on more than one street, but not located on a corner, a minimum front yard shall be provided for each street in accordance with the provisions of this section, unless a nonaccess easement is established on one frontage of such lot.

(Ord. No. 25-92, § 3, 7-23-92; Ord. No. 9-96, § 10, 1-25-96; Ord. No. 8-99, § 5, 2-11-99)

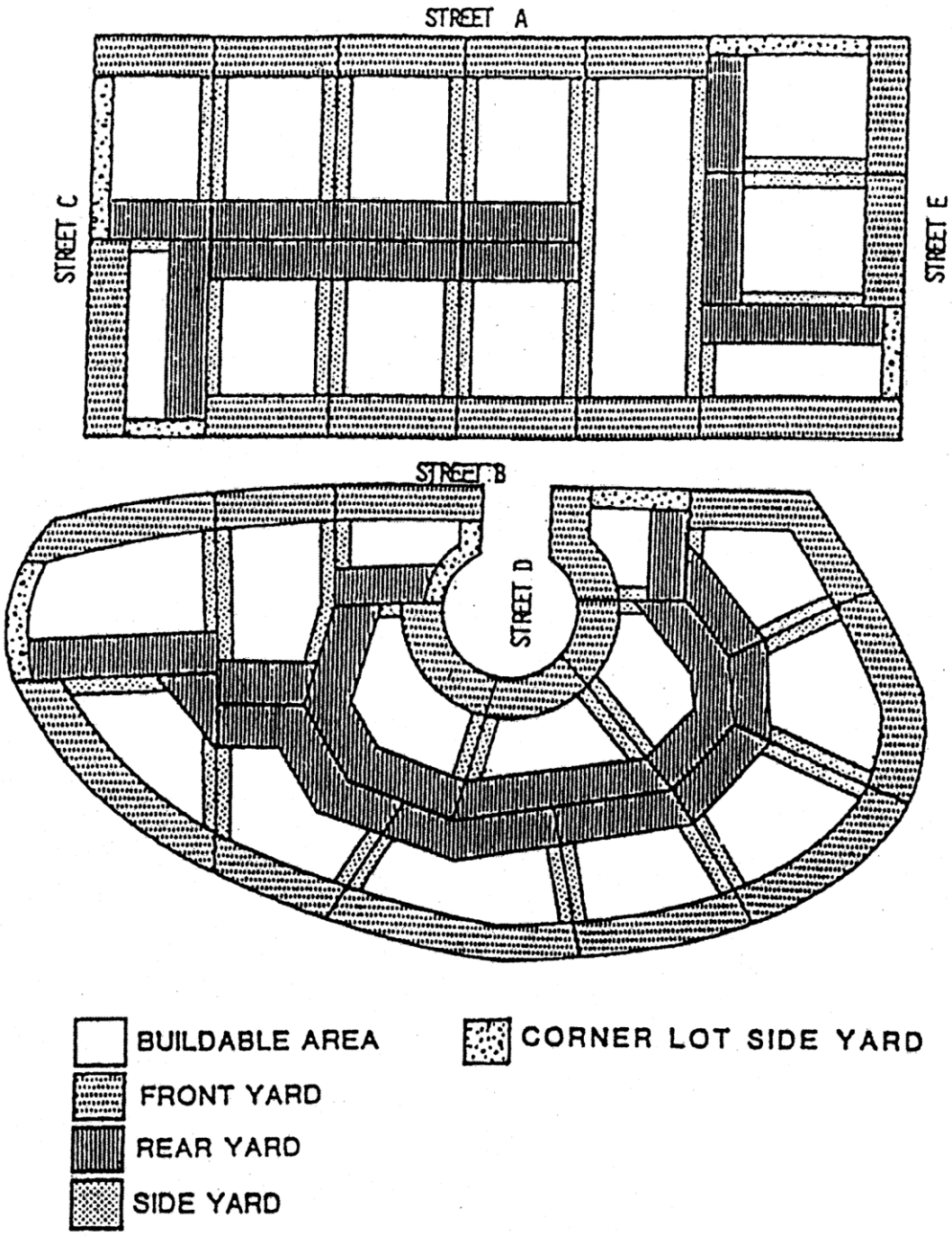


FIGURE 12-2.6—REQUIRED YARDS

Sec. 12-2-42. - Parking for certain uses prohibited.

No person shall park a vehicle upon any street, right-of-way, vacant lot or parking lot for the principal purpose of:

(a) Displaying such vehicle for sale;

(b) Washing, greasing or repairing such vehicle, except repairs necessitated by an emergency;

(c) Displaying advertising;

(d) Selling merchandise from such vehicle except in a duly established marketplace or when so authorized or licensed under the ordinances of this municipality; or

(e) Storage for more than twenty-four (24) hours.

(Ord. No. 9-96, § 11, 1-25-96; Ord. No. 04-06, § 1, 2-9-06)

Sec. 12-2-43. - Parking of commercial vehicles in residential neighborhoods.

(A) *Large commercial vehicles.*

(1) Parking or storage of any large commercial vehicle, except for loading and unloading not to exceed twelve (12) hours, shall not be permitted in any portion of the right-of-way located within a residential district or development. Loading and unloading means that the commercial vehicle is attended and materials are being actively loaded/unloaded into and out of the commercial vehicle.

(2) Parking or storage of any large commercial vehicle on any residential premises shall not be permitted except as follows:

(a) Temporary parking during loading and unloading not to exceed twelve (12) hours. Loading and unloading means that the commercial vehicle is attended and materials are being actively loaded/unloaded into and out of the commercial vehicle.

(b) Temporary parking of construction equipment and delivery vehicles on or adjacent to a properly permitted construction site.

(3) Large commercial vehicles shall not be used for living, sleeping or housekeeping purposes while temporarily parked as provided above.

(4) The mayor may, for good cause shown, grant a temporary permit with reasonable conditions exempting any large commercial vehicle from the provisions of this section for a period not to exceed seventy-two (72) hours.

(5) Permanent parking or storage of large commercial vehicles on a residential premises may be permitted according to the following specific requirements:

(a) Must be contained within a garage or similar enclosed accessory structure meeting the requirements of section 12-2-31(D): residential accessory structures standards.

(b) Shall not be connected to any utilities.

(c) Shall not be used for living, sleeping or housekeeping purposes.

(d) Must be maintained in an operable condition and must be property licensed in accordance with all laws of the State of Florida.

(B) *Small commercial vehicles.* Small commercial vehicles when not in active service shall not be parked or stored in any portion of the right-of-way located within a residential district or development between the hours of 6:00 p.m. and 6:00 a.m.

Permanent parking or storage of small commercial vehicles on residential premises is permitted subject to the following conditions:

(1) May be parked or stored in:

(a) Garage, carport or similar enclosed accessory structure meeting the requirements of section 12-2-31(D): residential accessory structures standards.

(b) The driveway of the residential premises of the vehicles owner and/or operator.

(2) Must be maintained in an operable condition and properly licensed in accordance with all laws of the State of Florida.

(3) Must be owned and/or operated by a resident of the residential premises.

(4) Shall not be connected to any utilities.

(5) Shall not be used for living, sleeping or housekeeping purposes.

(6) Shall not be more than two (2) small commercial vehicles on a residential premises.

(C) Public school buses. Public school buses operated by drivers employed by the Escambia County School District during the school year shall be permitted to park on the residential premises of the operator. Public school buses shall not be parked or stored in any portion of the right-of-way in a residential district or development between the hours of 6:00 p.m. and 6:00 a.m. Effective with the end of the 2006—2007 school year, public school buses shall adhere to all provisions of section 12-2-43(A).

(Ord. No. 04-06, § 2, 2-9-06; Ord. No. 16-10, § 206, 9-9-10)

Sec. 12-2-44. - Communications tower review.

(A) *Permitted locations.*

(1) Communications towers shall be permitted in the C-2, C-3, M-1, and M-2 zoning districts except where prohibited in subsection 12-2-44(A)(2) and only in accordance with the standards and procedures set forth in this section and other applicable provisions of the Code.

(2) Communications towers shall be prohibited within the CO, zoning districts. In addition, communications towers are prohibited as follows: On any lot in any zoning district within five hundred (500) feet of Bayou Texar, Escambia Bay or Pensacola Bay; within the Governmental Center District; and, within the Palafox Historic Business District.

(3) Communications towers may be permitted by conditional use approval as provided in section 12-2-79 in the R-1AAAAA, R-1AAAA, R-1AAA, R-1AA, R-1A, R-ZL, R-2A, R-2, R-NC, R-NCB, C-1, C-2A, HR-1, HR-2, HC-1. HC-2, PR-1AAA, PR-2, PC-1, OEHR-2, OEHC-1, OEHC-2, OEHC-3, ATZ-1, ATZ-2, GRD, GRD-1, WRD, WRD-1, SPBD, and IC zoning districts.

(4) Communications towers may be permitted in the ARZ zoning district as provided in subsection 12-2-11(B)(1)(g) and in accordance with the standards and procedures set forth in this section and other applicable provisions of the code.

(B) *Illumination.* Artificial lighting of communications towers shall be limited to mandatory safety lighting required by state or federal regulatory agencies having jurisdiction over communications towers. Equipment cabinets and other facilities located at the base of communications towers may be lighted provided any lighting conforms with the requirements of this chapter.

(C) *Inventory of existing sites.* Each applicant for permission to construct a communications tower shall provide to the city an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the city or within one (1) mile of the border thereof, including specific information about the location, height and design (including the number of antenna arrays the tower is designed to support, the number currently on the tower, and the height at which any additional arrays could be placed) of each tower. The planning services department may share such information with other applicants applying for administrative approvals or conditional use permits under this section and with other organizations seeking to locate antennas within the city, provided, however that the planning services department shall not, by sharing such information, be deemed to be in any way representing or warranting that such sites are available or suitable.

(D) *Co-location.*

(1) Design and construction. Monopoles shall be engineered and constructed to accommodate a minimum of two (2) antenna arrays. Antenna support structures shall be engineered and constructed to accommodate a minimum of three (3) antenna arrays.

(2) Due diligence. An applicant for construction of a monopole or antenna support structure shall demonstrate that it has made diligent but unsuccessful efforts to co-locate its antenna and associated equipment on an existing structure. Evidence submitted to demonstrate that no existing tower or other structure can accommodate the applicant's proposed antenna shall consist of the following:

(a) No existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements.

(b) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.

(c) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

(d) The applicant's proposed antenna would cause impermissible electromagnetic interference, as determined by the FCC, with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference, as determined by the FCC, with the applicants proposed antenna.

(e) The fees or costs required to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonably high. Costs exceeding the expense of designing and constructing a new tower shall be presumed to be unreasonably high.

(f) Property owners or owners of existing towers or structures are unwilling to accommodate the applicant's needs.

(g) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

(E) *Height limitation.* Personal wireless towers shall not exceed the height limits established on the Airspace Height Limitation Zoning Map and in no case shall exceed a maximum height of two hundred twenty (220) feet.

(F) *Aircraft hazard.* Communication towers shall not encroach into or through any established public or private airport approach path as established by the FAA. Each application to construct a communication tower shall include proof of application for approval from the FAA. Based upon the location or height of a proposed communications tower, the city may require a statement of no objection from the city airport director. A building permit for an approved communications tower shall not be issued until FAA approval is obtained.

(G) *Setbacks and separation.*

(1) Except as provided in subsection 12-2-44(G)(2), the distance between the base of any communications tower and the nearest residential district or nearest lot line of any single-family, two-family or multi-family dwelling shall be at least equal to the height of the tower.

(2) The distance between the base of a communications tower and any single-family, two-family or multi-family dwelling located in the M-1 or M-2 district may be reduced to a specified amount if the applicant provides a certification from the tower manufacturer or a qualified engineer stating that the tower is designed and constructed in such a way as to crumple, bend, collapse or otherwise fall within the specified distance. In no event shall the distance between the base of a communications tower and the nearest residential lot line be less than twenty (20) percent of the tower height.

(3) Proposed communications towers shall be separated from all other existing communications towers by a minimum of one thousand (1,000) feet as measured from the center base of the communications tower.

(H) *Plans approved.* No communications tower shall be installed, erected or constructed unless the plans therefore are approved by the city planner and building official after consideration of the standards set forth in this section.

(1) Submission of plans; review. Prior to the issuance of a building permit, all plans for communications towers shall be submitted to the city planner. The city planner and building official shall review plans according to the review criteria provided in paragraph (3).

(2) Contents of the plans. All plans shall show the following:

(a) Location and approximate size and height of all buildings and structures within five hundred (500) feet adjacent to the site of the proposed communications tower.

(b) Site plan of entire development, indicating all improvements including landscaping, screening, and any trees that are to be preserved.

(c) Elevations showing all facades, indicating exterior materials and color of all communications towers on the site of the proposed communications tower.

(d) Plans shall be drawn at a scale of at least fifty (50) feet to the inch.

(3) City staff approval of plans. The city planner and building official shall approve the plans if they find:

(a) That the distance between the base of the communications tower and the nearest residential lot line complies with subsection 12-2-44(G).

(b) That the lowest six (6) feet of the communications tower shall be visually screened by trees, large shrubs, solid walls or fences and/or nearby buildings; and

(c) That the height and mass of the communications tower shall not exceed that which is essential for its intended use and public safety; and

(d) That the proposed communications tower meets all applicable co-location requirements as specified in subsection 12-2-44(D); and

(e) That the proposed communications tower has been approved by the FAA, if required; and

(f) That the owner of the communications tower has agreed to permit other persons to attach antennas and other communications apparatus that do not interfere with the primary purpose of the communications tower, provided that such other persons agree to negotiate a reasonable compensation to the owner from such liability as may result from such attachment; and

(g) That there exists no other communications tower that can reasonably serve the needs of the owner of the proposed communications tower; and

(h) That the proposed communications tower is not designed in such a manner as to result in needless height, mass and guy-wire supports; and

(i) That the color of the proposed communications tower shall be of such light tone as to minimize its visual impact, and blend into the surrounding environment; and

(j) That a security fence around the tower base or along the perimeter of the site shall be provided; and

(k) That the proposed communications tower shall fully comply with all applicable building codes, safety codes, and local ordinances.

(4) Consultant expense. Costs incurred by the city for the use of outside consultants, both legal and technical, in the review of applications and plans for the installation of towers and antennas shall be reimbursed to the city by the applicant.

(I) *Removal of unused communications towers.* If a communications tower is no longer being used for its original intended purpose, the owner of the tower shall notify the city in writing within thirty (30)

days after the use of the communications tower ceases. A communications tower shall be considered abandoned if it has not been used for its original intended purpose for more than one hundred eighty (180) days. The city may require the owner of any abandoned communications tower to remove the tower at the owner's expense within thirty (30) days after written notice from the city. The owner shall restore the site to a condition as good as or better than its condition prior to construction of the tower. If the owner of an abandoned communications tower fails to remove the tower within ten (10) days, the city may remove or demolish the tower and place a lien on the property for the amount required to reimburse the costs of demolition or removal.

(J) *Exemption.*

(1) Siting on city property. Personal wireless towers or personal wireless antennas to be located on city property or city-owned right-of-way shall be exempt from the provisions of this section, provided that the owner of the tower or antenna enters into a lease with the city providing for the payment of compensation and compliance with such conditions, including, without limitation, requirements for co-location and stealth technology, that the city deems reasonable in light of the character of the site and the surrounding area. If the city property is a public park, the city council shall consider the recommendation of the recreation board before entering into such a lease. The recreation board shall make its recommendation to the mayor within thirty (30) days of being advised that a public park is under consideration for siting such a facility.

(2) Public safety facilities. Any communications tower or antenna owned by a federal, state or local government agency, and used in connection with public safety services shall be exempt from the requirement of this section.

(3) Amateur radio. Any tower operated by a person holding a license issued under 47 CFR Part 97, and used solely in connection with that license shall be exempt from the requirements of this section.

(K) *Inspections.* Each owner or operator of a communications tower shall provide the city a certified engineering inspection report on each tower it owns or operates every two (2) years, and after the occurrence of an Act of God, including but not limited to any hurricane, tornado, or lightning strike, certifying as to the safety of each tower.

(Ord. No. 27-98, § 2, 7-23-98; Ord. No. 09-02, § 1, 3-14-02; Ord. No. 12-03, § 2, 5-8-03; Ord. No. 06-10, § 2, 2-11-10; Ord. No. 16-10, § 207, 9-9-10)

Sec. 12-2-45. - Siting of rooftop-mounted antennas.

(A) *Commercial communications antennas.*

(1) Rooftop mounted commercial communications antennas may be installed, erected or constructed in the Governmental Center District, the Palafox Historic Business District and the Gateway Redevelopment District, subject to the review and approval of the appropriate review board based on the following standards:

(a) Rooftop mounted commercial communications antennas shall not exceed the height of twenty (20) feet above the existing roofline of the building;

(b) Antenna support structures shall be set back from the outer edge of the roof a distance equal to or greater than ten (10) percent of the rooftop length and width;

(c) Such structures shall be the same color as the predominant color of the exterior of the top floor of the building, and/or the penthouse structure;

(d) Where technically possible, microwave antennas shall be constructed of open mesh design rather than solid material;

(e) Where possible, the design elements of the building (i.e., parapet wall, screen enclosures, other mechanical equipment) shall be used to screen the commercial communications

antenna. Such rooftop-mounted commercial communications antennas, which comply with the above standards and are approved by the appropriate review board, are exempt from the review and approval process set forth in subsection 12-2-45(A)(3), below.

(2) Rooftop mounted commercial communications antennas located in commercial and industrial zones outside the special districts identified in subsection 12-2-45(A)(1), will be permitted if such structures are determined to be in compliance with the standards set forth in subsection 12-2-45(A)(1)(a) through (e) by the building official. Rooftop mounted commercial communications antennas which do not comply with said standards shall be subject to the review and approval process outlined in subsection 12-2-45(A)(3), below.

(3) City staff approval of plans. The city planner and building official shall approve the plans if they find:

(a) That the height and mass of the antenna shall not exceed that which is essential for its intended use and public safety; and

(b) That the proposed antenna support structure meets the applicable co-location requirements as specified in subsection 12-2-44(D); and

(c) That the proposed antenna support structure has been approved by the FAA, if required; and

(d) That there exists no other communications tower or antenna support structure that can reasonably serve the needs of the owner of the proposed rooftop-mounted antenna; and

(e) That the proposed antenna or antenna support structure is not designed in such a manner as to result in needless height, mass and guy-wire supports, and

(f) That the color of the proposed antenna shall be of such light tone as to minimize its visual impact, and blend into the surrounding environment; and

(g) That the proposed antenna shall fully comply with all applicable building codes, safety codes, and local ordinances.

(4) Consultant expense. Costs incurred by the city for the use of outside consultants, both legal and technical, in the review of applications and plans for the installation of antennas and support structures shall be reimbursed to the city by the applicant.

(B) *Personal wireless antennas.*

(1) Permitted locations. Rooftop mounted personal wireless antennas may be installed in zoning districts R-1AAAAA, R-1AAAA, R-1AAA, R-1AA, R-1A, R-ZL, R-2A, R-2, R-NC, R-NCB, C-1, C-2A, C-2, C-3, M-1, and M-2 and in the Pensacola Historic District, the North Hill Preservation District, the Old East Hill Preservation District, the Governmental Center District, the Palafox Historic Business District, the South Palafox Business District, the Waterfront Redevelopment District, the Gateway Redevelopment District and the Airport Land Use District, provided that they are mounted on structures over forty (40) feet in height and have been approved by any applicable review board.

(2) Structures. Personal wireless antennas not mounted on communications towers may be installed as an ancillary use to any commercial, industrial, office, institutional, multi-family or public utility structure, or permanent nonaccessory sign.

(3) Conditional use. Rooftop mounted personal wireless antennas may be permitted by conditional use approval, as provided in section 12-2-79, on structures less than forty (40) feet in height or on any lot whose primary use is as a single-family dwelling. In addition, personal wireless antennas shall not be installed, erected or constructed on any lot within three hundred (300) feet of Bayou Texar, Escambia Bay, Pensacola Bay or the Pensacola Historic District except in accordance with a conditional use permit.

(4) Inventory of existing sites. Each applicant for permission to install a personal wireless antenna shall provide to the city an inventory of its existing towers, antennas, or sites approved for

towers or antennas, that are either within the jurisdiction of the city or within one (1) mile of the border thereof, including specific information about the location, height and design of each tower. The city planner may share such information with other applicants applying for administrative approvals or conditional use permits under this section and with other organizations seeking to locate antennas within the city, provided, however that the city planner shall not, by sharing such information, be deemed to be in any way representing or warranting that such sites are available or suitable.

(5) Plans approved.

(a) Review. Installation of personal wireless antennas and associated equipment cabinets must be reviewed and approved by the city planner and building official pursuant to the standards set forth in this section. Installations of personal wireless antennas and associated equipment cabinets in the Pensacola Historic District, the North Hill Preservation District, the Old East Hill Preservation District, the Governmental Center District and the Palafox Historic Business District must be approved by the architectural review board in accordance with the standards applicable to the relevant district, in addition to the requirements of subsection (6) below. Installation of personal wireless antennas and accessory equipment within the gateway redevelopment district must be approved by the planning board. Installations of personal wireless antennas and associated equipment cabinets in the airport land use district must be approved by the city council after consultation with the Pensacola International Airport. Installation of personal wireless antennas on personal wireless towers shall be governed by section 12-2-44.

(b) Contents of plans. Each applicant for a permit to install a personal wireless antenna shall submit a design plan showing how the applicant proposes to comply with the requirements of this section. Applicants shall make appropriate use of stealth technology and shall describe their plans for doing so.

(6) Site design standards. All installations of personal wireless antennas and associated equipment cabinets shall comply with the following requirements:

(a) No personal wireless antennas or associated equipment cabinets shall be installed on any lot whose primary use is as a single-family dwelling.

(b) No personal wireless antenna shall be installed on any structure that is less than forty (40) feet in height.

(c) No personal wireless antenna shall be mounted so as to extend more than twenty (20) feet above the highest point of the structure on which it is mounted.

(d) Equipment cabinets shall be completely screened from view by compatible solid wall or fence, except when a ground-mounted cabinet, or combination of all ground-mounted cabinets on a site, is smaller than one hundred eighty (180) cubic feet. Equipment cabinets smaller than one hundred eighth (180) cubic feet may not be required to be screened from view if the cabinets have been designed with a structure, material, colors or detailing that are compatible with the character of the area.

(e) All equipment cabinets with air conditioning units shall be enclosed by walls, if located within three hundred (300) feet of existing single-family detached homes.

(f) Any exterior lighting within a wall shall be mounted on poles or on the building wall below the height of the screening fence or wall.

(g) Rooftop-mounted equipment cabinets shall be screened from off-site views to the extent possible by solid screen walls or the building parapet.

(h) Building-mounted personal wireless antennas shall be mounted a minimum of two (2) feet below the top of the parapet, shall be extended no more than twelve (12) inches from the face of the building, and shall be either covered or painted to match the color and texture of the building, as approved by the planning services department. Where

a building has a penthouse, a rooftop structure containing or screening existing equipment, or other structure set back from the outer perimeter of the building, building-mounted antennas shall be mounted on such structure rather than the outer parapet, if feasible.

(i) Building-mounted equipment, which is part of a new structural addition on top of a roof, shall not exceed heights allowed by this chapter and shall be either covered or painted to match the color and texture of the building, as approved by the planning services department.

(j) The support structure for antenna arrays shall be minimized as much as possible, while maintaining structural integrity.

(k) All installations of personal wireless facilities shall comply with all applicable building codes and all applicable FCC and FAA regulations.

(7) Stealth technology. In addition to the site design standards required by subsection 12-2-45(B)(6), the planning services department and any applicable review board may impose additional requirements for stealth technology, depending on the nature and location of the planned installation and the character of the surrounding area.

(8) Removal of unused antennas. If a personal wireless antenna is no longer being used for its original intended purpose, the owner of the antenna shall notify the city in writing within thirty (30) days after the use of the antenna ceases. An antenna shall be considered abandoned if it has not been used for its original intended purpose for more than one hundred eighty (180) days. The city may require the owner of any abandoned antenna to remove the antenna and any associated equipment cabinets at the owner's expense within thirty (30) days after written notice from the city. The owner shall restore the site to a condition as good as or better than its condition prior to installation of the antenna and the equipment cabinet. If the owner of an abandoned antenna fails to remove the antenna and any associated equipment within thirty (30) days, the city may remove the antenna and the equipment and place a lien on the property for the amount required to reimburse the costs of removal.

(9) Siting on city property. Personal wireless antennas to be located on city property shall be exempt from the provisions of this section, provided that the owner of the antenna enters into a lease with the city providing for the payment of compensation and compliance with such conditions, including, without limitation, requirements for co-location and stealth technology, that the city deems reasonable in light of the character of the site and the surrounding area.

(Ord. No. 33-95, § 6, 8-10-95; Ord. No. 12-98, § 1, 3-26-98; Ord. No. 27-98, § 3, 7-23-98; Ord. No. 09-02, § 1, 3-14-02; Ord. No. 20-19, § 4, 9-26-19)

Sec. 12-2-46. - Public access to the shoreline.

All extensions of street rights-of-way that are perpendicular to or otherwise intersect waterbodies within the City of Pensacola shall be reserved for public use unless officially vacated by city council action. No private access or use will be permitted across an unimproved public right-of-way, or extension thereof, that terminates at a body of water. Any exception shall require the approval of city council based upon the following criteria:

1. Availability of alternative access or given the lack of an alternate means of access, a proposal that is minimally intrusive.
2. Current and anticipated use of the right-of-way.
3. Need for public access to the water body in the general vicinity.
4. Unique environmental factors that impact the right-of-way or the surrounding area.

(Ord. No. 13-06, § 13, 4-27-06)

Secs. 12-2-47—12-2-50. - Reserved.

ARTICLE V. - SPECIFIC USES

Sec. 12-2-51. - Accessory office units.

(A) *Purpose.* The purpose of allowing accessory office units as a conditional use for single-family detached dwellings is to allow for the more efficient use of the city's existing stock of detached single-family housing in the medium density residential land use district. A homeowner may build or convert a portion of the interior of a dwelling unit to a separate office unit that may be utilized by the homeowner or rented. The intent of the regulations for accessory office units is to ensure that the residential character of the land use district is preserved.

(B) *Permitted locations.* Accessory office units shall be allowed as a conditional use accessory to detached single-family dwellings in the R-1AA and R-1A zoning districts.

(C) *General requirements.*

(1) *Number of units.* Only one accessory office unit shall be allowed for each single-family detached dwelling.

(2) *Number of employees.* No more than three (3) nonfamily member employees shall be allowed in an accessory office unit.

(3) *Lot size.* The minimum lot size shall be at least five thousand (5,000) square feet, except that no lot shall be smaller than the legal size as required by the zoning regulations.

(4) *Off-street parking.* One off-street parking space for each three hundred (300) square feet of gross floor area shall be provided for the office unit in addition to the parking space required for the residence. Parking for the accessory office unit is prohibited in the required front or street side yard, except that which can be accommodated on a double driveway.

(5) *Accessory office unit requirements.* The gross floor area of the accessory office unit shall not exceed twenty-five (25) percent of the gross floor area of the principal dwelling unit up to a maximum nine hundred (900) square feet. Each accessory office unit shall contain its own separate and private restroom(s) and optional kitchen wholly within the unit, and must be provided utilities from the principal dwelling unit. Building codes applicable to office construction shall apply to the accessory office unit.

(6) *Exterior modifications.* The architectural treatment of the accessory office structure shall be such as to portray the character of a residential dwelling.

(7) *Signs.* No sign shall be permitted other than a non-illuminated nameplate not exceeding two (2) square feet in area and no more than two (2) feet in height above ground if freestanding.

(D) *Review and approval process.* All applications for accessory office units shall comply with conditional use requirements established in section 12-2-81.

(Ord. No. 29-93, § 19, 11-18-93)

Sec. 12-2-52. - Accessory residential units.

(A) *Purpose.* The purpose of allowing accessory dwelling units as a permitted use for single-family detached dwellings is to allow for the more efficient use of the city's existing stock of detached single-family housing by providing the opportunity for a homeowner to build or convert a portion of the interior of a dwelling unit, a detached garage or accessory building to a separate housekeeping unit that may be rented. The intent of the regulations for accessory dwelling units is to ensure that

the single-family residential character of the zoning district is preserved, while allowing for attractive and affordable housing opportunities. Accessory dwelling units provide housing opportunities through the use of surplus space either in or adjacent to a single-family dwelling to allow for a garage conversion or a backyard cottage or guest-house. The planning board may adopt prototype plans to be kept on file with the city.

(B) *Permitted locations.* Accessory dwelling units shall be allowed as an accessory to detached single-family dwellings.

(C) *General requirements.*

(1) *Lot size.* The minimum lot size for a standard accessory dwelling unit shall be at least five thousand (5,000) square feet. For lots under five thousand (5,000) square feet, a floor-to-lot area ratio of twenty (20) percent shall be used to determine the maximum allowed floor area of the accessory structure.

(2) *Number of units.* Only one (1) accessory dwelling unit shall be allowed for each single-family detached dwelling.

(3) *Identification of unit.* The entrance to the accessory dwelling unit shall be identifiable and shall have its own address for purposes of emergency service and postal access.

(4) *Accessory dwelling unit requirements.* The living area of the accessory dwelling unit shall not exceed sixty (60) percent of the living area of the principal dwelling unit, up to a maximum of fifteen hundred (1,500) square feet. The accessory dwelling unit (or combination of structures shall not occupy more than twenty-five (25) percent of the required rear yard area. The livable floor area of the accessory dwelling unit may be located on the first or second floor of the structure. Each accessory dwelling unit shall contain its own separate and private bathroom and kitchen wholly within the unit. The maximum allowed height shall be based on the distance that the structure is setback from the property lines as listed below:

(a) Accessory dwelling units located within three (3) feet of the side and rear property lines shall have a maximum allowed height of fifteen (15) feet.

(b) Accessory dwelling units located within five (5) feet of the side and rear property lines shall have a maximum allowed height of twenty (20) feet.

(c) Accessory dwelling units exceeding twenty (20) feet must meet the side yard setback requirements of the principal dwelling unit. For every additional one (1) foot that an accessory dwelling unit is setback from the rear property line above and beyond five (5) feet, an additional one (1) foot in height shall be allowed up to a maximum allowed height of thirty (30) feet as measured at the roof peak. A detached garage with an accessory residential unit constructed above shall have a maximum allowed height of thirty (30) feet in height at the roof peak, in order to allow the accessory dwelling unit to match the style, roof pitch, or other design feature(s) of the main residential structure.

(d) When an accessory dwelling unit is located wholly within the buildable area of the lot on which it is located (i.e. meets the setback requirements for the primary dwelling unit) it shall be allowed at a maximum allowed height of thirty-five (35) feet.

(5) *Exterior modifications.*

(a) The architectural treatment of the dwelling structure shall be such as to portray the character of a residential dwelling.

(b) An accessory dwelling unit in a single-family zoning district shall have separate access unless there is a single access from the front of the building with a split access inside the building or unless it provides needed access for a handicapped occupant.

(c) In single-family zoning districts, attached accessory dwelling unit accommodations housed within the principal structure are to be established without structural alterations except those deemed necessary by the building inspections department to provide bathroom and kitchen facilities, and the resulting arrangement must not be such as to divide the dwelling

nor give the appearance of dividing the dwelling into two (2) separate dwelling units capable of independent occupancy.

(6) *Off-street parking.* One (1) additional off-street parking space shall be provided for the accessory dwelling unit.

(Ord. No. 27-92, § 1, 8-13-92; Ord. No. 45-07, § 2, 9-13-07)

Sec. 12-2-53. - Alcoholic beverage establishments.

It shall be unlawful to sell, or offer to keep for sale alcoholic beverages containing more than one percent of alcohol by weight in any place or establishment, including a private club or bottle club, for which a certificate of compliance with the provisions of Chapter 7-4 of the City Code has not been issued. It shall also be unlawful for a bottle club to operate at any location for which a certificate of compliance has not been issued. It shall also be unlawful for a private club to serve or receive or keep for consumption on the premises, whether by members, nonresident guests or other persons, alcoholic beverages containing more than one percent of alcohol by weight at any location for which a certificate of compliance has not been issued.

(Ord. No. 13-06, § 14, 4-27-06)

Sec. 12-2-54. - Animal hospitals, veterinary clinics, commercial kennels and businesses that board animals.

(A) *Minimum setbacks.* Any animal hospital, veterinary clinic, commercial kennel or business that boards animals, which includes outside cages and runs, shall be located no closer than one hundred (100) feet to a residence or residential zoning district boundary line, measured from the outside of the building, cages or runs to the residential property or residential zoning district line unless the boundary line is located within a street or public right-of-way.

(B) *Buffer yard required.* The animal hospital, veterinary clinic, commercial kennel or business that boards animals which includes outside cages and/or runs shall comply with buffer yard regulations established in section 12-2-32.

(C) *Solid fence required.* The outside cages, runs or exercise yards shall be totally enclosed by a solid fence at least six (6) feet six (6) inches in height.

Sec. 12-2-55. - Bed and breakfast facilities.

(A) *Permitted locations and number of lodging units.* Bed and breakfast facilities are not allowed in the R-1AAAAA, R-1AAAA, R-1AAA and PR-1AAA and R-ZL zoning districts; shall be allowed as a conditional use in the R-1AA and R-1A zoning districts, and; shall be allowed as a permitted use in all other zoning districts. No more than four (4) rooms or lodging units shall be provided on any building site. These rooms or lodging units may be located within the principal building or in a detached garage or accessory building.

(B) *Exterior modifications.* No alterations shall be made to the external appearance of the principal structure of the building site which change the residential characteristics thereof.

(C) *Signs.* No sign shall be permitted other than a non-illuminated nameplate attached to the main entrance of the principal building. This nameplate shall not exceed two (2) square feet in area.

(D) *Owner occupancy required.* No bed and breakfast facility shall be permitted except where the principal building is owner-occupied.

(E) *Off-street parking.* One parking space shall be required for each sleeping room.

(F) *Review and approval process.* All applications for bed and breakfast facilities within an R-1AA or R-1A district shall comply with conditional use requirements established in section 12-2-81.

(Ord. No. 6-93, § 14, 3-25-93)

Sec. 12-2-56. - Cemeteries.

(A) *Minimum site area.* For new cemeteries the minimum size shall be five (5) acres.

(B) *Setbacks.* All grave sites and other structures shall be set back at least twenty-five (25) feet from all property lines within a residential zoning district and from any residential zoning district and boundary line unless the boundary line is located within a street or public right-of-way. All grave sites and structures shall be set back twenty-five (25) feet from the street right-of-way line in any residential zoning district. New maintenance buildings or additions to existing maintenance buildings and accessory maintenance equipment shall be setback at least one hundred (100) feet from residential property lines.

(C) *Buffer yard required.* Cemeteries shall comply with buffer yard regulations established in section 12-2-32.

(D) *Review and approval process.* All applications for cemeteries within the residential zoning districts shall comply with requirements established in section 12-2-81.

(Ord. No. 27-92, § 2, 8-13-92)

Sec. 12-2-57. - Churches and other religious institutions.

(A) *Regulations.* All churches and other religious institutions shall comply with building setback, area and height regulations set forth within each zoning district. Where a church or other religious institution is proposed adjacent to a residential land use or vacant property within or contiguous to a residential zoning district, there shall be a twenty-foot yard between the church and the surrounding property line.

(B) *Off-street parking.* Parking shall comply with applicable regulations in Chapter 12-3. One space for each four (4) fixed seats shall be required. On-street parking within five hundred (500) feet of the building, except in residential districts, may be used towards fulfilling this requirement.

(1) *Parking requirements in residential zones.* Parking shall be prohibited in the required front or street side yards.

(2) *Landscaping.* All landscaping requirements for parking lots as established in subsection 12-6-3(B) shall apply.

(C) *Buffer yard required.* The church or religious institution shall comply with buffer yard regulations established in section 12-2-32.

(D) *Lot coverage in residential districts.* The maximum combined area of all principal and accessory buildings shall not exceed thirty (30) percent of the site.

(Ord. No. 6-93, § 15, 3-25-93; Ord. No. 29-93, § 20, 11-18-93; Ord. No. 44-94, § 2, 10-13-94)

Sec. 12-2-58. - Childcare facilities.

(A) *Permitted locations.* Childcare facilities shall be allowed as a permitted use in the following zoning districts: R-2A, R-2, R-NC, C-1, C-2, C-2A, C-3, HR-2, HC-1, HC-2, and PC-1. Childcare facilities shall be allowed as a conditional use in the following zoning districts: R-1AA, R-1A, R-ZL and PR-2.

Family day care homes, as defined by the Florida Statutes, are permitted in all zoning districts except for the conservation zoning district.

(B) *Building site area required.* For new facilities minimum building site area shall be one lot or parcel of land seven thousand five hundred (7,500) square feet in area for each childcare facility. For facilities that will occupy existing buildings, there shall be no required minimum building site area, as long as the other requirements of this section can be met.

(C) *Regulations.* All childcare facilities shall comply with building site area, and height regulations set forth within each zoning district.

(D) *Fencing.* There shall be a fence or wall a minimum of four (4) feet in height surrounding all play areas except where visibility triangle requirements apply. Such fence or wall shall be continuous with latching gates at exit and entrance points.

(E) *Off-street parking.* Parking shall comply with all applicable requirements in Chapter 12-3. One (1) off-street parking space per two (2) employees, plus one (1) space per classroom shall be required. Landscaping requirements for parking lots as established in subsection 12-6-3(B) shall apply.

(F) *Bufferyard required.* The childcare facility shall comply with bufferyard requirements established in section 12-2-32.

(G) *Review and approval process.* All applications for childcare facilities within the R-1AA and R-1A zoning districts shall comply with conditional use requirements established in section 12-2-81.

(Ord. No. 6-93, § 16, 3-25-93; Ord. No. 44-94, § 3, 10-13-94; Ord. No. 6-02, § 2, 1-24-02)

Sec. 12-2-59. - Electric and gas substations, sewer treatment plants, and other similar utility structures.

The following provisions are applicable to electric and gas substations, sewer treatment plants, and other similar utility structures:

(a) Lots must conform to minimum area and yard requirements of the district in which they are located.

(b) Fences or walls at a minimum height of six (6) feet must be installed and maintained in order to make the facility inaccessible to the public.

(c) Portions of properties not used for buildings, parking or related services must be maintained with natural ground cover.

(d) A buffer yard must be provided in accordance with the provisions of section 12-2-32.

Sec. 12-2-60. - Junkyards.

(A) *Permitted location and minimum site area required.* Junkyards shall be permitted only in the M-2 district. The minimum lot or parcel area shall be one acre.

(B) *Distance requirements.* No junkyard shall be located any closer to a residence or residential, R-2 and R-NC district, than one hundred (100) feet, measured from property line to property line or district boundary.

(C) *Buffer yard required.* A buffer yard must be provided in accordance with the provisions of section 12-2-32.

(Ord. No. 6-93, § 17, 3-25-93)

Sec. 12-2-61. - Libraries, community centers and public buildings.

(A) *Regulations.* All libraries, public community centers and public buildings shall comply with building setback, area and height regulations set forth within each zoning district, except that where proposed adjacent to a residential land use or vacant property within or contiguous to a residential zoning district, there shall be a twenty-foot yard between the building and the surrounding property line.

(B) *Off-street parking.* Parking shall comply with all applicable requirements in Chapter 12-3. In residential districts parking shall be prohibited in the required front or street side yards. Landscaping requirements for parking lots as established in subsection 12-6-3(B) shall apply.

(1) *Libraries.* One space for each two (2) employees, plus one space for each five hundred (500) square feet shall be required.

(2) *Community centers.* One space for each three hundred (300) square feet shall be required.

(3) *Government offices.* One space shall be required for each five hundred (500) square feet. On-street parking within five hundred (500) feet of the building, except in residential districts, may be used towards fulfilling this requirement for non-employee parking only. In any event, one off-street parking space shall be required for each employee in the government office building.

(C) *Buffer yard required.* The library, public community center or public building shall comply with buffer yard regulations established in section 12-2-32.

(D) *Lot coverage in residential districts.* The maximum combined area of all principal and accessory buildings shall not exceed thirty (30) percent of the site.

(Ord. No. 6-93, § 18, 3-25-93; Ord. No. 29-93, § 21, 11-18-93; Ord. No. 44-94, § 4, 10-13-94)

Sec. 12-2-62. - Manufactured homes.

(A) *Placement of manufactured homes.* Residential design manufactured home units shall be permitted on individual lots in the R-1A, R-2A, R-NC, C-1, C-2 and C-3 zoning districts and shall be allowed as a conditional use in the R-1AA zoning district. Residential design manufactured home units shall be permitted in approved mobile home parks existing as of May 1, 1991, and in approved manufactured home parks. Standard design manufactured home units permitted in approved mobile home parks existing as of May 1, 1991, and in approved manufactured home parks. An existing residential designed manufactured or mobile home may be replaced by a residential design manufactured home on property that is zoned M-1 of M-2 industrial district.

Manufactured homes are not permitted in any location other than those described above except as described below:

(1) *Temporary use of manufactured homes during emergency circumstances.* Notwithstanding anything to the contrary contained in the code, the temporary use of a manufactured home shall be permitted for a period not to exceed one hundred twenty (120) days under the emergency circumstances and terms outlined below:

In the event of emergency circumstances, the temporary use of a manufactured home as living quarters located on the property involved in the disaster shall be permitted in order to protect said property, but only after the approval of the city council, and then for a period not to exceed one hundred twenty (120) days to be set at the council's discretion. Thirty-day extensions of this permitted temporary use may be granted at the discretion of the council.

(2) *Temporary use of manufactured homes during emergency health situation.*

(a) The temporary use of a manufactured home shall be permitted in any area when specifically authorized by the council after it has determined that an emergency health situation exists.

(b) If the council determines that an emergency health situation exists, then it may allow the temporary use of a manufactured home in any area, but only for the period of time

necessary, depending upon the circumstances surrounding the emergency health situation. The use of said manufactured home shall be immediately terminated upon abatement of the circumstances that caused the emergency to exist. In making its decision whether to allow the temporary use of a manufactured home, the city council shall take into consideration the objections, if any, of the surrounding neighbors and the availability of utilities in proximity to the proposed location.

(3) *Use of manufactured homes in M-1 and M-2 industrial districts.*

(a) The use of a manufactured home is permitted within the corporate limits on such property that is zoned M-1 or M-2 industrial district. The manufactured home shall be allowed only for the purpose of housing a guard or caretaker for the property in question.

(b) The permission given above shall be deemed to be temporary only, and any such manufactured home shall be removed by the party who placed it thereon at any time that the city council deems it to be in the best interest of the public to do so.

(B) *Storing or parking of manufactured homes.* A manufactured home shall not be stored or parked on any public street or alley or in any district other than in an approved mobile home park.

(C) *General regulations for residential design manufactured homes on individual lots.*

(1) *Number of manufactured homes per lot.* There shall be no more than one residential design manufactured homes per lot.

(2) *Zoning district requirements.* All residential design manufactured homes shall meet all requirements for lot sizes, yards, building setbacks and any other requirements for the zoning district in which it is located.

(3) *Accessory structures.* Accessory structures shall meet all requirements as described in section 12-2-32.

(4) *Installation of residential designed manufactured homes.* All residential design manufactured homes units shall meet the permanent foundation, anchoring and other rules, as contained within the Florida Administrative Code, including use of a permanent perimeter underfloor enclosure. All transportation equipment must be removed.

(5) *Building permits; inspections.* City permits must be obtained and inspections performed for on-site installation of the residential design manufactured homes and any structural alterations or repair. Permits are required for additions to the residential design manufactured homes and any accessory structures. All structural alterations and repairs, and construction of additions and accessory structures must be built to the Florida Building Code.

(D) *Residential design criteria for residential design manufactured homes.*

(1) *Minimum width of residential design manufactured homes.* Residential designed manufactured homes must have a minimum on-site assembled home width of twenty (20) feet, as measured across the narrowest portion (this is not intended to prohibit offsetting of portions of the home).

(2) *Siding and roofing materials.* Residential design manufactured homes must be constructed with siding and roofing of a type generally acceptable for site-built housing in the general proximity.

(3) *Roof pitch.* Residential design manufactured homes must have a minimum pitch of the main roof of three (3) feet rise for each twelve (12) feet of horizontal run and a minimum roof overhang of four (4) inches per side.

(4) *Alterations to structures to meet residential design criteria.* Residential design manufactured homes that do not meet residential design criteria for siding and roofing materials and roof pitch will be allowed to obtain permits for on-site installation, with the condition that building permits must be acquired for alterations necessary to meet the design criteria within ninety (90) days of installation and construction must be completed within one hundred eighty (180) days of installation.

(5) *Skirting requirements; materials.* Residential design manufactured homes must construct a permanent perimeter structural system completely enclosing the space between the floor joists of the home and the ground except for required openings for ventilation and access.

(a) Foundation siding/skirting and back up framing shall be weather-resistant and must blend with the exterior siding of the home.

(b) Below grade level and for a minimum of six (6) inches above finish grade the materials shall be unaffected by decay or oxidation.

(E) *Manufactured home parks.*

(1) *Minimum size of park; permitted location.* A manufactured home park shall have a minimum of one and one half (1½) acres and contain a minimum of ten (10) manufactured home spaces. Manufactured home parks will be permitted in the following zoning districts: R-2A, R-NC and C-1.

(2) *Plans and specifications required; conformity of construction with city codes.* Complete plans and specifications of all manufactured home parks shall be submitted to the building official prior to construction. These plans shall include area and dimensions of land to be developed, park layout, number and size of manufactured home spaces, location and width of roadways and walkways, buildings to be constructed, water and sewerage facilities and any other information required by the building official. All construction shall conform with city codes where applicable and shall require the approval of the city engineer and the building official.

(3) *Development criteria:*

(a) Setbacks required. No manufactured home or attached structure shall be located closer than twenty-five (25) feet to the property lines of the manufactured home park or a public right-of-way.

1. Front yard required—minimum of twenty (20) feet.

2. Side yard required—minimum of five (5) feet.

3. Rear yard required—minimum of fifteen (15) feet.

(b) Maximum density. Density shall not exceed seventeen (17) manufactured home units per acre.

(c) Private streets. No manufactured home in a park shall be allowed direct access to a public street. All lots in a manufactured home park must have access from a private street that shall comply with regulations established in section 12-2-38.

(d) Landscaping and buffering. Manufactured home parks shall be screened from view according to the following requirements: Screen of vegetation and/or opaque fence six (6) feet in height shall be provided and maintained around the perimeter of the park. Where vegetation is used as a screen, such vegetation shall be at least three (3) feet in height when planted.

(e) Recreational area requirement. Manufactured home parks with ten (10) or more units shall retain an area of not less than five (5) percent of the gross site area devoted to recreational facilities, generally provided in an area accessible to all property owners.

(f) Each manufactured home shall be independently served by separate electric, gas and other utility services.

(g) A minimum of one off-street parking space shall be required for each manufactured home.

(h) Fences. If the manufactured home park management allows fences for individual lots, these fences shall comply with regulations established in section 12-2-40.

(i) Storage of recreational vehicles. Storage of recreational vehicles shall be allowed only on sites reserved for such storage within the manufactured home park.

(F) *Review and approval process.* All applications for a residential design manufactured home within an R-1AA zoning district shall comply with conditional use requirements established in section 12-2-81.

(Ord. No. 35-92, § 1, 10-22-92; Ord. No. 8-99, § 6, 2-11-99)

Sec. 12-2-63. - Mobile homes.

(A) *Placement of mobile homes.* Mobile homes are not permitted in any location other than approved mobile home parks existing on or before May 1, 1991.

(B) *Storing or parking of mobile homes.* A mobile home shall not be stored or parked on any public street or alley or in any district other than in an approved mobile home park.

Sec. 12-2-64. - Nonresidential parking in R-1AAA, R-1AA, R-1A, R-ZL, R-2A, R-2, PR-1AAA and PR-2 zoning districts.

(A) *General conditions.* Accessory off-street parking facilities serving non-residential uses of property in R-2, PR-2, R-NC, R-NCB C-1, PC-1, C-2, C-3 or SSD zones may be permitted in R-1AAA, PR-1AAA, R-1AA, R-1A, R-ZL, R-2A, R-2 or PR-2 zoning districts where such property is contiguous to such commercial zoned area or is separated therefrom by an alley, and may be authorized by the planning board, subject to the following conditions:

(a) The parking lot shall be accessory to, and for use in connection with one or more existing nonresidential establishments located in adjoining districts or in connection with one or more existing professional or institutional office buildings or institutions. In the event that the use of the professional or institutional office building or institution or other nonresidential establishment changes or is abandoned for a period of not less than one hundred eighty (180) days after the special use is approved, said approval will terminate automatically. This provision is in no way intended to prohibit the property owner from applying for approval for the changed use pursuant to applicable provisions of this code.

(b) Said parking lot shall be used solely for the parking of vehicles. These vehicles shall be those of the customers and employees of the adjacent business.

(c) No commercial repair work or service of any kind shall be conducted on said parking lot.

(d) Parking lot plans are to be reviewed and approved by the city engineer. The city engineer shall base his or her approval of the plans upon sound engineering principles as well as the safety and general welfare of the citizens of the city.

(e) No sign of any kind other than signs designating entrances, exits, and conditions of use shall be maintained on said parking lot, and said sign shall not exceed twenty (20) square feet in area.

(f) Said parking lot shall not encroach more than one hundred fifty (150) feet into the residential zone.

(g) In addition to the foregoing requirements such parking lots shall conform to section 12-3-1 and Chapter 12-6.

(B) *Review and approval process.* All applications for nonresidential parking in residential zones shall comply with regulations established in section 12-2-81.

(Ord. No. 29-93, § 22, 11-18-93; Ord. No. 3-94, § 7, 1-13-94)

Sec. 12-2-65. - Schools and educational institutions having a curriculum the same as ordinarily given in public schools and colleges.

The following regulations shall be applicable to schools and educational institutions having a curriculum the same as ordinarily given in public schools and colleges.

(A) *Minimum lot area.* The minimum lot area shall be one acre for every one hundred (100) students for kindergarten through high school institutions.

(B) *Setbacks.* The front, rear and side yard setbacks shall be the same as those required for the specific district, except that when adjacent to a residential land use or vacant property within or contiguous to a residential zoning district there shall be a twenty-foot yard between the school and the surrounding property line.

(C) *Off-street parking.* Off-street parking shall comply with applicable requirements in Chapter 12-3.

(a) Kindergarten, elementary and middle schools shall provide one space for each two (2) employees plus one space for each classroom.

(b) Senior high schools and colleges shall provide one space for each two (2) employees, plus one space for each ten (10) students figuring maximum capacity of the school.

(c) Landscaping requirements for parking lots as established in Chapter 12-6 shall apply.

(D) *Off-street loading.*

(a) Loading and unloading facilities shall be provided on the premises for distribution of goods by motor vehicle. No motor vehicle shall be allowed to extend onto a public street or sidewalk while loading or unloading.

(b) School bus drop-off facilities. Facilities must be provided for off-street bus loading and unloading of students. Use of the street right-of-way may be allowed if a license agreement is executed with the city.

(E) *Buffer yard required.* A buffer yard must be provided in accordance with the provisions of section 12-2-32.

(F) *Lot coverage in residential districts.* The maximum combined area of all principal and accessory buildings shall not exceed thirty (30) percent of the site.

(Ord. No. 6-93, § 19, 3-25-93; Ord. No. 29-93, § 23, 11-18-93)

Secs. 12-2-66—12-2-75. - Reserved.

ARTICLE VI. - DEVELOPMENT OPTIONS

Sec. 12-2-76. - Conventional subdivision.

(A) *Purpose.* The conventional subdivision requirements are intended to provide for the division of a parcel of land into two (2) or more parcels for development or redevelopment, when the development or redevelopment complies with all zoning regulations for the zoning district in which it is located.

(B) *Location and permitted uses.* Conventional subdivision development is permitted within any zoning district for any land use permitted within the zoning district.

(C) *Minimum size of development.* There are no minimum size requirements for a conventional subdivision development. Subdivision of four (4) or less lots constitute a minor subdivision; five (5) or more constitute a major subdivision.

(D) *Requirements.* All lots in a conventional subdivision must comply with width and area requirements for the zoning district. Chapter 12-8 describes the platting and review requirements for a conventional subdivision.

Sec. 12-2-77. - Special planned development.

(A) *Purpose.* Conventional subdivision development may not always result in the most optimal use of land in terms of environmental or historic resource protection and/or changing development patterns. The Comprehensive Plan encourages infill development that is compatible with the surrounding land uses. The requirements for special planned developments have been established in order to allow for flexibility and creativity in site planning for residential or mixed residential/office/commercial developments by allowing deviations from lot size and yard requirements and by allowing private streets.

(B) *Location and permitted uses.* Special planned developments shall be allowed in any residential, R-2, R-NC, or R-NCB zoning district provided that only land uses permitted within the future land use district are allowed.

(C) *General requirements.* All residential densities for the future land use district must be met. A special planned development may include more than one housing type, providing that all the proposed housing types are permitted within the future land use district. The special planned development must submit development plans in accordance with section 12-2-81. The special planned development shall meet all design standards as required by section 12-2-82, and is encouraged to meet all design guidelines established in the same section. If applicable, the development must comply with subdivision design and platting requirements as set forth in Chapter 12-8.

(a) Where use is made of the special planned development process, as provided in this section, a building permit shall not be issued for such development, or part thereof, until the city council has approved the final development plan, and the approved final development plan has been recorded in the office of the county comptroller.

(b) Private streets and drives may be permitted within a special planned development pursuant to compliance with requirements established in section 12-2-38.

(c) Any tract of land for which a special planned development application is made shall be owned by an individual or group of persons, partnerships, business associations, or corporations; and such applications shall be jointly made by all such owners. The owner shall utilize one of the following general plans for providing for the ownership, use, maintenance and protection of any private streets and/or proposed common open space areas.

1. Establish an association or nonprofit corporation of all individuals and entities owning property within the special planned development.

2. Owner to retain ownership control of such area and be responsible for the maintenance thereof.

3. Any other method proposed by the owner that is acceptable to the city council. Said proposed alternate method shall serve the purpose of providing for the ownership, use, maintenance, and protection of the common open space areas.

(d) Application for building permits to construct a special planned development shall be required within one year from the date of approval of the final development plan. If substantial and continuous construction has not been demonstrated within two (2) years from the date of approval of the final development plan, then the special planned development shall be considered null and void.

(e) All plans approved and recorded hereunder shall be binding upon the owner(s), his/her successors and assigns, and the subject property, and shall limit and control the issuance and validity of all building permits and shall restrict and limit the construction, location, use and operation of all land and structures included within such plans to all conditions and limitation set forth in such plans.

1. Minor changes to the final development plan may be approved by the mayor, city engineer, the planning services department and building official when in their opinion the changes do not violate these regulations or make major changes in the arrangement of buildings or other major features of the final development plan. Major changes may be made only by following the procedures outlined in filing a new preliminary development plan. The city

council shall approve such modification only if the revised plan meets the requirements of this chapter in its entirety.

2. The building official shall ensure that when development is undertaken, it shall be completed in compliance with approved development plans prior to the issuance of an occupancy permit. No individual building permits shall be issued for buildings not conforming to the final development plan as approved by the city council, or as amended in compliance with the provisions of this chapter.

3. Issuance of final occupancy permit by the building official as far as the owner(s), his or her successors or assigns, are concerned shall be conclusive evidence of compliance with this chapter and the requirements for the final development plan theretofore recorded. A building permit may be revoked in any case where the conditions of the final development plan have not been or are not being complied with, in which case the building official shall follow permit revocation procedures.

(D) *Specific types of special planned developments.*

(1) *Zero-lot-line.* Zero-lot-line developments provide for only one side yard for each individual lot for detached units and no side yard for attached units except for the end units. A special planned development may be partially or totally comprised of zero-lot-line lots. A zero-lot-line special planned development shall comply with the minimum standards established for the R-ZL zoning district in subsection 12-2-5(A)(5).

(2) *Cluster development.* A special planned development may take the form of a cluster development, which is intended to provide for the protection of environmental and historic resources and common areas. A reduction in lot sizes and areas is allowed if all the land that is saved is reserved for permanent common use in the form of common areas and that the following requirements are met:

(a) The amount of common area contained in a cluster development must be equal to or greater than the amount of open space provided by required yards or of park land that would have been required by subdivision regulations for the same site.

(b) Historic buildings, structures or sites may be included as part of the common area requirements, provided that the site is restored and maintained in a manner consistent with guidelines established by the United States Department of Interior in their publication "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings."

(Ord. No. 29-93, § 24, 11-18-93; Ord. No. 33-95, § 7, 8-10-95; Ord. No. 16-10, § 208, 9-9-10)

Sec. 12-2-78. - Conditional use permit.

(A) *Authorization and purpose.* The city council may, under the prescribed standards and procedures contained herein, authorize the construction of any use that is expressly permitted as a conditional use in a particular zoning district; however, the city reserves full authority to deny any request for a conditional use permit or to impose reasonable conditions on the use. Provisions for a conditional use permit are intended to establish a process for submitting a site plan for specific uses that require further review by the planning board and city council to assess the impacts of the proposed use on the surrounding neighborhood.

(B) *Applicability.*

(1) Conditional uses listed under zoning district regulations, or in this section for a specific land use type. Any proposed development or redevelopment of property within the R-1AAA, R-1AA, R-1A, R-ZL, R-2A, R-2, HR-1, HR-2, PR-1AAA, PR-2 and PC-1 zoning districts may apply for conditional uses listed under the zoning regulations for the district.

(2) Vacant public, semi-public, institutional, church or historically significant structures within the R-1AA, R-1A, R-ZL, R-2A and R-2 zoning districts. To allow for adaptive reuse of vacant public,

semi-public, institutional, church or historically significant structure within the R-1AA, R-1A, R-ZL, R-2A and R-2 zoning districts which, by nature of its size, structural layout, site layout or other unique features, could not feasibly be redeveloped for adaptive reuse under existing zoning regulations, a conditional use permit may be granted. Redevelopment of an existing building may occur within its existing footprint or may be expanded subject to compliance with the lot coverage, intensity and height standards for the applicable zoning district. Existing buildings that exceed forty-five (45) feet may be redeveloped within the existing building envelope height; buildings that are less than forty-five (45) feet in height may not be expanded to exceed forty-five (45) feet in height. The following uses or combinations of uses shall be eligible to apply for a conditional use permit:

(a) Any type of residential development at a maximum density of thirty-five (35) units per gross acre, dormitories.

(b) Childcare facilities, nursing homes, rest homes, convalescent homes.

(c) Studios, with no outside storage or work permitted.

(d) Banks, office buildings.

(e) Restaurants.

(f) Retail food and drugstores; personal service shops; clothing and fabric stores; home furnishing stores, hardware and appliance stores; specialty shops; pastry shops; floral shops.

(g) Fitness centers, martial arts studios.

(h) Laundry and dry cleaning pick-up stations.

(3) Mobile restaurant facilities may be permitted on private property having frontage on South Palafox Place in the area located between the southern right-of-way line of Main Street and Pensacola Bay. Mobile restaurant facilities shall only be permitted as an accessory use to an adjacent existing and operational restaurant subject to the following conditions:

(a) Mobile restaurant units will be permanently fixed to the ground (the attachments can be removed in the event the mobile restaurant needs to be moved due to lease termination or declaration of emergency).

(b) Storage areas and mechanical equipment shall be screened from view.

(c) Mobile restaurant units shall be connected to the sewer system and utilize a grease trap.

(d) Mobile restaurant units shall have permanent restrooms provided for customers via the adjacent principal restaurant use.

(e) Mobile restaurant development sites shall provide one (1) customer seats per linear foot of mobile unit on site.

(f) In addition to minimum landscaping requirements, mobile restaurant development sites shall provide both hardscape and landscape details with sufficient quality of design to create a formalized outdoor plaza environment. This shall be accomplished through the incorporation of grated tree wells for the planting of shade and canopy trees within outdoor seating areas. Outdoor seating areas shall be constructed with a minimum of forty (40) percent decorative architectural pavers comprising the overall seating area.

(g) Each individual mobile restaurant unit shall have a water source located within thirty (30) feet behind the structure.

(h) Mobile restaurant units shall be allowed one menu attached to the façade not to exceed sixteen (16) square feet and one identifying sign not to exceed twenty-five (25) square feet.

(i) There will be a maximum of four (4) mobile restaurant units per development site. If a mobile restaurant development site has more than one mobile restaurant unit on the parcel

then all mobile restaurant units will be of a consistent design, size, and color. Mobile restaurant units and associated developments shall comply with the regulations and reflect the character of the district in which they are located. Accent features to distinguish unique culinary concepts are encouraged.

(j) Mobile restaurant units shall not occupy more than twenty-five (25) percent of the overall development site area.

(k) Underground utilities shall be required for each mobile restaurant unit. Generators are not permitted with the exception of during the course of emergencies and power outages.

(l) A designated screened dumpster area shall be located within five hundred (500) feet of a mobile restaurant unit.

(C) *Requirements.* Applicants for a conditional use must submit development plans in accordance with section 12-2-81. The conditional use development plan shall meet all design standards as required by section 12-2-82 and is encouraged to meet all design guidelines established in the same section. A building permit shall not be issued for a conditional use until the city council has approved the final development plan.

(D) *Standards for approval.* A conditional use may be approved by the city council only upon determination that the application and evidence presented clearly indicate that all of the following standards have been met:

(1) The proposed use shall be in harmony with the general purpose, goals, objectives and standards of the City of Pensacola Comprehensive Plan, the land development regulations, or any other applicable plan, program, map or regulation adopted by the city council.

(2) The proposed use will not adversely affect the public health, safety or welfare.

(3) The proposed use shall be compatible with the surrounding area and not impose an excessive burden or have substantial negative impact on surrounding or adjacent uses.

(4) The proposed use shall be provided with adequate public facilities and services, including roads, drainage, water, sewer, and police and fire protection.

(5) The proposed use will not create undue traffic congestion.

(6) The proposed use shall minimize, to the extent reasonably possible, adverse effects on the natural environment.

(E) *Conditions.* The city council may prescribe appropriate conditions and restrictions upon the property benefitted by the conditional use approval as may be necessary to comply with the standards set out in subsection 12-2-78(D) above, to reduce or minimize any potentially injurious effect of such conditional use upon the property in the neighborhood, and to carry out the general purpose and intent of these regulations. Failure to comply with any such condition or restriction imposed by the city council shall constitute a violation of these regulations. Those conditional uses that the city council approves subject to conditions, shall have specified by the city council the time allotted to satisfy such conditions. In approving any conditional use, the city council may:

(a) Limit or otherwise designate the following: The manner in which the use is conducted; the height, size or location of a building or other structure; the number, size, location, height or lighting of signs; the location and intensity of outdoor lighting or require its shielding.

(b) Establish special or more stringent buffer, yard or other open space requirements.

(c) Designate the size, number, location or nature of vehicle access points.

(d) Require berming, screening, landscaping or similar methods to protect adjacent or nearby property and designate standards for installation or maintenance of the facility.

(e) Designate the size, height, location or materials for a fence or wall.

(f) Specify the period of time for which such approval is valid for the commencement of construction of the proposed conditional use. The city council may, upon written request, grant extensions to such time allotments not exceeding six (6) months each without notice or hearing.

(Ord. No. 33-95, § 8, 8-10-95; Ord. No. 6-02, §§ 1, 2, 1-24-02; Ord. No. 05-12, § 1, 4-12-12; Ord. No. 29-16, § 1, 10-13-16)

Sec. 12-2-79. - Conditional use permits for placement of personal wireless antennas, rooftop-mounted antennas, or communication towers.

(A) *Purpose.* This section establishes procedures and standards for reviewing requests for conditional use permits for the placement of communications towers, personal wireless antennas, rooftop-mounted antennas, and related equipment cabinets.

(B) *Applicability.* The city council may, under the prescribed standards and procedures contained herein, authorize the construction of communications towers, personal wireless antennas, rooftop-mounted antennas, and related equipment cabinets where such use is expressly permitted as a conditional use in a particular zoning district; however, the city reserves full authority to deny any request for a conditional use permit or to impose reasonable conditions on the use. Applications for conditional use approval under this section must first be approved by any applicable review board.

(C) *Cost recovery.* The city may require any applicant for a conditional use permit under this section to reimburse the city for all costs and consultants fees associated with the processing of the application, including but not limited to visual impact analysis, co-location analysis, analysis of the applicants ability to provide service without the facility, inspections, plan review, and land use compatibility.

(D) *Standards for approval.* A conditional use may be approved by the city council only upon determination that the application and evidence presented clearly indicate that all of the standards prescribed in section 12-2-78(D) have been met. Additionally, conditional use permit applications under this section must demonstrate to the city council that, without the grant of a conditional use permit, the applicant will be unable to provide personal wireless services within the area of the city that would be served by the proposed personal wireless facility.

(E) *Site plan requirements.*

(1) The applicant shall submit a proposed siting plan including the following information to the planning services department:

(a) A map of the service area for the proposed facility.

(b) A map showing other existing or planned facilities used by the applicant to provide personal wireless services, including the height, mounting style and number of antennas on each facility.

(c) A description of the need for the proposed facility, including a precise description of any area in which service would not be available without construction of the proposed facility.

(d) A map identifying all zoning districts and protected areas within one-half (½) mile of the proposed facility.

(e) A map showing any personal wireless towers then existing or under construction that are located within a one-mile radius of the proposed facility.

(f) A description of any efforts to co-locate the proposed facility on any personal wireless tower then existing or under construction, including engineering information and correspondence from the existing tower describing why co-location is not possible.

(g) A map showing any structures over forty (40) feet high that are located within a one-mile radius of the proposed facility.

(h) A description of any efforts to locate the proposed facility on any existing structure, including engineering information and correspondence from the owners of any such structures describing why installation of the proposed facility on the structure is not possible.

(i) A map showing other potential locations for the proposed facility that have been explored by the applicant, including a description of why the proposed site is superior. The application shall include in this discussion an analysis of visual aspects, setbacks, and proximity to single-family residences and protected areas.

(j) A description of any planned use of stealth technology.

(k) A description of efforts to minimize the diameter and mass of any proposed structure, including engineering information related to these efforts.

(l) A description of any equipment cabinet and any other ancillary equipment, a description of the function of the equipment, and an explanation of the reasons for any need to co-locate it at the proposed site.

(m) A photographic simulation of the proposed site after construction of the proposed facility.

(n) In the case of rooftop facilities, a drawing in which a sight-line is drawn from the closest facade of each building, private road or right-of-way within five hundred (500) feet of the proposed facility to the highest point of the proposed facility. Each sight-line shall be depicted in profile, drawn at one (1) inch equals forty (40) feet unless otherwise specified by the planning services department. The profiles shall show all intervening trees and structures.

(2) All applications for conditional use permits for personal wireless antennas or communication towers shall comply with conditional use requirements established in section 12-2-81.

(F) *Conditions.* In granting any conditional use permit under this section, the city council may prescribe conditions and restrictions upon the property benefitted by the conditional use as provided in section 12-2-78(E). In addition, the following conditions shall be mandatory:

(1) All conditional use permits granted under this section shall expire a maximum of five (5) years after the date of city council approval. Prior to expiration of any use permit, the applicant shall be responsible for initiating a review of the permitted facility. The applicant shall bear the burden of demonstrating that changes in technology, after taking economic considerations into account, have not minimized or eliminated the need for the permitted facility. If a new use permit is not granted, the applicant shall remove the facility in accordance with this chapter.

(2) All conditional use permits shall include appropriate stealth technology requirements.

(G) *Siting on city property.* Personal wireless facilities to be located on city property shall be exempt from the provisions of section 12-2-44(G), provided that the owner of the facility enters into a lease with the city providing for the payment of compensation and compliance with such conditions, including, without limitation, requirements for co-location and stealth technology, if applicable, that the city deems reasonable in light of the character of the site and the surrounding area.

(Ord. No. 27-98, § 4, 7-23-98; Ord. No. 6-02, § 1, 1-24-02)

Sec. 12-2-80. - Residential density bonuses.

Residential density bonuses above the limit otherwise established by future land use category may be approved in exchange for the construction of affordable housing and as an incentive to achieve superior building and site design, preserve environmentally sensitive lands and open space, and provide public benefit uses including access to the waterfront. Standards for approval shall be as follows:

(1) Density bonuses for superior building and site design, preservation of environmentally sensitive lands and open space, and provision of public benefit uses shall not exceed ten (10) percent of

the limit otherwise established by land use category and shall be available to residential developments in the medium density residential land use district, high density residential land use district, office land use district, residential/neighborhood commercial land use district, commercial land use district, redevelopment land use district and business land use district.

(2) Density bonuses for superior building and site design, preservation of environmentally sensitive lands and open space, and provision of public benefit uses shall be based upon clear and convincing evidence that the proposed design will result in a superior product that is compatible with the surrounding land uses and produces a more desirable product than the same development without the bonus.

(3) Density bonuses for the provision of affordable housing shall not exceed twenty-five (25) percent of the limit otherwise established by land use category and shall be available to residential developments in the medium density residential land use district, high density residential land use district, office land use district, residential/neighborhood commercial land use district, commercial land use district, redevelopment land use district and business land use district.

(4) Density bonuses for the provision of affordable housing shall be based upon ratios of the amount of affordable housing to market rate housing within a proposed residential development and shall include mechanisms to assure that the units remain affordable for a reasonable timeframe such as resale and rental restrictions and rights of first refusal.

(5) The maximum combined density bonus for superior building and site design, preservation of environmentally sensitive lands and open space, provision of public benefit uses and affordable housing provided to any single development shall not exceed thirty-five (35) percent of the limit otherwise established by land use category.

(6) All density bonuses shall be approved by the city planning board.

(Ord. No. 13-13, § 1, 5-9-13)

ARTICLE VII. - DEVELOPMENT PLAN REQUIREMENTS, DESIGN STANDARDS AND GUIDELINES

Sec. 12-2-81. - Development plan requirements.

(A) Development requiring development plans. All development described herein shall submit development plans that comply with requirements established in paragraphs (C) and (D) of this section. These development plans must comply with design standards and are encouraged to follow design guidelines as established in section 12-2-82.

(1) Non-residential parking in R-1AAA, R-1AA, R-1A, R-ZL, R-2A, R-2, R-NCB, PR-1AAA, and PR-2 zoning districts. A development plan shall be submitted and the following process shall be used for the foregoing uses:

(a) A pre-application conference will be held at which time a decision will be made as to which elements of the final development plan are applicable to the review of a specific use.

(b) Applicant files an application with the Planning services department.

(c) The planning services department must mail a letter describing the development and, if necessary, a map or other graphic information to all property owners within three hundred (300) feet of the development, at least fifteen (15) days prior to the planning board public hearing.

(d) Submit final development plan thirty (30) days prior to the planning board public hearing.

(e) Planning board conducts a public hearing and makes the final decision about the plan.

(f) Any person aggrieved by a decision of the planning board may, within fifteen (15) days thereafter apply to the city council for review of the board's decision.

(2) New development within the: conservation, airport (except single-family in an approved subdivision), waterfront redevelopment, business, interstate corridor and the governmental center (except for single-family or duplex residential) districts; multi-family developments over thirty-five (35) feet in height within the R-2A district; buildings over forty-five (45) feet in height in the R-2, R-NC, R-NCB and C-1 districts. A development plan shall be submitted and the following process shall be used for the review of these developments:

(a) A pre-application conference is held, at which time a decision will be made as to whether a separate preliminary and final development plan shall be submitted, or if a combined preliminary and final plan shall be submitted.

(b) Applicant submits the preliminary plan or combined preliminary/final development plan to the Planning services department thirty (30) working days prior to the planning board meeting.

(c) Planning board meeting is held.

(d) The planning board will send a recommendation for the plan to city council.

(e) City council holds a public hearing. If a combined preliminary/final development plan was submitted, the final decision will be made at this meeting.

(f) Applicant submits final plan to the planning board.

(g) A planning board meeting is held with a recommendation being forwarded to the city council.

(h) City council holds a public hearing and makes the final decision about the plan.

(3) Conditional uses, special planned developments, major revisions to SSD's and exceptions to the four thousand (4,000) square foot maximum area for a commercial use in an R-NC district shall require a development plan and the following process shall be used for the review of these developments:

(a) A pre-application conference is held, at which time a decision will be made as to whether a separate preliminary and final development plan shall be submitted, or if a combined preliminary and final development plan shall be submitted.

(b) Applicant submits the preliminary plan or combined preliminary/final development plan to the planning services department thirty (30) days prior to the planning board meeting.

(c) The planning services department shall notify property owners within a five hundred-foot radius, as identified by the current Escambia County tax roll, of the property proposed for development with a public notice at least five (5) days prior to the board meeting. The public notice shall state the date, time and place of the board meeting. Notice shall be at the expense of the applicant.

(d) Planning board meeting is held and the final plan is forwarded to city council for review and action.

(e) The city council shall set a date for a public hearing.

(f) The city shall mail a letter describing the development and, if necessary, a map or other graphic information to all property owners within five hundred (500) feet of the development, at least thirty (30) days prior to the city council public hearing.

(g) A public notice shall be published in a local newspaper of general distribution stating the time, place and purpose of the hearing at least ten (10) days prior to the public hearing.

(h) City council conducts a public hearing and makes the final decision.

(B) General conditions, procedures and standards.

(1) Preapplication conference. Prior to submitting a formal application for approval of a proposed new development plan or plan for an addition to an existing development, the owners(s) shall request a preapplication conference with city staff to review:

(a) The relationship between the proposed development plan and the surrounding land usage and the comprehensive plan of the city.

(b) The adequacy of the existing and proposed vehicular and pedestrian right-of-way, utilities and other public facilities and services, which will serve the proposed development.

(c) The character, design and applicability of the following factors:

1. Traffic control;
2. Noise reduction;
3. Sign and light control;
4. Preservation of open space and visual corridors;
5. Police and fire protection;
6. Storm drainage;
7. Landscaping;
8. Fencing and screening; and
9. Other matters specifically relevant to the proposed development site necessary to foster desirable living and working conditions and compatibility with the existing environment.

At the time of the preapplication conference, the developer shall provide a sketch plan indicating the location of the proposed development and its relationship to surrounding properties. The advisory meeting should provide insight to both the developer and the city staff regarding potential development problems that might otherwise result in costly plan revisions or unnecessary delay in development. At this time a decision will be made as to whether the review process will require a separate preliminary and final plan or if they can be combined.

(2) Preliminary development plan. Subsequent to the preapplication conference, the owner shall submit a formal application for development plan approval along with a preliminary plan of development to the planning services department at least thirty (30) days prior to the meeting at which it is to be considered by the planning board. This preliminary development plan must cover the entire property under consideration. planning services departmentPrior to the planning board meeting scheduled to consider the preliminary development plan, appropriate city departments, divisions, and utility companies shall submit written recommendations of approval or disapproval, or suggested revisions as may be deemed appropriate, and reasons thereforeplanning services department.

The city staff shall review the preliminary plan of development with respect to its design and compatibility with surrounding uses, major thoroughfare plan, comprehensive land use plan and existing and future community services. Efforts to resolve differences between the developer's proposal and staff positions shall be made prior to submittal of the plan to the planning board.

If the planning board does not approve the preliminary plan of development, it shall give the owner a reasonable period of time to make appropriate amendments to the plan. The owner shall have the right to appeal an adverse decision of the planning board to the city council within thirty (30) days of the decision of the planning board.

(3) Development of regional impact. If, at the time of submission of a preliminary plan, the planning board or planning staff determines that a proposed project could constitute a development of regional impact (DRI) pursuant to F.S. § 380.06, the developer will be notified that compliance with the DRI procedure will be necessary prior to final local approval of the development. At that

time, the developer will contact the Emerald Coast Regional Planning Council to apply for a binding letter of interpretation to determine the DRI status of the proposal or to initiate the DRI review process. This process shall not prohibit the concurrent review of the development plan while the determination for DRI is being made. Provided, however no final plan approval shall be granted until a determination has been made whether or not the development has to undergo DRI review.

After the planning board has reviewed the proposal that has been determined to be a DRI and makes a recommendation for approval of the preliminary plan, the developer or his or her authorized representative will be required to complete an application for DRI approval. Copies of the completed application will be filed with city, the Emerald Coast Regional Planning Council, and the Bureau of Resource Planning and Management, Florida Department of Community Affairs.

Within thirty (30) days of receipt of the application, the Emerald Coast Regional Planning Council will determine the sufficiency of the information presented in the application. If the application is considered insufficient to complete a review, the developer will be requested to furnish the additional information requested by the planning council. When the application is considered sufficient, the regional planning council will give notice to the city to schedule a public hearing. Public notice of the hearing will then be published at least sixty (60) days in advance of the public hearing. Development may begin forty-five (45) days after the issuance of the development order by the city council.

(4) Public notification. If public notification is required the city clerk will set a date for a public hearing to be conducted during a regularly scheduled city council meeting.

(5) Final development plan.

The owner shall submit to the planning services department final development plan at least thirty (30) days prior to the meeting at which it is to be considered by the planning board. The planning services departmentplan will be distributed to appropriate city departments. The city shall attempt to resolve any differences between city departments and divisions and the developer prior to submittal of the final development plan to the planning board. If such differences are not resolved within thirty (30) days of submission by the owner of a final development plan, the plan shall be submitted to the planning board at its next meeting whether or not such differences are resolved. If the planning board approves the final development plan a favorable recommendation shall be forwarded to the architectural review board (ARB), if required, as outlined in subsection (4) of this section. Upon the review and approval of the ARB, the city council shall then hold a meeting for the purpose of determining whether the final plan should be approved. If the planning board does not approve the final plan of development, it shall give the owner written reasons for such action giving the owner a reasonable period of time to make appropriate amendments to these plan. The owner shall have the right to appeal an adverse decision of the planning board to the city council within thirty (30) days of the decision of the planning board.

If the city council approves the plan of development, the original shall be filed with the city clerk, planning services departmentand additional copies shall be filed with the city building official and such other places as required by law.

Any plan approved and filed hereunder shall be binding upon the owner(s), his/her successors and assigns, and the subject property, and shall limit and control the issuance and validity of all building permits and shall restrict and limit the construction, location, use and operation of all land and structures included within the plan to all conditions and limitations set forth in the plan. Application for a building permit shall be initiated within six (6) months from the date of approval of the final development plan. If such application has not been filed within such period, the applicant shall be required to resubmit the development plan in accordance with this subsection, prior to obtaining a building permit.

Minor changes to the final development plan may be approved by the city engineer, planning services director, and building official when, in their opinion, the changes do not violate the provisions of this title, do not make major changes in the arrangement of the buildings or other major features of the final development plan, and do not substantially conflict with action taken by the city council. Major changes such as, but not limited to, changes in land use or an increase or decrease in the area covered by the final development plan may be made only by following the procedures outlined in filing a new preliminary development plan. The city council shall approve such modification only if the revised plan meets the requirements of this title.

A building permit may be revoked in any case where the conditions of the final development plan have not been or are not being complied with, in which case the building official shall follow permit revocation procedure.

(6) Review of preliminary plan by planning board. All final development plans within the gateway redevelopment district shall be subject to review and approval by the planning board as established in Chapter 12-13.

(7) Concurrent submission of preliminary and final development plans. For review of specific uses and upon approval of the planning services department and the mayor for applicable new development and conditional uses, development plans may be reviewed and approved through an abbreviated procedure that provides for the submittal of both preliminary and final plan concurrently. All plan requirements set forth in this section shall be complied with when exercising this abbreviated procedure. When this concurrent submission option is exercised, the planning board review of development plans will take place prior to city council review/approval.

(C) Contents of the preliminary development plan.

(1) General information. The following information shall be provided in graphic or written form as necessary to satisfy the requirements:

(a) Legend, including:

1. Name of the development;
2. Total area of the property in square feet and acres;
3. Scale (at a minimum of 1″ = 100′);
4. North arrow;
5. Existing zoning on the property, including any overlay districts, and;
6. Date of preparation.

(b) Vicinity map, at a scale not less than 1″ = 2,000′, showing the relationship of the proposed development to surrounding streets and public facilities within a one-mile radius.

(2) Existing conditions, including:

(a) Existing streets, both on and within three hundred (300) feet of the proposed development;

(b) Zoning districts, major shopping areas, residential areas, public buildings, rights-of-way, public utilities and other major facilities surrounding the proposed development for a radius of three hundred (300) feet;

(c) Existing lot lines and major easements on the property indicating the purpose of each easement;

(d) Existing land uses and location of buildings and structures on the property;

(e) One hundred-year flood elevation and limits of the one hundred-year floodplain;

(f) The approximate normal high water elevations or boundaries of existing surface waterbodies, wetlands, streams and canals; and

(g) Generalized tree cover and existing vegetation cover limits.

(3) Proposed development. Preliminary layout showing as applicable:

(a) Location of proposed lots, land uses and building sites, including, among other things, total area in square feet and acres, number of dwelling units, dwelling unit density by land use, floor area minimum standards, lot size, height of structures, yard and spacing requirements and amount and location of recreation and common open space areas;

(b) General location of all existing and proposed off-street parking and loading areas and roadways, by type, including width of right-of-way and paved streets;

(c) If applicable, a statement proposing how the developer plans to limit adverse effects on threatened or endangered native flora or fauna;

(d) Location of all rights-of-way, easements, utilities and drainage facilities that are proposed for the development and;

(e) A general statement of the proposed development schedule.

(D) Contents of final development plan. The final development plan may be on several sheets. However, in that event, an index shall be provided. For a large project, the final development plan may be submitted for approval progressively in contiguous sections satisfactory to the planning board.

(1) General information. The same information as required in paragraph (B)(1) shall be provided in graphic or written form as necessary to satisfy the requirements.

(2) Existing conditions. The same information as required in paragraph (B)(2) shall be provided with the addition of the following detailed information:

(a) Existing streets, both on and within three hundred (300) feet of the proposed development, shall be described including:

1. Street names;

2. Right-of-way width of each street;

3. Driveway approaches and curb cut locations, and;

4. Medians and median cuts locations.

(b) Conceptual drainage report showing direction of flow and proposed methods of stormwater retention.

(c) The location of any geodetic information system monuments.

(3) Proposed development. The same information as required in paragraph (B)(3) shall be provided with the addition of the following detailed information:

(a) A detailed statement of agreement, provisions, and covenants that govern the ownership, development, use maintenance, and protection of the development, in any common or open areas;

(b) Location of existing and proposed land uses and exact locations of all existing and proposed improvements including:

1. Buildings and structures;

2. Curb cuts;

3. Driveways and interior drives;

4. Off-street parking and loading;

5. Storage facilities;

6. Proposed roadways, by type, including width of right-of-way and paved streets; and

7. Traffic control features and signage.

(c) Exact location of lots and building sites, including, among other things, total acreage of the proposed project; total acreage in residential use, commercial use, common open space, recreational area, parking lots; number of dwelling units broken down by type (garden apartments, single-family, etc.) and overall dwelling unit density, floor area minimum standards, lot size, height of structures, yard and spacing requirements and amount and location of recreation and common open space areas;

(d) The exact location and use of existing and proposed public, semipublic or community facilities including areas proposed to be dedicated or reserved for community or public use;

(e) If applicable, drawings depicting general architectural features and appearance of representative building types, locations of entrances, and types of surfacing such as paving, gravel and grass, and signing and lighting devices;

(f) Location of outdoor waste disposal facilities, if applicable;

(g) Provisions for access by emergency vehicles, if applicable; and

(h) A specific statement of the development schedule including, if applicable, a phasing plan.

(Ord. No. 6-93, § 20, 3-25-93; Ord. No. 29-93, § 25, 11-18-93; Ord. No. 3-94, § 8, 1-13-94; Ord. No. 44-94, § 5, 10-13-94; Ord. No. 15-00, §§ 2, 3, 3-23-00; Ord. No. 12-09, § 1, 4-9-09; Ord. No. 16-10, §§ 209, 210, 9-9-10; Ord. No. 20-19, § 5, 9-26-19)

Sec. 12-2-82. - Design standards and guidelines.

(A) *Purpose.* The requirements set forth in this subsection are intended to coordinate land development in accordance with orderly physical patterns; to implement goals, objectives and policies of the Comprehensive Plan; to provide for adequate access to building sites for ingress and egress; to improve the physical appearance of the city, and; to preserve the environmental character of the city.

(B) *Applicability.* This section shall be applicable to all new construction, additions to existing structures or additional structures on a developed site. For the purposes of this section, the term "shall" indicates a regulatory requirement or standard, and the term "should" indicates a suggested guideline that is not considered a regulatory requirement.

(C) *Design standards.* Except where specific approval is granted by the city engineer and planning services department due to unique and peculiar circumstances or needs resulting from the size, configuration or location of a site requiring a modification of the standards as set forth below, the minimum standards shall be as follows:

(1) *Streets and rights-of-way.* Whenever public or private streets, rights-of-way, pedestrian ways, bikeways or driveway approaches are to be constructed as part of any development after the effective date of this chapter, they shall be designed in accordance with the requirements of this paragraph. Whenever existing public or private streets, rights-of-way, pedestrian ways, bikeways or driveway approaches abutting a development do not meet the requirements of this paragraph, the city engineer may require that they be improved to conform to these requirements.

(a) Driveway approaches and curb cuts.

1. Width (residential except multifamily). In properties developed for residential use (except multifamily), curbcuts and driveway approach shall conform to the following requirements:

	Minimum	Maximum

	Driveway	Driveway
Driveway	12 feet	24 feet
Joint-use driveway	20 feet	24 feet

2. Width (residential multifamily). Properties developed for residential multifamily use shall have curbcuts for driveways not less than twenty-four (24) feet wide and not more than forty (40) feet wide.

3. Width (nonresidential). Properties developed for commercial use shall have curbcuts for driveways not less than twelve (12) feet nor more than forty (40) feet wide.

4. Distance from drainage inlet. No curbcut shall be made within three (3) feet of a drainage inlet.

5. Spacing. Where more than one (1) curbcut is to be located on any single property, the minimum distance between such curbcuts on local streets shall be forty-two (42) feet, and on all arterial and collector streets shall be in accordance with the requirements set forth in subsection (2) below.

6. Number and location on midblock properties. Except where specific approval is granted as provided above, there shall be no more than two (2) curbcuts for the use of any single property fronting any single local street, and no more than one curbcut for the use of any single property fronting on any single arterial or collector.

7. Number and location on corner properties. Where property is located on a corner lot fronting more than one (1) street, not more than one (1) curbcut for the benefit of such property shall be made on each street except where specific approval is granted as provided above. Corner safety islands shall be provided at all corners and no curbcuts or driveway shall be constructed or maintained on the radius of any curved curbing nor closer to the point of curvature than fifteen (15) feet on a local street and not within thirty (30) feet on the point of curvature of an intersecting arterial or collector street.

8. Sidewalk section. All driveway approaches constructed in areas of the city with existing or required sidewalks shall contain a sidewalk section of the width and grade and minimum construction standards established by the city engineer for sidewalks in such areas.

9. Joint use driveways. No curbcut for a driveway approach shall be made within one (1) foot of the extended side property line of the property to be serviced by the driveway unless a joint-use driveway for the two (2) adjoining properties shall be located on the common property line by written agreement running with the land, recorded in the public records of Escambia County and signed by all the owners of the adjoining property using the common driveway. The execution of the said agreement must be notarized. The city engineer shall be authorized to require the establishment of joint-use driveways in connection with the reduction of the driveway spacing requirements of subsection (1)(a)5. above and of subsection (2) below.

10. Authority to alter curbcuts. Where the use, convenience and necessity of the public require, the city engineer shall have the authority to order the owners or agents in charge of property adjacent to which curbcuts are maintained, to alter the curbcut in such manner as he or she shall find reasonably necessary under the circumstances.

The notice required by this section shall require compliance by permittee within thirty (30) days of such notice; be in writing; and be served upon permittee as required by law.

(b) Vehicular access for multi-family, office, commercial or industrial developments. Direct or indirect vehicular access to local residential streets shall not be permitted, other than from corner lots, for the uses described above when adequate access is available from either collector or arterial streets.

(c) Dedication of streets and rights-of-way. No site plan shall be approved unless it is accompanied by a dedication of all streets and rights-of-way that are required to be dedicated under this section. The exception to this is private streets, which shall be provided for by the developer in accordance with the requirements of section 12-2-38. Any land lying within a proposed development that is necessary to widen or extend local streets, arterials or collectors as required to meet city standards shall be dedicated.

(d) Street improvements. All streets and public ways shall be paved and curbed in accordance with standards established by the city engineer and the following requirements:

1. Additional improvements for existing thoroughfares. Where any existing arterial or collector lying within or abutting a proposed development requires construction of additional lanes or other improvements to meet the standards of the city engineer, the amount of construction required (or money escrowed) for such improvements shall be commensurate with the impact of the proposed development.

2. Missing arterial or collector links. Where there are missing segments in the arterial or collector system or new arterials or collectors are to be constructed that are designated in the Comprehensive Plan, such segments lying within or abutting the proposed development shall be improved (or money escrowed in an appropriate manner) by the developer along with other required improvements. Where such construction creates an undue hardship in a particular case, appeals are available in accordance with chapter 12-13.

3. Traffic control devices. Intersection improvements and traffic control devices such as acceleration, deceleration, and turning lanes, signalization devices, and other traffic control devices required by the development shall be installed at the developer's expense in accordance with the State of Florida Manual for Uniform Traffic Control Devices.

4. Improvements required to nearest acceptable paved public street. Each development shall abut, or have as its primary access, a street improved to the minimum requirements of the city engineer. Wherever the abutting street does not meet these requirements, the developer shall construct the street where it abuts the development and to the nearest structurally acceptable paved public street as determined by the city engineer.

(e) Sidewalks. Sidewalks shall be required on all street frontages in nonresidential, commercial and industrial developments in accordance with standards established by the city engineer.

(2) *Driveway and curbcut design along arterial and collector streets.* Recognizing that the traffic movement function of arterial and collector streets can be compromised by the provision of unlimited access to individual properties. Whenever any building site will require vehicular access from an arterial or collector street as designated on the city's adopted Future Traffic Circulation Map, the development shall be designed in accordance with the requirements of this paragraph.

(a) Driveways and curbcuts. In addition to any applicable driveway approach and curbcut requirements of subsection (1) above, the following standards shall apply:

1. Curbcut spacing. The minimum distance between curbcuts on any one block face, whether or not such curbcuts are located on the same property, shall be based upon the posted speed of the thoroughfare, in accordance with the following schedule:

Posted Speed	Minimum Spacing
30 Mph	125 ft.
35 Mph	150 ft.
40 Mph	175 ft.
45 Mph	200 ft.
50+ Mph	250 ft.

2. Spacing reductions and joint-use driveways. Where the existing configuration of properties and curbcuts in the vicinity of the building site precludes spacing of a curbcut access in accordance with the schedule above, the city engineer shall be authorized to reduce the spacing requirement if he or she finds that all of the following conditions have been met: wherever feasible, the city engineer shall require the establishment of a joint-use driveway serving two (2) abutting building sites, with cross-access easements provided; the property owner shall agree to close and eliminate any pre-existing curbcuts on the building site after the construction of both sides of the joint-use driveway; and where feasible, the building site shall incorporate unified access and circulation in accordance with the requirements of subsection (2)(a)3. below.

3. Unified access and circulation. The planning services director, in coordination with the city engineer, shall be authorized to designate cross-access corridors on properties adjacent to arterial or collector streets. Such designation may be made in connection with the approval of any site plan within the affected area, or as part of an overall planning program. The planning services director, in coordination with the city engineer, shall be authorized to modify the requirements of this subparagraph where he or she finds that abutting properties have been so developed that it is clearly impractical to create a unified access and circulation system within part or all of the affected area.

(3) *Public facilities.* All developments shall be provided with sufficient utility easements including potable water, sanitary sewer, electric power and light, telephone, natural gas, cable television, and any other franchised utilities, including access for maintenance. Sufficient easements shall be provided for stormwater management facilities, including access for maintenance. All public and private street networks and parking lots shall be designed to allow easy access for solid waste disposal and emergency service vehicles. In addition to new development, any remodeling, enlargement, reconstruction or redesign of any existing building site for specific uses and within the Gateway Redevelopment District and the resource protection overlay districts shall require submittal of a drainage plan to ensure that stormwater management requirements are met pursuant to chapter 12-9 of this title.

(4) *Private recreation and open space facilities for multifamily residential developments.* Multifamily residential developments, with the exception of those located within the boundaries of the city's dense business area, are required to reserve five (5) percent of the total lot area for recreation and open space facilities. This land area requirement shall be provided in addition to the twenty (20) percent landscaping area requirement established in section 12-6-4. In the event a buffer yard is required between the multifamily development and an adjacent single-family land use or zoning district, the buffer yard land area requirements may be credited toward the recreation/open space land area requirement.

(5) *Solid waste disposal facilities for multifamily residential, nonresidential, office, commercial or industrial developments.*

(a) Dumpsters, centralized garbage storage areas, compactors and similar solid waste disposal facilities associated with the land uses described above shall not be allowed any closer than ten (10) feet to either the property line or zoning district boundary line of a single-family or duplex residential development or zoning district.

(b) Solid waste disposal facilities shall not be located within public street rights-of-way of arterial or collector streets in any zoning district, and they shall not be located within local street rights-of-way in mixed residential/office, residential/commercial or redevelopment zoning districts without the mayor’s approval.

(c) Solid waste facilities must be screened from adjoining property and from public view.

(6) *Mechanical equipment.* Mechanical equipment for multifamily residential, nonresidential, office, commercial or industrial developments shall not be allowed any closer than ten (10) feet to either the property line or zoning district boundary line of a single-family or duplex residential development or zoning district; and shall be screened from adjoining property and from public view. Roof-mounted electrical, mechanical, air conditioning and communications equipment shall be completely screened from adjacent properties and public view from the public right of way. The equipment screening shall be such that the equipment is not visible within a two hundred-foot radius. The radius shall be measured from the exterior side of the screen to a point ten (10) feet above finished grade.

(7) *Parking.*

(a) The city discourages construction of more than the minimum number of parking spaces required by this title, in order that more natural vegetation may be preserved and in order to control stormwater runoff in a more natural manner. Parking in excess of more than ten (10) spaces or ten (10) percent (whichever is greater) above the parking total dictated by chapter 12-3 will require an administrative waiver as described in subsection 12-2-82(C) of this section.

(b) The use of permeable paving materials is encouraged for use in parking lots, especially for "overflow" parking or parking spaces in excess of the requirements of this title.

Site design should minimize the impact of automobile parking and driveways on the pedestrian environment, adjacent properties and pedestrian safety.

(c) The following are some examples of techniques used to minimize the impacts of driveways and parking lots.

1. Locate surface parking at the rear or side of the zoning lot.
2. Break large parking lots into multiple smaller ones.
3. Minimize the number and width of driveways and curb cuts.
4. Share driveways with abutting zoning lots.
5. Locate parking in less visible areas of the site.
6. Locate driveways so they are visually less dominant.

7. Provide special pavers or other surface treatments to enhance and separate pedestrian areas from vehicle maneuvering and parking areas.

8. Parking located along a commercial street front where pedestrian traffic is desirable lessens the attractiveness of the area to pedestrians and compromises the safety of pedestrians along the street. On-site surface parking on a commercial street front should be minimized and where possible should be located behind a building.

(8) *Building Façade Finish:* Metal curtain walls shall be limited to a maximum of thirty (30) percent per elevation of a building in the R-2 and R-NC districts, forty (40) percent per elevation in the remaining commercial districts (with the exception of historic and special aesthetic districts which have their own guidelines for review), and seventy-five (75) percent per elevation of a building in industrial districts. The remaining percentage of each façade elevation shall have a finish treatment. Planning Board may grant requests to exceed this maximum standard on a case-by-case basis with consideration being given to developments that incorporate design guidelines suggested in this section and exhibit superior site design.

(9) *Non-residential site lighting.* Non-residential and multiple-family developments, shall be designed to provide safe and efficient lighting for pedestrians and vehicles. Lighting shall be designed in a consistent and coordinated manner for the entire site (including outparcels). Lighting shall be designed so as to enhance the visual impact of the project and/or should be designed to blend into the surrounding landscape. Lighting design and installation shall ensure that lighting accomplishes on-site lighting needs without intrusion on adjacent properties and shall meet the following design requirements:

(a) Fixture (luminaire). When feasible, the light source shall be completely concealed within an opaque housing and shall not be visible from any street right-of-way or adjacent properties.

(b) Light source (lamp). Only florescent, LED, metal halide, or color corrected high-pressure sodium may be used. The same light source type must be used for the same or similar types of lighting on any one site throughout any development.

(c) Mounting. Fixtures shall be mounted in such a manner that the maximum candela from each fixture is contained on-site and does not cross any property line of the site.

(d) Limit lighting to periods of activity. The use of controls such as, but not limited to, photocells, occupancy sensors or timers to activate lighting during times when it will be needed may be required by the planning services department to conserve energy, provide safety, and promote compatibility between different land uses.

(e) Illumination levels.

1. All site lighting levels shall be designed per the most recent IESNA (Illumination Engineering Society of North America) recommended standards and guidelines.

2. Minimum and maximum levels are measured on the pavement within the lighted area. Average level is the overall, generalized ambient light level, and is measured as a non-to-exceed value calculated using only the area of the site intended to receive illumination.

3. Lighting for automated teller machines shall be required to meet the standards of F.S. § 655.962.

(f) Excessive illumination.

1. Lighting unnecessarily illuminates another lot if it clearly exceeds the requirements of this section.

2. All outdoor lighting shall be designed and located such that the maximum illumination measured in footcandles at the property line does not exceed 0.2 on adjacent residential sites, and 0.5 on adjacent commercial sites and public rights-of-way. These values may be adjusted based on unique and/or unusual needs of specific projects.

3. Lighting shall not be oriented so as to direct glare or excessive illumination onto streets in a manner that may distract or interfere with the vision of drivers on such streets.

4. Fixtures used to accent architectural features, landscaping or art shall be located, aimed or shielded to minimize light spill into the night sky.

5. Reflectors and/or refractors within fixtures or fixtures with a top shield shall be utilized to assist in eliminating "sky glow".

(D) *Design guidelines.* Most development in the city is located on infill or redevelopment sites; therefore, projects should take their surroundings into account. These recommended design guidelines are intended as suggested methods to improve the character and fit of new development and to encourage respect for how architecture, landscape features, and public improvements help establish context, and steadily improve the quality of the city's residential and commercial neighborhoods. These guidelines are intended for designers and developers to look closely at the area surrounding their specific project and create developments that enhance and complement the built and natural environment. The design guidelines are flexible in their application and maybe applied to specific projects during review by city staff and any applicable review board(s). The intent is to create the highest level of design quality while providing the needed flexibility for creative site design. Use of the following design guidelines is a means for addressing aesthetic and environmental concerns in the development process.

(1) Site planning.

(a) The construction of roads across isolated wetlands shall be limited, and any roads that are built should be constructed on pilings or with adequate culverts to allow the passage of floodwaters.

(b) Runoff shall not be discharged directly into open waters. Vegetated buffers, swales, vegetated watercourses, wetlands, underground drains, catch basins, ponds, porous pavements and similar systems for the detention, retention, treatment and percolation of runoff should be used as appropriate to increase time of concentration, decrease velocity, increase infiltration, allow suspended solids to settle and remove pollutants.

(c) Natural watercourses shall not be filled, dredged, cleared, deepened, widened, straightened, stabilized or otherwise altered.

(d) The use of drainage facilities and vegetated buffer zones as open space, recreation and conservation areas is encouraged.

(2) Building design and architectural elements. The placement of buildings should respond to specific site conditions and opportunities such as irregular-shaped lots, location on prominent intersections, views, or other natural features. On-site surface parking should be visually minimized and where possible should be located behind a building. Site characteristics to consider in building design include, but are not limited to, the following:

(a) Site buildings to avoid or lessen the impact of development on environmentally sensitive and critical areas such as wetlands, stream corridors, fragile vegetation and wildlife areas, etc.

(b) The design and placement of a structure and its massing on the site should enhance solar exposure for the project and consider the shadow impacts on adjacent buildings and public areas.

(c) The placement of buildings and other development features should enable the preservation of significant or important trees or other vegetation.

(d) Where a new structure shares a site with an existing structure, or a major addition to an existing structure is proposed, the design of the new should be designed to be compatible with the original structure. This is particularly important if the original structure has historical or architectural merit to the community.

(e) The placement and massing of a building should, preserve desirable public views that would otherwise be blocked by the new development.

(f) The placement and orientation of buildings should acknowledge and reinforce the existing desirable spatial characteristics of the public right-of-way. For example, a multi-story mixed use building proposed for a downtown corner zoning lot should reinforce the existing streetscape by utilizing the ground level for pedestrian oriented retail and restaurants and maintaining a consistent building edge abutting the sidewalk.

(g) Building entrances should be clearly visible from the street. Using entries that are visible from the street makes a project more approachable and creates a sense of association with neighboring structures.

(h) New development should be sited and designed to encourage human activity on the street. To accomplish this end, entrances, porches, balconies, decks, seating and other elements can be designed to promote use of the street front and provide places for human interaction. For example, for commercial developments such elements can include shop front windows, outdoor seating/dining, rooftop decks, balconies, and canopies that protect pedestrians from the elements.

(i) Development projects in that are adjacent to a less-intensive zoning district with differing development standards, may create substantial adverse impacts that result from inappropriate height, bulk and scale relative to their neighbors. Careful siting and design treatments can help mitigate some height, bulk and scale impacts; in other cases, actual reduction in the height, bulk and scale of a project are advisable to adequately mitigate adverse effects. In some instances, careful siting and design treatment may be sufficient to achieve reasonable transition and mitigation of height, bulk and scale differences. Some techniques for achieving compatibility are:

1. Use of architectural style, details (such as rooflines or fenestration), exterior colors or materials that derive from the less intensive zone district.

2. Creative use of landscaping or other screening.

3. Location of features on-site to facilitate transition, such as locating required open space on the zone district edge so the building is located farther from the lesser intensity zone district.

4. In a mixed-use project, siting the more compatible use(s) near the zone district edge.

(j) The exterior architectural elements of buildings and structures (i.e., components which define the appearance of a building, such as roofs, windows, porches, modulations, entries, materials, balconies and details). New buildings developed in an established neighborhood with an identifiable character may be viewed as undesirable intrusions unless they respond positively to the architectural characteristic of existing buildings. Therefore, guidelines for architectural elements encourage new development in established neighborhoods to complement neighboring buildings and consider how design gives a neighborhood its identity. This does not mean that new buildings must excessively mimic older existing buildings. Rather, the guidelines suggest that new buildings use some traditional building concepts or elements. New buildings can successfully relate to older buildings while still looking contemporary, not stifling the designer's creativity and responding to changing societal needs and design opportunities.

(k) Architectural context. New buildings proposed for existing neighborhoods with a well-defined and desirable character should be compatible with or complement the architectural character and siting pattern of neighboring buildings.

1. Architectural features. Taking note of the architectural characteristics of surrounding buildings can help new buildings be compatible with their neighbors when a consistent pattern is already established by similar building articulation; building scale and proportions; architectural style(s); roof forms, building details and fenestration

patterns; or materials. Even when there is no consistent architectural pattern, building design and massing can be used to complement and enhance certain physical conditions of existing surrounding development.

2. In cases where an existing context is either not well defined, or may be undesirable, a well-designed new project has the opportunity to establish a pattern or identity that future redevelopment can build on.

(3) Human scale. The design of new buildings should incorporate architectural features, elements and details that achieve a desirable human scale through the use of human-proportioned architectural features and site design elements clearly oriented to human activity. Building elements that may be used to achieve human scale are as follows:

a. Pedestrian-oriented storefront windows and doors directly facing the street or publicly accessible open space such as courtyards, gardens, patios, or other unified landscaped areas.

b. Window patterns, building articulation and other exterior treatments that help identify individual units in a multi-family building or mixed use building.

c. Stepping back upper stories (generally above the third or fourth floor).

d. Porches or covered entries that offer pedestrian weather protection such as canopies, awnings, arcades, or other similar elements wide enough to protect at least one person.

(4) Structured parking garages. The presence and appearance of structured parking garages and their entrances should be minimized so they do not dominate the street frontage. Ramps should be visually screened from streets and adjacent residential zoning districts and oriented towards the interior of the lot within a project where possible. Ramps profiles should be hidden on the exterior elevations. Roof top parking should be visually screened with articulated parapet walls or other architectural treatment. Exterior lighting should utilize fixtures provided with cut off shielding in order to eliminate glare and spillage onto adjacent properties and roadways. The openings of the garage should be designed in a manner that obscures parked vehicles. Decorative architectural elements on the ground floor level should be designed to accommodate the pedestrian scale. Parking levels above the ground floor should maintain the same vertical and horizontal articulation or rhythm and incremental appearance established on the ground floor.

Due to the requirements of a particular land use or structural needs, parking garages or the garage portion of the building may request an increase from the building frontage requirements (to a maximum of one hundred (100) percent for all floors) or a waiver from the setback requirements for portions of the structure above XX feet subject to the following:

The garage or garage portion of the building elevation provides unified design elements with the main building through the use of similar materials and color, vertical and horizontal elements, and architectural style.

Architectural features should be incorporated into the façade to mitigate the building's mass and bulk and along portions of the building adjacent to street rights-of-way.

(5) Rooftop mechanical equipment. All rooftop mechanical equipment should be screened from public view from both above and below by integrating it into building and roof design.

(6) Blank walls. Buildings should avoid large blank walls facing the street, especially near sidewalks. Where blank walls are unavoidable, due to the requirements of a particular land use or structural needs, they shall not exceed a length of fifty (50) feet, or twenty (20) percent of the length of the building facing the street, whichever is less, and should receive design treatment to increase pedestrian comfort and interest.

(7) Utilities and service areas. Building sites should locate service elements like trash dumpsters, loading docks and mechanical equipment away from the street front wherever possible. When

elements such as dumpsters, utility meters, mechanical units and service areas cannot be located away from the street front, they should be situated and screened from view and should not be located near pedestrian routes.

(8) All telephones, vending machines, or any facilities dispensing merchandise, or a service on private property, should be confined to a space built into the building or buildings or enclosed in a separate structure compatible with the main building(s). All exterior forms, attached or not to buildings should be in conformity to and secondary to the building. They should be an asset to the aesthetics of the site and to the neighborhood.

(Ord. No. 11-94, § 3, 4-14-94; Ord. No. 45-96, § 6, 9-12-96; Ord. No. 13-06, § 15, 4-27-06; Ord. No. 16-10, § 211, 9-9-10; Ord. No. 25-10, § 1, 10-14-10; Ord. No. 06-18, § 1, 4-12-18)

CHAPTER 12-3. OFF-STREET PARKING

Sec. 12-3-1. - Off-street parking spaces requirements.

Off-street parking is required in all zoning districts, except as provided below. The following off-street parking is required by this chapter.

(A) *General provisions.*

(1) Area calculations based on gross square footage.

(2) Where the required number of parking spaces results in a fraction, the number of spaces required shall be construed to be the next whole number.

(3) Where parking spaces are required based on number of employees or students/clients, the number of employees must reflect the largest shift and the number of students/clients must reflect the maximum capacity allowed.

(4) For multiple land use developments, additional parking spaces will be required for each different land use and/or accessory use.

(5) Handicapped parking spaces are required as a percentage of total required parking spaces for all developments other than single-family, duplex or zero-lot-line residential.

(6) With respect to any parking lot that is required to be paved, the number of parking spaces required may be reduced by one, if the developer provides a bicycle rack or similar device that offers a secure parking area for at least five (5) bicycles.

(7) The number of off-street parking spaces provided for buildings constructed prior to October 13, 1994, shall be deemed in compliance with the requirements of this code, for as long as the same land use is maintained within the same building footprint. Effective October 13, 1994, off-street parking requirements set forth in subsection 12-3-1(B) shall be required for the following development or redevelopment activities except as specifically exempted in subsections 12-3-1(A)(i), (j), and (k):

(a) New construction.

(b) Construction of an addition to an existing building. Whenever a building is enlarged or increased in floor area, number of dwelling units, seating capacity, intensity, density or in any manner so as to create a need for a greater number of parking spaces than currently existing, such additional spaces must be provided in accordance with subsection 12-3-1(B). The required number of additional parking spaces must be provided concurrently with the building enlargement. In the event that additional parking spaces are required, and the resulting number of spaces required for the whole building (existing and new) exceeds ten (10) spaces, the entire parking lot shall comply with the provisions of section 12-3-3.

(c) A change in land use in an existing building or portion of a building. Whenever a land use is changed to another land use requiring a greater number of parking spaces than that existing, such additional spaces must be provided in accordance with subsection 12-3-1(B). The required number of additional parking spaces must be provided concurrently with the change in land use. In the event that additional parking spaces are required as a result of a change in land use for buildings constructed prior to October 13, 1994, the entire number of required parking spaces for the new land use must be provided in accordance with subsection 12-3-1(B). In the event that additional parking spaces are required, and the resulting number of spaces required for the new land use exceeds ten (10) spaces, the entire parking lot shall comply with the provisions of section 12-3-3.

(8) Except as provided in subsections 12-3-1(D) and (E) below, all required parking spaces must be located on the same lot or parcel with the building or use served or on an adjacent lot or parcel owned or leased by the same owner of the building site for which the parking is required. If the required parking is provided on an adjacent property separated from the common boundary by a street, appropriate measures shall be undertaken to provide pedestrian safety. Such measures include, but are not limited to, pedestrian crosswalk, pedestrian crossing with automated traffic control, pedestrian overpass, and underground pedestrian tunnel.

(9) Off-street parking is not required in the HC-1 and HC-2 districts (see subsection 12-2-10(A)(5)(g)(3).

(10) Off-street parking is not required in the dense business area for residential land uses.

(11) New construction of buildings within the South Palafox Business District that do not exceed forty (40) feet in height, or the renovation or change in land use of existing buildings that do not exceed forty (40) feet in height are exempt from the off-street parking requirements (see also subsection 12-2-13(D)(6)).

(l2) New construction of buildings within the C-2A District that do not exceed forty (40) feet in height and five thousand (5,000) square feet in total floor area, or the renovation or change in land use of existing buildings that do not exceed forty (40) feet in height and five thousand (5,000) square feet in total floor area are exempt from the off-street parking requirements.

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(B) *Parking requirements for specific land uses.* The following list of requirements shall apply for any land use that is permitted or that is granted a conditional use within any zoning district.

Amusement Center	1 space/250 s.f.
Art Gallery	1 space/500 s.f.
Auditorium	1 space/50 s.f. of assembly area
Bank	1 space/300 s.f.
Barbershop/Beauty Parlor	2 spaces/chair
Bed and Breakfast	1 space for owner/manager plus 1 space/

	sleeping room
Billiard Hall	2 spaces/table
Boarding House	1 space for owner/manager plus 1 space/ sleeping room
Bowling Alley	3 spaces/lane plus spaces required for accessory uses
Car wash	
Full-service	2 spaces/washing stall
Self-service	2 stacking spaces and 1 drying space per wash stall
Child Care Facility	1 space/300 s.f.
Church	1 space/4 fixed seats
Note: On-street parking within five hundred (500) feet of the building, except in residential districts, may be used towards fulfilling this requirement.	
Cocktail Bar	1 space/75 s.f.
Community Center	1 space/300 s.f.
Community Residential Home	1 space/2 beds
Convenience Store	1 space/200 s.f. plus accessory uses
Dormitory/Fraternity/Sorority Residence	1 space/2 beds
Dry Cleaning Shop	1 space/500 s.f.
Funeral Parlor/Mortuary	1 space/200 s.f.
Game Room	1 space/250 s.f.

Garage, repair	1 space/200 s.f.
Gas Station	1 space/200 s.f.
Greenhouse	1 space/1,000 s.f. of lot area
Group Home	1 space/2 beds
Gymnasium	1 space/50 s.f. of assembly area
Health Spa	1 space/200 s.f.
Hospital	1.5 spaces/bed
Hotel	1 space/room
Industrial	1 space/500 s.f.
Kennel	1 space/1,000 s.f.
Laundromat	1 space/2 washing machines
Library	1 space/250 s.f.
Note: on-street parking within five hundred (500) feet of the building, except in residential districts, may be used toward this requirement.	
Lodging House	1 space for owner/manager plus 1 space/ sleeping room
Manufacturing	1 space/500 s.f.
Marina	1 space/4 boat slips
Miniature Golf Course	1 space/hole
Mini-Warehouse	4 spaces/1,000 s.f. of office
Motel	1 space/room

Museum	1 space/300 s.f.
Nightclub	1 space/75 s.f.
Nursery	1 space/1,000 s.f. of lot area
Nursing Home	1 space/2 beds
Office	
General Office	1 space/300 s.f.
Accessory Office Unit	1 space/300 s.f.
Government Office	1 space/500 s.f.
Note: On-street parking within five hundred (500) feet of the building, except in residential districts, may be used towards this requirement for non-employee parking only. In any event, one off-street parking space shall be required for each employee in the building.	
Medical/Dental Office	1 space/200 s.f.
Open Air Market	1 space/300 s.f.
Printing or Publishing Firm	1 space/300 s.f.
Private Club	1 space/100 s.f.
Racquetball Club	1 space/court
Radio or Television Station	1 space/300 s.f.
Repair Shop	1 space/300 s.f.
Residential	
Single-family, Duplex and Accessory Residential Unit	1 space/unit (public street) 2 spaces/unit (private street)
Multi-family, Townhouse, Manufactured Home Unit	1 space/unit

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Rest Home	1 space/2 beds
Restaurant	
Drive-in Only	1 space/100 s.f.
Drive-through Only	1 space/100 s.f.
Sit-Down Only	1 space/100 s.f. (including outdoor dining areas)
Combination Drive-through/Sit-down	1 space/100 s.f. (including outdoor dining and/or activity areas)
Retail Sales/Rental	
Boat	1 space/500 s.f.
Carpet	1 space/500 s.f.
Furniture	1 space/500 s.f.
Garment	1 space/300 s.f.
General	1 space/300 s.f.
Grocery Store	1 space/300 s.f.
Hardware	1 space/500 s.f.
Home Improvement	1 space/500 s.f.
Lumber and Building Materials	1 space/600 s.f.
Machinery and Equipment	1 space/600 s.f.
School	

Business or Trade	1 space/2 employees plus 1 space/200 s.f.
High School, College or Junior College	1 space/2 employees plus 1 space/10 students
Kindergarten, Elementary and Middle/Junior High School	1 space/2 employees plus 1 space/classroom
Self-Service Storage Facility	4 spaces/1,000 s.f. of office plus 1 space/employee
Shopping Center	1 space/300 s.f.
Skating Rink	1 space/5 rated patron capacity
Stadium	1 space/5 seats
Studio	1 space/300 s.f.
Tavern	1 space/75 s.f.
Tennis Club	1 space/court
Theater	1 space/6 seats
Vehicle Sales/Rental	1 space/400 s.f. sales area
Veterinary Clinic or Hospital	1 space/300 s.f
Video Arcade	1 space/300 s.f.
Warehousing	1 space/2,000 s.f.
Wholesale Establishment	1 space/1,000 s.f.

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(C) *All other uses.* Any use not covered by this chapter shall require one parking space for each three hundred (300) square feet of gross floor area in the building.

(D) *Off-site parking.* The off-street parking requirements set forth in subsection 12-3-1(B) may be provided off-site through a shared parking facility or leased parking facility.

(a) Off-site parking may be provided as specified below:

(1) Shared use parking facility shared by uses that have different principal operating hours. The schedule of operation of all such land uses shall provide that none of the uses sharing the facilities normally require off-street parking facilities at the same time as other uses sharing them. The total number of required off-street parking spaces shall be determined by the combined peak hour parking requirement for all uses sharing the facility.

(2) Off-site parking spaces that are leased on an annual basis from a private owner or public agency.

(3) Off-site parking spaces located on a site owned and controlled by the owner/developer of the building site for which the off-street parking is required.

(4) When a portion or all of the required off-street parking is provided pursuant to one of the options specified above in subparagraphs (1), (2) and (3) a written agreement shall be drawn in a form satisfactory to the city attorney and executed by all parties concerned assuring the continued availability of the off-site parking facilities for the use they are intended to serve. Such written agreement shall be required as a prerequisite for the approval of a building permit for the new development or redevelopment proposed for which the parking is required. Such written agreement shall be reviewed annually as a condition for renewal of a business license required in Chapter 7-2 of this Code. If a written agreement securing the number of parking spaces is not provided as part of the annual business license certification, the license may be revoked by the city unless the required off-street parking is otherwise provided.

(5) When a portion or all of the required off-street parking is provided pursuant to one of the options specified above in subparagraphs (1), (2) and (3) a sign directing business patrons to the off-street parking shall be required and shall be placed in a clearly visible location in accordance with the provisions of subsection 12-4-4(G)(c).

(6) Off-site parking provided for businesses within the Brownsville Business Core must be located within the Pensacola City limits.

(7) Downtown Pensacola Parking reductions described in Table 12.3-1 shall apply only to the Community Redevelopment Agency's boundaries, as defined in Resolution No. 13-84.

Table 12.3-1

Downtown Pensacola CRA Parking Reductions	
Educational	25%
Lodging	35%
Office	30%
Eating/Drinking Establishments	100%

Indoor Amusement	40%
Services	50%
College	50%
Places of Worship	50%
Indoor Recreation	50%
Apparel/Furniture	50%
Retail < 5,000 s.f.	60%
Community Services	75%
Single Family and Multi family	Only 1 space/unit required

(b) Approval of off-site parking will be based upon consideration of the following factors:

(1) The location of the business and the proposed off-site parking;

(2) The number of off-site parking spaces proposed;

(3) Intended users of the proposed off-site parking (i.e. employees, patrons or both);

(4) The distance of the proposed off-site parking measured along the shortest legal pedestrian route (i.e. along public sidewalks, crosswalks) from the nearest lot line of the building site for which the off-site parking is proposed to the nearest lot line of the off-site parking;

(5) Pedestrian safety;

(6) Nature of the business proposing the off-site parking;

(7) Potential conflicts/overlaps in any off-site shared parking arrangement;

(8) Recommendation of city attorney regarding the form of the written agreement specified in subsection 12-3-1(D)(a)(4).

(E) The number of required parking spaces for the geographic areas and zoning districts identified in subsection 12-3-1(D) may be reduced by the number of on-street parking spaces provided in accordance with the following criteria:

(a) The on-street parking space must be located between the extended property lines of the property requesting the reduction. If a parking space straddles two (2) properties owned by different property owners each property may count the space towards the required parking. Where the right-of-way contains a median and parking is provided along the median, the property owner requesting the reduction may include those spaces provided they are located between the extended property lines and the centerline of the median.

(b) The on-street parking spaces must remain open for use by the public.

(F) New construction, additions to existing buildings and changes in land use of existing buildings within the dense business area resulting in an increase of parking requirements may comply with the parking requirements through an in-lieu payment approved by the city council.

(a) All funds collected through the in-lieu payment process shall be utilized for the express purpose of parking capital improvement projects within the dense business area.

(b) The in-lieu payment will be calculated by the mayor and approved by the city council in accordance with the following formula:

In-lieu parking payment = (total spaces required to meet code - on-site spaces - approved off-site spaces - approved on-street parking spaces) × (in-lieu fee)

The in-lieu fee shall be based upon the cost of construction for parking spaces considering such factors as land acquisition, design fees, engineering, financing, construction, inspection, and other relevant factors.

(Ord. No. 6-93, § 21, 3-25-93; Ord. No. 29-93, § 26, 11-18-93; Ord. No. 44-94, § 6, 10-13-94; Ord. No. 33-95, § 9, 8-10-95; Ord. No. 8-99, § 7, 2-11-99; Ord. No. 44-99, § 3, 11-18-99; Ord. No. 6-02, § 2, 1-24-02; Ord. No. 05-06, § 1, 2-9-06; Ord. No. 16-10, § 212, 9-9-10; Ord. No. 39-13, § 1, 11-14-13; Ord. No. 12-14, § 1, 3-27-14)

Sec. 12-3-2. - Off-street loading.

All manufacturing, industrial, warehouses and similar establishments customarily receiving and distributing goods by motor vehicle shall provide loading and unloading facilities on the premises. No motor vehicle shall be allowed to extend onto a public street, sidewalk or alley while loading or unloading. Off-street loading berths shall be provided as follows:

Floor Area (Square Feet)	Minimum No. of Berths
0 to 20,000	1
20,000 to 40,000	2
40,000 to 100,000	3
100,000 to 200,000	4
200,000 to 320,000	5
320,000 to 400,000	6
Each 90,000 above 400,000	1

Sec. 12-3-3. - Parking lots.

In addition to the provisions in this chapter all parking lots shall comply with tree preservation and landscaping provisions established in Chapter 12-6. The following requirements are applicable to all parking lots and parking spaces, whether or not such lots or spaces are required by the provisions of this chapter.

(A) *Design of parking lots.* All parking lot plans must be reviewed by the city engineer or his or her designee. Proper ingress and egress from the lot shall be required and adequate interior drives shall be required for all parking lots.

(B) *Grading and surfacing.*

(1) *Parking lots that include lanes for drive-in windows or contain more than ten (10) parking spaces.* Parking lots that include lanes for drive-in windows or contain more than ten (10) parking spaces shall be graded and surfaced with asphalt, concrete or other material that will provide equivalent protection against potholes, erosion, and dust.

(2) *Parking lots with ten (10) or less parking spaces.* Parking lots with ten (10) or less parking spaces may be surfaced with alternative surface materials (crushed stone, gravel, or other suitable material) other than those specified in subparagraph (1), with the approval of the city engineer, to provide a surface that is stable and will help to avoid dust and erosion. The perimeter of such parking shall be defined by bricks, stones, railroad ties, or other similar devices. In addition, whenever a parking lot abuts a paved street, the driveway leading from such street to such area (or, if there is no driveway, the portion of the parking area in the public right-of-way), shall be paved as provided in subparagraph (1).

(C) *Demarcation of parking spaces.* Parking spaces in areas surfaced in accordance with subsection (B)(1) shall be appropriately demarcated with painted lines or other markings. Parking spaces in areas surfaced in accordance with subsection (B)(2) shall be demarcated whenever practicable.

(D) *Maintenance.* Parking lots shall be properly maintained in all respects. Parking area surfaces shall be kept in good condition (free from potholes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.

(E) *Lighting.* Lighting shall be provided for parking lots with more than ten (10) spaces, and this lighting shall be arranged to reflect away form the adjoining properties. The minimum illumination level required for the entire paved area shall be an average maintained 1.0 footcandle. The lowest footcandle value at any point on the pavement shall not be less than one-fourth (¼) of the required average.

(F) *Screening.* Where a parking lot adjoins a residential district or fronts on a street adjoining a residential district, directly across said street, a solid wall, fence, or compact hedge not less than four (4) feet high shall be erected along the lot lines(s), except that within a visibility triangle the height requirement shall be reduced to three (3) feet.

(G) *Measurement of parking stalls.* All parking stalls shall measure not less than nine (9) feet by eighteen (18) feet, except as provided for herein. For land uses that assign parking spaces to specific employees or residents, a maximum of thirty (30) percent of all required vehicle parking spaces may be designed for compact cars. A compact car space may be a minimum of seven and one-half (7.5) feet by sixteen (16) feet. The occupant or owner of the principal use for which the parking is required shall enforce the use of such assigned compact car spaces.

(H) *Fencing, wheelstops or bumper guards.* Fencing, wheelstops or bumper guards are required along property and street lines to avoid the chance of encroachment on other properties or sidewalks.

(Ord. No. 6-93, § 22, 3-25-93; Ord. No. 33-95, § 10, 8-10-95; Ord. No. 9-96, § 12, 1-25-96)

Sec. 12-3-4. - Nonresidential parking in R-1AAA, R-1AA, R-1A, R-ZL, R-2A, R-2, PR-1AAA and PR-2 districts.

Accessory off-street parking facilities serving nonresidential uses of property in R-2, PR-2, R-NC, C-1, PC-1, C-2, C-3 or SSD zones may be permitted in R-1AAA, PR-1AAA, R-1AA, R-1A, R-ZL, R-2A, R-2 or PR-2 zoning districts where such lot is contiguous to such commercial zoned area or is separated therefrom by an alley, and may be authorized by the planning board, subject to the requirements in section 12-2-64.

(Ord. No. 29-93, § 27, 11-18-93)

Sec. 12-3-5. - Parking vehicles on residential property—Prohibited activity.

It shall be unlawful for any person to park a vehicle on residential property without having proper vehicular ingress and egress curb cuts to the property in order to prevent damage to adjacent sidewalks or curbs and to prevent interference with the free flow of vehicular and pedestrian traffic on adjacent streets, sidewalks and rights-of-way. This section may be enforced through the provisions of section 1-1-8 or section 13-2-2, herein.

(Ord. No. 11-14, § 1, 3-27-14)

CHAPTER 12-4. SIGNS

Sec. 12-4-1. - Purpose.

The purpose of this chapter is to regulate the size, location, construction, and manner of display of signs so as to not confuse, mislead, or obstruct lines of vision necessary for traffic safety, diminish the aesthetic beauty of the city, or otherwise endanger the public health, safety and welfare, and to further the objectives of this title and the Comprehensive Plan.

Sec. 12-4-2. - General sign standards and criteria.

(A) *Permits.* No sign shall be erected without a permit except as provided for herein.

(B) *Sign placement and removal.*

(a) No signs other than those noncommercial signs authorized by the mayor are allowed on public rights-of-way, except as provided herein.

(b) No attached wall sign may project more than twelve (12) inches from a building wall.

(c) Signs projecting from a building or extending over public property shall maintain a clear height of nine (9) feet six (6) inches above the right-of-way and no part of such signs shall be closer than eighteen (18) inches to the vertical plane of the curb line or edge of pavement.

(d) No sign shall be located so as to restrict the view of drivers at an intersection or while entering and leaving a public right-of-way. See section 12-2-35, relating to required visibility triangles.

(e) No sign shall project into the line of vision of any traffic-control sign or signal from any point in a moving traffic line.

(f) Signs on fences and walls are subject to all requirements of freestanding signs including maximum sign area, maximum height and minimum setback, unless otherwise specified herein.

(g) Setback of signs along certain roads is required. See section 12-2-34, relating to street setback requirements.

(C) *Illumination.*

(a) Illuminated signs, other than those identifying churches and schools, are not permitted in residential districts.

(b) Lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly onto a public right-of-way or residential premises.

(D) *Installation requirements.*

(a) All permanent nonaccessory signs that exceed fifty (50) square feet must be installed by a licensed contractor or sign contractor.

(b) Accessory signs may be installed by a property owner for his or her own business on his or her own lot.

(c) Accessory signs may be installed by a tenant for his or her own business provided that:

1. The sign must not exceed thirty-two (32) square feet and/or a height of ten (10) feet; and

2. The tenant must obtain written consent of the property owner to install the sign.

(d) All freestanding signs shall be supported by posts or uprights furnished by the installer of said sign and in no case will signs be supported by utility company poles, fences or fence posts, trees or any other structure not furnished specifically for the particular sign.

(Ord. No. 21-93, § 2, 8-16-93; Ord. No. 16-10, § 213, 9-9-10)

Sec. 12-4-3. - Sign area calculations.

The sign face is sum of the areas of any regular geometric shapes that contain the entire surface area of signs upon which copy may be placed. In the case of freestanding or awning signs, the sign face consists of the entire surface area of the sign on which copy could be placed and does not include the supporting or bracing structure of the sign unless such structure or bracing is made a part of the sign message. Where a sign has two (2) display faces back-to-back, the area of the largest face shall be calculated as the sign face area. Where a sign has more than one display face, all areas that can be viewed simultaneously shall be considered in the calculation of the sign face area.

For signs other than freestanding or awning signs whose message is applied to a background that provides no border or frame, the sign face area shall be the sum of the areas of the regular geometric shape that can encompass all words, letters, figures, emblems, and other elements of the sign message.

(Ord. No. 15-92, § 1, 6-25-92)

Sec. 12-4-4. - Permanent accessory signs.

(A) *Number, accessory signs.* Each parcel of property shall be limited to two (2) accessory signs per street frontage, one (1) freestanding or one (1) projecting, and one (1) attached wall sign. In addition, some other signs may be permitted in conjunction with these permitted signs and are described in subsection (G) of this section. If there exists more than one (1) business establishment on the parcel, the provisions of subsections (D) Shopping centers/malls, (E) Office and multifamily residential zones, or (F) Residential zones, herein shall be applicable.

(B) *Major transportation thoroughfares zoned commercial or industrial.* Permanent accessory signs placed in commercially and industrially zoned districts, including R-NC, C-1, C-2, C-2A, C-3, M-1 and M-2 zones, along the following transportation thoroughfares shall be limited in the manner set forth in paragraphs (1), (2) and (3) below:

- Airport Boulevard.
- Alcaniz Street.

- Barrancas Avenue.
- Bayou Boulevard; Grande Drive to Carpenter's Creek.
- Cervantes Street, including that portion of Scenic Highway south of Mallory Street.
- Chase Street.
- Creighton Road.
- Davis Highway.
- Fairfield Drive.
- Garden Street, including that portion of Navy Boulevard west of the Frisco rail line.
- Gregory Street.
- Main Street.
- 9th Avenue.
- Pace Boulevard.
- Palafox Street.
- 12th Avenue from Bayou Boulevard to Underwood.

(1) *Advertising display area.* Commercial zoning districts (R-NC, R-NCB, C-1, C-2, C-2A, C-3).

(a) One freestanding or projecting sign not to exceed one hundred (100) square feet.

(b) One attached wall sign or combination of wall signs. Ten (10) percent of the building street front elevation, not to exceed two hundred (200) square feet. The sign may be placed on the front or one side of the building.

(2) *Advertising display area.* Industrial zoning districts (M-1 and M-2).

(a) One freestanding or projecting sign not to exceed one hundred (100) square feet.

(b) One attached wall sign or combination of wall signs not to exceed the following criteria. The signs may be placed on the front or one side of the building.

Buildings set back up to four hundred (400) feet from a paved public road right-of-way line open to the public:

* Ten (10) percent of the building street front elevation, not to exceed two hundred (200) square feet.

Buildings set back between four hundred (400) feet and seven hundred fifty (750) feet from a paved public road right-of-way line open to the public:

* Fifteen (15) percent of the building street front elevation not to exceed four hundred (400) square feet.

Buildings set back over seven hundred fifty (750) feet from a paved public road right-of-way line open to the public:

* Twenty (20) percent of the building street front elevation, not to exceed eight hundred (800) square feet.

(3) *Sign height.* The maximum height for a freestanding sign shall be twenty-five (25) feet. No attached sign shall extend above the eave line of a building to which it is attached. Roof surfaces constructed at an angle of sixty-five (65) degrees or more from horizontal shall be regarded as wall space.

(C) *Other streets in commercial, industrial and ATZ-2 zones.* Permanent accessory signs placed in all commercial, industrial zones and airport transition zone 2 (ATZ-2) shall conform to the following requirements:

(1) *Advertising display area.*

(a) One freestanding or projecting sign of thirty-five (35) square feet or one square foot of sign area per linear foot of street frontage, not to exceed fifty (50) square feet per face of sign.

(b) One attached wall sign. Ten (10) percent of the building street front elevation for attached wall signs, not to exceed one hundred (100) square feet. The sign may be placed on the front or one side of the building.

(2) *Sign height.* The maximum height for freestanding signs shall be twenty (20) feet. No attached sign shall extend above the eave line of a building to which it is attached. However, roof surfaces constructed at an angle of sixty-five (65) degrees or more from horizontal shall be regarded as wall space.

(D) *Shopping centers/malls.* Permanent accessory signs advertising a group of commercial establishments comprised of two (2) or more stores which are planned, developed, owned or managed as a unit shall conform to the following requirements:

(1) *Advertising display area.* The advertising display area noting the name of the mall or center for a freestanding sign shall be one square foot of sign area per one linear foot of street frontage, not to exceed two hundred (200) square feet per face of sign. Attached signs shall conform to the requirements set forth in paragraph (B)(1)(b) of this section.

(2) *Sign height.* The maximum height for a freestanding sign shall be thirty-five (35) feet. No attached sign shall extend above the eave line or building to which it is attached. Roof surfaces constructed at an angle of sixty-five (65) degrees or more from horizontal shall be regarded as wall space.

(E) *Office and multifamily residential zones.* Permanent accessory signs placed in R-2, R-2A and ATZ-1 zones shall conform to the following requirements:

(1) *Advertising display area.* The advertising display area for a freestanding or attached sign identifying a multifamily residential complex shall be no more than thirty-five (35) square feet. The maximum accessory advertising display area for an office, shall be thirty-five (35) square feet, and a six-square-foot sign attached to and identifying each individual office.

(2) *Sign height.* The maximum height for all signs in these districts shall be fifteen (15) feet.

(F) *Residential zones.* The following permanent accessory signs shall be permitted in residential zones, including R-1AAAAA, R-1AAAA, R-1AAA, R-1AA, R-1A, and R-ZL and ATZ-1:

(a) One attached wall sign or combination of wall signs for churches, cemeteries, schools, libraries and community centers serving as identification and/or bulletin boards, not to exceed thirty-six (36) square feet in area or one freestanding sign per street frontage not to exceed thirty-six (36) square feet in area and be no closer than ten (10) feet to any property line and not exceed six (6) feet in height.

(b) Two (2) signs per residential subdivision entrance, identifying said subdivision, of not more than twenty (20) square feet of advertising surface, and shall not exceed six (6) feet in height, identifying the residential subdivision.

(c) One non-illuminated nameplate per street frontage designating the owner or the occupant and address of the property. The nameplate shall not be larger than one hundred (100) square inches and may be attached to the dwelling or be freestanding except the top of a freestanding nameplate shall not be more than eighteen (18) inches above ground level. No permit shall be required for such signs.

(d) Bench signs shall be allowed on public transportation routes at bus stops.

(e) One non-illuminated sign stating "No Peddlers," "No Solicitors," or "No Canvassing" per dwelling. The sign shall not be larger than one hundred forty (140) square inches and may be attached to the dwelling or be freestanding except the top of a freestanding sign shall not be more than eighteen (18) inches above ground level. No permit shall be required for such signs.

(G) *Other permanent signs.* Other signs allowed, without the requirement to obtain a permit, in conjunction with signs permitted by subsections (A), (B), and (C) of this section include:

(a) Signs advertising the acceptance of credit cards not exceeding two (2) square feet and which are attached to buildings or permitted freestanding signs.

(b) On-premise menu signs at fast-food restaurant ordering stations not in excess of twenty-four (24) square feet.

(c) Directional/informational signs guiding traffic and parking on private property, bearing no advertising matter. Such signs shall not exceed two (2) square feet in size.

(d) One permanent sign located on or over a showroom window or door indicating only the proprietor and/or nature of the business is permitted, provided it does not exceed a total sign area of four (4) square feet.

(e) Official traffic signs or signals, informational signs and historical markers erected by a government agency. These signs are allowed to be placed on or above a public right-of-way.

(f) Signs advertising the price of gasoline may be installed according to the following conditions:

1. One sign, not to exceed twelve (12) square feet, may be attached to permitted freestanding sign(s) on the premises.

2. Signs may be placed on each gasoline pump to provide required information to the public regarding price per gallon or liter, type of fuel and octane rating. Such signs shall not exceed an aggregate area of three (3) square feet.

(Ord. No. 15-92, § 2, 6-25-92; Ord. No. 25-92, § 4, 7-23-92, Ord. No. 21-93, § 3, 8-16-93; Ord. No. 44-99, § 4, 11-18-99)

Sec. 12-4-5. - Permanent nonaccessory signs.

Permanent nonaccessory signs include outdoor advertising signs (also known as billboards and off-premises signs), wayfaring signs, hospital directional signs, and public transit bus shelter and bench signs.

(A) *Outdoor advertising signs.*

(1) *Permitted sign locations.*

(a) Outdoor advertising signs are generally permitted in the commercial and industrial zoning districts (C-1, C-2, C-3, M-1, and M-2) with the exception of the Community Redevelopment Area, the Airport Development Corridor Overlay District and the Bayou Texar Shoreline Protection District.

(b) Outdoor advertising signs are permitted in the residential-neighborhood commercial district (R-NC) if located along an interstate highway or an arterial roadway. Signs shall be located within one hundred twenty-five (125) feet of the rights-of-way of interstate highways and within fifty (50) feet of the rights-of-way of arterial roadways, as measured from the edge of the right-of-way to the base of the sign.

Outdoor advertising signs are not permitted in the residential-neighborhood commercial district (R-NC) within the Community Redevelopment Area.

(2) *Prohibited sign locations.*

(a) Outdoor advertising signs are prohibited in the following zoning districts:

Conservation (CO)

Low-density Residential (R-1AAAAA, R-1AAAA, and R-1AAA)

Medium-density Residential (R-1AA and R-1A)

High-density Residential (R-ZL, R-2A, and R-2B)

Residential/Office (R-2 and R-NCB)

Downtown Retail Commercial District (C-2A)

Pensacola Historic District (HR-1, HR-2, HC-1, and HC-2)

North Hill Preservation District (PR-1AAA, PR-2, and PC-1)

Old East Hill Preservation District (OEHR-2, OEHC-1, OEHC-2, and OEHC-3)

Airport Land Use District (ARZ, ATZ-1 and ATZ-2)

Gateway Redevelopment (GRD and GRD-1)

Waterfront Redevelopment (WRD, WRD-1)

South Palafox Business (SPBD)

(b) Outdoor advertising signs are prohibited within a five hundred-foot radius of the nearest edge of the rights-of-way of Scenic Highway, any roadway classified as scenic in the City of Pensacola Comprehensive Plan or any roadway classified as a scenic highway pursuant to F.S. § 335.093.

(3) *Sign design.*

(a) Outdoor advertising signs shall have a maximum of two (2) sign faces per sign structure. When two (2) sign faces are used, the sign faces shall be mounted in a V-type or back-to-back configuration. Each sign face shall not exceed the maximum sign area permitted at the specific location.

(b) Outdoor advertising signs with sign faces in a V-type configuration shall not have an interior angle exceeding sixty (60) degrees where the sign faces converge.

(c) Tri-faced outdoor advertising signs, as defined in chapter 12-14, shall be allowed.

(d) Outdoor advertising signs with side-to-side and stacked sign faces are prohibited.

(4) *Sign area.*

(a) Interstate highways and four-lane roadways. Along interstate highways and four-lane roadways, the sign area of each sign face on an outdoor advertising sign shall not exceed three hundred seventy-eight (378) square feet.

(b) Two-lane roadways. Along two-lane roadways, the sign area of each sign face on an outdoor advertising sign shall not exceed one hundred (100) square feet.

(5) *Sign height.*

(a) Interstate highways. Along interstate highways, the height of an outdoor advertising sign shall not exceed a height of fifty (50) feet measured from the base of the sign at normal grade to the top of the sign.

(b) Four-lane and two-lane roadways. Along two-lane roadways and four-lane roadways, the height of an outdoor advertising sign shall not exceed a height of thirty-five (35) feet measured from the base of the sign at normal grade to the top of the sign.

(6) *Sign spacing.*

(a) Interstate highways. Along interstate highways, outdoor advertising signs shall not be located within one thousand five hundred (1,500) feet of any other outdoor advertising sign on the same side of the right-of-way.

(b) Four-lane and two-lane roadways. Along two-lane roadways and four-lane roadways, outdoor advertising signs shall not be located within one thousand (1,000) feet of any other outdoor advertising sign on the same side of the right-of-way or within a three hundred-foot radius of any other outdoor advertising sign as measured in any direction.

(7) *Nonconforming signs.* Outdoor advertising signs that do not conform to the location, design, area, height, and spacing requirements above shall be deemed non-conforming signs and subject to section 12-4-11 of these regulations.

(8) *Cap and replace provisions.*

(a) Maximum number of outdoor advertising signs. The maximum number of outdoor advertising signs allowed within the City of Pensacola shall be limited to the number of outdoor advertising signs existing, or having received a building permit, as of September 30, 2009.

(b) New outdoor advertising signs. After September 30, 2009, a building permit for the construction of an outdoor advertising sign shall only be issued following the removal of an existing outdoor advertising sign located within the City of Pensacola.

(c) Proof of sign removal. A demolition permit from the City of Pensacola shall be required prior to the removal of an outdoor advertising sign. The removal of a sign will be verified through an inspection by the building official or his or her designee. The sign removal shall be documented under the demolition permit number in the computerized permitting system.

(d) Proof of replacement. When applying for a building permit to erect a new outdoor advertising sign, an applicant shall be required to provide the demolition permit number of the previous outdoor advertising sign being used to meet these replacement provisions. Through documentation in the computerized permitting system, the permitting clerk shall cross-reference the demolition permit for the previous sign with the building permit for the new sign.

(e) Removal of nonconforming outdoor advertising signs. Applicants are requested to remove a nonconforming outdoor advertising sign in lieu of a conforming outdoor advertising sign to meet these replacement provisions.

(B) *Wayfaring signs.* Wayfaring signs shall be allowed within multi-family residential and multi-parcel commercial developments, of three (3) acres or more, having an internal driveway network. The wayfaring signs shall be located at driveway intersections to direct motorist to destinations within the development that are not readily visible from adjacent public rights-of-way. When using two (2) or more wayfaring signs in a development, a master sign plan is required.

Wayfaring signs shall also be allowed on public rights-of-way within the dense business district to assist motorist in finding destinations and shall be planned and sponsored by the Community Redevelopment Agency.

Wayfaring signs shall also comply with the following requirements:

(1) *Sign design.* The number of sign faces at any one (1) intersection shall be the minimum necessary to provide directional information. Typically, this will be one (1) sign face per direction from which driveways or streets approach the intersection. Sign faces in opposite directions shall be mounted in a back-to-back configuration. One (1) or more sign structures may be used at each intersection as long as the total number of sign faces meets the criteria above. Each individual sign face shall not exceed the maximum sign area permitted at the specific location.

(2) *Sign area.* The sign area of any sign face shall not exceed twelve (12) square feet.

(3) *Sign height.* Wayfaring signs shall have a sign height not to exceed twelve (12) feet.

(4) *Sign information.* Wayfaring signs shall contain the names of the applicable destinations and the applicable directional arrow. A small recognizable business logo may be included, but advertising is not permitted.

(5) *Lighting.* The sign may be internally or externally-lit and shall not shine directly onto a public right-of-way or adjacent residential premises.

(6) *Line of sight.* All signs shall comply with section 12-2-35 relating to the required visibility triangles.

(C) *Hospital directional signs.* Directional signs for hospitals having a state-certified trauma center and/or emergency center are permitted in the R-2 through M-2 zoning districts. No more than two (2) directional signs shall be permitted per hospital. Hospital directional signs shall meet the following requirements:

(1) *Sign design.* Hospital directional signs shall be free-standing signs and have a maximum of two (2) sign faces per sign structure. When two (2) sign faces are used, the sign faces shall be mounted in a V-type or back-to-back configuration.

(2) *Sign area.* Hospital directional signs shall not to exceed fifty (50) square feet

(3) *Sign height.* The maximum height shall not exceed twelve (12) feet.

(4) *Sign information.* The sign shall contain the name of the hospital, directions to the hospital and one (1) of the following descriptors:

Emergency

Emergency care

Emergency room

Trauma care

Trauma center

(5) *Lighting.* The sign may be internally or externally lit and shall not shine directly onto a public right-of-way or adjacent residential premises.

(6) *Line of sight.* All signs shall comply with section 12-2-35 relating to the required visibility triangles.

(D) *Public transit bus shelter and bench signs.* Public transit bus shelters and benches shall be located along active bus routes at bus stops designated by Escambia County Area Transit (ECAT). Designated bus stops shall be identified by an ECAT bus stop sign.

No public transit bus shelter or bench with an advertising display may be placed within three hundred (300) feet of another bus shelter or bench with an advertising display on the same side of the street.

Public transit bus shelters and benches located along bus routes that are no longer active shall be removed by their owner within thirty (30) days of the route becoming inactive. Such signs would be defined as prohibited signs instead of nonconforming signs under these provisions.

The placement of bus shelters and benches and the size and number of advertising displays shall also comply with the requirements set forth in chapter 14-20, Florida Administrative Code.

The design of public transit bus shelters and benches to be located in historic, preservation or aesthetic districts shall be subject to review by the city board responsible for that district and shall not have an advertising display area.

(Ord. No. 35-92, § 3, 10-22-92; Ord. No. 29-93, § 28, 11-18-93; Ord. No. 28-97, § 1, 8-14-97; Ord. No. 8-99, § 8, 2-11-99; Ord. No. 23-00, § 1, 4-27-00; Ord. No. 6-02, § 2, 1-24-02; Ord. No. 30-09, § 1, 9-10-09)

Sec. 12-4-6. - Temporary signs.

The following temporary signs are allowed without a permit, unless otherwise required below:

(A) *Signs advertising the sale, lease or rental of real estate.* Non-illuminated signs advertising the sale, lease or rental of the real estate (including buildings) on which the sign is located provided such signs meet the following conditions:

(a) Such signs shall not exceed six (6) square feet in surface area within R-1AAAAA, R-1AAAA, R-1AAA, R-1AA, R-1A, R-ZL zones.

(b) Real estate in all other zones except the special districts identified in section 12-4-6 may be advertised by a sign not to exceed thirty-two (32) square feet.

(c) Such signs shall be removed immediately upon closing.

(d) Such signs shall be no closer than seven (7) feet to the curb or edge of the pavement of the road.

(B) *Construction site identification signs.* Non-illuminated construction site identification sign identifying the project, the owner or developer, architect, engineer, contractor, subcontractors, and funding sources, and may contain related information provided such signs meet the following conditions:

(a) One sign per street frontage of the site may be erected and the sign(s) shall not exceed fifty (50) square feet in area.

(b) All such signs shall be removed within five (5) days after the completion of construction.

(c) Such signs shall be no closer than seven (7) feet to the curb or edge of the pavement of the road.

(C) *Holiday displays.* Displays, including lighting, erected in connection with the observance of official holidays. Such displays shall be removed within five (5) days following the holidays.

(D) *Political signs* that meet the following requirements:

(a) The maximum size of any political sign erected in the city shall be sixteen (16) square feet.

(b) All political signs shall be supported by posts or uprights furnished by the installer of said sign and in no case will signs be supported by power poles, telephone poles, fence or fence posts, trees or any other structure not furnished specifically for the particular sign.

(c) All political signs shall be located only on private property except as provided herein. This applies to all public property located within the city limits.

(d) Political signs are allowed on public right-of-way adjacent to occupied homes or businesses with the consent of the occupant, but no closer than three (3) feet to the curb or edge of the road.

Provided, however, a political sign shall not be allowed on any public right-of-way unless the person whose candidacy is advertised thereby shall first agree in writing to indemnify, defend and save harmless the city from and against any and all claims for property damage or bodily injury, including death, arising out of or in connection with the presence of such political sign advertising his or her candidacy in any public right-of-way.

(e) Political signs shall not be installed in any required visibility triangle, as described in section 12-2-35, where the sign will obstruct the view of the motorist at an intersection.

(f) No political sign shall be placed on a vacant lot or on a lot with a uninhabited primary structure unless a letter from the property owner is on file with the inspection division indicating that permission has been granted.

(g) All political signs installed in the city shall be removed within ninety (90) days of installation or within five (5) working days of the time a candidate is elected or eliminated from the race, whichever occurs first.

(h) Any political sign not in compliance with this subsection shall be removed by the candidate within twenty-four (24) hours of notification or the sign shall be removed by the city at the direction of the mayor. When signs are removed by the city, the candidate's name and number of signs collected will be recorded against the specific complaint. Candidates shall pay a service charge of two dollars ($2.00) for each sign removed by the city before the election and fifteen dollars ($15.00) for each sign removed after the election for which the candidacy is advertised.

(i) For the purposes of this subsection, a political sign is a sign that promotes or endorses the nomination or election of a candidate for political office.

(E) *Portable signs.* One portable sign, limited to two (2) sign faces back-to-back and not exceeding thirty-two (32) square feet each, shall be permitted at any location, except in residential districts and where prohibited otherwise in this title, provided that the display of such sign not exceed a period of seven (7) calendar days within any six-month period. The sign owner is required to obtain a permit for portable signs.

(F) *Garage sale signs* which meet the following requirements:

(a) No more than two (2) signs advertising such garage sale shall be permitted.

(b) Such signs shall be located only on the premises of the applicant upon which the sale is conducted or on the street right-of-way immediately adjacent to the premises.

(c) Such signs shall be no more than two (2) feet by two (2) feet in size.

(G) *Temporary banners* indicating that a special event, i.e., public or community event, such as a fair, carnival, festival or similar activity is to take place with the following conditions:

(a) Such banner shall be erected no sooner than two (2) weeks before the event.

(b) Such banner must be removed no later than three (3) calendar days after the event.

(c) Banners extending over street rights-of-way require approval of the mayor.

(H) *Architectural signs.* Permanent banners, murals and other decorative features of buildings which are determined to be architectural in nature and approved by the appropriate review board shall be allowed on buildings in the gateway review district, the governmental center district, the Palafox historic business district, the waterfront redevelopment district, the Old East Hill preservation district, the South Palafox business district, the Pensacola historic district, and the North Hill preservation district. Such architectural features which also serve the purpose of informing the public about the building or events therein may be changed periodically provided they remain in compliance with the design approved by the appropriate review board.

(I) *Other temporary signs.* Temporary signs not covered in the foregoing categories, so long as such signs are allowed within the district, meet the following restrictions, and a permit has been granted by the mayor or his or her designee:

(a) Not more than one (1) such sign may be located on any lot.

(b) No such sign may exceed thirty-two (32) square feet in surface area, unless prior approval is granted by the mayor or his or her designee.

(c) Such sign may not be displayed for longer than fourteen (14) consecutive days, prior to the activity or event.

(d) All sign locations must have the prior approval of the mayor or his or her designee.

(e) If a sign is located within the public right-of-way, a certificate of insurance acceptable to the city shall be provided.

(Ord. No. 6-93, § 23, 3-25-93; Ord. No. 45-96, § 8, 9-12-96; Ord. No. 16-10, §§ 214, 215, 9-9-10)

Sec. 12-4-7. - Prohibited signs.

It shall be unlawful to erect or maintain the following signs within city limits:

(a) Any sign containing or illuminated by flashing or intermittent lights of changing degrees of intensity, except for digital signs.

(b) Those with visible motion, except for tri-faced nonaccessory signs.

(c) Those that incorporate projected images or emit sound.

(d) Strings of light bulbs other than holiday decorations.

(e) The use of gas or hot-air balloons, except on a temporary basis as provided for in section 12-4-6.

(f) The use of banners, pennants and streamers except on a temporary basis as provided for in section 12-4-6.

(g) Rooftop signs.

(h) Signs that are posted, painted, or otherwise affixed to any rock, fence, tree or utility pole.

(i) Signs that are not securely fixed on a substantial structure.

(j) Signs that are not in good repair or that may create a hazardous condition.

(k) Signs that are illegal under state laws and regulations.

(l) Nonaccessory signs attached to any craft or structure in or on a water body designed or used for the primary purpose of displaying advertisements. Provided, however, that this section shall not apply to any craft or structure that displays an advertisement or business notice of its owner, so long as such craft or structure is engaged in the usual business or regular work of the owner, and not used merely, mainly or primarily to display advertisement.

(Ord. No. 33-93, § 2, 12-16-93; Ord. No. 10-96, § 2, 2-8-96; Ord. No. 45-96, § 9, 9-12-96; Ord. No. 28-97, § 2, 8-14-97)

Sec. 12-4-8. - Regulation within special districts.

In addition to the general provisions of this chapter, the regulation of signs within any of the following districts shall also be governed by the applicable provisions of this title pertaining to such district, noted as follows:

- Pensacola Historic District, subsection 12-2-10(A).
- North Hill Preservation District, subsection 12-2-10(B).

- Gateway Redevelopment District, subsection 12-2-12(A).
- Waterfront Redevelopment District, subsection 12-2-12(B).
- South Palafox Business District, subsection 12-2-13.
- Palafox Historic Business District, subsection 12-2-21.
- Governmental Center District, subsection 12-2-22.
- Airport Development Corridor Overlay District, subsection 12-2-23.

Sec. 12-4-9. - Permits.

It shall be unlawful to display, erect, relocate or alter any sign without first filing with the building official an application in writing and obtaining a sign permit, unless otherwise provided for herein. When a sign permit has been issued by the building official, it shall be unlawful to change, modify, alter or deviate from the terms of said permit without prior approval of the building official. A written record of such approval shall be entered upon the original permit application and maintained in the files of the building official.

(A) *Application for permit.* The application for a sign permit shall be made by the owner or tenant of the property on which the sign is to be located, or his or her authorized agent, or an appropriately licensed contractor. The building official shall, within five (5) working days of the date of the application, either approve or deny the application or refer the application back to the applicant in any instance where insufficient information has been furnished.

(B) *Plans, specifications and other data.* The application for sign permit shall be accompanied by the following plans and other information:

- The name, address, and telephone number of the owner or person entitled to possession of the sign and of the contractor or erector.
- The location by street address of the proposed sign structure.
- A legal description of the property on which the sign is to be located and the current property owner.
- The structural design of the proposed sign, including the height, size, and materials and a site plan indicating location of the sign on the site.
- The building inspection division may require that plans submitted be prepared by a registered professional engineer of Florida.

(C) *Revocation of sign permit.* The building official may revoke any permit issued under this chapter in any instance in which it shall appear that the application for the permit contains knowingly false or misleading information. If the work authorized under a sign permit has not been completed within six (6) months after date of issuance, said permit shall become null and void.

Sec. 12-4-10. - Maintenance.

All signs shall be maintained in a safe, presentable, and good structural condition at all times, including the replacement of defective parts, painting, repainting, cleaning, and other acts required for the maintenance of said sign. The owner of any property on which a sign is located and those responsible for maintenance of the sign shall be equally responsible for the conditions of the area in the vicinity of the sign and shall be required to keep this area clean, sanitary and free from noxious or offensive substances, rubbish, and flammable waste materials.

Sec. 12-4-11. - Administration and enforcement.

This chapter shall be administered and enforced by the building official.

(A) *Nonconforming signs.* Within requirements established by this section, there may exist signs which would be prohibited, regulated or restricted under the terms of this title. It is the intent of this title to allow these nonconformities to exist, but not to encourage their continuation. Such signs are declared by this title to be incompatible with permitted sign regulations.

(B) *Modification/replacement of nonconforming signs.* The following limitations apply to nonconforming signs:

(1) An existing nonconforming sign shall not be changed to another nonconforming sign by modifying the words or symbols used, the message displayed or any other change to the advertising display area of the sign. Nonaccessory signs are exempt from this provision;

(2) An existing nonconforming sign shall not be structurally altered so as to prolong the life of the sign or so as to change the shape, size, type or design of the sign;

(3) An existing nonconforming sign shall not be repaired after being damaged if the repair of the sign would cost more than fifty (50) percent of the cost of a new sign.

(C) *Abandoned signs.* The message on the advertising surface of a permanent or temporary sign must be removed once the activity it is advertising ceases to exist. Permanent signs applicable to a business temporarily suspended because of a change in ownership or management shall not be deemed abandoned unless the property remains vacant for a period of six (6) months. Signs other than nonaccessory signs on any parcel of property unoccupied for a period of six (6) months shall be deemed to have been abandoned. If the owner fails, refuses or neglects to comply with the provisions of this subsection the building official shall initiate removal procedures as follows:

(a) The building official shall post on each sign a legal notice which shall notify the public that the sign is condemned and scheduled to be demolished.

(b) Furthermore, with the posting of the sign, said building official shall cause a legal notice to be published once a week for two (2) consecutive weeks in a newspaper published and circulated in the city, which also meets the requirements of the applicable Florida law. Said legal notice shall set forth a description of the property where the sign is located and shall notify the public that the sign is condemned and scheduled to be demolished

(c) Fourteen (14) days after the initial date of posting the sign, the building official shall prepare bids and specifications for the competitive bidding for demolishing the sign by private contract in the following manner:

1. Advertisement shall comply with section 2-4-66 of this code.

2. The city shall award the contract to the successful bidder.

3. The successful contractor shall, upon notice to proceed as initiated by the authorized official, commence the specified demolition and site clean-up.

4. Upon satisfactory completion of the work, the contractor shall be paid from a revolving sign demolition fund.

(d) The building official shall certify to the city treasurer that the specific work has been completed. The city treasurer shall then prepare and process a complete assessment of all costs including, but not limited to, all administrative costs, attorney fees or other legitimate expenses that may have occurred before, during, or after the proceedings necessary to eliminate the illegal condition of signs described herein.

(e) Said assessment shall be declared a lien upon such land until paid and to have equal dignity with other liens for ad valorem taxes. The mayor shall file on public record such claims of liens against the property cleared of such condemned sign setting forth the amount of such lien, a description of the property involved, and that such lien is claimed pursuant to the provisions of this section. Such lien shall be signed and sworn to by the mayor. Monies received from enforcement of lien shall be collected and deposited in the revolving fund provided for herein. The lien shall be enforced as otherwise provided for by law.

(Ord. No. 13-92, § 4, 5-28-92; Ord. No. 28-97, § 3, 8-14-97; Ord. No. 16-10, § 216, 9-9-10)

Sec. 12-4-12. - Insurance.

The owner of any sign erected within or on a public right-of-way in the city shall indemnify, defend and hold harmless the city from and against any and all claims, demands, actions, judgments, costs, attorney's fees, or expenses for bodily injury, including death, or property damage arising out of or in connection with the construction or existence of said sign, except to the extent that such injury or damage may be directly caused by the negligence or misconduct of other persons. Prior to the issuance of any sign permit and before any sign is erected within or on such right-of-way, the owner of the sign shall execute an agreement, in a form satisfactory to the city attorney, to indemnify the city in the aforesaid manner and shall file with the city a certificate issued by an insurance company authorized to do business in the State of Florida evidencing the existence of premises liability insurance, in an amount satisfactory to the building inspections superintendent and the risk manager, said insurance to remain in force for so long as such signs remain in existence, and the certificate of insurance shall indicate that the city is named as an additional insured and that the insurance company shall not cancel or change the coverage under the insurance policy without giving thirty (30) days prior written notice to the department of risk management.

(Ord. No. 45-96, § 10, 9-12-96)

CHAPTER 12-6. TREE/LANDSCAPE REGULATIONS[4]

Footnotes:

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Editor's note— Ord. No. 31-09, § 1, adopted Sept. 10, 2009, amended Ch. 12-6, in its entirety to read as herein set out. Prior to inclusion of said ordinance, 12-6, pertained to similar subject matter. See also the Code Comparative Table.

Sec. 12-6-1. - Purpose.

The purpose of this chapter is to establish protective regulations for trees and landscaped areas within the city. Such areas preserve the ecological balance of the environment, control erosion, sedimentation and stormwater runoff, provide shade and reduce heat and glare, abate noise pollution, and buffer incompatible land uses. The intent of this chapter is to encourage the preservation of existing trees. It is critical that a balance be maintained between developed areas and natural/landscaped areas with appropriate existing and/or newly planted trees and other vegetation. The intent is also to provide for the future of our citizens through maintaining vital vegetative species that will reproduce for future generations.

(Ord. No. 50-00, § 5, 10-26-00; Ord. No. 31-09, § 1, 9-10-09)

Sec. 12-6-2. - Applicability.

(A) *Zoning districts.* The provisions of this chapter shall be applicable within the following zoning districts:

(1) *Residential districts.*

(a) R-1AAAAA through R-1A districts

(b) R-ZL (zero lot line dwelling district)

(c) R-2A and R-2B (multiple-family)

(2) *Mixed residential districts.*

(a) R-2 (residential/office)

(b) R-NC and R-NCB (residential/neighborhood commercial)

(3) *Commercial districts.*

(a) C-1 (local commercial)

(b) C-2 (general commercial)

(d) C-3 (general commercial and limited industry)

(4) *Industrial districts.*

(a) M-1 (wholesale/light industry)

(b) M-2 (light industry)

(5) *Other districts.* The provisions of this chapter shall also be used as guidelines in reviewing site plans in site specific zoning and development (SSD) amendment applications, airport transition zone (ATZ-1 and ATZ-2) districts and in applications for special planned developments.

(B) *Public institutional uses and churches.* The provisions of this chapter shall be applicable to public institutional uses and churches. Public institutional uses and churches located in R-1AAAAA through R-1A zones shall not be exempt from the provisions of this chapter. In addition, these uses shall conform with the requirements of subsection 12-6-3(A) and all other sections of this title applicable to the R-ZL, R-2A, R-2B and R-2 zones.

(C) *Exemptions.* All single-family and duplex uses are exempt from the provisions of this chapter, except as provided for in section 12-2-32 (buffer yards), subsection 12-6-2(D) (heritage trees) and subsection 12-6-6(D) (new subdivisions). The C-2A downtown retail commercial district is exempt from the provisions of this chapter, except as provided for in subsections 12-6-6(A), (E). (F), and (G). All healthcare related uses of property owned or controlled by an entity that is licensed as an acute care hospital under F.S. Ch. 395, owned or controlled by a parent company of an entity that is licensed as an acute care hospital under F.S. Ch. 395 are exempt from the provisions of this chapter, except as provided for in section 12-6-3 and subsections 12-6-6(A), (C), (E), (F), and (G). In conjunction with the development of any such healthcare related use, a payment of five thousand dollars ($5,000.00) per acre of new developed impervious surface area shall be made to the tree planting trust fund. The designated clear zone areas around the Pensacola International Airport and any other area identified by the airport manager and approved by the city council as critical to aircraft operations shall be exempt from this chapter.

(D) *Heritage trees.* A protected tree identified by species in Appendix A of this chapter which is thirty-four (34) inches or greater in diameter as measured at Diameter Breast Height (DBH). Heritage trees are protected in all the zoning districts listed in section 12-6-2, and for all land uses. Removal, cutting or pruning of heritage trees on proposed development sites may be permitted upon approval of a landscape and tree protection plan (section 12-6-4). Removal, cutting or pruning of heritage trees on developed property may be authorized upon issuance of a permit per section 12-6-7. A permit will be required for removal of a heritage tree in all zoning districts listed in section 12-6-2, and for all land uses, including single-family or duplex as set out in section 12-6-7.

(E) *DBH.* All tree measurements shall be taken at Diameter Breast Height (DBH), which is the diameter of the tree at four and one-half (4½) feet (54 inches) above ground. If the tree has a bump or branch at four and one-half (4½) feet above ground then DBH shall be measured immediately below the bump or branch. If the tree is growing vertically on a slope, DBH shall be measured from the midpoint of the trunk along the slope. If the tree is leaning, DBH shall be measured from the midpoint of the lean. If the tree forks below or near DBH the tree shall be measured at the narrowest part of the main stem below the fork. If the tree splits into more than one (1) trunk close to ground level,

DBH shall be determined by measuring each of the trunks separately and then taking the square root of the sum of all squared stem DBHs.

(F) Notwithstanding any other provision of this chapter, the mitigation cost to a residential property owner (single-family and duplex uses) shall not exceed one thousand dollars ($1,000.00).

(Ord. No. 50-00, § 5, 10-26-00; Ord. No. 31-09, § 1, 9-10-09; Ord. No. 31-09, § 1, 9-10-09)

Sec. 12-6-3. - Landscaping requirements.

The following landscaping requirements apply to all types of land uses and zoning districts listed in section 12-6-2 of this chapter:

(A) *Landscape area requirements.* The minimum percentage of the total developable site, which shall be devoted to landscaping, unless otherwise specified in this chapter, shall be as follows:

ZONING DISTRICT		PERCENT
R-ZL, R-2A, R-2B, R-2	.....	25
R-NC, C-1, C-2	.....	25
C-3, M-1, M-2	.....	20
SSD, ATZ-1, ATZ-2	.....	25

(B) *Off-street parking and vehicle use areas.* Off-street parking regulations apply to all parking facilities of twenty (20) spaces or more. Off-street parking facilities and other vehicular use areas shall meet the following requirements:

(1) *Perimeter requirements.* A ten-foot wide strip of privately owned land, located along the front and/or side property line(s) adjacent to a street right-of-way shall be landscaped. In no case shall this strip be less than ten (10) feet wide. Width of sidewalks shall not be included within the ten-foot wide perimeter landscape area. This perimeter landscape requirement shall be credited toward the percentage required for the total developable site in subsection 12-6-3(A), above. Material requirements in perimeter area are as follows:

(a) One (1) tree for each thirty-five (35) feet of linear foot frontage along the right-of-way shall be preserved or planted. Trees planted to meet this requirement shall measure a minimum of three (3) inches DBH. The trees shall be container grown if planted during the months of March through October. During the remaining months, balled and burlapped (B&B) material may be used. Appropriate documentation shall be provided to the parks and recreation director. An automatic irrigation system shall be required with a separate zone with bubblers to each tree planted on site. When multiple trunk trees are specified, such as crape myrtle, each stem must be a minimum of one and one-half (1½) inches DBH, with a minimum of three (3) stems. These type trees shall not be cut back prior to planting. Seventy (70) percent of the trees for any site shall be shade trees, unless a lesser percentage is approved by the parks and recreation director. The remaining area within the perimeter strip shall be landscaped with other landscape materials.

(b) Trees and other landscaping required in the perimeter strip shall be maintained to assure unobstructed visibility between three (3) [feet] and nine (9) feet above the average grade of the adjacent street and the driveway intersections through the perimeter strip.

(c) If trees are required where overhead utilities exist, and such trees may create a maintenance potential, only species whose expected height at maturity will not create interference may be planted.

(2) *Interior planting areas.* Interior planting areas within parking lots shall be determined by subtracting the area set aside in the ten-foot perimeter strip from the total minimum area required to be landscaped in subsection 12-6-3(A), above. This remaining percentage shall be allocated throughout the parking lot or in areas, which are adjacent to the parking lot other than in the perimeter strip. Interior planting areas shall be located to most effectively accommodate stormwater runoff and provide shade in large expanses of paving and contribute to orderly circulation of vehicular and pedestrian traffic. Minimum sizes of interior planting areas are as follows:

(a) A minimum of one hundred (100) square feet of planting area shall be required for each new species type A tree identified in Appendix "A" and small species identified in Appendix "B".

(b) A minimum of two hundred (200) square feet of planting area shall be required for each new species type B and type C tree identified in Appendix "A" and medium and large species identified in Appendix "B".

(c) A twelve-foot by thirty-six-foot planting island shall be required on each end of every double row of parking and a twelve-foot by eighteen-foot island on each end of a single row of parking shall be required. Also, a minimum of one (1) additional island at the midpoint of the parking bays for rows having over ten (10) parking spaces shall be required. The additional island shall be centered in each row. Any adjustment to this requirement must have written approval from the building official.

(d) A minimum planting area of seventy-five (75) percent of the dripline area of the tree shall be required for all existing trees. If conditions warrant that an area greater than seventy-five (75) percent is needed to preserve the tree, the city shall have the right to require up to one hundred (100) percent of the dripline. Approved pavers may be used in certain situations, if approved by the building official. Pervious surfaces are strongly encouraged.

(3) *Vehicle overhang.* Vehicles shall not overhang any interior planting area or perimeter strip. Tire stops are required to be used in these situations.

(4) *Curbs; protection of vegetation.* Where landscaping is installed in interior or perimeter strip planting areas, a continuous curb or other acceptable means of protection shall be provided to prevent injury to the vegetation. Such curb shall be designed to allow percolation of the water to the root system of the landscape material. Where existing trees are preserved, tree wells, tree islands or a continuous curb shall be utilized to protect the trunk and root system from alterations to surrounding grade elevations and damage from automobiles. A drainage system, sufficient enough to allow percolation into permeable soil, shall be provided in the area defined by the dripline of the tree(s).

(C) *Buffer yards between zoning districts and uses.* Regulations applicable to buffer yards are specified in section 12-2-32 of this Code.

(Ord. No. 50-00, § 5, 10-26-00; Ord. No. 31-09, § 1, 9-10-09)

Sec. 12-6-4. - Landscape and tree protection plan.

A landscape and tree protection plan shall be required as a condition of obtaining any building permit or site work permit for townhouse residential, multi-family residential, commercial and industrial development as specified in section 12-6-3. The plan shall be submitted to the planning services departmentinspection services department. A fee shall be charged for services rendered in the review of the required plan (see chapter 7-14 of this Code).

No building permit or site work permit shall be issued until a landscape and tree protection plan has been submitted and approved. Clearing and grubbing is only permitted after a site has received development plan approval and appropriate permits have been issued. The building official may authorize minimal clearing to facilitate surveying and similar site preparation work prior to the issuance of permits. No certificate of occupancy shall be issued until the building official has determined after final inspection that required site improvements have been installed according to the approved landscape and tree protection plan. In lieu of the immediate installation of the landscaping material and trees, the city may require a performance bond or other security in an amount equal to the cost of the required improvements in lieu of withholding a certificate of occupancy, and may further require that improvements be satisfactorily installed within a specified length of time.

(A) *Contents of landscape and tree protection plan.* The landscape and tree protection plan shall be drawn to scale by a landscape architect, architect or civil engineer licensed by the State of Florida, and shall include the following information unless alternative procedures are approved per sections 12-6-8 or 12-6-9:

- Location, size and species of all trees and shrubs to be planted.

- Location of proposed structures, driveways, parking areas, required perimeter and interior landscaped areas, and other improvements to be constructed or installed.

- Location of irrigation system to be provided. All planted areas shall have an underground irrigation system designed to provide one hundred-percent coverage.

- Landscape and tree protection techniques proposed to prevent damage to vegetation, during construction and after construction has been completed.

- Location of all protected trees noting species and DBH.

- Identification of protected trees to be preserved, protected trees to be removed, including dead trees, and trees to be replanted on site.

- Proposed grade changes that might adversely affect or endanger protected trees with specifications on how to maintain trees.

- Certification that the landscape architect, architect or civil engineer submitting the landscape and tree protection plan has read and is familiar with Ch. 12-6 of the Code of the City of Pensacola, Florida, pertaining to Tree and Landscape Regulation.

(B) *Installation period.* All landscape materials and trees depicted on the approved landscape plan shall be installed within one (1) year of the date of issuance of the building permit for the site.

(C) *Quality.* All plant materials used shall conform to the standards for Florida No. 1 or better as given in "Grades and Standards for Nursery Plants", current edition, State of Florida, Department of Agriculture and Consumer Services, Division of Plant Industry, Tallahassee, Florida, a copy of which shall be maintained for public inspection in the city.

(D) *Notice.* If removal is sought for two (2) or more heritage trees or for more than ten (10) protected trees (including heritage trees sought to be removed) and/or if removal of more than fifty (50) of existing protected trees is sought within any property in any zoning district identified in section 12-6-2, a sign shall be posted no further back than four (4) feet from the property line nearest each respective roadway adjacent to the property. One (1) sign shall be posted for every one hundred (100) feet of roadway frontage. Each sign shall contain two (2) horizontal lines of legible and easily discernable type. The top line shall state: "Tree Removal Permit Applied For." The bottom line shall state: "For Further Information Contact the City of Pensacola." The top line shall be in legible type no smaller than six (6) inches in height. The bottom line shall be in legible type no smaller than three (3) inches in height. There shall be a margin of at least three (3) inches between all lettering and the edge of the sign. The signs shall be posted at by the applicant at their expense, and shall remain continuously posted until the requisite building, site work, or tree removal permit has issued.

(Ord. No. 31-09, § 1, 9-10-09)

Sec. 12-6-5. - Maintenance.

The legal owner of record as appears on the current tax assessment roll or the designated lessee or agent shall be responsible for the maintenance of all landscape areas which shall be maintained so as to present a healthy, neat and orderly appearance at all times and shall be kept free from refuse and debris. Within three (3) months of a determination by the building official or other city-designated official, that a protected tree required to be retained on a development site (as part of an approved site development plan) or required landscaping is dead or severely damaged or diseased, the protected tree or landscaping shall be replaced by the owner in accordance with the standards specified in this chapter (chapter 12-6). The building official may approve additional time appropriate to the growing season of the species in question, not to exceed one (1) year.

All portions of any irrigation system shall be continuously maintained in a condition such that the intent of an irrigation design is fulfilled. Uncontrolled emission of water from any pipe valve, head, emitter, or other irrigation device shall be considered evidence of non-maintenance.

(Ord. No. 50-00, § 5, 10-26-00; Ord. No. 31-09, § 1, 9-10-09)

Sec. 12-6-6. - Protected trees.

Protected trees are those trees identified by species and size in Appendix A of this chapter if living and viable. Where protected trees are identified on a site proposed for lot clearing within the applicable zoning districts identified in section 12-6-2, the number of protected trees to be preserved on the site shall be determined based upon the final approved location of proposed structures, driveways, parking areas, and other improvements to be constructed or installed.

(A) *Preservation Incentives.*

(1) *Parking space reduction.* A reduction of required parking spaces may be allowed when the reduction would result in the preservation of a protected tree with a trunk of twelve (12) inches DBH or greater. Such reduction shall be required when the reduction would preserve a heritage tree. The following reduction schedule shall apply:

REDUCTION SCHEDULE

Number of Required Parking Spaces	Reduction of Required Parking Spaces Allowable

1—4	0
5—9	1
10—19	2
20 or above	10 percent of total number of spaces (total reduction regardless of number of trees preserved).

(2) *Consideration of park and open space requirement.* A reduction or waiver of the required park and open space (or payment in lieu of land dedication) for new residential subdivisions specified in section 12-8-6 may be approved by the mayor when it is determined that said waiver will result in the preservation of five (5) or more protected trees with a trunk of twelve (12) inches DBH or greater.

(3) *Sidewalks.* Modifications to sidewalks, their required location, and width and curb requirements, may be allowed as necessary to facilitate the preservation of any protected tree.

(4) *Credit for additional landscaping.* The mayor may authorize up to one-half (½) of the total calculated mitigation cost (as determined according to subsection 12-6-6(B)(4), (5)) to be used by the applicant for additional landscaping, which is defined as landscaping that is not required by this chapter or any other law. Additional landscaping shall meet the following minimum standards:

(a) A minimum of seventy-five (75) percent of all required plant material shall consist of evergreen species.

(b) All landscape material shall be placed so as to maximize its screening and/or coverage potential at maturity.

(c) All shrub material shall be a minimum height of thirty (30) inches and have a minimum crown width of twenty-four (24) inches when planted and shall be a species capable of achieving a minimum height of eight (8) feet at maturity.

(B) *Retention, relocation, removal, replacement, and mitigation of protected trees.*

(1) *Retention of protected trees.* Every effort must be made to protect and retain existing protected trees on proposed development sites. A minimum of ten (10) percent of the total combined trunk diameter of protected trees on a proposed development site not located within jurisdictional wetlands shall be retained in place or relocated on site.

(a) Credit for retention of protected trees above minimum requirements. For each inch of trunk diameter above the minimum ten (10) percent requirement that is protected in place or relocated on site, an equivalent trunk diameter inch credit shall be given against replacement and mitigation requirements as provided is subparagraphs (4) and (5) below.

(b) *Barrier zones.* All protected trees not designated for removal shall be protected by barrier zones erected prior to construction of any structures, road, utility service or other improvements. Barriers shall be placed at the outside of the dripline for all heritage trees and at a minimum two-thirds (2/3) of the area of the dripline for all other protected trees. Barricades must be at least three (3) feet tall and must be

constructed of either wooden corner posts at least two by four (2 × 4) inches with at least two (2) courses of wooden side slats at least one by four (1 × 4) inches with colored flagging or colored mesh attached, or constructed of one-inch angle iron corner posts with brightly colored mesh construction fencing attached.

(2) *Removal of protected trees.* Subject to the requirements of (1) above, protected trees may be approved for removal if one (1) or more of the following conditions are present:

(a) *Visibility hazard.* Necessity to remove trees that will pose a safety hazard to pedestrians or vehicular traffic upon completion of the development.

(b) *Safety hazard.* Necessity to remove trees that will threaten to cause disruption of public services or that will pose a safety hazard to persons or buildings or adjacent property or structures.

(c) *Construction of improvements.* Necessity to remove trees in order to construct proposed improvements as a result of the location of driveways, if the location of a driveway or ingress/egress is specified and required by DOT or other regulations, buildings, utilities, stormwater/drainage facilities, or other permanent improvements. The architect, civil engineer, or planner shall make every reasonable effort to locate such improvements so as to preserve any existing tree.

(d) *Site conditions.* Necessity to remove trees as a result of characteristics of the site such as site dimensions, topographic conditions and grading requirements necessary to implement standard engineering and architectural practices. Grading shall be as limited as possible. In order to justify the removal of protected trees on the ground of site conditions, the request must be reviewed by the appropriate city staff and must be approved by the mayor. Appeals from the decision of the mayor shall be to the Zoning Board of Adjustment.

(e) *Diseased or weakened trees.* Necessity to remove diseased trees or trees weakened by age, storm, fire or other injury;

(f) *Compliance with other ordinances or codes.* Necessity for compliance with other city codes such as building, zoning, subdivision regulations, health provisions, and other environmental ordinances.

(3) *Relocation of protected trees.* Where feasible, when conditions necessitate removal of protected trees, said trees shall be relocated on the site in the required perimeter or interior landscaped areas. Should the relocated tree expire within a specified period of time, the appropriate mitigation (planting of replacement trees or payment to the tree planting trust fund) shall be required. For each protected tree that cannot feasibly be relocated (or all of them), a written statement from a qualified professional shall be provided stating for each tree (or all of them) that relocation is not feasible and briefly explaining why relocation is not feasible.

(4) *Replacement of protected trees.* When a protected tree is approved for removal, it shall be replaced with a like species of the tree removed. The prescribed number of trees shall be planted for each tree removed. The minimum diameter of a replacement tree shall be three (3) inches DBH. The replacement formula is:

(a) A trunk diameter of four (4) inches to eleven (11) inches = Two (2) three-inch DBH trees planted for each one removed.

(b) A trunk diameter of twelve (12) inches to nineteen (19) inches = Three (3) three-inch DBH trees planted for each one removed.

(c) A trunk diameter of twenty (20) inches to twenty-nine (29) inches = Five (5) three-inch DBH trees planted for each one removed.

(d) A trunk diameter of thirty (30) inches to thirty-five (35) inches = Eight (8) three-inch DBH trees planted for each one removed.

(e) A trunk diameter of thirty-six (36) inches to forty-three (43) inches = Ten (10) three-inch DBH trees planted for each one removed.

(f) A trunk diameter of forty-four (44) inches or greater = Eleven (11) three-inch DBH trees planted for each one removed.

(5) *Mitigation of protected trees.* Any replacement trees that cannot be planted on site because of lack of space, once agreed to by the city, shall be valued at four hundred dollars ($400.00) each and the owner shall pay that total to the tree planting trust fund. Trees identified as dead and verified as such in writing by the city shall not be required to be replaced or mitigated.

(C) *New planting of protected trees.* On sites proposed for development or redevelopment where no existing protected trees are identified, the owner or his or her agent shall be required to plant one (1) new tree species identified in the protected tree list (Appendix "A") or the tree replant list (Appendix "B"), a minimum of three (3) inches DBH, for each one thousand (1,000) square feet of impervious surface area. New trees or replacement trees shall be planted during the year as indicated in subsection 12-6-3(B)(1)(a) of this chapter.

(D) *New residential subdivisions.* In new residential subdivisions the private property owner of each lot shall plant one (1) tree in the front yard within ten (10) feet of the right-of-way, provided there is no existing tree in the front yard. If the existing tree is not within ten (10) feet of the right-of-way, then one (1) additional tree shall be required (sized as noted in (1) below).

(1) Where a protected or replant tree species is required to be replanted, such tree shall be a minimum of three (3) inches DBH.

(2) The location of an existing protected tree on the lot or the proposed location of a new protected or replant species, where required in this subsection, shall be identified on the plot plan submitted as part of the information submitted for a building permit.

(E) *Road right-of-way tree protection.* No person or agency shall cut, prune, remove, or in any way damage any protected tree in any street right-of-way or create any condition injurious to any such tree without first obtaining a permit to do so from the parks and recreation director as specified in section 12-6-7.

(1) The parks and recreation directordirector may issue an annual permit to public utility companies exempting them from the provisions of this subsection concerning tree preservation. In the event of flagrant or repeated disregard for the intent and purpose of this chapter, the department may revoke said permit. The reasons for revoking such a permit shall be provided in writing to the offender.

(2) Prior to entering a targeted area for pruning by the utility, the utility representative shall submit for approval to the city a clearly marked plan of the area, showing location of trees and noting what is being requested by the utility company. The parks and recreation directordirector shall approve the plan and an additional permit fee of seventy-five dollars ($75.00) shall be paid to the City of Pensacola for the specific area noted on the plan submitted (see chapter 7-14 of this Code).

(3) All public utilities, governmental agencies and their subcontractors shall comply with the American National Standards Institute, ANSI A300-1995, Tree, Shrub and Other Woody Plant Maintenance—Standard Practices, when pruning trees on public or private property. Notice shall be provided to landowners at least one (1) week in advance of pruning and/or removing landowners' trees on private property. Emergency removal requiring immediate action to protect the health and safety of the public is not subject to this chapter. In no case shall the utility company be permitted to prune more than thirty (30) percent of the existing tree canopy.

(F) *Tree protection.* Removing, pruning, or cutting tree growth away from a permanent nonaccessory sign (billboard) on public or private property shall be permitted only if a permit is obtained from the parks and recreation director. All agencies and their subcontractors shall

comply with the American National Standards Institute, ANSI A300-1995, Tree, Shrub and Other Woody Plant Maintenance—Standard Practices, when pruning trees.

(G) *Canopy road tree protection zone.* All lands within ten (10) feet of the outer boundary of the right-of-way of the below described roads are hereby declared to be canopy tree protection zones:

- Blount Street from "A" Street to Bayview Park.
- Lakeview Avenue from 9th Avenue to 20th Avenue.
- Garden Street from Alcaniz Street to Jefferson Street and from "J" Street to "N" Street.
- 17th Avenue from Gregory Street to Texar Drive.
- 12th Avenue from Barcia Drive to Fairfield Drive.
- Baylen Street from LaRua Street to Jordan Street.
- Spring Street from LaRua Street to Jordan Street.
- Bayou Boulevard from Lee Street to Strong Street.
- Cervantes Street/Scenic Highway from the eastern side of Bayou Texar to the city limits.

No person or agency shall cut, remove, prune or in any way damage any protected tree in any canopy road tree protection zone or create any condition injurious to any such tree without first obtaining a permit to do so from the parks and recreation director as specified in section 12-6-7. The exemption for utility companies noted in subsection (E), above shall also apply to the canopy road tree protection zone.

(H) *Heritage trees.* No person or agency shall cut, remove, prune or in any way damage any heritage tree in any zoning district without first obtaining approval of a landscape and tree protection plan per section 12-6-4 for new development sites or a permit from the parks and recreation director as specified in section 12-6-7 for developed property. The provisions of this subsection related to pruning do not apply to existing single-family and duplex uses.

(Ord. No. 31-09, § 1, 9-10-09; Ord. No. 16-10, § 217, 218, 9-9-10)

Sec. 12-6-7. - Tree removal and pruning permit in right-of-way and canopy road tree protection zones and heritage trees on developed property.

No person shall cut, remove, prune, or in any way damage any heritage tree on developed property or protected tree within the road right-of-way and canopy road tree protection zones identified in subsections 12-6-6(E) and (G), without first obtaining a tree removal and pruning permit from the parks and recreation director as provided below. An inspection fee of seventy-five dollars ($75.00) shall be charged for services rendered by the parks and recreation director in the required review and on-site inspection for tree removal or pruning permits (see chapter 7-14 of this Code.

(A) *Canopy road tree protection zone and road right-of-way tree protection zone.* Prior to cutting, removing, pruning or in any way damaging a protected tree in the canopy road tree protection

zone and road right-of-way tree protection zone, an owner, developer or his or her agent must submit a copy of an accurately scaled drawing including the following information:

(1) Location of the subject protected tree, noting species, size and general condition.

(2) The parks and recreation director may issue an annual permit to public utilities exempting them from this requirement as specified in subsection 12-6-6(E).

(B) *On-site inspection.* Prior to the issuance of a tree removal and pruning permit, the parks and recreation director shall conduct an on-site inspection and shall issue a written report setting forth a recommendation for granting or denying the permit including any explanation necessary to clarify the basis for the recommendation.

(C) *Conditions of approval.* The parks and recreation director may approve the permit if one (1) or more of the conditions set forth in subsections 12-6-6(B)(2)(a)—(f) is present.

(D) *Review.* In the event an application is denied, the parks and recreation director shall specify to the applicant in writing the reason for said action.

(E) *Heritage tree removal mitigation.* In the event that a heritage tree is approved for removal, tree replacement shall be provided per subsection 12-6-6(B)(4)(f) or a fee shall be paid into the tree planting trust fund per subsection 12-6-6(B)(5).

(F) *Pruning permitted on residential properties.* Notwithstanding any contrary provision, pruning of heritage trees on properties with existing single-family and duplex land uses shall not require compliance with this section. However, no more than one-third (1/3) of the existing, healthy tree crown may be removed. If trimming of any heritage tree on a residential property results in substantial and irreparable harm or death to the heritage tree, such trimming shall be deemed an unauthorized and unpermitted removal of such heritage tree and shall be subject to penalties as such.

(Ord. No. 44-99, § 5, 11-18-99; Ord. No. 50-00, § 5, 10-26-00; Ord. No. 31-09, § 1, 9-10-09)

Sec. 12-6-8. - Best management practices.

The mayor may determine that the required irrigation percentage for a site may be reduced, and may also reduce the required mitigation payment into the Tree Planting Trust Fund when it has been demonstrated and set forth in writing that Best Management Practices have been employed in the proposed plans for development of a site. Areas in which the utilization of Best Management Practices would be applicable include, but are not limited to: Enviroscaping; Xeriscaping; Landscape Irrigation; and LEED/Green Building Techniques such as, but not limited to, green roofs, rain garden landscape design, shading constructed surfaces on the site with landscape features, and minimizing the overall building footprint and parking area; which are designed to reduce heat islands (thermal gradient differences between developed and undeveloped areas) to minimize impact on the environment.

Best Management Practices for a site include a demonstrating to the mayor that the property owner has met the minimum requirements of this section in addition to the proposed best management practices to be utilize.

** "Waterwise Florida Landscapes" is the required reference guide for Xeriscaping and irrigation techniques.

(Ord. No. 31-09, § 1, 9-10-09; Ord. No. 16-10, § 219, 9-9-10)

Sec. 12-6-9. - Modifications.

Under certain circumstances, the application of the standards of this chapter may be either inappropriate or ineffective in achieving the purpose of this chapter. When planting is required by this

chapter or by other provisions herein, and the site design, topography, unique relationships to other properties, natural vegetation or other special considerations exist relative to the proposed development; the developer may submit a specific alternate plan for the planting. This plan must demonstrate how the purposes and standards of this chapter will be met by measures other than those in sections 12-6-3 and 12-6-6. The building official shall review the alternate proposal and advise the applicant of the disposition of the request within fifteen (15) working days of submission by the applicant. Any appeals by the applicant shall be in accordance with section 12-6-11 of this chapter.

(Ord. No. 50-00, § 5, 10-26-00; Ord. No. 31-09, § 1, 9-10-09)

Sec. 12-6-10. - Enforcement.

(A) *Stop work order.* Whenever the building official determines that a violation of this chapter has occurred, the following actions shall be initiated:

(1) *Written notice.* Immediately issue written notice by personal delivery or certified mail to the person violating this chapter of the nature and location of the violation, specifying what remedial steps are necessary to bring the project into compliance. Such person shall immediately, conditions permitting, commence the recommended remedial action and shall have ten (10) working days after receipt of said notice, or such longer time as may be allowed by the building official, to complete the remedial action set forth in said notice.

(2) *Remedial work and stop work orders.* If a subsequent violation occurs during the ten (10) working days referred to in subsection (A)(1) above, or if remedial work specified in the notice of violation is not completed within the time allowed, or if clearing and development of land is occurring without a permit, then the building official shall issue a stop work order immediately. Said stop work order shall contain the grounds for its issuance, and shall set forth the nature of the violation. The stop work order shall be directed not only to the person owning the land upon which the clearing and development is occurring, but also a separate stop work order shall be directed to the person or firm actually performing the physical labors of the development activity or the person responsible for the development activity, directing them forthwith to cease and desist all or any portion of the work upon all or any geographical portion of the project, except such remedial work as is deemed necessary to bring the project into compliance. If such person fails to complete the recommended remedial action within the time allowed, or fails to take the recommended action after the issuance of such stop work order, then the building official may issue a stop work order on all or any portion of the entire project.

(3) *Notice of compliance.* Upon completion of remedial steps required by notice the building official shall issue a notice of compliance and cancellation of said notice or stop work order.

(B) *Penalty.* The fine for violating this chapter shall be based on the size of limb(s) or the tree(s) removed without a permit. The measurement to establish said fine shall be based on the remaining tree material left intact on the site. If a tree is removed, the trunk caliper shall be measured at DBH and at the point of removal for a limb or each limb. If, in the opinion of the parks and recreation director, the tree has been substantially damaged so that its normal growth character will never return, i.e., a tree is topped and will never recover the original character, then the fine may be based upon the caliper of the tree trunk or each limb removed, whichever is the greater. Each day a violation of a stop work order continues shall constitute a separate offense (see subsection 7-14-6(2), penalty fees, of this Code). Each protected tree removed without a permit or in violation of a permit shall constitute a separate offence. Any person may seek an injunction against any violation of this chapter, and recover such damages as he or she may suffer. In addition to the fines and prohibitions contained herein, the provisions of section 1-1-8 of the Code shall apply applicable to willful violations of this chapter.

(C) *Tree planting trust fund.* A tree planting trust fund has been established and funded by the fines pursuant to subsection (B) and mitigation fees paid pursuant to section 12-6-6. Expenditures from the tree planting trust fund are hereby authorized and may be made by the mayor for projects up to

twenty-five thousand dollars ($25,000) to replant trees, or to plant new trees and other appropriate landscape vegetation, purchase irrigation supplies and purchase equipment dedicated to the planting and maintaining of the city's trees. The first priority for expenditure of funds deposited in the tree planting trust fund is for restoration of the tree canopy in the area where trees generating the funds were removed. Any expenditure in excess of twenty-five thousand dollars ($25,000) must be approved by the city council following review by the environmental advisory board.

A grant program is hereby established for community organizations such as neighborhood associations, civic organizations, and garden clubs, according to the following criteria:

• Each grant is limited to seventy-five (75) percent of the cost of the proposed project up to seven thousand five hundred dollars ($7,500.00);

• The required twenty-five (25) percent grant match may be waived for projects deemed as a high priority canopy restoration project by the city council;

• The tree planting trust fund must have sufficient funds for the project requested;

• Grant requests must be submitted to the environmental advisory board for review prior to consideration by the city council;

• The city council must approve each grant request; and

• The funds must be utilized for providing trees or other appropriate vegetation along with associated irrigation that will help restore the tree canopy as deemed appropriate by proper planting location requirements and may enhance the natural beauty of the community, serve to deter graffiti or the defacement of public or private property, and may create sound buffers where desirable.

(Ord. No. 50-00, § 5, 10-26-00(Ord. No. 44-99, § 5, 11-18-99; Ord. No. 50-00, § 5, 10-26-00; Ord. No. 31-09, § 1, 9-10-09; Ord. No. 16-10, § 220, 9-9-10; Ord. No. 21-15, § 1, 12-9-15)

Sec. 12-6-11. - Appeal.

Any person directly and adversely affected by a decision of the parks and recreation director, the building official, or the mayor or his or her designee in the interpretation or enforcement of the provisions of this chapter may appeal such decision to the zoning board of adjustment. Such appeal shall be submitted in writing to the planning administrator within thirty (30) days of the rendering of the subject order, requirement, decision or determination.

(Ord. No. 50-00, § 5, 10-26-00(Ord. No. 44-99, § 5, 11-18-99; Ord. No. 50-00, § 5, 10-26-00; Ord. No. 31-09, § 1, 9-10-09; Ord. No. 16-10, § 221, 9-9-10)

APPENDIX A

PROTECTED TREE LIST*

Species Type A (Small, 4" + diameter trunk)

1.	Dogwood *(Cornus florida)*
2.	Redbud *(Cercis canadensis)*
3.	Crape Myrtle *(Lagerstroemia indica)*
4.	Fringe Tree *(Chionanthus virginicus)*
5.	Flatwoods Plum *(Prunus umbellata)*
6.	Crabapple *(Malus angustifolia)*
7.	Sand Oak *(Quercus geminata)*
Species Type B *(Medium, 6" + diameter trunk)*	
1.	American Holly *(Ilex opaca)*
2.	Dahoon Holly *(Ilex cassine)*
3.	Southern Magnolia *(Magnolia grandiflora)* **
4.	Eastern Red Cedar *(Juniperus virginiana)* **
5.	Southern Red Cedar *(Juniperus silicicola)* **
6.	White Cedar *(Chamaecyparis thyoides)*
7.	River Birch *(Betula nigra)*
Species Type C *(Large, 8" + diameter trunk)*	
1.	Live Oak *(Quercus virginiana)***
2.	Laurel Oak *(Quercus laurifolia)***
3.	Sweet Gum *(Liquidambar styraciflua)***
4.	Sycamore *(Platanus occidentalis)***

5.	Pecan *(Carya illinoensis)***
6.	Red Maple *(Acer rubrum)***
7.	Hickory *(Carya spp.)***
8.	White Oak *(Quercus alba)***
9.	Southern Red Oak *(Quercus falcata)*
10.	Florida Sugar Maple *(Acer barbatum)*
11.	Black Tupleo *(Nyssa sylvatica)*
12.	Silver Maple *(Acer saccharinum)*

* When measuring a tree to determine if it meets the trunk diameter criteria, it shall be measured at Diameter Breast Height (DBH), which is the diameter of the tree at four and one-half (4½) feet (fifty-four (54) inches) above ground. The scientific name controls for compliance purposes. Common names are furnished for reference purposes only.

** Shade trees.

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APPENDIX B

TREE REPLANT LIST

A. Small Trees:	
1.	Crape Myrtle *(Lagerstroemia indica)*
2.	Holly, Dahoon *(Ilex cassine)* **
3.	Hop-hornbeam *(Ostrya virginiana)*
4.	Hornbeam *(Carpinus caroliniana)*
5.	Fringe Tree *(Chionanthus virginicus)*

6.	Smooth Redbay *(Persea borbonia)* **
7.	Glossy Privet *(Ligustrum lucidum)*
8.	Loquat *(Eriobotrya japonica)*
9.	Red Buckeye *(Aesculus pavia)*
10.	Hawthorne *(Crataegus spp.)*
11.	American Holly *(Ilex opaca)*
12.	Savannah Holly *(Ilex attenuata/cassine × opaca)*
13.	East Palatka Holly *(Ilex attenuata/cassine × opaca)*
14.	Eagleston Holly *(Ilex attenuata/cassine × opaca)*
15.	Fineline Holly *(Ilex cornuta)*
16.	Emily Bruner Holly *(Ilex latifolia × cornuta)*
17.	East Bay Holly *(Ilex latifolia × cornuta)*
18.	Mary Neil Holly *(Ilex/cornuta × pernyi)*
19.	Nellie R. Stevens Holly *(Ilex aquifolium × cornuta)*
20.	Green Japanese Maple *(Acer palmatum)*
21.	Eastern Red Bud *(Cercis canadensis)*
22.	Drake Elm *(Ulmus parvifolia)*
23.	Yaupon Holly *(Ilex vomitoria)*
24.	Ashe Magnolia *(Magnolia ashei)*
25.	Wax Myrtle *(Myrica cerifera)*

26.	Flatwoods Plum *(Prunus umbellata)*
27.	Myrtle Oak *(Quercus myrtifolia)*
28.	Rusty Blackhawk *(Viburnum rufidulum)*
29.	Dogwood *(Cornus florida)*
30.	Red Bud *(Cercis canadensis)*

Trees listed 13 through 34 are native. [*Note discrepancy in number 34 here and below.]

Trees listed 11 through 34 are suitable for planting beneath utility lines.

B. Medium and Large Trees:

1.	American Sycamore *(Plantanus occidentalis)*
2.	Ash, White *(local) (Fraxinus americana)* **
3.	Birch, River *(Betula nigra)* **
4.	Cedar, Atlantic White *(Chamaecyparis thyoides)*
5.	Cedar, Southern Red *(Juniperus silicicola)*
6.	Chalkbark Maple *(Acer leucoderme)*
7.	Chinese Pistache *(Pistacia chinensis)*
8.	Bald Cypress *(Taxodium distichum)*
9.	Eastern Poplar *(Populus deltoides)*
10.	Elm, Florida *(Ulmus americana var. floridana)* **
11.	Elm, Winged *(Ulmus alata)* **
12.	Hickory *(Carya spp.)* **

13.	Holly, American *(Ilex opaca)*
14.	Loblollybay *(Gordonia lasianthus)* **
15.	Loblolly Pine *(Pinus taeda)*
16.	Maple, Florida Sugar *(Acer barbatum floridanum)* **
17.	Mulberry, Red *(Morus rubra)*
18.	Oak, Nuttall *(Quercus nuttallii)*
19.	Oak, Post *(Quercus stellata)* **
20.	Oak, Shumard *(Quercus shumardii)* **
21.	Oak, Southern Red *(Quercus falcata)* **
22.	Oak, White *(Quercus alba)* **
23.	Oak, Overcup *(Quercus lyrata)*
24.	Live Oak *(Quercus virginiana)* **
25.	Palm, Cabbage *(Sabal palmetto)*
26.	Palm, Pindo *(Butia capitata)*
27.	Red Maple *(Acer rubrum)*
28.	Swamp Red Maple *(Acer rubrum var. drummondii)*
29.	Sweetbay *(Magnolia virginiana)* **
30.	Sweet Gum *(Liquidambar styraciflua)*
31.	Tulip Tree *(Liriodendron tulipifera)*
32.	Tupelo, Water *(Nyssa aquatica)*

33.	Walnut, Black *(Juglans nigra)* **
34.	Willow Oak *(Quercus phellos)*
35.	Windmill Palm *(Trachycarpus fortunei)*
36.	Southern Magnolia *(Magnolia grandiflora)* **

* When measuring a tree to determine if it meets the trunk diameter criteria, it shall be measured at Diameter Breast Height (DBH), which is the diameter of the tree at four and one-half (4½) feet (fifty-four (54) inches) above ground. The scientific name shall control for compliance purposes. Common names are furnished for reference purposes only.

** Shade Trees.

Source: Native Trees for North Florida, Florida Cooperative Extension Service, University of Florida. Florida-Friendly Plant List 2006, Florida Yards and Neighborhoods, Cooperative Extension Service, University of Florida.

(Ord. No. 50-00, § 5, 10-26-00(Ord. No. 44-99, § 5, 11-18-99; Ord. No. 50-00, § 5, 10-26-00; Ord. No. 31-09, § 1, 9-10-09)

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CHAPTER 12-8. SUBDIVISIONS

Sec. 12-8-1. - Purpose.

The purpose of this chapter is to provide that land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other hazards. Subdivision development which adversely affects functioning natural systems shall be minimized or prevented pursuant to regulations in this chapter. Land shall not be subdivided until available public facilities and improvements exist and proper provision has been made for drainage, water, sewage, and capital improvements such as coordinated transportation facilities, parks, and other public improvements consistent with the Comprehensive Plan.

Sec. 12-8-2. - Prohibition.

No person shall subdivide land within the city, nor commence construction of any building or public improvement on such land prior to the approval and recording of a final plat or, in the case of a two-lot division of land a boundary survey, in accordance with the provisions thereof; nor shall any person construct or build any building on any land not legally surveyed and set aside by plat or boundary survey as a building site. Provided, however, that nothing in this chapter shall be deemed to require the approval and recording of public acquisition of strips of land for the widening of existing streets or the combination or recombination of portions of previously platted and recorded lots where no new parcels or residual parcels are created which are smaller than minimum restrictions required by this title in the district in which such parcels are located.

(Ord. No. 21-93, § 4, 8-16-93)

Sec. 12-8-3. - Procedure for subdivision approval.

(A) *Procedure for subdivision requiring a plat.*

(1) *Approval of preliminary plat by the planning board.*

(a) Any person desiring to divide land into three (3) or more lots shall first file with the planning board a preliminary plat of the subdivision prepared in accordance with the requirements of section 12-8-8.

(b) Accompanying the preliminary plat shall be a general location sketch map showing the relationship of the proposed subdivision to existing community facilities that serve or influence it. On such sketch map, the main traffic arteries, shopping centers, schools, parks, and playgrounds, principal places of employment and other principal features should be noted.

(c) Where the preliminary plat submitted covers only a part of the total contiguous property under the subdivider's ownership, a sketch of the prospective future street system of the unsubdivided part shall be required if not shown on a previously approved conceptual plan or plans for the entire property. The street system of the unplatted portion shall be planned to coordinate and connect with the street system of the platted portion.

(d) A master drainage plan at a scale not smaller than one (1) inch equals two hundred (200) feet, shall be prepared. The master drainage plan shall be for the entire property and shall be reviewed by the city engineer in relation to the entire drainage basin. It is the specific intent of this requirement that rights-of-way and easements of all drainage improvements including but not limited to, retention ponds, ditches, culverts, channels, and the like required for the drainage of the site for both on-site and off-site improvements, shall be provided for the master drainage plan. Instruments shall be submitted fully executed in sufficient form for recording for all off-site drainage rights-of-way and easements not included on the final plat. These instruments shall be submitted with the final plat for recordation.

(e) The preliminary plat shall be submitted to the planning services department at least thirty (30) calendar days prior to the meeting at which it is to be considered.

(f) Prior to the examination of the preliminary plat, the planning board shall be furnished with reports from the city engineer, traffic engineer, energy services, Emerald Coast Utilities Authority, fire department, and the secretary to the planning board to the effect that said plat does or does not conform to the Comprehensive Plan, the provisions of this chapter, and with sound principles and practices of planning and engineering and with such other items that may affect the health, safety and welfare of the people.

(g) When, after examination, the planning board finds as fact that the aforementioned requirements have been met, the preliminary plat may be approved; however, such approval shall not constitute an approval of the final plat. If the preliminary plat is rejected, the planning board shall provide the applicant in writing a detailed list of reasons for rejection.

(2) *Approval of final plat by the planning board and city council.*

(a) The final plat shall conform substantially to the preliminary plat. The applicant shall submit only that portion of the approved preliminary plat that he or she proposes to record and develop. Such portion shall conform to all requirements of this chapter. Such final plat shall be submitted within one-year (three hundred sixty-five (365) days) of the date of the approval of the preliminary plat. If more than one-year has elapsed since the approval of the preliminary plat, the preliminary plat must be resubmitted to the planning board for their review and approval prior to submission of the final plat.

(b) The final plat shall be submitted to the planning services department at least thirty (30) calendar days prior to the meeting of the planning board at which it is to be considered. Before granting final approval of the plat, the planning board shall receive reports from the secretary to the planning board, the city engineer, the traffic engineer, Pensacola Energy, the Emerald Coast Utilities Authority and the fire department.

(c) After approval by the planning board, the final plat shall be transmitted to the city council for approval. Approval of the plat shall be granted by the city council upon its finding that all the requirements of this chapter have been met.

(3) *Approval of a combined preliminary/final plat of a subdivision by the planning board and city council.* Subdivisions containing no more than four (4) lots fronting on an existing public street, right-of-way or an access easement, not involving any new street or road, or the extension of governmental facilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision of this Code or the Comprehensive Plan, may be reviewed and approved through an abbreviated procedure that provides for the submittal of both the preliminary and final plat concurrently. All design standards, plat information and recording requirements as set forth in this chapter shall be complied with when exercising the abbreviated minor subdivision procedure.

(B) *Procedure for division of land requiring a boundary survey.* A division of land into no more than two (2) lots fronting on an existing public street, or an access easement not involving any new street or road, or the extension of governmental facilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision of this Code or the Comprehensive Plan, may be reviewed and approved by the city engineer and planning services department through an abbreviated procedure that provides for the submittal of a metes and bounds description and a legal boundary survey of the property.

(1) *Submission requirements.*

(a) Any person desiring to divide land into no more than two (2) lots shall first submit a metes and bounds description and a legal boundary survey of the property (equal to that required by F.S. § 472.27, pertaining to minimum technical standards for surveys, and having a minimum of four (4) concrete permanent reference monuments set) to the planning services department. The boundary survey shall be drawn at a scale of one hundred (100) feet to the inch, or less, and shall depict all information required by subsections 12-8-8(a) through (j).

(b) If an access easement is required for the subdivision, this document shall be attached to the boundary survey.

(c) All stormwater drainage requirements set forth in this chapter shall be complied with when exercising this procedure.

(2) *Final approval.*

(a) The planning services department shall notify the applicant of the approval or disapproval of the subdivision boundary survey within nine (9) working days from submission.

(b) If the subdivision boundary survey is rejected the planning services department shall provide the applicant, in writing, a detailed list of reasons for rejection.

(c) Upon submission of the corrected subdivision boundary survey the planning services department shall notify the applicant of the approval or disapproval of the corrected boundary survey within nine (9) days. If the subdivision boundary survey is not approved, the minor subdivision must be resubmitted.

(d) After the survey has been approved by city staff one (1) copyof the survey shall be filed with the planning services department. In addition, one (1) copy each of any applicable recorded access easements shall be filed with the city.

(e) Furthermore, no building permit shall be issued until the survey has been approved by city staff and any accompanying documentation has been recorded.

(Ord. No. 35-92, § 2, 10-22-92; Ord. No. 21-93, § 5, 8-16-93; Ord. No. 9-96, § 13, 1-25-96; Ord. No. 12-09, § 2, 4-9-09)

Sec. 12-8-4. - Design standards.

Land that the planning board has found to be unsuitable for subdivision due to flooding, bad drainage, or other features likely to be harmful to the health, safety and general welfare of future residents, shall not be subdivided, unless adequate methods of correction are formulated by the developer and approved by the city engineer. Appendix A, at the end of this chapter, illustrates selected design standards described herein.

(A) *Streets.*

(a) Wherever a tract or parcel to be subdivided embraces any part of a street designated in the Comprehensive Plan, such part shall be platted in the location and width indicated on such plan.

(b) The arrangement, character, extent, width, grade, and location of all streets shall conform to the Comprehensive Plan and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, in their appropriate relation to the proposed uses of the land to be served by such streets and the most advantageous development of the surrounding neighborhood.

(c) Where such is not shown in the Comprehensive Plan, the arrangement of streets in a subdivision shall either:

1. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or

2. Conform to a plan for the neighborhood approved or adopted by the planning board.

(d) Minor streets shall be so laid out that their use by through traffic will be discouraged.

(e) Where a subdivision abuts or contains an existing or proposed arterial street, the planning board may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic. Residential and nonresidential subdivisions located along arterial streets shall be encouraged to provide consolidated access points for all uses within the subdivision.

(f) Where a subdivision borders on or contains a railroad right-of-way or limited access highway (super highway) right-of-way, the planning board may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts, or commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades of future grade separations.

(g) Reserve strips (nonaccess easements) controlling access to streets shall be prohibited except where their control is definitely placed in the city under conditions approved by the Planning services department.

(h) Street jogs with centerline off-sets of less than one hundred twenty-five (125) feet shall be avoided.

(i) A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.

(j) Streets shall be laid out so as to intersect as nearly as possible at right angles, and no streets shall intersect any other street at less than sixty (60) degrees.

(k) Property lines at street intersections shall be rounded with a radius of twenty-five (25) feet, or of greater radius where the planning board may deem it necessary.

(l) Street right-of-way widths shall be shown on the Comprehensive Plan and where not shown therein shall be not less than as follows:

Street Type	Right-of-Way in Feet
Arterial	100
Collector	80
Minor	60 (50' w/two five-foot easements sidewalks are provided within R/W by the developer)
Marginal Access	40
Alley in commercial or industrial areas	24
Alley in residential areas	20

(m) Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations, and where the planning board finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Whenever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

(n) Dead-end streets are prohibited except those designed to be so permanently. Permanent dead-end streets shall be not longer than five hundred (500) feet and shall be provided at the closed end with a turnaround having an outside roadway diameter of at least eighty (80) feet and a street property line diameter of at least one hundred (100) feet. At the intersection of the turnaround and the straight portion of the right-of-way there shall be a twenty-five-foot radius as a transition.

(o) *Street names.* A proposed new street, which is in alignment with a continuation of an existing street, with or a continuation of an existing street, shall have the same name as the existing street. In no case (including numbered or lettered streets) shall new streets have names or numbers that duplicate or that are phonetically similar to existing streets' names, regardless of the prefix or suffix used as "Avenue," "Boulevard," "Court," "Crescent," "Drive," "Place," "Street," and "Terrace." All street names shall be subject to approval of the planning board.

Note: In this respect, it is suggested that the developer check over his or her proposed street names with the postal authorities, before submitting his or her plat to the planning board for approval.

(p) Grades and transition of grades must be approved by the city engineer and in no case shall be less than two-tenths (0.2) percent.

(q) Private streets. Private streets may be approved provided they are constructed according to the street design standards specified in sections 12-8-4 and 12-8-5 except that required private ingress and egress easements, private rights-of way or private common area widths and pavement widths may be less than required for public rights-of-way and street widths. In the event that a private street is approved, the following statement shall be shown on the preliminary and final plats: "All roads and rights-of-way shown on this plat are private and are not subject to maintenance by the City of Pensacola." Maintenance of private streets shall be as provided in section 12-2-38.

(B) *Drainage easements.*

(a) Easements along lot lines shall be provided for drainage where necessary and shall be at least twelve (12) feet wide.

(b) Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such further width, as will be adequate for the purpose. Parallel streets or parkways may be required in connection therewith.

(C) *Blocks.*

(a) The length, width and shape of blocks shall be determined with due regard to:

1. Provision of adequate building sites suitable to the special needs of the type of use contemplated.

2. Zoning requirements.

3. Needs for convenient access, circulation, control, and safety of street traffic.

4. Limitations and opportunities of topography.

(b) Block length shall not exceed fourteen hundred (1,400) feet, or be less than four hundred (400) feet. Where blocks are seven hundred (700) feet or more in length, the planning board may require a twenty-foot pedestrian easement through the block. Long blocks should be oriented for drainage and toward such focal points as a shopping center or a school.

(c) Block width. Blocks should be at least wide enough to allow two (2) tiers of lots and should be a minimum width of two hundred and forty (240) feet, except when reverse frontage is used.

(D) *Lots; building site area and yard restrictions.*

(a) Minimum building site area and yard restrictions shall be governed by the requirements of Chapter 12-2. Every lot or parcel of land shall abut a public street, or private street where permitted by this chapter.

(b) Insofar as practical, side lot lines shall be at right angles to straight right-of-way lines or radial to curved right-of-way lines.

(c) The lot size, width, depth, shape and orientation, and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development of use contemplated.

(d) Double frontage and reverse frontage lots shall be avoided except where desirable to provide separation of residential developments from traffic arteries or to overcome specific disadvantages of topography and orientation. A nonaccess easement with a planting screen or solid fence shall be provided along the line of lots abutting such a traffic artery.

(Ord. No. 13-06, § 16, 4-27-06)

Sec. 12-8-5. - Required improvements.

(A) *Grading, paving and drainage.* The owner or developer shall prepare and submit to the city engineer for approval, plans for adequate storm drainage and street improvements that shall be installed by the owner or developer(s) in accord with specifications of the city set forth herein.

Where a subdivision includes an arterial or collector street, the city shall pay the cost of all pavement over twenty-four (24) feet in width and fifty (50) percent of the cost of pavement adjoining parks and playgrounds. The cost of fifty (50) percent of the pavement adjoining school sites shall be assessed to the Escambia County School Board.

If oversized storm drainage is required in a subdivision to serve an area beyond the project, these facilities shall be built and/or paid for by the subdivider and the city in such reasonable manner as the subdivider and the mayor shall agree to and shall be a proratable charge against the area to be benefitted. This shall apply to areas outside the project area that are owned by the city or for which the city has maintenance responsibility.

The design of all required improvements shall conform to the following standards or an approved equal and detailed specifications obtainable from the city engineer's office.

(1) *Clearing, grubbing and grading.* Clearing and grubbing shall be for the full width of the right-of-way except as permitted by the city engineer. Grading shall be done to plans approved by the city engineer.

(2) *Arterial streets.*

(a) Right-of-way. One hundred (100) feet if not determined otherwise on the Comprehensive Plan.

(b) Pavement width. See arterial street cross-section of the city engineer.

(c) Materials. Specifications of the city engineer.

(d) Curb and gutter. Specifications of the city engineer.

(3) *Collector streets.*

(a) Right-of-way. Eighty (80) feet.

(b) Pavement width. Thirty-five (35) feet.

(c) Materials. Double layer of bituminous surface treatment over a six-inch compacted clay base.

(d) Curb and gutter. Layback type.

(4) *Minor street.*

(a) Right-of-way. Sixty (60) feet (50 feet with two (2) five-foot easements permitted where sidewalks are provided within R-O-W).

(b) Pavement width. Twenty-four (24) feet.

(c) Materials. Double layer of bituminous surface treatment over a six-inch compacted clay base.

(d) Curb and gutter. Layback type.

(5) *Marginal access streets.*

(a) Right-of-way. Forty (40) feet.

(b) Pavement width. Twenty-four (24) feet.

(c) Materials. Double layer of bituminous surface treatment over a six-inch compacted clay base.

(d) Curb and gutter. Layback type.

(6) *Construction plans and profiles.* Construction plans and profiles shall be submitted for approval to the city engineer's office for all street and storm drainage improvements. The drawings shall have a sheet size of twenty-four (24) inches by thirty-six (36) inches. The drawings shall have a horizontal scale of twenty (20) feet to the inch and a vertical scale of two (2) feet to the inch. The drawings, upon approval of the city engineer, shall become the possession of the city.

(a) Street paving plans and profiles shall show:

- Centerline stationing.
- Curve data.
- Rights-of-way dimensions.
- Roadways widths.
- Elevations on a datum approved by the city engineer at centerline stationing.
- Existing water lines, gas lines, underground cables, and any other features in the right-of-way as required in section 12-8-8.
- Lot lines.
- Typical sections of roadway, curbing and any other details as may be necessary to clearly express intent.
- Existing ground centerline on the profile as a long broken line separated by dots, north and east property lines by medium long dashed lines, and south and west property lines as a short dashed line, and the proposed centerline as a solid line.
- The gradient of the centerline and elevations of all vertical curves.
- Title, scale, north arrow, benchmarks, date, name of developer and engineer who prepared plan.

(b) Storm sewer plan and profiles shall show:

- Centerline stationing.
- Location of sewer line with respect to curb line.
- Location of manholes and inlets and type to be used.
- Elevations of manhole inverts and inlets inverts on plan view.
- Existing ground profile along centerline of sewer.
- Profile of proposed sewer inverts as heavy solid line.
- Gradient of proposed sewer invert.
- Title, scale, north arrow, benchmarks, date, name of developer and engineer who prepared plan.

(B) *Sanitary sewers.* Any subdivision that has a public sewer system available for extension within three hundred (300) feet of its boundary shall have such available system extended by the subdivider to provide service to each lot in the subdivision. Construction plans and profiles shall be submitted for approval to the city engineer's office for all street and storm drainage improvements. The drawings shall have a sheet size of 24″ by 36.″ The drawings shall have a horizontal scale of twenty (20) feet to the inch and a vertical scale of two (2) feet to the inch. The drawings, upon approval of the city engineer, shall become the possession of the city. Sanitary sewer plan and profiles shall show:

- Centerline stationing.
- Location of manholes and lampholes.

- Elevations of manhole inverts and inlets inverts on plan view.
- Location of sewer line with respect to curb line.
- Existing ground profile along centerline of sewer.
- Profile of proposed sewer line invert as heavy solid line.
- Gradient of proposed sewer line invert.
- Title, scale, north arrow, benchmarks, date, name of developer and engineer who prepared plan.

(Ord. No. 13-06, § 17, 4-27-06; Ord. No. 16-10, § 222, 9-9-10)

Sec. 12-8-6. - Sites for public use.

(A) *School sites.* The planning board may, where necessary require reservation of suitable sites for schools; and further, which sites shall be made available to the Escambia County School Board for their refusal or acceptance. If accepted by the school board, it shall be reserved for future purchase by the school board from the date of acceptance for a period of one year.

(B) *Sites for park and recreation or open space.* Each subdivision plat shall be reviewed by the planning and leisure services departments in order to assess the following: park and recreational or open space needs for the recreation service area within which the subdivision is located and for the city as a whole; and characteristics of the land to be subdivided for its capability to fulfill park, recreation or open space needs. Based on this review the city staff shall recommend one of the following options:

(1) *Dedication of land for park, recreation or open space needs.* The subdivider(s) or owner(s) shall dedicate to the city for park and recreation or open space purposes at least five (5) percent of the gross area of the residential subdivision. In no case shall the aggregate acreage donated be less than one-quarter (¼) acre.

(2) *Payment of money to an escrow account for park, recreation or open space needs in lieu of dedication of land.* The subdivider(s) or owner(s) shall pay unto the city such sum of money equal in value to five (5) percent of the gross area of the subdivision thereof, which sum shall be held in escrow and used by the city for the purpose of acquiring parks and developing playgrounds and shall be used for these purposes and no others. The aforementioned value shall be the value of the land subdivided without improvements and shall be determined jointly by the mayor and the subdivider. If the mayor and subdivider cannot agree on a land value, then the land value shall be established by arbitration. The mayor shall appoint a professional land appraiser, the subdivider shall appoint a professional land appraiser, and these two (2) shall appoint a third.

(C) *Public streets.* All streets delineated on all plats submitted to the city council shall be dedicated to all public uses including the use thereof by public utilities, unless otherwise specified herein.

(Ord. No. 9-96, § 14, 1-25-96; Ord. No. 16-10, § 223, 9-9-10)

ec. 12-8-7. - Variances.

Where strict adherence to any of the provisions of this chapter would cause unnecessary hardship due to topographical or other conditions peculiar to the site, the planning board may recommend, and the city council approve, a variance.

All variances from the provisions of this chapter that are proposed as part of a subdivision plat must be identified and justified in a letter by the applicant to be attached to the plat being submitted (e.g., Variance Requested: Non-Standard Street R.O.W.—Justification: Preservation of large live oak trees

throughout the property). The reasons for the granting of any such variance shall be clearly specified and entered into the minutes of the city council.

Sec. 12-8-8. - Preliminary plat.

Appendix B, at the end of this chapter, illustrates a sample preliminary plat. The preliminary plat shall be drawn to a scale of one hundred (100) feet to the inch, or less, and shall show the following:

(a) Subdivision or development name, name of the owner(s) or developer(s), name(s) of surveyor and designer, north arrow, date and scale.

(b) The boundary line of the tract to be subdivided drawn accurately to scale and with accurate linear and angular dimensions.

(c) Streets: Names, right-of-way and roadway width; similar data for alleys, if any.

(d) The location and size of water, gas and sanitary sewer mains, fire hydrants, storm drains, and all structures on the land to be subdivided and on the land within ten (10) feet of it.

(e) Other rights-of-way or easements; location; width and purpose, including navigation easements and maintenance easements for zero lot line dwellings (refer section 12-2-5(A).

(f) Lot lines, lot numbers and block numbers.

(g) Sites, if any, to be reserved or dedicated for parks, playgrounds or other public use.

(h) Sites, if any, for multiple-family dwellings, shopping centers, churches, industry or other nonpublic uses exclusive of single-family dwellings.

(i) Reference to recorded subdivision plats of adjoining platted land by record name, book and page number.

(j) Minimum building setback lines (front, side and rear), as required in the zoning regulations.

(k) Site data including number of residential lots, typical lot size and areas in parks, etc.

(l) Ground contours at intervals not greater than two (2) feet.

(m) Orientation of subdivision or development in relation with surveyors bench marks and monuments.

(n) The above information may be graphical except where detailed computations are required.

(o) All plats located in the one hundred-year floodplain or within airport impact district shall state such information on the face of the plat.

Sec. 12-8-9. - Final plat.

The final plat shall conform fully to the requirements of F.S. Ch. 177, and shall depict thereon all information required by subsections (a), (b), (c), (e), (f), (g), (i), (j), (m), and (o) of section 12-8-8.

(Ord. No. 6-93, § 24, 3-25-93)

Sec. 12-8-10. - Final approval.

Approval of the final plat by the city council shall be granted upon the finding that the developer(s) have complied with applicable laws and provisions of this code. A true copy of the plat as approved shall be recorded by the applicant in the public records of Escambia County, Florida, within one hundred eighty (180) days of city council approval. Furthermore, no building permits may be issued until the plat has been so recorded.

All improvements shall be completed by the developer(s) and accepted by the city engineer prior to the issuance of any building permits, provided, however that in lieu of the immediate installation of the

required improvements, the subdivider(s) shall either file with the city, a performance bond or surety bond or deposit with the city in escrow cash or a certified check in an amount to be determined by the mayor with sureties satisfactory to the city guaranteeing the installation of the required improvements.

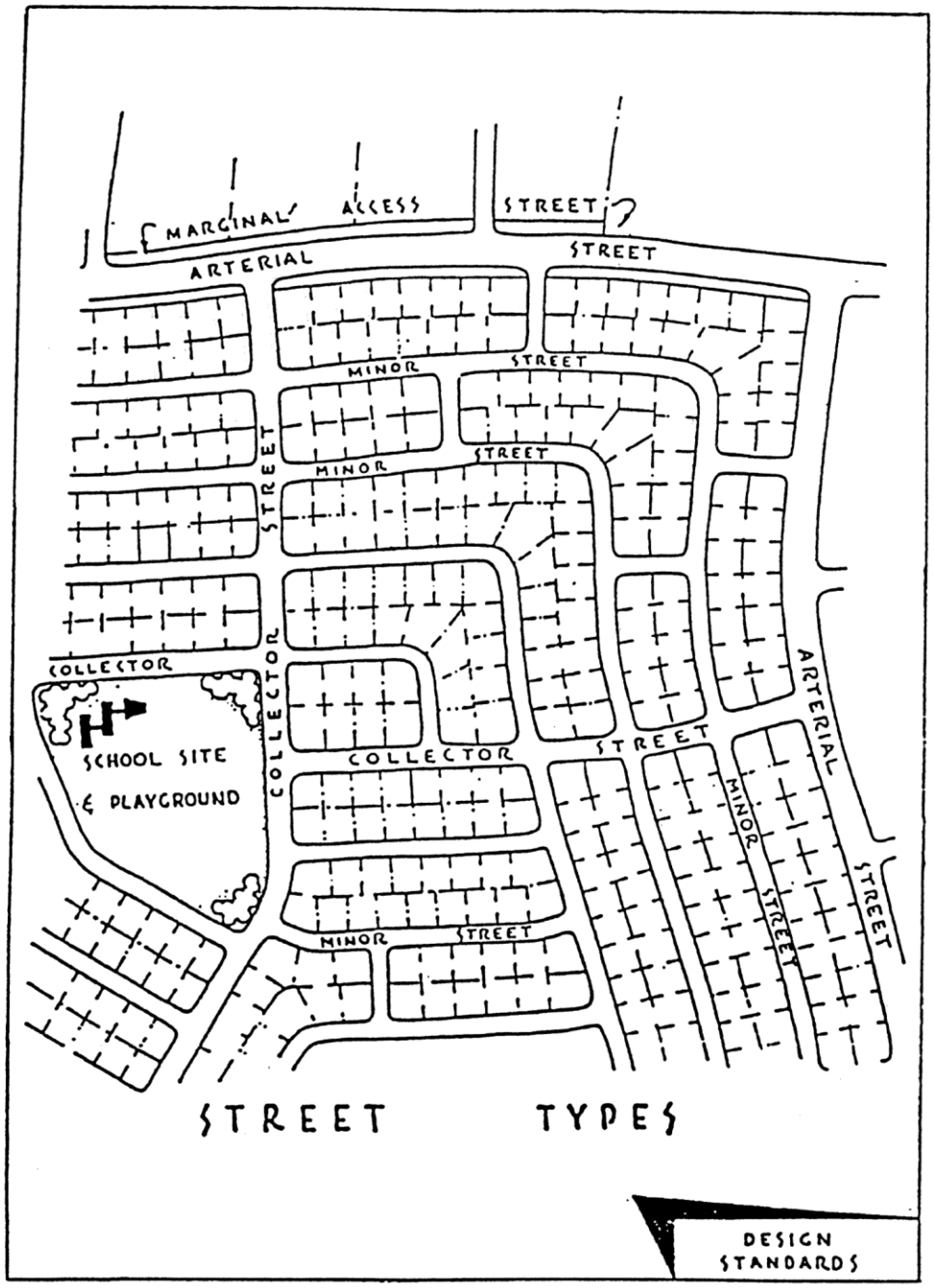
All improvements shown on the plat shall be completed within one (1) year from the date the city council grants approval of the final plat, regardless of when said plat is recorded. For good cause shown, the city council may grant a reasonable extension of this one-year time period.

No certificate of occupancy for a building shall be issued until all subdivision improvements are installed and approved by the city engineer.

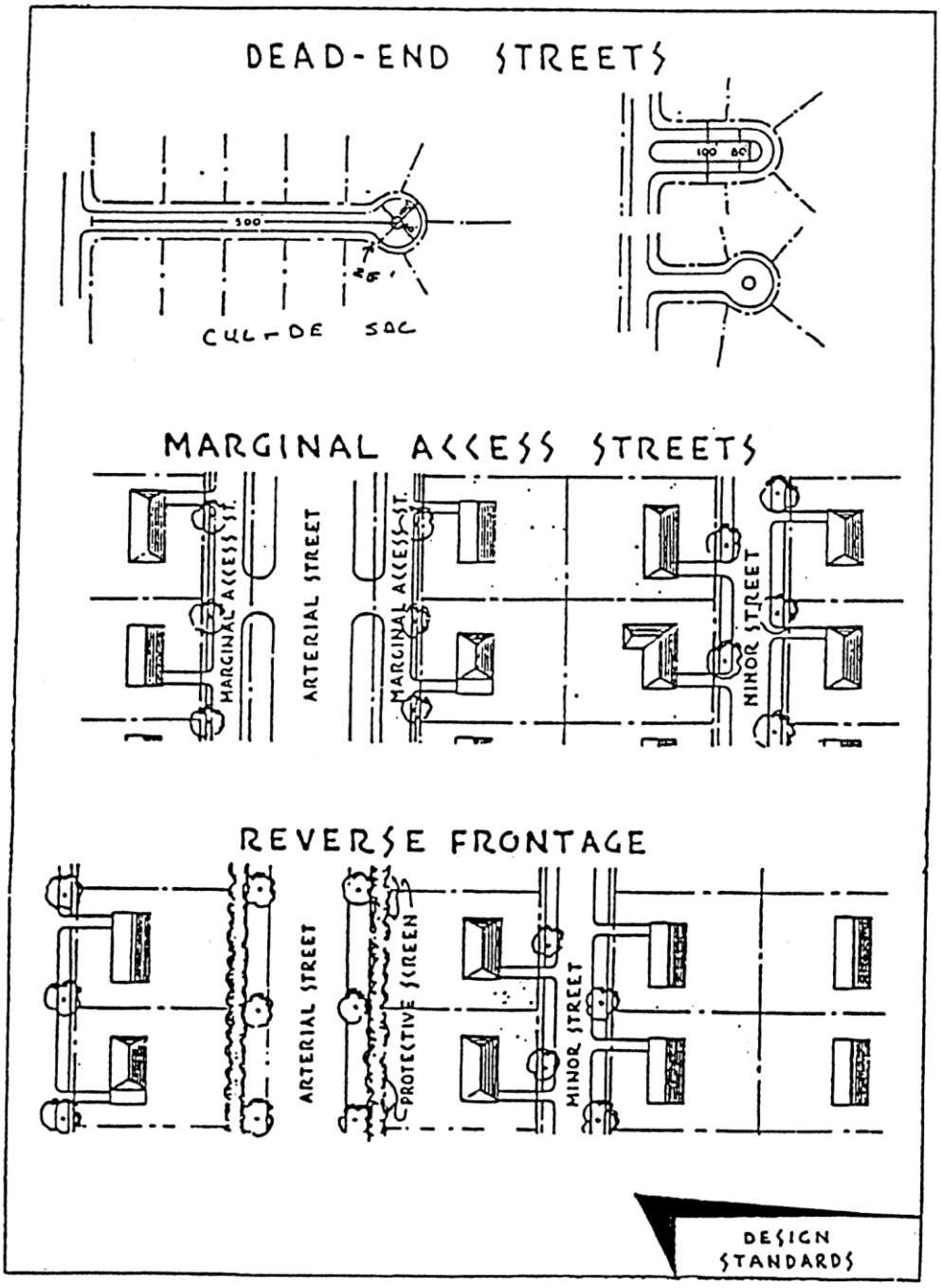
After the plat has been recorded in the public records of Escambia County, one (1) copy of the plat shall be filed with the inspections services department within fifteen (15) days after the date of record.

(Ord. No. 6-93, § 25, 3-25-93; Ord. No. 16-10, § 224, 9-9-10)

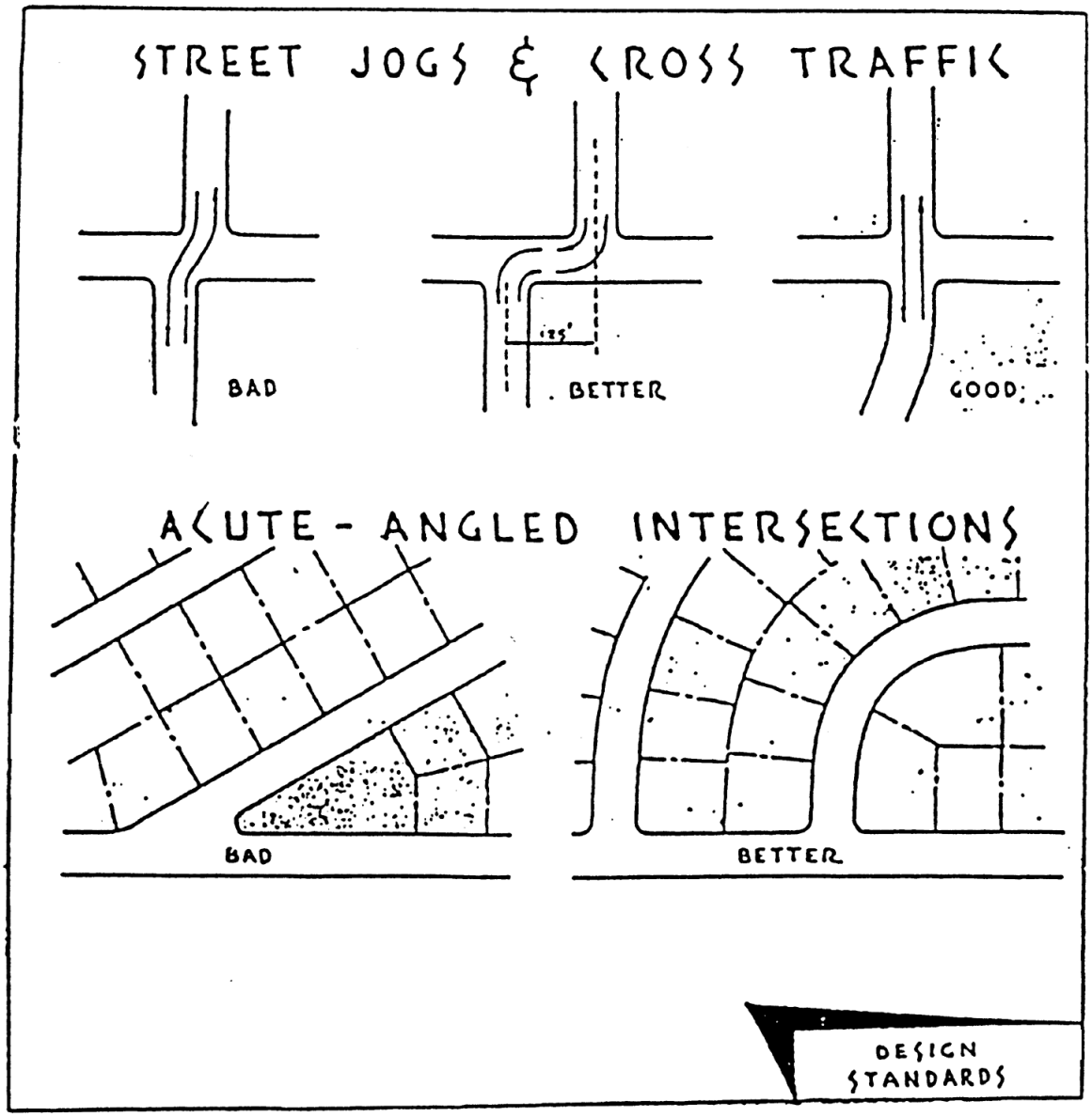
APPENDIX A
DESIGN STANDARDS



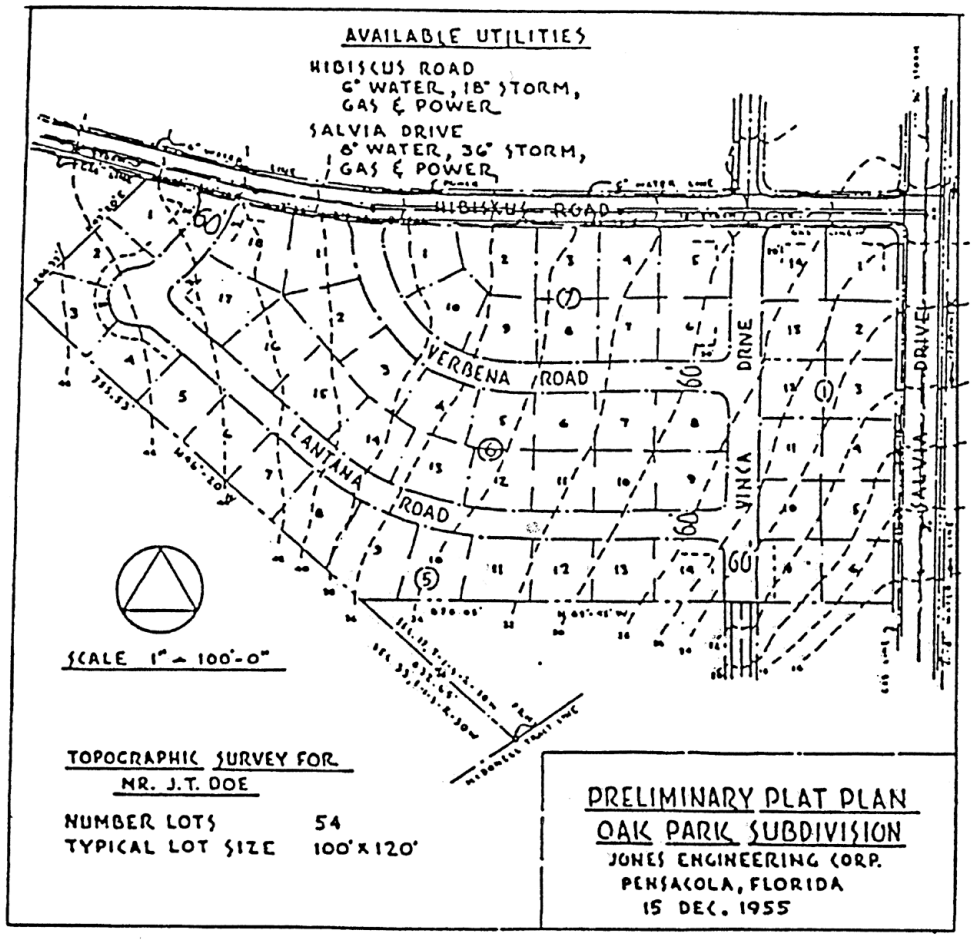
APPENDIX A
DESIGN STANDARDS

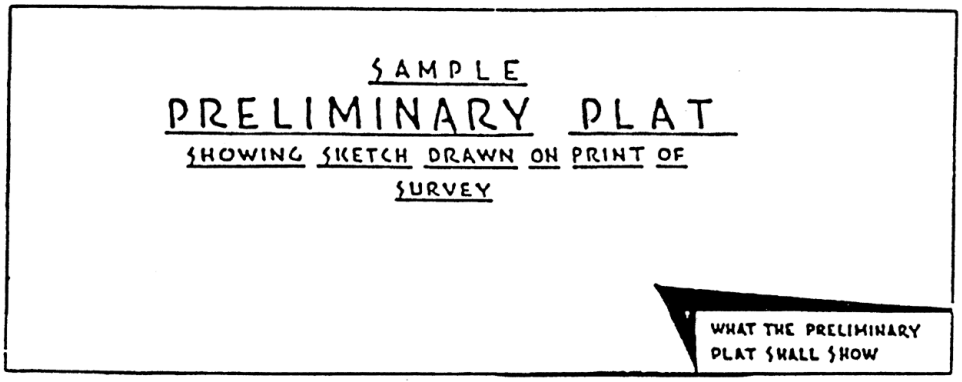


APPENDIX A
DESIGN STANDARDS



APPENDIX B
SAMPLE PRELIMINARY PLAT





CHAPTER 12-9. STORMWATER MANAGEMENT AND CONTROL OF EROSION, SEDIMENTATION AND RUNOFF

Sec. 12-9-1. - Purpose.

It is the purpose of this chapter to establish responsibility for the alleviation of the harmful and damaging effects of on-site generated erosion, sedimentation, runoff, and the accumulation of debris on adjacent downhill and/or downstream properties, and to avert the attendant deterioration of downstream bodies of water. Stormwater runoff peak rates after development should approximate existing predevelopment conditions.

Sec. 12-9-2. - Applicability.

This chapter shall apply to all developments or property improvements within the city.

Sec. 12-9-3. - Activities requiring a stormwater management plan.

No person may subdivide or make any change in the use of land or construct or change the size of a structure except as exempted in section 12-9-4 without first submitting a stormwater management plan to the city engineer and obtaining a stormwater management permit from the building official.

(A) *Activities that may alter or disrupt existing stormwater runoff patterns.* The following activities may alter or disrupt existing stormwater runoff patterns and, unless exempted will require submittal of a stormwater management plan prior to initiation of a project:

(a) Clearing and/or drainage of land prior to construction of a project;

(b) Subdividing land;

(c) Replatting recorded subdivisions;

(d) Changing the use of land causing a change in natural flow patterns or predevelopment conditions;

(e) Construction of a structure or substantial alteration to the size of one or more structures causing a change in natural flow patterns or preexisting conditions;

(f) Altering the shoreline or bank of any surface waterbody;

(g) Altering of any ditches, dikes, terraces, berms, swales, or other water management facility.

(B) *Property within the Bayou Texar and Escambia Bay shoreline protection districts.* For all property within the Bayou Texar and Escambia Bay shoreline protection districts (sections 12-2-27 and 12-2-28), a stormwater management plan must be submitted to the city engineer prior to the issuance of a building permit.

Sec. 12-9-4. - Exemptions.

(A) *Individual single-family and duplex homes.* Individual single-family and duplex home construction plans shall be exempt from the required stormwater management plan providing the lot is in an approved platted subdivision. However, the owner, developer, or builder will be required to submit a description of the methods they will utilize to ensure that no erosion or sedimentation will occur during construction. They will be required to clear the lot in stages such that a siltation barrier of natural vegetation around the lot perimeter will be maintained until lot stabilization is completed. If a siltation or erosion problem develops during construction, the owner developer or builder will be required to provide an additional siltation barrier and will be responsible for restoring the affected area to predevelopment condition. This exemption does not apply within the Bayou Texar or Escambia Bay shoreline protection districts.

(B) *Other exempted operations.* Operations which shall, in any case, be exempt from this chapter are the following. However, any exemption from this chapter does not relieve responsibility to take all action necessary to prevent erosion and sedimentation from occurring.

- Home gardening or other similar activity not expected to contribute to any on-site generated erosion.
- Emergency repairs such as those on public and private utilities and roadway systems.

- Maintenance, alteration or improvement of an existing structure that will not change the rate or volume of stormwater runoff from the site on which that structure is located.

Sec. 12-9-5. - Stormwater management plan.

It is the responsibility of the applicant to include in the stormwater management plan sufficient information for the city engineer to evaluate the volume of stormwater runoff. The stormwater management plan shall be prepared by a professional engineer registered in the State of Florida.

The stormwater management plan shall be subject to the approval of the city engineer and permitted by the city building official. The design standards delineated in section 12-9-6 shall be utilized in the review and approval of each drainage plan. Additional pertinent information that may be requested by the city engineer shall be provided.

(A) *Contents of the stormwater management plan:*

(a) A topographic map at a one-foot contour interval for the entire property to be developed, per existing engineering standards of the city.

(b) A topographic map based on generally available contours of areas adjacent to the property to be developed.

(c) The existing environmental and hydrologic conditions on the site and/or receiving waters and wetlands described in detail, including the following:

1. The direction, flow rate, and volume of stormwater runoff for existing conditions and, to the extent practicable, predevelopment conditions.
2. The location of areas on the site where stormwater collects or percolates into the ground.
3. Vegetation.
4. Soils.
5. The size and location of any existing buildings or other structures.

(d) Any proposed alterations of the site described in detail including:

1. Changes in topography.
2. Areas where vegetation will be cleared or killed.
3. Areas that will be covered with an impervious surface with a description of the surfacing material.
4. The size and location of any proposed buildings or other structures.

(e) Predicted impacts of the proposed development on existing conditions, described in detail, including changes in the incidence and duration of flooding on the site and upstream and downstream from it.

(f) All components of the stormwater management system and any measure for the detention, retention, or infiltration of water or for the protection of water quality, described in detail, including:

1. The channel, direction, flow rate and volume of stormwater that will be conveyed from the site, with a comparison to existing conditions and, to the extent practicable, postdevelopment conditions.
2. Detention and retention areas, including plans for the discharge of contained water, maintenance plans, and predictions of water quality in those areas.
3. Areas of the site to be used or reserved for percolation.

4. A plan for the control of erosion and sedimentation that describes in detail the type and location of control measures, the stage of development at which they will be put into place or used, and provision for their maintenance.

5. Any other information that the applicant or the city engineer believes is reasonably necessary for an evaluation of the proposed development.

(g) Construction plans and specifications for all components of the stormwater management system.

(h) A listing setting forth scheduled maintenance needs and including an operation and maintenance manual to be provided to the entity responsible for maintenance of the stormwater management system.

(B) *Landscape plan required.* For projects other than single-family subdivisions, a copy of the approved landscape plan must be submitted identifying all protected trees to be preserved or replanted and all other landscaping improvements. A copy of any tree removal permit, if issued, shall also be submitted.

Sec. 12-9-6. - Design standards for stormwater management system.

(A) *General.*

(a) The design of stormwater management facilities including all water retention or detention structures and flow attenuation devices shall comply with applicable state regulations (i.e., Chapter 62-330, Florida Administrative Code) and shall be subject to approval of the city engineer pursuant to the following requirements. In the event of conflict between the provisions of this chapter and the provisions of the applicable state regulations, the more strict requirements shall prevail.

(b) All stormwater management facilities shall be designed for a minimum of fifty-year life, have low maintenance cost and easy legal access for periodic maintenance.

(c) All proposed stormwater management facilities shall be designed to prevent flooding, safety or health hazards and shall not contribute to the breeding of mosquitoes and arthropods.

(d) The use of drainage facilities and vegetated buffer zones for open space, recreation, and conservation areas shall be encouraged.

(e) The use of alternative permeable surface materials are encouraged for private parking lots will be given due consideration in drainage plan review.

(B) *Water quality.*

(a) The first one (1) inch of runoff shall be retained on the development site. At the discretion of the city engineer, retention standards may be increased beyond the one-inch minimum standard on a site-specific basis to prevent flooding and drainage problems, and to protect environmentally sensitive water bodies.

(b) Stormwater management facilities that receive stormwater runoff from areas containing a potential source of oil and grease contamination including, but not limited to, any land use involving the sale or handling of petroleum products or any land use involving the repair, maintenance or cleaning of motor vehicles shall include a baffle, skimmer, grease trap, or other suitable oil and grease separation mechanism.

(c) Channeling runoff directly into water bodies is prohibited. Runoff shall be routed through stormwater management systems designed to increase time of concentration, decrease velocity, increase infiltration, allow suspended solids to settle, and remove pollutants.

(C) *Erosion and sedimentation.*

(a) Erosion and sediment control best management practices shall be used during construction to retain sediment on-site. These management practices shall be designed by an engineer or

other competent professional experienced in the fields of soil conservation or sediment control according to specific site conditions and shall be shown or noted on the plans of the stormwater management system. The engineer or designer shall furnish the contractor with information pertaining to the construction, operation and maintenance of the erosion and sediment control practices.

(b) The area of land disturbed by development shall be as small as practicable. Those areas that are not to be disturbed shall be protected by an adequate barrier from construction activity. Whenever possible, natural vegetation shall be retained and protected.

(c) No clearing, grading, cutting, filling or alteration to the site of any kind shall be commenced until adequate erosion and sedimentation structural controls have been installed as per plan between the disturbed area and waterbodies, watercourses, and wetlands and inspected by the building official. Limited clearing shall be permitted as necessary to allow the installation of the structural controls.

(d) Land that has been cleared for development and upon which construction has not commenced shall be protected from erosion by appropriate techniques designed to temporarily stabilize the areas.

(e) Sediment shall be retained on the site of the development, unless discharged into an approved off-site drainage facility as provided for in section 12-9-7.

(f) Erosion and sedimentation facilities shall receive regular maintenance during construction to ensure that they continue to function properly.

(g) Vegetated buffer strips shall be created or, where practicable, retained in their natural state along the banks of all watercourses, waterbodies, or wetlands. The width of the buffer shall be sufficient to prevent erosion, trap the sediment in overland runoff, maintain natural drainage patterns to the waterbody, and allow for periodic flooding without damage to structures.

(D) *Design frequency.*

(a) Stormwater management facilities with approved positive outfall shall be designed to attenuate the one hundred (100) year/critical duration storm event. The city engineer may waive or reduce this requirement if the stormwater management facility discharges directly into a natural outfall after treatment, does not contribute to potential or existing flooding conditions and does not increase pollutant loading.

(b) Retention facilities that fall within a closed drainage basin and have no positive outfall shall retain the entire runoff volume from a one-hundred (100) year storm event and shall include all storm durations up to and including the twenty-four-hour duration. This retention volume must be recovered within seventy-two (72) hours of the contributing storm event by natural percolation or other approved means.

(c) Detention and/or retention facilities that connect directly to the city's storm drainage system shall be designed so that the post-development discharge rate does not exceed the pre-development discharge rate for a ten (10) year/critical duration storm event. Where the existing capacity of the city storm drainage system is not adequate to accept the discharge from a ten (10) year storm event, the city engineer may reduce the allowable post-development discharge rate from the detention facility to an acceptable level. Detention and/or retention facilities that do not connect directly to the city storm system or have a direct impact on the system shall be allowed to discharge up to the pre-development rate for the one hundred (100) year/critical duration storm event or as otherwise approved by the city engineer.

(d) The drainage area used in runoff calculations shall be the total natural watershed area including areas beyond proposed site limits (offsite runon).

(E) *Stormwater retention and/or detention facilities.*

(a) General requirements.

1. Recovery time for treatment/retention volume shall be a maximum of seventy-two (72) hours. Recovery time for facilities that are underdrained or side drained shall be thirty-six (36) hours.

2. Minimum freeboard for retention and/or detention facilities shall be one (1) foot between design high water and top of facility. The city engineer may waive or reduce this requirement for shallow ponds and swales.

3. Stormwater retention and/or detention facilities shall include appropriate access for periodic maintenance as approved by the city engineer.

4. Stormwater retention and/or detention facilities located adjacent to a public right-of-way shall be landscaped with a visual screen installed in accordance with the provisions of section 12-2-32(D) through (G) or landscaped as a part of the overall landscaping for the development with plant species that are suitable for individual pond characteristics and that provide an effective and visually pleasing screen for the retention and/or detention facility. All landscaping shall be maintained in accordance with the provisions of section 12-6-5.

5. Designs for stormwater detention and/or retention facilities that use predominantly non-angular, freeform, curvilinear contouring that functions to visually integrate the facility into the overall design and landscaping of the development shall be encouraged.

(b) Public facilities. Stormwater retention and/or detention facilities to be dedicated to the city for maintenance shall comply with the following requirements in addition to the general requirement specified in section 12-9-6(E)(a) above.

1. Slide slopes of facilities shall be no steeper than four (4) horizontal feet for every one (1) vertical foot (4:1) out to a depth of two (2) feet below the control elevation. Grades steeper than 4:1 may be allowed where unique circumstances exist as approved by the city engineer.

2. Side slopes shall be stabilized with sod or other materials as approved by the city engineer.

3. Dry stormwater retention and/or detention facilities that contain side slopes that are steeper than 4:1 and have a retention depth greater than thirty (30) inches shall be completely enclosed by a six-foot fence constructed of chain link, wrought iron or other material as approved by the city engineer. Chain link fences and related appurtenances (posts, gates, etc.) shall be vinyl-coated (dark green or black). The fence shall have a minimum twelve (12) foot wide (fifteen (15) foot maximum) gate opening. The maximum clearance from the bottom of the fence to existing grade shall be no more than three (3) inches. This provision does not apply to shallow swales with a retention depth of thirty (30) inches or less.

4. Permanently wet retention and/or detention facilities that contain side slopes that are steeper than 4:1 shall be fenced or otherwise restricted from public access in accordance with Chapter 62-330 of the Florida Administrative Code. Where a fence is proposed it shall be constructed according to the provisions of section 6(E)(b)3. above.

(c) Private facilities. Stormwater retention and/or detention facilities to be maintained shall comply with the following requirements in addition to the general requirement specified in section 12-9-6(E)(a) above.

1. Slide slopes of facilities with earthen slopes shall be no steeper than two (2) horizontal feet for every one (1) vertical foot (2:1). Grades steeper than 2:1 may be allowed where unique circumstances exist as approved by the city engineer.

2. Side slopes shall be stabilized with sod or other material as approved by the city engineer.

3. Private facilities with side slopes that are steeper than 4:1 shall be fenced or otherwise restricted from public access in accordance with Chapter 62-330 of the Florida Administrative Code. Private stormwater retention and detention facilities that are located

adjacent to a public right-of-way or easement shall be fenced in accordance with section 12-9-6(E)(b)3. above.

(F) *Redevelopment.*

(a) The following redevelopment activities will not be subject to the requirements of section 12-9-6:

1. Alterations to the interior of an existing structure.
2. Alterations of an existing structure that do not result in a net increase in impervious surface area.
3. Routine building repair including adding a facade to a building.
4. Resurfacing an existing paved area such as a parking lot, driveway or other vehicle use area.

(b) Redevelopment activities including, but not limited to, alterations of existing buildings or structures or new construction following demolition of existing buildings and structures shall be subject to the requirements of section 12-9-6 only for the stormwater runoff that results from a net increase in impervious surface area provided that the new construction is under construction within two (2) years of demolition. For the purpose of this section (section 12-9-6(F)), under construction shall mean that a legal building permit has been issued and that actual construction has been or will be started within the period of validity of the permit, exclusive of any time extensions. Previously developed sites where buildings and structures were demolished and construction was not commenced within two (2) years shall be considered new construction and subject to the requirements of section 12-9-6. The following locations shall be excluded from the two (2) year time restriction:

1. All properties located in the C-2A downtown retail commercial district, SPBD South Palafox business district or HC-2 historical commercial district.
2. The area generally described as the Belmont/DeVillers Business Core area bounded by LaRua Street, Wright Street, Coyle Street, and Reus Street.
3. The area generally described as the Brownsville Commercial Area that is within the city limits bounded by Strong Street, Gadsden Street, Pace Boulevard and the city limits.

(c) The city engineer may require certification from a licensed engineer that there is adequate capacity in the downstream stormwater conveyance system for the redevelopment site and that any known flooding or drainage problem will not be worsened.

(Ord. No. 3-02, § 1, 1-10-02; Ord. No. 11-15, § 2, 6-18-15)

Sec. 12-9-7. - Off-site drainage facilities.

Surface water runoff discharged into drainage facilities for treatment and/or attenuation off the site of development if the following conditions are met:

- It is not practicable to completely manage runoff on the site in a manner consistent with the design standards set forth in section 12-9-6;
- An adequate conveyance system to the facility exists or is to be provided;
- The off-site drainage facilities are designed, constructed, and maintained in accordance with the requirements of this chapter; and
- The city engineer approves the use of such off-site drainage facility.

(Ord. No. 3-02, § 1, 1-10-02)

Sec. 12-9-8. - Permits, inspection and enforcement.

All stormwater management plans shall be reviewed and approved by the city engineer.

(A) *Development other than single-family and two-family lots.* All development other than single-family subdivision and two-family lots is subject to the following provisions:

• The building official shall be notified by the owner, developer or builder to inspect the installation of the erosion and sedimentation controls prior to any clearing, grading, cutting, filling or alterations of any kind to the site.

• The building official shall monitor the installation of temporary stormwater control devices during construction. At the completion of construction, the city engineer shall be notified by the owner, developer or builder to inspect and assure that permanent stormwater control devices are installed as shown and approved on the plan.

• During the construction phase of the project, if the city engineer determines that construction is not in compliance with the approved stormwater management plan, a notice of noncompliance shall be issued, specifying the nature of the noncompliance and the remedial actions necessary to bring the project into compliance within twenty-four (24) hours.

• If the remedial action specified above is not completed within the time allowed, then the building official or the city engineer may issue a stop-work order immediately. Upon completion of the action set forth in the notice of noncompliance, the building official shall issue a notice of compliance.

(B) *Single-family and two-family subdivision.* As part of the subdivision plat process, the city engineer shall review and approve, approve with modification, or deny the stormwater management plan for the subdivision. The building official shall monitor the construction of individual single-family and duplex homes in order to assure compliance with provisions stated in section 12-9-4(A).

(a) The city engineer shall be notified by the owner, developer or builder to inspect the installation of the erosion and sedimentation controls prior to any clearing, grading, cutting, filling or alteration of any kind to the site.

(b) The city engineer shall monitor the construction of the subdivision, including the installation of temporary and permanent stormwater control devices during construction and at completion of construction.

(c) During the construction phase of the project, if the city engineer determines that construction is not in compliance with the approved stormwater management plan, a notice of noncompliance shall be issued specifying the nature of the noncompliance and the remedial action necessary to bring the project into compliance within forty-eight (48) hours.

(d) If the remedial action specified above is not completed within the time allowed, then the city engineer will issue a stop-work order immediately. Upon completion of the action set forth in the notice of noncompliance, the city engineer shall issue a notice of compliance.

(e) Prior to final acceptance of improvements in the subdivision, the city engineer shall determine if the improvements are in compliance with the approved stormwater management plan. If the improvements are not in compliance, the city engineer shall specify the necessary revisions to be undertaken within a set time period.

(f) The owner and/or developer of the lot(s) in the subdivision shall be responsible for stabilizing and maintaining rights-of-way disturbed during and after the installation of utilities and other services.

(C) *Construction delays.* Where a stormwater management plan has been approved by the city engineer, clearing occurs and construction is delayed, the city engineer shall review the site to determine if interim stormwater control devices are required. The building official may also require remedial action be taken to stabilize eroding areas of the site.

(Ord. No. 3-02, § 1, 1-10-02)

Sec. 12-9-9. - Maintenance.

Maintenance of on-site stormwater control devices shall be the responsibility of the owner and/or developer of the site, unless such facilities are dedicated and accepted by the city or maintained under the authority of a homeowners' association.

Sec. 12-9-10. - Illicit discharges findings and determinations.

(A) Pursuant to the Federal Clean Water Act, 33 U.S.C. 1251, et seq., the United States Environmental Protection Agency has published rules for stormwater discharge permits and the city has been issued, as a co-permittee with Escambia County, Florida Department of Transportation, and the Town of Century, such a permit (NPDES Permit No. FLS000019 with issuance date of January 1, 1999).

(B) The contribution of pollutants through discharges from storm sewer systems has a significant impact on receiving waters in the city.

(C) Improperly treated discharges from industrial activities, interconnected municipal separate storm sewer system, illicit discharges and discharges from spilling, dumping or disposal of material other than stormwater to the municipal storm sewer system of the city will adversely affect the quality of water receiving such discharges. The control of the discharge of pollutants from stormwater is of benefit to and provides for the health, safety, and welfare of the citizens of the city.

(D) The United States Environmental Protection Agency, pursuant to 40 C.F.R. 122.26, has mandated the city through the issuance of National Pollution Discharge Elimination System (NPDES) Permit No. FLS000019 that the city must provide legal authority to control discharges to the municipal separate storm sewer system in order to control the quality of discharges from the city's storm sewer system to waters of the United States.

(Ord. No. 53-00, § 1, 11-16-00)

Sec. 12-9-11. - Definitions.

For purposes of this chapter, the following definitions shall apply. The word "shall" is mandatory and not discretionary. The word "may" is permissive.

Best management practices or *BMPs* mean schedules or activities, prohibitions of practices, maintenance procedures, treatment methods and other management practices to prevent or reduce pollutants from entering the MS4 or being discharged from the MS4.

Clean Water Act means Public Law (PL) 92-500, as amended PL 95-217, PL 95-576, PL 96-483, and PL 97-117, 33 U.S.C. 1251, et seq., as amended by the Water Quality Act of 1987, PL 100-4.

Construction activities means the alteration of land during construction and includes such activities as clearing, grading, and excavation.

Discharge means the release of liquid, solid or gaseous material and includes, but is not limited to, a release, spilling, leaking, seeping, pouring, emitting, emptying, and dumping of any substance or material.

Illicit connection means point source discharges to the city's MS4 or to waters of the United States, that are not composed entirely of stormwater and are not authorized by a permit.

Illicit discharge means discharge to the city's MS4 or to waters of the United States that is not composed entirely of stormwater, unless exempted pursuant to section 12-9-18, or the discharge to the city's MS4 or to waters of the United states that is not in compliance with federal, state, or local permits.

Industrial activities means activities at facilities identified by the United States Environmental Protection Agency as requiring an NPDES stormwater permit in accordance with 40 C.F.R. 122.26 or amendments thereto.

Municipal separate storm sewer system or *MS4* mean a conveyance, storage area or system of conveyances and storage areas (including, but not limited to, roads with drainage systems, streets, catch basins, curbs, gutters, ditches, manmade channels, storm drains, treatment ponds, and other structural BMPs) owned or operated by a local government that discharges to waters of the United States or to other MS4s, that is designed solely for collecting, treating or conveying stormwater, and that is not part of a publicly owned treatment works (POTW) as defined by 40 C.F.R. 122.2 or any amendments thereto.

National pollutant discharge elimination system or *NPDES* means the national program for issuing, modifying, revoking, and reissuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements, pursuant to the provisions of the Clean Water Act, 33 U.S.C. 1251, et seq.

Point source means any discernible and confined conveyance including, but not limited to, any pipe, ditch, channel, conduit, well, container, rolling stocks, concentrated animal feeding operation, vessel, or other floating craft from which pollutants are discharged. This term does not include return flows from irrigated agriculture.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended, 43 U.S.C. 2011, et seq.), heat, wrecked or damaged equipment, rock, sand, and industrial, municipal and agricultural waste discharged into the MS4.

Reclaimed water means water that has received at least advanced secondary treatment and basic disinfection and is reused after flowing out of a wastewater treatment facility.

Reuse means the deliberate application of reclaimed water, in compliance with the Florida Department of Environmental Protection and Northwest Florida Water Management District rules, for a beneficial purpose.

Runoff means the surface flow of water that results from, and occurs following, a rainfall event.

Significant construction activities means construction activities that result in the disturbance of five (5) acres or more of total land area.

Significant redevelopment means the alteration of an existing development that results in the increase of the discharge of a stormwater facility beyond its previously designed and constructed capacity, or increased pollution loading, or changed points of discharge, except emergency repairs.

Spill means illicit discharge.

Stormwater means surface runoff and the discharge of runoff water resulting from rainfall.

Waters of the United States means surface and ground waters as defined by 40 C.F.R. 122.2.

(Ord. No. 53-00, § 1, 11-16-00)

Sec. 12-9-12. - Control of stormwater discharges to the MS4 and waters of the United States.

(A) Discharges to the city's MS4 shall be controlled to the extent that such discharges will not impair the operation of the MS4 or contribute to the failure of the MS4 to meet any local, state, or federal requirements, including, but not limited to, NPDES Permit No. FLS000019. Discharges to the waters of the United States shall be controlled to the extent that the discharge will be controlled to the maximum extent practicable as defined in the NPDES Permit No. FLS000019.

(B) Stormwater discharges to the MS4 from new development or site of significant redevelopment are required to obtain appropriate local, state, or federal permits prior to discharging to the MS4 or to waters of the United States within the city.

(C) Any person responsible for discharges determined by the city to be contributing to the failure of the city's MS4 or waters within the city to comply with the provisions and conditions of NPDES Permit No. FLS000019 shall provide corrective measures as approved by the mayor, or his or her designee, and may be subject to paying fines and damages.

(Ord. No. 53-00, § 1, 11-16-00)

Sec. 12-9-13. - Stormwater discharges from industrial and construction activities.

(A) Stormwater discharges from industrial activities shall be treated or managed on site, in accordance with appropriate federal, state, or local permits and regulations, prior to discharge to the city's MS4 or to waters of the United States.

(B) Stormwater discharges from significant construction activities shall be treated or managed on site in accordance with appropriate federal, state or local permits and regulations, prior to discharge to the city's MS4 or to waters of the United States. Erosion, sediment, and pollution controls for the construction site shall be properly implemented, maintained, and operated according to a pollution prevention plan required by the NPDES permit for the discharge of stormwater from construction activities, or according to a state permit issued by the Florida Department of Environmental Protection.

(C) Any construction activity that is not significant is an illicit connection or illicit discharge if the activity causes an impairment of the operation of the MS4 or contributes to the failure of the MS4 to meet any local, state, or federal requirements, including, but not limited to, NPDES Permit No. FLS000019.

(D) The owners or operators of industrial facilities and construction sites that will discharge stormwater to the city's MS4 or to waters of the United States within the city limits shall provide written notification to the mayor or his or her designee of the connection or discharge prior to the discharge from the industrial activity or construction activity.

(Ord. No. 53-00, § 1, 11-16-00)

Sec. 12-9-14. - Control of pollutant contributions from interconnected MS4s.

The discharge of stormwater between interconnected state, county, city or other MS4s shall not cause the city's MS4 to be in violation of the provisions of NPDES Permit No. FLS000019. Owners of any section of interconnected MS4 shall be responsible for the quality of discharge from their portion of the MS4 in accordance with interlocal agreements controlling the discharge of stormwater from one MS4 to another.

(Ord. No. 53-00, § 1, 11-16-00)

Sec. 12-9-15. - Prohibition of illicit discharges and illicit connections.

(A) Illicit discharges and illicit connections, not exempt under the provisions of section 12-9-18, are prohibited.

(B) Failure to report a connection from industrial activities or construction activities to the city's MS4 or to waters of the United States constitutes an illicit connection.

(C) Failure to report a discharge from industrial activities or construction activities to the city's MS4 or to waters of the United States constitutes an illicit discharge.

(D) Any discharge to the city's MS4 or to waters of the United States that is in violation of federal, state, or local permits or regulations constitutes an illicit discharge.

(E) Persons responsible for illicit discharges or illicit connections shall immediately, upon notification or discovery, initiate procedures to cease the illicit discharge or illicit connection, or obtain appropriate federal, state, or local permits for such discharge or connection.

(Ord. No. 53-00, § 1, 11-16-00)

Sec. 12-9-16. - Inspection and monitoring for compliance.

City personnel shall be granted access for inspection of facilities discharging or suspected of discharging to the city's MS4 or waters of the United States in order to effectuate the provisions of this chapter and to investigate violations or potential violations of any of the terms herein. All structures and processes that allow discharges to the city's MS4, as well as records concerning them, shall be made accessible to city personnel for this purpose. Failure to provide access for inspection as provided herein shall constitute a violation of this chapter.

(Ord. No. 53-00, § 1, 11-16-00)

Sec. 12-9-17. - Maintenance of BMPs.

Structural controls and other BMPs used for controlling the discharge of pollutants to the city's MS4 or to waters of the United States shall be operated and maintained so as to function in accordance with permitted design or performance criteria and in compliance with federal, state, or local permit conditions and regulations.

(Ord. No. 53-00, § 1, 11-16-00)

Sec. 12-9-18. - Illicit discharges exemptions.

The following activities shall not be considered either an illicit discharge or illicit connection unless such activities cause, or significantly contribute to the impairment of the use of the city's MS4 or the violation of the conditions of NPDES Permit No. FLS000019.

(A) Discharges from:

1. Water line flushing;
2. Flushing of reclaimed water lines;
3. Street cleaning;
4. Construction dust control;
5. Landscape irrigation;
6. Diverted stream flows;
7. Rising ground waters;
8. Foundation and footing drains;
9. Swimming pool discharges;
10. Uncontaminated ground water infiltration [as defined at 40 C.F.R. 35.2005(20)];

11. Uncontaminated pumped groundwater;
12. Discharges from potable water sources;
13. Air conditioning condensate;
14. Irrigation waters;
15. Springs;
16. Lawn watering;
17. Individual residential car washing;
18. Flows from riparian habitat and wetlands;
19. Discharges or flows from emergency fire fighting activities; and, emergency fire response activities done in accordance with an adopted spill response/action plan; and
20. Decanted water from MS4 cleaning operations.

(B) Discharges which have obtained appropriate federal, state, and local permits and are in compliance with the conditions of these permits.

(Ord. No. 53-00, § 1, 11-16-00)

Sec. 12-9-19. - Enforcement, penalties, and legal proceedings.

(A) Sections 12-9-10 through 12-9-18 shall be administered by the mayor, or his or her designee. All persons in violation of these sections shall address such violations immediately upon written notification by the city. Violations shall be addressed by providing a written response to the mayor, outlining the temporary and permanent measures that will be taken to correct the violation and a proposed schedule for completion of the corrective measures. Proposals for corrective action are subject to the approval of the mayor.

(B) The mayor is authorized to issue cease and desist orders, and orders requiring reasonable remedial actions(s) in the form of written notices sent by registered mail or by hand delivery to the person(s) responsible for the violation of sections 12-9-10 through 12-9-18.

(C) Any person who violates sections 12-9-10 through 12-9-18 and/or fails to comply with the requirements of any provision of these sections may be subject to issuance of a civil citation or a notice to appear pursuant to Chapter 13-2 of the City Code, or shall be subject to prosecution before the Code Enforcement Board of the City of Pensacola, pursuant to Chapter 13-1 of the City Code. Any person violating any of the provisions of sections 12-9-10 through 12-9-18 shall, upon conviction thereof by a court, be punished by a fine not to exceed five hundred dollars ($500.00) or by imprisonment not to exceed sixty (60) days or by both such fine and imprisonment. Each day of violation shall constitute a separate violation.

(D) Persons responsible for violation of sections 12-9-10 through 12-9-18 shall be liable for all sampling and analytical costs incurred in monitoring the discharge, and state and/or federal fines imposed as a result of the discharge and costs of removing or properly treating the discharge. All expenses incurred by the city in taking remedial actions shall be reimbursed by the legal or beneficial owner of the property upon which remedial action was taken, and shall constitute a lien against the property until paid, including statutory interest. The city may recover such expenses by any means authorized by law or equity. "Expenses" may include, but not be limited to, costs incurred in ascertaining ownership, consultation fees, mailing or delivery of notices, recording fees, taxable costs of litigation including reasonable attorney's fees, removing or treating the discharge, or other cost of remedying any violation of this section.

(E) If the persons responsible for the violation fail to take action required herein, the city has the right to take remedial action. All costs incurred by the city in taking such actions shall be reimbursed by the persons responsible for the violation.

(F) The mayor shall certify that the specific work has been completed and shall then prepare and process a complete assessment of all costs including, but not limited to, all expenses listed in the preceding paragraph or other legitimate expenses that may have occurred before, during, or after the proceedings necessary to eliminate the illicit discharge or illicit connection.

(G) Furthermore, the costs imposed pursuant to this section shall be declared a lien upon the land until paid, and to have equal dignity with other liens for ad valorem taxes. The mayor shall file for public record the claims of liens against the property cleared of the illicit discharge or illicit connection, setting forth the amount of the lien, a description of the property involved, and that the lien is claimed pursuant to the provisions of this section. Monies received from enforcement of the lien shall be collected and deposited in the city's general fund. The lien shall be enforced as otherwise provided for by law.

(H) In addition to the remedies provided herein, the city is authorized to make application to a court of appropriate jurisdiction for an injunction restraining any person from violating, or continuing to violate, the provisions of sections 12-9-10 through 12-9-18; affirmatively requiring restoration and mitigation for any impacted land or waters, and/or requesting any other appropriate, applicable legal remedy, including reimbursement of court costs.

(I) The city may elect to take any or all of the above remedies concurrently, and the pursuance of one (1) shall not preclude the pursuance of another.

(J) Any fines or other funds received as a result of enforcement under sections 12-9-10 through 12-9-18 that are not used for specific purposes set forth in this chapter shall be deposited in the city's general fund.

(Ord. No. 53-00, § 1, 11-16-00)

CHAPTER 12-10. FLOODPLAIN MANAGEMENT[6]

Footnotes:

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Editor's note— Ord. No. 16-19, § 1, adopted August 8, 2019, repealed the former Ch. 12-10, §§ 12-10-1—12-10-6, and enacted a new Ch. 12-10 as set out herein. The former Ch. 12-10 pertained to similar subject matter and derived from Ord. No. 26-06, § 1, 9-28-06; Ord. No. 16-10, § 225, 9-9-10.

Sec. 12-10-1. - Statutory authorization, findings of fact, purpose and objectives—General.

(A) *Title.* These regulations shall be known as the Floodplain Management Ordinance of City of Pensacola, hereinafter referred to as "this chapter."

(B) *Scope.* The provisions of this chapter shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the Florida Building Code; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

(C) *Intent.* The purposes of this chapter and the flood load and flood resistant construction requirements of the Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

(1) Minimize unnecessary disruption of commerce, access and public service during times of flooding;

(2) Require the use of appropriate construction practices in order to prevent or minimize future flood damage;

(3) Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development that may increase flood damage or erosion potential;

(4) Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;

(5) Minimize damage to public and private facilities and utilities;

(6) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;

(7) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and

(8) Meet the requirements of the National Flood Insurance Program for community participation as set forth in Title 44 Code of Federal Regulations, Section 59.22.

(D) *Coordination with the Florida Building Code.* This chapter is intended to be administered and enforced in conjunction with the Florida Building Code. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building Code.

(E) *Warning.* The degree of flood protection required by this chapter and the Florida Building Code, as amended by this community, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the flood insurance study and shown on flood insurance rate maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this chapter.

(F) *Disclaimer of liability.* This chapter shall not create liability on the part of the City Council of the City of Pensacola or by any officer or employee thereof for any flood damage that results from reliance on this chapter or any administrative decision lawfully made thereunder.

(Ord. No. 16-19, § 1, 8-8-19)

Sec. 12-10-2. - Applicability.

(A) *General.* Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

(B) *Areas to which this chapter applies.* This chapter shall apply to all flood hazard areas within the City of Pensacola as established in section 12-10-2(C) of this chapter.

(C) *Basis for establishing flood hazard areas.* The Flood Insurance Study for Escambia County, Florida and Incorporated Areas dated September 29, 2006, and all subsequent amendments and revisions, and the accompanying flood insurance rate maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this chapter and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at Inspection Services at the City of Pensacola.

(D) *Submission of additional data to establish flood hazard areas.* To establish flood hazard areas and base flood elevations, pursuant to section 12-10-5 of this chapter the floodplain administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:

(1) Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this chapter and, as applicable, the requirements of the Florida Building Code.

(2) Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a letter of map change that removes the area from the special flood hazard area.

(E) *Other laws.* The provisions of this chapter shall not be deemed to nullify any provisions of local, state or federal law.

(F) *Abrogation and greater restrictions.* This chapter supersedes any ordinance in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing ordinances including but not limited to land development regulations, zoning ordinances, stormwater management regulations, or the Florida Building Code. In the event of a conflict between this chapter and any other ordinance, the more restrictive shall govern. This chapter shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this chapter.

(G) *Interpretation.* In the interpretation and application of this chapter, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. 16-19, § 1, 8-8-19)

Sec. 12-10-3. - Duties and powers of the floodplain administrator.

(A) *Designation.* The building official is designated as the floodplain administrator. The floodplain administrator may delegate performance of certain duties to other employees.

(B) *General.* The floodplain administrator is authorized and directed to administer and enforce the provisions of this chapter. The floodplain administrator shall have the authority to render interpretations of this chapter consistent with the intent and purpose of this chapter and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this chapter without the granting of a variance pursuant to section 12-10-7 of this chapter.

(C) *Applications and permits.* The floodplain administrator, in coordination with other pertinent offices of the community, shall:

(1) Review applications and plans to determine whether proposed new development will be located in flood hazard areas;

(2) Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this chapter;

(3) Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;

(4) Provide available flood elevation and flood hazard information;

(5) Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;

(6) Review applications to determine whether proposed development will be reasonably safe from flooding;

(7) Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code, when compliance with this chapter is demonstrated, or disapprove the same in the event of noncompliance; and

(8) Coordinate with and provide comments to the building official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this chapter.

(D) *Substantial improvement and substantial damage determinations.* For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the floodplain administrator, in coordination with the building official, shall:

(1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

(2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

(3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

(4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the Florida Building Code and this chapter is required.

(E) *Modifications of the strict application of the requirements of the Florida Building Code.* The floodplain administrator shall review requests submitted to the building official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the Florida Building Code to determine whether such requests require the granting of a variance pursuant to section 12-10-7 of this chapter.

(F) *Notices and orders.* The floodplain administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this chapter.

(G) *Inspections.* The floodplain administrator shall make the required inspections as specified in section 12-10-6 of this chapter for development that is not subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. The floodplain administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

(H) *Other duties of the floodplain administrator.* The floodplain administrator shall have other duties, including but not limited to:

(1) Establish procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to section 12-10-3(D) of this chapter;

(2) Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);

(3) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the flood insurance rate maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within six (6) months of such data becoming available;

(4) Review required design certifications and documentation of elevations specified by this chapter and the Florida Building Code to determine that such certifications and documentations are complete;

(5) Notify the Federal Emergency Management Agency when the corporate boundaries of City of Pensacola are modified; and

(6) Advise applicants for new buildings and structures, including substantial improvements, that are located in any unit of the coastal barrier resources system established by the Coastal Barrier Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal flood insurance is not available on such construction; areas subject to this limitation are identified on flood insurance rate maps as "coastal barrier resource system areas" and "otherwise protected areas."

(I) *Floodplain management records.* Regardless of any limitation on the period required for retention of public records, the floodplain administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this ordinance and the flood resistant construction requirements of the Florida Building Code, including flood insurance rate maps; letters of map change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the Florida Building Code and this chapter; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this chapter and the flood resistant construction requirements of the Florida Building Code. These records shall be available for public inspection at Inspection Services of the City of Pensacola.

(Ord. No. 16-19, § 1, 8-8-19)

Sec. 12-10-4. - Permits.

(A) *Permits required.* Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this chapter, including buildings, structures and facilities exempt from the Florida Building Code, which is wholly within or partially within any flood hazard area shall first make application to the floodplain administrator, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this chapter and all other applicable codes and regulations has been satisfied.

(B) *Floodplain development permits or approvals.* Floodplain development permits or approvals shall be issued pursuant to this chapter for any development activities not subject to the requirements of the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. Depending on the nature and extent of proposed development that includes a building or structure, the floodplain administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

(C) *Buildings, structures and facilities exempt from the Florida Building Code.* Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the Florida Building Code and any further exemptions provided by law, which are subject to the requirements of this chapter:

(1) Railroads and ancillary facilities associated with the railroad.

(2) Nonresidential farm buildings on farms, as provided in F.S. § 604.50.

(3) Temporary buildings or sheds used exclusively for construction purposes.

(4) Mobile or modular structures used as temporary offices.

(5) Those structures or facilities of electric utilities, as defined in F.S. § 366.02, which are directly involved in the generation, transmission, or distribution of electricity.

(6) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.

(7) Family mausoleums not exceeding two hundred fifty (250) square feet in area that are prefabricated and assembled onsite or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.

(8) Temporary housing provided by the department of corrections to any prisoner in the state correctional system.

(9) Structures identified in F.S. § 553.73(10)(k), are not exempt from the Florida Building Code if such structures are located in flood hazard areas established on flood insurance rate maps.

(D) *Application for a permit or approval.* To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the city. The information provided shall:

(1) Identify and describe the development to be covered by the permit or approval.

(2) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.

(3) Indicate the use and occupancy for which the proposed development is intended.

(4) Be accompanied by a site plan or construction documents as specified in section 12-10-5 of this chapter.

(5) State the valuation of the proposed work.

(6) Be signed by the applicant or the applicant's authorized agent.

(7) Give such other data and information as required by the floodplain administrator.

(E) *Validity of permit or approval.* The issuance of a floodplain development permit or approval pursuant to this chapter shall not be construed to be a permit for, or approval of, any violation of this chapter, the Florida Building Codes, or any other ordinance of the city. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the floodplain administrator from requiring the correction of errors and omissions.

(F) *Expiration.* A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within one hundred eighty (180) days after its issuance, or if the work authorized is suspended or abandoned for a period of one hundred eighty (180) days after the work commences. Extensions for periods of not more than one hundred eighty (180) days each shall be requested in writing and justifiable cause shall be demonstrated.

(G) *Suspension or revocation.* The floodplain administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this chapter or any other ordinance, regulation or requirement of the city.

(H) *Other permits required.* Floodplain development permits and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including but not limited to the following:

(1) The Northwest Florida Water Management District; F.S. § 373.036.

(2) Florida Department of Health for onsite sewage treatment and disposal systems; F.S. § 381.0065 and Chapter 64E-6, F.A.C.

(3) Florida Department of Environmental Protection for construction, reconstruction, changes, or physical activities for shore protection or other activities seaward of the coastal construction control line; F.S. § 161.141.

(4) Florida Department of Environmental Protection for activities subject to the joint coastal permit; F.S. § 161.055.

(5) Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.

(6) Federal permits and approvals.

(Ord. No. 16-19, § 1, 8-8-19)

Sec. 12-10-5. - Site plans and construction documents.

(A) *Information for development in flood hazard areas.* The site plan or construction documents for any development subject to the requirements of this chapter shall be drawn to scale and shall include, as applicable to the proposed development:

(1) Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.

(2) Where base flood elevations or floodway data are not included on the FIRM or in the flood insurance study, they shall be established in accordance with section 12-10-5(B)(2) or (3) of this chapter.

(3) Where the parcel on which the proposed development will take place will have more than fifty (50) lots or is larger than five (5) acres and the base flood elevations are not included on the FIRM or in the flood insurance study, such elevations shall be established in accordance with section 12-10-5(B)(1) of this chapter.

(4) Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas, new buildings shall be located landward of the reach of mean high tide.

(5) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.

(6) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.

(7) Delineation of the coastal construction control line or notation that the site is seaward of the coastal construction control line, if applicable.

(8) Extent of any proposed alteration of sand dunes or mangrove stands, provided such alteration is approved by the Florida Department of Environmental Protection.

(9) Existing and proposed alignment of any proposed alteration of a watercourse.

The floodplain administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this chapter but that are not required to be prepared by a registered

design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this chapter.

(B) *Information in flood hazard areas without base flood elevations (approximate Zone A).* Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the floodplain administrator shall:

(1) Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.

(2) Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source.

(3) Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the floodplain administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:

(a) Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or

(b) Specify that the base flood elevation is two (2) feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than two (2) feet.

(4) Where the base flood elevation data are to be used to support a letter of map change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

(C) *Additional analyses and certifications.* As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

(1) For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in section 12-10-5(D) of this chapter and shall submit the conditional letter of map revision, if issued by FEMA, with the site plan and construction documents.

(2) For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the flood insurance study or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one (1) foot at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as zone AO or zone AH.

(3) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices that demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner that preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in section 12-10-5(D) of this chapter.

(4) For activities that propose to alter sand dunes or mangrove stands in coastal high hazard areas (zone V), an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage.

(D) *Submission of additional data.* When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a letter of map change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

(Ord. No. 16-19, § 1, 8-8-19)

Sec. 12-10-6. - Inspections.

(A) *General.* Development for which a floodplain development permit or approval is required shall be subject to inspection.

(B) *Development other than buildings and structures.* The floodplain administrator shall inspect all development to determine compliance with the requirements of this chapter and the conditions of issued floodplain development permits or approvals.

(C) *Buildings, structures and facilities exempt from the Florida Building Code.* The floodplain administrator shall inspect buildings, structures and facilities exempt from the Florida Building Code to determine compliance with the requirements of this chapter and the conditions of issued floodplain development permits or approvals.

(D) *Buildings, structures and facilities exempt from the Florida Building Code, lowest floor inspection.* Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the Florida Building Code, or the owner's authorized agent, shall submit to the floodplain administrator:

(1) If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or

(2) If the elevation used to determine the required elevation of the lowest floor was determined in accordance with section 12-10-5(B)(3)(b) of this chapter, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

(E) *Buildings, structures and facilities exempt from the Florida Building Code, final inspection.* As part of the final inspection, the owner or owner's authorized agent shall submit to the floodplain administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in section 12-10-6(D) of this chapter.

(F) *Manufactured homes.* The floodplain administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this chapter and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the floodplain administrator.

(Ord. No. 16-19, § 1, 8-8-19)

Sec. 12-10-7. - Variances and appeals.

(A) *General.* The construction board of adjustments and appeals shall hear and decide on requests for appeals and requests for variances from the strict application of this chapter. Pursuant to F.S. § 553.73(5), the construction board of adjustments and appeals shall hear and decide appeals and requests for variances from the strict application of the flood resistant construction requirements of the Florida Building Code. This section does not apply to Section 3109 of the Florida Building Code, Building.

(B) *Appeals.* The construction board of adjustments and appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the administration and enforcement of this chapter. Any person aggrieved by the decision may appeal such decision by certiorari appeal to the circuit court.

(C) *Limitations on authority to grant variances.* Constructions board of adjustments and appeals shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in section 12-10-7(G) of this chapter, the conditions of issuance set forth in section 12-10-7(H) of this chapter, and the comments and recommendations of the floodplain administrator. The construction board of adjustments and appeals has the right to attach such conditions as it deems necessary to further the purposes and objectives of this chapter.

(D) *Restrictions in floodways.* A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in section 12-10-5(C) of this chapter.

(E) *Historic buildings.* A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the Florida Building Code, Existing Building, Chapter 12 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the Florida Building Code.

(F) *Functionally dependent uses.* A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this chapter, provided the variance meets the requirements of section 12-10-5(D), is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.

(G) *Considerations for issuance of variances.* In reviewing requests for variances, the construction board of adjustments and appeals shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this chapter, and the following:

(1) The danger that materials and debris may be swept onto other lands resulting in further injury or damage;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;

(4) The importance of the services provided by the proposed development to the community;

(5) The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;

(6) The compatibility of the proposed development with existing and anticipated development;

(7) The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;

(8) The safety of access to the property in times of flooding for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

(H) *Conditions for issuance of variances.* Variances shall be issued only upon:

(1) Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this chapter or the required elevation standards;

(2) Determination by the construction board of adjustments and appeals that:

(a) Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;

(b) The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and

(c) The variance is the minimum necessary, considering the flood hazard, to afford relief;

(3) Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the office of the clerk of the court in such a manner that it appears in the chain of title of the affected parcel of land; and

(4) If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the floodplain administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as twenty-five dollars ($25.00) for one hundred dollars ($100.00) of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

(Ord. No. 16-19, § 2, 8-8-19)

Sec. 12-10-8. - Violations.

(A) *Violations.* Any development that is not within the scope of the Florida Building Code but that is regulated by this chapter that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this chapter, shall be deemed a violation of this chapter. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this chapter or the Florida Building Code is presumed to be a violation until such time as that documentation is provided.

(B) *Authority.* For development that is not within the scope of the Florida Building Code but that is regulated by this chapter and that is determined to be a violation, the floodplain administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.

(C) *Unlawful continuance.* Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law.

(Ord. No. 16-19, § 2, 8-8-19)

Sec. 12-10-9. - General.

(A) *Scope.* Unless otherwise expressly stated, the following words and terms shall, for the purposes of this chapter, have the meanings shown in this section.

(B) *Terms defined in the Florida Building Code.* Where terms are not defined in this chapter and are defined in the Florida Building Code, such terms shall have the meanings ascribed to them in that code.

(C) *Terms not defined.* Where terms are not defined in this chapter or the Florida Building Code, such terms shall have ordinarily accepted meanings such as the context implies.

(Ord. No. 16-19, § 2, 8-8-19)

Sec. 12-10-10. - Definitions.

Alteration of a watercourse. A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification that may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

Appeal. A request for a review of the floodplain administrator's interpretation of any provision of this chapter.

ASCE 24. A standard titled flood resistant design and construction that is referenced by the Florida Building Code. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

Base flood. A flood having a 1-percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, Section 202.] The base flood is commonly referred to as the "100-year flood" or the "1-percent-annual chance flood."

Base flood elevation. The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the flood insurance rate map (FIRM). [Also defined in FBC, B, Section 202.]

Basement. The portion of a building having its floor subgrade (below ground level) on all sides. [Also defined in FBC, B, Section 202; see "basement (for flood loads)".]

Coastal construction control line. The line established by the State of Florida pursuant to F.S. § 161.053, and recorded in the official records of the community, which defines that portion of the beach-dune system subject to severe fluctuations based on a 100-year storm surge, storm waves or other predictable weather conditions.

Coastal high hazard area. A special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal high hazard areas are also referred to as "high hazard areas subject to high velocity wave action" or "V zones" and are designated on flood insurance rate maps (FIRM) as zone V1-V30, VE, or V.

Design flood. The flood associated with the greater of the following two (2) areas:

(a) Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or

(b) *Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.*

Design flood elevation. The elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as zone

AO where the depth number is not specified on the map, the depth number shall be taken as being equal to two (2) feet.

Development. Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities.

Encroachment. The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area that may impede or alter the flow capacity of riverine flood hazard areas.

Existing building and existing structure. Any buildings and structures for which the "start of construction" commenced before September 15, 1977.

Existing manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before September 15, 1977.

Expansion to an existing manufactured home park or subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Federal Emergency Management Agency (FEMA). The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

Flood or *flooding.* A general and temporary condition of partial or complete inundation of normally dry land from:

(a) The overflow of inland or tidal waters.

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood damage-resistant materials. Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair.

Flood hazard area. The greater of the following two (2) areas:

(a) The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.

(b) The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

Flood insurance rate map (FIRM). The official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community.

Flood insurance study (FIS). The official report provided by the Federal Emergency Management Agency that contains the flood insurance rate map, the flood boundary and floodway map (if applicable), the water surface elevations of the base flood, and supporting technical data.

Floodplain administrator. The office or position designated and charged with the administration and enforcement of this chapter (may be referred to as the floodplain manager).

Floodplain development permit or approval. An official document or certificate issued by the community, or other evidence of approval or concurrence, that authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this chapter.

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

Floodway encroachment analysis. An engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the evaluation shall be prepared by a qualified Florida licensed engineer using standard engineering methods and models.

Florida Building Code. The family of codes referenced in F.S. ch. 553, adopted by the Florida Building Commission, including: Florida Building Code, Building; Florida Building Code, Residential; Florida Building Code, Existing Building; Florida Building Code, Mechanical; Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.

Freeboard. The additional height, usually expressed as a factor of safety in feet, above a flood level for purposes of floodplain management. Freeboard tends to compensate for many unknown factors, such as wave action, bridge openings and hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected frequency flood and floodway conditions.

Functionally dependent use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long-term storage or related manufacturing facilities.

Highest adjacent grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

Historic structure. Any structure that is determined eligible for the exception to the flood hazard area requirements of the Florida Building Code, Existing Building, Chapter 12 Historic Buildings.

Letter of map change (LOMC). An official determination issued by FEMA that amends or revises an effective flood insurance rate map or flood insurance study. Letters of map change include:

(a) *Letter of map amendment (LOMA):* An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective flood insurance rate map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

(b) *Letter of map revision (LOMR):* A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

(c) *Letter of map revision based on fill (LOMR-F):* A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

(d) *Conditional letter of map revision (CLOMR):* A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective flood insurance rate map or flood insurance study; upon submission and approval of certified as-built documentation, a letter of map revision may be issued by FEMA to revise the effective FIRM.

Light-duty truck. As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at eight thousand five hundred (8,500) pounds gross vehicular weight rating or less which has a vehicular curb weight of six thousand (6,000) pounds or less and which has a basic vehicle frontal area of forty-five (45) square feet or less, which is:

(a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle; or

(b) Designed primarily for transportation of persons and has a capacity of more than twelve (12) persons; or

(c) Available with special features enabling off-street or off-highway operation and use.

Lowest floor. The lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the Florida Building Code or ASCE 24.

Manufactured home. A structure, transportable in one (1) or more sections, which is eight (8) feet or more in width and greater than four hundred (400) square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer."

Manufactured home park or subdivision. A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

Market value. The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this chapter, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, actual cash value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the property appraiser.

New construction. For the purposes of administration of this chapter and the flood resistant construction requirements of the Florida Building Code, structures for which the "start of construction" commenced on or after September 15, 1977 and includes any subsequent improvements to such structures.

New manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after September 15, 1977.

Park trailer. A transportable unit that has a body width not exceeding fourteen (14) feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances.

Recreational vehicle. A vehicle, including a park trailer, which is:

(a) Built on a single chassis;

(b) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light-duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Sand dunes. Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Special flood hazard area. An area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as zone A, AO, A1-A30, AE, A99, AH, V1—V30, VE or V.

Start of construction. The date of issuance of permits for new construction and substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within one hundred eighty (180) days of the date of the issuance. The

actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, or the construction of columns.

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Substantial damage. Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the building or structure before the damage occurred.

Substantial improvement. Any repair, reconstruction, rehabilitation, alteration, addition, or other improvement of a building or structure, the cost of which equals or exceeds fifty (50) percent of the market value of the building or structure before the improvement or repair is started. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

(a) *Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.*

(b) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

Variance. A grant of relief from the requirements of this chapter, or the flood resistant construction requirements of the Florida Building Code, which permits construction in a manner that would not otherwise be permitted by this chapter or the Florida Building Code.

Watercourse. A river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

(Ord. No. 16-19, § 2, 8-8-19)

Sec. 12-10-11. - Buildings.

(A) Design and construction of buildings, structures and facilities exempt from the Florida Building Code. Pursuant to section 12-10-4(C) of this chapter, buildings, structures, and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings shall comply with the requirements of section 12-10-17 of this chapter.

(B) Buildings and structures seaward of the coastal construction control line. If extending, in whole or in part, seaward of the coastal construction control line and also located, in whole or in part, in a flood hazard area:

(1) Buildings and structures shall be designed and constructed to comply with the more restrictive applicable requirements of the Florida Building Code, Building Section 3109 and Section 1612 or Florida Building Code, Residential Section R322.

(2) Minor structures and non-habitable major structures as defined in F.S. § 161.54, shall be designed and constructed to comply with the intent and applicable provisions of this chapter and ASCE 24.

(Ord. No. 16-19, § 2, 8-8-19)

Sec. 12-10-12. - Subdivisions.

(A) *Minimum requirements.* Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:

(1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;

(2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided to reduce exposure to flood hazards; in zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

(B) *Subdivision plats.* Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

(1) Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats;

(2) Where the subdivision has more than fifty (50) lots or is larger than five (5) acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with section 12-10-5(B)(1) of this chapter; and

(3) Compliance with the site improvement and utilities requirements of section 12-10-13 of this chapter.

(Ord. No. 16-19, § 2, 8-8-19)

Sec. 12-10-13. - Site improvements, utilities and limitations.

(A) *Minimum requirements.* All proposed new development shall be reviewed to determine that:

(1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;

(2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided to reduce exposure to flood hazards; in zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

(B) *Sanitary sewage facilities.* All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and onsite waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, Florida Administrative Code and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.

(C) *Water supply facilities.* All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, Florida Administrative Code and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

(D) *Limitations on sites in regulatory floodways.* No development, including but not limited to site improvements, and land disturbing activity involving fill or regrading, shall be authorized in the regulatory floodway unless the floodway encroachment analysis required in section 12-10-5(C)(1) of

this chapter demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

(E) *Limitations on placement of fill.* Subject to the limitations of this chapter, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (zone A only), fill shall comply with the requirements of the Florida Building Code.

(F) *Limitations on sites in coastal high hazard areas (zone V).* In coastal high hazard areas, alteration of sand dunes and mangrove stands shall be permitted only if such alteration is approved by the Florida Department of Environmental Protection and only if the engineering analysis required by section 12-10-5(C)(4) of this chapter demonstrates that the proposed alteration will not increase the potential for flood damage. Construction or restoration of dunes under or around elevated buildings and structures shall comply with section 12-10-17(H)(3) of this chapter.

(Ord. No. 16-19, § 2, 8-8-19)

Sec. 12-10-14. - Manufactured homes.

(A) *General.* All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to F.S. § 320.8249, and shall comply with the requirements of Chapter 15C-1, Florida Administrative Code and the requirements of this chapter. If located seaward of the coastal construction control line, all manufactured homes shall comply with the more restrictive of the applicable requirements.

(B) *Limitations on installation in floodways.* New installations of manufactured homes shall not be permitted in floodways.

(C) *Foundations.* All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that:

(1) In flood hazard areas (zone A) other than coastal high hazard areas, are designed in accordance with the foundation requirements of the Florida Building Code, Residential Section R322.2 and this chapter. Foundations for manufactured homes subject to section 12-10-14(G) of this chapter are permitted to be reinforced piers or other foundation elements of at least equivalent strength.

(2) In coastal high hazard areas (zone V), are designed in accordance with the foundation requirements of the Florida Building Code, Residential Section R322.3 and this chapter.

(D) *Anchoring.* All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.

(E) *Elevation.* Manufactured homes that are placed, replaced, or substantially improved shall comply with section 12-10-14(F) or 12-10-14(G) of this chapter, as applicable.

(F) *General elevation requirement.* Unless subject to the requirements of section 12-10-14(G) of this chapter, all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2 (zone A) or Section R322.3 (zone V).

(G) *Elevation requirement for certain existing manufactured home parks and subdivisions.* Manufactured homes that are not subject to section 12-10-14(F) of this chapter, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:

(1) Bottom of the frame of the manufactured home is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2 (zone A) or Section R322.3 (zone V); or

(2) Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than six (6) feet in height above grade.

(H) *Enclosures.* Enclosed areas below elevated manufactured homes shall comply with the requirements of the Florida Building Code, Residential Section R322.2 or R322.3 for such enclosed areas, as applicable to the flood hazard area.

(I) *Utility equipment.* Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the Florida Building Code, Residential Section R322, as applicable to the flood hazard area.

(Ord. No. 16-19, § 2, 8-8-19)

Sec. 12-10-15. - Recreational vehicles and park trailers.

(A) *Temporary placement.* Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:

(1) Be on the site for fewer than one hundred eighty (180) consecutive days; or

(2) Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.

(B) *Permanent placement.* Recreational vehicles and park trailers that do not meet the limitations in section 12-10-15(A) of this chapter for temporary placement shall meet the requirements of section 12-10-14 of this chapter for manufactured homes.

(C) *Limitations on installation in coastal high hazard areas (zone V).* Owners of existing recreational vehicle parks in coastal high hazard areas shall not expand or increase the number of parking sites unless a plan for removal of units from the coastal high hazard area prior to a predicted flood event is prepared and submitted to Escambia County Emergency Management. Recreational vehicle park owners shall notify vehicle owners of the plan for removal.

(Ord. No. 16-19, § 2, 8-8-19)

Sec. 12-10-16. - Tanks.

(A) *Underground tanks.* Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

(B) *Above-ground tanks, not elevated.* Above-ground tanks that do not meet the elevation requirements of section 12-10-16(C) of this chapter shall:

(1) Be permitted in flood hazard areas (zone A) other than coastal high hazard areas, provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or

lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

(2) Not be permitted in coastal high hazard areas (zone V).

(C) *Above-ground tanks, elevated.* Above-ground tanks in flood hazard areas shall be elevated to or above the design flood elevation and attached to a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

(D) *Tank inlets and vents.* Tank inlets, fill openings, outlets and vents shall be:

(1) At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

(2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(Ord. No. 16-19, § 2, 8-8-19)

Sec. 12-10-17. - Other development.

(A) *General requirements for other development.* All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this chapter or the Florida Building Code, shall:

(1) Be located and constructed to minimize flood damage;

(2) Meet the limitations of section 12-10-13(D) of this chapter if located in a regulated floodway;

(3) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;

(4) Be constructed of flood damage-resistant materials; and

(5) Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

(B) *Fences in regulated floodways.* Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of section 12-10-13(D) of this chapter.

(C) *Retaining walls, sidewalks and driveways in regulated floodways.* Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of section 12-10-13(D) of this chapter.

(D) *Roads and watercourse crossings in regulated floodways.* Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one (1) side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of section 12-10-13(D) of this chapter. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of section 12-10-5(C)(3) of this chapter.

(E) *Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses in coastal high hazard areas (zone V).* In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or adjacent to buildings and structures provided the concrete slabs are designed and constructed to be:

(1) Structurally independent of the foundation system of the building or structure;

(2) Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any structure; and

(3) Have a maximum slab thickness of not more than four (4) inches.

(F) *Decks and patios in coastal high hazard areas (zone V).* In addition to the requirements of the Florida Building Code, in coastal high hazard areas decks and patios shall be located, designed, and constructed in compliance with the following:

(1) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the design flood elevation and any supporting members that extend below the design flood elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck.

(2) A deck or patio that is located below the design flood elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.

(3) A deck or patio that has a vertical thickness of more than twelve (12) inches or that is constructed with more than the minimum amount of fill necessary for site drainage shall not be approved unless an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to the building or structure or to adjacent buildings and structures.

(4) A deck or patio that has a vertical thickness of twelve (12) inches or less and that is at natural grade or on nonstructural fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.

(G) *Other development in coastal high hazard areas (zone V).* In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate federal, state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:

(1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;

(2) Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters; and

(3) Onsite sewage treatment and disposal systems defined in 64E-6.002, Florida Administrative Code, as filled systems or mound systems.

(H) *Nonstructural fill in coastal high hazard areas (zone V).* In coastal high hazard areas:

(1) Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for landscaping and for drainage purposes under and around buildings.

(2) Nonstructural fill with finished slopes that are steeper than one (1) unit vertical to five (5) units horizontal shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures.

(3) Where authorized by the Florida Department of Environmental Protection or applicable local approval, sand dune construction and restoration of sand dunes under or around elevated

buildings are permitted without additional engineering analysis or certification of the diversion of floodwater or wave runup and wave reflection if the scale and location of the dune work is consistent with local beach-dune morphology and the vertical clearance is maintained between the top of the sand dune and the lowest horizontal structural member of the building.

(Ord. No. 16-19, § 2, 8-8-19)

CHAPTER 12-11. AIRPORT[7]

Footnotes:

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Editor's note— Ord. No. 13-17, § 2, adopted June 8, 2017, amended chapter 12-11 in its entirety to read as herein set out. Former chapter 12-11, §§ 12-11-1—12-11-9, pertained to similar subject matter. See Code Comparative Table for complete derivation.

Sec. 12-11-1. - Purpose.

The purpose of this chapter is to prevent obstructions that are potentially hazardous to aircraft operations as well as persons or property in the vicinity of the obstruction; for the prevention of incompatible land use within certain airport noise zones where aircraft noise may be an annoyance or objectionable to the residents within said zones; to provide for the prevention of these obstructions and incompatible land uses, to the extent legally possible. The elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which the political subdivision may raise and expend public funds and acquire land or interests in land.

(Ord. No. 13-17, § 2, 6-8-17)

Sec. 12-11-2. - Airport zoning protection regulations.

No structure or obstruction will be permitted within the City of Pensacola or Escambia County that would cause a minimum obstruction clearance altitude, a minimum descent altitude or a decision height to be raised or would be permitted that was determined to be a hazard to air navigation by a Federal Aviation Administration aeronautical study (7460-1) or conflict with Title 14 of the Code of Federal Regulations Part 77.

(A) *Airport land use restrictions.* Notwithstanding any provision to the contrary in this chapter, no use may be made of land or water within any zone established by this chapter in such a manner as to interfere with the operation of an airborne aircraft. The following special requirements shall apply to each permitted use:

(1) *Lights or illumination.* All lights or illumination used in conjunction with street, parking, signs or use of land structures shall be arranged and operated in such a manner that is not misleading or dangerous to aircraft operating from a public airport or in the vicinity thereof.

(2) *Electronic interference.* No operations of any type shall produce electronic interference with navigation signals or radio communication between the airport and aircraft.

(3) *Visual hazards.* No continuous commercial or industrial operations of any type shall produce smoke, glare or other visual hazards, within three (3) statute miles of any usable runway of a public airport, which would limit the use of the airport.

(4) *Sanitary landfills.* Sanitary landfills will be considered as an incompatible use if located within areas established for the airport through the application of the following criteria:

(a) Landfills located within ten thousand (10,000) feet of any runway used or planned to be used by turbine aircraft.

(b) Landfills located within five thousand (5,000) feet of any runway used only by nonturbine aircraft.

(c) Landfills outside the above perimeters but within conical surfaces described by FAR Part 77 and applied to an airport will be reviewed on a case-by-case basis.

(d) Any landfill located and constructed in a manner that attracts or sustains hazardous bird movements from feeding, water, or roosting areas into, or across, the runways or approach and departure patterns of aircraft. The landfill operator must incorporate bird management techniques or other practices to minimize bird hazards to airborne aircraft.

(5) *Obstruction lighting.* Notwithstanding the preceding provisions of this section, the owner of any structure over one hundred fifty (150) feet above ground level shall install lighting on such structure in accordance with Federal Aviation Administration Advisory Circular 70/7460-1 and amendments thereto. Additionally, the high-intensity white obstruction lights shall be installed on a high structure which exceeds seven hundred forty-nine (749) feet above mean sea level. The high-intensity white obstruction lights must be in accordance with Federal Aviation Administration Advisory Circular 70/7460-1 and amendments thereto.

(6) *Hazard marking and lighting.* Any permit or variance granted shall require the owner to mark and light the structure in accordance with FAA Advisory Circular 70/7460-1 or subsequent revisions. The permit may be conditioned to permit Escambia County or the city at its own expense, to install, operate and maintain such markers and lights as may be necessary to indicate to pilots the presence of an airspace hazard if special conditions so warrant.

(7) *Nonconforming uses.* The regulations prescribed by this subsection shall not be construed to require the removal, lowering or other changes or alteration of any existing structure not conforming to the regulations as of the effective date of this chapter. Nothing herein contained shall require any change in the construction or alteration of which was begun prior to the effective date of this chapter, and is diligently prosecuted and completed within two (2) years thereof.

Before any nonconforming structure may be replaced, substantially altered, repaired or rebuilt a permit must be secured from the building official. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming structure to become a greater hazard to air navigation than it was as of the effective date of this chapter. Whenever the building official determines that a nonconforming use or nonconforming structure has been abandoned or that the cost of repair, reconstruction, or restoration exceeds the value of the structure, no permit shall be granted that would allow said structure to be repaired, reconstructed, or restored except by a conforming structure.

(B) *Airport obstruction notification zone.*

(1) *Purpose:* The purpose of the Airport Obstruction Notification Zone is to regulate obstructions to air navigation that affect the safe and efficient use of navigable airspace or the operation of planned or existing air navigation and communication facilities.

(2) *Location and map of zone:* An Airport Obstruction Notification Zone is established around Pensacola International Airport (PNS) and consists of an imaginary surface extending from any point of PNS runway at a slope 100 to 1 for a horizontal distance of twenty thousand (20,000) feet and a height of two hundred (200) feet above ground level. The airport obstruction notification zone map may be reviewed annually by the airport staff and updated/amended by the airport executive director as needed to ensure currency.

(3) *Development Compliance:* No object, structure, or alteration to a structure will be allowed within an airport obstruction notification zone at a slope exceeding 100 to 1 for a horizontal distance of twenty thousand (20,000) feet from the nearest PNS runway or two hundred (200) feet above ground level without an approved permit issued by the building inspections department.

(Ord. No. 13-17, § 2, 6-8-17)

Sec. 12-11-3. - Structure permit.

(A) *Permitting.*

(1) Building inspection services (BIS) will make the initial determination with respect to whether proposed development exceeds the height and surface within the airport obstruction notification zone based upon on the maps in appendix C as an element of the zoning, development order and building permit application process. If BIS determines the proposed development, including associated use of temporary construction equipment, exceeds an airport obstruction notification zone surface or height threshold, then the applicant is required to obtain a structures permit from BIS prior to the issuance of any further development orders or permits. This provision applies to all development or improvements to land, including new development, redevelopment, building or use modifications, etc.

(2) The permitting procedures for a structures permit are outlined as follows. If a structures permit application is deemed necessary by BIS as determined through the use of the airport obstruction notification zone map, the following procedures will apply:

a. PSD will give a written notice to the applicant that a structures permit is required and that no further permits or development orders can be issued until a structures permit is obtained.

b. The applicant must then submit a completed structures permit application to Inspections Services, 222 W. Main Street, Pensacola, FL 32502. The BIS will complete a sufficiency review and then route the application to Pensacola International Airport. The airport will review the application, and provide comment within a timely manner.

c. Upon receipt of a complete permit application, BIS shall provide a copy of the application to the Florida Department of Transportation's (FDOT) aviation office by certified mail, return receipt requested, or by a delivery service that provides a receipt evidencing delivery. To evaluate technical consistency with this subsection, the department shall have a 15-day review period following receipt of the application, which must run concurrently with the local government permitting process. Cranes, construction equipment, and other temporary structures in use or in place for a period not to exceed eighteen (18) consecutive months are exempt from the FDOT's review, unless such review is requested by the department. Temporary structures are still to be reviewed by the PSD.

(3) In determining whether to issue or deny a permit, BIS will consider the following, as applicable:

a. The safety of persons on the ground and in the air.

b. The safe and efficient use of navigable airspace.

c. The nature of the terrain and height of existing structures.

d. The effect of the construction or alteration on the state licensing standards for a public-use airport contained in chapter 330 and rules adopted thereunder.

e. The character of existing and planned flight operations and developments at public-use airports.

f. Federal airways, visual flight rules, flyways and corridors, and instrument approaches as designated by the Federal Aviation Administration.

g. The effect of the construction or alteration of the proposed structure on the minimum descent altitude or the decision height at the affected airport.

h. The cumulative effects on navigable airspace of all existing structures and all other known proposed structures in the area

(4) Approval of a permit will not be based solely on the determination by the Federal Aviation Administration that the proposed structure is not an airport hazard.

(B) *Appeals and variances.* Appeals and variances from the provisions of this chapter shall be considered by the zoning board of adjustment established in section 12-13-1 in accordance with the procedures established in section 12-12-2. The Florida Department of Transportation (FDOT) shall be notified of all variance requests from the provisions of this chapter.

(Ord. No. 13-17, § 2, 6-8-17)

Sec. 12-11-4. - Sound level reduction.

It is hereby declared that the purpose of this section is to provide for the health, safety and welfare of the general public located in proximity to the Pensacola International Airport by establishing standards for construction materials for sound level reduction with respect to exterior noise resulting from the legal and normal operations at the Pensacola International Airport. This section establishes noise zones in the vicinity of Pensacola International Airport; establishes permitted land uses and construction materials in these noise zones; and establishes notification procedures to prospective purchasers of real estate within the noise zones.

(A) *Noise zones.*

(1) *Establishment of noise zones.* There are hereby created and established three (3) land use noise zones; zone A, zone B, and zone C. Such zones are shown on the airport noise zone maps, dated November 1993, for the City of Pensacola and Escambia County which are adopted by reference and are on file and available for review at the city planning office. The noise zones contained herein are based on the Pensacola International Airport FAR part 150 Study adopted in 1990.

(2) *Definition of noise zone boundaries.*

(a) *Zone A.* A land use noise zone is hereby established and designated as zone A, being that area commencing at the outer boundary line indicated on the noise zone map as "B" and extending outward therefrom to the furthermost boundary line indicated on the noise zone map. The outer contour of noise zone A approximates a noise level of 65 Ldn.

(b) *Zone B.* A land use noise zone is hereby established and designated as zone B, being that area commencing at a boundary line indicated on the noise zone map as the outer boundary line of noise zone C and extending outward therefrom to a boundary line indicated on the noise zone map as "A." The outer contour of noise zone B approximates a noise level of 70 Ldn.

(c) *Zone C.* A land use noise zone is hereby established and designated as zone C, being that area commencing at the outermost boundary line of the airport and extending outward therefrom to a boundary line indicated on the noise zone map as "B." The outer boundary line of noise zone C approximates a noise level of 75 Ldn.

(3) *Definition of overflight areas.* Overflight areas are those areas that lie directly below and five hundred (500) feet on either side of the centerline of runways 17/35 and 08/26 and extend three thousand (3,000) feet from the runway ends. No new residential construction will be allowed in these overflight areas.

(4) *Noise zone boundaries.* The boundaries of noise zones A, B, and C are depicted on the airport impact district map located in the city planning office. A complete legal description of the

boundaries of each noise zone is on file in the city clerk's office and the Airport. In determining the location of noise zone boundaries on the map accompanying and made a part of these regulations, the following rules shall apply:

(a) Where boundaries are shown to follow streets or alleys, the centerline of such streets or alleys, as they exist at the time of adoption of these regulations shall be the noise zone boundary; or

(b) Where boundaries are shown to enter or cross platted blocks, property lines of lots, as they exist at the time of adoption of these regulations, shall be the noise zone boundary; or

(c) Notwithstanding the above, where a noise zone boundary line is shown dividing a platted lot, the location of such boundary, unless the same is indicated by dimensions, shall be determined by use of the legal description appearing in this chapter. Where a noise zone boundary line divides a lot into equal sections, the higher noise zone requirements shall apply. If a lot is divided into unequal sections, the noise zone shall be the same as that in the largest section;

(d) Where a noise zone boundary line is shown dividing an unsubdivided piece of property, less than ten (10) acres in area, into equal sections, the higher zoning classification shall regulate. If this acreage is divided into unequal sections, the noise zone shall be the same as that in the largest section; or

(e) Where boundaries are shown on unsubdivided property, ten (10) or more acres the location shall be determined by scale shown on the map unless dimensions are given on the map.

(B) *Land use activities permitted and restricted.* Residential land uses shall be permitted in the several noise zones as provided in Table 12-11.1, and residential uses and other types of land uses shall be permitted as specified in section 12-2-11.

(C) *Noise reduction standards, methods and construction list.* The provisions of this subsection shall apply to new construction and moving of buildings into said noise zones A, B and C, as described herein. Noise reduction standards, construction and methods are specified in Appendix G of the Part 150 study, which is available for review in the inspection services department.

(1) *Noise Zone A.* Appendix G of the Part 150 Study recommends a sound reduction twenty-five (25) decibels (dB) for residential construction within the 65—70 Ldn noise contour. The standards specified in Appendix G for a reduction of twenty-five (25) dB are recommended in Noise Zone A.

(2) *Noise Zone B.* Appendix G of the Part 150 Study recommends a sound reduction of thirty (30) decibels (dB) for residential construction within the 70—75 Ldn noise contour. The standards specified in Appendix G for a reduction of thirty (30) dB are required in Noise Zone B.

(3) *Noise Zone C.* No residential construction is permitted in Noise Zone C within the city.

Any existing residence may be added to, structurally altered or repaired without conforming to the referenced specifications provided the property owner signs a waiver acknowledging notification of said specifications.

TABLE 12-11.1
PENSACOLA INTERNATIONAL AIRPORT NOISE IMPACT DISTRICT
RESIDENTIAL LAND USE GUIDANCE CHART

Land Use Guidance Zones (LUG)	Noise Exposure Class	Ldn Day-Night Average Sound Level	Pensacola Residential Development Guidelines	Suggested Noise Controls

A	Minimal Exposure	65 to 70	Normally Acceptable	Normally no Special Considerations, Suggest Noise Attenuation Materials
B	Moderate Exposure	70 to 75	Provisionally Acceptable	Site Specific Analysis, Aviation Easements, Sound Level Reduction Measures
C	Significant Exposure	75 and Higher	Unacceptable	No Additional Residential Development, Containment Within Airport Boundary or Compatible Non-Residential Land Use
NOTES:				
1. This chart has been tailored to the specific conditions at Pensacola International Airport.				
2. See Chapter 12-14 for definition of terms.				

(D) *Filing of maps.* Maps depicting noise impacted areas shall be available for public inspection and filed in the Official Records of Escambia County.

(Ord. No. 13-17, § 2, 6-8-17)

Sec. 12-11-5. - Administration and enforcement.

It shall be the duty of the building official to administer and enforce the regulations prescribed in this chapter within the territorial limits over which the city has jurisdiction. Prior to the issuance or denial of a tall structure permit by the building official, the Federal Aviation Administration must review the proposed structure plans and issue a determination of hazard/no hazard. In the event that the building official finds any violation of the regulations contained herein, he or she shall give written notice to the person responsible for such violation. Such notice shall indicate the nature of the violation and the necessary action to correct or abate the violation. The building official shall, prior to granting approval of any alternate materials other than those listed in the noise reduction materials, methods and construction list, require a qualified acoustical consultant to certify, at the owner's expense, that the alternate materials and methods are either equal to or greater than the noise reduction capabilities of the materials and methods itemized in the approved noise reduction materials, methods and construction list.

(Ord. No. 13-17, § 2, 6-8-17)

Sec. 12-11-6. - Appeals.

An appeal from any interpretation or administrative decision of the building official may be taken, and requests for variance or exception may be made to the zoning board of adjustment as provided in section 12-12-2 of this title.

(a) A person, a political subdivision or its administrative agency, or a joint airport zoning board that contends a decision made by a political subdivision or its administrative agency is an improper application of airport zoning regulations may use the process established for an appeal.

(b) All appeals must be made within a reasonable time as provided by the rules of the zoning board of adjustment. The building official shall forthwith transmit to the board of adjustment all the papers constituting the record upon which the appeal was taken.

(c) An appeal shall stay all proceedings in the furtherance of the action appealed unless the building official certifies to the zoning board of adjustment, after the notice of appeal has been filed that by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the zoning board of adjustment on notice to the building official and after due cause is shown.

(d) The zoning board of adjustment shall fix a reasonable time for hearings appeals, give public notice and due notice to the interested parties and render a decision within a reasonable time. The zoning board of adjustment shall notify in writing, the airport director and Naval Air Station facilities management office of all meetings. During the hearing, any party may appear in person, by agent, or by attorney.

(e) The zoning board of adjustment may, in conformity with the provisions of this chapter, reverse or affirm, in whole, or in part, or modify, the order, requirement, decision or determination, as may be appropriate under the circumstances.

(Ord. No. 13-17, § 2, 6-8-17)

Sec. 12-11-7. - Future uses.

No change shall be made in the use of land, and no structure shall be altered or otherwise established in any zone hereby created except in accordance with this chapter.

(Ord. No. 13-17, § 2, 6-8-17)

Sec. 12-11-8. - Variances.

A variance may be granted by the zoning board of adjustment where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship, and would prevent the substantial enjoyment of property rights as shared by nearby properties that do conform to this chapter.

(Ord. No. 13-17, § 2, 6-8-17)

Sec. 12-11-9. - Exemptions.

All single-family development proposals located in ATZ-1 and ATZ-2 zones in existing subdivisions are exempt from the provisions of this chapter, except for sections 12-11-2 and 12-11-3(C).

(Ord. No. 13-17, § 2, 6-8-17)

Sec. 12-11-10. - Required reevaluation.

Permitted use, regulations of land and other development requirements set forth in this chapter shall be reviewed within one year of the date of completion of the update to the airport master plan. This review shall be undertaken to determine if any parts herein require amendment in order to be made consistent

with the most current airport master plan. When such amendment is deemed necessary, it will be promulgated by official city council action, with due public notice.

(Ord. No. 13-17, § 2, 6-8-17)

CHAPTER 12-12. ADMINISTRATION AND ENFORCEMENT

Sec. 12-12-1. - Enforcement.

Enforcement of the provisions of this title shall be administered by the mayor through the following city officials:

- Chapters 12-1 through 12-4, 12-10 and 12-11. Enforced by the building official.
- Chapter 12-6. Enforced by the parks and recreation director.
- Chapter 12-8. Enforced by the planning services department.
- Chapter 12-9. Enforced by the city engineer and the building official.

These city officials may be provided with assistance of such other officers and employees of the city as may be necessary to enforce the provisions of this title. If the applicable official finds that any of the provisions of this title are being violated, he or she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He or she shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.

(Ord. No. 12-09, § 3, 4-9-09)

Sec. 12-12-2. - Appeals and variances.

(A) *Duties and powers of zoning board of adjustment.* The zoning board of adjustment, created pursuant to section 12-13-1 of this title shall, have the following duties and powers:

(1) *Appeals.* To hear and decide appeals when it is alleged that there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any provision of this title.

(a) Appeals to the zoning board of adjustment may be filed by any person aggrieved or by any officer or board of the city affected by any decision of an administrative official under this title. Such appeal shall be filed within thirty (30) days after rendition of the order, requirement, decision, or determination appealed from by filing with the officer from whom the appeal is taken and with the board a notice of appeal specifying the grounds thereof.

(b) The administrative official from whom the appeal is filed shall, upon notification of the filing of the appeal, forthwith transmit to the zoning board of adjustment all the documents, plans, papers, or other materials constituting the record upon which the action appealed from was made.

(c) An appeal to the zoning board of adjustment stays all work on the premises and all proceedings in furtherance of the action appealed from, unless the official from whom the appeal was filed shall certify to the board that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceeding or work shall not be stayed except by a restraining order, which may be granted by the board or by a

court of competent jurisdiction on application on notice to the officer from whom the appeal is filed and on due cause shown.

(2) *Variances.*

(a) To authorize upon appeal such variance from the terms of this title as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of this title would result in unnecessary and undue hardship. In order to authorize any variance from the terms of this title, the board must find:

1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

2. That the special condition and circumstances do not result from the actions of the applicant;

3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this title to other lands, buildings, or structures in the same zoning district;

4. That literal interpretation of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this title and would work unnecessary and undue hardship on the applicant;

5. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure;

6. That the grant of the variance will be in harmony with general intent and purpose of this title and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare;

7. That the variance will not constitute any change in the districts shown on the zoning map, will not impair an adequate supply of light and air to adjacent property, will not increase the congestion of public streets, or increase the danger of fire, will not diminish or impair established property values within the surrounding area, and will not otherwise impair the public health, safety, and general welfare of the city.

(b) In granting any variance, the board may prescribe appropriate conditions and safeguards in conformity with this title. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of the code.

(c) The board may prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed or both.

(d) Under no circumstances, except as permitted above, shall the board grant a variance to permit a use not generally permitted in the zoning district involved or any use expressly or by implication prohibited by the terms of this title in the zoning district. No nonconforming use of neighboring lands, structures, or buildings in the same zoning district and no permitted use of lands, structures, or buildings in other zoning districts shall be considered grounds for the authorization of a variance.

(3) *Interpretation for Historic and Preservation Districts.* To hear and decide administrative applications for uses not expressly permitted by district regulations within the Pensacola Historic District, North Hill Preservation District and Old East Hill Preservation District.

(4) *Nonconforming uses.* To hear and decide requests for time extensions beyond the eighteen-month time period for the continuation of nonconforming uses that are damaged or destroyed as the result of fire, explosion or other casualty, or act of God, or the public enemy. Such time extensions may be granted by the zoning board of adjustment upon proof by the landowner that the landowner has proceeded with diligence to restore the use and circumstances beyond the landowner's control have made the period of time inadequate.

(B) *Hearing of applications.*

(1) *Application procedure.*

(a) Any appeal or application for variance, interpretation for historic and preservation district or continuation of nonconforming use must be submitted to the planning services department at least twenty-one (21) days prior to the regularly scheduled meeting of the zoning board of adjustment.

(b) The application shall be scheduled for hearing only upon determination that the application complies with all applicable submission requirements.

(c) Any party may appear in person, by agent, or by attorney.

(d) Any application may be withdrawn prior to action of the zoning board of adjustment at the discretion of the applicant initiating the request upon written notice to the board secretary.

(2) *Application submission requirements.* No application shall be considered complete until all of the following have been submitted:

(a) The application shall be submitted on a form provided by the board secretary.

(b) Each application shall be accompanied by an accurate site plan drawn to scale and such other information as may be reasonably requested to support the application.

(c) The applicant shall be required to pay an application fee according to the current schedule of fees established by the city council for the particular category of application. This fee shall be nonrefundable irrespective of the final disposition of the application.

(3) *Public notice requirements.*

(a) A sign shall be prominently posted on the property to which the application pertains at least ten (10) days prior to the scheduled zoning board of adjustment meeting. The sign shall state the date, time and place of the zoning board of adjustment meeting.

(b) Notice of the appeal or application for variance, interpretation for historic and preservation district or continuation of nonconforming use shall be published by public notice advertised in a newspaper of general daily circulation published in the county at least ten (10) days prior to the scheduled zoning board of adjustment meeting.

(c) The city shall notify addresses within a three hundred-foot radius, as identified by the current county tax roll maps, of the property for which an appeal or application for variance or continuation of nonconforming use is sought with a public notice by postcard, at least ten (10) days prior to the zoning board of adjustment meeting. The public notice shall state the date, time and place of the board meeting.

(d) The city shall notify addresses within a five hundred-foot radius, as identified by the current county tax roll maps, of the property for which an interpretation in a historic or preservation district is sought with a public notice by postcard, at least ten (10) days prior to the zoning board of adjustment meeting. The public notice shall also be mailed to the appropriate neighborhood, homeowner, or property owner association at least ten (10) days prior to the zoning board of adjustment meeting. The public notice shall state the date, time and place of the board meeting.

(C) *Decisions of the zoning board of adjustment.* In exercising its powers, the board may, in conformity with provisions of this section, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination made by an administrative official in the enforcement of this title, and may make any necessary order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of a majority of all the members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official or to decide in favor of the applicant on any matter upon which the board is required to pass under this section.

(D) *Judicial review of decision of board of adjustment.* Any person or persons, jointly or severally, aggrieved by any decision of the board, or the city, upon approval by the city council, may apply to the circuit court of the First Judicial Circuit of Florida within thirty (30) days after rendition of the decision by the board. Review in the circuit court shall be by petition for writ of certiorari or such other procedure as may be authorized by law.

(E) *Administrative variances.* Subject to the criteria in section 12-12-2(A)(2), the planning administrator or their designee may grant administrative variances to the following provisions of this chapter:

(1) Setback requirements may be varied up to ten (10) percent or two feet, whichever is less.

(2) Parking requirements may be varied up to ten (10) percent.

These requests must be submitted in writing and must include a to-scale site plan along with a detailed explanation and justification for the variance. Only one administrative variance per property may be granted. Denial of a request for an administrative variance under the provisions of this section may be appealed to the board of adjustment under the provisions of section 12-12-2(A)(1).

(Ord. No. 15-94, § 1, 6-9-94; Ord. No. 15-00, §§ 4—6, 3-23-00; Ord. No. 17-07, § 2, 4-26-07; Ord. No. 12-09, § 3, 4-9-09; Ord. No. 40-13, § 3, 11-14-13)

Sec. 12-12-3. - Amendments.

The city council may, from time to time on its own motion, or on petition, or on recommendation of the planning board or the zoning board of adjustment or any department or agency of the city, amend, supplement, or repeal the regulations and provisions of this title and the Comprehensive Plan.

(A) *Authorization and responsibility.* Every such proposed amendment or change, whether initiated by the city council or by petition, shall be referred to the planning board who shall study such proposals and make recommendation to the city council.

If a rezoning of a parcel of land is proposed by the owner of the parcel or another interested person, it shall be the responsibility of such owner or other interested person to comply with the provisions of this chapter. If such rezoning of a parcel or parcels of land is proposed by the city, its staff, or the planning board, it shall be the responsibility of the planning services department to comply with the provisions of this section.

(B) *Initiation.* An amendment may be initiated by:

(a) The city.

(b) The owners of the area involved in a proposed zoning or future land use amendment.

(C) *Application.*

(a) An application for zoning or Comprehensive Plan future land use amendment must be submitted to the planning services department at least thirty (30) days prior to the regularly scheduled meeting of the planning board.

(b) The application shall be scheduled for hearing only upon determination that the application complies with all applicable submission requirements.

(c) No application shall be considered complete until all of the following have been submitted:

1. The application shall be submitted on a form provided by the board secretary.

2. Each application shall be accompanied by the following information and such other information as may be reasonably requested to support the application:

(a) A legal description of the property proposed to be rezoned or its land use changed;

(b) Proof of ownership of the property, including a copy of the deed and a title opinion, title insurance policy, or other form of proof acceptable to the city attorney;

(c) Existing zoning and future land use classification;

(d) Desired zoning and future land use classification;

(e) Reason for the rezoning or Comprehensive Plan future land use amendment.

3. The applicant shall be required to pay an application fee according to the current schedule of fees established by the city council for the particular category of application. This fee shall be nonrefundable irrespective of the final disposition of the application.

(d) Any party may appear in person, by agent, or by attorney.

(e) Any application may be withdrawn prior to action of the planning board or city council at the discretion of the applicant initiating the request upon written notice to the board secretary.

(D) *Planning board review and recommendation.* The planning board shall review the proposed rezoning or Comprehensive Plan future land use amendment at the advertised public meeting and make a recommendation to the city council. Such recommendation:

1. Shall be for approval, approval with modification, or denial, including its reasons for any modifications or denial.

2. Shall include consideration of the following criteria:

a. Whether, and the extent to which, the proposal would result in incompatible land use considering the type and location of the proposed amendment and the surrounding land use.

b. Whether, and the extent to which, the proposed amendment would affect the carrying capacity of public facilities and services.

c. Whether the proposed amendment would be in conflict with the public interest and welfare.

d. Whether, and the extent to which, the proposed amendment would adversely affect the property values in the area.

e. Whether, and the extent to which, the proposed amendment would result in significant adverse impact on the natural environment.

f. The relationship of the proposed amendment to proposed public and private projects (i.e., street improvements, redevelopment projects, etc.).

(E) *City council review and action.*

(a) *Public hearing.* The city council shall hold up to two (2) public hearings, depending on the type of amendment, after 5:00 p.m. on a weekday to review the proposed zoning amendment. Public notice shall be provided, through applicable procedures as outlined in subsection (F) below.

(b) *Action.* The city council shall review the proposed zoning amendment, and the recommendation of the planning board and the recommendation of the department of community affairs, if applicable, and either approve, approve with modification or deny the proposed amendment at the city council public hearing. If the zoning amendment is approved by council, the adoption ordinance will be read two (2) times following the first public hearing. For Comprehensive Plan amendments, the adopted ordinance will not become effective until the department of community affairs has completed its forty-five-day compliance review.

(F) *Procedures.*

(1) *Zoning amendments.*

(a) Rezoning requests must be submitted to the planning services department at least thirty (30) days prior to the planning board meeting.

(b) The city shall publish a notice in the newspaper announcing the planning board meeting at least seven (7) days prior to the planning board meeting.

(c) The city shall place a sign on the property to be rezoned at least seven (7) days prior to the planning board meeting.

(d) Notice shall be published by public notice advertised in a newspaper of general daily circulation published in the county at least seven (7) days prior to the scheduled board meeting at the expense of the applicant.

(e) The city shall notify property owners within a five hundred-[foot] radius, as identified by the current the county tax roll maps, of the property proposed for rezoning with a public notice by post card, at least seven (7) days prior to the board meeting. The public notice shall state the date, time and place of the board meeting.

(f) The planning board shall review the proposed rezoning request and make a recommendation to the city council.

(g) The city council shall set a date for a public hearing.

(h) The city shall notify property owners within a five hundred-foot radius of the property proposed to be rezoned with a public notice (letter and a map) mailed certified with return receipt at least thirty (30) days prior to the scheduled city council public hearing dates. The public notice shall state the date, time and place of the public hearing.

(i) The city shall place a sign on the property to be rezoned announcing date, time and location of the city council public hearing at least fifteen (15) days prior to the hearing.

(j) A legal notice of the city council public hearing shall be published in the newspaper at least ten (10) days prior to the hearing.

(k) The city council shall review the proposed amendment and take action as described in subsection (E) above.

(l) In addition to subsections (a) through (f) the city strongly encourages that the applicant hold an informational meeting with any applicable neighborhood groups and/or property owners associations prior to proceeding with an application involving a zoning and/or Comprehensive Plan amendment.

(m) For proposals initiated by the city to rezone ten (10) or more contiguous acres, subsections (a) through (f) shall be applicable in addition to the following. The city shall hold two (2) advertised public hearings on the proposed ordinance as follows:

1. Public notice of actual zoning changes, including zoning district boundary changes; consolidation or division of existing zones involving substantive changes; and the addition of new zoning districts shall be mailed by first class mail at least thirty (30) days prior to the first city council public hearing to consider the change, to every owner of real property, as identified by the current tax roll, within five hundred (500) feet of the boundaries of the subject parcel(s) to be changed.

2. The city shall place a sign on the property to be rezoned announcing date, time and location of the first city council public hearing at least fifteen (15) days prior to the hearing.

3. The first public hearing shall be held at least seven (7) days after the day that the first advertisement is published. The second hearing shall be held at least ten (10) days after the first hearing and shall be advertised at least five (5) days prior to the public hearing. At least one (1) hearing shall be held after 5:00 p.m. on a weekday.

4. The required advertisements shall be no less than two (2) columns wide by ten (10) inches long in a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than eighteen (18) point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

   The city council shall review the proposed zoning amendment, and the recommendation of the planning board and either approve, approve with modification or deny the proposed amendment at the first city council public hearing. If the zoning amendment is approved by council, the adoption ordinance will be read two (2) times following the first public hearing.

(2) *Small scale development Comprehensive Plan future land use map amendments.* Future land use map amendments that comply with the small scale development criteria in F.S. § 163.3187, may be considered by the planning board and the city council at any time during the calendar year until the annual maximum acreage threshold is met. The petitioner shall be required to complete the steps listed above in subsections 12-12-3(F)(1)(a) through (l).

(3) *Comprehensive plan future land use map amendments for other than small scale development activities.* Comprehensive plan future land use map amendments for other than small scale development activities shall be considered twice a year by the planning board and the city council.

   (a) Comprehensive plan future land use map amendment requests must be submitted to the planning services department at least thirty (30) days prior to the planning board public hearing.

   (b) The city shall publish a display advertisement in a standard size or a tabloid size newspaper with type no smaller than eighteen (18) point in the headline announcing the planning board and city council public hearings at least seven (7) days prior to the planning board hearing. The advertisement shall be no less than two (2) columns wide by ten (10) inches long. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

   (c) The city shall place a sign on the property to be rezoned at least seven (7) days prior to the planning board hearing.

   (d) The planning board shall review the proposed future land use map amendment at the advertised public hearing and make a recommendation to the city council.

   (e) The city council shall schedule a public hearing.

   (f) The city council shall review the Comprehensive Plan future land use map amendment at the advertised public hearing and either approve the request for transmittal to the department of economic opportunity or disapprove the request for transmittal and further consideration.

   (g) The planning services department shall transmit the future land use map amendment request to the department of economic opportunity, the appropriate regional planning council and water management district, the Department of Environmental Protection and the Department of Transportation. The city shall also transmit a copy of the plan amendment to any other unit of local government or government agency in the state that has filed a written request with the city for the plan amendment.

   (h) After a sixty-day review period, the department of economic opportunity shall transmit in writing its comments to the city, along with any objections and any recommendations for modifications.

   (i) The city council shall review the department of economic opportunity comments and forward to city council for review and action.

   (j) The city council shall set a date for a public hearing.

(k) The city shall notify property owners within a five hundred-foot radius of the property where the land use is to be changed with a public notice (letter and a map) mailed certified with return receipt at least thirty (30) days prior to the scheduled city council public hearing dates. The public notice shall state the date, time and place of the public hearing.

(l) The city shall place a sign on the property where the land use is to be changed announcing date, time and location of the city council public hearing at least fifteen (15) days prior to the hearing.

(m) The city shall publish a display advertisement in a standard size or a tabloid size newspaper, with type no smaller than eighteen (18) point in the headline. The advertisement shall be no less than two (2) columns wide by ten (10) inches long. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be published at least five (5) days prior to the final city council public hearing.

(n) Subsection (k) above shall not be applicable to proposals initiated by the city to change the future land use of ten (10) or more contiguous acres. In such cases, the procedure shall be as follows: Public notice of Comprehensive Plan future land use map, including future land use district boundary changes; consolidation or division of existing future land use districts involving substantive changes; and the addition of new future land use districts shall be mailed by first class mail at least thirty (30) days prior to the city council public hearing to consider the change to every owner of real property, as identified by the current tax roll, within five hundred (500) feet of the boundaries of the subject parcel to be changed.

(o) The city council shall review the proposed amendment and take action as described in subsection (E) above.

(4) *Amendments to the land development code.*

(a) Requests for amendments to the land development code shall be filed in the form of a letter to the secretary of the planning board submitted at least thirty (30) days prior to the planning board meeting.

(b) Planning board review and recommendation. The planning board shall review the proposed language amendment at a regularly scheduled planning board meeting and make a recommendation to the city council.

(c) The city council shall schedule a public hearing.

(e) A legal notice of the city council public hearing shall be published in the newspaper at least ten (10) days prior to the hearing.

(f) The city council shall review the proposed amendment and take action as described in subsection (E) above.

(g) In cases in which the land development code amendment changes the actual list of permitted, conditional, or prohibited uses within a zoning category subsections (a) through (d) shall be applicable in addition to the following.

1. The city shall hold two (2) advertised public hearings. The first public hearing shall be held at least seven (7) days after the day that the first advertisement is published. The second public hearing shall be held at least ten (10) days after the first hearing and shall be advertised at least five (5) days prior to the public hearing.

2. The required advertisement shall be no less than two (2) columns wide by ten (10) inches long in a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than eighteen (18) point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

The city council shall review the proposed land development code amendment, and the recommendation of the planning board and either approve, approve with modification or

deny the proposed amendment at the first city council public hearing. If the land development code amendment is approved by council, the adoption ordinance will be read two (2) times following the first public hearing.

(5) *Amendments to the Comprehensive Plan other than future land use map amendments.* Comprehensive plan amendments other than future land use map amendments shall be considered twice a year by the planning board and the city council.

(a) Requests for amendments to the Comprehensive Plan shall be filed in the form of a letter to the secretary of the planning board submitted at least forty-five (45) days prior to the planning board hearing.

(b) A legal notice announcing the planning board and city council public hearings shall be published at least seven (7) days prior to the planning board hearing. If the proposed Comprehensive Plan amendment changes the actual list of permitted, conditional, or prohibited uses within a future land use category, the required advertisement shall be no less than two (2) columns wide by ten (10) inches long in a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than eighteen (18) point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(c) The planning board shall review the proposed amendment at the advertised public hearing and make a recommendation to the city council.

(d) The city council shall schedule a public hearing for review and action.

(e) The city council shall review the Comprehensive Plan amendment at the advertised public hearing and either approve the request for transmittal to the department of economic opportunity or disapprove the request for transmittal and further consideration.

(f) The city shall transmit the Comprehensive Plan amendment request to the department of economic opportunity, the appropriate regional planning council and water management district, the Department of Environmental Protection and the Department of Transportation. The city shall also transmit a copy of the plan amendment to any other unit of local government or government agency in the state that has filed a written request with the city for the plan amendment.

(g) At least sixty (60) days from receipt of the Comprehensive Plan amendment, the department of economic opportunity shall transmit in writing its comments to the city, along with any objections and any recommendations for modifications.

(h) The city council shall schedule a public hearing for review and action.

(j) A legal notice of the city council public hearing shall be published in the newspaper at least ten (10) days prior to the hearing. If the proposed Comprehensive Plan amendment changes the actual list of permitted, conditional, or prohibited uses within a future land use category, the required advertisement shall be no less than two (2) columns wide by ten (10) inches long in a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than eighteen (18) point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(k) The city council shall review the proposed amendment and take action as described in subsection (E) above.

(G) *Limitation on subsequent application.* Whenever amendment is denied by the city council, no new application for identical rezoning or Comprehensive Plan future land use change of the same parcel shall be accepted for consideration within a period of twelve (12) months of the decision of denial unless such consideration is necessitated by judicial action.

(Ord. No. 29-93, § 29, 11-18-93; Ord. No. 3-94, § 9, 1-13-94; Ord. No. 33-95, §§ 11—13, 8-10-95; Ord. No. 9-96, § 15, 1-25-96; Ord. No. 15-00, § 7, 3-23-00; Ord. No. 12-09, § 3, 4-9-09)

Sec. 12-12-4. – Vacation of Streets, Alleys.

This section is established to provide for the vacation of streets, alleys or other public rights-of-way by official action of the city council.

(A) Application. An application for vacation of streets, alleys or other public right-of-way shall be filed with the planning services department and shall include the reason for vacation and a legal description of the property to be vacated. Application for an alley vacation shall be in petition form signed by all property owners abutting the portion of the alley to be vacated. If all property owners do not sign the petition requesting such alley vacation, city staff shall determine the portion of the alley to be vacated.

(1) An application for vacation of streets, alleys or other public right-of-way must be submitted to the planning services department at least thirty (30) days prior to the regularly scheduled meeting of the planning board.

(2) The application shall be scheduled for hearing only upon determination that the application complies with all applicable submission requirements.

(3) No application shall be considered complete until all of the following have been submitted:

(a) The application shall be submitted on a form provided by the board secretary.

(b) Each application shall be accompanied by the following information and such other information as may be reasonably requested to support the application:

1. Accurate site plan drawn to scale;
2. A legal description of the property proposed to be vacated;
3. Proof of ownership of the adjacent property, including a copy of the deed and a title opinion, title insurance policy, or other form of proof acceptable to the city attorney;
4. Reason for vacation request;
5. Petition form signed by all property owners abutting the portion of the right-of-way or alley to be vacated.

(c) The applicant shall be required to pay an application fee according to the current schedule of fees established by the city council for the particular category of application. This fee shall be nonrefundable irrespective of the final disposition of the application.

(d) Any party may appear in person, by agent, or by attorney.

(e) Any application may be withdrawn prior to action of the planning board or city council at the discretion of the applicant initiating the request upon written notice to the board secretary.

(B) *Planning board review and recommendation.* The request to vacate will be distributed to the appropriate city departments and public agencies for review and comment.: Said departments shall submit written recommendations of approval, disapproval or suggested revisions, and reasons therefore, to the city planning services department. The planning board shall review the vacation request and make a recommendation to the city council at a regularly scheduled planning board meeting. When a request for vacation of a right of way adjacent to a street or alley is made, the vacation shall be limited to a minimum of no less than ten (10) feet from the existing back-of-curb. Any existing sidewalk on a right of

way must be maintained or rebuilt by an owner granted such a vacation in order to preserve ADA accessibility to the public.

(1) Public notice for vacation of streets, alleys.

(a) A sign shall be prominently posted on the property to which the application pertains at least seven (7) days prior to the scheduled board meeting.

(b) The city shall notify property owners within a three hundred-[foot] radius, as identified by the current county tax roll maps, of the property proposed for vacation with a public notice by post card at least five (5) days prior to the board meeting. The public notice shall state the date, time and place of the board meeting.

(C) *City council review and action.* The planning board recommendation shall be forwarded to the city council for review and action.

(1) *Notice and hearing.* The city council shall set a date for a public hearing to be conducted during a regularly scheduled city council meeting. Planning staff shall post a sign specifying the date and time of the public hearing at least seven (7) days prior to the hearing. A public notice shall be published in a local newspaper of general distribution stating the time, place and purpose of the hearing at least ten (10) days prior to the public hearing. The city shall notify property owners by certified mail, as identified by the current county tax roll, at least fifteen (15) days prior to the city council public hearing.

(a) In case of an alley vacation request all adjacent owners shall be notified.

(b) In the case of a street vacation request, all property owners within three hundred (300) feet of the request shall be notified.

(2) *Action.* The city council shall approve, approve with modifications, or deny the vacation request at the council public hearing. If the request is approved by the council, an ordinance will be drawn and read two (2) times following the public hearing, at which time the vacation becomes effective. When a request for vacation of a right of way adjacent to a street or alley is made, the vacation shall be limited to a minimum of no less than ten (10) feet from the existing back-of-curb. Any existing sidewalk on a right of way must be maintained or rebuilt by an owner granted such a vacation in order to preserve ADA accessibility to the public.

(D) *Easements retained.* If the city council determines that any portion of a public street or right-of-way is used or in the reasonably foreseeable future will be needed for public utilities, the street may be vacated only upon the condition that appropriate easements be reserved for such public utilities.

(E) *Zoning of vacated property.* Whenever any street, alley or other public right-of-way is vacated, the district use and area regulations governing the property abutting upon each side of such street, alley or public right-of-way shall be automatically extended to the center of such vacation and all area included within the vacation shall thereafter be subject to all appropriate regulations of the extended use districts.

(F) *Ownership of property.* Whenever any street, alley or public right-of-way is vacated, ownership of said property conferred by such action shall extend from the right-of-way line to the center of said property, unless otherwise specified.

(Ord. No. 6-93, § 26, 3-25-93; Ord. No. 44-94, § 7, 10-13-94; Ord. No. 15-00, § 8, 3-23-00; Ord. No. 12-09, § 3, 4-9-09; Ord. No. 01-19, § 1, 2-14-19; Ord. No. 23-20, 7-16-20)

Sec. 12-12-5. - Building permits.

This section is established to provide for building permits for review of compliance with the provisions of this land development code. A "building permit" means any building or construction permit required by Chapter 14-1.

(A) *Application.* Any owner, authorized agent, or contractor who desires to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by the Standard Building Code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit for the work. All applications for building permit shall be accompanied by the following information and materials:

(a) Two (2) complete sets of building construction plans shall be required. In addition, a plot plan drawn to scale depicting the following information shall be required for residential and commercial building permits:

1. Lot dimensions, boundary lines, area of the lot, and its legal description.
2. The locations and dimensions of buildings, structures or additions, including all overhangs, eaves and porches.
3. The yard requirements indicating distance from all property lines to the proposed buildings, structures or additions in feet.
4. The existing and proposed uses of each building, structure or addition.
5. Access and parking layout, including driveway location. Where applicable, required loading and unloading spaces should be indicated.
6. Elevations showing architectural features of each side of the existing and proposed construction.
7. Where application is made to build upon a lot nonconforming in size or dimensions (lot of record), the application shall be accompanied by a recorded deed giving description of the property as of July 23, 1965.
8. For all plans except single-family or duplex dwellings a landscape plan is required pursuant to section 12-6-4.

(b) Proof of sewer tap from Emerald Coast Utilities Authority.

(c) Completed current Florida Model Energy Efficiency Code Building Construction.

One (1) copy of the plans shall be returned to the applicant by the building official after he or she has marked such copy either as approved or disapproved and attested same by his or her signature on such copy. The original, similarly marked, shall be retained by the building official.

(B) *Issuance of building permits.* No application for a building permit shall be approved by the building official for any building, structure, or addition on any lot in violation of this chapter or not in compliance with any provisions of this chapter, unless authorized under subsection 12-12-2(A)(2), Variances.

(C) *Construction and occupancy to be as provided in applications.* Building permits issued on the basis of plans and applications approved by the building official authorize only the occupancy, arrangement, and construction set forth in such approval plans and applications, and no other occupancy, arrangement, or construction. Occupancy, arrangement, or construction in variance with that authorized shall be deemed a violation of this chapter, unless such change is reviewed and approved by the building official.

(D) *Expiration of building permits.* Every permit issued shall become invalid unless the work authorized by such permit is commenced within six (6) months after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of six (6) months after the time the work is commenced; provided that, for cause, one or more extensions of time, for

periods not exceeding ninety (90) days each, may be allowed, and such extensions shall be in writing by the building official.

(E) This section shall be known and cited as the City of Pensacola's Historic Building Demolition Review Ordinance. The purpose of this section is to establish a predictable process for reviewing requests to demolish certain historic buildings not located within historic and preservation land use districts in order to establish an appropriate waiting period during which the city and the applicant can propose and consider alternatives to the demolition of a building of historical, architectural, cultural or urban design value to the city.

(1) *Definitions.* For the purposes of this section only, the following words and phrases, whether or not capitalized, shall have the following meanings:

Applicant means the person or persons filing an application for review under this section.

Application means a demolition permit application for review under this section, filed with the city's inspection services division.

Application filing date means the date on which the application was filed with the city's inspection services division.

Architectural review board means the city's architectural review board as advisors to the city council.

Contributing structure means any building adding to the historic significance of a property or district.

Day means any day, including Saturdays, Sundays, and holidays.

Demolition means any act of pulling down, destroying, razing, or removing a building.

Demolition permit means a permit issued by the inspection services division authorizing the demolition of a building pursuant to an application.

Florida Master Site File means the State of Florida's official inventory of historical, cultural resources including archaeological sites, historical structures, historical cemeteries, historical bridges and historic districts, landscapes and linear resources.

Historic building means a building or structure that is:

(a) At least fifty (50) years in age or more; or

(b) Individually listed in the National Register of Historic Places; or

(c) A contributing property in a National Register of Historic Places listed district; or

(d) Designated as historic property under an official municipal, county, special district or state designation, law, ordinance or resolution either individually or as a contributing property in a district; or

(e) Determined potentially eligible as meeting the requirements for listing in the National Register of Historic Places, either individually or as a contributing property in a district, by the Secretary of the Interior.

Historic site means a place, or associated structures, having historic significance.

Historic structure means a building, bridge, lighthouse, monument, pier, vessel or other construction that is fifty (50) years in age or more and is designated or that is deemed eligible for such designation by a local, regional or national jurisdiction as having historical, architectural or cultural significance.

National Register of Historic Places means the official Federal list of districts, sites, buildings, structures and objects determined significant in American history, architecture, archaeology, engineering and culture.

Neighborhoods means all the areas of the city.

Significant building means a building with respect to which the architectural review board has made a determination, that further examination, is warranted to determine whether a delay in demolition should be required.

(2) *Buildings subject to review.* The following buildings are subject to review by the architectural review board for the purpose of determining whether such buildings are historically significant:

Any building located in the neighborhoods of the City of Pensacola if:

(a) Such building, or the portion thereof to which the application relates, is fifty (50) years old or older; or

(b) Such building is listed on the City of Pensacola's "Local Registry of Historic or Significant Buildings" and/or the Florida Division of Historical Resource's Florida Master Site File; or

(c) Such building or the portion thereof is determined to be a historically significant building pursuant to subsection (E)(5)(c), herein.

(3) *Exemptions.* Demolition of historic buildings, whether contributing or noncontributing, located in the following districts shall be exempt from this section.

(a) Pensacola Historic District, refer to section 12-2-10(A)(9) to (11);

(b) North Hill Preservation District, refer to section 12-2-10(B)(9);

(c) Old East Hill Preservation District, refer to section 12-2-10(C)(10);

(d) Palafox Historic Business District, refer to section 12-2-21(F)(2)(d); and

(e) Governmental center district.

(4) *Enforcement.*

(a) *Issuance of demolition permit.* With exception to the districts listed in subsection (E)(4)(a)3., herein, the requirements set forth in this section are in addition to, and not in lieu of, the requirements of any other codes, ordinances, statutes, or regulations applicable to the demolition of buildings. The building official shall not issue any demolition permit relating to a building that is subject to review, unless:

1. The building official has determined that the building is unsafe in accordance with City Code section 14-1-139;

2. The building official: (i) has received a notice issued by the architectural review board, that the building is not subject to review under this section, or is not a historically significant building, or (ii) has not received such notice within the time period set forth in subsection (E)(5)(a); or

3. The building official: (i) has received a notice issued by the architectural review board that no demolition delay is required; or (ii) has not received such notice within the time period set forth in subsection (E)(5)(a); or

4. The building official has received a notice issued by the architectural review board that there is no feasible alternative to demolition; or

5. The demolition delay period set forth in subsection (E)(5)(a) has expired.

(b) *Required demolition or repair.*

1. *Demolition.* Nothing in this section shall restrict the authority of the building official to order the building owner, or the city, to demolish a building at any time if the building official determines that the condition of a building or part thereof presents an imminent and substantial danger to the public health or safety.

(5) *Procedure.*

(a) *Application.* An application for review under this section shall be made in the manner provided below. The process, from start (application) to finish (determination and/or permit issuance) shall not exceed one hundred twenty (120) days. If the applicant is not the owner of record of the building, the owner or owners of record shall co-sign the application.

1. *Time for filing application.* The applicant (or building owner) is encouraged to apply for review under this section as early as possible, so that any necessary review, and any delay period required by this section, may be completed prior to, or during, any other review to which the building or its site may be subject.

2. *Application for early review.* At any time prior to filing an application for a demolition permit, the applicant may apply for review under this section by submitting a request in writing to the architectural review board.

3. *Informational evidence.* The applicant must submit for review sufficient information to enable the architectural review board to make their determination, including an accurate site plan showing the footprint, photos of all sides of the subject building and the site to indicate all existing site features, such as trees, fences, sidewalks, driveways and topography, and photos of the adjoining streetscape, including adjacent buildings to indicate the relationship of the existing structure to the surrounding properties.

(b) *Determination: Applicability of review and significance of building.* After its receipt of an application from planning staff, the architectural review board shall determine: (1) whether the building is subject to review under this section, and (2) whether the building is a historically significant building. The architectural review board may seek the assistance of city staff or the University of West Florida's Historic Trust or the University of West Florida Archaeological Institute.

The initial review process shall be handled as an abbreviated review involving staff, the chairperson or his/her designee of the architectural review board, and a staff member of West Florida Historic Preservation, Inc. If it is determined by the abbreviated review panel to be potentially historically significant, the application would then go to the full architectural review board for review.

However, if the building is determined by the abbreviated review panel to not be historically significant by not meeting the criteria set forth in subsection (E)(5)(c), the historic building demolition review will end.

The architectural review board shall issue a notice of its determination within sixty (60) days of an application being received. If the architectural review board determines that the building is historically significant, such notice shall:

1. Invite the applicant to submit any information that the applicant believes will assist the architectural review board in: (i) determining whether the building is subject to demolition delay according to the criteria set forth herein, and (ii) evaluating alternatives to demolition.

2. Set forth the criteria for requiring demolition delay. The architectural review board shall make its determination concerning the requirement of demolition delay according to the following criteria: To determine that a historically significant building is subject to the demolition delay, the architectural review board must find that, in the public interest, it is preferable that the building be preserved or rehabilitated rather than demolished. In making such finding, the architectural review board shall consider the criteria for determining historical significance.

The applicant is encouraged to present any information the applicant believes will assist the architectural review board in making its determination.

3. *Provide information regarding the early determination of no feasible alternative.* At the determination meeting or within the demolition delay period, the applicant may present any information the applicant believes will assist the architectural review board in evaluating alternatives to demolition. If, at such hearing, the architectural review board finds that demolition delay is required, and also finds that the information presented at such hearing is sufficient for the board to issue a determination that there is no feasible alternative to demolition, the board shall issue such determination within the time period set forth in this subsection for the issuance of the architectural review board's hearing determination.

(c) *Criteria for determining significance.* The architectural review board shall determine that the building to which the application relates is a historically significant building if:

1. The building is associated with events that have made a significant contribution to the broad patterns of our national, regional or local history; or

2. The building is associated with the lives of persons significant in our national, regional or local past; or

3. The building embodies the distinctive characteristics of a type, period or method of construction, or that represents the work of a master, or that possess high artistic values, or that represents a significant and distinguishable entity whose components may lack individual distinction; or

4. The building has yielded, or may be likely to yield, information important in national, regional or local history.

(d) *Criteria for determination that building is subject to demolition delay.* To determine that a historically significant building is subject to the demolition delay, the architectural review board must find that, in the public interest, it is preferable that the building be preserved or rehabilitated rather than demolished. In making such finding, the architectural review board shall consider the criteria for determining historical significance.

(e) *Demolition delay.*

1. *Delay period.* If the architectural review board has issued a determination that a historically significant building is subject to demolition delay, the building official shall not issue a demolition permit until sixty (60) days have elapsed from the date of determination but in no case exceeding the aggregate of one hundred twenty (120) days from the date of application.

   Upon expiration of the delay period, the architectural review board shall issue a notice in writing stating that such delay period has expired, and the date of such expiration, unless the architectural review board has issued a determination that there is no feasible alternative to demolition.

2. *Invitation to consider alternatives.* If the architectural review board has determined that a historically significant building is subject to demolition delay, and has not determined, at the hearing that there is no feasible alternative to demolition, the architectural review board shall invite the applicant (or the owner of record, if different from the applicant) to participate in an investigation of alternatives to demolition. The architectural review board also may invite the participation, on an advisory basis, of city staff, as well as any individual or representative of any group whose participation the applicant (or owner) requests, to assist in considering alternatives.

(f) *Evaluation of alternatives to demolition.* In evaluating alternatives to demolition, the architectural review board may consider such possibilities as: the incorporation of the building into the future development of the site; the adaptive re-use of the building; the use of financial or tax incentives for the rehabilitation of the building; the removal of the building to another site; and, with the owner's consent, the search for a new owner willing to purchase the building and preserve, restore, or rehabilitate it.

In evaluating alternatives to demolition, the architectural review board shall consider, and shall invite the applicant to present, the following information:

1. The cost of stabilizing, repairing, rehabilitating, or re-using the building;
2. A schematic, conceptual design drawing;
3. Any conditions the applicant proposes to accept for the redevelopment of the site that would mitigate the loss of the building; and
4. The availability of other sites for the applicant's intended purpose or use.

(g) *Determination of no feasible alternative.* If, based on its evaluation of alternatives to demolition, the architectural review board is satisfied that there is no feasible alternative to demolition, the architectural review board may issue a determination prior to the expiration of the delay period, authorizing the building official to issue a demolition permit.

(h) *Notice.* Any determination or notice issued by the architectural review board or its staff shall be transmitted in writing to the applicant, with copies to the building official and, where applicable, to any individual or group that the architectural review board has invited to participate in an exploration of alternatives to demolition.

(Ord. No. 12-09, § 3, 4-9-09; Ord. No. 19-19, § 1, 9-26-19)

Sec. 12-12-6. - Certificate of occupancy.

This section is established to provide for the processing of applications for certificates of occupancy for review of compliance with this land development code.

(A) *Certificate of occupancy required.* A new building or existing building undergoing a change in occupancy classification shall not be occupied until after the building official has issued a certificate of occupancy. A certificate of occupancy is required in order to obtain an occupational license for a business to be located in any new building or existing building undergoing a change in occupancy classification. An occupational license inspection certificate shall be required in order to obtain an occupational license for a business to be located in an existing nonresidential building involving a change in land use.

(B) *Issuance of certificate of occupancy.* Upon completion of a building erected in accordance with approved plans, and after the final inspection and upon application therefore, the building official shall issue a certificate of occupancy stating the nature of the occupancy permitted, the number of persons for each floor when limited by law, the allowable load per square foot for each floor in accordance with the provisions of the Standard Building Code.

(C) *Temporary/partial certificate of occupancy.* A temporary or partial certificate of occupancy may be issued for a portion or portions of a building that may safely be occupied prior to final completion of a building.

(D) *Existing buildings.* A certificate of occupancy for any existing building or part thereof may be obtained by applying to the building official and supplying the information and data necessary to determine compliance with this Code for the occupancy intended. Where necessary, in the opinion of the building official, two (2) sets of detailed drawings, or a general description, or both, may be required. When, upon examination and inspection, it is found that the building

conforms to the provisions of this Code for such occupancy, a certificate of occupancy shall be issued.

(Ord. No. 8-99, § 9, 2-11-99; Ord. No. 11-00, § 2, 2-10-00; Ord. No. 12-09, § 3, 4-9-09)

Sec. 12-12-7. - License to use right-of-way.

(A) *Application.*

(1) An application for license to use right-of-way must be submitted to the planning services department at least thirty (30) days prior to the regularly scheduled meeting of the planning board.

(2) The application shall be scheduled for hearing only upon determination that the application complies with all applicable submission requirements.

(3) No application shall be considered complete until all of the following have been submitted:

(a) The application shall be submitted on a form provided by the board secretary.

(b) Each application shall be accompanied by the following information and such other information as may be reasonably requested to support the application:

1. Accurate site plan drawn to scale;

2. Reason for license to use request;

(4) The applicant shall be required to pay an application fee according to the current schedule of fees established by the city council for the particular category of application. This fee shall be nonrefundable irrespective of the final disposition of the application.

(5) Any party may appear in person, by agent, or by attorney.

(6) Any application may be withdrawn prior to action of the planning board or city council at the discretion of the applicant initiating the request upon written notice to the board secretary.

(B) *Planning board review and recommendation.* The request will be distributed to the appropriate city departments and public agencies for review and comment. Said departments shall submit written recommendations of approval, disapproval or suggested revisions, and reasons therefore, to the planning services department. The planning board shall review the license to use right-of-way request and make a recommendation to the city council.

(1) *Public notice for license to use right-of-way.*

(a) The city shall notify addresses within a three hundred-foot radius, as identified by the current Escambia County tax roll maps, of the right-of-way proposed to be licensed with a public notice by post card at least five (5) days prior to the board meeting. The public notice shall state the date, time and place of the board meeting.

(C) *City council review and action.* The planning board recommendation shall be forwarded to the city council for review and action.

(1) *Notice.* The city shall notify addresses within a three hundred-foot radius, as identified by the current Escambia County tax roll maps, of the right-of-way proposed to be licensed with a public notice by post card at least five (5) days prior to the council meeting. The public notice shall state the date, time and place of the council meeting.

(2) *Action.* The city council shall approve, approve with modifications, or deny the license to use right-of-way request. If the request is approved by city council, a license to use agreement will be drawn, at which time the license becomes effective upon execution by the applicant and the city and payment by the applicant of any required fee.

(D) *Approval of outdoor seating areas.* Outdoor seating areas shall be approved by the city via an annual permit, and must comply with the following outdoor seating area standards and regulations.

(1) *Outdoor seating area standards and regulations City of Pensacola.* The issuance of an outdoor seating area permit is a privilege granted by the City of Pensacola. The City of Pensacola requires compliance with all rules and regulations outlined or referenced in this set of standards as well as respect for the community in which the establishment is located. The City of Pensacola will monitor and enforce the proper operation of outdoor seating areas and is empowered to issue citations for ordinance or rule and regulation violations.

(a) An outdoor seating area permit is valid from the date of issuance for one (1) year.

(b) Outdoor seating areas shall not operate earlier or later than the hours of operation of the licensed establishment.

(c) All establishments offering an outdoor seating area and their employees shall be subject to and comply with all applicable requirements and standards for a retail food establishment.

(1) Patrons must wear shoes and shirts at all times.

(2) All outdoor seating areas must have an opening for ingress and egress at all times.

(3) All outdoor seating areas must adhere to the size, design, and any other specifications approved by the city at all times. Strict adherence to required design standards as set forth herein is mandatory.

(4) Strict adherence to hours of operation, approved layout of all components of the outdoor seating area, clear space for pedestrians and required landscaping is mandatory.

(d) Where the city has installed a permanent structure such as a parking meter, planter, light pole or other device, the permittee of the outdoor seating area shall make accommodation for the required clearance for pedestrian passage. All establishments granted a license to use permit, shall remain in compliance with approved design standards. Permittees of outdoor seating areas shall be mindful of the rights of pedestrians traveling past their outdoor seating area at all times during the operation of the outdoor seating area. Complaints regarding outdoor seating areas will be investigated by the city, and violations of the ordinance or the rules and regulations promulgated will result in citations being issued to the permittee and/or revocation of permittee's outdoor seating area permit. Permittee shall be required to fully abide by all federal, state, and local laws, rules and regulations applicable to the operation of an outdoor seating area in the City of Pensacola.

(e) All areas within and surrounding the outdoor seating area must be maintained in a clean, neat and sanitary condition and shall be policed routinely by permittee to ensure removal of all wrappings, litter, debris, spills, and food therefrom. Permittee shall be responsible for sanitary cleaning of the sidewalk between pressure washing scheduled by the City of Pensacola or its designated agent.

(f) Establishments permitted to have outdoor seating areas offering amplified and/or live music must control and limit the ambient noise in conformance with the City of Pensacola noise ordinance. Any projection of music within or upon any part of the license-to-use area shall be done in such a way as to direct the sound transmission towards the face and interior of the permittee's building and away from the street and adjoining businesses.

(g) All tables, chairs, plants, planters, and any other items of the outdoor seating area, hereinafter defined as outdoor seating area elements, shall be approved as part of the permit approval process as set forth in the Ordinance regulating outdoor seating areas.

(h) The approved outdoor seating area plan shall be displayed inside the establishment in a prominent and conspicuous location clearly visible to permittee, his or her employees and all of the public so that the approved location of outdoor seating area elements is evident. Permittee and his or her employees are responsible for immediately returning outdoor

seating area elements to their approved locations if they are moved by patrons or become otherwise dislocated.

(i) A portion of the annual outdoor seating area permit fee will be used to periodically pressure wash, steam clean, or sanitary clean the sidewalk areas used for outdoor seating and adjacent rights-of-way. The City of Pensacola or its designated agent may contract for such services, but such service in no way exempts the permittee from maintaining the cleanliness and upkeep of the sidewalk. The permittee will be expected to cooperate with periodic appropriate washing and cleaning by removing outdoor seating area elements with notice for cleaning.

(j) The city will inspect all outdoor seating areas after permits have been issued, and also enforce outdoor seating area permit standards. Any violations of the provisions of these rules and regulations, or any deviation from approved plans or willful omissions of the application may result in citations being issued to the operator and/or revocation of permittee's outdoor seating area permit.

(k) Any permittee or his or her employees, agents or contractors who violate or resist enforcement of any provision of the outdoor seating area ordinance and/or these rules and regulations may be subject to immediate permit revocation by the city. Any expenses incurred for restoration or repair of the public right-of-way to its original condition, reasonable wear and tear excepted, shall be the responsibility of the permittee.

(l) The outdoor seating area permit may be terminated by the city without cause and for any reason by giving ninety (90) days prior written notice to permittee. In the event that the permittee receives notice from the city of termination of the outdoor seating area permit, the city shall not be liable for any claim from permittee, its legal representatives, successors or assigns arising out of the termination. The permittee may also terminate the outdoor seating area permit by giving written notice of its intention to do so to the city, removing any outdoor seating area elements, and restoring the sidewalk to its original condition, reasonable wear and tear excepted. When the city has acknowledged in writing its satisfaction therewith, this permit shall be terminated, and the city and permittee shall have no further obligation arising hereunder.

(m) Permittee shall be required to maintain a current City of Pensacola business license.

(2) *Design standards outdoor seating areas.* In order to remain consistent with the City of Pensacola's objective of developing attractive outdoor dining spaces, including the furniture, objects, structures and décor associated therewith, in as much that applicants desiring to use public space for semiprivate use are enhancing the private interests of their enterprise as well that of the city, the following design standards shall apply to establishments seeking permission to erect outdoor seating areas throughout the City of Pensacola.

(a) *Space and clearances.*

(1) The area designated for the outdoor seating area shall be considered an extension of the permittee's establishment; therefore, the location of the outdoor seating area must be directly in front of the permittee's establishment.

(2) An outdoor seating area is required to maintain a clear unimpeded pedestrian path of six (6) feet minimum at all times that is free from any permanent or semi-permanent structure or other impediment. In areas of higher pedestrian traffic or other activity, or in conditions that suggest the need for additional clearance, a clear pedestrian path greater than six (6) feet may be required. This area shall also be free of any obstructions such as trees, parking meters, utility poles and the like in order to allow adequate pedestrian movement.

(3) Outdoor seating areas shall not interfere with any utilities or other facilities such as telephone poles, fire hydrants, signs, parking meters, mailboxes, or benches located on the sidewalk or public right-of-way.

(4) The outdoor seating area shall maintain clear distances for maneuvering around entrances or exits. The outdoor dining area shall be accessible to disabled patrons and employees, and buildings adjacent to these areas shall maintain building egress as defined by the state and federal accessibility standards.

(5) When an outdoor seating area is located at a street corner or adjacent to an alley or driveway, visual clear-zone requirements shall be maintained and specified through the permit review process. This requirement may be modified at the discretion of the city in locations where unusual circumstances exist and where public safety could be jeopardized.

(b) *Furniture, objects, structures and décor.* Tables, chairs, umbrellas, awnings, barriers and any other object associated with an outdoor seating area ("outdoor seating area elements") shall be of quality design, materials and workmanship both to ensure the safety and convenience of users and to enhance the visual and aesthetic quality of the urban environment. All outdoor seating area elements shall be reviewed by the city and as a part of the outdoor seating area permitting process. In reviewing outdoor seating area elements, the city shall consider the character and appropriateness of design including but not limited to scale, texture, materials, color and the relation of the outdoor seating area elements to the adjacent establishments, to features of structures in the immediate surroundings, as well as to the streetscape and adjacent neighborhood(s), if applicable.

Tables and chairs for sidewalk dining shall be placed in the area designated for sidewalk dining only. Appropriate density of tables and chairs is to be reviewed by the city and may be affected by specific conditions of the location. Table sizes should be kept to a minimum so as not cause crowding, a disturbance or a nuisance.

Permanent structures in outdoor seating areas are not permitted. All furniture, umbrellas or other outdoor seating area elements shall not be attached permanently to the sidewalk or public right-of-way. The permittee shall be responsible for the restoration of the sidewalk or public right-of-way if any damage is caused as a result of the issuance of the outdoor seating area permit.

(c) *Overhead structures.* Umbrellas and any type of temporary overhead structure may be utilized if approved by the City of Pensacola as part of the outdoor seating area permitting process. The use of overhead structures over the outdoor dining areas and removable umbrellas may be permitted provided they do not interfere with street trees. No portion of the umbrella shall be less than six (6) feet above the sidewalk. Umbrellas and any type of overhead structure shall be designed to be secure during windy conditions and shall be weather resistant.

Awnings, either permanent or temporary, may be utilized if approved by the city and the appropriate review board, if applicable, through a separate license to use the right-of-way approval process. Awnings shall have no support posts located within the public right-of-way, and no portion of an awning shall be less than eight (8) feet above the sidewalk. A building permit must be obtained prior to the installation of an awning and is subject to all applicable code sections of the Code of the City of Pensacola.

(d) *Signage.* Aside from properly permitted sandwich boards, signs at an outdoor seating area shall be prohibited. This prohibition includes but is not limited to banners, writing, or signs as part of the furniture or on umbrellas, pamphlets, podiums, or any other outdoor seating area element containing a sign or advertisement.

(e) *Lighting.* Lighting for outdoor seating areas may be utilized if approved by the city as a part of the outdoor seating area permitting process. Any such lighting shall complement the existing building and outdoor seating area design and shall not cause a glare to passing pedestrians or vehicles. Temporary electrical wires shall not be permitted to access the outdoor seating area. Possible lighting sources include tabletop candles or low wattage battery operated fixtures. Additional lighting may be attached to the permittee's

establishment provided permittee obtains all necessary approvals for such lighting from the city and any applicable review boards.

(f) *Outdoor heaters.* Outdoor heaters may be utilized upon the approval by the city as a part of the outdoor seating area permitting process.

(g) *Vending machines, carts prohibited.* No vending machines, carts, or objects for the sale of goods shall be permitted in an outdoor seating area

(h) *Service and use.* All services provided to patrons of an outdoor seating area and all patron activity (i.e., sitting, dining, waiting, etc.) shall occur within the designated outdoor seating area, and shall not impinge on the required clear distance for pedestrian passage at any time.

No alcoholic beverages may be stored or mixed in the outdoor seating area. Equipment necessary for the dispensing of any other items should be reported as part of the operation of the outdoor seating area and is subject to review.

The permittee must provide supervision of the outdoor seating area to ensure the conduct of patrons and operations of the area are in compliance with this ordinance at all times.

(i) *Insurance required.* Each permittee of an outdoor seating area permit shall furnish a certificate of insurance evidencing commercial general liability insurance with limits of not less than one million dollars ($1,000,000.00) in the aggregate combined single limit, for bodily injury, personal injury and property damage liability. The insurance shall provide for thirty (30) days prior written notice to be given to the City of Pensacola if coverage is substantially changed, canceled, or nonrenewed. The city will give permittee at least ninety (90) days prior written notice of any increase in the required limits of liability. The permittee will agree to have in force, by the end of such ninety (90) day period, the newly required limits of liability.

The City of Pensacola shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operation of an outdoor seating area; and the permittee shall indemnify, defend and hold the city harmless from any loss that results directly or indirectly from the permit issuance or the operation of the outdoor seating area.

Each permittee shall maintain the insurance coverage required under this section during the permit period. The certificate(s) of insurance shall be presented to the City of Pensacola prior to the issuance of a permit under this section. Failure of the permittee to maintain the insurance required by this section shall result in the revocation of the outdoor seating area permit.

In order to receive a permit for an outdoor seating area on a public right-of-way, the applicant must demonstrate that the provisions of these guidelines will be met. Documentation demonstrating that the provisions of this guideline will be complied with must accompany the application in order to receive a permit. An outdoor seating area permit will not be issued to a permittee until after the City of Pensacola has conducted a site inspection of the approved outdoor seating area and all outdoor seating area elements placed therein to ensure that the outdoor seating area and all outdoor seating area elements are in compliance with the approved permit and that the permittee is in compliance with all other requirements of the permit.

(j) *Indemnification.* Permittee shall indemnify and hold harmless the city from any and all liability, claims, demands, damages, expenses, fees, fines, penalties, expenses (including attorney's fees and costs), suits, proceedings, actions or causes of action, of every kind and nature whatsoever, arising out of or occurring in connection with the occupancy and/or use of the permitted area by permittee, its successors, assigns, officers, employees, servants, agents, contractors, or invitees, of whatsoever description, or resulting from any

breach, default, non-performance, or violation of any of permittee's obligations. The permittee shall at his or her own expense defend any and all actions, suits, or proceedings that may be brought against the city or in which the city may be impleaded with others in any such action or proceeding arising out of the use or occupancy of the outdoor seating area. This paragraph shall survive the termination of this permit.

(k) *Transferability.* A permit to allow an outdoor seating area is not transferable from one owner or ownership group to another due to a sale or transfer of the property or business. Each new ownership entity shall be required to apply for a permit to allow outdoor seating as set forth in the ordinances of the City of Pensacola and its standards and regulations for outdoor seating.

(l) *Application.* Applications for a permit to have outdoor seating shall be made jointly by the property owner and the business owner for the respective property that is seeking an extension of its business premises.

(E) *Approval of minor encroachments.* Minor encroachments into the right-of-way may be approved administratively if the conditions of this section are met. Minor encroachments allowed under this section include, but are not limited to, awnings, driveways, and out-swinging doors.

(1) *Design standards and regulations.* The request shall be reviewed to ensure the minor encroachment does not pose any safety concerns, that a six-foot wide pedestrian path is maintained, and that the minor encroachment does not interfere with any utilities or facilities within the right-of-way.

a. For out-swinging doors, the permittee must demonstrate a physical barrier has been provided to prevent the door from swinging into anyone within the public right-of-way.

b. Awnings that project over the right-of-way but do not require support columns in the right-of-way may be considered a minor encroachment.

c. The building official or city engineer will determine the boundaries of the minor encroachment area.

d. Failure to maintain the minor encroachment area may result in citations being issued.

(2) *Insurance required.* Each permittee of a minor encroachment area permit shall furnish a certificate of insurance evidencing commercial general liability insurance with limits of not less than one million dollars ($1,000,000.00) in the aggregate combined single limit, for bodily injury, personal injury and property damage liability. The insurance shall provide for thirty (30) days prior written notice to be given to the City of Pensacola if coverage is substantially changed, canceled, or nonrenewed. The city will give permittee at least ninety (90) days prior written notice of any increase in the required limits of liability. The permittee will agree to have in force, by the end of such ninety-day period, the newly required limits of liability. The City of Pensacola shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operation of a minor encroachment area; and the permittee shall indemnify, defend and hold the city harmless from any loss that results directly or indirectly from the permit issuance or the operation of the minor encroachment area. Each permittee shall maintain the insurance coverage required under this section during the permit period. The certificate(s) of insurance shall be presented to the City of Pensacola prior to the issuance of a permit under this section. Failure of the permittee to maintain the insurance required by this section shall result in the revocation of the minor encroachment area permit.

(3) *Transferability.* A permit for a minor encroachment area is transferable from one owner or ownership group to another due to a sale or transfer of the property or business so long as the new owner provides the City of Pensacola a new proof of insurance for the minor encroachment area.

(4) *Indemnification.* Permittee shall indemnify and hold harmless the city from any and all liability, claims, demands, damages, expenses, fees, fines, penalties, expenses (including attorney's fees and costs), suits, proceedings, actions or causes of action, of every kind and nature

whatsoever, arising out of or occurring in connection with the occupancy and/or use of the permitted area by permittee, its successors, assigns, officers, employees, servants, agents, contractors, or invitees, of whatsoever description, or resulting from any breach, default, non-performance, or violation of any of permittee's obligations. The permittee shall at his or her own expense defend any and all actions, suits, or proceedings that may be brought against the city or in which the city may be impleaded with others in any such action or proceeding arising out of the use or occupancy of the minor encroachment area. This paragraph shall survive the termination of this permit.

(5) *Application.* Applications for minor encroachments shall be made jointly by the property owner and the business owner for the respective property that is seeking an extension of its business premises.

Minor encroachments shall be reviewed by the building official or his or her designee prior to the issuance of building permits. For minor driveway encroachments, the city engineer or his or her designee shall review the request prior to the issuance of a permit.

If the request is denied or if it is determined that the encroachment is major and therefore administrative approval is not allowed, the permittee may either withdraw the request or may submit a request for a License-to-Use pursuant to section 12-12-7(A)—(C).

(Ord. No. 15-00, § 9, 3-23-00; Ord. No. 12-09, § 3, 4-9-09; Ord. No. 16-10, § 226, 9-9-10; Ord. No. 26-12, § 1, 12-13-12; Ord. No. 06-14, § 1, 2-27-14; Ord. No. 23-20, 7-16-20)

Sec. 12-12-8. - Regulation of patrons' dogs at permitted food service establishments.

Pursuant to the authority granted by F.S. § 509.233, patrons' dogs may be permitted within certain designated outdoor portions of permitted public food service establishments, notwithstanding the provisions of section 4-2-33 of the Code of the City of Pensacola, Florida, or the provisions of F.S. § 509.032(7), provided that each of the following requirements and criteria have been complied with:

(A) Any public food service establishment desiring to allow patrons' dogs within certain designated outdoor portions of its public food service establishment, must apply for and receive a permit from the city council before allowing patrons' dogs on its premises.

(B) Each applicant shall supply the following information in order to receive a permit:

(1) The name, location, and mailing address of the public food service establishment.

(2) The name, mailing address, and telephone contact information of the permit applicant.

(3) A diagram and description of the outdoor area to be designated as available to patrons' dogs, including dimensions of the designated area; a depiction of the number and placement of tables, chairs, and restaurant equipment, if any; the entryways and exits to the designated outdoor area; the boundaries of the designated area and of other areas of outdoor dining not available for patrons' dogs; any fences or other barriers; surrounding property lines and public rights-of-way, including sidewalks and common pathways; and such other information as may reasonably be required by the city council. The diagram or plan shall be accurate and to scale but need not be prepared by a licensed design professional.

(4) A description of the days of the week and hours of operation that patrons' dogs will be permitted in the designated outdoor area.

(5) Proof that the applicant possesses liability insurance in the minimum amount of twenty-five thousand dollars ($25,000.00) in the event of a dog biting a staff member, patron, guest or passerby while on the premises.

(6) With respect to restaurants located adjacent to another restaurant or licensed establishment, proof that the applicant has provided the neighboring establishment with notification of the applicant's intent to seek a permit under this section.

(C) In order to protect the health, safety, and general welfare of the public, the following measures shall be continuously applied by the permitted establishment:

(1) All public food service establishment employees shall wash their hands promptly after touching, petting, or otherwise handling dogs. Employees shall be prohibited from touching, petting, or otherwise handling dogs while serving food or beverages or handling tableware or before entering other parts of the public food service establishment.

(2) Patrons in a designated outdoor area shall be advised that they should wash their hands before eating. Waterless hand sanitizer shall be provided at all tables in the designated outdoor area.

(3) Employees and patrons shall be instructed that they shall not allow dogs to come into contact with serving dishes, utensils, tableware, linens, paper products, or any other items involved in food service operations.

(4) Patrons shall keep their dogs on a leash at all times and shall keep their dogs under reasonable control.

(5) Dogs shall not be allowed on chairs, tables, or other furnishings.

(6) All table and chair surfaces shall be cleaned and sanitized with an approved product between seating of patrons. Spilled food and drink shall be removed from the floor or ground between seating of patrons.

(7) Accidents involving dog waste shall be cleaned immediately and the area sanitized with an approved product. A kit with the appropriate materials for this purpose shall be kept near the designated outdoor areas.

(8) A sign or signs reminding employees of the applicable rules shall be posted on premises in a manner and place as determined by the local permitting authority.

(9) A sign or signs reminding patrons of the applicable rules shall be prominently posted on premises.

(10) A sign or signs shall be prominently posted that places the public on notice that the designated outdoor area is available for the use of patrons and patrons' dogs.

(11) Dogs shall not be permitted to travel through indoor or nondesignated outdoor portions of the public food service establishment, and ingress and egress to the designated outdoor portions of the public food service establishment must not require entrance into or passage through any indoor areas of the food establishment.

(D) A permit issued pursuant to this section shall not be transferred to a subsequent owner upon the sale of a public food service establishment but shall expire automatically upon the sale of the establishment. The subsequent owner shall be required to reapply for a permit pursuant to this section if the subsequent owner wishes to continue to accommodate patrons' dogs.

(E) The application for a permit shall be accompanied by a nonrefundable permit fee of one hundred dollars ($100.00).

(F) This provision shall be enforced by sworn law enforcement officers employed by the City of Pensacola, and the civil fine penalty provided by section 1-1-8 of the Code of the City of Pensacola, Florida shall apply. Such officers shall enforce the provisions of this section of the code through issuing a Notice to Appear, a Civil Citation or other means of enforcement pursuant to Chapter 13 of this code; to be acknowledged and received by the patron, restaurant owner, managing agent, property owner or employee receiving the notice. Failure to sign acceptance of the Notice to Appear or Civil Citation shall be a first degree misdemeanor as defined by Florida law. Any permitted establishment accumulating three (3) or more Notices to

Appear shall have its permit subject to suspension or revocation at the discretion of the Pensacola City Council.

(G) In the event of a violation of this section at a permitted establishment, all costs of enforcement and prosecution shall be assessed against the establishment by the city council and shall constitute a special assessment against such establishment, for which a lien on all personal and real property may be imposed, recorded and foreclosed upon by the City of Pensacola.

(Ord. No. 11-10, § 1, 4-22-10; Ord. No. 23-17, § 1, 8-10-17)

CHAPTER 12-13. BOARDS AND COMMISSIONS

Sec. 12-13-1. - Zoning board of adjustment.

The zoning board of adjustment is hereby established.

(A) *Membership.* The zoning board of adjustment shall consist of nine (9) members appointed by the city council. Members must be residents or property owners of the city. No member shall be a paid or elected official or employee of the city.

(B) *Terms of office; removal from office; vacancies.* Members of the board shall serve overlapping terms of not less than three (3) nor more than five (5) years or thereafter until their successors are appointed. Not more than a minority of the terms of such members shall expire in any one year. Any member of the board may be removed from office in accordance with Florida Statute Sec. 112.501 and/or the policy and procedures set forth by the City Council. Any vacancy occurring during the unexpired term of office of any member shall be filled by the city council for the remainder of the term. Such vacancy shall be filled as soon as is practical.

(C) *Officers, rules of procedure, employees.* The board shall elect a chairperson and a vice-chairperson from among its members. The planning services department shall serve as secretary to the board. The building official, or his or her representative, shall serve as an advisor to the board. The board may create and fill such other offices as it may determine to be necessary for the conduct of its duties. Terms of all such offices shall be for one (1) year, with eligibility for reelection. The board shall adopt rules for transaction of its business, and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record. Meetings of the board shall be held once a month at the call of the chairperson and at such times as the board may determine.

(D) *Duties and powers.* The board shall have the power and duty to hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the building official in the enforcement of this title, and to consider and act upon applications for variances pursuant to the provisions of section 12-12-2, and to consider applications under subsection 12-12-2(A)(3).

(E) *Vote required.* The concurring vote of five (5) members of the board shall be necessary to reverse any order, requirement, decision or determination of the building official, or to decide in favor of the applicant on any matter upon which it is required to pass under this title, or to effect any variance in the application of this title.

(Ord. No. 8-99, § 10, 2-11-99; Ord. No. 15-00, § 10, 3-23-00; Ord. No. 12-09, § 4, 4-9-09)

Sec. 12-13-2. - Planning board.

The planning board is hereby established.

(A) *Membership.* The planning board shall consist of seven (7) members appointed by the city council. One (1) appointee shall be a licensed Florida Architect. No member shall be a paid employee or elected official of the city.

(B) *Term of office; removal from office; vacancies.* Members of the planning board shall serve for terms of two (2) years or thereafter until their successors are appointed. Any member of the board may be removed from office during the two-year term in accordance with Florida Statute Sec. 112.501 and/or the polity and procedures set forth by City Council. Any vacancy occurring during the unexpired term of office of any member shall be filled by the city council for the remainder of the term. Such vacancy shall be filled as soon as is practical.

(C) *Officers; employees; technical assistance.* The board shall elect a chairperson and a vice-chairperson from among its members on an annual basis. The Board being staffed by a member of Planning Services. The board may create and fill such other offices as it may determine to be necessary for the conduct of its duties. Terms of all offices shall be for one (1) year, with eligibility for reelection. The city engineer shall serve as chief engineer for the planning board. The board shall be authorized to call upon any branch of the city government at any time for information and advice that in the opinion of the board will ensure efficiency of its work.

(D) *Rules of procedure, meetings and records.* The board shall adopt rules of procedure for the transaction of its business, and shall keep a record of its resolutions, transactions, findings and determinations. The board shall hold regular meetings once a month, and special meetings at such times as the board may determine or at the call of the chairperson thereof, or the planning services department for the consideration of business before the board. All regular and special meetings of the board shall be open to the public. A written record of the proceedings of the board shall be kept showing its actions on each question considered, and filed in the office of the secretary of the board. Any matter referred to the board shall be acted upon by the board within forty-five (45) days of the date of reference, unless a longer or shorter period is specified.

(E) *Vote required.* Four (4) members of the board shall constitute a quorum, and the affirmative vote of majority of the quorum shall be necessary for any action thereof.

(F) *Authority and duties of the planning board.* The planning board shall have the following authority and duties:

(a) To advise the city council concerning the preparation, adoption and amendment of the Comprehensive Plan;

(b) To review and recommend to the city council ordinances designed to promote orderly development as set forth in the Comprehensive Plan;

(c) To hear applications and submit recommendations to the city council on the following land use matters:

1. Proposed zoning change of any specifically designated property;
2. Proposed amendments to the overall zoning ordinance;
3. Proposed subdivision plats;
4. Proposed street/alley vacation.

(d) To initiate studies on the location, condition and adequacy of specific facilities of the area. These may include, but are not limited to, studies on housing, commercial and industrial facilities, parks, schools, public buildings, public and private utilities, traffic, transportation and parking;

(e) To schedule and conduct public meetings and hearings pertaining to land development as required in other sections of the code.

(f) To grant zoning variances from the land development regulations of the Waterfront Redevelopment District and the Gateway Redevelopment District, under the conditions and safeguards provided in subsection 12-12-2(A)(2).

(1) *Conditions for granting a zoning variance.* In order to authorize any zoning variance from the terms of this title, the board must find in addition to the conditions specified in subsection 12-12-2(A)(2):

(a) That the variance granted will not detract from the architectural integrity of the development and of its surroundings;

(b) That the grant of the variance will be in harmony with general intent and purpose of this title and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

(c) That the decision of the planning board is quasi-judicial in nature and is final subject to judicial review in accordance with subsection 12-13-2(F)(f)(4). Hearings on variance applications under section 12-13-2(F)(f) shall be conducted as a quasi-judicial hearing in accordance with the requirements of law.

(2) *Hearing of variance applications.*

(1) *Application procedure.*

(a) An application for a variance must be submitted to planning services at least thirty (30) days prior to the regularly scheduled meeting of the planning board.

(b) The application shall be scheduled for hearing only upon determination that the application complies with all applicable submission requirements.

(c) Any party may appear in person, by agent, or by attorney.

(d) Any application may be withdrawn prior to action of the planning board at the discretion of the applicant initiating the request upon written notice to the board secretary.

(2) *Application submission requirements.* No application shall be considered complete until all of the following have been submitted:

(a) The application shall be submitted on a form provided by the board secretary.

(b) The application shall be accompanied by an accurate site plan drawn to scale and such other information as may be reasonably requested to support the application.

(c) The applicant shall be required to pay an application fee according to the current schedule of fees established by the city council for the particular category of application. This fee shall be nonrefundable.

(3) *Public notice for variance.*

(a) A sign shall be prominently posted on the property to which the application pertains at least ten (10) days prior to the scheduled board meeting.

(b) Notice of the request(s) for variances shall be published by public notice advertised in a newspaper of general daily circulation published in the county at least ten (10) days prior to the scheduled board meeting.

(c) The city shall notify addresses within a three hundred-foot radius, as identified by the current Escambia County tax roll maps, of the property proposed for a variance with a public notice by post card, and appropriate

homeowners association, at least ten (10) days prior to the board meeting. The public notice shall state the date, time and place of the board meeting.

The agenda will be mailed to the board members and applicants and other interested parties. The applicant or their authorized agent shall appear at the meeting in order for the request to be considered by the board.

(4) *Judicial review of decision of planning board.* Any person or persons, jointly or severally, aggrieved by any quasi-judicial decision of the planning board on an application for a variance under section 12-13-2(F)(f), or the city, upon approval by the city council, may apply to the circuit court of the First Judicial Circuit of Florida within thirty (30) days after rendition of the decision by the planning board. Review in the circuit court shall be by petition for writ of certiorari or such other procedure as may be authorized by law.

(G) *Procedure for submission of plans.*

(1) An application to erect, construct, renovate, demolish and/or alter an exterior of a building located or to be located in a district within the review authority of the planning board must be submitted to the planning services division at least twenty-one (21) days prior to the regularly scheduled meeting of the board.

(2) The application shall be scheduled for hearing only upon determination that the application complies with all applicable submission requirements.

(3) No application shall be considered complete until all of the following have been submitted:

(a) The application shall be submitted on a form provided by the board secretary.

(b) Each application shall be accompanied by accurate site plans, floor plans, exterior building elevations and similar information drawn to scale in sufficient detail to meet the plan submission requirements specified within the gateway districts.

(c) The applicant shall be required to pay an application fee according to the current schedule of fees established by the city council for the particular category of application. This fee shall be nonrefundable irrespective of the final disposition of the application.

(d) Any party may appear in person, by agent, or by attorney.

(e) Any application may be withdrawn prior to action of the planning board at the discretion of the applicant initiating the request upon written notice to the board secretary.

(H) *Review and decision.* The board shall promptly review such plans and shall render its decision on or before thirty-one (31) days from the date that plans are submitted to the board for review.

(I) *Notification, building permit.* Upon receiving the order of the board, the secretary of the board shall thereupon notify the applicant of the decision of the board. If the board approves the plans, and if all other requirements of the city have been met, the building official may issue a permit for the proposed building. If the board disapproves the plans, the building official may not issue such a permit. In a case where the board has disapproved the plans, the secretary of the board shall furnish the applicant with a copy of the board's written order, together with a copy of any recommendations for changes necessary to be made before the board will reconsider the plans.

(J) *Reconsideration.* The planning board chairperson or vice-chairperson, together with the planning services department acting as a committee, shall review any minor revisions to determine whether the revisions made are in accordance with the articles and minutes of the applicable meeting. If the minor revisions required do not conform with the above requirements, no action may be taken. If, for some unforeseen reason, compliance is impractical, the item will be resubmitted at the next regularly scheduled meeting.

(K) *Abbreviated review.* Sign requests, paint colors, fencing, and emergency repairs that are consistent with the guidelines set forth in subsection 12-2-12(A), may be approved by letter to the building official from the board secretary and the chairperson of the board. This provision is made in an effort to save the applicant and the board time for routine approval matters. If agreement cannot be reached as it pertains to such requests by the board secretary and chairperson, then the matter will be referred to the board for a decision.

(L) *Procedure for city council review.* Any person or entity whose property interests are substantially affected by a decision of the board may, within fifteen (15) days thereafter, apply to the city council for review of the board's decision. A written notice shall be filed with the city clerk requesting the council to review said decision. If the applicant obtains a building permit within the fifteen-day time period specified for review of a board decision, said permit may be subject to revocation and any work undertaken in accordance with said permit may be required to be removed. The appellant shall be required to pay an application fee according to the current schedule of fees established by the city council for the particular category of application. This fee shall be nonrefundable irrespective of the final disposition of the application.

(Ord. No. 34-99, § 5, 9-9-99; Ord. No. 16-10, § 227, 9-9-10; Ord. No. 06-16, § 3, 2-11-16; Ord. No. 20-19, § 2, 9-26-19; Ord. No. 23-20, 7-16-20)

Sec. 12-13-3. - Architectural review board.

The architectural review board is hereby established.

(A) *Membership.* The architectural review board shall be composed of the following members appointed by city council:

• Two (2) members nominated by West Florida Historic Preservation, Inc, each of whom shall be a resident of the city.

• One (1) member who is either from the city planning board, or is a resident property owner of the Pensacola Historic District, North Hill Preservation District or Old East Hill Preservation District.

• Two (2) registered architects, each of whom shall be a resident of the city.

• One (1) member who is a resident property owner of the Pensacola Historic District, North Hill Preservation District or Old East Hill Preservation District.

• One (1) member who is a property or business owner in the Palafox Historic Business District or the Governmental Center District.

(B) *Terms of office; vacancies; removal from office.* Members of the architectural review board shall serve for terms of two (2) years or thereafter until their successors are appointed. Any member of the board may be removed from office in accordance with Florida Statute Section 112.501 and/or the policy and procedures set forth by the City Council. Any vacancy occurring during the unexpired term of office of any member shall be filled by the city council for the remainder of the term. Such vacancy shall be filled as soon as is practical.

(C) *Officers; and technical assistance.* The board shall elect from among its members a chairperson and vice chairperson and such other officers as it may determine. The terms of officers shall be one (1) year, with eligibility for reelection, and officers shall serve until their successors are selected and qualified. The planning services department shall serve as secretary to the board.

The building official shall serve as an advisor to the board. The board may call upon any branch of the city government at any time for information and advice which in the opinion of the board will ensure efficiency of its work.

(D) *Rules of procedure, meetings, and records.* The board shall adopt rules of procedure for the transaction of its business, and shall keep a record of its resolutions, transactions, findings and determinations. The board shall hold regular meetings once a month, and special meetings at such times as the board may determine or at the call of the chairperson or the planning services department. All regular and special meetings of the board shall be open to the public. A written record of the proceedings of the board shall be kept showing its actions on each question considered, and filed in the office of the secretary of the board.

(E) *Duties.* The board shall have as its purpose the preservation and protection of buildings of historic and architectural value and the maintenance and enhancement of the following district:

a. Pensacola Historic District. Refer to subsection 12-2-10(A).

b. North Hill Preservation District. Refer to subsection 12-2-10(B).

c. Old East Hill Preservation District. Refer to subsection 12-2-10(C).

d. Palafox Historic Business District. Refer to section 12-2-21.

e. Governmental Center District. Refer to section 12-2-22.

It shall be the duty of the board to approve or disapprove plans for buildings to be erected, renovated or razed that are located, or are to be located, within the historical district or districts and to preserve the historical integrity and ancient appearance within any and all historical districts established by the governing body of the city, including the authority to grant variances, under the conditions and safeguards provided in subsection 12-12-2(A)(2), from the zoning ordinances of the city applicable in the Pensacola Historic District, the North Hill Preservation District, the Old East Hill Preservation District, and the Palafox Historic Business District.

(1) *Conditions for granting a zoning variance.* In order to authorize any zoning variance from the terms of this title, the board must find in addition to the conditions specified in subsection 12-12-2(A)(2):

(a) That the variance granted will not detract from the architectural integrity and/or historical accuracy of the development and of its surroundings;

(b) That the grant of the variance will be in harmony with general intent and purpose of this title and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

(2) *Hearing of variance applications.*

(1) *Application procedure.*

(a) An application for variance must be submitted to the planning services department at least twenty-one (21) days prior to the regularly scheduled meeting of the architectural review board.

(b) The application shall be scheduled for hearing only upon determination that the application complies with all applicable submission requirements.

(c) Any party may appear in person, by agent, or by attorney.

(d) Any application may be withdrawn prior to action of the architectural review board at the discretion of the applicant initiating the request upon written notice to the board secretary.

(2) *Application submission requirements.* No application shall be considered complete until all of the following have been submitted:

(a) The application shall be submitted on a form provided by the board secretary.

(b) The application shall be accompanied by an accurate site plan drawn to scale and such other information as may be reasonably requested to support the application.

(c) The applicant shall be required to pay an application fee according to the current schedule of fees established by the city council for the particular category of application. This fee shall be nonrefundable irrespective of the final disposition of the application.

(3) *Public notice for variance.*

(a) A sign shall be prominently posted on the property to which the application pertains at least ten (10) days prior to the scheduled board meeting.

(b) Notice of the request(s) for variances shall be published by public notice advertised in a newspaper of general daily circulation published in the county at least ten (10) days prior to the scheduled board meeting at the expense of the applicant.

(c) The city shall notify addresses within a three hundred-foot radius, as identified by the current Escambia County tax roll maps, of the property proposed for a variance with a public notice by post card, and appropriate homeowners association, at least ten (10) days prior to the board meeting. The public notice shall state the date, time and place of the board meeting.

The agenda will be mailed to the board members and applicants and other interested parties. The applicant or their authorized agent shall appear at the meeting in order for the request to be considered by the board.

(F) *Procedure of submission of plans.*

(1) An application to erect, construct, renovate, demolish and/or alter an exterior of a building located or to be located in a district within the review authority of the architectural review board must be submitted to the planning services department at least twenty-one (21) days prior to the regularly scheduled meeting of the board.

(2) The application shall be scheduled for hearing only upon determination that the application complies with all applicable submission requirements.

(3) No application shall be considered complete until all of the following have been submitted:

(a) The application shall be submitted on a form provided by the board secretary.

(b) Each application shall be accompanied by accurate site plans, floor plans, exterior building elevations and similar information drawn to scale in sufficient detail to meet the plan submission requirements specified within the historic and preservation districts.

(c) The applicant shall be required to pay an application fee according to the current schedule of fees established by the city council for the particular category of application. This fee shall be nonrefundable irrespective of the final disposition of the application.

(d) Any party may appear in person, by agent, or by attorney.

(e) Any application may be withdrawn prior to action of the architectural review board at the discretion of the applicant initiating the request upon written notice to the board secretary.

(4) Public notice requirements.

(a) The city shall provide a copy of the monthly architectural review board meeting agenda to the appropriate neighborhood, homeowner, or property owner association at least seven (7) days prior to the board meeting.

(G) *Review and decision.* The board shall promptly review such plans and shall render its decision on or before thirty-one (31) days from the date that plans are submitted, to the board for review.

(H) *Notification; building permit.* Upon receiving the order of the board, the secretary of the board shall thereupon notify the applicant of the decision of the board. If the board approves the plans and if all other requirements of the city have been met, the building official may issue a permit for the proposed building. If the board disapproves the plans, the building official may not issue such permit. In a case where the board has disapproved the plans, the secretary of the board shall furnish the applicant with a copy of the board's written order, together with a copy of any recommendations for changes necessary to be made before the board will reconsider the plans.

(I) *Failure to review plans.* If no action upon plans submitted to the board has been taken at the expiration of thirty-one (31) days from the date of submission of the plans to the board for review, such plans shall be deemed to have been approved, and if all other requirements of the city have been met, the building official may issue a permit for the proposed building.

(J) *General considerations.*

(a) Each respective district referred to in subsection (E) includes specific rules governing ARB decisions.

(b) The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings has been adopted by the ARB for the general review guidelines.

(K) *Reconsideration.* The board shall adopt written rules and procedures for abbreviated review for deviations in projects already approved by the board. This process may authorize the board to designate one of its members to undertake such abbreviated review without the necessity for review by the entire board, provided, however such abbreviated review process shall require review by the staff of West Florida Historic Preservation, Inc. If agreement cannot be reached as it pertains to such request for abbreviated review by the board designee and West Florida Historic Preservation, Inc. staff, then the matter will be referred to the entire board for a decision.

(L) *Voting.* No meeting shall be held without at least four (4) of the board members present. All decisions may be rendered by a simple majority of the board members present and voting.

(M) *Procedure for review.* Any person or entity whose property interests are substantially affected by a decision of the board may within fifteen (15) days thereafter, apply to the city council for review of the board's decision. A written notice shall be filed with the city clerk requesting the council to review said decision. If the applicant obtains a building permit within the fifteen-day time period specified for review of a board decision, said permit may be subject to revocation and any work undertaken in accordance with said permit may be required to be removed. The appellant shall be required to pay an application fee according to the current schedule of fees established by the city council for the particular category of application. This fee shall be nonrefundable irrespective of the final disposition of the application.

(Ord. No. 15-94, § 2, 6-9-94; Ord. No. 44-94, § 8, 10-13-94; Ord. No. 37-95, § 1, 9-28-95; Ord. No. 44-99, § 6, 11-18-99; Ord. No. 15-00, § 11, 3-23-00; Ord. No. 23-01, § 1, 10-11-01; Ord. No. 12-09, § 4, 4-9-09; Ord. No. 16-10, § 228, 9-9-10)

Editor's note— Section 2 of Ord. No. 23-01, adopted Oct. 11, 2001, states that upon the effective date of § 12-13-3 [Oct. 11, 2001], the existing members of the board shall continue to serve for the remainder of their appointed term of office. Upon expiration of the existing terms of office, members shall be appointed in accordance with the requirements of section 12-13-3(A). The initial members appointed from the West Florida Historic Preservation, Inc. shall serve for

the balance of the term of the members previously appointed by the Historic Preservation Board of Trustees.

Sec. 12-13-4. - Reserved.

Editor's note— Ord. No. 20-19, § 1, adopted September 26, 2019, repealed § 12-13-4, which pertained to gateway review board and derived from Ord. No. 33-98, § 3, 9-10-98; Ord. No. 12-09, § 4, 4-9-09; Ord. No. 16-10, § 229, 9-9-10; Ord. No. 06-16, § 4, 2-11-16.

Sec. 12-13-5. - Application deadlines.

Application Deadlines

Hearing Board	Application Type	Deadline (calendar days prior to meeting date)
Architectural Review Board	All applications to ARB	21 (or 3 weeks)
Zoning Board of Adjustment	All applications to ZBA	30
Planning Board		
	Conditional Use, License to Use Right-of-Way, & Vacation of Right-of-Way	30
	Rezoning (conventional, comp plan/FLUM amendment)	30
	Site Plan Approval (preliminary, final, preliminary/final, & nonresidential parking in a residential zone)	30
	Special Planned Development (preliminary, final & preliminary/final)	30
	Subdivisions (preliminary, final, & minor subdivisions)	30
Monthly Board Meeting Schedule:		

Architectural Review Board - 3rd Thursday		
Planning Board - 2nd Tuesday		
Zoning Board of Adjustment - 3rd Wednesday		
*Subject to change. Contact planning services department to verify meeting and deadline dates.		

(Ord. No. 12-09, § 5, 4-9-09; Ord. No. 23-20, 7-16-20)

Sec. 12-13-6. - Minority representation on boards, authorities and commissions.

It is the expressed intent of this city to recognize the importance of balance in the appointment of minority and nonminority persons to membership on all boards, authorities and commissions and to promote that balance through the provisions of this section.

For purposes of this Code Section, *"minority person"* means:

(a) An African American; that is, a person having origins in any of the racial groups of the African Diaspora.

(b) A Hispanic American; that is, a person of Spanish or Portuguese culture with origins in Spain, Portugal, Mexico, South America, Central America, or the Caribbean, regardless of race.

(c) An Asian American; that is, a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands, including the Hawaiian Islands prior to 1778.

(d) A Native American; that is, a person who has origins in any of the Indian Tribes of North America prior to 1835.

(e) An American woman.

In addition, the city recognizes the importance of including persons with physical disabilities on all boards, authorities and commissions. Furthermore, it is recognized that all boards, authorities and commissions play a vital role in shaping public policy for the city, and the selection of the best-qualified candidates is the paramount obligation.

In appointing members to boards, authorities and commissions, the council should select, from among the best-qualified persons, those persons whose appointment would ensure that the membership of the board, authority or commission accurately reflects the proportion that minority persons represent in the population of the city as a whole, unless the law regulating such appointment requires otherwise, or minority persons cannot be recruited. If the size of the board, authority or commission precludes an accurate representation of minority persons, appointments should be made that conform to the requirements of this section insofar as possible.

(Ord. No. 20-12, § 1, 9-13-12)

CHAPTER 12-14. DEFINITIONS

[Sec. 12-14-1. - Definitions enumerated.]

As used in this title and unless the context clearly indicates otherwise:

Abandonment means to cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

Abut means having property or district lines in common.

Access management means a method whereby non-residential property owners limit the number of driveways or connections from individual parcels of property to the major thoroughfare.

Accessory residential unit means an accessory structure built or a portion of a single-family dwelling unit that is converted into a separate housing unit subject to regulations in section 12-2-52 and that may be rented.

Accessory office unit means an accessory structure built or a portion of a single-family dwelling unit that is converted into a separate office unit subject to regulations in section 12-2-51 and that may be rented.

Accessory use means a use or structure which:

(a) Is clearly incidental to, customarily found in association with, and serves a principal use;

(b) Is subordinate in purpose, area, or extent to the principal use served; and

(c) Is located on the same lot as the principal use or on an adjoining lot in the same ownership as that of the principal use.

Addition (to an existing building) means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition that is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.

Adjacent means any property that is immediately adjacent to, touching, or separated from such common border by the width of a right-of-way, alley, or easement.

Adult entertainment establishment means an adult motion picture theater, a leisure spa establishment, an adult bookstore, or an adult dancing establishment.

Airport means any area of land or water designed and set aside for the landing and taking off of aircraft and used or to be used in the interest of the public for such purpose.

Airport hazard means an obstruction to air navigation that affects the safe and efficient use of navigable airspace or the operation of planned or existing air navigation and communication facilities.

Airport obstruction zone means any area of land or water upon which an airport hazard might be established.

Airport protection zoning regulations means airport zoning regulations governing airport hazards.

Airspace height means the height limits in all zones set forth in chapter 12-11, which shall be measured as mean sea level elevation (ASML), unless otherwise specified.

Alleys are roadways that afford only a secondary means of access to abutting property and not intended for general traffic circulation.

Alteration means any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders or interior partitions, as well as any change in doors or windows, or any enlargement to or diminution of a building or structure, whether horizontally or vertically.

Amusement machine complex means a group of three (3) or more amusement games or other amusement machines, in the same place, location or premises.

Anchoring system means an approved system of straps, cables, turnbuckles, chains, ties or other approved materials used to secure a manufactured home.

Animal clinic, veterinary clinic means an establishment where small animals are admitted for examination and treatment by one or more persons practicing veterinary medicine. Animals may be boarded or lodged overnight provided such activity is totally confined within the building. No outside pens or runs shall be allowed. See: Kennel.

NOTE: Small animals shall be deemed to be ordinary household pets excluding horses, monkeys, or other such animals not readily housed or cared for entirely within the confines of a residence.

Antenna means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

Antenna array means one (1) or more personal wireless antennas used by a single service provider and designed and installed at the same site in such a way as to operate as a unit.

Antenna support structure means a guyed or lattice-work tower that is designed and constructed for the sole purpose of supporting one (1) or more personal wireless antennas.

Apartment house. See: Dwelling, multiple.

Automobile repair. See: Garage, mechanical.

Appeal means a request for a review of the building official's interpretation of any provision of this title or a request for a variance.

Bar means a structure or part of a structure in which the principal business is the sale or dispensing of alcoholic beverages for consumption on the premises. This term includes lounges, taverns, pubs, bottle clubs, etc.

Bed and breakfast facility means an accessory use in which no more than four (4) rooms or lodging units and breakfast service only is provided to guest clients, for lengths of stay ranging from one night to seasonal, by the owner of the principal structure living on-site.

Block means a parcel of land entirely surrounded by public streets, watercourse, railway, right-of-way, parks, etc., or a combination thereof.

Boardinghouse, lodging house means a dwelling other than an apartment, commercial hotel or motel where, for compensation and by prearrangement for definitive periods, lodging, or lodging and meals are provided for five (5) or more persons; and which is subject to licensing by the Division of Hotels and Restaurants of the Florida Department of Business Regulations as a rooming or boarding house.

Boats and boat trailers means a vessel or craft for use on the water that is customarily mounted upon a highway vehicle designed to be hauled by an automobile vehicle.

Boat sales and service shop means an establishment primarily engaged in the sale or repair of boats, marine engines, marine equipment, and any similar services.

Buffer yard means a ten-foot strip of yard along the property line(s) used to visibly separate incompatible land uses and/or zoning districts as regulated through provisions established in section 12-2-32.

Buildable area means area inside building setback lines.

Building means any structure built for support, shelter, or enclosure for any occupancy or storage.

Building coverage means the area of a site covered by all principal and accessory buildings.

Building height means the vertical distance of a building measured from the lowest habitable floor elevation to the highest point of the roof, except in a special flood hazard area where the height of a building is measured from an elevation established three (3) feet above the required base flood elevation. For all residential zoning districts as defined in this section and the Residential/neighborhood commercial

land use district (R-NC), the building height means the vertical distance of a building measured from the average elevation of the finished grade to the highest point of the roof, except in a special flood hazard area where the height of a building is measured from an elevation established three (3) feet above the required base flood elevation.

Building official and building inspector means the individual responsibile for conducting inspections and issuing permits under the Standard Building Code as amended.

Building setback line means that line that is the required minimum distance from the street right-of-way or any other lot line when measured at right angles that establishes the area within which the principal structure must be erected or placed.

Cabana means a beach or pool-side shelter, usually with an open side facing the water.

Camping trailer means a vehicular portable structure mounted on wheels, constructed with collapsible partial side walls of fabric, plastic, or other material for folding compactly while being drawn by another vehicle and when unfolded at the site or location, providing temporary living quarters, and that is designed for recreation, travel, or camping purposes.

Car wash means a building, or portion thereof, where automobiles are washed, including self-service car washes.

Cemetery means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes and including, the sale of burial plots, columbariums and mausoleums, in addition to the operations of a funeral chapel, management office and maintenance facility when operated in conjunction with and within the boundary of such cemetery.

City Engineer means the individual or personnel possessing the qualifications of an engineer who is designated by the mayor as the city official responsible for performing the duties placed upon the city engineer by this code of ordinances and Florida statutes.

City Planner and Planning Director mean the individual or personnel possessing appropriate qualifications as a planner who is designated by the mayor as the city official responsible for performing the duties placed upon the city planner or planning services director by this code of ordinances and Florida statutes.

Incidental cemetery functions shall include the sale of interment rights, caskets, funeral services, monuments, memorial markers, burial vaults, urns, flower vases, floral arrangements and other similar merchandise and services when limited for use in the cemetery in which they are sold. Manufacturing of these items shall be prohibited on the cemetery premises. No outdoor retail displays shall be permitted except for monuments and memorial markers.

No portions of the cemetery or accessory buildings shall be used for purposes of embalming and cremation or the performance of other services used in preparation of the dead for burial.

Certificate of occupancy means official certification by the building official that a building conforms to provisions of the zoning ordinance and technical codes, and may be used or occupied. Such certificate is granted for new construction or for a change of occupancy classification in an existing non-residential building. A building or part thereof may not be occupied unless such certificate is issued.

Chapel means a structure whose primary use is assembly for religious purposes.

Child care center. See: Day Care Center.

Childcare facility. Any childcare center or childcare arrangement that provides childcare for more than five (5) children unrelated to the operator and that receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit. Examples of a childcare facility include the following:

Drop-in child care means childcare that is provided occasionally in a childcare facility in a shopping mall or business establishment where a child is in care for no more than a four-hour period and the parent remains on the premises of the shopping mall or business establishment at all times. Drop-in

childcare arrangements shall meet all requirements for a childcare facility unless specifically exempted.

Evening childcare means childcare provided during the evening hours of 6:00 p.m. to 7:00 a.m. to accommodate parents who work evenings and late-night shifts.

Family day care home means an occupied residence in which childcare is regularly provided for children from at least two (2) unrelated families and that receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit. A family day care home shall be allowed to provide care for one of the following groups of children, which shall include those children under thirteen (13) years of age who are related to the caregiver: a) A maximum of four (4) children from birth to twelve (12) months of age. b) A maximum of three (3) children from birth to twelve (12) months of age, and other children, for a maximum total of six (6) children. c) A maximum of six (6) preschool children if all are older than twelve (12) months of age. d) A maximum of ten (10) children if no more than five (5) are under preschool age and, of those five (5), no more than two (2) are under twelve (12) months of age.

Large family child care home means an occupied residence in which child care is regularly provided for children from at least two (2) unrelated families, that receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit, and that has at least two (2) full-time child care personnel on the premises during the hours of operation as defined in the Florida Statutes.

Churches and religious institutions. A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith. Includes temples, synagogues or other places of assembly for the purposes of organized religion.

Clearing or clearing and grubbing means removal of vegetation such as tree stumps, shrubs and roots from the land, but shall not include mowing.

Clinic means a building designed and used for the medical and surgical diagnosis and treatment of patients under the care of doctors and nurses.

Cluster development. A form of development for residential subdivisions that permits a reduction in lot area and setback requirements, provided there is no increase in the density of residential units permitted within the future land use district and the resultant land area is devoted to open space.

Coastal high hazard area means the evacuation zone for a Category 1 hurricane as established in the most current hurricane evacuation study for the area.

Commercial communications antenna means a surface from which television, radio, or telephone communications signals are transmitted or received, but which is neither (i) used primarily for the provision of personal wireless services nor (ii) used exclusively for dispatch communications. The term also includes any microwave or television dish antenna.

Commercial communications tower means a structure on which may be mounted one (1) or more antennas intended for transmitting or receiving television, radio, or telephone communications, but which is neither (i) used primarily for the provision of personal wireless services nor (ii) used exclusively for dispatch communications.

Commercial mobile service means any mobile service that is provided for profit and makes interconnected service available to the public or to such classes of eligible users as to be effectively available to a substantial portion of the public.

Commercial vehicle means any motor vehicle, trailer, or semi-trailer designed or used to carry passengers, freight, materials, or merchandise in the furtherance of any commercial enterprise.

Commercial vehicle—Large means any commercial vehicle greater than seven (7) feet wide, seven (7) feet high or twenty-five (25) feet long including but not limited to the following: construction equipment (bulldozers, graders etc.) semi-tractors and/or trailers, moving vans, delivery trucks, flat-bed and stake-

bed trucks, buses (except school buses), and similar vehicles over seven (7) feet wide, seven (7) feet high or twenty-five (25) feet long.

Commercial vehicle—Small means any commercial vehicle less than or equal to seven (7) feet wide, seven (7) feet high or twenty-five (25) feet long including but not limited to the following: automobiles, pick-up trucks, sport utility vehicles, vans, and other vehicles that are also commonly used as personal vehicles.

Communications tower means a commercial communications tower or a personal wireless tower.

Community correctional center means any residential or non-residential facility described in F.S. § 944.033, created to supervise offenders on probation and/or facilitate the reintegration of state inmates back into the community by means of participation in various work-release, study-release, community service, substance abuse treatment and other rehabilitative programs. This includes all non-residential and residential offender facilities licensed and operated by the State of Florida Department of Corrections or the Federal Bureau of Prisons.

Community residential home means a dwelling unit licensed to serve clients of the Department of Health and Rehabilitative Services, which provides a living environment for up to fourteen (14) unrelated residents who operate as the functional equivalent of a family, including such supervision and care by support staff as may be necessary to meet the physical, emotional and social needs of the residents. Types of community residential homes include the following: adult congregate living facilities; adult foster homes; residential treatment facilities for alcohol, drug abuse and mental health services; residential child care agency facilities (excluding runaway and emergency shelters, family foster and maternity homes); intermediate care facilities for the mentally retarded/developmentally disabled; foster care facilities; and group homes.

Comprehensive plan means the Comprehensive Plan for the City of Pensacola and any amendment thereto.

Concurrency means the provision of the necessary public facilities and services required to maintain the adopted level of service standards at the time the impacts of development occur.

Concurrency monitoring report means the data collection, processing, and analysis performed by the City of Pensacola to determine impacts on the established levels of service for potable water, sanitary sewer, drainage, solid waste, recreation and open space, roads, and mass transit. For traffic circulation: data collection, processing, and analysis will be utilized to determine traffic concern areas and traffic restriction areas in addition to impacts on the established levels of service. The traffic circulation data maintained by the concurrency management monitoring report shall be the most current information available to the city.

Conditional use means a use allowed in a particular zoning district only upon complying with all the standards and conditions as specified in the regulations and approved by city council.

Condominium means ownership in fee simple of a dwelling unit, and the undivided ownership, in common with other purchasers, of the common elements in the development.

Construction (Chapter 12-9, Stormwater Management and Control of Erosion, Sedimentation and Runoff) means any on-site activity that will result in the creation of a new stormwater discharge facility, including the building, assembling, expansion, modification or alteration of the existing contours of the site, the erection of buildings or other structures, or any part thereof, or land clearing.

Contiguous means next to, abutting, or touching and having a boundary or portion thereof, that is coterminous.

Cross access driveways mean a method whereby access to property crosses one or more adjoining parcels of property. Cross access driveways will generally be placed at the rear of these properties, but are not limited to that method.

Crown means the main point of branching or foliage of a tree or the upper portion of a tree.

Cul-de-sac means a street terminated at the end by a vehicular turnaround.

Day care center means any establishment that provides care for the day for more than five (5) persons unrelated to the operator and which received a payment, fee or grant for any of the persons receiving care wherever operated and whether or not operated for profit. The term "day care center" shall include child care center, day nursery, day care service and day care agency.

Decision height means the height at which a decision must be made, during an ILS instrument approach, to either continue the approach or to execute a missed approach.

Deck means a flat floored roofless area adjoining a house.

Dense business area means all of that portion of the corporate limits of the city lying south of the north line of Wright Street, west of the east line of Alcaniz Street, east of the west line of Spring Street to the north line of Garden Street and east of the west line of "A" Street south of the north line of Garden Street and the area encompassed in the Gateway Redevelopment District, those properties located on the north side of Heinberg Street between the east line of 9th Avenue and the west line of 14th Avenue, and C-2A Downtown Retail Commercial District, but excluding all areas zoned HC-1 (Historical Commercial District) and GRD-1 (Gateway Redevelopment District, Aragon redevelopment area).

Density means the number of dwelling units per acre of land. Density figures will be computed by dividing the total number of dwelling units in a contiguous parcel by the total number of acres in a contiguous parcel.

Detention means collection and storage of stormwater for treatment through physical, chemical or biological processes and for attenuating peak discharge with subsequent gradual controlled discharge.

Detention pond (basin) means a storage facility for the detention of stormwater.

Developable area means the total area of a lot or parcel, excluding public rights-of-way.

Development or development activity means:

(a) The construction, installation, alteration, or removal of a structure, impervious surface, or stormwater management facility; or

(b) Clearing, scraping, grubbing, killing, or otherwise removing the vegetation from a site; or

(c) Adding, removing, exposing, excavating, leveling, grading, digging, burrowing, dumping, piling, dredging, mining, drilling or otherwise significantly disturbing the soil, mud, sand or rock or a site; or

(d) The modification or redevelopment of a site.

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

Development permit means any permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of the land.

Development plan; site plan means a plan, prepared to scale as regulated in section 12-2-81, showing accurately and with complete dimensioning, the boundaries of a site, and the location of all buildings, structures, uses and principal site development features proposed for a specific parcel of land.

Discharge (section 12-2-26, Wellhead Protection) means, but is not limited to, any spilling, leaking, seeping, pouring, misapplying, emitting, emptying or dumping of any pollutants prohibited by lawful statutes or regulation that occurs and that affects surface and ground waters.

Discharge (Chapter 12-9, Stormwater Management and Control of Erosion, Sedimentation and Runoff) means volume of fluid per unit time flowing along a pipe or channel from a project, site, aquifer, stormwater management facility, basin, discharge or outfall point.

Dormitory means a building used as group living quarters for a student body or religious order as an accessory use for a college university, boarding school, orphanage, convent, monastery, or other similar institutional use.

Drain means a channel, pipe or duct for conveying surface, groundwater or wastewater.

Drainage means surface water runoff; the removal of surface water or groundwater from land by drains, grading or other means that include runoff controls, to minimize erosion and sedimentation during and after construction or development.

Drainage area basin means a catchment area drained by a watercourse or providing water for a reservoir.

Dredging means a method for deepening streams, wetlands or coastal waters by excavating solids from the bottom.

Dripline means the circumference of the tree canopy extended vertically to the ground.

Driveways:

(a) Mean any privately owned way or place used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons. It shall not include an extension or parking apron that may be an extension of a "driveway."

(b) Mean the connections or curb cuts that permit vehicular access to a site from the roadway.

Dry cleaners means an establishment that cleans and/or drys garments and similar materials using water and/or chemical liquids or solvents.

Dwelling, dwelling unit means an enclosure of one or more rooms and separate bathroom and kitchen facilities designed and constructed as a unit for permanent residential occupancy by one family.

Dwelling, multifamily means a building designed, constructed or reconstructed and used for three (3) or more dwelling units, with each dwelling unit having a common structural or load-bearing wall of at least ten (10) linear feet with any other dwelling unit on the same floor or building level.

Dwelling, single-family means a building designed, constructed or reconstructed and used for one dwelling unit.

- *Attached.* A single-family dwelling that is connected on at least one side by means of a common dividing structural or load-bearing wall of at least ten (10) linear feet to one or more other single-family dwellings, or the end dwelling of a series of such dwellings, each dwelling unit on its own individual lot.
- *Detached.* A single-family dwelling that is completely surrounded by permanent open spaces.

Dwelling, two-family (duplex) means a building designed, constructed or reconstructed and used for two (2) dwelling units that are connected by a common structural or load-bearing wall of at least ten (10) linear feet.

Easement means a grant by the property owner of a nonpossessing right of use of his or her land by another party for a specific purpose.

Enforcing officer means the mayor or duly authorized representative.

Emergency circumstances means the situation that exists when a single-family residence of a person or persons residing in the city is destroyed by a fire or other disaster to the extent that said person or persons are unable to continue residency in said residence until it is repaired or rebuilt.

Emergency health situation means any situation involving sickness or other physical disability of an individual to the event that he or she or she requires the assistance of another individual to attend to his or her personal needs, and the use of a manufactured home becomes necessary or desirable in order to care for such individual.

Engineer means a person who is registered to engage in the practice of engineering under F.S. §§ 471.001—471.039, who is competent in the field of hydrology and stormwater pollution control; includes the terms "professional engineer" and "registered engineer."

Equipment cabinet means an enclosed shed or box at the base of a personal wireless tower or associated with a personal wireless antenna within which are housed, among other things, batteries and electrical equipment.

Erosion means the washing away or scour of soil by water or wind action.

Family means one or more persons occupying a dwelling unit and using common utility services, provided that unless all members are related by blood or marriage, no such family shall contain over four (4) persons.

Filling station. See: Service station.

Floor means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab 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, gross means the sum of all floors of a building as measured to the outside surfaces of exterior walls and including halls, elevator shafts, stairways, interior balconies, mezzanines, open porches, breezeways, mechanical and equipment rooms and storage rooms. Enclosed parking and loading areas below or above grade are excluded from gross floor area.

Floor area, net means the total of all floor areas of a building, excluding halls, elevator shafts, stairways, open porches, breezeways, mechanical and equipment rooms, storage rooms, enclosed parking and loading spaces, and other areas not intended for human habitation or service to the public.

Foundation siding/skirting means a type of wainscoting constructed of fire and weather resistant material enclosing the entire undercarriage of a manufactured home.

Fraternity house, sorority house, or student cooperative means a building occupied by and maintained exclusively for students affiliated with an academic or professional college or university or other recognized institution of higher learning and regulated by such institution.

Frontage means all the property abutting on one side of a street measured along the street line.

Funeral parlor, funeral home means a building used for the preparation of the deceased for burial and the display of deceased and ceremonies connected therewith before burial or cremations. The building may contain space for the storage and display of caskets, funeral urns, and other funeral supplies.

Furniture manufacturing/repair shop means an establishment primarily engaged in the manufacturing and repairing of furniture including cabinets, tables, desks, beds and any similar items.

Garage, residential means building or area used as an accessory to or part of a main building permitted in any residential district, providing for the storage of motor vehicles, and in which no business occupation, or service for profit is in any way conducted.

Garage, parking or storage means any building or premises except those described as a private garage used for the storage of automobiles. Services other than storage shall be limited to refueling, lubrication, washing, waxing and polishing.

Garage, mechanical means buildings where the services of a service station may be rendered, i.e., maintenance, service and repair of automobiles, not to include body work, painting, storage for the purpose of using parts or any other activity that may be classified as a junk yard.

Gas station. See: Service station.

Golf course means a tract of land for playing golf, improved with tees, greens, fairways, hazards and which may include clubhouses and shelters. See golf driving range and golf, miniature.

Golf, miniature means a simplified version of golf, played on a miniature course.

Greenhouse means a structure used for the cultivation or protection of tender plants.

Greenhouse, commercial means a structure in which plants, vegetables, flowers and similar materials are grown for sale.

Ground cover means low growing plants planted in such a manner as to form a continuous cover over the ground (e.g., Confederate Jasmine, English Ivy or other like plants).

Health club, spa, exercise center means an establishment for the exercise and improvement of health, with or without specialized equipment.

Home occupation means an accessory use of a service character customarily conducted within a dwelling by the resident thereof, which is clearly secondary to the use of the dwelling for living purposes and which does not change the character thereof or have any exterior evidence of such secondary use and in connection therewith is not involved in the keeping of a stock-in-trade.

Hospital means a building designed and used for the medical and surgical diagnosis, treatment and housing of persons under the care of doctors and nurses.

Hotel means a building in which lodging, or boarding and lodging, are provided and offered to the public for compensation.

Impervious surface means a surface covered by an impermeable, nonporous material including concrete, asphalt, wood, metal, plastic, fiberglass, compacted clay, and other substances.

Industrial laundry means an establishment that provides industrial type cleaning, including linen supply, rug and carpet cleaning, and diaper service.

Industry, heavy means a use 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 using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

Industry, light means a use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

Interstate corridor means the area within one hundred twenty-five (125) feet of either side of the rights-of-way of Interstate Highways I-10 or I-110.

Irrigation system means the water supply system used to irrigate the landscaping consisting of an underground sprinkler system, outlets for manual watering, or other appropriate technology.

Joint or shared access driveways mean a method whereby adjoining property owners share a common driveway. These driveways will generally be placed along a common property line, but are not restricted to that method.

Joint, shared, and cross access systems mean the driveways and parking areas utilizing these methods.

Junkyard means a parcel of land used for the collecting, storage and/or sale of waste paper, rags, scrap metal or discarded material, or for the collecting, dismantling, storage, salvaging or sale of parts of machinery or vehicles not in running condition.

Kennel means an establishment that is licensed to house dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business. Outside pens and runs are allowed.

Land use means the specific purpose for which land or a building is designated, arranged, intended, or for which it is or may be occupied or maintained.

Ldn means a day/night average sound level which is the twenty-four-hour average sound level, in decibels on the A scale, obtained after the addition of ten (10) decibels to sound levels during the night from 10:00 p.m. to 7:00 a.m.

Landfill means any solid waste land disposal area for which a permit, other than a general permit, is required by F.S. § 403.707 and which receives solid waste for disposal in or upon land. The term does not include a land-spreading site, an injection well, a surface impoundment, or a facility for the disposal of construction and demolition debris.

Landscape material means living material including, but not limited to, trees, shrubs, vines, lawn grass, ground cover; landscape water features; and nonliving durable material commonly used in landscaping, including but not limited to rocks, pebbles, sand, weed barriers including but not limited to polypropylene and jute mesh, brick pavers, earthen mounds, but excluding impervious surfaces for vehicular use. Fifty (50) percent of landscape material shall be living.

Laundromat means an establishment providing coin-operated washing and dry-cleaning machines on the premises.

Local business tax receipt inspection certificate means either (1) for a new building or a change of occupancy classification, a certificate of occupancy issued by the building official or (2) for an existing non-residential building, an official certification by the fire department that such building conforms to the NFPA 1, Fire Prevention Code, and may be used or occupied. Such certificate is granted for a change in tenancy, business ownership, or nature of use in existing non-residential buildings. With respect to existing buildings, such certificate shall mean only that, in the opinion of the official issuing the certificate, the building, or the part thereof for which the certificate is issued, is deemed to be in compliance with applicable codes. No such certificate shall be a warranty of code compliance.

Lodge means the hall or meeting place of a local branch or the members composing such a branch of an order or society.

Lot means a parcel, plot, or tract of land having fixed boundaries and having an assigned number, letter or other name through which it may be identified. For the purpose of this title the word "lot" shall be taken to mean any number of contiguous lots or portions thereof, upon which one or more main structures for a single use are erected or are to be erected.

Lot, corner means a lot abutting upon two (2) or more streets at their intersection.

Lot, interior means a lot other than a corner lot.

Lot, nonconforming means any lot that does not meet the requirements for minimum lot area, lot width, or yard requirements for any use, for the district in which such lot is located.

Lot, through means an interior lot having frontage on two (2) streets or corner lots having frontage on three (3) or more streets.

Lot coverage means the area of a site covered by all principal and accessory buildings and any parking areas, walkways, drives or other impervious surfaces.

Lot depth means the distance measured in the mean direction of the side line of the lot from midpoint of the front line to the midpoint of the opposite main rear line of the lot.

Lot of record means an area designated and owned as a separate and distinct parcel of land on a legally recorded deed as filed in the Public Records of Escambia County, Florida prior to July 24, 1965.

Lot lines means the property lines bounding a lot.

Lot width means the distance between the side lot lines measured along the street right-of-way lines or the building setback lines.

Maintenance means that action taken to restore or preserve structures, buildings, yards or the functional intent of any facility or system.

Major recreational equipment means all travel trailers, camping trailers, truck campers, motor homes, boats, boat trailers, racecars, utility trailers, dune buggies and similar recreational equipment.

Major subdivision. See: Subdivision.

Manufactured building, modular building means a closed structure, building assembly, or system of subassemblies, which may include structural, electrical, plumbing, heating, ventilating or other service systems manufactured in manufacturing facilities for installation or erection, with or without other specified components, as a finished building, or as part of a finished building, and bearing the insignia of approval of the Florida Department of Community Affairs. Manufactured buildings shall include, but not be limited

to, residential, commercial, institutional, storage, and industrial structures. Manufactured buildings are permitted in any zoning district in the city. This does not include mobile homes or manufactured homes.

Manufactured home means a single-family dwelling unit fabricated on or after June 15, 1976 in an off-site manufacturing facility for installation or assembly at the building site, with each section bearing a seal certifying that it is built in compliance with the U.S. Department of Housing and Urban Development construction and safety standards (HUD Code). Manufactured homes fall into one or the following two (2) categories:

Residential Design Manufactured Home or *RDMH* means a manufactured home that meets certain residential design criteria described in section 12-2-62 and that is compatible with site-built dwellings.

Standard Design Manufactured Home or *SDMH* means a manufactured home that does not meet the residential design criteria.

Manufactured home park means a parcel of land under single ownership on which more than one manufactured home or space for such is located and available for rent or lease.

Marina means a place for docking boats and/or providing services to boats and the occupants thereof, including minor servicing and repair to boats while in the water, sale of fuel and supplies, and/or provision of food, beverages, and entertainment as accessory uses.

Martial art means pertaining to manual self-defense, unarmed, hand-to-hand combat including karate, judo and jujitsu.

Mean high water line means the line formed by the interaction of the tidal plane of mean high tide with the shore.

Minimum descent altitude means the lowest altitude, expressed in feet above mean sea level, to which descent is authorized on final approach or during circle-to-land maneuvering in execution of a standard instrument approach procedure where no electronic glide slope is provided.

Minimum obstruction clearance altitude means the specified altitude in effect between radio fixes or VOR airways, off-airway routes, or route segments which meets obstruction clearance requirements for the entire route segment and which assure acceptable navigational signal coverage only within twenty-two (22) miles of a VOR.

Mini-warehouse; mini-storage means a structure containing separate storage spaces of varying sizes leased or rented on an individual basis.

Minor subdivision. See: Subdivision.

Mobile home means a transportable, factory-built home, designed to be used as a year-round residential dwelling but not conforming to the definition of a manufactured home.

Mobile home park means a parcel of land under single ownership on which more than one mobile home or space for such is located and available for rent or lease.

Modular home. See: Manufactured building.

Monopole means a structure consisting of a single steel or concrete shaft that is designed and constructed for the sole purpose of supporting one (1) or more personal wireless antennas.

Mortuary means a place for the storage of human bodies prior to their burial or cremation.

Motel means a building in which lodging, or boarding and lodging, are provided and offered to the public in contradistinction to a boarding or lodging house, or a multiple-family dwelling, same as a hotel, except that the buildings are usually deigned to serve tourists traveling by automobile, ingress to rooms need not be through a lobby or office, and parking usually is adjacent to each unit.

Motor home means a structure built on and made an integral part of a self-propelled motor vehicle chassis, designed to provide temporary living quarters for recreation, camping, and travel use.

Motor hotel. See: Motel.

Noise zones (See Chapter 12-11).

Noise zone A means an area of minimal noise exposure between the 65-70 Ldn noise contour in which land use is normally acceptable for construction of buildings that include appropriate noise attenuation measures.

Noise zone B means an area of moderate noise exposure between the 70-75 Ldn noise contour in which land use should require aviation easements and appropriate sound level reduction measures for the construction of buildings.

Noise zone C means an area of significant noise exposure within the 75 Ldn contour in which land use should be limited to activities that are not noise sensitive.

Nonconforming lot. See: Lot.

Nonconforming structure means any structure that does not meet the limitations on building size and location on a lot, for the district in which such structure is located.

Nonconforming use means any use of land that is inconsistent with the provisions of this chapter or amendments thereto.

Nonprecision instrument runway means a runway having a nonprecision instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment for which a straight-in, nonprecision instrument approach procedure has been approved or planned and for which no precision approach facilities are planned or indicated on an FAA planning document or military service's military airport planning document.

Nonresidential use means any use of land that is not defined as an office, commercial or industrial land use and which is permitted within a residential district, including public uses, churches, day care centers, etc.

Obstruction means any existing or proposed object, terrain, or structure construction or alteration that exceeds the federal obstruction standards contained in 14 C.F.R. part 77, subpart C. The term includes:

(a) Any object of natural growth or terrain;

(b) Permanent or temporary construction or alteration, including equipment or materials used and any permanent or temporary apparatus; or

(c) Alteration of any permanent or temporary existing structure by a change in the structure's height, including appurtenances, lateral dimensions, and equipment or materials used in the structure.

Occupational license inspection certificate means either (1) for a new building or a change of occupancy classification, a certificate of occupancy issued by the building official or (2) for an existing non-residential building, an official certification by the fire department that such building conforms to the NFPA 1, Fire Prevention Code, and may be used or occupied. Such certificate is granted for a change in tenancy, business ownership, or nature of use in existing non-residential buildings. With respect to existing buildings, such certificate shall mean only that, in the opinion of the official issuing the certificate, the building, or the part thereof for which the certificate is issued, is deemed to be in compliance with applicable codes. No such certificate shall be a warranty of code compliance.

Opacity means the degree of obscuration of light.

Opaque means the characteristic of excluding or screening visual contact.

Outbuilding means a building located to the rear of a lot, separate from the principal building, whose use is defined in the Urban Regulations section of the Aragon Design Code.

Outdoor storage means the storage or display outside of a completely enclosed building, of merchandise offered for sale as a permitted use or of equipment, machinery and materials used in the

ordinary course of a permitted use. Items used in renovation or construction, where a building permit has been issued, are exempt from this definition for purposes of this title.

Parking lot means an area or plot of land used for the storage or parking of vehicles.

Permanent perimeter enclosure means a structural system completely enclosing the space between the floor joists of a home and the ground.

Permitted use. A use by right that is specifically authorized in a particular zoning district.

Personal service shop means an establishment engaged in providing services including the care of a person or his or her apparel, or any of the following services. Barbershops, beauty shops, tailoring shops, watch repair shops, body tanning centers, weight loss centers or any similar services with the exception of those expressly referenced elsewhere in this chapter.

Personal wireless antenna means a surface from which radio signals are transmitted or received for purposes of providing personal wireless services.

Personal wireless facility means a personal wireless antenna, a personal wireless tower, an equipment cabinet, or any combination thereof.

Personal wireless services means commercial mobile service, unlicensed wireless services, and common carrier wireless exchange access services.

Personal wireless tower means an antenna support structure or a monopole.

Planning office and planning staff mean the personnel employed and assigned by the mayor to perform the responsibilities of the planning services department and planning staff under this code of ordinances.

Planning Board means the board appointed and functioning under this code of ordinances as the "local planning agency" pursuant to the provisions of Sec. 163.3174, Florida Statutes.

Planting area means any area designed for landscape material installation.

Plat means a map or delineated representation of the subdivision of lands, being a complete exact representation of the subdivision and other information in compliance with the requirement of all applicable sections of this title.

Precision instrument runway means a runway having an instrument approach procedure utilizing an instrument landing system (ILS) or a precision approach radar (PAR).

Predevelopment condition means topography, soils, vegetation, rate, volume and direction of surface or groundwater flow existing immediately prior to development based on best available historical date.

Private club means buildings, facilities and property owned and operated by a corporation or association of persons for social or recreational purposes, including those organized chiefly to promote friendship or welfare among its members, but not operated primarily for profit or to tender a service that is customarily carried on as a business.

Protected tree means native trees protected by Chapter 12-6, as identified by species and size in Appendix A of that chapter.

Public transit bus shelter means a structure or facility located at a site designated and approved by the operating transit agency and the City of Pensacola whose purpose is to protect passengers from the elements.

Quadruplex means four (4) attached single-family dwelling units and each unit has two (2) open space exposures and shares two (2) separation walls with an adjoining unit or units.

Receiving bodies of water means waterbodies, watercourses or wetlands into which surface waters flow.

Recharge means inflow of water into a project site, aquifer, drainage basin or facility.

Residential design manufactured home. See: Manufactured home.

Residential districts are those including the following zoning classifications: R1-AAAAA, R1-AAAA, R1-AAA, R1-AA, R1-A, R-ZL, R-2A.

Restaurant means any building or structure or portion thereof, in which food is prepared and served for pay primarily for consumption on the premises.

Restaurant, drive-in or drive-through means a drive-in or drive-through restaurant where provision is made on the premises for the selling, dispensing, or serving of food or beverages to customers in vehicles.

Retention means the prevention of the discharge of stormwater runoff into surface waters by complete on-site storage where the capacity to store the given volume must be provided by a decrease of stored water caused only by percolation through soil, evaporation, or evapotranspiration (loss of water from soil both by evaporation and transpiration from the plants growing thereon).

Retention pond (basin) means a storage facility for the retention of stormwater.

Right-of-way means the areas of a highway, road, street or way reserved for public use, whether established by prescription, dedication, gift, purchase, eminent domain or any other legal means.

Rooftop mounted antenna means any commercial communications or personal wireless antenna located on the roof or top of any building, public utility structure or permanent nonaccessory sign.

Rooming house. See: Boardinghouse.

Runoff means the amount of water from rain, snow, etc., that flows from a catchment area past a given point over a certain period. It is total rainfall, less infiltration and evaporation losses.

Runway means a defined area on an airport prepared for landing and take-off of aircraft along its length.

Satellite television transmitting and receiving dish means a device commonly concave in shape, mounted at a fixed point for the purpose of capturing and sending television signals transmitted via satellite communications facilities and serving the same or similar function as the common television antenna.

School means an institution primarily for academic instruction, public, parochial or private and having a curriculum the same as ordinarily given in a public school.

Screen or screening means a fence, wall, hedge, earth berm or any combination of these provided to create a visual and/or physical separation between properties, land uses or certain facilities. A screen may be located on the property line or elsewhere on the site, and where required in a buffer yard must be located within the required buffer yard.

Sediment means solid material, mineral or organic in suspension, that is being transported, or has moved from its site or origin by air, water or gravity.

Sedimentation facility means a structure or area designed to retain runoff, as in a retention or holding pond, until suspended sediments have settled.

Service station means a building or lot where gasoline, oil and/or grease are supplied and dispensed to the motor vehicle trade, or where battery, tire and other similar services are rendered.

Shade tree means any species of tree identified in Appendix A and Appendix B of Chapter 12-6.

Sign means any device, display or structure, or part thereof, which advertises, identifies, displays, directs or attracts attention to an object, person, institution, organization, business, product, service, event or location by the use of words, letters, figures, designs, symbols, fixtures, colors, illumination or projected images.

Sign, abandoned. A sign which advertises a business that is no longer licensed, no longer has a certificate of occupancy, or is no longer doing business at that location.

Sign, accessory. Sign which directs attention to a profession, business, commodity, service, entertainment or other activity conducted, sold or offered on the premises.

Sign, advertising display area. The advertisement display surface area as measured from the outside edge of the sign or the sign frame, whichever is greater, excluding the area of the supporting structures provided that the supporting structures are not used for advertising purposes and are of an area equal to or less than the permitted sign area.

Sign, attached or wall sign. Any sign painted on or attached to and erected parallel to the face of, or erected and confined within the limits of, the outside wall of any building or supported by such wall or building and which displays only one advertising surface.

Sign, freestanding. A sign which is supported by one or more columns, uprights, or braces in or upon the ground and is not attached to a building.

Sign, nonaccessory. A sign which directs attention to a business, profession, commodity, service, entertainment or other activity conducted, sold or offered off the premises.

Sign, portable. A sign or advertising device designed to be temporary in nature and movable including those mounted on a trailer-type vehicle, with or without wheels. A-frame signs, balloon signs and all other similar type signs not permanently attached to the ground or a building.

Sign, temporary. A sign erected on a temporary basis for a designated period of time.

Sign, tri-faced nonaccessory. A sign composed of sections which rotate to display a series of advertisements, each advertisement being displayed for at least five (5) seconds continuously without movement and the movement of the sections between displays being not more than two (2) seconds.

Site plan. See: Development plan.

Social services home/center means a home/center for individuals requiring supervision and care by support staff as may be necessary to meet the physical, emotional and social needs of the resident. Types of social services homes/centers include the following: residential treatment facilities for alcohol, drug abuse and mental health services; intermediate care facilities for the mentally retarded/developmentally disabled; and similar foster care facilities or group homes. These homes/centers shall be regulated by the Department of Health and Rehabilitative Services.

Specialty shop means a retail shop specializing in books, cards, jewelry, newspapers and magazines, gifts, antiques, stationery, tobacco, candy, craft distilleries, breweries and microbreweries (with an accessory use area allowing direct retail sale and consumption on premises), and any similar specialty items and hand craft shop for custom work or making custom items not involving noise, odor or chemical waste.

Stable, private means a structure where horses are kept by the owners or occupants of the premises and are not kept for hire or sale.

Standard design manufactured home. See: Manufactured home.

Stealth technology means the use of both existing and future technology and techniques through which a personal wireless facility may be caused to blend in with its surroundings or resemble an object other than a personal wireless facility, including, without limitation, architectural screening of antennas, integration of antennas into architectural elements, painting of antennas, and disguising personal wireless towers to closely resemble trees, street lights, telephone poles, and similar objects. One example of existing technology is the use of small panel antennas concealed behind fiberglass panels.

Stormwater management plan means the detailed analysis required by section 12-9-5.

Stormwater management system means the designed features of the property that treat stormwater, or collect, convey, channel, hold, inhibit, or divert the movement of stormwater. Examples are canals, ditches, culverts, dikes, storm sewers, swales, berms or other manmade facilities that control flow of surface water.

Stormwater runoff means the flow of water that results from, and that occurs immediately following, a rainfall event.

Street means a way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however otherwise designated. The word "street" includes the following terms, further described as follows:

Streets, major arterial means streets that provide for through traffic movement between areas and across the city, and direct access to major employment locations and commercial uses.

Streets, minor arterial means streets that provide for traffic movement between major neighborhoods.

Streets, collector means streets that provide for the movement of traffic between major arterials and local streets and direct access to abutting property.

Street, local means streets that provide for direct access to abutting land and used for local traffic movements only.

Streets, marginal access are minor streets that are parallel to and adjacent to arterial streets and highways; and that provide access to abutting properties and protection from through traffic.

Street line means the line between the street right-of-way and abutting property.

Structural alteration means any change, except for repair or replacement, in the supporting members of a building, such as bearing walls, columns, beams or girders, or in the dimensions or configurations of the roof or exterior walls.

Structure means anything constructed or erected on a fixed location on the ground, or attached to something having a fixed location on the ground, including but not limited to, a building, mobile home, wall, fence, tower, smokestack, utility pole, overhead transmission line or sign.

Studio means a workroom or place of study of an art, including painting, sculpting, photography, dancing, music and the other performing arts with the exception of those expressly referenced elsewhere in this chapter.

Subdivision means the division of a parcel of land into two (2) or more parcels for the purpose of transfer of ownership or building development, or, if a new street is involved, any division of a parcel of land. The word includes resubdivision and shall relate to the process of subdividing or to the land subdivided. Refer to Chapter 12-8 for subdivision regulations.

Subdivision, nonresidential means any subdivision, other than a residential, such as office, commercial, or industrial.

Tattoo parlor or *studio* means an establishment that performs the placement of indelible pigment, inks, or scarification beneath the skin by use of needles for the purpose of adornment or art. For the purposes of this Code, "tattooing" does not include the practice of permanent makeup and micro pigmentation when such procedures are performed as incidental services in a medical office or in a personal services establishment such as a hair or nail salon.

Townhouse means a single-family residential building attached to one or more single-family residential buildings by a common wall.

Travel trailer means a vehicular portable structure built on a chassis, designed and constructed to provide temporary living quarters for recreation, travel or camping purposes, of such size and weight not to require special highway movement permits when drawn by a passenger automobile.

Tree means any self-supporting, woody plant of a species that normally grows to an overall height of at least fifteen (15) feet.

Tree removal means any act that causes a tree to die within a period of two (2) years; such acts including, but not limited to, cutting; inflicting damage upon a root system by machinery, storage of

materials, or soil compaction; changing of the natural grade above or below a root system or around the trunk; inflicting damage on a tree; permitting infection or pest infestation; excessive pruning; or paving with concrete, asphalt or other impervious material within such proximity as to be harmful to a tree.

Truck camper means a portable structure, designed to be loaded onto or affixed to the bed or chassis of a truck, constructed to provide temporary living quarters for recreation, camping or travel use.

Understory vegetation means any shrubs or small trees that will grow beneath large trees.

Unlicensed wireless service means the offering of telecommunications using duly authorized devices that do not require individual licenses, but does not mean the provision of direct-to-home satellite services.

Used car lot means any parcel of land used for the storage, display, and sale of used automobiles in running condition.

Variance means relaxation of the literal terms of this title 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 the terms of this title would result in unnecessary and undue hardship. As used in this title, a variance is authorized only for height, area, and size of structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning division or district or adjoining zoning divisions or districts.

Vehicle means every device, in, upon, or by which any person or property is or may be transported or drawn upon a highway.

Visual runway means a runway intended solely for the operation of aircraft using visual approach procedures and no instrument designation indicated on FAA approved airport layout plan, a military services approved military airport layout plan, or by any planning document submitted to the FAA by competent authority.

Wall means a vertical element with a horizontal length-to-thickness ratio greater than three, used to enclose space.

Waterbodies means the natural or artificial watercourses, lakes, ponds, bays, bayous and coastal waters of the city that ordinarily or intermittently contain water and have discernible shorelines.

Water management structure means a facility that provides for storage of stormwater runoff and the controlled release of such runoff during and after a flood or storm.

Wetlands means fresh or salt water marshes, swamps, bays, or other areas characterized by specific vegetation types and plant communities, either flooded at all times, flooded seasonally or having a water table within six (6) inches of the ground surface for at least three (3) months of the year, or areas that support a dominance of wetland vegetation types listed in or meeting the conditions in DER Rules, Chapter 17-25, Florida Administrative Code.

Yard means any area on the same lot with a building or building group lying between the building or the building group and the nearest lot line.

Yard, required means the minimum distance, measured at right angles from the lot line, which a building or structure must be placed from the lot line. The required yard is the open space area that is unobstructed from the ground upward and unoccupied except by specific uses and structures allowed in such area by the provisions of this title.

Yard, required front means a yard situated between the front lot line and the front building setback line, extending the full width of the lot.

Yard, required rear means a yard situated between the rear lot line and the rear building setback line, extending the full width of the lot, except for corner lots. On corner lots the rear yard extends from the interior side lot line to the streetside setback line. The minimum width of any required rear yard, at the

building setback line, shall be equal to the minimum width required for the front yard at the street right-of-way line.

Yard, required side means a yard situated between a side lot line and side building setback line, extending from the required front yard to the required rear yard or the rear lot line, where there is no rear yard. On a corner lot the required side yard setback line extends from the front building setback line to the rear lot line on the street side of the lot.

Yard, required streetside means a yard situated between a street right-of-way and side building setback lines and extends from the front building setback line to the rear lot line.

Zero lot line dwelling means a detached single-family dwelling sited on one side lot line with zero side yard building setback, and a required side yard setback on the opposite side.

(Ord. No. 27-92, § 3, 8-13-92; Ord. No. 44-94, § 9, 10-13-94; Ord. No. 9-96, § 16, 1-25-96; Ord. No. 45-96, § 11, 9-12-96; Ord. No. 28-97, § 4, 8-14-97; Ord. No. 27-98, § 1, 7-23-98; Ord. No. 8-99, § 11, 2-11-99; Ord. No. 40-99, § 17, 10-14-99; Ord. No. 43-99, § 2, 11-18-99; Ord. No. 11-00, § 3, 2-10-00; Ord. No. 14-00, § 4, 3-9-00; Ord. No. 6-02, § 2, 1-24-02; Ord. No. 23-02, § 1, 9-26-02; Ord. No. 04-06, § 3, 2-9-06; Ord. No. 05-06, § 2, 2-9-06; Ord. No. 26-06, §§ 2, 3, 9-28-06; Ord. No. 31-06, § 2, 12-14-06; Ord. No. 17-09, § 1, 5-14-09; Ord. No. 16-10, § 230, 9-9-10; Ord. No. 13-12, § 2, 6-14-12; Ord. No. 01-15, § 2, 2-12-15; Ord. No. 07-17, § 1, 3-9-17; Ord. No. 13-17, § 3, 6-8-17; Ord. No. 06-18, § 2, 4-12-18)

Editor's note— Section 4 of Ord. No. 31-06 provided for an effective date of Jan. 1, 2007.