



Marion County

Land Development Regulation Commission

Meeting Agenda

Wednesday, February 19, 2025 5:30 PM Marion County Main Training
Room

ROLL CALL AND PLEDGE OF ALLEGIANCE

Acknowledgement of Proof of Publication

1. ADOPT THE FOLLOWING MINUTES

1.1. [February 5, 2025](#)

2. SCHEDULED ITEMS

2.1. [Division of Emergency Management Floodplain Management - CRS Class 8 Prerequisite Marion County Ordinance Amendments](#)

2.2. [Discussion for Proposed Marion County Land Development \(LDC\) Amendments to Review and Update Section 4.3.12 Roadside Vendors](#)

2.3. [Discussion for Proposed Marion County Land Development \(LDC\) Amendments to Review and Update Section 2.8.1 Special Use Permits](#)

2.4. [Discussion for Proposed Marion County Land Development \(LDC\) Amendments to Review and Update Section 4.2.30 Government Use](#)

3. NEW BUSINESS

ADJOURN



Marion County

Land Development Regulation Commission

Agenda Item

File No.: 2025-18161

Agenda Date: 2/19/2025

Agenda No.: 1.1.

SUBJECT:
February 5, 2025

DESCRIPTION/BACKGROUND:
Minutes from the previous LDRC workshop.

The Marion County Land Development Regulation Commission met on February 5, 2025, at 5:30 p.m. in the Growth Services Main Training Room, 2710 E Silver Springs Blvd, Ocala Florida.

CALL TO ORDER

Chairman David Tillman Called the Meeting to Order at 5:32 pm.

ROLL CALL & PLEDGE OF ALLEGIANCE

Becky Brinkley called roll and the quorum was confirmed.

Board members present were Chairman David Tillman, Richard Busche, Chris Howson, Jonny Heath, and Robert Stepp.

Chairman David Tillman led the Pledge of Allegiance.

Staff members present were Chief Assistant County Attorney Dana Olesky, Growth Services Director Chuck Varadin, Deputy Director Ken Weyrauch, Senior Planner Chris Rison, Planner Kathleen Brugnoli, Development Review Coordinator Liz Madeloni, County Engineer Steven Cohoon, Stormwater Engineer Jason Cambre, Land Development Manager Aaron Pool, Staff Assistant Becky Brinkley, and Administrative Staff Assistant Autumn Williams.

Several members of the public were present.

ACKNOWLEDGEMENT OF PROOF OF PUBLICATION

Becky Brinkley read the Proof of Publication and advised that the meeting was properly advertised.

1. ADOPT THE FOLLOWING MINUTES

Rick Busche made a motion to adopt the minutes from the January 15, 2025 meeting. The motion was seconded by Chris Howson. The motion passed unanimously (4-0).

2. SCHEDULED ITEMS

2.1. Discussion for Proposed Marion County Land Development Code (LDC) Amendments to Review and Create Section 4.3.28 Limitations on Ownership and Possession of Dogs and Cats

Dana Olesky, Chief Assistant County Attorney, opened a discussion regarding this item.

The Board reviewed changes to the proposed language based on the discussion at the last meeting. Board Members voiced their comments regarding the current language.

The Board Chair allowed public comment.

Kim Clarke, 5825 NW Gainesville Road, Ocala, FL 34475

- Opposed, currently lives on agricultural property and moved from Orlando to avoid these types of limitations. Numerous animals have been dumped in her area. She feels the proposed limitations would adversely affect her ability to work her herding dogs as she cannot limit herself to four animals. She does not agree with these limitations and feels they should be changed. Does not agree with having to get a Special Use Permit to continue her operation.

Virginia Kilmer, 1200 NW 73rd Terrace, Ocala, FL 34482

- Opposed, founder of Perpetual Care 501(c)(3). Her foundation is run on a 3 acre farm so the current language does not allow her to apply for a Special Use Permit and is concerned about the limit that is placed on her foundation because of that. Her foundation takes in pets when their owners pass and the current language would cause her to be unable to take in any more pets thus forcing her to cease operations.

Julie Karson, 6400 Ave H, McIntosh, FL 32664

- Opposed, her land is under 10 acres causing her to be unable to apply for a Special Use Permit. She breeds dogs and is concerned the proposed language will force her to make other arrangements for her dogs who she has raised their entire lives. She does not agree with the proposed limits/restrictions.

Judith Posner, 10150 NW 21st Street, Ocala, FL 34482

- Opposed to proposed limitations. Did not know about the need for a Special Use Permit. States she is a widow and her dogs are her life and she does not want to be forced to make other arrangements for her dogs.

Florence Sanstrom, 14757 NE 21st Avenue Road, Citra, FL 32113

- Opposed, states she has 60 acres plus an extra 40 for livestock. Has 17 dogs that are retired. Her dogs are on the property for their life and she wants to know what she should do with them based on the restrictions that would be imposed by the current language. She points out that as a breeder she always has pups leftover from a litter that no one wants and wants to know what she should do with those if the proposed language went into effect. She states the proposed language would force animals to be euthanized. She feels the county is trying to strangle out breeders.

Sheri Hall, 10150 NW 21st Street, Ocala, FL 34482

- Opposed to the proposed limitations. States she is afraid she will lose her dogs.

Rachel Perez, 2415 NE 7th Street, Apt 4, Ocala, FL 34470

- Opposed, states she operates a 501(c)(3) cat rescue that takes in special needs cats and offers palliative care. She has 10 permanent residents. During “kitten season” the number of cats can reach 15-20 even though she does facilitate adoption when feasible. States she is opposed to the proposed limits. Expresses concerns that there are so many animals needing homes already.

Nicole Shepard, 59 Never Bend Drive, Ocala, FL 34482

- Opposed, states she breeds and trains dogs on 2.3 acres. Expresses concern that the proposed language makes her ineligible to apply for a Special Use Permit. States she dedicates her life to each litter and this limits her ability to continue her work. She does not like the blanket language proposed.

Joanne Kittredge, 4230 SE 57th Lane, Ocala, FL 34480

- Opposed, she is a breeder here and in South Carolina. There is a big community of show breeders in Marion County. Explains breeders take their dogs back if their placement doesn't work out as per their contract with the buyers. She previously worked for animal control and suggested we enforce existing laws and institute a noise ordinance. States the proposed language is going to “kill my livelihood”. Asked if the Board consulted with anyone before making this language.

Public comment was closed at 6:29 by the Chair.

Additional discussion between Board Members and staff. Board members agreed to move the proposed language to a Public Hearing on March 5, 2025 at 5:30 PM in the McPherson Auditorium.

3. NEW BUSINESS

Chuck Varadin, Director of Growth Services, opened a discussion regarding the LDC Updates Timeline table and schedule to address upcoming items.

The board discussed the possibility of changing and/or extending meeting times/length. It was agreed that moving forward the LDRC meetings would remain as scheduled and would be modified if needed.

ADJOURNMENT

The meeting adjourned at 6:53 PM.

Attest:

David Tillman, Chairman

Rebecca Brinkley,
Staff Assistant IV

Land Development Regulation Commission Attendance Report

2025	January 15	February 5	February 19	March 5	March 19	April 2	April 16	May 7	May 21	June 4	June 18	July 2	July 16	August 6	August 20	September 3	September 17	October 1	October 16	November 5	November 19	December 3	December 17	
Christopher Howson	X	X																						
James Stockton, III																								
Gene Losito	X																							
Jonny Heath		X																						
Richard Busche	X	X																						
Robert Stepp		X																						
David Tillman	X	X																						
Erica Larson*	X																							

X Present

- N/A



Marion County

Land Development Regulation Commission

Agenda Item

File No.: 2025-18207

Agenda Date: 2/19/2025

Agenda No.: 2.1.

SUBJECT:

**Division of Emergency Management Floodplain Management - CRS Class 8 Prerequisite
Marion County Ordinance Amendments**

DESCRIPTION/BACKGROUND:

The following changes have been identified to be presented to LDRC as required by the State of Florida Division of Emergency Management regarding floodplain management.

Article 1 - ADMINISTRATION

Commented [RQ1]: 1/6/25. RQ comments this date

		Page
Division 1.	General Provisions	1:3
Sec. 1.1.1.	Short title	1:3
Sec. 1.1.2.	Authority and purpose	1:3
Sec. 1.1.3.	Jurisdiction and effective date	1:3
Sec. 1.1.4.	Fee authority	1:3
Sec. 1.1.5.	Enforcement	1:3
Sec. 1.1.6.	Interpretation, conflict, and separability	1:4
Division 2.	Definitions	1:4
Division 3.	Acronyms	1:41
Division 4.	Planning and Zoning Commission (P&Z) and the Land Development Regulation Commission (LDRC)	1:42.4
Sec. 1.4.1.	General provisions	1:42.4
Sec. 1.4.2.	Planning and Zoning Commission (P&Z)	1:44
Sec. 1.4.3.	Land Development Regulation Commission (LDRC)	1:45
Division 5.	Board of Adjustment	1:46
Sec. 1.5.1.	Powers and duties	1:46
Sec. 1.5.2.	Membership, appointment, removal, terms, officers, and vacancies	1:48
Sec. 1.5.3.	Appeals	1:49
Division 6.	Development Review Committee	1:50
Sec. 1.6.1.	General	1:50
Sec. 1.6.2.	Membership	1:50

Sec. 1.6.3.	Purpose	1:50
Sec. 1.6.4.	Rules of procedures	1:50
Sec. 1.6.5.	Appeal	1:50
Division 7.	Vested Rights	1:51
Sec. 1.7.1.	Intent and purpose	1:51
Sec. 1.7.2.	Vested development rights	1:51
Sec. 1.7.3.	Presumptive, statutory, and common law vesting	1:51
Sec. 1.7.4.	Application procedures	1:54
Sec. 1.7.5.	Appeals to the Hearing Officer	1:56
Sec. 1.7.6.	Appointment and qualifications of Hearing Officer	1:58
Sec. 1.7.7.	Limitations on determinations of vested rights	1:58
Sec. 1.7.8.	Development rights	1:59
Division 8.	Concurrency Management	1:59
Sec. 1.8.1.	Purpose and intent	1:59
Sec. 1.8.2.	Applicability	1:60
Sec. 1.8.3.	Level of service standards (LOSS)	1:62
Sec. 1.8.4.	Concurrency applications and requirements	1:65
Sec. 1.8.5.	Concurrency evaluation	1:66
Sec. 1.8.6.	Concurrency determination	1:67
Sec. 1.8.7.	Off-site improvements	1:72

DIVISION 1. - GENERAL PROVISIONS

Sec. 1.1.1.1. - Short Title.

This Code shall be known as the Marion County Land Development Code (LDC) and may be referred to herein as the "Code."

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.1.1.2. - Authority and purpose.

- A. This Code is adopted under the general authority of Ch. 125 FS and the requirements of § 163.3161 FS.
- B. This Code is adopted to protect the public health, safety, and general welfare while allowing, encouraging, and promoting flexibility, economy, and ingenuity in the layout and design of land development.
- C. This Code shall be administered to ensure orderly growth and development, and shall serve to implement the Marion County Comprehensive Plan, consistent with the provisions of § 163.3202 FS and other applicable and related policies as established by the Board.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.1.1.3. - Jurisdiction and effective date.

- A. The provisions in this Code shall be applicable to all lands in unincorporated Marion County unless exempted herein.
- B. The original Marion County Land Development Code became effective on June 18, 1992.
- C. This Code shall become effective on October 12, 2013, and supersedes previous versions of this Code.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.1.1.4. - Fee authority.

Reasonable fees sufficient to recover costs incurred in the administration and enforcement of this Code may be established by Resolution of the Board of County Commissioners.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.1.1.5. - Enforcement.

- A. It shall be the duty of the Marion County Administrator, or his designee, to enforce the provisions of this Code.
- B. A violation of this Code shall be deemed a non-criminal violation, punishable as provided by law, and each day such violation continues it will constitute a separate offense. The Code Enforcement Board, as established by Chapter 2, Article 5 of the County Code of Ordinances, may use any remedies or penalties authorized by Ch. 162 FS that it deems necessary to bring about compliance with the provisions of this Code. Code Enforcement officers are authorized to issue civil citations for code violations.
- C. It is a violation of this Code if a development, improvement, or infrastructure facility, subject to the provisions of this Code, is altered, modified, or not used in accordance with the intent of the permit

without prior permission by the County. It is also a violation of this Code to alter or expand a use that was made non-conforming by the adoption of the prior version of this Code on June 18, 1992.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.1.6. - Interpretation, conflict, and separability.

- A. The provisions of this Code shall be interpreted to be the minimum requirements.
- B. Where a condition imposed by any provision of this Code is more restrictive than conditions imposed by any other provisions of this Code or of any other applicable law, code, ordinance, resolution, rule, or regulation of any kind, the more restrictive or higher standard condition shall govern.
- C. The provisions of this Code are separable. If an article, division, section, sentence, clause, or phrase of this Code is adjudged by a court of competent jurisdiction to be invalid, the decision shall not invalidate the remaining portions of this Code.
- D. Pronouns of feminine instead of masculine gender and of plural instead of singular number are to be substituted herein wherever the context so requires.
- E. The words "shall" and "will" are mandatory; "may" and "should" are permissive.

(Ord. No. 13-20, § 2, 7-11-2013)

DIVISION 2. - DEFINITIONS

Unless otherwise expressly stated, for the purposes of this Code, the following terms shall have the meaning indicated herein.

ABANDONED WELL. A well which has its use permanently discontinued, is in such disrepair that its continued use for obtaining groundwater is impractical, has been left uncompleted, is a threat to groundwater resources, or otherwise is or may be a health or safety hazard.

ABROGATION. To close, vacate, or abandon a right-of-way.

ACCESSORY BUILDING OR STRUCTURE (APPURTENANT STRUCTURE). A subordinate building or structure on the same lot, or parcel, or on a contiguous parcel which is occupied by, or devoted to, an accessory use.

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 which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

ACCESSORY USE. A use naturally and normally incidental and subordinate to the principal use of a structure or land and located on the same lot, or parcel or on a parcel contiguous to the principal use to which it relates.

ACTIVE RECREATION. Recreational activities that occur in areas that require substantial structural development and investment, such as playing fields, courts or other facilities. Examples of active recreation include soccer, baseball, swimming in a pool, tennis and basketball. Active recreation differs from passive recreation primarily by the facilities that are required to undertake an activity.

ADDITION. An extension or increase in floor area or height of a building or structure.

ADULT BOOKSTORE OR FILM STORE. An establishment having as a substantial portion of its stock in trade books, magazines, other periodicals, films, video tapes, video disks, or similar items which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

ADULT BOOTH. A small enclosed or partitioned area inside an adult entertainment establishment that is:

- A. Designed or used for the viewing of adult material by one or more persons; and
- B. Accessible to all persons, regardless of whether a fee is charged for access.

The term "adult booth" includes but is not limited to a "peep show" booth, or other booth used to view "adult material." The term "adult booth" does not include a foyer through which a person can enter or exit the establishment, or a rest room.

ADULT CABARET. A bar, lounge, club, or other establishment which may sell alcoholic or non-alcoholic beverages or food and which features as part of the regular entertainment topless or bottomless dancers, strippers, whether male or female, or similar entertainers whose acts are characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas." This definition shall include Adult Encounter Parlor, Adult Lounge, Adult Novelties, Adult Entertainment, and Adult Modeling Studio.

ADULT THEATER OR MINI-MOTION PICTURE THEATER OR DRIVE-IN. An enclosed building or drive-in with a capacity for fewer than 50 persons in which a substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

ADULT THEATER OR MOTION PICTURE THEATER OR DRIVE-IN. An enclosed building or drive-in with a capacity of 50 or more persons in which a substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

ADVERTISING. Sign copy or materials intended to directly or indirectly promote the sale or use of a product, service, commodity, entertainment, or real or personal property.

AGRICULTURAL USES. Those uses of land which involve the science and art of production of plants and animals useful to man including to a variable extent, the preparation of these products for man's use and their disposal by marketing or otherwise. These shall include horticulture, floriculture, viticulture, aquaculture, forestry, dairy, livestock, including the breeding and/or training of horses, poultry, bees, ratites, and any and all forms of farm products and farm production.

AIR GAP. A physical separation between the free flowing discharge and an open or non-pressure receiving vessel.

ALTERATION. Any change in size, shape, character, or use of a building or structure.

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 which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

ANIMAL FEEDING OPERATION. As defined in § 62-670.200 FAC.

ANIMAL UNIT. As defined in § 62-670.200 FAC.

ANTENNA. Any exterior apparatus designed to transmit or receive communications as authorized by the Federal Communication Commission (FCC). The term "antenna" shall not include satellite earth stations used to receive direct-to-home satellite services as defined in 47 USC § 303(v). An array of antennas, installed at one time and designed as a single, integrated system, shall be considered to be a single antenna.

ANTENNA SUPPORT STRUCTURE. Any building or other structure other than a tower, which can be used for the location of an antenna. An antenna support structure shall be referred to as a "utilized antenna support structure" if it is or has been used for the location of an antenna.

ANTIQUATED SUBDIVISION. A subdivision, subdivision series, or any portion of a subdivision or subdivision series, identified by the Board in which further or continued development of that subdivision is deemed undesirable consistent with the provisions of § 163.3164 FS.

APPEAL. The process of seeking a higher authority's determination as established by this Code when a specific decision or determination made by designated staff, committee, or board is disputed. As it pertains to floodplain management, request for a review of the Floodplain Administrator's interpretation of any provision of **Article 5, Division 3** ~~this ordinance~~.

Commented [RQ2]: 1/6/25: because this sentence is specific to flood, "this ordinance" no longer has meaning – it did when it was adopted as part of the ordinance that put flood in Art 5 Div 3

APPLICANT. The property owner, the duly authorized representative of the property owner, or the lessee or occupant of said property who submits a County service or development application to and for said property and who can be bound to all legal obligations related to such request.

AQUACULTURE. The commercial production of fin fish and shellfish, such as crustaceans and mollusks, within a confined space and under controlled feeding, sanitation, and harvesting procedures.

AREA OF SHALLOW FLOODING. A designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Commented [RQ3]: 1/6/25: not used in Art 5 Div 3 - but OK to keep

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.

AS-BUILT/RECORD SURVEY. A record of completed construction drawings documenting the actual construction work as it exists in the field, including any changes made from the originally approved plans, meeting the requirements as set forth in § 5J-17.52(1) FAC, and signed, sealed, and dated by a Professional Surveyor and Mapper licensed by the State of Florida.

AUTOMOBILE WRECKING YARD. Premises used for the dismantling or disassembling of two or more used motor vehicles or trailers, or the business of storage, sale, or dumping of dismantled, obsolete or wrecked vehicles, trailers or their parts; a junk yard.

AUXILIARY WATER SUPPLY SYSTEM. A pressurized or pumping-ready water supply system other than a public potable water system which is located on or available to the customer's property whether or not connected to a distribution system within the property. Such auxiliary systems include but are not limited to reclaimed water systems and private wells, as further defined in AWWA M-14 most current edition.

AVAILABLE CAPACITY. An existing central water or sewer system shall be deemed to have "available capacity," if: (a) as to a central water or sewer system, it is capable of providing central service concurrently with the proposed build-out schedule of the project without the applicant having to expand the facility providing treatment for the water to and/or the wastewater from the project; provided, however, if it is necessary for the Marion County Utility Department to so expand the treatment facility, the applicant may be required to prepay capital charges imposed for such facility; and (b) as to a central water or sewer system, its existing water or sewer lines are of sufficient size and capacity to accommodate the water or sewer requirements of the project without the applicant having to reconstruct the existing lines. This requirement concerns existing lines, only, and does not excuse an applicant from having to construct new lines from its project to the point of connection to the central water or sewer system. Further, if it is necessary to replace the existing lines, the County may require the applicant to pay to reconstruct existing lines, within the applicant's required connection distance, in an amount equal to what it would have cost the applicant to originally construct such lines of sufficient size and capacity to accommodate the applicant's project. This does not preclude the County from requiring the developer to upsize the lines in exchange for additional Equivalent Residential Connection credits.

AVIARY. A place for keeping birds confined, including but not limited to a large enclosure where birds fly free, a structure where birds are confined in cages, or large cages where birds are confined. A residential structure containing nine or more birds shall be considered an aviary.

BACKFLOW PREVENTION ASSEMBLY. A mechanical assembly which is supplied with properly located resilient-seated shut-off valves at each end of the assembly and properly located test cocks, and meets the standards of the University of Southern California's Foundation for Cross-Connection Control and Hydraulic Research and complies with the standard listed in the Florida Building Code as adopted by Marion County.

BACKFLOW PREVENTION DEVICE. A mechanical device or plumbing configuration which is designed to prevent backflow.

BAR. Any place devoted primarily to the retail sale and on premises consumption of malt, vinous, or other alcoholic beverages; a tavern.

BASE FLOOD. The flood having a one percent chance of being equaled or exceeded in any given year (also called the "one percent annual chance flood," "100-year flood" and the "regulatory flood"). [Also defined in FBC, B, Section 202.]

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)".]

BED AND BREAKFAST INN. A building, or part thereof, other than a motel or hotel, where sleeping accommodations are provided for transient guests, and may also serve as the residence of the owner or manager.

BEEKEEPING. The keeping or raising of bees for commercial purposes.

BERM. A mound of soil, either natural or manmade.

BIORETENTION FACILITY. An area which provides retention of stormwater through the use of vegetated depressions of approximately four to nine inches in depth with landscaping and engineered soil matrix, designed to collect, store, and infiltrate stormwater runoff. The invert of a bioretention facility is the bottom of the engineered soil matrix.

BOARD. The Marion County Board of County Commissioners.

BOAT YARD. A lot, tract, or parcel where facilities for the construction, reconstruction, major repair, maintenance, or sale of boats, marine engines, equipment, and services of all kinds are provided including marine railways, lifting, or launching services and marinas.

BOTTLE CLUB. A commercial premises to which any alcoholic beverage is brought for consumption on the premises.

BREAKAWAY WALL. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

BUFFER. An area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, buffer walls, buffer fences, or berms, designed to limit continuously the view of or sound from the site to adjacent sites, properties, or water bodies.

BUFFER FENCE. A permanent opaque vertical structure providing a barrier with a finished height of six feet measured from the adjacent grade or at a height as required otherwise.

BUFFER WALL. A permanent opaque vertical structure with concrete components including, but not limited to pillars, panels, block or brick, used within a buffer meeting the requirements of the Florida Building Code, and providing a barrier (whether for sound, wind, or, views) with a finished height of six feet measured from the adjacent grade or at a height as required otherwise.

BUILDABLE AREA. As it relates to hamlets, Rural Village District, and Rural Town, the remaining land area eligible for development purposes once areas of open space and open water are subtracted from the gross development lot/parcel/site.

BUILDING. Any structure designed for the habitation of persons or animals or for shelter of property.

BUILDING PERMIT. A permit issued by Marion County pursuant to the provisions of Article 2 of the Marion County Code of Ordinances, consistent with the provisions of the Florida Building Code as established by the State of Florida.

BUILDING SIGN. A sign displayed upon or attached to any part of the exterior of a building, including walls, windows, doors, parapets, marquees, and roof slopes of 45 degrees or steeper.

BUSINESS OR PROFESSIONAL OFFICE. A space within a building where commercial service activity is primarily conducted which may involve the sale of goods or commodities purely incidental to business services provided.

CAMOUFLAGED ANTENNA AND/OR TOWER. A wireless communication antenna and/or tower designed to unobtrusively blend into the existing surroundings and be disguised to not have the appearance of a wireless communication antenna and/or tower. Camouflaged antennas and/or towers on buildings must be disguised to appear as an accessory structure or feature that is normally associated with the principal use occupying the property. Camouflaged antennas and/or towers must be disguised to blend in with other facilities on the property or existing vegetation, such as a tower constructed in the form and shape of a tree to be part of a forested area, or an antenna and/or tower constructed to be a component of a bell, clock, or water tower on sites with compatible buildings, or a component of a church steeple on sites with churches. Surface finish, paint and/or markings alone are insufficient to qualify for a determination as a camouflaged antenna and/or tower.

CAPACITY. Supply of public facility:

- A. Available - capacity of public facility after subtracting demand and reserved capacity.
- B. Design - capacity that public facility was designed for.
- C. Programmed - capacity to be added to public facility by improvement.
- D. Reserved - capacity that has been reserved for a specific development project.

CAPACITY RESERVATION FEE. Fee required which reserves facility capacity. Fee is credited towards applicable impact fees.

CAPITAL IMPROVEMENT. A physical asset constructed or purchased to provide, increase the capacity of, or replace a public facility.

CARPORT. A garage not completely enclosed by walls and doors.

CENTRALIZED SYSTEM. A water withdrawal, treatment, and distribution system (including fire hydrants) or a wastewater collection, treatment, and dispersal system that serves the needs of one or more residential or non-residential development projects. Centralized systems are generally owned, operated, and maintained by Marion County, a city, or a Public Service Commission-certificated entity. Types of facilities and systems not covered by the foregoing general definition are found in § 367.022 FS.

CHANGE OF USE. A discontinuance of an existing use and the substitution of a use of a different kind or class.

CLEAN DEBRIS. Any solid waste material that is virtually inert, that is not a pollution threat to ground or surface waters, that is not a fire hazard, and that is likely to retain its chemical and physical structure under expected conditions of disposal or use. The term includes earth, brick, glass, ceramics, and uncontaminated concrete including embedded pipe or steel, and other wastes designated by the FDEP.

CLEAN FILL. Granular soil free of roots, other vegetative material, and debris typically represented by an AASHTO Soil Classification A-3. Other AASHTO soil classifications may satisfy a requirement for "clean fill" if they meet industry specifications for various fill operations as accepted by FDOT or the Florida Building Code.

CLEARING. The uprooting or removal of vegetation in connection with development. This term does not include yard maintenance operations or other such routine property clean-up activities.

CLOSED BASIN. An internally drained watershed in which the runoff does not have a surface outfall up to and including the 100-year flood elevation.

CLUSTER DEVELOPMENT. A development design technique that concentrates buildings and infrastructure in specific areas on a site to allow the remaining land to be used for open space, preservation of environmentally sensitive areas, or agriculture.

CLUSTERING. The grouping together of principal structures and infrastructure on a portion or portions of a development site.

COLLOCATION. As it relates to antennas, the process of locating two or more antennas on an existing or proposed tower or antenna support structure.

COMMERCIAL VEHICLE. Any vehicle designed or used for the transport of people, livestock, goods, or things. This does not include private passenger vehicles and/or trailers used for private nonprofit transport of goods.

COMMERCIALLY DEVELOPED PARCEL. A parcel of property on which there is at least one walled and roofed structure used, or designed to be used, for purposes other than residential or agricultural.

COMMUNITY CENTER. A building designed and used as a meeting or recreation area to accommodate and serve the community in which it is located.

COMMUNITY RESIDENTIAL HOMES. Group homes or adult foster care facilities in which no more than 14 persons excluding staff reside and where program size and content is structured to meet the individual needs of the residents in these homes.

COMPLETELY ENCLOSED BUILDING. A building having a complete, permanent roof and continuous walls on all sides, either party walls or exterior walls, including windows and doors.

COMPREHENSIVE PLAN. The Marion County Comprehensive Plan as adopted by the Board pursuant to Ch. 163 FS.

CONCENTRATED ANIMAL FEEDING OPERATION. As defined in § 62-670.200 FAC.

CONCURRENCY MANAGEMENT SYSTEM. The policies, procedures, standards, and criteria that Marion County will utilize to assure that development orders and permits are not issued unless the necessary facilities and services are available concurrent with the impacts of development.

CONSERVATION EASEMENT. An easement established under § 704.06 FS, as amended, creating a right or interest in the real property in favor of the entity named in the easement.

CONSTRUCTION AND DEMOLITION DEBRIS (C&DD) DISPOSAL FACILITY. A facility for the disposal of "construction and demolition debris," as that term is defined in § 403.703(6) FS; also referred to as Construction and Demolition (C&D) Landfill.

CONSTRUCTION, EXISTING. As it relates to flood plain management, structures for which the "start of construction" commenced before January 19, 1983. This term may also be referred to as "existing structures."

CONSTRUCTION, NEW. As it relates to flood plain management, any structure for which the "start of construction" commenced on or after January 19, 1983. The term also includes any subsequent improvements to such structures.

CONSTRUCTION PERMIT. The permit issued by the Office of the County Engineer for construction of all required improvements including construction in private and public rights-of-way.

CONTIGUOUS PARCELS. Those parcels of land with at least one common property line.

CONTINUING IN GOOD FAITH. As it relates to vested rights, shall mean the final local development order for a project has been issued and has not expired, and no period of 180 consecutive days, or a previously approved time frame as agreed to by the County, has passed without the occurrence of development activity which significantly moves the proposed development toward completion; unless the developer establishes that such 180-day lapse or previously approved time frame lapse in development

activity was due to factors beyond the developer's control; or unless development activity authorized by a final local development order has been substantially completed on a significant portion of the development subject to said final development order and has significantly moved the entire development toward completion.

CONTRACTOR. The person, firm, or corporation with whom the contract for work has been made by the owner, the developer, or the County in accordance with any applicable State laws.

COVENANTS, CONDITIONS AND RESTRICTIONS (CCR). Declaration of Covenants, Conditions and Restrictions, recorded in the public records for a development project.

CONVENIENCE STORE. Any retail establishment offering for sale food products, household, and sundry items, beverages, gasoline, and other similar goods, but not including sales of prescription drugs, alcoholic beverages for on-premises consumption, or any form of used merchandise sales, personal services, repair services, or any outdoor sales, service, storage, or display other than approved accessory gasoline pumps.

COPY. As it relates to signs, the linguistic or graphic content of a sign.

COUNTY. The government of Marion County as a political subdivision of the State of Florida; or the physical jurisdictional limits of Marion County as those boundaries described in § 7.42 FS.

COUNTY ENGINEER. The professional engineer retained by the Board of County Commissioners in the capacity of administering the Office of the County Engineer. The County Engineer may appoint designees to specific management and operation functions as appropriate.

CROSS-CONNECTION. Any physical arrangement whereby a Public Potable Water System is connected directly or indirectly with any other water supply system, sewer, drain, conduit, pool, storage reservoir (other than for storage of Potable Water by a Utility), plumbing fixture, or other device which contains or may contain contaminated water, wastewater or other waste, or liquid of unknown or unsafe quality which may be capable of imparting contamination to the Public Potable Water System as the result of Backflow. By-pass arrangements, jumper connections, removable sections, swivel or changeable devices, and other temporary or permanent devices through which or because of which Backflow could occur are considered to be Cross-Connections.

CROSS-CONNECTION CONTROL COORDINATOR (CCC). Utility Department Employee who is responsible for implementation of cross-connection control directives.

DECENTRALIZED SYSTEM. A water withdrawal, treatment, and distribution system (including fire hydrants) or wastewater collection, treatment and dispersal system that is designed to serve the needs of a single residential development project or non-residential development project. Decentralized systems are, further: (1) usually located within the boundaries of the development project; (2) not typically owned, operated, and maintained by Marion County, a city, CDD, or Public Service Commission-certificated entity; and (3) considered as temporary facilities until a centralized system is available to serve the development project.

DEDICATION. An act of conveyance and acceptance of an interest in or use of property to a public or private entity. See §§ 177.031(6), (16); 177.081; and 177.085 FS (2012) for statutory requirements related to dedications. Mortgagees are required to join in dedications.

DEMAND. Quantifiable use of a public facility. See Capacity.

DESIGN FLOOD. The flood associated with the greater of the following two areas: [Also defined in FBC, B, Section 202.]

- (1) Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or
- (2) Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

DESIGN FLOOD ELEVATION. The elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's

perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to 2 feet. [Also defined in FBC, B, Section 202.]

DEVELOPABLE AREA. The portion of a project area that lies outside sovereign submerged lands.

DEVELOPER. The person, firm, entity, or corporation engaged in developing or improving real estate for use or occupancy.

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. As it relates to vested rights, shall mean the particular development activity authorized by unexpired final local development order issued for a specific project is continuing in good faith. Also see §§ 163.3164(14), 163.3221(4), and 380.04 FS.

DEVELOPMENT AGREEMENT. An agreement between Marion County and additional parties specifying requirements of the parties in relation to a development application. Development Agreements are authorized by the "Florida Local Government Development Agreement Act," §§ 163.3220—163.3243 FS and are subject to the applicable provisions of those sections.

DEVELOPMENT AREA. See project area.

DEVELOPMENT ORDER. An official action granting, granting with conditions, or denying an application for a development permit consistent with this Code, § 163.3164 FS and Ch. 380 FS.

DIAMETER AT BREAST HEIGHT (DBH). The diameter of a tree trunk measured at 4.5 feet above adjacent grade elevation.

DIVIDER MEDIAN. A continual landscaped island located between lineal rows of parking which face head-to-head.

DOMESTIC WASTEWATER RESIDUALS. A domestic wastewater treatment by-product resulting from the biological treatment process and which is disposed of by application for agricultural or land reclamation purposes. Domestic wastewater residuals shall have the same meaning as "biosolids," as defined in rule § 62-640.200 FAC.

DOUBLE CHECK VALVE ASSEMBLY. A backflow prevention assembly which includes two internally loaded, independently operating spring loaded check valves, which are installed as a unit between two tightly closing resilient-seated shutoff valves and fittings with properly located test cocks.

DRAFT HYDRANTS. Draft hydrants are standard fire hydrants but are supplied by a static water source. Normally these hydrants are not supplemented by a fire pump and rely on a fire department engine to draft from the source. These draft hydrants have little to no pressure and function similar to a dry hydrant tank.

DRAINAGE DETENTION AREA (DDA). See water detention area.

DRAINAGE RETENTION AREA (DRA). See water retention area.

DRIPLINE. An imaginary line on the ground defined by vertical lines extending from the outermost tips of tree to the ground or the area within a radius of one foot for each one inch DBH of the tree, whichever is greater.

DRIVEWAY APRON. That portion of a driveway lying between the street right-of-way line and the edge of the travel lane of the street.

DROUGHT TOLERANT VEGETATION. Plants which have the ability to survive without supplemental irrigation through periods of drought characteristic of the north-central Florida region, excluding invasive plant species.

DRUGSTORE (the term Pharmacy is included). An establishment that is either:

- (1) Engaged in the retail sale of prescription drugs and nonprescription medicines pursuant to Chapter 465, FS; or
- (2) That is both:
 - a. Licensed, at all times, as a "medical marijuana treatment center" pursuant to Section 381.986, FS (2017); and
 - b. Operated in accordance with all provisions of such statute and all other statutes or regulations governing the medical dispensation of marijuana pursuant to Florida law.

By way of example and not limitation, as the requirements of this subsection are cumulative, any establishment that may have been licensed as a medical marijuana treatment center but is not operated in accordance with Florida law, shall no longer constitute a drugstore, and hence is no longer a permitted use in zoning districts where drugstores are permitted.

DRYLINE PERMIT. A construction permit for sewer lines issued with certain special conditions applied.

DUCTILE IRON PIPE RESEARCH ASSOCIATION (DIPRA). Any reference to DIPRA Standards shall be taken to mean the most recently published revision unless otherwise specified.

DUDE RANCH. A vacation resort offering activities typical of western ranches such as horseback riding.

DUE PUBLIC NOTICE. Publication of notice of the date, time, and place of a required public hearing; the title or titles of proposed ordinances, and the place within the County where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the public hearing and be heard with respect to the proposed ordinance. Publication of notice shall be given at least ten days prior to said public hearing in a newspaper of general circulation in the County. Due public notice for public hearings of the Planning and Zoning Commission and the Board for land use permits shall include mailed written notice to all owners of property, within 300 feet of the boundaries of the property subject to the land use change, whose address is known by reference to the latest ad valorem tax records and to all parties of interest who timely request such notice in writing to the Growth Services Director or designee. The mailed notice shall include a brief explanation of the land use permit request and a location map identifying the property under consideration and shall notify the person of the time, date and location of all public hearings. Notices shall also be posted in a conspicuous place or places on or around such lots, parcels, or tracts of lands requesting the land use change. Affidavit proof of the required publication, mailing and posting of the notice shall be presented at the hearing by the Growth Services Director, or designee, to the Clerk of the Court. For land use changes initiated by the County, and for ordinances that change the actual lists of permitted, conditional or prohibited uses within a zoning category, the provisions of § 125.66(4) FS shall apply.

DWELLING UNIT. Any structure or portion thereof which is designed for or used for residential purposes as a self-sufficient or individual unit by one family or other social association of persons.

ELECTRIC SUBSTATION. An electric substation which takes electricity from the transmission grid and converts it to a lower voltage so it can be distributed to customers in the local area on the local distribution grid through one or more distribution lines less than 69 kilovolts in size.

ELEVATED BUILDING. A non-basement building built to have the lowest floor elevated above the ground level by foundation walls, posts, piers, columns, pilings, or shear walls.

ELEVATION. The vertical height or heights relative to a defined datum.

EMPHASIS. As it relates to the adult entertainment business, "emphasis" or "emphasis on" means that the type of matter specified is the apparent matter upon which the particular work or exhibition is based, or that the matter specified is a substantial portion of such work or exhibition.

ENCROACHMENT. The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

ENVIRONMENTALLY SENSITIVE LANDS. Lands or areas which include environmental or other natural features and/or characteristics as identified by Comprehensive Plan Conservation Element Policy 1.1.1.

EQUINE CENTER. A facility identified and designated by the Board as a unique and specialized destination for regional, state, and national equine interests and activities that further the County's equine identity as "The Horse Capital of the World."

EQUIVALENT RESIDENTIAL CONNECTION (ERC). A unit of measurement representing capacity demand of 300 gallons per day for wastewater or 350 gallons per day for water.

ERECT A SIGN. To construct, reconstruct, build, relocate, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish a sign. It shall not include any of the foregoing activities when performed as an incident to a change of message or routine maintenance.

ESTABLISHED CHURCH. Established place of meeting or worship at which non-profit religious services are regularly conducted and carried on.

EXCEPTION. As it relates to vested rights, shall mean an exception to the densities required in the Future Land Use Element for parcels of record as of January 1, 1992 for the construction of one residential unit. Exceptions apply to density only and do not exempt parcels from any other requirement of the Comprehensive Plan.

EXISTING BUILDING AND EXISTING STRUCTURE. Any buildings and structures for which the "start of construction" commenced before January 19, 1983. [Also defined in FBC, B, Section 202.]

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before January 19, 1983. This definition is not for the purposes of floodplain management under Article 5, Division 3.

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). This definition is not for the purposes of floodplain management under Article 5, Division 3.

EXTRACTION OR RESOURCE EXTRACTION. The removal of resources from their location so as to make them suitable for commercial, industrial, or construction use, but does not include excavation solely in aid of on-site farming or on-site construction, nor the process of searching, prospecting, exploring, or investigating for resources by drilling.

FAILING. As defined in § 64E-6.002 FAC and periodically amended: a condition existing within an onsite sewage treatment and disposal system which prohibits the system from functioning in a sanitary manner and which results in the discharge of untreated or partially treated wastewater onto ground surface, into surface water, into ground water, or which results in the failure of building plumbing to discharge properly.

FAMILY. One or more persons occupying the whole or part of a dwelling unit and living as a single, housekeeping unit provided that a group of four or more persons who are not within the second degree of kinship shall not be deemed to constitute a family, except as set forth in Title VIII of the Civil Rights Act of 1968 and as subsequently amended by the Fair Housing Amendments Act of 1988.

FAMILY/GUEST COTTAGE/APARTMENT. A small detached dwelling unit for use by immediate family members or guests which is an accessory use to a single-family dwelling. The cottage may be a removable, modular structure, or a conventionally constructed structure, and shall be compatible with the existing dwelling. It shall be designed as an independent living unit smaller than the primary structure.

FEEDLOT. A confined area or structure, pen or corral, used to fatten livestock for a period of at least 30 days prior to final shipment.

Commented [HA4]: For CRS Class 8 prerequisite. See OFM guidance. After the manufactured home change this term won't be used.

Commented [RQ5R4]: 1/6/25: this is very unusual. The definition is VERY specific to flood - the date cited is the date the County was accepted into the NFIP. Apparently the term is used outside of flood, although I doubt the date is meaningful. In any case, it's OK to change as shown.

Commented [RQ6]: 1/6/25: looking at the other file, shouldn't this "5.3" be Article 5, Division 3? Here and a few other places

Commented [HA7]: For CRS Class 8 prerequisite. See OFM guidance. After the manufactured home change this term won't be used.

Commented [RQ8R7]: 1/6/25: OK (is it actually used outside of art 5 Div 5?)

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA). The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

FENCE. A vertical structure used to provide a physical division between areas.

FIRE LINE. Piping from the water main to point of delivery exclusively providing fire protection.

FISH HATCHERY. Establishments primarily engaged in hatching fish, not including fish or farm ponds.

FLAG LOT. A parcel of land shaped like a flag with a narrow strip providing access; the bulk of the property contains no frontage.

FLOOD OR FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD DAMAGE-RESISTANT MATERIALS. Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Also defined in FBC, B, Section 202.]

FLOOD HAZARD AREA. The greater of the following two areas: [Also defined in FBC, B, Section 202.]

- (1) The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.
- (2) The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

FLOOD INSURANCE RATE MAP (FIRM). The official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community. [Also defined in FBC, B, Section 202.]

FLOOD INSURANCE STUDY (FIS). The official hydraulic and hydrologic report provided by FEMA. The study contains an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and other flood-related erosion hazards. The study may also contain flood profiles, as well as the FIRM, FHBM (where applicable), and other related data and information.

FLOODPLAIN ADMINISTRATOR. The office or position designated and charged with the administration and enforcement of Flood Plain regulations within Article 5 Division 3 (may be referred to as the Floodplain Manager).

FLOODPLAIN DEVELOPMENT PERMIT OR APPROVAL. An official document, certificate or development order issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with Article 5, Division 3.

FLOOD-PLAIN ELEVATIONS. The elevations established along waterbodies and in closed drainage basins which represent the hydraulic gradients for the predicted 25-Year and 100-Year flood plains. The 100-Year flood plain is shown on the adopted Marion County Flood Insurance Rate Maps and in the Flood Insurance Study. The elevations may be established by the Flood Plain Administrator or designee; by a Florida Licensed Surveyor and Mapper and approved by the Flood Plain Administrator or along the Rainbow River as established by Southwest Florida Water Management District Profiles dated July 13, 1973.

FLOOD-PLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the flood plain, including but not limited to emergency preparedness plans, flood control works, flood plain management regulations, and open space plans.

Commented [RQ9]: 1/16/25: should also look in the FIS, especially Flood Profiles, which are used rather than interpolate

Commented [RQ10]: Is this actually used? Not required for NFIP compliance

Commented [VC11R10]: Are these NFIP requirement?

Commented [RQ12R10]: 1/6/25: No, the NFIP does not require this definition to be locally adopted. No reason to leave it, but no harm either since it doesn't affect the administration and enforcement of Division 5.3

FLOOD PLAIN MANAGEMENT REGULATIONS. This term describes Federal, State of Florida, or local regulations in any combination thereof and other applications of police power which control development in flood-prone areas, which provide standards for preventing and reducing flood loss and damage.

Commented [RQ13]: Is this actually used? Not required for NFIP compliance

FLOODPROOFING. Any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

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. [Also defined in FBC, B, Section 202.]

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.

FLOODWAY FRINGE. That area of the flood plain on either side of the regulatory floodway where encroachment may be permitted without additional hydraulic and/or hydrologic analysis.

FLOOR AREA. Area of all floors of buildings or structures, measured to the outside of the exterior walls.

FLOOR AREA RATIO (FAR). The gross floor area of all buildings or structures on a lot divided by the total lot area.

FLORIDA BUILDING CODE. The family of codes adopted by the Florida Building Commission, including: Florida Building Code, Building; Florida Building Code, Residential; Florida Building Code, Existing Building; Florida Building Code, Mechanical; Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.

FOOD SERVICE FACILITIES. Any commercial facility that generates wastewater through the processing and preparation of food, including restaurants and other commercial facility where food is processed or prepared. It does not include facilities that only sell pre-processed or pre-packaged foods.

FREEBOARD. The additional height, usually expressed as a factor of safety in feet, above a flood level for purposes of flood plain 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.

FRONT BUILDING LINE. A line measured between side lot lines no closer than the front setback and equal to the minimum lot width.

FUNCTIONALLY DEPENDENT USE. As it relates to floodplain management, a use that cannot be used for its intended purpose unless it is located or carried out in close proximity to water, including only docking or port facilities necessary for the loading and unloading of cargo or passengers, and shipbuilding or ship repair facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

GREEN SPACE. A parcel or area of land which is developed, planted, and maintained with trees, shrubs, groundcovers or turfgrass or a combination thereof, and is reserved for a yard area, landscape area, public or private park or recreation area, drainage retention areas and other similar areas.

GROUND SIGN. A sign that is supported by one or more columns, upright poles, or braces extended from the ground or from an object on the ground, or that is erected on the ground, where no part of the sign is attached to any part of a building.

GROWTH SERVICES DIRECTOR. Growth Services Director or his designee.

HARDSHIP. As it relates to flood plain management and variances to the flood plain overlay zone, the exceptional hardship associated with the land that would result from a failure to grant the requested

variance. The community requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

HAZARD. A cross-connection or potential cross-connection which involves an actual or potential threat to the quality and/or potability of the water supplied by a public potable water system. The degree of hazard associated with any private water system shall be determined from an evaluation of the conditions existing within that system.

HEALTH HAZARD. A hazard involving any substance that could, if introduced into the public potable water system, cause death or illness, spread disease, or have a high probability of causing such effects.

HEAVY MACHINERY OR EQUIPMENT. Machinery used primarily by the construction, mining, well drilling, oil and gas industries and including overhead traveling cranes, hoists, and monorail systems for installation in factories, warehouses, marinas, and other industrial and commercial establishments.

HEIGHT OF BUILDING. The vertical distance from the established grade at the center of the front of the building to the highest point of the roof surface for a flat roof, to the deck line for a mansard roof and the height of the ridge for gable, hip, and gambrel roofs.

HIGH VOLUME IRRIGATION. An irrigation system (or zone) which utilizes heads or emitters with application rates higher than 0.5 gpm.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface, prior to the start of 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.

HOME OCCUPATION. Any business or commercial activity that is:

- A. Conducted within a single family dwelling unit in a residential zoning classification and is incidental to the principal residential use of the premises, or
- B. Conducted on the same tract with the principal structure in an agricultural zoning classification, and
- C. Which is a permitted use within the agricultural zoning classification and conducted without significantly adverse impact on the surrounding area.

HORIZONTAL DATUM. An accepted current coordinate system used to describe a point on the earth's surface pre-approved by the Office of the County Engineer.

HOUSE OF WORSHIP. A structure whose principal use is public assembly for worship and teaching of religious concepts.

HOUSEHOLD PET. All animals which are normally considered as household pets and which can be maintained and cared for within the living space of a residence or outside the residence. Such animals may include but are not limited to dogs, cats, small reptiles, small rodents, fish, small birds such as parrots and parakeets, and other similar animals.

ILLUMINATED SIGN. A sign which contains a source of light or which is designed or arranged to reflect light from an artificial source including indirect lighting, neon, incandescent lights and backlighting.

IMPERVIOUS SURFACES. Those surfaces which do not absorb water including but not limited to, buildings, paved parking areas, driveways, roads, sidewalks, patios and any areas covered by brick, concrete, concrete pavers, or asphalt paving materials.

INDUSTRIAL/COMMERCIAL PARK. A tract of land that is planned, developed, and operated as an integrated facility for a number of individual industrial or commercial or mixed uses.

INFRASTRUCTURE. Facilities and services needed to sustain residential, commercial, and industrial activities. Infrastructure includes, but is not limited to, water and sewer, streets, street signage, drainage, parks and open space, and other public facilities.

INSTITUTIONAL USE. A nonprofit, religious, or public use, such as a church, library, public or private school, hospital, community home, convalescent home, adult congregate living facility, or government owned or operated building, structure, or land used for public purpose or benefit.

INTENSIVE RECREATIONAL AREAS. Sites which provide location for uses such as football, baseball, softball, soccer, and golf courses excluding such areas as secondary and tertiary roughs and out-of-bound areas. Only such sports related fields shall fit this definition while common areas and open spaces between such fields shall not be exempt from irrigation design standards or watering restrictions.

IRRIGATION. The application of water by manmade means to plant material and turfgrass.

JUNK. Used and discarded machinery, scrap, iron, steel, other ferrous and non-ferrous metals, inoperative vehicles, tools, implements or portions thereof, glass, plastic, cordage, building materials, or other waste.

JUNK YARD. A parcel of land on which junk is collected, stored, salvaged or sold, including automobile recycling facilities.

KARST FEATURE. A landform that has been modified by dissolution of soluble rock, including limestone or dolostone. These include springs, spring runs, sinkholes, solution pipes, swallets and swallow holes. A directly or indirectly connected karst feature is one where no confining layer of sediment exists to prevent runoff from directly or indirectly entering the Floridan Aquifer system.

KENNEL. Any place or premises where four or more dogs or cats, over four months of age are groomed, bred, raised, boarded, or trained for compensation or income.

LANDSCAPABLE AREA. The entire parcel less the building footprint, natural water features, surfaced and un-surfaced driveways and parking areas, road rights-of way, hardscapes such as decks and patios, and other non-planted areas. Landscapable area excludes golf course play areas, other intensive recreation areas (e.g. soccer fields, ball diamonds, etc.) and any part of a constructed stormwater management system that has a design stage or storage depth three feet or greater.

LANDSCAPE ARCHITECT. The County's Landscape Architect or his designee.

LANDSCAPE ISLAND. A raised area, usually curbed, placed to guide traffic and separate lanes, and used for landscaping, signage, or lighting.

LEASABLE/INTERIOR AREA. The area of open floor space within a structure's exterior walls and excluding the interior walls.

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:

- (1) **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.
- (2) **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.
- (3) **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.
- (4) **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.

LEVEL OF SERVICE. An indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of the facility. Level of service indicates the capacity per unit of demand for each public facility.

LEVEL OF SERVICE STANDARD. The level of service a facility is not to exceed as established in the Comprehensive Plan.

LIGHT-DUTY TRUCK. As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

- (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (3) Available with special features enabling off-street or off-highway operation and use.

LISTED SPECIES. Those species identified by the USFWS and/or FWC as endangered, threatened, or special concern.

LIVESTOCK. Includes, but is not limited to, all animals of the equine, ratite, bovine, or swine class, including goats, sheep, mules, horses, llamas, alpacas, hogs, cattle, poultry, emus, ostriches, and other grazing animals. The term livestock shall specifically exclude specialty animals.

LOCALLY SIGNIFICANT NATURAL RESOURCES. Lands or areas which include environmentally sensitive lands or other features and/or characteristics as identified by Comprehensive Plan Conservation Element Policy 1.1.2.

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

LOT AREA. The size of a lot measured within the lot lines and expressed in terms of acres or square feet.

LOT DEPTH. The dimension from the center of the front of the lot to the center of the rear of the lot.

LOT LINE. The boundary line of a lot.

- A. **LOT LINE, FRONT.** The line abutting the street right-of-way or point of access which for corner lots shall be determined by the property owner.
- B. **LOT LINE, REAR.** The lot line opposite to and most closely paralleling the front lot line.
- C. **LOT LINE, SIDE.** Any lot line other than a front or rear lot line.

LOT WIDTH. The horizontal distance between the side lot lines measured at the front property line. For lots located on a curve, it shall be the chord distance of the curve at the front property line.

LOW VOLUME IRRIGATION. Irrigation by a system which utilizes devices that irrigate at rates of 0.5 gpm or less, allowing water to be placed with a high degree of efficiency at the root zone of each plant.

LOWEST ADJACENT GRADE. The lowest elevation, after the completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

LOWEST FLOOR. The lowest floor of the lowest enclosed area of a building or structure (including basement), but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the Florida Building Code or ASCE 24. [Also defined in FBC, B, Section 202.].

MANUFACTURED BUILDING. A structure bearing a seal issued by the Florida Department of Community Affairs certifying that it is built in compliance with the requirements of the Florida Manufactured Building Act of 1979.

MANUFACTURED HOME. A structure bearing a label certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards (24 CFR 3280) HUD Code. For floodplain management purposes, it is a structure, transportable in one or more sections, which is eight (8) feet or more in width and greater than four hundred (400) square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer." [Also defined in 15C-1.0101, F.A.C.]

MANUFACTURED HOME/MOBILE HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING. As it relates to the Flood Plain Overlay Zone, 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) was completed before January 19, 1983.

MANUFACTURED HOME PARK OR SUBDIVISION, NEW. As it relates to the Flood Plain Overlay Zone, 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) and was completed on or after January 19, 1983.

MANUFACTURING. A commercial or industrial activity involved in the research, development, assembly, production, testing, or processing of goods, materials, components, devices, equipment, or systems.

MARINA. A premises located adjacent to water bodies, canals, or water ways providing wet or dry storage and all accessory facilities.

MARION-FRIENDLY LANDSCAPING. The use of plants (and non-plant materials such as mulch) and landscape designs and practices that are compatible with the natural environment and climate of Marion County. Marion-Friendly Landscaping minimizes the use of turfgrass that is irrigated and fertilized, and maximizes the use of plants that tolerate sandy soils and drought conditions characteristic of north-central Florida.

MARION-FRIENDLY LANDSCAPING AREA (MFLA). That portion of a new or expanded development that through the approved development plans, documents, and deed restrictions, is identified to be maintained as Marion-Friendly Landscaping and where the use of high volume irrigation, non-drought tolerant plants, and lawn chemicals (fertilizers and pesticides) on turfgrass is prohibited.

MARKET VALUE. As it relates to floodplain management, 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 Article 5, Division 3, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value can be established by an independent certified appraisal (other than a limited or curbside appraisal, or one based on income approach), is the actual cash value (in-kind replacement cost depreciated for age, wear, tear, and neglect, and quality of construction of building) determined by a qualified independent appraiser, or adjusted tax-assessed values adjusted to approximate market value by a factor provided by the county Property Appraiser.

MARQUEE. A structure projecting from and supported by a building which extends beyond the building line or property line and fully or partially covers a sidewalk, public entrance, or other pedestrian way.

MCUD DIRECTOR. Marion County Utilities Department Director, or his designee.

Commented [HA14]: Almost all the communities we've worked with in the past two years (nearly 200) have made this change to remove the traditional market appraisal - FDEM approved this to rely ACV as primary method. It's recommended because there's less judgement and less opportunity for bias. The starting "like-kind replacement cost" is what it would cost to build exactly as shown (not to current code).

See OFM Guidance

Commented [RQ15R14]: Now more than 260

MINI-WAREHOUSE (SELF-SERVICE STORAGE FACILITY). A building, or group of buildings, consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods or contractors supplies.

MOBILE HOME. A transportable structure designed to be:

- A. Used as a year-round residential dwelling, built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards, which became effective for all manufactured home construction on June 15, 1976, and
- B. Any vehicle without independent motive power which is designed for housing accommodations and transportation over the highways on a chassis under carriage, which is an integral part thereof, but does not include travel trailers or recreational units as defined by § 320.01 FS. This definition shall include any unit which meets the criteria above and is certified by the Department of Safety and Motor Vehicles as meeting requirements of as defined in Ch. 320 FS.

MODEL HOME. A single-family dwelling unit, or units, used by a home builder to illustrate the features available to a potential purchaser of a dwelling unit when constructed on a different lot, parcel, or tract.

MODEL HOME SALES LOT OR MODEL HOME COMPLEX. Model homes designed in a cluster to create a sales facility.

MODIFY. Regarding towers, modify shall include all structural changes to a tower other than routine maintenance, including, without limitation, structural modifications, rebuilding, or relocating on the same parcel. Modify does not include adding additional or different antennas, or deleting or removing antennas.

MONOPOLE TOWER. A tower consisting of a single pole, or spine, self supported by a permanent foundation, and constructed without guy wires and ground anchors.

MULTI-DWELLING. A structure which contains three or more dwelling units.

MULTI-FAMILY. Any residential development project that consists of more than two dwelling units per building, or eight dwelling units or more per gross acre.

MULTIPLE OCCUPANCY COMPLEX. A commercial occupancy (i.e. any occupancy other than residential or agricultural) consisting of a parcel of property, or parcel of contiguous properties, existing as a unified or coordinated project, with a building or buildings housing more than one occupant, or more than one business under one ownership.

NATIVE TREE. A self-supporting woody plant which normally grows to a height of ten feet or more and which is classified as native vegetation.

NATIVE VEGETATION. Those species occurring within the state boundaries prior to European contact, according to the best available scientific and historical documentation. It includes those species understood as indigenous, occurring in natural associations and habitats that exist prior to significant human impacts.

NATURAL AREA. Undeveloped lands considered to be in, or maintained in, an undisturbed or unmodified condition which provide habitat or natural open space.

NEW CONSTRUCTION. For the purposes of administration of Article 5, Division 3 and the flood resistant construction requirements of the Florida Building Code, structures for which the "start of construction" commenced on or after January 19, 1983 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 January 19, 1983. This definition is not for the purposes of floodplain management under Article 5, Division 3.

NIGHTCLUB. A bar or similar establishment providing food, refreshments, or alcoholic beverages wherein dancing is permitted or paid entertainment is provided.

Commented [RQ16]: 1/6/25, same comment about the specific date; but as before; OK!

NONCONFORMING LOT. A lot of record which does not conform to the current minimum requirements for a lot in the zoning classification in which it is located.

NONCONFORMING STRUCTURE. A building or structure which does not conform to the current minimum requirements for such structure in the zoning classification in which it is located.

NONCONFORMING USE. A use which is not a permitted use, or special use, in a current zoning classification.

NON-CONTIGUOUS PARCELS. Those parcels that do not have any common property lines, or which are separated by platted or unplatted roads, streets, or alleys which have been dedicated for public use, or prescriptive easements for road right-of-way purposes.

NORTH AMERICAN VERTICAL DATUM (NAVD) OF 1988. The vertical control datum of orthometric height established for vertical control surveying in the United States of America based upon the General Adjustment of the North American Datum of 1988.

OCCUPANT (OCCUPANCY). One who has certain legal rights to or control over the premises he occupies; the state of being an occupant.

OFF-SITE SIGN. A sign that identifies or communicates a commercial or non-commercial message related to an activity conducted, or service rendered, or a commodity sold at a location or on a parcel other than where the sign is located.

ON-SITE SEWAGE TREATMENT AND DISPOSAL SYSTEM (OSTDS). Also referred to as a septic system.

ON-SITE SIGN. A sign that identifies or communicates a commercial or non-commercial message related to an activity conducted, service rendered, or a commodity sold, at the location where the sign is installed.

OPEN BASIN. All watersheds not meeting the definition for Closed Basin.

OPEN SPACE. Land area restricted or not developed depending on its designation as natural open space or improved open space consistent with the provisions of Section 6.6.6.

ORDINARY HIGH WATER LINE (OHWL). The highest reach of a navigable, nontidal waterbody as it usually exists when in its ordinary condition and is not the highest reach of such waterbody during the high water season or in times of freshets. The term also includes the terms "ordinary high-water line" and "line of ordinary high water."

OUTSIDE STORAGE. The storage or display, outside of a completely enclosed building, of merchandise offered for sale or rent as a permitted use or of equipment, machinery, and materials used in the ordinary course of a permitted use.

OWNER. The person, firm, corporation, or governmental unit holding title of the real estate upon which construction is to take place.

PACKAGE STORE. A premises in which alcoholic beverages are sold for off-premises consumption.

PARCEL. A continuous quantity of land in the possession of or owned by, or recorded as the property of the same person or persons. A parcel may consist of contiguous platted lots.

PARCEL OF RECORD. A designated parcel, tract, or area of land established by plat, metes and bounds description, or otherwise permitted by law, to be used, developed or built upon as a unit, which complies with the applicable building codes and zoning regulations, and which existed on or before January 1, 1992, and under one ownership as of August 11, 1993.

PARK. Land which is used for active or passive recreational purposes, whether dedicated public or private.

PARK MODEL OR PARK TRAILER. A transportable unit which has a body width not exceeding 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures or appliances or; a park

trailer constructed to ANSI A-119.5 standards which does not exceed 400 square feet gross floor area or; a park trailer constructed to US Department of Housing and Urban Development Standards which does not exceed 500 square feet gross floor area.

PARKING AREA. An open area, other than a street or other public way, used for the parking of motor vehicles.

PARKING LANE. A lane located on the side of a street, designed to provide on-street parking of a motor vehicle.

PARKING SPACE. An area provided for the parking of a motor vehicle.

PASSIVE RECREATION. Those recreational activities afforded by such natural resources as the native flora, fauna, and aesthetic appeal of a natural setting and requiring minimal development to utilize and enjoy such resources. These activities include hiking, nature watching, unstructured play, picnicking, horseback riding and bicycle riding.

PERMEABILITY. The capacity of a porous medium for transmitting water.

PLANNED UNIT DEVELOPMENT (PUD). A designated contiguous area of property for the comprehensive development of a single use or of mixed uses.

PLANNING/ZONING MANAGER. Planning /Zoning Manager or designee.

PLAT. A map, or delineated representation of the subdivision of lands, being a complete exact representation of the subdivision and complying with this Code and Ch. 177 FS.

PLAYGROUND. Properties and facilities owned and operated by any governmental agency, or owned and operated by any private agency, including day care centers, which are open for recreational or child care purposes.

POINT OF CONNECTION. The outlet side of the meter designated to serve the customer.

PORTABLE SIGN. Any sign which is designed to be transported by trailer or on its own wheels, including such signs whose wheels have been removed and the remaining chassis or support structure converted to an A- or T- frame sign and anchored temporarily to the ground.

POTABLE WATER. Water that is suitable for human consumption.

POTENTIOMETRIC SURFACE (POTENTIOMETRIC HEAD). The level to which water would rise in a tightly cased well penetrating an aquifer. The water table and artesian pressure surfaces are particular potentiometric surfaces.

PRESSURE VACUUM BREAKER ASSEMBLY. A backflow prevention assembly which includes an independently operating, internally loaded check valve; an independently operating, loaded air inlet valve located on the discharge side of the check valve; and properly located test cocks and tightly closing resilient-seated shut-off valves attached at each end of the Assembly. This assembly shall not be used if back pressure could develop in the downstream piping.

PRINCIPAL STRUCTURE. A structure on a lot or parcel which is used, arranged, adapted or designed for the predominant or primary use for which the lot or parcel is or may be used.

PRINCIPAL USE. The primary or predominant use of a lot, parcel, structure, or structure and land in combination.

PRIVATE CLUB. A premises used for meetings or activities of persons in which use is restricted to members and guests.

PRIVATE PERFORMANCE. As it relates to the adult entertainment business, modeling, posing or the display or exposure of any specified anatomical area by an employee or independent contractor using the premises under a contract or lease, of an adult entertainment establishment to a person other than an employee while the person is in an area within the establishment not accessible during such display to all other persons in the establishment, or while the person is in an area in which the person is totally or partially screened or partitioned during such display from the view of all persons within the establishment.

PROGRAM DEFICIENCY. As it relates to the flood plain overlay zone, a defect in the community's flood plain management regulations or administrative procedures that impairs effective implementation of those flood plain management regulations or of the standards required by the National Flood Insurance Program.

Commented [RQ17]: Another flood term that isn't required to be in local ordinances j-- it is used by FEMA when they evaluate how well communities are enforcing or whether local regs are adequate

PROHIBITED CONNECTION. Any connection of an unsafe system to a safe system as deemed by the MCUD.

PROJECT AREA. The limits of the land area identified on a plan where project improvements and features are proposed.

PUBLIC ACCESS REUSE. The application of reclaimed water to an area that is intended to be accessible to the general public; such as golf courses, cemeteries, parks, landscape areas, hotels, motels, and highway medians. Public access areas include private property that is not open to the public at large, but is intended for frequent use by many persons. Public access areas also include residential dwellings. Presence of authorized farm personnel or other authorized treatment plant, utilities system, or reuse system personnel does not constitute public access. Irrigation of exercise areas and other landscape areas accessible to prisoners at penal institutions shall be considered as irrigation of public access areas.

PUBLIC AREAS. Areas such as parks, playgrounds, trails, paths and other recreation areas and open spaces; scenic and historic sites; schools and other properties, buildings and structures which have been or will be conveyed or dedicated to the County or other public body.

PUBLIC FACILITIES. Transportation systems or facilities, sewer systems or facilities, solid waste systems or facilities, drainage systems or facilities, potable water systems or facilities, schools, and parks and recreation systems or facilities. This includes privately operated sewer and water systems that are classified as public systems.

PUBLIC POTABLE WATER SUPPLY SYSTEMS. Wells, treatment systems, disinfection systems, reservoirs or other storage and high service pumps, pipes, lines, valves, meters, water mains, laterals, and services, used or having the present capacity for future use in connection with the obtaining and supplying of potable water for domestic consumption, fire protection, irrigation, consumption by business, or consumption by industry. Without limiting the generality of the foregoing definition, the system shall embrace all necessary appurtenances and equipment and shall include all property, rights, easements and franchises relative to any such system and deemed necessary or convenient for the operation thereof.

PUBLIC SAFETY AND NUISANCE. As it relates to the flood plain overlay zone, anything which is injurious to safety or health of the entire community or a neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

QUALIFYING NATURAL AREA/COMMUNITY. Those lands identified by the FDEP and the Florida Natural Areas Inventory (FNAI) produced by FDEP as significant areas which are relatively undisturbed and include flora or fauna that reflect the conditions of the area at the time colonial settlement occurred in Florida and Marion County.

RAPID-RATE LAND APPLICATION (RRLA). The use of percolation ponds or rapid infiltration basins (RIBs) or subsurface absorption fields, as described in Ch. 62 FAC.

RECEIVING AREA. Lands designated by one or more of Marion County's Transfer of Rights Programs (TRPs) as eligible to receive Transferrable Credits (TDCs) for use in adding residential dwelling units in conjunction with or in addition to other permitted development activity on the designated lands wherein the lands are depicted on Marion County Comprehensive Plan Future Land Use map Series Map 1, *Marion County 2035 Future Land Use Map*, or Map 13, *Transfer of Rights*.

RECLAIMED WATER. Water that has received at least advanced secondary treatment and high level disinfection. Water receiving additional treatment may be used in public access areas, when in compliance with the FDEP requirements pursuant to § 62-610 FAC.

RECORDED SUBDIVISION. A platted subdivision of lands, approved by the Board of County Commissioners, which has a final plat recorded in the public records of Marion County consistent with this Code and Ch. 177 FS.

RECREATION VEHICLE PARK. A tract of ground upon which three or more single-family camp cottages, tents or recreational vehicles are located or maintained for accommodation of transients whether or not a charge is made.

RECREATIONAL FACILITY. Any public or private structure or facility used for active recreational pursuits, including such facilities as golf courses, tennis courts, racquetball courts, handball courts, baseball fields, soccer fields, football fields, basketball courts, swimming pools, jogging or exercise trails, and similar facilities.

RECREATIONAL VEHICLE. A vehicle, including a park trailer, which is: [see in section 320.01, F.S.)

- (1) Built on a single chassis;
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REDUCED-PRESSURE PRINCIPLE ASSEMBLY. A Backflow Prevention Assembly which includes two independently acting check valves; a hydraulically operating, mechanically independent pressure differential relief valve located both between the check valves and below the first check valve; and properly located test cocks and tightly closing resilient-seated shut-off valves attached at each end of the Assembly.

REGISTERED DIVISIONS OF LAND. A map or survey of divisions of land three acres or larger in size, including "flag lots" as that term is commonly known in Marion County, and which was filed and accepted by Marion County prior to January 1, 1992.

REGULATED USES OR ADULT AND SEXUALLY-ORIENTED BUSINESS. Uses such as but not limited to adult book store or film store, adult booth, adult cabaret, and adult theater or mini-motion theater or drive-in.

REGULATORY FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

REMEDY A DEFICIENCY OR VIOLATION. As it relates to the flood plain overlay zone, to bring the regulation, procedure, structure or other development into compliance with State of Florida, Federal or local flood plain management regulations; or if this is not possible, to reduce the impacts of its noncompliance. Ways the impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the Flood Plain Overlay Zone in Article 5 or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

REMODELING. Any change, partial removal, partial replacement, or addition to buildings.

RESIDENTIAL DUAL CHECK. A compact, mechanical Backflow Prevention Device manufactured with two independently acting, spring actuated check valves.

RESIDENTIAL SERVICE ADDRESS. A metered residential address whose private water systems serve only residential dwellings the total of which is designed to house no more than four families.

RESIDENTIAL USES. One-family dwellings, two-family dwellings, and multi-family dwellings.

RESIDUALS. Biosolids from a permitted wastewater treatment or water reuse facility and septage from an OSTDS.

RETAIL SALES. Any business activity, and related services, customarily selling goods and commodities for profit.

RETAINING WALL. A structure erected between lands of different elevation to protect structures or to prevent the loss of earth from the upper slope level.

RIVERINE. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

ROOF LINE. A horizontal line intersecting the highest point or points of a roof.

ROOF SIGN. A sign placed above the roof line of a building or on or against a roof slope of less than 45 degrees as measured from the vertical plane.

RUNOFF. The surface flow of stormwater.

RURAL AREA. Lands located outside the Urban Growth Boundary (UGB) as designated by the Comprehensive Plan Future Land Use Map Series Map 1 *Marion County 2035 Future Land Use Map* excluding those lands bearing an Urban Area land use designation as specified in Comprehensive Plan Future Land Use Element Appendix A, Table A-1 *Land Use Classifications and Standards*.

SAFE YIELD. The average annual amount of groundwater that could be extracted from a groundwater basin (or reservoir) over a long period of time without causing a long term reduction of groundwater quantity, quality, or other undesirable impacts.

SCHOOL. A public or private educational institution offering students an academic curriculum, including kindergartens, elementary schools, middle schools, high schools, colleges and universities. Such term shall also include all adjacent properties owned and used by such schools for education, research, maintenance, or recreational purposes.

SCREEN. A structure or planting consisting of fencing, walls, berms, trees, or shrubs which provides sight obstruction within or to a site or property.

SEMICONFINED AQUIFER. An aquifer that receives recharge in the form of leakage through underlying or overlying semipermeable formations (aquitards).

SENDING AREA. Lands designated by one or more of Marion County's Transfer of Rights Programs (TRPs) as eligible to obtain Transferrable Credits (TDCs) which may be transferred or conveyed to a site within a designated Receiving Area where the TDCs may be used for development.

SETBACK (OR SETBACK LINE). An area defined by a lot line, street centerline, wetland line, water boundary setback line of an open body of water, or right-of-way line and a line on a lot parallel to, and a specified distance from said lines in which area no structure may be located and into which no part of any structure shall project, unless specifically permitted in this Land Development Code. Setbacks shall be measured from lot lines unless specifically stated otherwise or unless the context in which the term is used implies another intended meaning.

- A. **FRONT SETBACK.** That area defined by the front lot line and a parallel line on the lot a specified distance from such front lot line.
- B. **SIDE SETBACK.** An area located between a front yard setback and a rear yard setback, defined by a side lot line and a parallel line on the lot a specified distance from such side lot line.
- C. **REAR SETBACK.** That area defined by the rear lot line and a parallel line on the lot a specified distance from such rear lot line.

SIGHT TRIANGLE. A triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists approaching or at the intersection.

SIGN. Any structure, or part thereof, or any device attached to a structure or applied to any surface or object, for visual communication, embodying letters, numerals, symbols, figures, flag, banner, pendant or designs in the nature of an announcement, direction, or advertisement, directing attention to an object, products, place, activity, service, person, institution, organization, or business and which is visible from any public street, alley, waterway, or public place. This definition of a sign shall not include any flag,

notice badge, or ensign of any government or governmental agency, or any legal notice posted by and under governmental authority.

SIGN FACE AREA OR SIGN AREA. The area of any regular geometric shape which contains the entire surface area of a sign upon which copy may be placed.

SIGN STRUCTURE. Any construction used or designed to exclusively support a sign.

SIGNIFICANT IMPROVEMENT. Any reconstruction, rehabilitation, addition or other improvement of a structure, the cumulative cost of which equals or exceeds 25 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage" regardless of the actual repair work performed. This term does not, however, include either: [Also defined in FBC, B, Section 202]

- A. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
- B. Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

SINKHOLE. A landform created by subsidence of soil, sediment or rock as underlying strata are dissolved by ground water. Sinkholes may be directly or indirectly connected to the aquifer or disconnected by the presence of a confining layer of soil (clay) or rock that no longer allows water to permeate below this layer. The latter may be expressed as a relic sinkhole or lake, depression in the land surface, or loose soils in the subsurface.

SLOW-RATE LAND APPLICATION (SRLA). The application of reclaimed water to a vegetated land surface using an overhead or spray, or subsurface drip, Irrigation system, as defined in §§ 62-610.400 and 62-610.450 FAC.

SOLUTION PIPE. A naturally occurring vertical cylindrical hole attributable to dissolution, often without surface expression and much narrower circumference than a sinkhole.

SPECIAL FLOOD HAZARD AREA (SFHA). The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 202.]

SPECIAL USE. A use that would not be appropriate generally or without restriction throughout the particular zoning classification but which, if controlled as to number, area, location, or compatibility with the surrounding area, would not adversely affect the public health, safety, and general welfare.

SPECIAL USE PERMIT (SUP). A permit for a use that would not be appropriate generally or without restriction throughout the particular zoning classification but which, if controlled as to number, area, location, or compatibility with the surrounding area, would not adversely affect the public health, safety, and general welfare.

SPECIALTY ANIMALS. All animals including native and imported animals which have been, removed from the wild or, animals being bred, raised or kept for research, food, fur, skins, or for the production of income and/or, animals requiring a permit or license from the State Fish and Wildlife Conservation Commission or the US Fish and Wildlife Service shall be regulated by Special Use Permit. Large reptiles are included in this category. Where nine or more animals are being kept as household pets, and do not meet the above listed requirements or the below listed exclusions, they shall be treated as specialty animals and regulated by Special Use Permit. Specialty animals shall not include livestock, dogs, cats or homing/racing pigeons meeting the requirements of Article 4.

SPECIFIC CAPACITY. The ratio of well discharge to the drawdown produced, measured inside the well (gpm/ft of drawdown).

SPECIFIED ANATOMICAL AREAS. As it relates to the adult entertainment business:

- A. Less than completely and opaquely covered:
 - (1) Human genitals;

- (2) Pubic region;
 - (3) Buttock; or
 - (4) Female breast below a point immediately above the top of the areola; or
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. As it relates to the adult entertainment business:

- A. Human genitals in a state of sexual stimulation or arousal;
- B. Acts of human masturbation, sexual intercourse or sodomy; and
- C. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

SPRINGS PROTECTION ZONE (SPZ). An area surrounding designated springs within Marion County establishing design and development criteria intended to maintain and support the continued existence and quality of the designated springs, and divided into Primary and Secondary areas pursuant to Article 5.

START OF CONSTRUCTION. The date of issuance of permits for new construction and substantial improvements, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of permit issuance. The actual start means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main building. For 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.

STATIC LEVEL. The stabilized water level in a nonpumped well.

STOCKPILE. As it relates to the springs protection zone, animal manure, including droppings, urine, and soiled bedding material, that is piled, spread, or otherwise allowed to accumulate to such depth and/or volume in excess of three cubic yards that it: a) prevents or substantially hinders the growth of grass or other vegetation, and/or b) generates leachate that can potentially contaminate ground or surface water. Manure that is spread on pasture or cropland areas in accordance with normal agronomic practices following UF/IFAS recommendations and this section is not considered stockpiling.

STORAGE COEFFICIENT. The volume of water that an aquifer releases from or takes into storage per unit surface area of aquifer per unit change in the component of head normal to that surface. In a water table aquifer the storage coefficient is essentially the same as its porosity.

STORM CELLAR. A place below grade used to accommodate occupants of the structure and emergency supplies as a means of temporary shelter against severe tornadoes or similar windstorm activity.

STREET. A public or private travelway used or intended to be used, for passage or travel by vehicles.

STREET FRONTAGE. The distance along the property line at the right-of-way or easement of the street providing primary access and exposure to the existing or proposed development.

STRUCTURE. Anything constructed or built which is located on or under land. ~~For flood plain management purposes, a walled and roofed building, including gas or liquid storage tank that is principally above ground, as well as a manufactured home.~~

STUB STREET. A portion of a street for which an extension has been proposed and approved. May be permitted when development is phased over a period of time, but only if the street in its entirety has been approved in the preliminary plan.

Commented [RQ18]: 1/6/25, this is one we've missed before – but one of the FEMA reviewers reminded us that these words sometimes are missing. We explained there is no other way to interpret it. However, better part of valor is to fix it now!

Commented [RQ19]: The stricken sentences is for NFIP flood insurance

Commented [VC20R19]: Why did this language get inserted into the LDC?

Commented [RQ21R19]: 1/6/25, which? The definition? Or the stricken sentence. Div 5.3 regulates all development in special flood hazard areas, including any structure. Only building with floors have to be elevated, but all structures must resist flood damage.

SUBDIVISION. The division of land into three or more lots, tracts, parcels, tiers, blocks, sites, units or any other division of land; and may include establishment of new streets and alleys, additions, and re-subdivisions or replats; and, when appropriate to the context, relates to the process of subdividing or to the lands or area subdivided.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL DEVELOPMENT. As it relates to vested rights, shall mean that required permits for commencement of construction have been obtained; and permitted clearing and grading has commenced on any significant portion of the development subject to a single final local development order; and the actual construction of water and sewer lines, or streets, or the stormwater management system, on said portion of the development is substantially complete or is progressing in a manner that significantly moves the entire development toward completion.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage" regardless of the actual repair work performed. This term does not, however, include either: [Also defined in FBC, B, Section 202.]

- (1) 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.
- (2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

SWALLET OR SWALLOW HOLE. A place where water disappears underground in a limestone fissure or opening at or near the surface. A swallow hole generally implies water loss in a closed depression or sinkhole, whereas a swallet may refer to water loss from a disappearing stream or streambed, even though there may be no depression.

TEST WELL. Completed well for pumping used to obtain information on capacity, groundwater quality, geologic and hydrologic conditions, and related information.

TOTAL NITROGEN (TN). As a measurement of wastewater effluent quality, Total Nitrogen is the total content of the nitrogen species of organic nitrogen, ammonia, nitrate and nitrite expressed as elemental nitrogen, N, as determined using approved methods.

TOWER. A lattice, guyed or monopole structure constructed from grade which supports antennas. The term "tower" shall not include the singular use as a amateur radio operator's equipment, as licensed by the FCC, or antenna support structures and/or towers which are less than 50 feet in height and are used only to support antennas which receive, but do not transmit television signals.

TOWER CLUSTERING. The location of two or more towers on a parcel of property.

TRANSFER OF RIGHTS PROGRAM (TRP). A program which awards or grants to a property owner Transferable Development Credits (TDCs) which may then be transferred or conveyed to a party that may use the TDCs for the development of lands deemed eligible by Marion County.

TRANSFERRABLE DEVELOPMENT CREDIT (TDC). A residential unit equivalent which may be granted to lands within eligible Sending Areas for subsequent transfer/sale between parties wherein the TDC is used by the receiving party to provide for additional residential development on lands eligible for use in a designated Receiving Area.

TRANSMITTER TOWER. A structure designed, constructed or used for the sole purpose of broadcasting or retransmitting any form of radio, television, radar, microwave, or other type of electronic wave, or impulse.

TREE. Any self-supporting woody plant which has at least one main trunk, and is normally grown to an overall height of a minimum of ten feet.

TREE REMOVAL. To physically remove a tree, including the performance of any act by a property owner or his designated agent, on a particular parcel of record which causes the death of a tree, or the effective removal of a tree through damage.

TURFGRASS. A mat layer of monocotyledonous plants, including but not limited to Bahia, Bermuda, Centipede, Paspalum, St. Augustine, and Zoysia grasses.

TWO-FAMILY DWELLING. A structure containing two dwelling units.

UNIT. That part of a multiple occupancy complex housing one occupant or use.

UNRECORDED SUBDIVISION. A platted subdivision of lands which has been accepted by the Board of County Commissioners for filing only by the Clerk of the Court in the public records of Marion County. Said plats were prepared and filed prior to August 14, 1970, in the public records of Marion County in record books entitled "Unrecorded Subdivisions."

URBAN AREA. Lands located within the Urban Growth Boundary (UGB) as designated by the Comprehensive Plan Future Land Use Map Series Map 1 Marion County 2035 Future Land Use Map or those lands located in the Rural Area bearing an Urban Area land use designation as specified in Comprehensive Plan Future Land Use Element Appendix A, Table A-1 Land Use Classifications and Standards.

URBAN GROWTH BOUNDARY (UGB). The boundary established by Marion County Comprehensive Plan Future Land Use map Series Map 1, Marion County 2035 Future Land Use Map, which identifies the geographic area wherein higher density and intensity development and full urban services are intended to be concentrated.

UTILITY. The individuals and/or legal entities which own and are responsible for the operation and maintenance of public or private utility services such as potable water, wastewater, phone, cable, electric, etc.

VARIANCE. As it relates to the zoning requirements of this Code, a grant of relief to a particular property owner because of the practical difficulties or unnecessary hardship that would be imposed by the strict application of that zoning provision of the Code. For floodplain management purposes, a grant of relief from the requirements of Article 5, Division 3, or the flood resistant construction requirements of the Florida Building Code, which permits construction in a manner that would not otherwise be permitted by Article 5, Division 3 or the Florida Building Code.

VEHICLE SIGN. Any sign affixed to a vehicle.

VERTICAL DATUM. An accepted reference or basis for elevations pre-approved by the Office of the County Engineer.

VESTED RIGHTS. The authorization to improve and/or develop properties meeting the conditions established in Division 1.7.

VIOLATION. The failure of a structure or other development to be fully compliant with the requirements of a specific provision of this Code.

WAIVER. A grant of relief from compliance with a specific provision of this Code, not zoning related, granted to a particular property owner because of financial hardship or alternate design concept.

WASTEWATER. Any substance that contains any of the waste products, excrement, or other discharge from the bodies of human beings or animals as well as such other wastes as normally emanate from dwelling houses.

WASTEWATER SERVICE LATERAL. Those service laterals or force mains from the customer's property line to the wastewater main and all appurtenances.

WASTEWATER SYSTEM. A centralized or decentralized system for the collection and treatment of domestic wastewater and disposal of reclaimed effluent. A wastewater system includes without limitation the collection lines, wastewater treatment facility, pumping stations, intercepting sewers, force mains, and all necessary appurtenances and equipment and shall include all property, rights, easements, and franchises relating to any such system and deemed necessary or convenient for the operation thereof.

WASTEWATER TREATMENT FACILITY (WWTF). The facility at which the raw wastewater is collected and treated.

WATER BOUNDARY SETBACK LINE (WBSL). Unless previously established by Board action, the Water Boundary Setback Line is the normal or average reach of a water body during the high water season. However, on low, flat-banked water bodies where there is no well-defined mark, the boundary is located at the point up to which the presence and action of the water is so continuous that the cultivation of ordinary agricultural crops is prevented.

WATERCOURSE. A river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

WATER DETENTION AREA (WDA). A manmade or natural facility which collects surface or subsurface water and which impedes its flow and releases the same gradually at a rate not greater than that prior to the development of the property, into natural or manmade outlets.

WATER FRONTAGE OR WATER FRONT. That side of a lot, parcel or tract abutting on a water body and which may be considered as the front for setback requirements.

WATER METER. That device, with all appurtenances, which registers water flow to a customer.

WATER RETENTION AREA (WRA). A manmade or natural facility which collects and retains surface water and allows gradual ground infiltration.

WATER SERVICE CONNECTION. The point of connection to the public potable water system (metered or non-metered) where the Utility loses jurisdiction and sanitary control over the potable water delivered to that point. Included within this definition are connections for fire hydrants and other temporary or emergency water service. For metered connections, the point of connection is the downstream end of the water meter.

WATER SERVICE LATERAL. The pipe from the water main to the point of connection.

WATER SURFACE ELEVATION. The height, in relation to an accepted vertical datum, of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

WATER SYSTEM. A water supply distribution system consisting of all water mains, valves, service laterals, fire hydrants, meter boxes, etc. used to deliver water from the WTP to the consumer.

WATER TREATMENT PLANT (WTP). Includes all wells, pumps, tanks, valves, piping, treatment and disinfection facilities required to withdraw, treat, and disinfect water suitable for public consumption.

WETLANDS. Those land areas featuring unique environmental and/or hydrogeologic characteristics which qualifies as wetlands pursuant to § 373.019(25) FS and § 62-340.200 FAC as determined and delineated by the appropriate jurisdictional agency

WETTEST SEASON. As defined in § 64E-6.002 FAC, that period of time each year in which the ground water table elevation can normally be expected to be at its highest elevation.

WILDLAND URBAN INTERFACE/INTERMIX ZONES: Locations which the Marion County Fire Rescue (MCFR) determines that topographical features, vegetation fuel types, local weather conditions, and prevailing winds may result in the potential for ignition of the structures from flames and firebrands of a wildland fire. A wildfire hazard severity analysis shall be provided for review and approval by MCFR.

(Ord. No. 13-20, § 2, 7-11-2013; Ord. No. 17-08, § 2(Exh. A, § 2), 4-11-2017; Ord. No. 17-11, § 4, 5-16-2017; Ord. No. 17-25, § 1(Exh. A), 10-3-2017; Ord. No. 2017-30, § 1(Exh. A, § 2), 11-7-2017; Ord. No. 18-14, § 1(Exh. A, § 2), 5-21-2018)

DIVISION 3. - ACRONYMS

AASHTO. American Association of State Highway and Transportation Officials.

ACLF. Adult Congregate Living Facility.

ADF. Average Daily Flow.

AMOA. Acknowledgement of Military Operating Area.

ANSI. American National Standards Institute.

API. American Petroleum Institute.

ASME. American Society of Mechanical Engineers.

ASTM. American Society for Testing Materials

AWWA. American Water Works Association.

BMP. Best Management Practice(s).

C&D. Construction and Demolition.

CCR. Covenants, Conditions, and Restrictions.

CDD. Community Development District.

CESQG. Conditionally Exempt Small Quantity Generators.

CFR. Code of Federal Regulations.

CPAA. Comprehensive Plan Amendment Application.

CRA. Community Redevelopment Area.

CWS. Community Water System.

DADF. Designed Average Daily Flow, in gallons.

DBH. Diameter at Breast Height.

DEM. Florida Division of Emergency Management or equivalent.

DEO. Florida Department of Economic Opportunity.

DIP. Ductile Iron Pipe.

DIPRA. Ductile Iron Pipe Research Association.

DOH. Florida Department of Health, local, regional or state, as applicable.

EALS. Environmental Assessment for Listed Species.

EALS-ER. Environmental Assessment for Listed Species Exemption Request.

ECSD. Equine Commercial Support District.

EPA. United States Environmental Protection Agency.

ERC. Equivalent Residential Connection.

FAA. Federal Aviation Administration.

FAC. Florida Administrative Code.

FAR. Floor Area Ratio.

FBC. Florida Building Code.

FCC. Federal Communications Commission.

FDC. Fire Department Connection.

FDEP. Florida Department of Environmental Protection.

FDOF. Florida Division of Forestry.

FDOT. Florida Department of Transportation.

FEMA. Federal Emergency Management Agency.

FFL. Florida Friendly Landscaping.

FFPC. Florida Fire Prevention Code.

FGCC. Federal Geodetic Control Committee.

FHBM. Flood Hazard Base Map.

FIRM. Flood Insurance Rate Map.

FIS. Flood Insurance Study.

FLUCCS. Land Use, Cover and Forms Classification System: A Technical Manual, State of Florida Department of Transportation.

FNAI. Florida Natural Areas Inventory.

FPS. Feet Per Second.

FS. Florida Statute.

FVA. Florida Vernacular Architecture.

FWC. Florida Fish and Wildlife Conservation Commission.

GFA. Gross Floor Area.

GLA. Gross Leasable Area.

GPD. Gallons Per Day.

GPM. Gallons Per Minute.

GRPA. Groundwater Recharge Preservation Area.

HOA. Home Owners Association.

HUD. Housing and Urban Development.

IES. Illuminating Engineering Society.

IOS. Improved Open Space.

ITE. Institute of Transportation Engineers.

LBR. Limerock Bearing Ratio.

LDC. Land Development Code.

LDRC. Land Development Regulation Commission.

LID. Low Impact Development.

LOS. Level of Service.

LOSS. Level of Service Standard.

LPA. Local Planning Agency.

LPDS. Low Pressure Dosing System.

MCAVA. Marion County Aquifer Vulnerability Assessment.

MCFR. Marion County Fire Rescue.

MCHD. Marion County Health Department.

MCOR. Marion County Official Records.

MCUD. Marion County Utility Department.

MFLA. Marion Friendly Landscaping Area.
MGD. Million Gallons per Day.
MTS. Minimum Technical Standards.
MUTCD. Manual on Uniform Traffic Control Devices.
NAVD. North American Vertical Datum.
NEC. National Electric Code.
NEMA. National Electrical Manufacturers Association.
NFPA. National Fire Protection Association.
NGVD. National Geodetic Vertical Datum.
NPDES. National Pollutant Discharge Elimination System.
NRCS. Natural Resources Conservation Service.
NSF. National Sanitation Laboratory Foundation.
OHWL. Ordinary High Water Line.
OSHA. The Federal Occupational Safety and Health Administration.
OSTDS. On-site Sewage Treatment and Disposal System.
P&Z. Planning and Zoning Commission.
PAR. Public Access Reuse.
PBTS. Performance Based Treatment System.
PSC. Florida Public Service Commission.
PUD. Planned Unit Development.
QNA. Qualified Natural Area.
RIB. Rapid Infiltration Basin.
RPZ. Reduced Pressure Zone.
RRLA. Rapid Rate Land Application System.
RV. Recreational Vehicle.
RVD. Rural Village District.
SFHA. Special Flood Hazard Area.
SIC. Standard Industrial Classification.
SJRWMD. St. Johns River Water Management District.
SPZ. Springs Protection Zone.
SRA. Scenic Roads Area.
SRAA. Scenic Roads Amendment Application.
SRLA. Slow Rate Land Application System.
SSCRA. Silver Springs Community Redevelopment Area.
SSCRAO. Silver Springs Community Redevelopment Area Overlay.
SUP. Special Use Permit.
SWFWMD. Southwest Florida Water Management District.

- TDC.** Transferrable Development Credit.
- TDCA.** Transfer of Development Credits Application.
- TDR.** Transferrable Development Rights.
- TN.** Total Nitrogen.
- TPO.** Transportation Planning Organization.
- TRP.** Transfer of Rights Program.
- TVR.** Transfer of Vested Rights.
- UF/IFAS.** University of Florida, Institute of Food and Agriculture Science.
- UGB.** Urban Growth Boundary.
- UND.** Urban Neighborhood District.
- USDA.** United States Department of Agriculture.
- USDA-NRSC.** United States Department of Agriculture-Natural Resources Conservation Service.
- USDOT.** United States Department of Transportation.
- USFS.** United States Forest Service.
- USFWS.** United States Fish and Wildlife Service.
- USGS.** United States Geological Survey.
- V/C.** Volume to Capacity Ratio.
- WBSL.** Water Boundary Setback Line.
- WTP.** Water Treatment Plant.
- WWTF.** Wastewater Treatment Facility.

(Ord. No. 13-20, § 2, 7-11-2013; Ord. No. 2017-30, § 1(Exh. A, § 2), 11-7-2017; Ord. No. 18-14, § 1(Exh. A, § 2), 5-21-2018)

DIVISION 4. - PLANNING AND ZONING COMMISSION (P&Z) AND THE LAND DEVELOPMENT REGULATION COMMISSION (LDRC)

Sec. 1.4.1. - General Provisions.

The following shall apply to the P&Z, SRAC, and LDRC. For the purposes of this division, the term "commission" shall respectively represent each commission generally or as specifically referenced.

- A. Membership, appointment, removal, terms, officers, and vacancies.
 - (1) Each commission shall be composed of seven members to be appointed by the Board. Two alternate members may be appointed by the Board. All members shall be residents of Marion County. No member shall be an employee of the County. Employees of other governmental entities are eligible to be members provided they are not elected officials, in positions to establish policy for their employer, or department heads or higher.
 - (2) Ex officio members shall be:
 - (a) Representative of the Marion County School Board,
 - (b) Representative of the US Military Operating Area,

- (c) Department of Health,
 - (d) Fire Rescue.
- (3) Members may be compensated as determined by the Board.
 - (4) All members shall serve a term of four years, except that three members of each commission shall be appointed for an initial term of two years. No member shall serve more than three consecutive terms. Each member shall hold office until a successor is appointed.
 - (5) The members of each commission shall elect one of their members as chair and one as vice-chair. Each year thereafter, new elections shall be held. In the absence of the chair, the vice-chair shall act as chair and shall have all powers of the chair. No member shall serve as chair for more than two consecutive years.
 - (6) The presiding chair of any commission meeting may administer oaths, shall be in charge of all proceedings, and shall take such action as necessary to preserve order and the integrity of all proceedings.
- B. Members may be removed by the Board, with or without cause, upon ten days written notice of intent to remove. Vacancies due to resignation, removal, or death shall be filled by Board appointment for the unexpired term.
- C. Meetings and procedures.
- (1) Meetings may be held to conduct workshops, regular business, or public hearings.
 - (2) All meetings shall be open to the public, and advertised consistent with Board or Florida Statutes requirements, as applicable.
 - (3) Regular meetings of the commission shall be held at least once per calendar year. All regular meetings shall be held after 5:00 p.m.
 - (4) Special meetings may be called by the Chair of the Board, a majority of the members of the Board, the Chair of the Commission, or a majority of the members of the commission. Special meetings may be held at any time.
 - (5) Quorum and necessary vote. No meeting of any commission shall be called to order, nor shall any business be transacted, without a quorum, except to reschedule a meeting. A quorum shall consist of four members and/or alternates. The chair shall be considered and counted as a member. Action shall be taken by a majority vote of those members present and constituting a quorum.
- D. General commission duties.
- (1) To make its special knowledge and expertise available, upon reasonable written request and authorization of the Board, to any Official, Department, Board, Commission, or Agency of the County, State, or Federal Government.
 - (2) To adopt rules of procedure, consistent with law and this Code, for the administration and governance of its proceedings.
 - (3) To perform such other functions, duties and responsibilities as may be assigned to it by the Board or by general or special law.
- E. Staff Support.
- (1) The Growth Services Director or designee is hereby appointed as staff liaison to each commission.
 - (2) The Growth Services Director shall appoint a recording secretary to serve each commission. The secretary shall keep minutes of all proceedings, which minutes shall be a summary of all proceedings before the commission, attested to by the secretary, and which shall include the vote of each member upon every question. The secretary shall notify all members and

interested parties of the meetings. The minutes shall be approved by a majority of the members of the commission.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.4.2. - Planning and Zoning Commission (P&Z).

- A. The P&Z is hereby established pursuant to Ch. 125 FS and § 163.3161 FS, as amended, to act as an advisory commission to the Board regarding comprehensive planning and zoning matters as set forth in this section.
- B. Comprehensive Plan related duties.
 - (1) To serve as the Local Planning Agency (LPA) pursuant to § 163.3161 FS, as amended.
 - (2) To review and consider the recommendations of the Growth Services staff on all elements of the Comprehensive Plan and any proposed amendments thereto, consistent with Articles 2 and 3.
 - (3) To hold duly noticed public hearings regarding amendments.
 - (4) To make recommendations to the Board regarding all elements of the Comprehensive Plan and any proposed amendments thereto, consistent with Articles 2 and 3.
 - (5) To monitor and oversee the effectiveness and status of the Comprehensive Plan and recommend to the Board such changes as may, from time to time, be required.
 - (6) To assist the Growth Services Department in preparing periodic reports required by § 163.3191 FS to assess and evaluate the Comprehensive Plan, or any element or portion thereof, which shall contain appropriate statements (using words, maps, illustrations or other forms) related to:
 - (a) The major problems of development, physical deterioration, and the location of land uses and the social and economic effects of such uses in the area.
 - (b) The condition of each element in the Comprehensive Plan at the date of adoption and at the date of report.
 - (c) The Comprehensive Plan objectives as compared with actual results at the date of report.
 - (d) The extent to which unanticipated and unforeseen problems and opportunities occurred between the date of adoption and the date of report.
 - (e) Suggested changes needed to update the Comprehensive Plan, elements, or portions thereof, including reformulated objectives, policies, and standards.
- C. Zoning related duties.
 - (1) To review and consider the recommendations of the Growth Services staff on Zoning Change and Special Use Permit Applications, consistent with Articles 2 and 4.
 - (2) To hold public hearings regarding Zoning Change and Special Use Permit applications as required by law and this Code.
 - (3) To make recommendations to the Board regarding Zoning Change and Special Use Permit applications, consistent with Articles 2 and 4.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.4.3. - Land Development Regulation Commission (LDRC).

- A. The Land Development Regulation Commission is established pursuant to Ch. 125 FS and § 163.3161 FS, as amended, to act as an advisory commission to the Board in regards to the following:

- (1) The Marion County Land Development Code and its land development regulations as set forth in this section;
- (2) The Marion County's Scenic Roads Program as set forth in this section and Division 5.6.

B. Land Development Code Duties.

- (1) To review, revise, and consider the recommendations of the county staff with regard to proposed land development regulations and amendments thereto, consistent with Article 2.
- (2) To hold duly noticed public hearings regarding land development regulations and amendments thereto, as required by law and this Code.
- (3) To make recommendations to the Board regarding consistency of proposed land development regulations or amendments with the County's approved and adopted Comprehensive Plan.
- (4) To make recommendations to the Board regarding proposed land development regulations or amendments thereto, consistent with Article 2.

C. Scenic Roads Duties.

- (1) To review and consider the recommendations of the Growth Services staff in regards to the Scenic Roads Master Plan (SRMP) and amendments thereto, and Scenic Road Amendment Applications (SRAAs), consistent with Articles 2 and 5.
- (2) To hold duly noticed public hearings regarding the SRMP and amendments thereto, as required by law and this Code.
- (3) To make recommendations to the Board regarding proposed SRMP amendments and SRAAs, consistent with Articles 2 and 5.
- (4) To monitor and oversee the effectiveness and status of the SRMP and recommend to the Board such changes in the SRMP as may be required.
- (5) To recommend and/or prepare nominations for Board consideration designating Scenic Routes for the State and Federal Scenic Byways Programs.

(Ord. No. 13-20, § 2, 7-11-2013)

DIVISION 5. - BOARD OF ADJUSTMENT

Sec. 1.5.1. - Powers and duties.

A Board of Adjustment is established with the following powers and duties:

A. Duties of the Board of Adjustment:

- (1) To authorize such variances from the terms of these regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations would result in unnecessary and undue hardship. A variance from the terms of these regulations shall not be granted by the Board of Adjustment unless a written petition for a variance is submitted demonstrating that:
 - (a) 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 with the same zoning classification and land use area.
 - (b) The special conditions and circumstances did not result from the actions of the applicant.
 - (c) Literal interpretation of the provisions of applicable regulations would deprive the applicant of rights commonly enjoyed by other properties with the same zoning

classification and land use area under the terms of said regulations and would work unnecessary and undue hardship on the applicant.

- (d) The variance, if granted, is the minimum variance that will allow the reasonable use of the land, building or structure.
 - (e) Granting the variance requested will not confer on the applicant any special privilege that is denied by these regulations to other lands, buildings or structures in the same zoning classification and land use area.
 - (f) The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- (2) Appeals to the Board of Adjustment concerning interpretation of the zoning requirements of this Code by the Planning/Zoning Manager may be taken by any aggrieved party or by any officer, agency or department of Marion County affected by such decision, determination or requirement.
- (a) Such appeals shall be taken within 30 days from the date of the written determination by filing with the Growth Services Department a Notice of Appeal, specifying the ground therefore. The Growth Services Director or designee shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. The Board of Adjustment shall fix a reasonable time for the hearing on the appeal and shall give notice to all parties of the date, time and place of said appeal hearing. At the hearing, any party may appear in person, by authorized agent, or by an attorney.
 - (b) All appeals shall be approved or denied by a majority vote of the Board of Adjustment members present and voting at the meeting where the appeal is heard. If the vote of the Board of Adjustment results in a tie vote, the tie vote shall operate as a deferral of the appeal to the next meeting of the Board of Adjustment. Appeal of a Board of Adjustment's final written order on an appeal shall conform to Section 4.11.
 - (c) Decision on appeal. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as it deems just and proper.
- B. Notice of public hearing. Due public notice as defined in Division 1 shall be given prior to public hearings held by the Board of Adjustment. Said notices shall also inform the recipient that actions of the Board of Adjustment are final.
- C. Public hearing. The public hearing shall be held by the Board of Adjustment and any party may appear in person, by authorized agent, or by an attorney.
- D. Findings. The Board of Adjustment shall make findings that the requirements of this section have or have not been demonstrated by the applicant for a variance.
- E. Conditions and safeguards. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with these regulations, including, but not limited to, reasonable time limits within which the action for said variance is required to begin or be completed, or both. 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.
- F. The Board of Adjustment shall have the authority to revoke a variance previously granted upon the submission of facts supporting noncompliance with conditions and safeguards presented by the Board of Adjustment in granting the variance. The Growth Services Director or designee shall provide written notice by "registered" mail to the property owner at least 15 days prior to consideration of revocation by the Board of Adjustment, and such written notice shall specify the time, date and meeting place of the Board of Adjustment and the reasons supporting revocation. The Board of Adjustment shall conduct an informal hearing on such revocation and shall adopt

findings of fact supporting such revocation. Appeals of revocation ordered by the Board of Adjustment shall be to the Circuit Court by Writ of Certiorari.

- G. Limitation on power to grant variances. Under no circumstances shall the Board of Adjustment grant a variance to permit a use not permitted under the terms of these regulations in the zoning classification involved, or any use expressly or by implication prohibited by the terms of these regulations in the said zoning classification. No non-conforming use of neighboring lands, structures or buildings in the same zoning classification and no permitted use of lands, structures or buildings in any other classification shall be considered grounds for the granting of a variance. No Special Use Permits shall be granted by the Board of Adjustment.
- H. Limitation of variances. When the Board of Adjustment has denied an application for a variance, no applicant shall submit an application for the same variance for a period of 12 months from the date of denial.
- I. Request for continuance. At the request of an applicant and for good cause shown, the Board of Adjustment may continue the public hearing on an application for a variance. The applicant shall be required to pay an additional application fee to cover the cost of re-advertising and re-notifying the adjacent property owners. The Board of Adjustment shall not grant an applicant's request for continuance when the application is the result of a notice of code violation and the variance is necessary to cure such violation. The applicant will not be required to pay an additional application fee if the continuance is granted by the Board of Adjustment on their own initiative.
- J. Staff liaison. The Growth Services Director or designee is hereby appointed as staff liaison to the Board of Adjustment.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.5.2. - Membership, appointment, removal, terms, officers, and vacancies.

- A. The Board of Adjustment shall be composed of seven members to be appointed by the Board of County Commissioners, each for a term of three years, and two alternate members, designated as such, each for a term of three years. Such alternate members may act in the temporary absence or disability of any regular member or may act when a regular member is otherwise disqualified in a particular case that may be presented to the Board of Adjustment.
- B. Qualifications. No member or alternate shall hold any other public position or office in any municipality or County government in Marion County. Members or alternates of the Board of Adjustment shall be residents of the County.
- C. Removal. Members or alternates may be removed by the Board of County Commissioners with or without cause upon ten days written notice of intent to remove.
- D. Vacancies. Vacancies due to resignation, removal or death shall be filled by Board of County Commissioners' appointment for the unexpired term.
- E. Compensation. Members may be compensated as determined by the Board.
- F. Procedures.
 - (1) The Board of Adjustment shall select a chair and vice-chair from among its members. All regular members of the Board of Adjustment and alternates sitting on the Board of Adjustment shall be entitled to vote on matters before the Board of Adjustment.
 - (2) The Board of Adjustment 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.
 - (3) Meetings shall be held at least once every quarter and at such other times as the Board of Adjustment may determine.

- (4) The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member or alternate (including the chair and vice-chair) or if absent or failing to vote, indicating such fact. A quorum for the transaction of business shall consist of four members or alternates.
- (5) If any member or alternate of the Board of Adjustment has a voting conflict as defined by § 112.3143 FS, he shall disqualify himself from all participation in that case.
- (6) The Board of County Commissioners may appropriate funds for expenses necessary in the conduct of the work of the Board of Adjustment. The Board of Adjustment may expend all sums so appropriated for the purposes and activities authorized by this Code.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.5.3. - Appeals.

Appeals of a Board of Adjustment action/determination shall be made to the Circuit Court for appropriate relief (e.g., Writ of Certiorari, etc.).

(Ord. No. 13-20, § 2, 7-11-2013)

DIVISION 6. - DEVELOPMENT REVIEW COMMITTEE

Sec. 1.6.1. - General.

A Development Review Committee is hereby established pursuant to Ch. 163 FS and amendments thereto.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.6.2 - Membership.

The Development Review Committee is hereby established and shall consist of five voting members. The following County employees shall constitute the committee: Growth Services Director, County Engineer, Utilities Director, Fire Marshal, and Building Safety Director. Any committee member's alternate shall be approved by the chair of the DRC.

(Ord. No. 13-20, § 2, 7-11-2013; Ord. No. 15-24, 12-16-2015)

Sec. 1.6.3 - Purpose.

The purpose of the Development Review Committee is to review, comment, make recommendations and/or approve development applications and plans. This committee will perform other duties conferred on it by the Board.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.6.4. - Rules of Procedures.

- A. Rules. The Development Review Committee shall adopt rules for transaction of its business.
- B. Records and minutes. The committee shall keep minutes of its transactions, findings and determinations.

- C. Meetings. Meetings shall be held at least every other week and at such other times as the committee may determine necessary. Variations in the meeting schedule are permissible to accommodate holidays and other circumstances.
- D. Quorum. A quorum for the transaction of business shall consist of three members.
- E. Chairmanship structure. A chair and vice chair shall be appointed by the County Administrator.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.6.5. - Appeal.

In case of disagreement between the applicant and the Development Review Committee, the decision of the Development Review Committee may be appealed to the Board of County Commissioners or other authority as established by this Code.

(Ord. No. 13-20, § 2, 7-11-2013)

DIVISION 7. - VESTED RIGHTS

Sec. 1.7.1. - Intent and purpose.

This division establishes the administrative procedures and standards by which a property owner may demonstrate that private property rights have been vested from the provisions of the adopted Comprehensive Plan. Said administrative procedures shall provide determinations if a development is vested from the requirements of the adopted Comprehensive Plan and to what extent. The Marion County Comprehensive Plan provides objectives and policies relating to vesting and exceptions from density requirement for the unincorporated area of Marion County.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.7.2. - Vested development rights.

- A. A property owner shall have vested rights to complete any development where:
 - (1) The development has been authorized as a Development of Regional Impact pursuant to Ch. 380 FS; or
 - (2) The development has been authorized as a Florida Quality Development pursuant to Ch. 380 FS, or
 - (3) The development has been issued a final local development order by Marion County and development has commenced and is continuing in good faith; or
 - (4) The property owner or developer has requested and secured a vested rights determination consistent with the provisions of this division.
- B. The property owner may qualify for an exception to the densities required in the Comprehensive Plan for construction of one residential unit.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.7.3. - Presumptive, statutory, and common law vesting.

A. Presumptive Vesting. The following categories shall be presumptively vested for the purposes of consistency with the Comprehensive Plan as specified in the Comprehensive Plan and shall not be required to file an application to preserve their vested rights status:

- (1) All active and valid building permits issued prior to June 11, 1992 where development has commenced and is continuing in good faith before expiration of such permits.
- (2) Any structure on which construction has been completed and a certificate of occupancy issued if a certificate of occupancy was required at time of permitting.

B. Presumptive Exceptions to Densities. Recorded and unrecorded subdivisions that may be allowed density exceptions or that may be required to aggregate contiguous lots are as follows:

Parcels within a phase of a recorded or unrecorded subdivision which have met the applicable conditions set forth below prior to January 1, 1992 shall be permitted to develop at the density established for that subdivision, provided that all Ch. 10D-6 FAC requirements and all other requirements of the Comprehensive Plan are met. Those recorded or unrecorded subdivisions not meeting the requirements listed below will be required to aggregate parcels to meet the density requirements of this Comprehensive Plan as provided herein.

- (1) Subdivisions that have direct access to a County paved road and in which all parcels front on a continually maintained, paved, or stabilized road that meets the standards established by Marion County; and
- (2) Parcels within subdivisions in which all parcels are served by a stormwater management system that functions at the standards established by Marion County; and
- (3) Parcels within subdivisions in which the sale of individual lots to persons by the original subdivider has occurred at the following rates prior to August 11, 1993:
 - (a) At least 85 percent of the total number of lots are sold if the subdivision was created in 1982 or before; or
 - (b) At least 60 percent of the total number of lots are sold if the subdivision was created from 1983 to 1987 inclusive; or
 - (c) For subdivisions created after 1987 the following conditions apply in order for no aggregation requirements to be placed upon contiguous lots within the subdivision:
 1. At least 50 percent of the total number of lots are sold by 1993 if the subdivision was created in 1988; or
 2. At least 50 percent of the total number of lots are sold by 1994 if the subdivision was created in 1989; or
 3. At least 50 percent of the total number of lots are sold by 1995 if the subdivision was created in 1990; or
 4. At least 50 percent of the total number of lots are sold by 1996 if the subdivision was created in 1991; or
 5. At least 50 percent of the total number of lots are sold by 1997 if the subdivision was created in 1992.

The percentage of lots sold is meant to reflect the sale of individual lots to many individuals and not the transfer of large number of contiguous lots to investors. The County shall deny this exception if the sale of lots as indicated above does not reflect this intent.

C. The Growth Services Director or designee shall notify developers or owners, upon their request, of recorded and unrecorded subdivisions, in writing, of parcels in the subdivision subject to aggregation under this section. A developer or owner may appeal the determination of the Growth Services Director to the Development Review Committee provided such an appeal is filed within 90 days of the issuance of the determination. Failure of the developer or owner to submit an appeal within the 90-day period

shall constitute a waiver of any right to appeal. The written determination of the Growth Services Director or designee that contiguous lots are subject to aggregation shall control the issuance of building permits on such lots. A decision on appeal may be appealed to a Hearing Officer in accordance with this division.

D. Statutory Vesting. The following categories will be statutorily vested for the purposes of consistency with the Comprehensive Plan and shall not be required to file an application to preserve their vested rights status. The Growth Services Department shall maintain a listing of such developments.

(1) Development Orders issued prior to the effective date of this division authorizing a Development of Regional Impact (DRI) or a Florida Quality Development (FQD) pursuant to Ch. 380 FS or any successor statute to said Chapter to the extent such development order specifically addresses vested rights to complete such development.

(a) Developments shall be vested to the extent that vested development rights are set forth in a valid, unexpired binding letter and any subsequent binding letter of modification pursuant to §§ 380.06(4) and 380.06(20) FS or any successor statute to said Sections.

(2) Developments failing to comply with this division shall be required to apply for a determination of vested development rights and possible requirements for consistency with the adopted Comprehensive Plan prior to commencement or continuation of development. The right to develop or to continue the development of the property shall be found to exist if a valid and unexpired final local development order was issued by the County prior to the effective date of this division and development has commenced and is continuing in good faith.

E. Common Law Vesting.

(1) An application for a vested rights determination shall be approved if the applicant has demonstrated all of the following or otherwise been accorded vested rights status by a court of competent jurisdiction after the applicant has complied with the administrative appeal rights set forth in this division.

(a) There was a valid, unexpired act of an agency or authority of Marion County which the applicant reasonably relied upon in good faith; and

(b) The applicant, in reliance upon the valid, unexpired act of Marion County, has made a substantial change in position or has incurred extensive obligations or expenses; and

(c) It would be inequitable, unjust or fundamentally unfair to deny the development rights acquired by the applicant. In making this determination, Marion County shall consider a number of factors including but not limited to:

1. Whether construction or other development activity has commenced and is continuing in good faith.

2. Whether the expenses or obligations incurred have been substantially utilized for a development permitted by the Marion County Comprehensive Plan and Land Development Regulations in effect at the time of the expenditure.

(2) The following are not considered development expenditures or obligations in and of themselves:

(a) Expenditures for legal and other professional services that are not related to the design or construction of improvements;

(b) Taxes paid;

(c) Expenditure for acquisition or the financing costs of the land.

(3) The mere existence of zoning, standing alone, which may be contrary to the Future Land Use Element, or any other element of the Comprehensive Plan shall not be determinative of vested rights.

F. Time Limitations.

- (1) The owner shall request a determination of vested rights pursuant to this division by filing a technically complete, sworn application and the application fee with the Growth Services Department, on or before the dates set forth below.
 - (a) Application for Vested Right Determination from the Policies of the Comprehensive Plan adopted January 29, 1992 shall be filed on or before December 31, 1992.
 - (b) Application for Vested Right Determination from the Remedial Amendments to the Comprehensive Plan adopted August 11, 1993 shall be filed on or before June 10, 1994.
 - (c) Application for Vested Right Determination from future amendments to the Comprehensive Plan shall be filed within 180 days of the adoption date of such future amendments to the Comprehensive Plan.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.7.4. - Application procedures.

- A. Application for vested rights determination pursuant to this division shall be submitted to the Marion County Growth Services Department and shall include the following information:
 - (1) The name and address of the applicant, who is the owner(s) or a person authorized in writing to apply on behalf of the owner(s). If the property is owned by more than one person, any owner or an authorized agent of the owner(s) may apply;
 - (2) A legal description and survey of the property which is the subject of the application;
 - (3) The name and address of each owner of the property;
 - (4) A site or development plan or plat for the property;
 - (5) Identification by specific reference to any ordinance, resolution, or other action of the County, or failure to act by the County upon which the applicant relied and which the applicant believes supports the owner's vested rights claim notwithstanding an apparent conflict with the adopted Comprehensive Plan;
 - (6) Such other relevant information that staff may request.
- B. Failure to timely file an application requesting a determination within the prescribed time limits shall constitute a waiver of any vested rights claim by the owner of the property.
- C. The Board shall establish an application fee by resolution and said application fee shall be included with the application for a determination of vested rights.
- D. At any time during or after the application period, the Board may waive the maximum response time set forth in this division to a date certain. Said waiver may be applicable to any step in the vested rights determination procedure upon the determination by the Board that the volume of applications received exceeds the capacity of the staff to process those applications within the stated time limits or upon the applicant's reasonable request.
- E. Review for completeness. The Growth Services Director or designee shall review the submitted application within ten working days after receipt to determine if the request is technically complete. If not technically complete, it will be returned to the applicant immediately with written notification of deficient items as required by this division. Within 20 additional working days from the date the application was returned to the applicant, the applicant shall correct the deficient items and resubmit the application. If the applicant does not resubmit in this time period, the application will become void unless granted an extension by the Development Review Committee (DRC) based on applicant's request. Extension shall be for one time only and shall not exceed 45 calendar days.
- F. Vesting determination. After an application is determined technically complete by the Growth Services Director, it shall be reviewed by staff for recommendations and scheduled for DRC's consideration. Final status determination shall be provided within 40 working days. The staff recommendation report

and the application shall be presented as part of the DRC agenda. The applicant shall be notified in writing of the date and time of the DRC meeting a minimum of five working days prior to the meeting date.

- G. DRC shall provide the applicant with written notification of the determination of vested status including findings of fact supporting such determination, within ten working days after making said determination.
- H. Upon receipt of the written notification, an applicant may appeal DRC's determination to a Hearing Officer. A request to appeal shall be submitted in writing to the Growth Services Director with the appropriate fees. Once the request to appeal is received and determined valid, the Growth Services Director shall notify the Hearing Officer who will set a date, time, and place for the hearing. A report based on the information considered and discussed by DRC will be prepared by staff and presented to the Hearing Officer. A copy of this report will be made available to the applicant prior to the hearing.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.7.5. - Appeals to the Hearing Officer.

- A. Purpose. It is the purpose of this section to provide an administrative process for appealing decisions rendered by DRC prior to any available recourse in a court of law. In particular, it is intended that such administrative relief be provided in the most professional, objective, and equitable manner possible through the appointment of a Hearing Officer to adjudicate matters as provided herein. No party shall be deemed to have exhausted his or her administrative remedies for the purpose of seeking judicial review unless the party first obtains review of DRC's decision by the Hearing Officer as provided herein.
- B. Hearing. The Hearing Officer shall conduct a de novo administrative hearing in order to render a vested rights determination consistent with the provisions of this chapter.
- C. Appeal. After a DRC vesting determination, the Hearing Officer "appeal" process provided in this section is designed to allow for an appeal of DRC action after a full and complete hearing. This "appeal" is not intended to mean an appeal in the traditional sense, that is, only a review of the DRC record of their determination. The Hearing Officer "appeal" shall be construed in its broadest, nontechnical sense, which is merely an application to a higher authority for a review of the DRC action taken.
- D. Record on Appeal. If the DRC record of their determination is full and complete, the Hearing Officer may determine that the record is the only evidence that is necessary. However, the Hearing Officer may determine that additional evidence and oral or written testimony, including cross-examination, is necessary to properly evaluate DRC's action. The Hearing Officer shall have the authority to determine the need for additional evidence and/or testimony.
- E. Applicability. The property owner may appeal to the Hearing Officer a decision rendered by DRC on an application for a vesting determination.
- F. Filing for appeal. The procedure for filing an appeal shall be as follows:
 - (1) Appeals shall be commenced by filing a notice of appeal with the Growth Services Department within 30 calendar days of the date the decision of DRC is rendered.
 - (2) The notice of appeal shall set forth in detail the basis of the appeal.
 - (3) The County shall accurately and completely preserve all testimony in the proceeding and, on the request of any party, it shall make a full or partial transcript or existing hearing record available at no more than actual cost.
 - (4) In any case where a notice of appeal has been filed, the decision of DRC shall be stayed pending the final decision of the Hearing Officer.
 - (5) Following the hearing, the Hearing Officer shall prepare the written findings and decision. Copies of the findings and decision shall be mailed by the Hearing Officer to each party to the appeal and to the Growth Services Department, with a copy provided to DRC.

- G. Conduct of the hearing. Conduct of the hearing before the Hearing Officer shall be as follows:
- (1) The Hearing Officer shall set forth at the outset of the hearing the order of the proceedings and the rules under which the hearing will be conducted.
 - (2) The order of presumption at the hearing shall be as follows:
 - (a) Receipt of the transcript, minutes and exhibits from DRC, if any.
 - (b) Opening statements by the parties.
 - (c) Appellant's case.
 - (d) Respondent's case.
 - (e) Rebuttal by appellant.
 - (f) Summation by respondent.
 - (g) Summation by appellant.
 - (h) Conclusion of the hearing by the Hearing Officer.
 - (3) The record of DRC's hearing and decision, including all exhibits, shall be received and constitute a part of the record.
 - (4) The Hearing Officer shall have the authority to determine the applicability and relevance of all materials, exhibits, and testimony and to exclude irrelevant, immaterial, or repetitious matter.
 - (5) The Hearing Officer is authorized to administer oaths to witnesses.
 - (6) A reasonable amount of cross-examination of witnesses shall be permitted at the discretion of the Hearing Officer.
 - (7) The time for presentation of a case shall be determined by the Hearing Officer.
 - (8) The Hearing Officer may allow the parties to submit proposed written findings of fact and conclusions of law following the hearing, and shall advise the parties of the timetable for so doing if allowed.
- H. Decision. The decision of the Hearing Officer shall be based upon the following criteria and rendered as follows:
- (1) The Hearing Officer shall review the record and testimony presented at the hearing before DRC. Although additional evidence may be brought before the Hearing Officer, the record before DRC shall be incorporated into the record before the Hearing Officer, supplemented by such additional evidence as may be brought before the Hearing Officer.
 - (2) The Hearing Officer shall be guided by the previously adopted Comprehensive Plan, the currently adopted Comprehensive Plan, the Land Development Regulations, this division, and established case law.
 - (3) The burden shall be upon the property owner to show that the decision of DRC is not supported by a preponderance of the evidence or the DRC decision departs from the essential requirements of law.
 - (4) The Hearing Officer's determination shall include appropriate findings of fact, conclusions of law, and decision in the matter of the appeal. The Hearing Officer may affirm, affirm with conditions, or reverse the decision of DRC.
 - (5) The Hearing Officer shall file his written determination on each appeal with the Growth Services Director within 30 calendar days of the date of the appeal hearing and a copy shall be provided to DRC and the applicant.
 - (6) The decision of the Hearing Officer shall be final, subject to judicial review.

- I. Judicial Review. Judicial review of the Hearing Officer's decision is available to the property owner and the County and shall be by common-law certiorari to the Circuit Court subject to the Florida Rules of Appellate Procedure. A notice of appeal must be filed within 30 days of rendition of the Hearing Officer's decision. In any case where judicial review is sought, the decision of the Hearing Officer shall be stayed pending the final determination by the Circuit Court.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.7.6. - Appointment and qualifications of Hearing Officer.

- A. The Board shall provide a Hearing Officer to conduct hearings and shall pay all costs of the Hearing Officer.
- B. A person appointed as Hearing Officer shall possess the requisite knowledge of Florida land use practices and relevant land use, vesting, statutory and case law.
- C. No Hearing Officer shall act as agent or attorney or be otherwise involved with any associated land development matter which may come before the Hearing Officer on appeal. The Hearing Officer shall refuse to handle or shall excuse himself from all appeals which involve a conflict of interest. Further, no Hearing Officer shall initiate or consider ex parte or other communication with any party of interest to the hearing concerning the substance of any proceeding to be heard by the Hearing Officer except such expert advice as the Hearing Officer may determine appropriate and solicit.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.7.7. - Limitations on determinations of vested rights.

- A. Presumptive vested rights determinations do not have an expiration date unless specified in other ordinances, building permits, statutory limitations and limitations contained within approved development orders.
- B. Common law vested rights determinations shall remain valid for a period up to five years from the date the determination was made unless otherwise specified by the vesting authority. An extension may be requested and granted by the Board. The request for an extension must be made no less than 90 days prior to the expiration of the determination.
- C. All development subject to a vested rights determination must be consistent with the terms of the development approval upon which the determination was based. Any substantial deviation from a prior approval, except as required by governmental action, shall cause the development involved to be subject to the policies, regulations and implementing decisions set forth in the Comprehensive Plan for such deviation only. Vested projects wishing to amend or change their Master Development Plans and schedules shall request consideration by DRC which shall make a recommendation to the Board if the proposed amendment or change constitutes a substantial deviation from the vested project. DRC shall make recommendations to the Board concerning requirements necessary to mitigate the deviation.

Changes in a vested development that do not create additional impact by the development will not be considered a substantial deviation from the vesting order.

- D. A vested rights determination shall apply to the land and is therefore transferable from owner to owner.
- E. If the development order expires prior to development and extensions permitted in this Code are not pursued, the vesting status of the property will become null and void.
- F. Development orders issued after May 1, 1992, will be required to be in full compliance with the Comprehensive Plan and the Land Development Code.

- G. Persons or entities granted a county development order vested under the provisions of this Code shall be vested to complete their development in accordance with the terms of their development order as approved in writing or shown on accompanying plans.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.7.8. - Development rights.

Nothing in this division or in any final vested rights determination made pursuant to this division shall impair the authority of the County to defer exercise of development rights in circumstances where such deferral is necessary to the public health, safety and welfare and is otherwise authorized by law.

(Ord. No. 13-20, § 2, 7-11-2013)

DIVISION 8. - CONCURRENCY MANAGEMENT

Sec. 1.8.1. - Purpose and intent.

- A. This division establishes the County's "Concurrency Management System" to evaluate level of service impacts to ensure public facilities will not be degraded below their respective level of service standard as adopted in the Marion County Comprehensive Plan and/or the Inter-Local Agreement between the Board and the Marion County School Board, consistent with the provisions of § 163.3180 FS.
- B. No final development order shall be approved, except for development identified as exempt or vested by this division, unless it is determined that the necessary public facilities will be available concurrent with the impacts of the proposed development consistent with the provisions of this division, the Marion County Comprehensive Plan, and § 163.3180 FS. The burden of meeting concurrency requirements is on the applicant requesting a final development order, consistent with the provisions of this division.
- C. This division is intended to comply with § 163.3180 FS, as amended by HB 319 (2013) ("the statute"). In the event of any conflict or inconsistency between the statute and this division, the statute shall control. It is further the intent of the Board that while the Board may only condition approval of an application for development approval on the mitigation of development-specific impacts (in addition to compliance with all other code requirements), the County may nevertheless negotiate with a developer for voluntary dedications or other contributions toward funding of infrastructure beyond impacts generated by a development, based on terms that would be mutually beneficial to the developer and the County and the public.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.8.2. - Applicability.

- A. The following facilities are subject to concurrency review and approval, consistent with § 163.3180 FS:
 - (1) Potable water,
 - (2) Sanitary Sewer,
 - (3) Solid Waste,
 - (4) Stormwater,
 - (5) Schools, and
 - (6) Roadway transportation facilities.
- B. The following facilities are not subject to concurrency review and approval:

- (1) Parks and recreation, and
 - (2) Mass transit.
- C. The following development applications shall be classified as a final development order subject to facility concurrency review and approval consistent with the provisions of this division and Article 2; however items (2) through (8) shall be eligible to elect concurrency deferral as provided in Section 1.8.2.F:
- (1) Development of Regional Impact/Florida Quality Development,
 - (2) Rezoning,
 - (3) Master Plan,
 - (4) Preliminary Plat,
 - (5) Improvement Plan,
 - (6) Final Plat,
 - (7) Major Site Plan,
 - (8) Minor Site Plan, and
 - (9) Building Permit which will result in enabling or conducting a use which is new and/or an increase in intensity of a previously existing/operating use.
- D. The following development applications shall be classified as a preliminary development order subject only to facility concurrency review. However, concurrency approval is not required as a part or function of the development application's review consistent with Article 2:
- (1) Comprehensive Plan Amendment,
 - (2) Land Development Code Amendment,
 - (3) Special Use Permit, and
 - (4) Conceptual Plan.
- E. Applications for development orders or permits meeting the following shall be exempt from this division:
- (1) Vested development.
 - (a) The following vested development types, except as noted or consistent with Item (b):
 - 1. Vested rights. A project granted vested status and issued a Vesting Order consistent with the provisions of Division 1.7 unless a reference(s) to meeting concurrency is specified in the vested project's vesting determination.
 - 2. Vested development order. A DRI or FQD subject to a Development Order issued prior to June 18, 1992, unless a reference(s) to meeting concurrency is specified in the DRI or FQD's Development Order.
 - 3. Vested building permits. Building permits issued prior to June 18, 1992.
 - (b) Vested development proposed to be modified shall be subject to concurrency review if the modification creates additional development units, density, and/or intensity. However, only the net increase or expansion shall be subject to concurrency review and approval.
 - (2) The following development types and related development orders or permits which are not creating or increasing density or intensity of use are exempt from this section:
 - (a) Existing buildings to be modified, altered, repaired or replaced unless the modification will increase the number of units in a residential building or increase and/or change the square footage and/or intensity of the use for a non-residential building. Where such modifications will increase the number of dwelling units or increase and/or change square footage and/or

intensity of the use for non-residential projects, only the net increase or expansion shall be subject to concurrency review and approval.

- (b) Accessory buildings and structures for residential uses which do not include any living units or allow for new and/or additional non-residential site uses, such as barns, sheds, garages, towers, storage tanks, and swimming pools.
- (c) Development applications in Article 2 that do not authorize increases in density or intensity.
- (d) Fire stations, utility plants (potable water, sanitary sewer) not including office space.
- (e) A building permit for one individual single family residence shall be exempt from concurrency review and approval, subject to compliance with this Code.

- F. Concurrency Deferral. An owner may elect to defer required concurrency review and approval for a development application identified in Section 1.8.2.A to a subsequent development application review stage by executing the following "Concurrency Deferral Statement" on the development application plan, or in a separate sworn and notarized affidavit, a copy of which shall be provided to Growth Services and the original shall be recorded in Marion County's Public Records, as applicable:

"This project has not been granted concurrency approval and/or granted and/or reserved any public facility capacities. Future rights to develop the resulting property(ies) are subject to a deferred concurrency determination, and final approval to develop the property has not been obtained. The completion of concurrency review and/or approval has been deferred to later development review stages, such as, but not limited to, [list subsequent applications expected pursuant to Section 1.8.2.C as applicable]."

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.8.3. - Level of Service Standards (LOSS).

The level of service standards herein shall be used to evaluate development demand for concurrency review, evaluation, and/or approval, consistent with the Comprehensive Plan, Ch. 163 FS, and the following provisions:

- A. Potable water.
 - (1) Residential land uses - 150 gallons per person per day.
 - (2) Non-residential land uses - 2,750 gallons per acre.
- B. Sanitary sewer.
 - (1) Residential land uses - 110 gallons per person per day.
 - (2) Non-residential land uses - 2,000 gallons per acre per day.
- C. Solid waste.
 - (1) Residential land uses - 6.2 pounds of solid waste generation per person per day.
 - (2) Non-residential land uses - non-residential uses are exempt from solid waste concurrency review and approval, subject to compliance with applicable local, regional, state, and federal hazardous waste management and other applicable solid waste removal requirements and regulations.
- D. Stormwater.
 - (1) Closed basin stormwater systems shall be designed for a minimum 100-year frequency, 24-hour duration design storm.
 - (2) Open basin stormwater systems shall be designed for a minimum 25-year frequency, 24-hour duration design storm.

- (3) Other best available data may be presented for review and approval consideration subject to approval by the County Engineer, or designee.

E. Schools.

- (1) LOSS shall be based on school type and its respective design capacity as follows:
 - (a) Elementary—105 percent of the school's design capacity.
 - (b) Middle—105 percent of the school's design capacity.
 - (c) High—100 percent of the school's design capacity.
- (2) The final demand and capacity determination shall be made by the Growth Services Director in consultation with the Marion County School Board. The appeal of any such determination shall be made to DRC which may consider input provided by the Marion County School Board.

F. Traffic/roads LOSS shall comply with the following:

- (1) State Roadways Not Exceeding Capacity: LOSS shall comply with FDOT Procedure No. 525-000-006, Level of Service Standards and Highway Capacity Analysis for the State Highway System, as amended.
- (2) State Roadways Exceeding Capacity: LOSS shall comply with FDOT Procedure No. 525-000-006 and the LOSS provided in Table 1.8-1: State Roads Exceeding Capacity, until such time FDOT and/or Marion County can secure committed funding for the creation of a additional roadway capacity.
- (3) Marion County Specific Roadways: LOSS shall comply with Table 1.8-2 Minimum Peak Hour LOSS for Specific Functionally Classified County Roads.
- (4) Marion County Non-specified Roadways: LOSS shall comply with Table 1.8-3 Minimum Peak Hour LOSS for Non-Specified Functionally Classified County Roads NOT specified in Table 1.8-2.

Table 1.8-1 State Roads Exceeding Capacity

Road	From	To	Roadway Class	LOSS
SR 40	NE 64th Avenue	SR 326	Rural Principal Arterial	D
SR 40	SR 326	CR 314	Rural Principal Arterial	D

Table 1.8-2 Minimum Peak Hour LOSS for Specific Functionally Classified County Roads

Road Segment	From	To	LOSS
CR 320	Levy C.L.	I-75	B
CR 320	I-75	US 441	B

CR 318	Levy C.L.	CR 225	B
CR 318	CR 225	US 441	D
CR 318	US 441	US 301	C
CR 316	Levy C.L.	I-75	B
CR 316	I-75	CR 200 A	C
CR 326	Levy C.L.	CR 225 A	C
CR 326	CR 225 A	NW 44th AVE	D
CR 464 B	Levy C.L.	US 27	C
CR 329	Alachua C.L.	CR 320	B
CR 329	CR 320	CR 316	B
CR 329	CR 316	I-75	C
CR 329	I-75	US 441	C
CR 329	US 441	CR 200 A	C
NW 110th Ave	US 27	SR 40	C
CR 225 A	CR 329	CR 326	C
CR 225 A	CR 326	US 27	D
CR 225	CR 318	CR 326	B
CR 225	CR 326	US 27	B
CR 25 A	US 441	CR 329	D
CR 25 A	CR 329	CR 326	D

CR 328	US 41	SR 40	D
SW 66th St	CR 475 A	CR 475	C
SE 80th St	CR 475 A	US 441	C
SE 80th St	US 441	SE 41st Ct	C
CR 475 A	CR 475 B	CR 484	C
CR 475 A	CR 484	CR 475	C
CR 475 A	CR 475	US 301	C
CR 475	SE 52nd St	SE 80th St	C
CR 475	SE 80th St	CR 484	C
W Anthony Rd	SR 326	North Terminus	C
NE 58th Ave	SR 326	NE 97th St Rd	C
NE 97th St Rd	NE 36th Ave	NE 90th St Rd	C
NE 90th St Rd	NE 97th St Rd	CR 315	C

Table 1.8-3 Minimum Peak Hour LOSS for all Non-specific Functionally Classified County Roads NOT Specified in Table 1.8-2

Roadway Type	Urban	Rural
Freeways	D	C
Principle Arterial	D	C
Minor Arterial	E	D
Major Collector	E	D

Minor Collector	E	D
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- (5) Measures such as access control, intersection improvements, improvements to alternative routes, and other transportation system management and transportation demand management strategies shall be implemented as a part of the strategy to "maintain and improve" the existing operating level of service.

G. Parks and recreation.

- (1) Residential land uses - Two acres land per 1,000 population. For use in development review, 0.002 acres per person shall be used.
- (2) Non-residential - non-residential uses are exempt.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.8.4. - Concurrency applications and requirements.

A. Applications types.

- (1) The submission of a development application, as provided in Section 1.8.2.C and Article 2, shall be deemed an application for concurrency review and approval.
- (2) No application for concurrency review and approval, as a request to reserve public facility capacity, may be submitted.

B. Application requirements.

- (1) The development application serving as the concurrency application shall comply with the submission requirements of that application type and include a complete listing of all public facility improvements, both on-site and off-site, to be provided by the applicant.
- (2) Utility Certification - If potable water or sanitary sewer is to be provided by an entity other than Marion County Utilities, the development application serving as the concurrency application shall be accompanied by a certificate from that entity that adequate capacity is available and reserved to satisfy the LOS Standard for water and/or sanitary sewer, consistent with the provisions of Section 1.8.3, as applicable.

C. All applications shall be reviewed for completeness. If adequate information to evaluate the application is not included, the applicant will be notified of the details of the incompleteness within the same time frame as specified by the corresponding development application.

D. Concurrency review shall follow the same development review process and time frames as the corresponding development application, based on the date the application was deemed complete.

E. All concurrency applications will be evaluated in the order in which they are deemed complete.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.8.5. - Concurrency evaluation.

A. Concurrency evaluation determines if there is adequate available capacity of each public facility types in Section 1.8.3.A through F to serve a proposed development project.

- B. The demand for facility impacts shall be calculated as follows:
- (1) For residential land uses, demand shall be based on the number of persons per dwelling unit type based on the most recent United States Decennial Census data as published by the United States Commerce Department, Bureau of the Census. A development application may recommend alternative person per unit densities based on actual conditions of specific area supported by data and analysis, subject to approval by the Growth Services Director in consultation with the Director for the related public facility; appeal of such a determination shall be made to DRC.
 - (2) For non-residential land uses, demand shall be based on acreage or other capacity standards where/when they are identified for specific land-uses in this Code (e.g., equivalent residential unit conversions, etc.). A development application may recommend alternative capacity standards for use, subject to approval by the Growth Services Director in consultation with the Director for the related public facility; appeal of such a determination shall be made to DRC.
- C. The concurrency requirements for each of the facility types in Section 1.8.3.A through F shall be considered to be met if one of the following is satisfied for that facility type:
- (1) The necessary facility is in place at the time a final development order is issued; or,
 - (2) The necessary facility is under construction at the time a final development order is issued and will be in place at the time the impacts of the development occur; or
 - (3) A final development order is issued subject to a development order condition that the necessary facility will be in place at the time the impacts of the development occur;
 - (4) The necessary facility is fully funded in the County's Five Year Capital Improvements Plan as approved by the Board consistent Ch. 163 FS, or,
 - (5) Provision of the necessary facility is guaranteed in an enforceable development agreement. An enforceable development agreement may include, but is not limited to, development agreements pursuant to § 163.3220 FS, or an agreement or development order issued pursuant to Ch. 380 FS. The agreement must guarantee that the necessary facility will be in place at the time impacts of the development occur.
- D. The concurrency requirements for transportation shall be considered to be met if one of the provisions in Section 1.8.5.C (1) through (3) above is applicable. Also, the concurrency requirement for transportation may be satisfied by assuring that one of the following provisions is met:
- (1) The construction of necessary road improvements to provide the capacity necessary to maintain the adopted level of service standard have been included in the first three years of the applicable Florida Department of Transportation Five Year Work Program for State roads; or
 - (2) The construction of necessary road improvements to provide the capacity necessary to maintain the adopted level of service standard have been included in the first three years of the County's Five Year Capital Improvements Program.
- E. In determining the availability of services or facilities, a developer may propose and the County may approve developments in stages or phases so that the facilities and services needed for each phase will be available in accordance with the standards required by Sections 1.8.5.A and B above.
- F. Intergovernmental coordination. The concurrency evaluation and minimum requirements shall only apply to those facilities within the unincorporated area of or under the jurisdiction of Marion County. If part of the applicable service area or Traffic Impact Area lies within an adjacent County or a local government within Marion County, the adopted level of service standard for those facilities lying within the adjacent County or local government shall be those adopted by such County or local government. A certification from the adjacent County or local government that the issuance of the final development order will not cause a reduction in the level of service standards for those facilities lying within the adjacent County or local government shall be required prior to granting a final development order approval and/or affirmative concurrency approval.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.8.6. - Concurrency determination.

- A. The concurrency determination cumulatively applies changes in demand (development) and supply (facility improvement) to the current available capacity of public facility, consistent with § 163.3180 FS, as follows:
- (1) Identify and determine each applicable facility and its available facility capacity;
 - (2) Determine development units (e.g., residential dwelling units, non-residential use square feet/acreage) by land use type from the development application;
 - (3) Apply/multiply development units by the demand multiplier provided in Item B. below to determine the development application demand; and
 - (4) Subtract application demand from available facility capacity to determine if adequate facility capacity exists for proposed development.
 - (5) Result of the procedure is as follows:

Capacity - Demand = Surplus = Adequate Capacity Determination (Approval)

or

Capacity - Demand = Deficit = Inadequate Capacity Determination (Denial)

- B. Demand multiplier for each public facility for evaluation of impacts:
- (1) Potable water. The multiplier shall be the applicable LOSS standard provided in Section 1.8.3.A. If a non-Marion County potable water system will be serving a proposed development, the applicant shall submit a certification from that entity that adequate capacity is available and reserved to satisfy the level of service standard for potable water. A proposed development authorized to use an individual on-site potable water source to be permitted by the DOH shall be deemed to have adequate facility capacity.
 - (2) Sanitary sewer. The multiplier shall be the applicable LOSS standard provided in Section 1.8.3.B. If a non-Marion County sanitary sewer system will be serving a proposed development, the applicant shall submit a certification from that entity that adequate capacity is available and reserved to satisfy the level of service standard for sanitary sewer. A proposed development authorized to use individual OSTDS or non-centralized system to be permitted by the DOH and/or DEP shall be deemed to have an adequate facility capacity.
 - (3) Solid waste. The multiplier shall be the applicable LOSS standard provided in Section 1.8.3.C. If the Solid Waste Department has stated in the Annual Facility Capacity Statement that adequate facility capacity exists for all projected needs for the following year then this statement will serve as a finding of concurrency for all development orders issued through the year.
 - (4) Drainage. Concurrency evaluation for drainage is done on a site specific basis. The level of service standard is applied directly to the proposed development site. The evaluation is done in accordance with the Marion County Land Development Code and the applicable Water Management District requirements.
 - (5) Traffic - roads.
 - (a) Trip generation shall be based on the Marion County Traffic Impact Fee data and analysis, as amended; however, if the land use impact fee types are not applicable to the development then the following may be proposed by the applicant, subject to Growth Services Director and County Engineer approval, with appeal to DRC:

1. Rates from the latest available Institute of Transportation Engineers (ITE) Trip Generation Manual, or
 2. Locally derived trip generation rates based on studies performed, or approved and verified by the County.
- (b) Trip distribution analysis shall be provided by the applicant to determine the amount of traffic added to impacted roads segments. For projects generating less than 100 average daily trips, trips may be assigned by County staff.
- (c) Impacted roads shall be determined by using the average trip length as specified in the Marion County Traffic Impact Fee data and analysis, as amended plus those road segments operating at LOS A, B, C or D which the development application would add five percent or more of the LOS D service volume to the peak hour; or, those road segments operating at LOS E or F which the development application would add two percent or more of the LOS D service volume to the peak hour, peak direction.
- (d) The amount of traffic added to each impacted road segment will be subtracted from that road segment's available capacity to determine concurrency.
- C. Adequate capacity determination. When there is adequate capacity in all public facilities for a final development order, the following shall apply:
- (1) The appropriate capacity reservation fees shall be paid by the owner within 15 working days following DRC approval of the development application.
 - (a) In the event the owner fails to provide the required capacity reservation fees, the DRC's development application approval is void.
 - (b) The concurrency approval granted in conjunction with a development application, based upon the details of the application, shall run with the land and be valid for the time period of the corresponding development application. A reservation of capacity provided by the concurrency approval shall expire with the corresponding development application. In the event that a time extension is granted for a development application, then the concurrency approval shall be automatically renewed for the length of the time extension.
 - (c) Any modifications made to the development application may require another concurrency review and approval. In the case of a staged or phased project where only a portion of a prior or preceding plan is submitted for final development order approval, the concurrency approval applies only to that part of the project which is attaining final approval with the concurrent development application.
 - (d) Concurrency approval is specifically limited to the details of the corresponding development application and its final development order and any development conditions, including phasing. In these cases, the final development application shall be reviewed to ensure compliance with any applicable previously granted concurrency approval.
 - (e) If the land use, density, or intensity of the development project changes, another concurrency review and approval will be required.
 - (2) The reserving of capacity shall occur on a first-come, first-serve basis. However, a functional concurrency review application, either development application or independent application, can supersede an application ahead of it, only if sufficient capacity is available to serve the current and prior applications.
 - (3) If applicable, any final concurrency approval will specify any improvements to be made and include a schedule for their completion. For concurrency approval related to a development application, such improvements may be specified on the development application. For an independent concurrency application approval, such improvements may be specified in a developer agreement pursuant to county Code.
 - (4) Concurrency approval does not relieve an owner and/or applicant from complying with all requirements necessary to obtain a final development order and does not vest an owner and/or

applicant with the right to obtain subsequent development orders for the same development project.

- (5) The capacity reservation fee, or portion thereof, can be refunded if the development application does not proceed only if the County and any other provider of capacity has not expended or obligated the money for pre-construction costs or construction of public facilities. A refunding of the capacity reservation fee will result in withdrawal of concurrency approval for the development application or independent concurrency application; however an owner/applicant is not precluded from applying for a new/updated concurrency review and approval.
- D. Inadequate capacity determination. When the concurrency evaluation system determines there is not adequate available capacity in one or more of the public facilities, the following shall apply:
- (1) The applicant will be notified as part of the DRC development application review process, or receive specific comments in response to a submitted independent concurrency application.
 - (2) The applicant shall elect one of the following actions in regards to the inadequate facility:
 - (a) Mitigate the deficiency by:
 1. Altering the design or size of the development in order that all capacities will be adequate;
 2. Break the project into several smaller projects or phases and obtain approvals for each as a separate project;
 3. Propose that the applicant enter into a development agreement with the appropriate party responsible for each deficient public facility, wherein the Agreement specifies the methods to provide the development's proportionate share of additional capacity via proportionate share payment and/or improvements which eliminate and/or mitigate the development's proportionate share of deficiencies prior to the development project's impact, consistent with Ch. 163 FS. In the case of road segment deficiencies, the use of access control, intersection improvements, and improvements to alternative routes and other transportation system management and transportation demand management strategies may be accepted by the County as methods to increase facility capacity.
 4. Submit alternate data demonstrating greater capacity or less impact than has been calculated by the County or other entity responsible for the public facility, using a methodology acceptable to the County and/or responsible entity. In the case of road segment deficiencies, the applicant may prepare a more detailed capacity analysis using methods acceptable to the County; or
 - (b) Delay the project until capacity is available; or
 - (c) Accept denial and withdraw the development application.
 - (3) The applicant has 10 working days to submit one of the above options in response to a deficiency determination. The pending demand status of either application type may be extended an additional 30 calendar days to complete a mitigation alternative. In the case of mitigation, the mitigation plan shall be forwarded to DRC for review and recommendation either along with the accompanying development application or as an independent application, and then on to the Board or applicable public facility controlling entity.
 - (4) Development Agreement. Development agreements shall follow the procedures and requirements of the county Code, as applicable.
- E. Capacity Reservation Fee.
- (1) Capacity reservation fees shall be calculated in the same manner as provided in the corresponding Marion County fee ordinances as follows:
 - (a) Transportation - Marion County Impact Fee Ordinance for Transportation Facilities;

- (b) Utilities - Marion County Utilities Capital Charges, or if for a non-Marion County provider of the facility, as set forth in that provider's capital charge standards;
 - (c) Schools - Marion County Impact Fee Ordinance for Education Facilities.
- (2) The form of payment shall be established by the Board, or the non-Marion County provider as applicable. Improvements or contributions made for off-site improvements, particularly road improvements, shall be credited to capacity reservation fees.
 - (3) The timing of payment shall be divided into two (2) stages which, at a minimum, comply with the following schedule:
 - (a) Fifty percent (50%) at concurrency approval.
 - (b) Fifty percent (50%) at issuance of Certificate of Occupancy, or equivalent.
 - (4) Capacity reservation fees provided to obtain concurrency approval shall be credited to their respective facility impact fee and/or capacity charge, unless said fees were refunded to the applicant as provided in this section.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.8.7. - Off-site improvements.

- A. The purpose of this section is to insure that new development contributes its pro-rata share allocation of the costs for off-site improvements. As a condition of approval for a development application or an independent concurrency application, the County may require an applicant to pay a proportionate share of the cost of providing reasonable and necessary public facilities, including land and easements, located off-site of the property limits of the development, but necessitated or required by the development. Necessary improvements are those clearly and substantially related to the development in question. The County shall provide in its approval, the basis of the required improvements. The capacity and design of the proposed improvements shall be based upon the level of service standards adopted in the Comprehensive Plan. The proportionate amount of the cost of such facilities within a related or common area shall be based on the criteria in Section 1.8.7.B below.
- B. Cost allocation.
 - (1) Full Allocation. In cases where off-site improvements are necessitated by the proposed development, and where no other property owner receives a benefit thereby, the applicant may be required at his sole expense and as a condition of approval, to provide and install such improvements.
 - (2) Proportionate Allocation. Where it is determined through the use of design criteria specified in Article 6 that properties outside the proposed development will also be benefitted by the off-site improvement(s), the following criteria shall be utilized in determining the proportionate share of the cost of such improvements to be borne by the developer:
 - (a) Roads. The applicant's proportionate share of street improvements, widening, alignment, channelization, barriers, new or improved traffic signalization, signs, curbs, sidewalks, utility improvements not covered elsewhere, the construction or reconstruction of new or existing streets, and other associated street or traffic improvements shall be as follows:
 1. The County shall provide the applicant with the existing and reasonably anticipated future peak hour traffic flows for the off-site improvements.
 2. If the existing system does not have adequate capacity as defined above, the pro-rata share shall be computed as follows: $\text{Developer's Cost} = \frac{\text{Total Cost of Improvement} \times \text{Development Peak Hour Traffic to be accommodated by Improvement}}{\text{Peak Hour Capacity of Improvement}}$

- (b) Sanitary Sewer. The applicant's proportionate share of collection facilities including the installation, relocation, or replacement of collector, trunk and interceptor sewers, treatment and disposal facilities and associated appurtenances, shall be computed as follows:
1. The capacity and the design of the sanitary sewer system shall be based on the standards specified in Article 6 of this Code.
 2. For a Marion County facility, the County Utilities Director shall provide the applicant with the existing and reasonably anticipated peak hour flows as well as capacity limits of the affected sanitary sewer system. For a non-Marion County facility, the utility provider shall provide the applicant with the existing and reasonably anticipated peak hour flows as well as capacity limits of the affected sanitary sewer system.
 3. If the existing sanitary sewer system does not have adequate capacity to accommodate the applicant's flow given existing and reasonably anticipated peak hour flows, the pro-rata share shall be computed as follows: $\text{Developer's Cost} = \text{Total Cost of Improvement} \times \text{Development Generated GPD to be accommodated by improvement} \div \text{Capacity of Improvement (GPD)}$.
- (c) Water Supply. The applicant's proportionate share of water supply and distribution facilities including the drilling of wells, installation of pumps, construction of storage tanks, the installation, relocation or replacement of water mains, fire hydrants, valves and associated appurtenances shall be computed as follows:
1. The capacity and the design of the water supply system shall be based on the standards specified in Article 6 of this Code.
 2. For a Marion County facility, the County Utilities Director, shall provide the applicant with the existing and reasonably anticipated capacity limits of the affected water supply system in terms of average demand, peak demand, and fire demand. For a non-Marion County facility, the utility provider shall provide the applicant with the existing and reasonably anticipated capacity limits of the affected water supply system in terms of average demand, peak demand, and fire demand.
 3. If the existing water system does not have adequate capacity as defined above to accommodate the applicant's needs, the pro-rata share shall be computed as follows: $\text{Developer's Cost} = \text{Total Cost of Improvement} \times \text{Development Generated GPD to be accommodated by Improvement} \div \text{Capacity of Improvement (GPD)}$.
- (d) Drainage Improvements. The applicant's proportionate share of storm water and drainage improvements including the installation, relocation, or replacement of storm drains, culverts, catch basins, manholes, riprap, improved drainage ditches and appurtenances, and relocation or replacement of other storm drainage facilities, or appurtenances shall be determined as follows:
1. The capacity and the design of the drainage system to accommodate storm water runoff shall be based on the standards specified in Article 6 of this Code, computed by the developer's engineer and approved by the County Engineer.
 2. The capacity of the enlarged, extended, or improved system required for the subdivision and areas outside of the developer's tributary to the drainage system shall be determined by the developer's engineer subject to approval of the County Engineer. The plans for the improved system shall be prepared by the developer's engineer and the estimated cost of the enlarged system calculated by the County Engineer. The pro-rata share for the proposed improvement shall be computed as follows: $\text{Developer's Cost} = \text{Total Cost of Improvement} \times \text{Development Generated Peak Rate of runoff expressed in cubic feet per second to be accommodated by the Improvement} \div \text{Capacity of Improvement (Capacity expressed in cubic feet per second)}$.
- (e) Other Improvements. The applicant's proportionate share of other capital improvements shall be computed as follows:

1. Developer's Cost = Total Cost of Improvement x Development Share of Improvement ÷ Capacity of Improvement.

C. Escrow accounts. Where the proposed off-site improvement is to be undertaken at some future date, the monies required for the improvement shall be deposited in a separate interest-bearing account to the credit of the County until such time as the improvement is constructed.

(Ord. No. 13-20, § 2, 7-11-2013)

Article 1 - ADMINISTRATION

		Page
Division 1.	General Provisions	1:3
Sec. 1.1.1.	Short title	1:3
Sec. 1.1.2.	Authority and purpose	1:3
Sec. 1.1.3.	Jurisdiction and effective date	1:3
Sec. 1.1.4.	Fee authority	1:3
Sec. 1.1.5.	Enforcement	1:3
Sec. 1.1.6.	Interpretation, conflict, and separability	1:4
Division 2.	Definitions	1:4
Division 3.	Acronyms	1:41
Division 4.	Planning and Zoning Commission (P&Z) and the Land Development Regulation Commission (LDRC)	1:42.4
Sec. 1.4.1.	General provisions	1:42.4
Sec. 1.4.2.	Planning and Zoning Commission (P&Z)	1:44
Sec. 1.4.3.	Land Development Regulation Commission (LDRC)	1:45
Division 5.	Board of Adjustment	1:46
Sec. 1.5.1.	Powers and duties	1:46
Sec. 1.5.2.	Membership, appointment, removal, terms, officers, and vacancies	1:48
Sec. 1.5.3.	Appeals	1:49
Division 6.	Development Review Committee	1:50
Sec. 1.6.1.	General	1:50
Sec. 1.6.2.	Membership	1:50

Sec. 1.6.3.	Purpose	1:50
Sec. 1.6.4.	Rules of procedures	1:50
Sec. 1.6.5.	Appeal	1:50
Division 7.	Vested Rights	1:51
Sec. 1.7.1.	Intent and purpose	1:51
Sec. 1.7.2.	Vested development rights	1:51
Sec. 1.7.3.	Presumptive, statutory, and common law vesting	1:51
Sec. 1.7.4.	Application procedures	1:54
Sec. 1.7.5.	Appeals to the Hearing Officer	1:56
Sec. 1.7.6.	Appointment and qualifications of Hearing Officer	1:58
Sec. 1.7.7.	Limitations on determinations of vested rights	1:58
Sec. 1.7.8.	Development rights	1:59
Division 8.	Concurrency Management	1:59
Sec. 1.8.1.	Purpose and intent	1:59
Sec. 1.8.2.	Applicability	1:60
Sec. 1.8.3.	Level of service standards (LOSS)	1:62
Sec. 1.8.4.	Concurrency applications and requirements	1:65
Sec. 1.8.5.	Concurrency evaluation	1:66
Sec. 1.8.6.	Concurrency determination	1:67
Sec. 1.8.7.	Off-site improvements	1:72

DIVISION 1. - GENERAL PROVISIONS

Sec. 1.1.1. - Short Title.

This Code shall be known as the Marion County Land Development Code (LDC) and may be referred to herein as the "Code."

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.1.2. - Authority and purpose.

- A. This Code is adopted under the general authority of Ch. 125 FS and the requirements of § 163.3161 FS.
- B. This Code is adopted to protect the public health, safety, and general welfare while allowing, encouraging, and promoting flexibility, economy, and ingenuity in the layout and design of land development.
- C. This Code shall be administered to ensure orderly growth and development, and shall serve to implement the Marion County Comprehensive Plan, consistent with the provisions of § 163.3202 FS and other applicable and related policies as established by the Board.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.1.3. - Jurisdiction and effective date.

- A. The provisions in this Code shall be applicable to all lands in unincorporated Marion County unless exempted herein.
- B. The original Marion County Land Development Code became effective on June 18, 1992.
- C. This Code shall become effective on October 12, 2013, and supersedes previous versions of this Code.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.1.4. - Fee authority.

Reasonable fees sufficient to recover costs incurred in the administration and enforcement of this Code may be established by Resolution of the Board of County Commissioners.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.1.5. - Enforcement.

- A. It shall be the duty of the Marion County Administrator, or his designee, to enforce the provisions of this Code.
- B. A violation of this Code shall be deemed a non-criminal violation, punishable as provided by law, and each day such violation continues it will constitute a separate offense. The Code Enforcement Board, as established by Chapter 2, Article 5 of the County Code of Ordinances, may use any remedies or penalties authorized by Ch. 162 FS that it deems necessary to bring about compliance with the provisions of this Code. Code Enforcement officers are authorized to issue civil citations for code violations.
- C. It is a violation of this Code if a development, improvement, or infrastructure facility, subject to the provisions of this Code, is altered, modified, or not used in accordance with the intent of the permit

without prior permission by the County. It is also a violation of this Code to alter or expand a use that was made non-conforming by the adoption of the prior version of this Code on June 18, 1992.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.1.6. - Interpretation, conflict, and separability.

- A. The provisions of this Code shall be interpreted to be the minimum requirements.
- B. Where a condition imposed by any provision of this Code is more restrictive than conditions imposed by any other provisions of this Code or of any other applicable law, code, ordinance, resolution, rule, or regulation of any kind, the more restrictive or higher standard condition shall govern.
- C. The provisions of this Code are separable. If an article, division, section, sentence, clause, or phrase of this Code is adjudged by a court of competent jurisdiction to be invalid, the decision shall not invalidate the remaining portions of this Code.
- D. Pronouns of feminine instead of masculine gender and of plural instead of singular number are to be substituted herein wherever the context so requires.
- E. The words "shall" and "will" are mandatory; "may" and "should" are permissive.

(Ord. No. 13-20, § 2, 7-11-2013)

DIVISION 2. - DEFINITIONS

Unless otherwise expressly stated, for the purposes of this Code, the following terms shall have the meaning indicated herein.

ABANDONED WELL. A well which has its use permanently discontinued, is in such disrepair that its continued use for obtaining groundwater is impractical, has been left uncompleted, is a threat to groundwater resources, or otherwise is or may be a health or safety hazard.

ABROGATION. To close, vacate, or abandon a right-of-way.

ACCESSORY BUILDING OR STRUCTURE (APPURTENANT STRUCTURE). A subordinate building or structure on the same lot, or parcel, or on a contiguous parcel which is occupied by, or devoted to, an accessory use.

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 which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

ACCESSORY USE. A use naturally and normally incidental and subordinate to the principal use of a structure or land and located on the same lot, or parcel or on a parcel contiguous to the principal use to which it relates.

ACTIVE RECREATION. Recreational activities that occur in areas that require substantial structural development and investment, such as playing fields, courts or other facilities. Examples of active recreation include soccer, baseball, swimming in a pool, tennis and basketball. Active recreation differs from passive recreation primarily by the facilities that are required to undertake an activity.

ADDITION. An extension or increase in floor area or height of a building or structure.

ADULT BOOKSTORE OR FILM STORE. An establishment having as a substantial portion of its stock in trade books, magazines, other periodicals, films, video tapes, video disks, or similar items which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

ADULT BOOTH. A small enclosed or partitioned area inside an adult entertainment establishment that is:

- A. Designed or used for the viewing of adult material by one or more persons; and
- B. Accessible to all persons, regardless of whether a fee is charged for access.

The term "adult booth" includes but is not limited to a "peep show" booth, or other booth used to view "adult material." The term "adult booth" does not include a foyer through which a person can enter or exit the establishment, or a rest room.

ADULT CABARET. A bar, lounge, club, or other establishment which may sell alcoholic or non-alcoholic beverages or food and which features as part of the regular entertainment topless or bottomless dancers, strippers, whether male or female, or similar entertainers whose acts are characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas." This definition shall include Adult Encounter Parlor, Adult Lounge, Adult Novelties, Adult Entertainment, and Adult Modeling Studio.

ADULT THEATER OR MINI-MOTION PICTURE THEATER OR DRIVE-IN. An enclosed building or drive-in with a capacity for fewer than 50 persons in which a substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

ADULT THEATER OR MOTION PICTURE THEATER OR DRIVE-IN. An enclosed building or drive-in with a capacity of 50 or more persons in which a substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

ADVERTISING. Sign copy or materials intended to directly or indirectly promote the sale or use of a product, service, commodity, entertainment, or real or personal property.

AGRICULTURAL USES. Those uses of land which involve the science and art of production of plants and animals useful to man including to a variable extent, the preparation of these products for man's use and their disposal by marketing or otherwise. These shall include horticulture, floriculture, viticulture, aquaculture, forestry, dairy, livestock, including the breeding and/or training of horses, poultry, bees, ratites, and any and all forms of farm products and farm production.

AIR GAP. A physical separation between the free flowing discharge and an open or non-pressure receiving vessel.

ALTERATION. Any change in size, shape, character, or use of a building or structure.

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 which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

ANIMAL FEEDING OPERATION. As defined in § 62-670.200 FAC.

ANIMAL UNIT. As defined in § 62-670.200 FAC.

ANTENNA. Any exterior apparatus designed to transmit or receive communications as authorized by the Federal Communication Commission (FCC). The term "antenna" shall not include satellite earth stations used to receive direct-to-home satellite services as defined in 47 USC § 303(v). An array of antennas, installed at one time and designed as a single, integrated system, shall be considered to be a single antenna.

ANTENNA SUPPORT STRUCTURE. Any building or other structure other than a tower, which can be used for the location of an antenna. An antenna support structure shall be referred to as a "utilized antenna support structure" if it is or has been used for the location of an antenna.

ANTIQUATED SUBDIVISION. A subdivision, subdivision series, or any portion of a subdivision or subdivision series, identified by the Board in which further or continued development of that subdivision is deemed undesirable consistent with the provisions of § 163.3164 FS.

APPEAL. The process of seeking a higher authority's determination as established by this Code when a specific decision or determination made by designated staff, committee, or board is disputed. As it pertains to floodplain management, request for a review of the Floodplain Administrator's interpretation of any provision of Article 5, Division 3.

APPLICANT. The property owner, the duly authorized representative of the property owner, or the lessee or occupant of said property who submits a County service or development application to and for said property and who can be bound to all legal obligations related to such request.

AQUACULTURE. The commercial production of fin fish and shellfish, such as crustaceans and mollusks, within a confined space and under controlled feeding, sanitation, and harvesting procedures.

AREA OF SHALLOW FLOODING. A designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

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.

AS-BUILT/RECORD SURVEY. A record of completed construction drawings documenting the actual construction work as it exists in the field, including any changes made from the originally approved plans, meeting the requirements as set forth in § 5J-17.52(1) FAC, and signed, sealed, and dated by a Professional Surveyor and Mapper licensed by the State of Florida.

AUTOMOBILE WRECKING YARD. Premises used for the dismantling or disassembling of two or more used motor vehicles or trailers, or the business of storage, sale, or dumping of dismantled, obsolete or wrecked vehicles, trailers or their parts; a junk yard.

AUXILIARY WATER SUPPLY SYSTEM. A pressurized or pumping-ready water supply system other than a public potable water system which is located on or available to the customer's property whether or not connected to a distribution system within the property. Such auxiliary systems include but are not limited to reclaimed water systems and private wells, as further defined in AWWA M-14 most current edition.

AVAILABLE CAPACITY. An existing central water or sewer system shall be deemed to have "available capacity," if: (a) as to a central water or sewer system, it is capable of providing central service concurrently with the proposed build-out schedule of the project without the applicant having to expand the facility providing treatment for the water to and/or the wastewater from the project; provided, however, if it is necessary for the Marion County Utility Department to so expand the treatment facility, the applicant may be required to prepay capital charges imposed for such facility; and (b) as to a central water or sewer system, its existing water or sewer lines are of sufficient size and capacity to accommodate the water or sewer requirements of the project without the applicant having to reconstruct the existing lines. This requirement concerns existing lines, only, and does not excuse an applicant from having to construct new lines from its project to the point of connection to the central water or sewer system. Further, if it is necessary to replace the existing lines, the County may require the applicant to pay to reconstruct existing lines, within the applicant's required connection distance, in an amount equal to what it would have cost the applicant to originally construct such lines of sufficient size and capacity to accommodate the applicant's project. This does not preclude the County from requiring the developer to upsize the lines in exchange for additional Equivalent Residential Connection credits.

AVIARY. A place for keeping birds confined, including but not limited to a large enclosure where birds fly free, a structure where birds are confined in cages, or large cages where birds are confined. A residential structure containing nine or more birds shall be considered an aviary.

BACKFLOW PREVENTION ASSEMBLY. A mechanical assembly which is supplied with properly located resilient-seated shut-off valves at each end of the assembly and properly located test cocks, and meets the standards of the University of Southern California's Foundation for Cross-Connection Control and Hydraulic Research and complies with the standard listed in the Florida Building Code as adopted by Marion County.

BACKFLOW PREVENTION DEVICE. A mechanical device or plumbing configuration which is designed to prevent backflow.

BAR. Any place devoted primarily to the retail sale and on premises consumption of malt, vinous, or other alcoholic beverages; a tavern.

BASE FLOOD. The flood having a one percent chance of being equaled or exceeded in any given year (also called the "one percent annual chance flood," "100-year flood" and the "regulatory flood"). [Also defined in FBC, B, Section 202.]

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)".]

BED AND BREAKFAST INN. A building, or part thereof, other than a motel or hotel, where sleeping accommodations are provided for transient guests, and may also serve as the residence of the owner or manager.

BEEKEEPING. The keeping or raising of bees for commercial purposes.

BERM. A mound of soil, either natural or manmade.

BIORETENTION FACILITY. An area which provides retention of stormwater through the use of vegetated depressions of approximately four to nine inches in depth with landscaping and engineered soil matrix, designed to collect, store, and infiltrate stormwater runoff. The invert of a bioretention facility is the bottom of the engineered soil matrix.

BOARD. The Marion County Board of County Commissioners.

BOAT YARD. A lot, tract, or parcel where facilities for the construction, reconstruction, major repair, maintenance, or sale of boats, marine engines, equipment, and services of all kinds are provided including marine railways, lifting, or launching services and marinas.

BOTTLE CLUB. A commercial premises to which any alcoholic beverage is brought for consumption on the premises.

BREAKAWAY WALL. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

BUFFER. An area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, buffer walls, buffer fences, or berms, designed to limit continuously the view of or sound from the site to adjacent sites, properties, or water bodies.

BUFFER FENCE. A permanent opaque vertical structure providing a barrier with a finished height of six feet measured from the adjacent grade or at a height as required otherwise.

BUFFER WALL. A permanent opaque vertical structure with concrete components including, but not limited to pillars, panels, block or brick, used within a buffer meeting the requirements of the Florida Building Code, and providing a barrier (whether for sound, wind, or views) with a finished height of six feet measured from the adjacent grade or at a height as required otherwise.

BUILDABLE AREA. As it relates to hamlets, Rural Village District, and Rural Town, the remaining land area eligible for development purposes once areas of open space and open water are subtracted from the gross development lot/parcel/site.

BUILDING. Any structure designed for the habitation of persons or animals or for shelter of property.

BUILDING PERMIT. A permit issued by Marion County pursuant to the provisions of Article 2 of the Marion County Code of Ordinances, consistent with the provisions of the Florida Building Code as established by the State of Florida.

BUILDING SIGN. A sign displayed upon or attached to any part of the exterior of a building, including walls, windows, doors, parapets, marquees, and roof slopes of 45 degrees or steeper.

BUSINESS OR PROFESSIONAL OFFICE. A space within a building where commercial service activity is primarily conducted which may involve the sale of goods or commodities purely incidental to business services provided.

CAMOUFLAGED ANTENNA AND/OR TOWER. A wireless communication antenna and/or tower designed to unobtrusively blend into the existing surroundings and be disguised to not have the appearance of a wireless communication antenna and/or tower. Camouflaged antennas and/or towers on buildings must be disguised to appear as an accessory structure or feature that is normally associated with the principal use occupying the property. Camouflaged antennas and/or towers must be disguised to blend in with other facilities on the property or existing vegetation, such as a tower constructed in the form and shape of a tree to be part of a forested area, or an antenna and/or tower constructed to be a component of a bell, clock, or water tower on sites with compatible buildings, or a component of a church steeple on sites with churches. Surface finish, paint and/or markings alone are insufficient to qualify for a determination as a camouflaged antenna and/or tower.

CAPACITY. Supply of public facility:

- A. Available - capacity of public facility after subtracting demand and reserved capacity.
- B. Design - capacity that public facility was designed for.
- C. Programmed - capacity to be added to public facility by improvement.
- D. Reserved - capacity that has been reserved for a specific development project.

CAPACITY RESERVATION FEE. Fee required which reserves facility capacity. Fee is credited towards applicable impact fees.

CAPITAL IMPROVEMENT. A physical asset constructed or purchased to provide, increase the capacity of, or replace a public facility.

CARPORT. A garage not completely enclosed by walls and doors.

CENTRALIZED SYSTEM. A water withdrawal, treatment, and distribution system (including fire hydrants) or a wastewater collection, treatment, and dispersal system that serves the needs of one or more residential or non-residential development projects. Centralized systems are generally owned, operated, and maintained by Marion County, a city, or a Public Service Commission-certificated entity. Types of facilities and systems not covered by the foregoing general definition are found in § 367.022 FS.

CHANGE OF USE. A discontinuance of an existing use and the substitution of a use of a different kind or class.

CLEAN DEBRIS. Any solid waste material that is virtually inert, that is not a pollution threat to ground or surface waters, that is not a fire hazard, and that is likely to retain its chemical and physical structure under expected conditions of disposal or use. The term includes earth, brick, glass, ceramics, and uncontaminated concrete including embedded pipe or steel, and other wastes designated by the FDEP.

CLEAN FILL. Granular soil free of roots, other vegetative material, and debris typically represented by an AASHTO Soil Classification A-3. Other AASHTO soil classifications may satisfy a requirement for "clean fill" if they meet industry specifications for various fill operations as accepted by FDOT or the Florida Building Code.

CLEARING. The uprooting or removal of vegetation in connection with development. This term does not include yard maintenance operations or other such routine property clean-up activities.

CLOSED BASIN. An internally drained watershed in which the runoff does not have a surface outfall up to and including the 100-year flood elevation.

CLUSTER DEVELOPMENT. A development design technique that concentrates buildings and infrastructure in specific areas on a site to allow the remaining land to be used for open space, preservation of environmentally sensitive areas, or agriculture.

CLUSTERING. The grouping together of principal structures and infrastructure on a portion or portions of a development site.

COLLOCATION. As it relates to antennas, the process of locating two or more antennas on an existing or proposed tower or antenna support structure.

COMMERCIAL VEHICLE. Any vehicle designed or used for the transport of people, livestock, goods, or things. This does not include private passenger vehicles and/or trailers used for private nonprofit transport of goods.

COMMERCIALLY DEVELOPED PARCEL. A parcel of property on which there is at least one walled and roofed structure used, or designed to be used, for purposes other than residential or agricultural.

COMMUNITY CENTER. A building designed and used as a meeting or recreation area to accommodate and serve the community in which it is located.

COMMUNITY RESIDENTIAL HOMES. Group homes or adult foster care facilities in which no more than 14 persons excluding staff reside and where program size and content is structured to meet the individual needs of the residents in these homes.

COMPLETELY ENCLOSED BUILDING. A building having a complete, permanent roof and continuous walls on all sides, either party walls or exterior walls, including windows and doors.

COMPREHENSIVE PLAN. The Marion County Comprehensive Plan as adopted by the Board pursuant to Ch. 163 FS.

CONCENTRATED ANIMAL FEEDING OPERATION. As defined in § 62-670.200 FAC.

CONCURRENCY MANAGEMENT SYSTEM. The policies, procedures, standards, and criteria that Marion County will utilize to assure that development orders and permits are not issued unless the necessary facilities and services are available concurrent with the impacts of development.

CONSERVATION EASEMENT. An easement established under § 704.06 FS, as amended, creating a right or interest in the real property in favor of the entity named in the easement.

CONSTRUCTION AND DEMOLITION DEBRIS (C&DD) DISPOSAL FACILITY. A facility for the disposal of "construction and demolition debris," as that term is defined in § 403.703(6) FS; also referred to as Construction and Demolition (C&D) Landfill.

CONSTRUCTION, EXISTING. As it relates to flood plain management, structures for which the "start of construction" commenced before January 19, 1983. This term may also be referred to as "existing structures."

CONSTRUCTION, NEW. As it relates to flood plain management, any structure for which the "start of construction" commenced on or after January 19, 1983. The term also includes any subsequent improvements to such structures.

CONSTRUCTION PERMIT. The permit issued by the Office of the County Engineer for construction of all required improvements including construction in private and public rights-of-way.

CONTIGUOUS PARCELS. Those parcels of land with at least one common property line.

CONTINUING IN GOOD FAITH. As it relates to vested rights, shall mean the final local development order for a project has been issued and has not expired, and no period of 180 consecutive days, or a previously approved time frame as agreed to by the County, has passed without the occurrence of development activity which significantly moves the proposed development toward completion; unless the developer establishes that such 180-day lapse or previously approved time frame lapse in development

activity was due to factors beyond the developer's control; or unless development activity authorized by a final local development order has been substantially completed on a significant portion of the development subject to said final development order and has significantly moved the entire development toward completion.

CONTRACTOR. The person, firm, or corporation with whom the contract for work has been made by the owner, the developer, or the County in accordance with any applicable State laws.

COVENANTS, CONDITIONS AND RESTRICTIONS (CCR). Declaration of Covenants, Conditions and Restrictions, recorded in the public records for a development project.

CONVENIENCE STORE. Any retail establishment offering for sale food products, household, and sundry items, beverages, gasoline, and other similar goods, but not including sales of prescription drugs, alcoholic beverages for on-premises consumption, or any form of used merchandise sales, personal services, repair services, or any outdoor sales, service, storage, or display other than approved accessory gasoline pumps.

COPY. As it relates to signs, the linguistic or graphic content of a sign.

COUNTY. The government of Marion County as a political subdivision of the State of Florida; or the physical jurisdictional limits of Marion County as those boundaries described in § 7.42 FS.

COUNTY ENGINEER. The professional engineer retained by the Board of County Commissioners in the capacity of administering the Office of the County Engineer. The County Engineer may appoint designees to specific management and operation functions as appropriate.

CROSS-CONNECTION. Any physical arrangement whereby a Public Potable Water System is connected directly or indirectly with any other water supply system, sewer, drain, conduit, pool, storage reservoir (other than for storage of Potable Water by a Utility), plumbing fixture, or other device which contains or may contain contaminated water, wastewater or other waste, or liquid of unknown or unsafe quality which may be capable of imparting contamination to the Public Potable Water System as the result of Backflow. By-pass arrangements, jumper connections, removable sections, swivel or changeable devices, and other temporary or permanent devices through which or because of which Backflow could occur are considered to be Cross-Connections.

CROSS-CONNECTION CONTROL COORDINATOR (CCC). Utility Department Employee who is responsible for implementation of cross-connection control directives.

DECENTRALIZED SYSTEM. A water withdrawal, treatment, and distribution system (including fire hydrants) or wastewater collection, treatment and dispersal system that is designed to serve the needs of a single residential development project or non-residential development project. Decentralized systems are, further: (1) usually located within the boundaries of the development project; (2) not typically owned, operated, and maintained by Marion County, a city, CDD, or Public Service Commission-certificated entity; and (3) considered as temporary facilities until a centralized system is available to serve the development project.

DEDICATION. An act of conveyance and acceptance of an interest in or use of property to a public or private entity. See §§ 177.031(6), (16); 177.081; and 177.085 FS (2012) for statutory requirements related to dedications. Mortgagees are required to join in dedications.

DEMAND. Quantifiable use of a public facility. See Capacity.

DESIGN FLOOD. The flood associated with the greater of the following two areas: [Also defined in FBC, B, Section 202.]

- (1) Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or
- (2) Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

DESIGN FLOOD ELEVATION. The elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's

perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to 2 feet. [Also defined in FBC, B, Section 202.]

DEVELOPABLE AREA. The portion of a project area that lies outside sovereign submerged lands.

DEVELOPER. The person, firm, entity, or corporation engaged in developing or improving real estate for use or occupancy.

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. As it relates to vested rights, shall mean the particular development activity authorized by unexpired final local development order issued for a specific project is continuing in good faith. Also see §§ 163.3164(14), 163.3221(4), and 380.04 FS.

DEVELOPMENT AGREEMENT. An agreement between Marion County and additional parties specifying requirements of the parties in relation to a development application. Development Agreements are authorized by the "Florida Local Government Development Agreement Act," §§ 163.3220—163.3243 FS and are subject to the applicable provisions of those sections.

DEVELOPMENT AREA. See project area.

DEVELOPMENT ORDER. An official action granting, granting with conditions, or denying an application for a development permit consistent with this Code, § 163.3164 FS and Ch. 380 FS.

DIAMETER AT BREAST HEIGHT (DBH). The diameter of a tree trunk measured at 4.5 feet above adjacent grade elevation.

DIVIDER MEDIAN. A continual landscaped island located between lineal rows of parking which face head-to-head.

DOMESTIC WASTEWATER RESIDUALS. A domestic wastewater treatment by-product resulting from the biological treatment process and which is disposed of by application for agricultural or land reclamation purposes. Domestic wastewater residuals shall have the same meaning as "biosolids," as defined in rule § 62-640.200 FAC.

DOUBLE CHECK VALVE ASSEMBLY. A backflow prevention assembly which includes two internally loaded, independently operating spring loaded check valves, which are installed as a unit between two tightly closing resilient-seated shutoff valves and fittings with properly located test cocks.

DRAFT HYDRANTS. Draft hydrants are standard fire hydrants but are supplied by a static water source. Normally these hydrants are not supplemented by a fire pump and rely on a fire department engine to draft from the source. These draft hydrants have little to no pressure and function similar to a dry hydrant tank.

DRAINAGE DETENTION AREA (DDA). See water detention area.

DRAINAGE RETENTION AREA (DRA). See water retention area.

DRIPLINE. An imaginary line on the ground defined by vertical lines extending from the outermost tips of tree to the ground or the area within a radius of one foot for each one inch DBH of the tree, whichever is greater.

DRIVEWAY APRON. That portion of a driveway lying between the street right-of-way line and the edge of the travel lane of the street.

DROUGHT TOLERANT VEGETATION. Plants which have the ability to survive without supplemental irrigation through periods of drought characteristic of the north-central Florida region, excluding invasive plant species.

DRUGSTORE (the term Pharmacy is included). An establishment that is either:

- (1) Engaged in the retail sale of prescription drugs and nonprescription medicines pursuant to Chapter 465, FS; or
- (2) That is both:
 - a. Licensed, at all times, as a "medical marijuana treatment center" pursuant to Section 381.986, FS (2017); and
 - b. Operated in accordance with all provisions of such statute and all other statutes or regulations governing the medical dispensation of marijuana pursuant to Florida law.

By way of example and not limitation, as the requirements of this subsection are cumulative, any establishment that may have been licensed as a medical marijuana treatment center but is not operated in accordance with Florida law, shall no longer constitute a drugstore, and hence is no longer a permitted use in zoning districts where drugstores are permitted.

DRYLINE PERMIT. A construction permit for sewer lines issued with certain special conditions applied.

DUCTILE IRON PIPE RESEARCH ASSOCIATION (DIPRA). Any reference to DIPRA Standards shall be taken to mean the most recently published revision unless otherwise specified.

DUDE RANCH. A vacation resort offering activities typical of western ranches such as horseback riding.

DUE PUBLIC NOTICE. Publication of notice of the date, time, and place of a required public hearing; the title or titles of proposed ordinances, and the place within the County where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the public hearing and be heard with respect to the proposed ordinance. Publication of notice shall be given at least ten days prior to said public hearing in a newspaper of general circulation in the County. Due public notice for public hearings of the Planning and Zoning Commission and the Board for land use permits shall include mailed written notice to all owners of property, within 300 feet of the boundaries of the property subject to the land use change, whose address is known by reference to the latest ad valorem tax records and to all parties of interest who timely request such notice in writing to the Growth Services Director or designee. The mailed notice shall include a brief explanation of the land use permit request and a location map identifying the property under consideration and shall notify the person of the time, date and location of all public hearings. Notices shall also be posted in a conspicuous place or places on or around such lots, parcels, or tracts of lands requesting the land use change. Affidavit proof of the required publication, mailing and posting of the notice shall be presented at the hearing by the Growth Services Director, or designee, to the Clerk of the Court. For land use changes initiated by the County, and for ordinances that change the actual lists of permitted, conditional or prohibited uses within a zoning category, the provisions of § 125.66(4) FS shall apply.

DWELLING UNIT. Any structure or portion thereof which is designed for or used for residential purposes as a self-sufficient or individual unit by one family or other social association of persons.

ELECTRIC SUBSTATION. An electric substation which takes electricity from the transmission grid and converts it to a lower voltage so it can be distributed to customers in the local area on the local distribution grid through one or more distribution lines less than 69 kilovolts in size.

ELEVATED BUILDING. A non-basement building built to have the lowest floor elevated above the ground level by foundation walls, posts, piers, columns, pilings, or shear walls.

ELEVATION. The vertical height or heights relative to a defined datum.

EMPHASIS. As it relates to the adult entertainment business, "emphasis" or "emphasis on" means that the type of matter specified is the apparent matter upon which the particular work or exhibition is based, or that the matter specified is a substantial portion of such work or exhibition.

ENCROACHMENT. The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

ENVIRONMENTALLY SENSITIVE LANDS. Lands or areas which include environmental or other natural features and/or characteristics as identified by Comprehensive Plan Conservation Element Policy 1.1.1.

EQUINE CENTER. A facility identified and designated by the Board as a unique and specialized destination for regional, state, and national equine interests and activities that further the County's equine identity as "The Horse Capital of the World."

EQUIVALENT RESIDENTIAL CONNECTION (ERC). A unit of measurement representing capacity demand of 300 gallons per day for wastewater or 350 gallons per day for water.

ERECT A SIGN. To construct, reconstruct, build, relocate, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish a sign. It shall not include any of the foregoing activities when performed as an incident to a change of message or routine maintenance.

ESTABLISHED CHURCH. Established place of meeting or worship at which non-profit religious services are regularly conducted and carried on.

EXCEPTION. As it relates to vested rights, shall mean an exception to the densities required in the Future Land Use Element for parcels of record as of January 1, 1992 for the construction of one residential unit. Exceptions apply to density only and do not exempt parcels from any other requirement of the Comprehensive Plan.

EXISTING BUILDING AND EXISTING STRUCTURE. Any buildings and structures for which the "start of construction" commenced before January 19, 1983. [Also defined in FBC, B, Section 202.]

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before January 19, 1983. This definition is not for the purposes of floodplain management under Article 5, Division 3.

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). This definition is not for the purposes of floodplain management under Article 5, Division 3.

EXTRACTION OR RESOURCE EXTRACTION. The removal of resources from their location so as to make them suitable for commercial, industrial, or construction use, but does not include excavation solely in aid of on-site farming or on-site construction, nor the process of searching, prospecting, exploring, or investigating for resources by drilling.

FAILING. As defined in § 64E-6.002 FAC and periodically amended: a condition existing within an onsite sewage treatment and disposal system which prohibits the system from functioning in a sanitary manner and which results in the discharge of untreated or partially treated wastewater onto ground surface, into surface water, into ground water, or which results in the failure of building plumbing to discharge properly.

FAMILY. One or more persons occupying the whole or part of a dwelling unit and living as a single, housekeeping unit provided that a group of four or more persons who are not within the second degree of kinship shall not be deemed to constitute a family, except as set forth in Title VIII of the Civil Rights Act of 1968 and as subsequently amended by the Fair Housing Amendments Act of 1988.

FAMILY/GUEST COTTAGE/APARTMENT. A small detached dwelling unit for use by immediate family members or guests which is an accessory use to a single-family dwelling. The cottage may be a removable, modular structure, or a conventionally constructed structure, and shall be compatible with the existing dwelling. It shall be designed as an independent living unit smaller than the primary structure.

FEEDLOT. A confined area or structure, pen or corral, used to fatten livestock for a period of at least 30 days prior to final shipment.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA). The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

FENCE. A vertical structure used to provide a physical division between areas.

FIRE LINE. Piping from the water main to point of delivery exclusively providing fire protection.

FISH HATCHERY. Establishments primarily engaged in hatching fish, not including fish or farm ponds.

FLAG LOT. A parcel of land shaped like a flag with a narrow strip providing access; the bulk of the property contains no frontage.

FLOOD OR FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD DAMAGE-RESISTANT MATERIALS. Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Also defined in FBC, B, Section 202.]

FLOOD HAZARD AREA. The greater of the following two areas: [Also defined in FBC, B, Section 202.]

- (1) The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.
- (2) The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

FLOOD INSURANCE RATE MAP (FIRM). The official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community. [Also defined in FBC, B, Section 202.]

FLOOD INSURANCE STUDY (FIS). The official hydraulic and hydrologic report provided by FEMA. The study contains an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and other flood-related erosion hazards. The study may also contain flood profiles, as well as the FIRM, FHBM (where applicable), and other related data and information.

FLOODPLAIN ADMINISTRATOR. The office or position designated and charged with the administration and enforcement of Flood Plain regulations within Article 5 Division 3 (may be referred to as the Floodplain Manager).

FLOODPLAIN DEVELOPMENT PERMIT OR APPROVAL. An official document, certificate or development order issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with Article 5, Division 3.

FLOODPLAIN ELEVATIONS. The elevations established along waterbodies and in closed drainage basins which represent the hydraulic gradients for the predicted 25-Year and 100-Year flood plains. The 100-Year flood plain is shown on the adopted Marion County Flood Insurance Rate Maps and in the Flood Insurance Study. The elevations may be established by the Flood Plain Administrator or designee; by a Florida Licensed Surveyor and Mapper and approved by the Flood Plain Administrator or along the Rainbow River as established by Southwest Florida Water Management District Profiles dated July 13, 1973.

FLOODPROOFING. Any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

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. [Also defined in FBC, B, Section 202.]

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.

FLOODWAY FRINGE. That area of the flood plain on either side of the regulatory floodway where encroachment may be permitted without additional hydraulic and/or hydrologic analysis.

FLOOR AREA. Area of all floors of buildings or structures, measured to the outside of the exterior walls.

FLOOR AREA RATIO (FAR). The gross floor area of all buildings or structures on a lot divided by the total lot area.

FLORIDA BUILDING CODE. The family of codes adopted by the Florida Building Commission, including: Florida Building Code, Building; Florida Building Code, Residential; Florida Building Code, Existing Building; Florida Building Code, Mechanical; Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.

FOOD SERVICE FACILITIES. Any commercial facility that generates wastewater through the processing and preparation of food, including restaurants and other commercial facility where food is processed or prepared. It does not include facilities that only sell pre-processed or pre-packaged foods.

FREEBOARD. The additional height, usually expressed as a factor of safety in feet, above a flood level for purposes of flood plain 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.

FRONT BUILDING LINE. A line measured between side lot lines no closer than the front setback and equal to the minimum lot width.

FUNCTIONALLY DEPENDENT USE. As it relates to floodplain management, a use that cannot be used for its intended purpose unless it is located or carried out in close proximity to water, including only docking or port facilities necessary for the loading and unloading of cargo or passengers, and shipbuilding or ship repair facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

GREEN SPACE. A parcel or area of land which is developed, planted, and maintained with trees, shrubs, groundcovers or turfgrass or a combination thereof, and is reserved for a yard area, landscape area, public or private park or recreation area, drainage retention areas and other similar areas.

GROUND SIGN. A sign that is supported by one or more columns, upright poles, or braces extended from the ground or from an object on the ground, or that is erected on the ground, where no part of the sign is attached to any part of a building.

GROWTH SERVICES DIRECTOR. Growth Services Director or his designee.

HARDSHIP. As it relates to flood plain management and variances to the flood plain overlay zone, the exceptional hardship associated with the land that would result from a failure to grant the requested variance. The community requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

HAZARD. A cross-connection or potential cross-connection which involves an actual or potential threat to the quality and/or potability of the water supplied by a public potable water system. The degree

of hazard associated with any private water system shall be determined from an evaluation of the conditions existing within that system.

HEALTH HAZARD. A hazard involving any substance that could, if introduced into the public potable water system, cause death or illness, spread disease, or have a high probability of causing such effects.

HEAVY MACHINERY OR EQUIPMENT. Machinery used primarily by the construction, mining, well drilling, oil and gas industries and including overhead traveling cranes, hoists, and monorail systems for installation in factories, warehouses, marinas, and other industrial and commercial establishments.

HEIGHT OF BUILDING. The vertical distance from the established grade at the center of the front of the building to the highest point of the roof surface for a flat roof, to the deck line for a mansard roof and the height of the ridge for gable, hip, and gambrel roofs.

HIGH VOLUME IRRIGATION. An irrigation system (or zone) which utilizes heads or emitters with application rates higher than 0.5 gpm.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface, prior to the start of 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.

HOME OCCUPATION. Any business or commercial activity that is:

- A. Conducted within a single family dwelling unit in a residential zoning classification and is incidental to the principal residential use of the premises, or
- B. Conducted on the same tract with the principal structure in an agricultural zoning classification, and
- C. Which is a permitted use within the agricultural zoning classification and conducted without significantly adverse impact on the surrounding area.

HORIZONTAL DATUM. An accepted current coordinate system used to describe a point on the earth's surface pre-approved by the Office of the County Engineer.

HOUSE OF WORSHIP. A structure whose principal use is public assembly for worship and teaching of religious concepts.

HOUSEHOLD PET. All animals which are normally considered as household pets and which can be maintained and cared for within the living space of a residence or outside the residence. Such animals may include but are not limited to dogs, cats, small reptiles, small rodents, fish, small birds such as parrots and parakeets, and other similar animals.

ILLUMINATED SIGN. A sign which contains a source of light or which is designed or arranged to reflect light from an artificial source including indirect lighting, neon, incandescent lights and backlighting.

IMPERVIOUS SURFACES. Those surfaces which do not absorb water including but not limited to, buildings, paved parking areas, driveways, roads, sidewalks, patios and any areas covered by brick, concrete, concrete pavers, or asphalt paving materials.

INDUSTRIAL/COMMERCIAL PARK. A tract of land that is planned, developed, and operated as an integrated facility for a number of individual industrial or commercial or mixed uses.

INFRASTRUCTURE. Facilities and services needed to sustain residential, commercial, and industrial activities. Infrastructure includes, but is not limited to, water and sewer, streets, street signage, drainage, parks and open space, and other public facilities.

INSTITUTIONAL USE. A nonprofit, religious, or public use, such as a church, library, public or private school, hospital, community home, convalescent home, adult congregate living facility, or government owned or operated building, structure, or land used for public purpose or benefit.

INTENSIVE RECREATIONAL AREAS. Sites which provide location for uses such as football, baseball, softball, soccer, and golf courses excluding such areas as secondary and tertiary roughs and

out-of-bound areas. Only such sports related fields shall fit this definition while common areas and open spaces between such fields shall not be exempt from irrigation design standards or watering restrictions.

IRRIGATION. The application of water by manmade means to plant material and turfgrass.

JUNK. Used and discarded machinery, scrap, iron, steel, other ferrous and non-ferrous metals, inoperative vehicles, tools, implements or portions thereof, glass, plastic, cordage, building materials, or other waste.

JUNK YARD. A parcel of land on which junk is collected, stored, salvaged or sold, including automobile recycling facilities.

KARST FEATURE. A landform that has been modified by dissolution of soluble rock, including limestone or dolostone. These include springs, spring runs, sinkholes, solution pipes, swallets and swallow holes. A directly or indirectly connected karst feature is one where no confining layer of sediment exists to prevent runoff from directly or indirectly entering the Floridan Aquifer system.

KENNEL. Any place or premises where four or more dogs or cats, over four months of age are groomed, bred, raised, boarded, or trained for compensation or income.

LANDSCAPABLE AREA. The entire parcel less the building footprint, natural water features, surfaced and un-surfaced driveways and parking areas, road rights-of way, hardscapes such as decks and patios, and other non-planted areas. Landscapable area excludes golf course play areas, other intensive recreation areas (e.g. soccer fields, ball diamonds, etc.) and any part of a constructed stormwater management system that has a design stage or storage depth three feet or greater.

LANDSCAPE ARCHITECT. The County's Landscape Architect or his designee.

LANDSCAPE ISLAND. A raised area, usually curbed, placed to guide traffic and separate lanes, and used for landscaping, signage, or lighting.

LEASABLE/INTERIOR AREA. The area of open floor space within a structure's exterior walls and excluding the interior walls.

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:

- (1) **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.
- (2) **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.
- (3) **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.
- (4) **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.

LEVEL OF SERVICE. An indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of the facility. Level of service indicates the capacity per unit of demand for each public facility.

LEVEL OF SERVICE STANDARD. The level of service a facility is not to exceed as established in the Comprehensive Plan.

LIGHT-DUTY TRUCK. As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

- (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (3) Available with special features enabling off-street or off-highway operation and use.

LISTED SPECIES. Those species identified by the USFWS and/or FWC as endangered, threatened, or special concern.

LIVESTOCK. Includes, but is not limited to, all animals of the equine, ratite, bovine, or swine class, including goats, sheep, mules, horses, llamas, alpacas, hogs, cattle, poultry, emus, ostriches, and other grazing animals. The term livestock shall specifically exclude specialty animals.

LOCALLY SIGNIFICANT NATURAL RESOURCES. Lands or areas which include environmentally sensitive lands or other features and/or characteristics as identified by Comprehensive Plan Conservation Element Policy 1.1.2.

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

LOT AREA. The size of a lot measured within the lot lines and expressed in terms of acres or square feet.

LOT DEPTH. The dimension from the center of the front of the lot to the center of the rear of the lot.

LOT LINE. The boundary line of a lot.

- A. **LOT LINE, FRONT.** The line abutting the street right-of-way or point of access which for corner lots shall be determined by the property owner.
- B. **LOT LINE, REAR.** The lot line opposite to and most closely paralleling the front lot line.
- C. **LOT LINE, SIDE.** Any lot line other than a front or rear lot line.

LOT WIDTH. The horizontal distance between the side lot lines measured at the front property line. For lots located on a curve, it shall be the chord distance of the curve at the front property line.

LOW VOLUME IRRIGATION. Irrigation by a system which utilizes devices that irrigate at rates of 0.5 gpm or less, allowing water to be placed with a high degree of efficiency at the root zone of each plant.

LOWEST ADJACENT GRADE. The lowest elevation, after the completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

LOWEST FLOOR. The lowest floor of the lowest enclosed area of a building or structure (including basement), but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the Florida Building Code or ASCE 24. [Also defined in FBC, B, Section 202.].

MANUFACTURED BUILDING. A structure bearing a seal issued by the Florida Department of Community Affairs certifying that it is built in compliance with the requirements of the Florida Manufactured Building Act of 1979.

MANUFACTURED HOME. A structure bearing a label certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards (24 CFR 3280) HUD Code. For floodplain management purposes, it is a structure, transportable in one or more sections, which is eight (8) feet or more in width and greater than four hundred (400) square feet, and which is built on a

permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer." [Also defined in 15C-1.0101, F.A.C.]

MANUFACTURED HOME/MOBILE HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING. As it relates to the Flood Plain Overlay Zone, 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) was completed before January 19, 1983.

MANUFACTURED HOME PARK OR SUBDIVISION, NEW. As it relates to the Flood Plain Overlay Zone, 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) and was completed on or after January 19, 1983.

MANUFACTURING. A commercial or industrial activity involved in the research, development, assembly, production, testing, or processing of goods, materials, components, devices, equipment, or systems.

MARINA. A premises located adjacent to water bodies, canals, or water ways providing wet or dry storage and all accessory facilities.

MARION-FRIENDLY LANDSCAPING. The use of plants (and non-plant materials such as mulch) and landscape designs and practices that are compatible with the natural environment and climate of Marion County. Marion-Friendly Landscaping minimizes the use of turfgrass that is irrigated and fertilized, and maximizes the use of plants that tolerate sandy soils and drought conditions characteristic of north-central Florida.

MARION-FRIENDLY LANDSCAPING AREA (MFLA). That portion of a new or expanded development that through the approved development plans, documents, and deed restrictions, is identified to be maintained as Marion-Friendly Landscaping and where the use of high volume irrigation, non-drought tolerant plants, and lawn chemicals (fertilizers and pesticides) on turfgrass is prohibited.

MARKET VALUE. As it relates to floodplain management, the value of buildings and structures, excluding the land and other improvements on the parcel. Market value is the actual cash value (in-kind replacement cost depreciated for age, wear, tear, and neglect, and quality of construction of building) determined by a qualified independent appraiser, or tax-assessed values adjusted to approximate market value by a factor provided by the county Property Appraiser.

MARQUEE. A structure projecting from and supported by a building which extends beyond the building line or property line and fully or partially covers a sidewalk, public entrance, or other pedestrian way.

MCUD DIRECTOR. Marion County Utilities Department Director, or his designee.

MINI-WAREHOUSE (SELF-SERVICE STORAGE FACILITY). A building, or group of buildings, consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods or contractors supplies.

MOBILE HOME. A transportable structure designed to be:

- A. Used as a year-round residential dwelling, built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards, which became effective for all manufactured home construction on June 15, 1976, and
- B. Any vehicle without independent motive power which is designed for housing accommodations and transportation over the highways on a chassis under carriage, which is an integral part thereof, but does not include travel trailers or recreational units as defined by § 320.01 FS. This

definition shall include any unit which meets the criteria above and is certified by the Department of Safety and Motor Vehicles as meeting requirements of as defined in Ch. 320 FS.

MODEL HOME. A single-family dwelling unit, or units, used by a home builder to illustrate the features available to a potential purchaser of a dwelling unit when constructed on a different lot, parcel, or tract.

MODEL HOME SALES LOT OR MODEL HOME COMPLEX. Model homes designed in a cluster to create a sales facility.

MODIFY. Regarding towers, modify shall include all structural changes to a tower other than routine maintenance, including, without limitation, structural modifications, rebuilding, or relocating on the same parcel. Modify does not include adding additional or different antennas, or deleting or removing antennas.

MONOPOLE TOWER. A tower consisting of a single pole, or spine, self supported by a permanent foundation, and constructed without guy wires and ground anchors.

MULTI-DWELLING. A structure which contains three or more dwelling units.

MULTI-FAMILY. Any residential development project that consists of more than two dwelling units per building, or eight dwelling units or more per gross acre.

MULTIPLE OCCUPANCY COMPLEX. A commercial occupancy (i.e. any occupancy other than residential or agricultural) consisting of a parcel of property, or parcel of contiguous properties, existing as a unified or coordinated project, with a building or buildings housing more than one occupant, or more than one business under one ownership.

NATIVE TREE. A self-supporting woody plant which normally grows to a height of ten feet or more and which is classified as native vegetation.

NATIVE VEGETATION. Those species occurring within the state boundaries prior to European contact, according to the best available scientific and historical documentation. It includes those species understood as indigenous, occurring in natural associations and habitats that exist prior to significant human impacts.

NATURAL AREA. Undeveloped lands considered to be in, or maintained in, an undisturbed or unmodified condition which provide habitat or natural open space.

NEW CONSTRUCTION. For the purposes of administration of Article 5, Division 3 and the flood resistant construction requirements of the Florida Building Code, structures for which the "start of construction" commenced on or after January 19, 1983 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 January 19, 1983. This definition is not for the purposes of floodplain management under Article 5, Division 3.

NIGHTCLUB. A bar or similar establishment providing food, refreshments, or alcoholic beverages wherein dancing is permitted or paid entertainment is provided.

NONCONFORMING LOT. A lot of record which does not conform to the current minimum requirements for a lot in the zoning classification in which it is located.

NONCONFORMING STRUCTURE. A building or structure which does not conform to the current minimum requirements for such structure in the zoning classification in which it is located.

NONCONFORMING USE. A use which is not a permitted use, or special use, in a current zoning classification.

NON-CONTIGUOUS PARCELS. Those parcels that do not have any common property lines, or which are separated by platted or unplatted roads, streets, or alleys which have been dedicated for public use, or prescriptive easements for road right-of-way purposes.

NORTH AMERICAN VERTICAL DATUM (NAVD) OF 1988. The vertical control datum of orthometric height established for vertical control surveying in the United States of America based upon the General Adjustment of the North American Datum of 1988.

OCCUPANT (OCCUPANCY). One who has certain legal rights to or control over the premises he occupies; the state of being an occupant.

OFF-SITE SIGN. A sign that identifies or communicates a commercial or non-commercial message related to an activity conducted, or service rendered, or a commodity sold at a location or on a parcel other than where the sign is located.

ON-SITE SEWAGE TREATMENT AND DISPOSAL SYSTEM (OSTDS). Also referred to as a septic system.

ON-SITE SIGN. A sign that identifies or communicates a commercial or non-commercial message related to an activity conducted, service rendered, or a commodity sold, at the location where the sign is installed.

OPEN BASIN. All watersheds not meeting the definition for Closed Basin.

OPEN SPACE. Land area restricted or not developed depending on its designation as natural open space or improved open space consistent with the provisions of Section 6.6.6.

ORDINARY HIGH WATER LINE (OHWL). The highest reach of a navigable, nontidal waterbody as it usually exists when in its ordinary condition and is not the highest reach of such waterbody during the high water season or in times of freshets. The term also includes the terms "ordinary high-water line" and "line of ordinary high water."

OUTSIDE STORAGE. The storage or display, outside of a completely enclosed building, of merchandise offered for sale or rent as a permitted use or of equipment, machinery, and materials used in the ordinary course of a permitted use.

OWNER. The person, firm, corporation, or governmental unit holding title of the real estate upon which construction is to take place.

PACKAGE STORE. A premises in which alcoholic beverages are sold for off-premises consumption.

PARCEL. A continuous quantity of land in the possession of or owned by, or recorded as the property of the same person or persons. A parcel may consist of contiguous platted lots.

PARCEL OF RECORD. A designated parcel, tract, or area of land established by plat, metes and bounds description, or otherwise permitted by law, to be used, developed or built upon as a unit, which complies with the applicable building codes and zoning regulations, and which existed on or before January 1, 1992, and under one ownership as of August 11, 1993.

PARK. Land which is used for active or passive recreational purposes, whether dedicated public or private.

PARK MODEL OR PARK TRAILER. A transportable unit which has a body width not exceeding 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures or appliances or; a park trailer constructed to ANSI A-119.5 standards which does not exceed 400 square feet gross floor area or; a park trailer constructed to US Department of Housing and Urban Development Standards which does not exceed 500 square feet gross floor area.

PARKING AREA. An open area, other than a street or other public way, used for the parking of motor vehicles.

PARKING LANE. A lane located on the side of a street, designed to provide on-street parking of a motor vehicle.

PARKING SPACE. An area provided for the parking of a motor vehicle.

PASSIVE RECREATION. Those recreational activities afforded by such natural resources as the native flora, fauna, and aesthetic appeal of a natural setting and requiring minimal development to utilize and enjoy such resources. These activities include hiking, nature watching, unstructured play, picnicking, horseback riding and bicycle riding.

PERMEABILITY. The capacity of a porous medium for transmitting water.

PLANNED UNIT DEVELOPMENT (PUD). A designated contiguous area of property for the comprehensive development of a single use or of mixed uses.

PLANNING/ZONING MANAGER. Planning /Zoning Manager or designee.

PLAT. A map, or delineated representation of the subdivision of lands, being a complete exact representation of the subdivision and complying with this Code and Ch. 177 FS.

PLAYGROUND. Properties and facilities owned and operated by any governmental agency, or owned and operated by any private agency, including day care centers, which are open for recreational or child care purposes.

POINT OF CONNECTION. The outlet side of the meter designated to serve the customer.

PORTABLE SIGN. Any sign which is designed to be transported by trailer or on its own wheels, including such signs whose wheels have been removed and the remaining chassis or support structure converted to an A- or T- frame sign and anchored temporarily to the ground.

POTABLE WATER. Water that is suitable for human consumption.

POTENTIOMETRIC SURFACE (POTENTIOMETRIC HEAD). The level to which water would rise in a tightly cased well penetrating an aquifer. The water table and artesian pressure surfaces are particular potentiometric surfaces.

PRESSURE VACUUM BREAKER ASSEMBLY. A backflow prevention assembly which includes an independently operating, internally loaded check valve; an independently operating, loaded air inlet valve located on the discharge side of the check valve; and properly located test cocks and tightly closing resilient-seated shut-off valves attached at each end of the Assembly. This assembly shall not be used if back pressure could develop in the downstream piping.

PRINCIPAL STRUCTURE. A structure on a lot or parcel which is used, arranged, adapted or designed for the predominant or primary use for which the lot or parcel is or may be used.

PRINCIPAL USE. The primary or predominant use of a lot, parcel, structure, or structure and land in combination.

PRIVATE CLUB. A premises used for meetings or activities of persons in which use is restricted to members and guests.

PRIVATE PERFORMANCE. As it relates to the adult entertainment business, modeling, posing or the display or exposure of any specified anatomical area by an employee or independent contractor using the premises under a contract or lease, of an adult entertainment establishment to a person other than an employee while the person is in an area within the establishment not accessible during such display to all other persons in the establishment, or while the person is in an area in which the person is totally or partially screened or partitioned during such display from the view of all persons within the establishment.

PROHIBITED CONNECTION. Any connection of an unsafe system to a safe system as deemed by the MCUD.

PROJECT AREA. The limits of the land area identified on a plan where project improvements and features are proposed.

PUBLIC ACCESS REUSE. The application of reclaimed water to an area that is intended to be accessible to the general public; such as golf courses, cemeteries, parks, landscape areas, hotels, motels, and highway medians. Public access areas include private property that is not open to the public at large, but is intended for frequent use by many persons. Public access areas also include residential dwellings. Presence of authorized farm personnel or other authorized treatment plant, utilities system, or

reuse system personnel does not constitute public access. Irrigation of exercise areas and other landscape areas accessible to prisoners at penal institutions shall be considered as irrigation of public access areas.

PUBLIC AREAS. Areas such as parks, playgrounds, trails, paths and other recreation areas and open spaces; scenic and historic sites; schools and other properties, buildings and structures which have been or will be conveyed or dedicated to the County or other public body.

PUBLIC FACILITIES. Transportation systems or facilities, sewer systems or facilities, solid waste systems or facilities, drainage systems or facilities, potable water systems or facilities, schools, and parks and recreation systems or facilities. This includes privately operated sewer and water systems that are classified as public systems.

PUBLIC POTABLE WATER SUPPLY SYSTEMS. Wells, treatment systems, disinfection systems, reservoirs or other storage and high service pumps, pipes, lines, valves, meters, water mains, laterals, and services, used or having the present capacity for future use in connection with the obtaining and supplying of potable water for domestic consumption, fire protection, irrigation, consumption by business, or consumption by industry. Without limiting the generality of the foregoing definition, the system shall embrace all necessary appurtenances and equipment and shall include all property, rights, easements and franchises relative to any such system and deemed necessary or convenient for the operation thereof.

PUBLIC SAFETY AND NUISANCE. As it relates to the flood plain overlay zone, anything which is injurious to safety or health of the entire community or a neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

QUALIFYING NATURAL AREA/COMMUNITY. Those lands identified by the FDEP and the Florida Natural Areas Inventory (FNAI) produced by FDEP as significant areas which are relatively undisturbed and include flora or fauna that reflect the conditions of the area at the time colonial settlement occurred in Florida and Marion County.

RAPID-RATE LAND APPLICATION (RRLA). The use of percolation ponds or rapid infiltration basins (RIBs) or subsurface absorption fields, as described in Ch. 62 FAC.

RECEIVING AREA. Lands designated by one or more of Marion County's Transfer of Rights Programs (TRPs) as eligible to receive Transferrable Credits (TDCs) for use in adding residential dwelling units in conjunction with or in addition to other permitted development activity on the designated lands wherein the lands are depicted on Marion County Comprehensive Plan Future Land Use map Series Map 1, *Marion County 2035 Future Land Use Map*, or Map 13, *Transfer of Rights*.

RECLAIMED WATER. Water that has received at least advanced secondary treatment and high level disinfection. Water receiving additional treatment may be used in public access areas, when in compliance with the FDEP requirements pursuant to § 62-610 FAC.

RECORDED SUBDIVISION. A platted subdivision of lands, approved by the Board of County Commissioners, which has a final plat recorded in the public records of Marion County consistent with this Code and Ch. 177 FS.

RECREATION VEHICLE PARK. A tract of ground upon which three or more single-family camp cottages, tents or recreational vehicles are located or maintained for accommodation of transients whether or not a charge is made.

RECREATIONAL FACILITY. Any public or private structure or facility used for active recreational pursuits, including such facilities as golf courses, tennis courts, racquetball courts, handball courts, baseball fields, soccer fields, football fields, basketball courts, swimming pools, jogging or exercise trails, and similar facilities.

RECREATIONAL VEHICLE. A vehicle, including a park trailer, which is: [see in section 320.01, F.S.)

- (1) Built on a single chassis;
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projection;

- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REDUCED-PRESSURE PRINCIPLE ASSEMBLY. A Backflow Prevention Assembly which includes two independently acting check valves; a hydraulically operating, mechanically independent pressure differential relief valve located both between the check valves and below the first check valve; and properly located test cocks and tightly closing resilient-seated shut-off valves attached at each end of the Assembly.

REGISTERED DIVISIONS OF LAND. A map or survey of divisions of land three acres or larger in size, including "flag lots" as that term is commonly known in Marion County, and which was filed and accepted by Marion County prior to January 1, 1992.

REGULATED USES OR ADULT AND SEXUALLY-ORIENTED BUSINESS. Uses such as but not limited to adult book store or film store, adult booth, adult cabaret, and adult theater or mini-motion theater or drive-in.

REGULATORY FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

REMEDY A DEFICIENCY OR VIOLATION. As it relates to the flood plain overlay zone, to bring the regulation, procedure, structure or other development into compliance with State of Florida, Federal or local flood plain management regulations; or if this is not possible, to reduce the impacts of its noncompliance. Ways the impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the Flood Plain Overlay Zone in Article 5 or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

REMODELING. Any change, partial removal, partial replacement, or addition to buildings.

RESIDENTIAL DUAL CHECK. A compact, mechanical Backflow Prevention Device manufactured with two independently acting, spring actuated check valves.

RESIDENTIAL SERVICE ADDRESS. A metered residential address whose private water systems serve only residential dwellings the total of which is designed to house no more than four families.

RESIDENTIAL USES. One-family dwellings, two-family dwellings, and multi-family dwellings.

RESIDUALS. Biosolids from a permitted wastewater treatment or water reuse facility and septage from an OSTDS.

RETAIL SALES. Any business activity, and related services, customarily selling goods and commodities for profit.

RETAINING WALL. A structure erected between lands of different elevation to protect structures or to prevent the loss of earth from the upper slope level.

RIVERINE. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

ROOF LINE. A horizontal line intersecting the highest point or points of a roof.

ROOF SIGN. A sign placed above the roof line of a building or on or against a roof slope of less than 45 degrees as measured from the vertical plane.

RUNOFF. The surface flow of stormwater.

RURAL AREA. Lands located outside the Urban Growth Boundary (UGB) as designated by the Comprehensive Plan Future Land Use Map Series Map 1 *Marion County 2035 Future Land Use Map* excluding those lands bearing an Urban Area land use designation as specified in Comprehensive Plan Future Land Use Element Appendix A, Table A-1 *Land Use Classifications and Standards*.

SAFE YIELD. The average annual amount of groundwater that could be extracted from a groundwater basin (or reservoir) over a long period of time without causing a long term reduction of groundwater quantity, quality, or other undesirable impacts.

SCHOOL. A public or private educational institution offering students an academic curriculum, including kindergartens, elementary schools, middle schools, high schools, colleges and universities. Such term shall also include all adjacent properties owned and used by such schools for education, research, maintenance, or recreational purposes.

SCREEN. A structure or planting consisting of fencing, walls, berms, trees, or shrubs which provides sight obstruction within or to a site or property.

SEMICONFINED AQUIFER. An aquifer that receives recharge in the form of leakage through underlying or overlying semipermeable formations (aquitards).

SENDING AREA. Lands designated by one or more of Marion County's Transfer of Rights Programs (TRPs) as eligible to obtain Transferrable Credits (TDCs) which may be transferred or conveyed to a site within a designated Receiving Area where the TDCs may be used for development.

SETBACK (OR SETBACK LINE). An area defined by a lot line, street centerline, wetland line, water boundary setback line of an open body of water, or right-of-way line and a line on a lot parallel to, and a specified distance from said lines in which area no structure may be located and into which no part of any structure shall project, unless specifically permitted in this Land Development Code. Setbacks shall be measured from lot lines unless specifically stated otherwise or unless the context in which the term is used implies another intended meaning.

- A. **FRONT SETBACK.** That area defined by the front lot line and a parallel line on the lot a specified distance from such front lot line.
- B. **SIDE SETBACK.** An area located between a front yard setback and a rear yard setback, defined by a side lot line and a parallel line on the lot a specified distance from such side lot line.
- C. **REAR SETBACK.** That area defined by the rear lot line and a parallel line on the lot a specified distance from such rear lot line.

SIGHT TRIANGLE. A triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists approaching or at the intersection.

SIGN. Any structure, or part thereof, or any device attached to a structure or applied to any surface or object, for visual communication, embodying letters, numerals, symbols, figures, flag, banner, pendant or designs in the nature of an announcement, direction, or advertisement, directing attention to an object, products, place, activity, service, person, institution, organization, or business and which is visible from any public street, alley, waterway, or public place. This definition of a sign shall not include any flag, notice badge, or ensign of any government or governmental agency, or any legal notice posted by and under governmental authority.

SIGN FACE AREA OR SIGN AREA. The area of any regular geometric shape which contains the entire surface area of a sign upon which copy may be placed.

SIGN STRUCTURE. Any construction used or designed to exclusively support a sign.

SIGNIFICANT IMPROVEMENT. Any reconstruction, rehabilitation, addition or other improvement of a structure, the cumulative cost of which equals or exceed 25 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage" regardless of the actual repair work performed. This term does not, however, include either: [Also defined in FBC, B, Section 202]

- A. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.

- B. Any alternation of a historic structure provided the alternation will not preclude the structure's continued designation as a historic structure.

SINKHOLE. A landform created by subsidence of soil, sediment or rock as underlying strata are dissolved by ground water. Sinkholes may be directly or indirectly connected to the aquifer or disconnected by the presence of a confining layer of soil (clay) or rock that no longer allows water to permeate below this layer. The later may be expressed as a relic sinkhole or lake, depression in the land surface, or loose soils in the subsurface.

SLOW-RATE LAND APPLICATION (SRLA). The application of reclaimed water to a vegetated land surface using an overhead or spray, or subsurface drip, Irrigation system, as defined in §§ 62-610.400 and 62-610.450 FAC.

SOLUTION PIPE. A naturally occurring vertical cylindrical hole attributable to dissolution, often without surface expression and much narrower circumference than a sinkhole.

SPECIAL FLOOD HAZARD AREA (SFHA). The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 202.]

SPECIAL USE. A use that would not be appropriate generally or without restriction throughout the particular zoning classification but which, if controlled as to number, area, location, or compatibility with the surrounding area, would not adversely affect the public health, safety, and general welfare.

SPECIAL USE PERMIT (SUP). A permit for a use that would not be appropriate generally or without restriction throughout the particular zoning classification but which, if controlled as to number, area, location, or compatibility with the surrounding area, would not adversely affect the public health, safety, and general welfare.

SPECIALTY ANIMALS. All animals including native and imported animals which have been, removed from the wild or, animals being bred, raised or kept for research, food, fur, skins, or for the production of income and/or, animals requiring a permit or license from the State Fish and Wildlife Conservation Commission or the US Fish and Wildlife Service shall be regulated by Special Use Permit. Large reptiles are included in this category. Where nine or more animals are being kept as household pets, and do not meet the above listed requirements or the below listed exclusions, they shall be treated as specialty animals and regulated by Special Use Permit. Specialty animals shall not include livestock, dogs, cats or homing/racing pigeons meeting the requirements of Article 4.

SPECIFIC CAPACITY. The ratio of well discharge to the drawdown produced, measured inside the well (gpm/ft of drawdown).

SPECIFIED ANATOMICAL AREAS. As it relates to the adult entertainment business:

- A. Less than completely and opaquely covered:
 - (1) Human genitals;
 - (2) Pubic region;
 - (3) Buttock; or
 - (4) Female breast below a point immediately above the top of the areola; or
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. As it relates to the adult entertainment business:

- A. Human genitals in a state of sexual stimulation or arousal;
- B. Acts of human masturbation, sexual intercourse or sodomy; and
- C. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

SPRINGS PROTECTION ZONE (SPZ). An area surrounding designated springs within Marion County establishing design and development criteria intended to maintain and support the continued

existence and quality of the designated springs, and divided into Primary and Secondary areas pursuant to Article 5.

START OF CONSTRUCTION. The date of issuance of permits for new construction and substantial improvements, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of permit issuance. The actual start means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main building. For 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.

STATIC LEVEL. The stabilized water level in a nonpumped well.

STOCKPILE. As it relates to the springs protection zone, animal manure, including droppings, urine, and soiled bedding material, that is piled, spread, or otherwise allowed to accumulate to such depth and/or volume in excess of three cubic yards that it: a) prevents or substantially hinders the growth of grass or other vegetation, and/or b) generates leachate that can potentially contaminate ground or surface water. Manure that is spread on pasture or cropland areas in accordance with normal agronomic practices following UF/IFAS recommendations and this section is not considered stockpiling.

STORAGE COEFFICIENT. The volume of water that an aquifer releases from or takes into storage per unit surface area of aquifer per unit change in the component of head normal to that surface. In a water table aquifer the storage coefficient is essentially the same as its porosity.

STORM CELLAR. A place below grade used to accommodate occupants of the structure and emergency supplies as a means of temporary shelter against severe tornadoes or similar windstorm activity.

STREET. A public or private travelway used or intended to be used, for passage or travel by vehicles.

STREET FRONTAGE. The distance along the property line at the right-of-way or easement of the street providing primary access and exposure to the existing or proposed development.

STRUCTURE. Anything constructed or built which is located on or under land.

STUB STREET. A portion of a street for which an extension has been proposed and approved. May be permitted when development is phased over a period of time, but only if the street in its entirety has been approved in the preliminary plan.

SUBDIVISION. The division of land into three or more lots, tracts, parcels, tiers, blocks, sites, units or any other division of land; and may include establishment of new streets and alleys, additions, and re-subdivisions or replats; and, when appropriate to the context, relates to the process of subdividing or to the lands or area subdivided.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL DEVELOPMENT. As it relates to vested rights, shall mean that required permits for commencement of construction have been obtained; and permitted clearing and grading has commenced on any significant portion of the development subject to a single final local development order; and the actual construction of water and sewer lines, or streets, or the stormwater management system, on said portion of the development is substantially complete or is progressing in a manner that significantly moves the entire development toward completion.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage" regardless of the actual repair work performed. This term does not, however, include either: [Also defined in FBC, B, Section 202.]

- (1) 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.
- (2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

SWALLET OR SWALLOW HOLE. A place where water disappears underground in a limestone fissure or opening at or near the surface. A swallow hole generally implies water loss in a closed depression or sinkhole, whereas a swallet may refer to water loss from a disappearing stream or streambed, even though there may be no depression.

TEST WELL. Completed well for pumping used to obtain information on capacity, groundwater quality, geologic and hydrologic conditions, and related information.

TOTAL NITROGEN (TN). As a measurement of wastewater effluent quality, Total Nitrogen is the total content of the nitrogen species of organic nitrogen, ammonia, nitrate and nitrite expressed as elemental nitrogen, N, as determined using approved methods.

TOWER. A lattice, guyed or monopole structure constructed from grade which supports antennas. The term "tower" shall not include the singular use as a amateur radio operator's equipment, as licensed by the FCC, or antenna support structures and/or towers which are less than 50 feet in height and are used only to support antennas which receive, but do not transmit television signals.

TOWER CLUSTERING. The location of two or more towers on a parcel of property.

TRANSFER OF RIGHTS PROGRAM (TRP). A program which awards or grants to a property owner Transferrable Development Credits (TDCs) which may then be transferred or conveyed to a party that may use the TDCs for the development of lands deemed eligible by Marion County.

TRANSFERRABLE DEVELOPMENT CREDIT (TDC). A residential unit equivalent which may be granted to lands within eligible Sending Areas for subsequent transfer/sale between parties wherein the TDC is used by the receiving party to provide for additional residential development on lands eligible for use in a designated Receiving Area.

TRANSMITTER TOWER. A structure designed, constructed or used for the sole purpose of broadcasting or retransmitting any form of radio, television, radar, microwave, or other type of electronic wave, or impulse.

TREE. Any self-supporting woody plant which has at least one main trunk, and is normally grown to an overall height of a minimum of ten feet.

TREE REMOVAL. To physically remove a tree, including the performance of any act by a property owner or his designated agent, on a particular parcel of record which causes the death of a tree, or the effective removal of a tree through damage.

TURFGRASS. A mat layer of monocotyledonous plants, including but not limited to Bahia, Bermuda, Centipede, Paspalum, St. Augustine, and Zoysia grasses.

TWO-FAMILY DWELLING. A structure containing two dwelling units.

UNIT. That part of a multiple occupancy complex housing one occupant or use.

UNRECORDED SUBDIVISION. A platted subdivision of lands which has been accepted by the Board of County Commissioners for filing only by the Clerk of the Court in the public records of Marion County. Said plats were prepared and filed prior to August 14, 1970, in the public records of Marion County in record books entitled "Unrecorded Subdivisions."

URBAN AREA. Lands located within the Urban Growth Boundary (UGB) as designated by the Comprehensive Plan Future Land Use Map Series Map 1 Marion County 2035 Future Land Use Map or those lands located in the Rural Area bearing an Urban Area land use designation as specified in Comprehensive Plan Future Land Use Element Appendix A, Table A-1 Land Use Classifications and Standards.

URBAN GROWTH BOUNDARY (UGB). The boundary established by Marion County Comprehensive Plan Future Land Use map Series Map 1, Marion County 2035 Future Land Use Map, which identifies the geographic area wherein higher density and intensity development and full urban services are intended to be concentrated.

UTILITY. The individuals and/or legal entities which own and are responsible for the operation and maintenance of public or private utility services such as potable water, wastewater, phone, cable, electric, etc.

VARIANCE. As it relates to the zoning requirements of this Code, a grant of relief to a particular property owner because of the practical difficulties or unnecessary hardship that would be imposed by the strict application of that zoning provision of the Code. For floodplain management purposes, a grant of relief from the requirements of Article 5, Division 3, or the flood resistant construction requirements of the Florida Building Code, which permits construction in a manner that would not otherwise be permitted by Article 5, Division 3 or the Florida Building Code.

VEHICLE SIGN. Any sign affixed to a vehicle.

VERTICAL DATUM. An accepted reference or basis for elevations pre-approved by the Office of the County Engineer.

VESTED RIGHTS. The authorization to improve and/or develop properties meeting the conditions established in Division 1.7.

VIOLATION. The failure of a structure or other development to be fully compliant with the requirements of a specific provision of this Code.

WAIVER. A grant of relief from compliance with a specific provision of this Code, not zoning related, granted to a particular property owner because of financial hardship or alternate design concept.

WASTEWATER. Any substance that contains any of the waste products, excrement, or other discharge from the bodies of human beings or animals as well as such other wastes as normally emanate from dwelling houses.

WASTEWATER SERVICE LATERAL. Those service laterals or force mains from the customer's property line to the wastewater main and all appurtenances.

WASTEWATER SYSTEM. A centralized or decentralized system for the collection and treatment of domestic wastewater and disposal of reclaimed effluent. A wastewater system includes without limitation the collection lines, wastewater treatment facility, pumping stations, intercepting sewers, force mains, and all necessary appurtenances and equipment and shall include all property, rights, easements, and franchises relating to any such system and deemed necessary or convenient for the operation thereof.

WASTEWATER TREATMENT FACILITY (WWTF). The facility at which the raw wastewater is collected and treated.

WATER BOUNDARY SETBACK LINE (WBSL). Unless previously established by Board action, the Water Boundary Setback Line is the normal or average reach of a water body during the high water season. However, on low, flat-banked water bodies where there is no well-defined mark, the boundary is located at the point up to which the presence and action of the water is so continuous that the cultivation of ordinary agricultural crops is prevented.

WATERCOURSE. A river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

WATER DETENTION AREA (WDA). A manmade or natural facility which collects surface or subsurface water and which impedes its flow and releases the same gradually at a rate not greater than that prior to the development of the property, into natural or manmade outlets.

WATER FRONTAGE OR WATER FRONT. That side of a lot, parcel or tract abutting on a water body and which may be considered as the front for setback requirements.

WATER METER. That device, with all appurtenances, which registers water flow to a customer.

WATER RETENTION AREA (WRA). A manmade or natural facility which collects and retains surface water and allows gradual ground infiltration.

WATER SERVICE CONNECTION. The point of connection to the public potable water system (metered or non-metered) where the Utility loses jurisdiction and sanitary control over the potable water delivered to that point. Included within this definition are connections for fire hydrants and other temporary or emergency water service. For metered connections, the point of connection is the downstream end of the water meter.

WATER SERVICE LATERAL. The pipe from the water main to the point of connection.

WATER SURFACE ELEVATION. The height, in relation to an accepted vertical datum, of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

WATER SYSTEM. A water supply distribution system consisting of all water mains, valves, service laterals, fire hydrants, meter boxes, etc. used to deliver water from the WTP to the consumer.

WATER TREATMENT PLANT (WTP). Includes all wells, pumps, tanks, valves, piping, treatment and disinfection facilities required to withdraw, treat, and disinfect water suitable for public consumption.

WETLANDS. Those land areas featuring unique environmental and/or hydrogeologic characteristics which qualifies as wetlands pursuant to § 373.019(25) FS and § 62-340.200 FAC as determined and delineated by the appropriate jurisdictional agency

WETTEST SEASON. As defined in § 64E-6.002 FAC, that period of time each year in which the ground water table elevation can normally be expected to be at its highest elevation.

WILDLAND URBAN INTERFACE/INTERMIX ZONES: Locations which the Marion County Fire Rescue (MCFR) determines that topographical features, vegetation fuel types, local weather conditions, and prevailing winds may result in the potential for ignition of the structures from flames and firebrands of a wildland fire. A wildfire hazard severity analysis shall be provided for review and approval by MCFR.

(Ord. No. 13-20, § 2, 7-11-2013; Ord. No. 17-08, § 2(Exh. A, § 2), 4-11-2017; Ord. No. 17-11, § 4, 5-16-2017; Ord. No. 17-25, § 1(Exh. A), 10-3-2017; Ord. No. 2017-30, § 1(Exh. A, § 2), 11-7-2017; Ord. No. 18-14, § 1(Exh. A, § 2), 5-21-2018)

DIVISION 3. - ACRONYMS

AASHTO. American Association of State Highway and Transportation Officials.

ACLF. Adult Congregate Living Facility.

ADF. Average Daily Flow.

AMOA. Acknowledgement of Military Operating Area.

ANSI. American National Standards Institute.

API. American Petroleum Institute.

ASME. American Society of Mechanical Engineers.

ASTM. American Society for Testing Materials

AWWA. American Water Works Association.

BMP. Best Management Practice(s).

C&D. Construction and Demolition.

CCR. Covenants, Conditions, and Restrictions.

CDD. Community Development District.

CESQG. Conditionally Exempt Small Quantity Generators.

CFR. Code of Federal Regulations.

CPAA. Comprehensive Plan Amendment Application.

CRA. Community Redevelopment Area.

CWS. Community Water System.

DADF. Designed Average Daily Flow, in gallons.

DBH. Diameter at Breast Height.

DEM. Florida Division of Emergency Management or equivalent.

DEO. Florida Department of Economic Opportunity.

DIP. Ductile Iron Pipe.

DIPRA. Ductile Iron Pipe Research Association.

DOH. Florida Department of Health, local, regional or state, as applicable.

EALS. Environmental Assessment for Listed Species.

EALS-ER. Environmental Assessment for Listed Species Exemption Request.

ECSD. Equine Commercial Support District.

EPA. United States Environmental Protection Agency.

ERC. Equivalent Residential Connection.

FAA. Federal Aviation Administration.

FAC. Florida Administrative Code.

FAR. Floor Area Ratio.

FBC. Florida Building Code.

FCC. Federal Communications Commission.

FDC. Fire Department Connection.

FDEP. Florida Department of Environmental Protection.

FDOF. Florida Division of Forestry.

FDOT. Florida Department of Transportation.

FEMA. Federal Emergency Management Agency.

FFL. Florida Friendly Landscaping.

FFPC. Florida Fire Prevention Code.

FGCC. Federal Geodetic Control Committee.

FHBM. Flood Hazard Base Map.

FIRM. Flood Insurance Rate Map.

FIS. Flood Insurance Study.

FLUCCS. Land Use, Cover and Forms Classification System: A Technical Manual, State of Florida Department of Transportation.

FNAI. Florida Natural Areas Inventory.

FPS. Feet Per Second.

FS. Florida Statute.

FVA. Florida Vernacular Architecture.

FWC. Florida Fish and Wildlife Conservation Commission.

GFA. Gross Floor Area.

GLA. Gross Leasable Area.

GPD. Gallons Per Day.

GPM. Gallons Per Minute.

GRPA. Groundwater Recharge Preservation Area.

HOA. Home Owners Association.

HUD. Housing and Urban Development.

IES. Illuminating Engineering Society.

IOS. Improved Open Space.

ITE. Institute of Transportation Engineers.

LBR. Limerock Bearing Ratio.

LDC. Land Development Code.

LDRC. Land Development Regulation Commission.

LID. Low Impact Development.

LOS. Level of Service.

LOSS. Level of Service Standard.

LPA. Local Planning Agency.

LPDS. Low Pressure Dosing System.

MCAVA. Marion County Aquifer Vulnerability Assessment.

MCFR. Marion County Fire Rescue.

MCHD. Marion County Health Department.

MCOR. Marion County Official Records.

MCUD. Marion County Utility Department.

MFLA. Marion Friendly Landscaping Area.

MGD. Million Gallons per Day.

MTS. Minimum Technical Standards.

MUTCD. Manual on Uniform Traffic Control Devices.

NAVD. North American Vertical Datum.

NEC. National Electric Code.

NEMA. National Electrical Manufacturers Association.

NFPA. National Fire Protection Association.

NGVD. National Geodetic Vertical Datum.

NPDES. National Pollutant Discharge Elimination System.

NRCS. Natural Resources Conservation Service.

NSF. National Sanitation Laboratory Foundation.

OHWL. Ordinary High Water Line.

OSHA. The Federal Occupational Safety and Health Administration.

OSTDS. On-site Sewage Treatment and Disposal System.

P&Z. Planning and Zoning Commission.

PAR. Public Access Reuse.

PBTS. Performance Based Treatment System.

PSC. Florida Public Service Commission.

PUD. Planned Unit Development.

QNA. Qualified Natural Area.

RIB. Rapid Infiltration Basin.

RPZ. Reduced Pressure Zone.

RRLA. Rapid Rate Land Application System.

RV. Recreational Vehicle.

RVD. Rural Village District.

SFHA. Special Flood Hazard Area.

SIC. Standard Industrial Classification.

SJRWMD. St. Johns River Water Management District.

SPZ. Springs Protection Zone.

SRA. Scenic Roads Area.

SRAA. Scenic Roads Amendment Application.

SRLA. Slow Rate Land Application System.

SSCRA. Silver Springs Community Redevelopment Area.

SSCRAO. Silver Springs Community Redevelopment Area Overlay.

SUP. Special Use Permit.

SWFWMD. Southwest Florida Water Management District.

TDC. Transferrable Development Credit.

TDCA. Transfer of Development Credits Application.

TDR. Transferrable Development Rights.

TN. Total Nitrogen.

TPO. Transportation Planning Organization.

TRP. Transfer of Rights Program.

TVR. Transfer of Vested Rights.

- UF/IFAS.** University of Florida, Institute of Food and Agriculture Science.
- UGB.** Urban Growth Boundary.
- UND.** Urban Neighborhood District.
- USDA.** United States Department of Agriculture.
- USDA-NRSC.** United States Department of Agriculture-Natural Resources Conservation Service.
- USDOT.** United States Department of Transportation.
- USFS.** United States Forest Service.
- USFWS.** United States Fish and Wildlife Service.
- USGS.** United States Geological Survey.
- V/C.** Volume to Capacity Ratio.
- WBSL.** Water Boundary Setback Line.
- WTP.** Water Treatment Plant.
- WWTF.** Wastewater Treatment Facility.

(Ord. No. 13-20, § 2, 7-11-2013; Ord. No. 2017-30, § 1(Exh. A, § 2), 11-7-2017; Ord. No. 18-14, § 1(Exh. A, § 2), 5-21-2018)

DIVISION 4. - PLANNING AND ZONING COMMISSION (P&Z) AND THE LAND DEVELOPMENT REGULATION COMMISSION (LDRC)

Sec. 1.4.1. - General Provisions.

The following shall apply to the P&Z, SRAC, and LDRC. For the purposes of this division, the term "commission" shall respectively represent each commission generally or as specifically referenced.

- A. Membership, appointment, removal, terms, officers, and vacancies.
 - (1) Each commission shall be composed of seven members to be appointed by the Board. Two alternate members may be appointed by the Board. All members shall be residents of Marion County. No member shall be an employee of the County. Employees of other governmental entities are eligible to be members provided they are not elected officials, in positions to establish policy for their employer, or department heads or higher.
 - (2) Ex officio members shall be:
 - (a) Representative of the Marion County School Board,
 - (b) Representative of the US Military Operating Area,
 - (c) Department of Health,
 - (d) Fire Rescue.
 - (3) Members may be compensated as determined by the Board.
 - (4) All members shall serve a term of four years, except that three members of each commission shall be appointed for an initial term of two years. No member shall serve more than three consecutive terms. Each member shall hold office until a successor is appointed.
 - (5) The members of each commission shall elect one of their members as chair and one as vice-chair. Each year thereafter, new elections shall be held. In the absence of the chair, the

vice-chair shall act as chair and shall have all powers of the chair. No member shall serve as chair for more than two consecutive years.

- (6) The presiding chair of any commission meeting may administer oaths, shall be in charge of all proceedings, and shall take such action as necessary to preserve order and the integrity of all proceedings.
- B. Members may be removed by the Board, with or without cause, upon ten days written notice of intent to remove. Vacancies due to resignation, removal, or death shall be filled by Board appointment for the unexpired term.
- C. Meetings and procedures.
- (1) Meetings may be held to conduct workshops, regular business, or public hearings.
 - (2) All meetings shall be open to the public, and advertised consistent with Board or Florida Statutes requirements, as applicable.
 - (3) Regular meetings of the commission shall be held at least once per calendar year. All regular meetings shall be held after 5:00 p.m.
 - (4) Special meetings may be called by the Chair of the Board, a majority of the members of the Board, the Chair of the Commission, or a majority of the members of the commission. Special meetings may be held at any time.
 - (5) Quorum and necessary vote. No meeting of any commission shall be called to order, nor shall any business be transacted, without a quorum, except to reschedule a meeting. A quorum shall consist of four members and/or alternates. The chair shall be considered and counted as a member. Action shall be taken by a majority vote of those members present and constituting a quorum.
- D. General commission duties.
- (1) To make its special knowledge and expertise available, upon reasonable written request and authorization of the Board, to any Official, Department, Board, Commission, or Agency of the County, State, or Federal Government.
 - (2) To adopt rules of procedure, consistent with law and this Code, for the administration and governance of its proceedings.
 - (3) To perform such other functions, duties and responsibilities as may be assigned to it by the Board or by general or special law.
- E. Staff Support.
- (1) The Growth Services Director or designee is hereby appointed as staff liaison to each commission.
 - (2) The Growth Services Director shall appoint a recording secretary to serve each commission. The secretary shall keep minutes of all proceedings, which minutes shall be a summary of all proceedings before the commission, attested to by the secretary, and which shall include the vote of each member upon every question. The secretary shall notify all members and interested parties of the meetings. The minutes shall be approved by a majority of the members of the commission.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.4.2. - Planning and Zoning Commission (P&Z).

- A. The P&Z is hereby established pursuant to Ch. 125 FS and § 163.3161 FS, as amended, to act as an advisory commission to the Board regarding comprehensive planning and zoning matters as set forth in this section.

B. Comprehensive Plan related duties.

- (1) To serve as the Local Planning Agency (LPA) pursuant to § 163.3161 FS, as amended.
- (2) To review and consider the recommendations of the Growth Services staff on all elements of the Comprehensive Plan and any proposed amendments thereto, consistent with Articles 2 and 3.
- (3) To hold duly noticed public hearings regarding amendments.
- (4) To make recommendations to the Board regarding all elements of the Comprehensive Plan and any proposed amendments thereto, consistent with Articles 2 and 3.
- (5) To monitor and oversee the effectiveness and status of the Comprehensive Plan and recommend to the Board such changes as may, from time to time, be required.
- (6) To assist the Growth Services Department in preparing periodic reports required by § 163.3191 FS to assess and evaluate the Comprehensive Plan, or any element or portion thereof, which shall contain appropriate statements (using words, maps, illustrations or other forms) related to:
 - (a) The major problems of development, physical deterioration, and the location of land uses and the social and economic effects of such uses in the area.
 - (b) The condition of each element in the Comprehensive Plan at the date of adoption and at the date of report.
 - (c) The Comprehensive Plan objectives as compared with actual results at the date of report.
 - (d) The extent to which unanticipated and unforeseen problems and opportunities occurred between the date of adoption and the date of report.
 - (e) Suggested changes needed to update the Comprehensive Plan, elements, or portions thereof, including reformulated objectives, policies, and standards.

C. Zoning related duties.

- (1) To review and consider the recommendations of the Growth Services staff on Zoning Change and Special Use Permit Applications, consistent with Articles 2 and 4.
- (2) To hold public hearings regarding Zoning Change and Special Use Permit applications as required by law and this Code.
- (3) To make recommendations to the Board regarding Zoning Change and Special Use Permit applications, consistent with Articles 2 and 4.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.4.3. - Land Development Regulation Commission (LDRC).

A. The Land Development Regulation Commission is established pursuant to Ch. 125 FS and § 163.3161 FS, as amended, to act as an advisory commission to the Board in regards to the following:

- (1) The Marion County Land Development Code and its land development regulations as set forth in this section;
- (2) The Marion County's Scenic Roads Program as set forth in this section and Division 5.6.

B. Land Development Code Duties.

- (1) To review, revise, and consider the recommendations of the county staff with regard to proposed land development regulations and amendments thereto, consistent with Article 2.
- (2) To hold duly noticed public hearings regarding land development regulations and amendments thereto, as required by law and this Code.

- (3) To make recommendations to the Board regarding consistency of proposed land development regulations or amendments with the County's approved and adopted Comprehensive Plan.
- (4) To make recommendations to the Board regarding proposed land development regulations or amendments thereto, consistent with Article 2.

C. Scenic Roads Duties.

- (1) To review and consider the recommendations of the Growth Services staff in regards to the Scenic Roads Master Plan (SRMP) and amendments thereto, and Scenic Road Amendment Applications (SRAAs), consistent with Articles 2 and 5.
- (2) To hold duly noticed public hearings regarding the SRMP and amendments thereto, as required by law and this Code.
- (3) To make recommendations to the Board regarding proposed SRMP amendments and SRAAs, consistent with Articles 2 and 5.
- (4) To monitor and oversee the effectiveness and status of the SRMP and recommend to the Board such changes in the SRMP as may be required.
- (5) To recommend and/or prepare nominations for Board consideration designating Scenic Routes for the State and Federal Scenic Byways Programs.

(Ord. No. 13-20, § 2, 7-11-2013)

DIVISION 5. - BOARD OF ADJUSTMENT

Sec. 1.5.1. - Powers and duties.

A Board of Adjustment is established with the following powers and duties:

A. Duties of the Board of Adjustment:

- (1) To authorize such variances from the terms of these regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations would result in unnecessary and undue hardship. A variance from the terms of these regulations shall not be granted by the Board of Adjustment unless a written petition for a variance is submitted demonstrating that:
 - (a) 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 with the same zoning classification and land use area.
 - (b) The special conditions and circumstances did not result from the actions of the applicant.
 - (c) Literal interpretation of the provisions of applicable regulations would deprive the applicant of rights commonly enjoyed by other properties with the same zoning classification and land use area under the terms of said regulations and would work unnecessary and undue hardship on the applicant.
 - (d) The variance, if granted, is the minimum variance that will allow the reasonable use of the land, building or structure.
 - (e) Granting the variance requested will not confer on the applicant any special privilege that is denied by these regulations to other lands, buildings or structures in the same zoning classification and land use area.
 - (f) The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

- (2) Appeals to the Board of Adjustment concerning interpretation of the zoning requirements of this Code by the Planning/Zoning Manager may be taken by any aggrieved party or by any officer, agency or department of Marion County affected by such decision, determination or requirement.
 - (a) Such appeals shall be taken within 30 days from the date of the written determination by filing with the Growth Services Department a Notice of Appeal, specifying the ground therefore. The Growth Services Director or designee shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. The Board of Adjustment shall fix a reasonable time for the hearing on the appeal and shall give notice to all parties of the date, time and place of said appeal hearing. At the hearing, any party may appear in person, by authorized agent, or by an attorney.
 - (b) All appeals shall be approved or denied by a majority vote of the Board of Adjustment members present and voting at the meeting where the appeal is heard. If the vote of the Board of Adjustment results in a tie vote, the tie vote shall operate as a deferral of the appeal to the next meeting of the Board of Adjustment. Appeal of a Board of Adjustment's final written order on an appeal shall conform to Section 4.11.
 - (c) Decision on appeal. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as it deems just and proper.
- B. Notice of public hearing. Due public notice as defined in Division 1 shall be given prior to public hearings held by the Board of Adjustment. Said notices shall also inform the recipient that actions of the Board of Adjustment are final.
- C. Public hearing. The public hearing shall be held by the Board of Adjustment and any party may appear in person, by authorized agent, or by an attorney.
- D. Findings. The Board of Adjustment shall make findings that the requirements of this section have or have not been demonstrated by the applicant for a variance.
- E. Conditions and safeguards. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with these regulations, including, but not limited to, reasonable time limits within which the action for said variance is required to begin or be completed, or both. 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.
- F. The Board of Adjustment shall have the authority to revoke a variance previously granted upon the submission of facts supporting noncompliance with conditions and safeguards presented by the Board of Adjustment in granting the variance. The Growth Services Director or designee shall provide written notice by "registered" mail to the property owner at least 15 days prior to consideration of revocation by the Board of Adjustment, and such written notice shall specify the time, date and meeting place of the Board of Adjustment and the reasons supporting revocation. The Board of Adjustment shall conduct an informal hearing on such revocation and shall adopt findings of fact supporting such revocation. Appeals of revocation ordered by the Board of Adjustment shall be to the Circuit Court by Writ of Certiorari.
- G. Limitation on power to grant variances. Under no circumstances shall the Board of Adjustment grant a variance to permit a use not permitted under the terms of these regulations in the zoning classification involved, or any use expressly or by implication prohibited by the terms of these regulations in the said zoning classification. No non-conforming use of neighboring lands, structures or buildings in the same zoning classification and no permitted use of lands, structures or buildings in any other classification shall be considered grounds for the granting of a variance. No Special Use Permits shall be granted by the Board of Adjustment.

- H. Limitation of variances. When the Board of Adjustment has denied an application for a variance, no applicant shall submit an application for the same variance for a period of 12 months from the date of denial.
- I. Request for continuance. At the request of an applicant and for good cause shown, the Board of Adjustment may continue the public hearing on an application for a variance. The applicant shall be required to pay an additional application fee to cover the cost of re-advertising and re-notifying the adjacent property owners. The Board of Adjustment shall not grant an applicant's request for continuance when the application is the result of a notice of code violation and the variance is necessary to cure such violation. The applicant will not be required to pay an additional application fee if the continuance is granted by the Board of Adjustment on their own initiative.
- J. Staff liaison. The Growth Services Director or designee is hereby appointed as staff liaison to the Board of Adjustment.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.5.2. - Membership, appointment, removal, terms, officers, and vacancies.

- A. The Board of Adjustment shall be composed of seven members to be appointed by the Board of County Commissioners, each for a term of three years, and two alternate members, designated as such, each for a term of three years. Such alternate members may act in the temporary absence or disability of any regular member or may act when a regular member is otherwise disqualified in a particular case that may be presented to the Board of Adjustment.
- B. Qualifications. No member or alternate shall hold any other public position or office in any municipality or County government in Marion County. Members or alternates of the Board of Adjustment shall be residents of the County.
- C. Removal. Members or alternates may be removed by the Board of County Commissioners with or without cause upon ten days written notice of intent to remove.
- D. Vacancies. Vacancies due to resignation, removal or death shall be filled by Board of County Commissioners' appointment for the unexpired term.
- E. Compensation. Members may be compensated as determined by the Board.
- F. Procedures.
 - (1) The Board of Adjustment shall select a chair and vice-chair from among its members. All regular members of the Board of Adjustment and alternates sitting on the Board of Adjustment shall be entitled to vote on matters before the Board of Adjustment.
 - (2) The Board of Adjustment 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.
 - (3) Meetings shall be held at least once every quarter and at such other times as the Board of Adjustment may determine.
 - (4) The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member or alternate (including the chair and vice-chair) or if absent or failing to vote, indicating such fact. A quorum for the transaction of business shall consist of four members or alternates.
 - (5) If any member or alternate of the Board of Adjustment has a voting conflict as defined by § 112.3143 FS, he shall disqualify himself from all participation in that case.
 - (6) The Board of County Commissioners may appropriate funds for expenses necessary in the conduct of the work of the Board of Adjustment. The Board of Adjustment may expend all sums so appropriated for the purposes and activities authorized by this Code.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.5.3. - Appeals.

Appeals of a Board of Adjustment action/determination shall be made to the Circuit Court for appropriate relief (e.g., Writ of Certiorari, etc.).

(Ord. No. 13-20, § 2, 7-11-2013)

DIVISION 6. - DEVELOPMENT REVIEW COMMITTEE

Sec. 1.6.1. - General.

A Development Review Committee is hereby established pursuant to Ch. 163 FS and amendments thereto.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.6.2 - Membership.

The Development Review Committee is hereby established and shall consist of five voting members. The following County employees shall constitute the committee: Growth Services Director, County Engineer, Utilities Director, Fire Marshal, and Building Safety Director. Any committee member's alternate shall be approved by the chair of the DRC.

(Ord. No. 13-20, § 2, 7-11-2013; Ord. No. 15-24, 12-16-2015)

Sec. 1.6.3 - Purpose.

The purpose of the Development Review Committee is to review, comment, make recommendations and/or approve development applications and plans. This committee will perform other duties conferred on it by the Board.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.6.4. - Rules of Procedures.

- A. Rules. The Development Review Committee shall adopt rules for transaction of its business.
- B. Records and minutes. The committee shall keep minutes of its transactions, findings and determinations.
- C. Meetings. Meetings shall be held at least every other week and at such other times as the committee may determine necessary. Variations in the meeting schedule are permissible to accommodate holidays and other circumstances.
- D. Quorum. A quorum for the transaction of business shall consist of three members.
- E. Chairmanship structure. A chair and vice chair shall be appointed by the County Administrator.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.6.5. - Appeal.

In case of disagreement between the applicant and the Development Review Committee, the decision of the Development Review Committee may be appealed to the Board of County Commissioners or other authority as established by this Code.

(Ord. No. 13-20, § 2, 7-11-2013)

DIVISION 7. - VESTED RIGHTS

Sec. 1.7.1. - Intent and purpose.

This division establishes the administrative procedures and standards by which a property owner may demonstrate that private property rights have been vested from the provisions of the adopted Comprehensive Plan. Said administrative procedures shall provide determinations if a development is vested from the requirements of the adopted Comprehensive Plan and to what extent. The Marion County Comprehensive Plan provides objectives and policies relating to vesting and exceptions from density requirement for the unincorporated area of Marion County.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.7.2. - Vested development rights.

- A. A property owner shall have vested rights to complete any development where:
 - (1) The development has been authorized as a Development of Regional Impact pursuant to Ch. 380 FS; or
 - (2) The development has been authorized as a Florida Quality Development pursuant to Ch. 380 FS, or
 - (3) The development has been issued a final local development order by Marion County and development has commenced and is continuing in good faith; or
 - (4) The property owner or developer has requested and secured a vested rights determination consistent with the provisions of this division.
- B. The property owner may qualify for an exception to the densities required in the Comprehensive Plan for construction of one residential unit.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.7.3. - Presumptive, statutory, and common law vesting.

- A. Presumptive Vesting. The following categories shall be presumptively vested for the purposes of consistency with the Comprehensive Plan as specified in the Comprehensive Plan and shall not be required to file an application to preserve their vested rights status:
 - (1) All active and valid building permits issued prior to June 11, 1992 where development has commenced and is continuing in good faith before expiration of such permits.
 - (2) Any structure on which construction has been completed and a certificate of occupancy issued if a certificate of occupancy was required at time of permitting.
- B. Presumptive Exceptions to Densities. Recorded and unrecorded subdivisions that may be allowed density exceptions or that may be required to aggregate contiguous lots are as follows:

Parcels within a phase of a recorded or unrecorded subdivision which have met the applicable conditions set forth below prior to January 1, 1992 shall be permitted to develop at the density established for that

subdivision, provided that all Ch. 10D-6 FAC requirements and all other requirements of the Comprehensive Plan are met. Those recorded or unrecorded subdivisions not meeting the requirements listed below will be required to aggregate parcels to meet the density requirements of this Comprehensive Plan as provided herein.

- (1) Subdivisions that have direct access to a County paved road and in which all parcels front on a continually maintained, paved, or stabilized road that meets the standards established by Marion County; and
- (2) Parcels within subdivisions in which all parcels are served by a stormwater management system that functions at the standards established by Marion County; and
- (3) Parcels within subdivisions in which the sale of individual lots to persons by the original subdivider has occurred at the following rates prior to August 11, 1993:
 - (a) At least 85 percent of the total number of lots are sold if the subdivision was created in 1982 or before; or
 - (b) At least 60 percent of the total number of lots are sold if the subdivision was created from 1983 to 1987 inclusive; or
 - (c) For subdivisions created after 1987 the following conditions apply in order for no aggregation requirements to be placed upon contiguous lots within the subdivision:
 1. At least 50 percent of the total number of lots are sold by 1993 if the subdivision was created in 1988; or
 2. At least 50 percent of the total number of lots are sold by 1994 if the subdivision was created in 1989; or
 3. At least 50 percent of the total number of lots are sold by 1995 if the subdivision was created in 1990; or
 4. At least 50 percent of the total number of lots are sold by 1996 if the subdivision was created in 1991; or
 5. At least 50 percent of the total number of lots are sold by 1997 if the subdivision was created in 1992.

The percentage of lots sold is meant to reflect the sale of individual lots to many individuals and not the transfer of large number of contiguous lots to investors. The County shall deny this exception if the sale of lots as indicated above does not reflect this intent.

- C. The Growth Services Director or designee shall notify developers or owners, upon their request, of recorded and unrecorded subdivisions, in writing, of parcels in the subdivision subject to aggregation under this section. A developer or owner may appeal the determination of the Growth Services Director to the Development Review Committee provided such an appeal is filed within 90 days of the issuance of the determination. Failure of the developer or owner to submit an appeal within the 90-day period shall constitute a waiver of any right to appeal. The written determination of the Growth Services Director or designee that contiguous lots are subject to aggregation shall control the issuance of building permits on such lots. A decision on appeal may be appealed to a Hearing Officer in accordance with this division.
- D. Statutory Vesting. The following categories will be statutorily vested for the purposes of consistency with the Comprehensive Plan and shall not be required to file an application to preserve their vested rights status. The Growth Services Department shall maintain a listing of such developments.
 - (1) Development Orders issued prior to the effective date of this division authorizing a Development of Regional Impact (DRI) or a Florida Quality Development (FQD) pursuant to Ch. 380 FS or any successor statute to said Chapter to the extent such development order specifically addresses vested rights to complete such development.

- (a) Developments shall be vested to the extent that vested development rights are set forth in a valid, unexpired binding letter and any subsequent binding letter of modification pursuant to §§ 380.06(4) and 380.06(20) FS or any successor statute to said Sections.
 - (2) Developments failing to comply with this division shall be required to apply for a determination of vested development rights and possible requirements for consistency with the adopted Comprehensive Plan prior to commencement or continuation of development. The right to develop or to continue the development of the property shall be found to exist if a valid and unexpired final local development order was issued by the County prior to the effective date of this division and development has commenced and is continuing in good faith.
- E. Common Law Vesting.
- (1) An application for a vested rights determination shall be approved if the applicant has demonstrated all of the following or otherwise been accorded vested rights status by a court of competent jurisdiction after the applicant has complied with the administrative appeal rights set forth in this division.
 - (a) There was a valid, unexpired act of an agency or authority of Marion County which the applicant reasonably relied upon in good faith; and
 - (b) The applicant, in reliance upon the valid, unexpired act of Marion County, has made a substantial change in position or has incurred extensive obligations or expenses; and
 - (c) It would be inequitable, unjust or fundamentally unfair to deny the development rights acquired by the applicant. In making this determination, Marion County shall consider a number of factors including but not limited to:
 - 1. Whether construction or other development activity has commenced and is continuing in good faith.
 - 2. Whether the expenses or obligations incurred have been substantially utilized for a development permitted by the Marion County Comprehensive Plan and Land Development Regulations in effect at the time of the expenditure.
 - (2) The following are not considered development expenditures or obligations in and of themselves:
 - (a) Expenditures for legal and other professional services that are not related to the design or construction of improvements;
 - (b) Taxes paid;
 - (c) Expenditure for acquisition or the financing costs of the land.
 - (3) The mere existence of zoning, standing alone, which may be contrary to the Future Land Use Element, or any other element of the Comprehensive Plan shall not be determinative of vested rights.
- F. Time Limitations.
- (1) The owner shall request a determination of vested rights pursuant to this division by filing a technically complete, sworn application and the application fee with the Growth Services Department, on or before the dates set forth below.
 - (a) Application for Vested Right Determination from the Policies of the Comprehensive Plan adopted January 29, 1992 shall be filed on or before December 31, 1992.
 - (b) Application for Vested Right Determination from the Remedial Amendments to the Comprehensive Plan adopted August 11, 1993 shall be filed on or before June 10, 1994.
 - (c) Application for Vested Right Determination from future amendments to the Comprehensive Plan shall be filed within 180 days of the adoption date of such future amendments to the Comprehensive Plan.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.7.4. - Application procedures.

- A. Application for vested rights determination pursuant to this division shall be submitted to the Marion County Growth Services Department and shall include the following information:
 - (1) The name and address of the applicant, who is the owner(s) or a person authorized in writing to apply on behalf of the owner(s). If the property is owned by more than one person, any owner or an authorized agent of the owner(s) may apply;
 - (2) A legal description and survey of the property which is the subject of the application;
 - (3) The name and address of each owner of the property;
 - (4) A site or development plan or plat for the property;
 - (5) Identification by specific reference to any ordinance, resolution, or other action of the County, or failure to act by the County upon which the applicant relied and which the applicant believes supports the owner's vested rights claim notwithstanding an apparent conflict with the adopted Comprehensive Plan;
 - (6) Such other relevant information that staff may request.
- B. Failure to timely file an application requesting a determination within the prescribed time limits shall constitute a waiver of any vested rights claim by the owner of the property.
- C. The Board shall establish an application fee by resolution and said application fee shall be included with the application for a determination of vested rights.
- D. At any time during or after the application period, the Board may waive the maximum response time set forth in this division to a date certain. Said waiver may be applicable to any step in the vested rights determination procedure upon the determination by the Board that the volume of applications received exceeds the capacity of the staff to process those applications within the stated time limits or upon the applicant's reasonable request.
- E. Review for completeness. The Growth Services Director or designee shall review the submitted application within ten working days after receipt to determine if the request is technically complete. If not technically complete, it will be returned to the applicant immediately with written notification of deficient items as required by this division. Within 20 additional working days from the date the application was returned to the applicant, the applicant shall correct the deficient items and resubmit the application. If the applicant does not resubmit in this time period, the application will become void unless granted an extension by the Development Review Committee (DRC) based on applicant's request. Extension shall be for one time only and shall not exceed 45 calendar days.
- F. Vesting determination. After an application is determined technically complete by the Growth Services Director, it shall be reviewed by staff for recommendations and scheduled for DRC's consideration. Final status determination shall be provided within 40 working days. The staff recommendation report and the application shall be presented as part of the DRC agenda. The applicant shall be notified in writing of the date and time of the DRC meeting a minimum of five working days prior to the meeting date.
- G. DRC shall provide the applicant with written notification of the determination of vested status including findings of fact supporting such determination, within ten working days after making said determination.
- H. Upon receipt of the written notification, an applicant may appeal DRC's determination to a Hearing Officer. A request to appeal shall be submitted in writing to the Growth Services Director with the appropriate fees. Once the request to appeal is received and determined valid, the Growth Services Director shall notify the Hearing Officer who will set a date, time, and place for the hearing. A report based on the information considered and discussed by DRC will be prepared by staff and presented to the Hearing Officer. A copy of this report will be made available to the applicant prior to the hearing.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.7.5. - Appeals to the Hearing Officer.

- A. Purpose. It is the purpose of this section to provide an administrative process for appealing decisions rendered by DRC prior to any available recourse in a court of law. In particular, it is intended that such administrative relief be provided in the most professional, objective, and equitable manner possible through the appointment of a Hearing Officer to adjudicate matters as provided herein. No party shall be deemed to have exhausted his or her administrative remedies for the purpose of seeking judicial review unless the party first obtains review of DRC's decision by the Hearing Officer as provided herein.
- B. Hearing. The Hearing Officer shall conduct a de novo administrative hearing in order to render a vested rights determination consistent with the provisions of this chapter.
- C. Appeal. After a DRC vesting determination, the Hearing Officer "appeal" process provided in this section is designed to allow for an appeal of DRC action after a full and complete hearing. This "appeal" is not intended to mean an appeal in the traditional sense, that is, only a review of the DRC record of their determination. The Hearing Officer "appeal" shall be construed in its broadest, nontechnical sense, which is merely an application to a higher authority for a review of the DRC action taken.
- D. Record on Appeal. If the DRC record of their determination is full and complete, the Hearing Officer may determine that the record is the only evidence that is necessary. However, the Hearing Officer may determine that additional evidence and oral or written testimony, including cross-examination, is necessary to properly evaluate DRC's action. The Hearing Officer shall have the authority to determine the need for additional evidence and/or testimony.
- E. Applicability. The property owner may appeal to the Hearing Officer a decision rendered by DRC on an application for a vesting determination.
- F. Filing for appeal. The procedure for filing an appeal shall be as follows:
 - (1) Appeals shall be commenced by filing a notice of appeal with the Growth Services Department within 30 calendar days of the date the decision of DRC is rendered.
 - (2) The notice of appeal shall set forth in detail the basis of the appeal.
 - (3) The County shall accurately and completely preserve all testimony in the proceeding and, on the request of any party, it shall make a full or partial transcript or existing hearing record available at no more than actual cost.
 - (4) In any case where a notice of appeal has been filed, the decision of DRC shall be stayed pending the final decision of the Hearing Officer.
 - (5) Following the hearing, the Hearing Officer shall prepare the written findings and decision. Copies of the findings and decision shall be mailed by the Hearing Officer to each party to the appeal and to the Growth Services Department, with a copy provided to DRC.
- G. Conduct of the hearing. Conduct of the hearing before the Hearing Officer shall be as follows:
 - (1) The Hearing Officer shall set forth at the outset of the hearing the order of the proceedings and the rules under which the hearing will be conducted.
 - (2) The order of presumption at the hearing shall be as follows:
 - (a) Receipt of the transcript, minutes and exhibits from DRC, if any.
 - (b) Opening statements by the parties.
 - (c) Appellant's case.
 - (d) Respondent's case.
 - (e) Rebuttal by appellant.

- (f) Summation by respondent.
 - (g) Summation by appellant.
 - (h) Conclusion of the hearing by the Hearing Officer.
- (3) The record of DRC's hearing and decision, including all exhibits, shall be received and constitute a part of the record.
 - (4) The Hearing Officer shall have the authority to determine the applicability and relevance of all materials, exhibits, and testimony and to exclude irrelevant, immaterial, or repetitious matter.
 - (5) The Hearing Officer is authorized to administer oaths to witnesses.
 - (6) A reasonable amount of cross-examination of witnesses shall be permitted at the discretion of the Hearing Officer.
 - (7) The time for presentation of a case shall be determined by the Hearing Officer.
 - (8) The Hearing Officer may allow the parties to submit proposed written findings of fact and conclusions of law following the hearing, and shall advise the parties of the timetable for so doing if allowed.
- H. Decision. The decision of the Hearing Officer shall be based upon the following criteria and rendered as follows:
- (1) The Hearing Officer shall review the record and testimony presented at the hearing before DRC. Although additional evidence may be brought before the Hearing Officer, the record before DRC shall be incorporated into the record before the Hearing Officer, supplemented by such additional evidence as may be brought before the Hearing Officer.
 - (2) The Hearing Officer shall be guided by the previously adopted Comprehensive Plan, the currently adopted Comprehensive Plan, the Land Development Regulations, this division, and established case law.
 - (3) The burden shall be upon the property owner to show that the decision of DRC is not supported by a preponderance of the evidence or the DRC decision departs from the essential requirements of law.
 - (4) The Hearing Officer's determination shall include appropriate findings of fact, conclusions of law, and decision in the matter of the appeal. The Hearing Officer may affirm, affirm with conditions, or reverse the decision of DRC.
 - (5) The Hearing Officer shall file his written determination on each appeal with the Growth Services Director within 30 calendar days of the date of the appeal hearing and a copy shall be provided to DRC and the applicant.
 - (6) The decision of the Hearing Officer shall be final, subject to judicial review.
- I. Judicial Review. Judicial review of the Hearing Officer's decision is available to the property owner and the County and shall be by common-law certiorari to the Circuit Court subject to the Florida Rules of Appellate Procedure. A notice of appeal must be filed within 30 days of rendition of the Hearing Officer's decision. In any case where judicial review is sought, the decision of the Hearing Officer shall be stayed pending the final determination by the Circuit Court.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.7.6. - Appointment and qualifications of Hearing Officer.

- A. The Board shall provide a Hearing Officer to conduct hearings and shall pay all costs of the Hearing Officer.

- B. A person appointed as Hearing Officer shall possess the requisite knowledge of Florida land use practices and relevant land use, vesting, statutory and case law.
- C. No Hearing Officer shall act as agent or attorney or be otherwise involved with any associated land development matter which may come before the Hearing Officer on appeal. The Hearing Officer shall refuse to handle or shall excuse himself from all appeals which involve a conflict of interest. Further, no Hearing Officer shall initiate or consider ex parte or other communication with any party of interest to the hearing concerning the substance of any proceeding to be heard by the Hearing Officer except such expert advice as the Hearing Officer may determine appropriate and solicit.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.7.7. - Limitations on determinations of vested rights.

- A. Presumptive vested rights determinations do not have an expiration date unless specified in other ordinances, building permits, statutory limitations and limitations contained within approved development orders.
- B. Common law vested rights determinations shall remain valid for a period up to five years from the date the determination was made unless otherwise specified by the vesting authority. An extension may be requested and granted by the Board. The request for an extension must be made no less than 90 days prior to the expiration of the determination.
- C. All development subject to a vested rights determination must be consistent with the terms of the development approval upon which the determination was based. Any substantial deviation from a prior approval, except as required by governmental action, shall cause the development involved to be subject to the policies, regulations and implementing decisions set forth in the Comprehensive Plan for such deviation only. Vested projects wishing to amend or change their Master Development Plans and schedules shall request consideration by DRC which shall make a recommendation to the Board if the proposed amendment or change constitutes a substantial deviation from the vested project. DRC shall make recommendations to the Board concerning requirements necessary to mitigate the deviation.

Changes in a vested development that do not create additional impact by the development will not be considered a substantial deviation from the vesting order.

- D. A vested rights determination shall apply to the land and is therefore transferable from owner to owner.
- E. If the development order expires prior to development and extensions permitted in this Code are not pursued, the vesting status of the property will become null and void.
- F. Development orders issued after May 1, 1992, will be required to be in full compliance with the Comprehensive Plan and the Land Development Code.
- G. Persons or entities granted a county development order vested under the provisions of this Code shall be vested to complete their development in accordance with the terms of their development order as approved in writing or shown on accompanying plans.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.7.8. - Development rights.

Nothing in this division or in any final vested rights determination made pursuant to this division shall impair the authority of the County to defer exercise of development rights in circumstances where such deferral is necessary to the public health, safety and welfare and is otherwise authorized by law.

(Ord. No. 13-20, § 2, 7-11-2013)

DIVISION 8. - CONCURRENCY MANAGEMENT

Sec. 1.8.1. - Purpose and intent.

- A. This division establishes the County's "Concurrency Management System" to evaluate level of service impacts to ensure public facilities will not be degraded below their respective level of service standard as adopted in the Marion County Comprehensive Plan and/or the Inter-Local Agreement between the Board and the Marion County School Board, consistent with the provisions of § 163.3180 FS.
- B. No final development order shall be approved, except for development identified as exempt or vested by this division, unless it is determined that the necessary public facilities will be available concurrent with the impacts of the proposed development consistent with the provisions of this division, the Marion County Comprehensive Plan, and § 163.3180 FS. The burden of meeting concurrency requirements is on the applicant requesting a final development order, consistent with the provisions of this division.
- C. This division is intended to comply with § 163.3180 FS, as amended by HB 319 (2013) ("the statute"). In the event of any conflict or inconsistency between the statute and this division, the statute shall control. It is further the intent of the Board that while the Board may only condition approval of an application for development approval on the mitigation of development-specific impacts (in addition to compliance with all other code requirements), the County may nevertheless negotiate with a developer for voluntary dedications or other contributions toward funding of infrastructure beyond impacts generated by a development, based on terms that would be mutually beneficial to the developer and the County and the public.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.8.2. - Applicability.

- A. The following facilities are subject to concurrency review and approval, consistent with § 163.3180 FS:
 - (1) Potable water,
 - (2) Sanitary Sewer,
 - (3) Solid Waste,
 - (4) Stormwater,
 - (5) Schools, and
 - (6) Roadway transportation facilities.
- B. The following facilities are not subject to concurrency review and approval:
 - (1) Parks and recreation, and
 - (2) Mass transit.
- C. The following development applications shall be classified as a final development order subject to facility concurrency review and approval consistent with the provisions of this division and Article 2; however items (2) through (8) shall be eligible to elect concurrency deferral as provided in Section 1.8.2.F:
 - (1) Development of Regional Impact/Florida Quality Development,
 - (2) Rezoning,
 - (3) Master Plan,
 - (4) Preliminary Plat,
 - (5) Improvement Plan,

- (6) Final Plat,
 - (7) Major Site Plan,
 - (8) Minor Site Plan, and
 - (9) Building Permit which will result in enabling or conducting a use which is new and/or an increase in intensity of a previously existing/operating use.
- D. The following development applications shall be classified as a preliminary development order subject only to facility concurrency review. However, concurrency approval is not required as a part or function of the development application's review consistent with Article 2:
- (1) Comprehensive Plan Amendment,
 - (2) Land Development Code Amendment,
 - (3) Special Use Permit, and
 - (4) Conceptual Plan.
- E. Applications for development orders or permits meeting the following shall be exempt from this division:
- (1) Vested development.
 - (a) The following vested development types, except as noted or consistent with Item (b):
 - 1. Vested rights. A project granted vested status and issued a Vesting Order consistent with the provisions of Division 1.7 unless a reference(s) to meeting concurrency is specified in the vested project's vesting determination.
 - 2. Vested development order. A DRI or FQD subject to a Development Order issued prior to June 18, 1992, unless a reference(s) to meeting concurrency is specified in the DRI or FQD's Development Order.
 - 3. Vested building permits. Building permits issued prior to June 18, 1992.
 - (b) Vested development proposed to be modified shall be subject to concurrency review if the modification creates additional development units, density, and/or intensity. However, only the net increase or expansion shall be subject to concurrency review and approval.
 - (2) The following development types and related development orders or permits which are not creating or increasing density or intensity of use are exempt from this section:
 - (a) Existing buildings to be modified, altered, repaired or replaced unless the modification will increase the number of units in a residential building or increase and/or change the square footage and/or intensity of the use for a non-residential building. Where such modifications will increase the number of dwelling units or increase and/or change square footage and/or intensity of the use for non-residential projects, only the net increase or expansion shall be subject to concurrency review and approval.
 - (b) Accessory buildings and structures for residential uses which do not include any living units or allow for new and/or additional non-residential site uses, such as barns, sheds, garages, towers, storage tanks, and swimming pools.
 - (c) Development applications in Article 2 that do not authorize increases in density or intensity.
 - (d) Fire stations, utility plants (potable water, sanitary sewer) not including office space.
 - (e) A building permit for one individual single family residence shall be exempt from concurrency review and approval, subject to compliance with this Code.
- F. Concurrency Deferral. An owner may elect to defer required concurrency review and approval for a development application identified in Section 1.8.2.A to a subsequent development application review stage by executing the following "Concurrency Deferral Statement" on the development application

plan, or in a separate sworn and notarized affidavit, a copy of which shall be provided to Growth Services and the original shall be recorded in Marion County's Public Records, as applicable:

"This project has not been granted concurrency approval and/or granted and/or reserved any public facility capacities. Future rights to develop the resulting property(ies) are subject to a deferred concurrency determination, and final approval to develop the property has not been obtained. The completion of concurrency review and/or approval has been deferred to later development review stages, such as, but not limited to, [list subsequent applications expected pursuant to Section 1.8.2.C as applicable]."

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.8.3. - Level of Service Standards (LOSS).

The level of service standards herein shall be used to evaluate development demand for concurrency review, evaluation, and/or approval, consistent with the Comprehensive Plan, Ch. 163 FS, and the following provisions:

- A. Potable water.
 - (1) Residential land uses - 150 gallons per person per day.
 - (2) Non-residential land uses - 2,750 gallons per acre.
- B. Sanitary sewer.
 - (1) Residential land uses - 110 gallons per person per day.
 - (2) Non-residential land uses - 2,000 gallons per acre per day.
- C. Solid waste.
 - (1) Residential land uses - 6.2 pounds of solid waste generation per person per day.
 - (2) Non-residential land uses - non-residential uses are exempt from solid waste concurrency review and approval, subject to compliance with applicable local, regional, state, and federal hazardous waste management and other applicable solid waste removal requirements and regulations.
- D. Stormwater.
 - (1) Closed basin stormwater systems shall be designed for a minimum 100-year frequency, 24-hour duration design storm.
 - (2) Open basin stormwater systems shall be designed for a minimum 25-year frequency, 24-hour duration design storm.
 - (3) Other best available data may be presented for review and approval consideration subject to approval by the County Engineer, or designee.
- E. Schools.
 - (1) LOSS shall be based on school type and its respective design capacity as follows:
 - (a) Elementary—105 percent of the school's design capacity.
 - (b) Middle—105 percent of the school's design capacity.
 - (c) High—100 percent of the school's design capacity.
 - (2) The final demand and capacity determination shall be made by the Growth Services Director in consultation with the Marion County School Board. The appeal of any such determination shall be made to DRC which may consider input provided by the Marion County School Board.

F. Traffic/roads LOSS shall comply with the following:

- (1) State Roadways Not Exceeding Capacity: LOSS shall comply with FDOT Procedure No. 525-000-006, Level of Service Standards and Highway Capacity Analysis for the State Highway System, as amended.
- (2) State Roadways Exceeding Capacity: LOSS shall comply with FDOT Procedure No. 525-000-006 and the LOSS provided in Table 1.8-1: State Roads Exceeding Capacity, until such time FDOT and/or Marion County can secure committed funding for the creation of additional roadway capacity.
- (3) Marion County Specific Roadways: LOSS shall comply with Table 1.8-2 Minimum Peak Hour LOSS for Specific Functionally Classified County Roads.
- (4) Marion County Non-specified Roadways: LOSS shall comply with Table 1.8-3 Minimum Peak Hour LOSS for Non-Specified Functionally Classified County Roads NOT specified in Table 1.8-2.

Table 1.8-1 State Roads Exceeding Capacity

Road	From	To	Roadway Class	LOSS
SR 40	NE 64th Avenue	SR 326	Rural Principal Arterial	D
SR 40	SR 326	CR 314	Rural Principal Arterial	D

Table 1.8-2 Minimum Peak Hour LOSS for Specific Functionally Classified County Roads

Road Segment	From	To	LOSS
CR 320	Levy C.L.	I-75	B
CR 320	I-75	US 441	B
CR 318	Levy C.L.	CR 225	B
CR 318	CR 225	US 441	D
CR 318	US 441	US 301	C
CR 316	Levy C.L.	I-75	B
CR 316	I-75	CR 200 A	C

CR 326	Levy C.L.	CR 225 A	C
CR 326	CR 225 A	NW 44th AVE	D
CR 464 B	Levy C.L.	US 27	C
CR 329	Alachua C.L.	CR 320	B
CR 329	CR 320	CR 316	B
CR 329	CR 316	I-75	C
CR 329	I-75	US 441	C
CR 329	US 441	CR 200 A	C
NW 110th Ave	US 27	SR 40	C
CR 225 A	CR 329	CR 326	C
CR 225 A	CR 326	US 27	D
CR 225	CR 318	CR 326	B
CR 225	CR 326	US 27	B
CR 25 A	US 441	CR 329	D
CR 25 A	CR 329	CR 326	D
CR 328	US 41	SR 40	D
SW 66th St	CR 475 A	CR 475	C
SE 80th St	CR 475 A	US 441	C
SE 80th St	US 441	SE 41st Ct	C
CR 475 A	CR 475 B	CR 484	C

CR 475 A	CR 484	CR 475	C
CR 475 A	CR 475	US 301	C
CR 475	SE 52nd St	SE 80th St	C
CR 475	SE 80th St	CR 484	C
W Anthony Rd	SR 326	North Terminus	C
NE 58th Ave	SR 326	NE 97th St Rd	C
NE 97th St Rd	NE 36th Ave	NE 90th St Rd	C
NE 90th St Rd	NE 97th St Rd	CR 315	C

Table 1.8-3 Minimum Peak Hour LOSS for all Non-specific Functionally Classified County Roads NOT Specified in Table 1.8-2

Roadway Type	Urban	Rural
Freeways	D	C
Principle Arterial	D	C
Minor Arterial	E	D
Major Collector	E	D
Minor Collector	E	D

- (5) Measures such as access control, intersection improvements, improvements to alternative routes, and other transportation system management and transportation demand management strategies shall be implemented as a part of the strategy to "maintain and improve" the existing operating level of service.

G. Parks and recreation.

- (1) Residential land uses - Two acres land per 1,000 population. For use in development review, 0.002 acres per person shall be used.
- (2) Non-residential - non-residential uses are exempt.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.8.4. - Concurrency applications and requirements.

A. Applications types.

- (1) The submission of a development application, as provided in Section 1.8.2.C and Article 2, shall be deemed an application for concurrency review and approval.
- (2) No application for concurrency review and approval, as a request to reserve public facility capacity, may be submitted.

B. Application requirements.

- (1) The development application serving as the concurrency application shall comply with the submission requirements of that application type and include a complete listing of all public facility improvements, both on-site and off-site, to be provided by the applicant.
- (2) Utility Certification - If potable water or sanitary sewer is to be provided by an entity other than Marion County Utilities, the development application serving as the concurrency application shall be accompanied by a certificate from that entity that adequate capacity is available and reserved to satisfy the LOS Standard for water and/or sanitary sewer, consistent with the provisions of Section 1.8.3, as applicable.

C. All applications shall be reviewed for completeness. If adequate information to evaluate the application is not included, the applicant will be notified of the details of the incompleteness within the same time frame as specified by the corresponding development application.

D. Concurrency review shall follow the same development review process and time frames as the corresponding development application, based on the date the application was deemed complete.

E. All concurrency applications will be evaluated in the order in which they are deemed complete.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.8.5. - Concurrency evaluation.

A. Concurrency evaluation determines if there is adequate available capacity of each public facility types in Section 1.8.3.A through F to serve a proposed development project.

B. The demand for facility impacts shall be calculated as follows:

- (1) For residential land uses, demand shall be based on the number of persons per dwelling unit type based on the most recent United States Decennial Census data as published by the United States Commerce Department, Bureau of the Census. A development application may recommend alternative person per unit densities based on actual conditions of specific area supported by data and analysis, subject to approval by the Growth Services Director in consultation with the Director for the related public facility; appeal of such a determination shall be made to DRC.
- (2) For non-residential land uses, demand shall be based on acreage or other capacity standards where/when they are identified for specific land-uses in this Code (e.g., equivalent residential unit conversions, etc.). A development application may recommend alternative capacity standards for use, subject to approval by the Growth Services Director in consultation with the Director for the related public facility; appeal of such a determination shall be made to DRC.

- C. The concurrency requirements for each of the facility types in Section 1.8.3.A through F shall be considered to be met if one of the following is satisfied for that facility type:
- (1) The necessary facility is in place at the time a final development order is issued; or,
 - (2) The necessary facility is under construction at the time a final development order is issued and will be in place at the time the impacts of the development occur; or
 - (3) A final development order is issued subject to a development order condition that the necessary facility will be in place at the time the impacts of the development occur;
 - (4) The necessary facility is fully funded in the County's Five Year Capital Improvements Plan as approved by the Board consistent Ch. 163 FS, or,
 - (5) Provision of the necessary facility is guaranteed in an enforceable development agreement. An enforceable development agreement may include, but is not limited to, development agreements pursuant to § 163.3220 FS, or an agreement or development order issued pursuant to Ch. 380 FS. The agreement must guarantee that the necessary facility will be in place at the time impacts of the development occur.
- D. The concurrency requirements for transportation shall be considered to be met if one of the provisions in Section 1.8.5.C (1) through (3) above is applicable. Also, the concurrency requirement for transportation may be satisfied by assuring that one of the following provisions is met:
- (1) The construction of necessary road improvements to provide the capacity necessary to maintain the adopted level of service standard have been included in the first three years of the applicable Florida Department of Transportation Five Year Work Program for State roads; or
 - (2) The construction of necessary road improvements to provide the capacity necessary to maintain the adopted level of service standard have been included in the first three years of the County's Five Year Capital Improvements Program.
- E. In determining the availability of services or facilities, a developer may propose and the County may approve developments in stages or phases so that the facilities and services needed for each phase will be available in accordance with the standards required by Sections 1.8.5.A and B above.
- F. Intergovernmental coordination. The concurrency evaluation and minimum requirements shall only apply to those facilities within the unincorporated area of or under the jurisdiction of Marion County. If part of the applicable service area or Traffic Impact Area lies within an adjacent County or a local government within Marion County, the adopted level of service standard for those facilities lying within the adjacent County or local government shall be those adopted by such County or local government. A certification from the adjacent County or local government that the issuance of the final development order will not cause a reduction in the level of service standards for those facilities lying within the adjacent County or local government shall be required prior to granting a final development order approval and/or affirmative concurrency approval.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.8.6. - Concurrency determination.

- A. The concurrency determination cumulatively applies changes in demand (development) and supply (facility improvement) to the current available capacity of public facility, consistent with § 163.3180 FS, as follows:
- (1) Identify and determine each applicable facility and its available facility capacity;
 - (2) Determine development units (e.g., residential dwelling units, non-residential use square feet/acreage) by land use type from the development application;
 - (3) Apply/multiply development units by the demand multiplier provided in Item B. below to determine the development application demand; and

- (4) Subtract application demand from available facility capacity to determine if adequate facility capacity exists for proposed development.
- (5) Result of the procedure is as follows:

Capacity - Demand = Surplus = Adequate Capacity Determination (Approval)

or

Capacity - Demand = Deficit = Inadequate Capacity Determination (Denial)

B. Demand multiplier for each public facility for evaluation of impacts:

- (1) Potable water. The multiplier shall be the applicable LOSS standard provided in Section 1.8.3.A. If a non-Marion County potable water system will be serving a proposed development, the applicant shall submit a certification from that entity that adequate capacity is available and reserved to satisfy the level of service standard for potable water. A proposed development authorized to use an individual on-site potable water source to be permitted by the DOH shall be deemed to have adequate facility capacity.
- (2) Sanitary sewer. The multiplier shall be the applicable LOSS standard provided in Section 1.8.3.B. If a non-Marion County sanitary sewer system will be serving a proposed development, the applicant shall submit a certification from that entity that adequate capacity is available and reserved to satisfy the level of service standard for sanitary sewer. A proposed development authorized to use individual OSTDS or non-centralized system to be permitted by the DOH and/or DEP shall be deemed to have an adequate facility capacity.
- (3) Solid waste. The multiplier shall be the applicable LOSS standard provided in Section 1.8.3.C. If the Solid Waste Department has stated in the Annual Facility Capacity Statement that adequate facility capacity exists for all projected needs for the following year then this statement will serve as a finding of concurrency for all development orders issued through the year.
- (4) Drainage. Concurrency evaluation for drainage is done on a site specific basis. The level of service standard is applied directly to the proposed development site. The evaluation is done in accordance with the Marion County Land Development Code and the applicable Water Management District requirements.
- (5) Traffic - roads.
 - (a) Trip generation shall be based on the Marion County Traffic Impact Fee data and analysis, as amended; however; if the land use impact fee types are not applicable to the development then the following may be proposed by the applicant, subject to Growth Services Director and County Engineer approval, with appeal to DRC:
 1. Rates from the latest available Institute of Transportation Engineers (ITE) Trip Generation Manual, or
 2. Locally derived trip generation rates based on studies performed, or approved and verified by the County.
 - (b) Trip distribution analysis shall be provided by the applicant to determine the amount of traffic added to impacted roads segments. For projects generating less than 100 average daily trips, trips may be assigned by County staff.
 - (c) Impacted roads shall be determined by using the average trip length as specified in the Marion County Traffic Impact Fee data and analysis, as amended plus those road segments operating at LOS A, B, C or D which the development application would add five percent or more of the LOS D service volume to the peak hour; or, those road segments operating at LOS E or F which the development application would add two percent or more of the LOS D service volume to the peak hour, peak direction.

- (d) The amount of traffic added to each impacted road segment will be subtracted from that road segment's available capacity to determine concurrency.
- C. Adequate capacity determination. When there is adequate capacity in all public facilities for a final development order, the following shall apply:
- (1) The appropriate capacity reservation fees shall be paid by the owner within 15 working days following DRC approval of the development application.
 - (a) In the event the owner fails to provide the required capacity reservation fees, the DRC's development application approval is void.
 - (b) The concurrency approval granted in conjunction with a development application, based upon the details of the application, shall run with the land and be valid for the time period of the corresponding development application. A reservation of capacity provided by the concurrency approval shall expire with the corresponding development application. In the event that a time extension is granted for a development application, then the concurrency approval shall be automatically renewed for the length of the time extension.
 - (c) Any modifications made to the development application may require another concurrency review and approval. In the case of a staged or phased project where only a portion of a prior or preceding plan is submitted for final development order approval, the concurrency approval applies only to that part of the project which is attaining final approval with the concurrent development application.
 - (d) Concurrency approval is specifically limited to the details of the corresponding development application and its final development order and any development conditions, including phasing. In these cases, the final development application shall be reviewed to ensure compliance with any applicable previously granted concurrency approval.
 - (e) If the land use, density, or intensity of the development project changes, another concurrency review and approval will be required.
 - (2) The reserving of capacity shall occur on a first-come, first-serve basis. However, a functional concurrency review application, either development application or independent application, can supersede an application ahead of it, only if sufficient capacity is available to serve the current and prior applications.
 - (3) If applicable, any final concurrency approval will specify any improvements to be made and include a schedule for their completion. For concurrency approval related to a development application, such improvements may be specified on the development application. For an independent concurrency application approval, such improvements may be specified in a developer agreement pursuant to county Code.
 - (4) Concurrency approval does not relieve an owner and/or applicant from complying with all requirements necessary to obtain a final development order and does not vest an owner and/or applicant with the right to obtain subsequent development orders for the same development project.
 - (5) The capacity reservation fee, or portion thereof, can be refunded if the development application does not proceed only if the County and any other provider of capacity has not expended or obligated the money for pre-construction costs or construction of public facilities. A refunding of the capacity reservation fee will result in withdrawal of concurrency approval for the development application or independent concurrency application; however an owner/applicant is not precluded from applying for a new/updated concurrency review and approval.
- D. Inadequate capacity determination. When the concurrency evaluation system determines there is not adequate available capacity in one or more of the public facilities, the following shall apply:
- (1) The applicant will be notified as part of the DRC development application review process, or receive specific comments in response to a submitted independent concurrency application.
 - (2) The applicant shall elect one of the following actions in regards to the inadequate facility:

- (a) Mitigate the deficiency by:
 - 1. Altering the design or size of the development in order that all capacities will be adequate;
 - 2. Break the project into several smaller projects or phases and obtain approvals for each as a separate project;
 - 3. Propose that the applicant enter into a development agreement with the appropriate party responsible for each deficient public facility, wherein the Agreement specifies the methods to provide the development's proportionate share of additional capacity via proportionate share payment and/or improvements which eliminate and/or mitigate the development's proportionate share of deficiencies prior to the development project's impact, consistent with Ch. 163 FS. In the case of road segment deficiencies, the use of access control, intersection improvements, and improvements to alternative routes and other transportation system management and transportation demand management strategies may be accepted by the County as methods to increase facility capacity.
 - 4. Submit alternate data demonstrating greater capacity or less impact than has been calculated by the County or other entity responsible for the public facility, using a methodology acceptable to the County and/or responsible entity. In the case of road segment deficiencies, the applicant may prepare a more detailed capacity analysis using methods acceptable to the County; or
- (b) Delay the project until capacity is available; or
- (c) Accept denial and withdraw the development application.
- (3) The applicant has 10 working days to submit one of the above options in response to a deficiency determination. The pending demand status of either application type may be extended an additional 30 calendar days to complete a mitigation alternative. In the case of mitigation, the mitigation plan shall be forwarded to DRC for review and recommendation either along with the accompanying development application or as an independent application, and then on to the Board or applicable public facility controlling entity.
- (4) Development Agreement. Development agreements shall follow the procedures and requirements of the county Code, as applicable.

E. Capacity Reservation Fee.

- (1) Capacity reservation fees shall be calculated in the same manner as provided in the corresponding Marion County fee ordinances as follows:
 - (a) Transportation - Marion County Impact Fee Ordinance for Transportation Facilities;
 - (b) Utilities - Marion County Utilities Capital Charges, or if for a non-Marion County provider of the facility, as set forth in that provider's capital charge standards;
 - (c) Schools - Marion County Impact Fee Ordinance for Education Facilities.
- (2) The form of payment shall be established by the Board, or the non-Marion County provider as applicable. Improvements or contributions made for off-site improvements, particularly road improvements, shall be credited to capacity reservation fees.
- (3) The timing of payment shall be divided into two (2) stages which, at a minimum, comply with the following schedule:
 - (a) Fifty percent (50%) at concurrency approval.
 - (b) Fifty percent (50%) at issuance of Certificate of Occupancy, or equivalent.
- (4) Capacity reservation fees provided to obtain concurrency approval shall be credited to their respective facility impact fee and/or capacity charge, unless said fees were refunded to the applicant as provided in this section.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 1.8.7. - Off-site improvements.

- A. The purpose of this section is to insure that new development contributes its pro-rata share allocation of the costs for off-site improvements. As a condition of approval for a development application or an independent concurrency application, the County may require an applicant to pay a proportionate share of the cost of providing reasonable and necessary public facilities, including land and easements, located off-site of the property limits of the development, but necessitated or required by the development. Necessary improvements are those clearly and substantially related to the development in question. The County shall provide in its approval, the basis of the required improvements. The capacity and design of the proposed improvements shall be based upon the level of service standards adopted in the Comprehensive Plan. The proportionate amount of the cost of such facilities within a related or common area shall be based on the criteria in Section 1.8.7.B below.
- B. Cost allocation.
- (1) Full Allocation. In cases where off-site improvements are necessitated by the proposed development, and where no other property owner receives a benefit thereby, the applicant may be required at his sole expense and as a condition of approval, to provide and install such improvements.
 - (2) Proportionate Allocation. Where it is determined through the use of design criteria specified in Article 6 that properties outside the proposed development will also be benefitted by the off-site improvement(s), the following criteria shall be utilized in determining the proportionate share of the cost of such improvements to be borne by the developer:
 - (a) Roads. The applicant's proportionate share of street improvements, widening, alignment, channelization, barriers, new or improved traffic signalization, signs, curbs, sidewalks, utility improvements not covered elsewhere, the construction or reconstruction of new or existing streets, and other associated street or traffic improvements shall be as follows:
 1. The County shall provide the applicant with the existing and reasonably anticipated future peak hour traffic flows for the off-site improvements.
 2. If the existing system does not have adequate capacity as defined above, the pro-rata share shall be computed as follows: $\text{Developer's Cost} = \frac{\text{Total Cost of Improvement} \times \text{Development Peak Hour Traffic to be accommodated by Improvement}}{\text{Peak Hour Capacity of Improvement}}$
 - (b) Sanitary Sewer. The applicant's proportionate share of collection facilities including the installation, relocation, or replacement of collector, trunk and interceptor sewers, treatment and disposal facilities and associated appurtenances, shall be computed as follows:
 1. The capacity and the design of the sanitary sewer system shall be based on the standards specified in Article 6 of this Code.
 2. For a Marion County facility, the County Utilities Director shall provide the applicant with the existing and reasonably anticipated peak hour flows as well as capacity limits of the affected sanitary sewer system. For a non-Marion County facility, the utility provider shall provide the applicant with the existing and reasonably anticipated peak hour flows as well as capacity limits of the affected sanitary sewer system.
 3. If the existing sanitary sewer system does not have adequate capacity to accommodate the applicant's flow given existing and reasonably anticipated peak hour flows, the pro-rata share shall be computed as follows: $\text{Developer's Cost} = \frac{\text{Total Cost of Improvement} \times \text{Development Generated GPD to be accommodated by improvement}}{\text{Capacity of Improvement (GPD)}}$

- (c) Water Supply. The applicant's proportionate share of water supply and distribution facilities including the drilling of wells, installation of pumps, construction of storage tanks, the installation, relocation or replacement of water mains, fire hydrants, valves and associated appurtenances shall be computed as follows:
1. The capacity and the design of the water supply system shall be based on the standards specified in Article 6 of this Code.
 2. For a Marion County facility, the County Utilities Director, shall provide the applicant with the existing and reasonably anticipated capacity limits of the affected water supply system in terms of average demand, peak demand, and fire demand. For a non-Marion County facility, the utility provider shall provide the applicant with the existing and reasonably anticipated capacity limits of the affected water supply system in terms of average demand, peak demand, and fire demand.
 3. If the existing water system does not have adequate capacity as defined above to accommodate the applicant's needs, the pro-rata share shall be computed as follows: $\text{Developer's Cost} = \frac{\text{Total Cost of Improvement} \times \text{Development Generated GPD to be accommodated by Improvement}}{\text{Capacity of Improvement (GPD)}}$.
- (d) Drainage Improvements. The applicant's proportionate share of storm water and drainage improvements including the installation, relocation, or replacement of storm drains, culverts, catch basins, manholes, riprap, improved drainage ditches and appurtenances, and relocation or replacement of other storm drainage facilities, or appurtenances shall be determined as follows:
1. The capacity and the design of the drainage system to accommodate storm water runoff shall be based on the standards specified in Article 6 of this Code, computed by the developer's engineer and approved by the County Engineer.
 2. The capacity of the enlarged, extended, or improved system required for the subdivision and areas outside of the developer's tributary to the drainage system shall be determined by the developer's engineer subject to approval of the County Engineer. The plans for the improved system shall be prepared by the developer's engineer and the estimated cost of the enlarged system calculated by the County Engineer. The pro-rata share for the proposed improvement shall be computed as follows: $\text{Developer's Cost} = \frac{\text{Total Cost of Improvement} \times \text{Development Generated Peak Rate of runoff expressed in cubic feet per second to be accommodated by the Improvement}}{\text{Capacity of Improvement (Capacity expressed in cubic feet per second)}}$.
- (e) Other Improvements. The applicant's proportionate share of other capital improvements shall be computed as follows:
1. $\text{Developer's Cost} = \frac{\text{Total Cost of Improvement} \times \text{Development Share of Improvement}}{\text{Capacity of Improvement}}$.
- C. Escrow accounts. Where the proposed off-site improvement is to be undertaken at some future date, the monies required for the improvement shall be deposited in a separate interest-bearing account to the credit of the County until such time as the improvement is constructed.

(Ord. No. 13-20, § 2, 7-11-2013)

ORDINANCE NO.

AN ORDINANCE BY THE {community’s governing body} AMENDING THE XXX TO SPECIFY ELEVATION OF MANUFACTURED HOMES IN FLOOD HAZARD AREAS; PROVIDING FOR APPLICABILITY AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in Chapter 125 – County Government, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the {name of community} participates in the National Flood Insurance Program and participates in the NFIP’s Community Rating System, a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum program requirements and achieved a CRS rating of Class {insert CRS Class #}, making citizens who purchase NFIP flood insurance policies eligible for premium discounts; and

WHEREAS, in 2020 the NFIP Community Rating System established certain minimum prerequisites for communities to qualify for or maintain class ratings of Class 8 or better; and

WHEREAS, to satisfy the prerequisite and for {name of community} to maintain the current CRS rating, all manufactured homes installed or replaced in special flood hazard areas must be elevated to or above at least the base flood elevation plus 1 foot, which necessitates modification of the existing requirements; and

WHEREAS, the {community’s governing body} determined that it is in the public interest to amend the floodplain management regulations to better protect manufactured homes and to continue participating in the Community Rating System at the current class rating.

NOW, THEREFORE, BE IT ORDAINED by the {community’s governing body} of the {name of community} that the {insert appropriate citation} is amended as set forth in the following amendments, as shown in ~~strike through~~ and underline format in Section 1 and Section 2.

SECTION 1. INSERT LDC ARTICLE 1 DEFINITIONS AMENDMENTS

SECTION 2. Amend LDC Article 5, Division 3.

Commented [HA1]: This shows a draft title and whereas clauses that we’ll finalize after settling all the amendments

This is drafted to show amendments for

1. Class 8 prereq (MH)
2. Market value

See guidance at the link in the transmittal email

Please show all changes using <tracking>

Commented [RQ2R1]: Hailey - make a note for when you update the Ordinance Review Checklist: “2025: repealed FBC amendments.”

DIVISION 3. - FLOODPLAIN MANAGEMENT

Sec. 5.3.1. - General.

- A. Title. These regulations shall be known as the Floodplain Management Ordinance of Marion County, hereinafter referred to as "this ~~ordinance~~ division."
- B. Scope. The provisions of this ~~section-division~~ 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 ~~section-division~~ and the flood load and flood resistant construction requirements of the *Florida Building Code* are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:
- (1) Minimize unnecessary disruption of commerce, access and public service during times of flooding;
 - (2) Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
 - (3) Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
 - (4) Manage the alteration of flood hazard areas, 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 the Title 44 Code of Federal Regulations, Section 59.22.
- D. Coordination with the *Florida Building Code*. This ~~section-division~~ 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 ~~section-division~~ and the *Florida Building Code*, as amended by Marion County, 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 ~~section-division~~ 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 ~~section-division~~.

- F. Disclaimer of Liability. This ~~section-division~~ shall not create liability on the part of the Board of County Commissioners of Marion County or by any officer or employee thereof for any flood damage that results from reliance on this ~~section-division~~ or any administrative decision lawfully made thereunder.

(Ord. No. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.2. - 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 ~~section-division~~ applies. This ~~section-division~~ shall apply to all flood hazard areas within the unincorporated areas of Marion County, as established in Section 5.3.2(C) of this ~~section-division~~.
- C. Basis for establishing flood hazard areas. The Flood Insurance Study for Marion County, Florida and Incorporated Areas dated April 19, 2017, 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 ~~section-division~~ and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the Marion County Growth Services Department.
- D. Submission of additional data to establish flood hazard areas. To establish flood hazard areas and base flood elevations, pursuant to Section 5.3.5 of this ~~section-division~~ 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 ~~section-division~~ 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.
- D. Other laws. The provisions of this ~~section-division~~ shall not be deemed to nullify any provisions of local, state or federal law.
- E. Abrogation and greater restrictions. This ~~section-division~~ supersedes any ~~section ordinance or regulation~~ in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing sections including but not limited to land development regulations, zoning regulations, stormwater management regulations, or the *Florida Building Code*. In the event of a conflict between this ~~section-division~~ and any other

regulations, the more restrictive shall govern. This ~~section-division~~ shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this ~~section-division~~.

- F. Interpretation. In the interpretation and application of this ~~section-division~~, 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. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.3 - Duties and powers of the floodplain administrator.

- A. Designation. The Growth Services Director 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 ~~section-division~~. The Floodplain Administrator shall have the authority to render interpretations of this ~~section-division~~ consistent with the intent and purpose of this ~~section-division~~ 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 ~~section-division~~ without the granting of a variance pursuant to Section 5.3.7 of this ~~section-division~~.
- 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 ~~section-division~~;
 - (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 ~~section-division~~ 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 [section-division](#).
- 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 [section-division](#) 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 5.3.7 of this [section-division](#).
- 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 [section-division](#).
- G. Inspections. The Floodplain Administrator shall make the required inspections as specified in Section 5.3.6 of this [section-division](#) for development that is not subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*. The Floodplain Administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.
- H. Other duties of the Floodplain Administrator. The Floodplain Administrator shall have other duties, including but not limited to:
- (1) Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 5.3.3(D) of this [section-division](#);
 - (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 6 months of such data becoming available;
 - (4) Review required design certifications and documentation of elevations specified by this ~~section-division~~ and the *Florida Building Code* to determine that such certifications and documentations are complete; and
 - (5) Notify the Federal Emergency Management Agency when the corporate boundaries of Marion County are modified.
- 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 ~~section-division~~ 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 ~~section-division~~; 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 ~~section-division~~ and the flood resistant construction requirements of the *Florida Building Code*. These records shall be available for public inspection at the Marion County Growth Services Department.

(Ord. No. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.4. - 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 ~~section-division~~, including buildings, structures and facilities exempt from the *Florida Building Code*, which is wholly within or partially within any flood hazard area shall first make application to the Floodplain Administrator, and the Building Official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this ~~section-division~~ 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 ~~section-division~~ 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 **section-division**:

- (1) Railroads and ancillary facilities associated with the railroad.
 - (2) Nonresidential farm buildings on farms, as provided in section 604.50, F.S.
 - (3) Temporary buildings or sheds used exclusively for construction purposes.
 - (4) Mobile or modular structures used as temporary offices.
 - (5) Those structures or facilities of electric utilities, as defined in section 366.02, F.S., which are directly involved in the generation, transmission, or distribution of electricity.
 - (6) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
 - (7) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
 - (8) Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
 - (9) Structures identified in section 553.73(10)(k), F.S., are not exempt from the *Florida Building Code* if such structures are located in flood hazard areas established on Flood Insurance Rate Maps
- D. Application for a permit or approval. To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the Marion County. 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 5.3.5 of this **section-division**.
 - (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 **section-division** shall not be construed to be a permit for, or approval of, any violation of this **section-division**, the *Florida Building Codes*, or any other section of this Code. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions.
- F. Expiration. A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work

authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.

- G. Suspension or revocation. The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this section-division or any other section, regulation or requirement of Marion County.
- 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 St. Johns River Water Management District or Southwest Florida Water Management District, as applicable; section 373.036, F.S.
 - (2) Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.
 - (3) Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.
 - (4) Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.
 - (5) Federal permits and approvals.

(Ord. No. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.5. - 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 section-division 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 5.3.5(B)(2) or (3) of this section-division.
 - (3) Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 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 5.3.5(B)(1) of this section-division.
 - (4) Location of the proposed activity and proposed structures, and locations of existing buildings and structures.
 - (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) 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 section-division 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 section-division.

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 5.3.5(D) of this section-division 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 flood hazard area identified as Zone A, AE, AH or AO, including isolated flood hazard areas whether connected or not connected to a riverine flood hazard area, or 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 at any point within unincorporated Marion County outside of contiguously owned land by the applicant, and demonstrate compliance with Section 6.13.5.

- (3) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which 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 which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in Section 5.3.5(D) of this ~~section-division~~
- 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. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.6. - 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 ~~section-division~~ 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 ~~section-division~~ 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 5.3.5(B)(3)(b) of this ~~section-division~~, 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 5.3.6(D) of this section-division.

- 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 section-division 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. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.7. - Variances and appeals.

- A. General. The Marion County Development Review Committee shall hear and decide on requests for appeals and requests for variances from the strict application of this section-division. Pursuant to section 553.73(5), F.S., the Development Review Committee shall hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the *Florida Building Code*.
- B. Appeals. The Development Review Committee 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 section-division. Any person aggrieved by the decision may appeal such decision to the Circuit Court, as provided by Florida Statutes.
- C. Limitations on authority to grant variances. The Development Review Committee shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 5.3.7(G) of this section-division, the conditions of issuance set forth in Section 5.3.7(H) of this section-division, and the comments and recommendations of the Floodplain Administrator and the Building Official. The Development Review Committee has the right to attach such conditions as it deems necessary to further the purposes and objectives of this section-division.
- 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 5.3.5(C) of this section-division.
- 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 section-division, provided the variance meets the requirements of Section 5.3.7(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 Development Review Committee shall consider all technical evaluations, all relevant factors, all other applicable provisions of the *Florida Building Code*, this ~~section~~ ~~division~~, 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 ~~section~~ ~~division~~ or the required elevation standards;
- (2) Determination by the Development Review Committee 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 sections; and
 - (c) The variance is the minimum necessary, considering the flood hazard, to afford relief;
- (3) Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and

- (4) If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

(Ord. No. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.8. - Violations.

- A. Violations. Any development that is not within the scope of the *Florida Building Code* but that is regulated by this ~~section-division~~ that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this ~~section-division~~, shall be deemed a violation of this ~~section-division~~. 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 ~~section-division~~ 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 ~~section-division~~ 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. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.9. - Buildings and structures.

- A. Design and construction of buildings, structures and facilities exempt from the *Florida Building Code*. Pursuant to Section 5.3.4(C) of this ~~section-division~~, 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 5.3.15 of this ~~section-division~~.
- B. Furthering noncompliance. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of Division 5.3 Floodplain Management or the *Florida Building Code*, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.

(Ord. No. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.10. - 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 A, AE, 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 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with Section 5.3.5(B)(1) of this section division; and
 - (3) Compliance with the site improvement and utilities requirements of Section 5.3.11 of this section division.

(Ord. No. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.11. - 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 A, AE, AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.
- B. Sanitary sewage facilities. All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.
- C. Water supply facilities. All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.
- D. Limitations on 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

5.3.5(C)(1) of this ~~section-division~~ 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 ~~section-division~~, 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*. For all placement of fill, demonstration that the compensating storage or other hydraulic characteristics requirement of Section ~~6.13.5~~ 5.13.5 of the Land Development Code has been met ~~shall be submitted in accordance with Section 5.3.5(C)(4).~~

(Ord. No. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.12. - Manufactured homes.

- A. General. All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to section 320.8249, F.S., and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this ~~section-division~~.
- 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 are designed in accordance with the foundation requirements of the *Florida Building Code Residential* Section R322.2 and this ~~section-division~~. Foundations for manufactured homes subject to Section 5.3.12(G) of this ~~section-division~~ are permitted to be reinforced piers or other foundation elements of at least equivalent strength.
- 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. All manufactured homes that are placed, replaced, or substantially improved in flood hazard areas shall be elevated such that the bottom of the frame is at or above the elevation required in the *Florida Building Code, Residential* Section R322.2 (Zone A). Manufactured homes that are placed, replaced, or substantially improved shall comply with Section 5.3.12(F) or 5.3.12(G) of this section, as applicable.
- F. ~~General elevation requirement. Unless subject to the requirements of Section 5.3.12(G) of this section, 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).~~

Commented [RQ3]: See documentation of scrivener's error – that has NOT been fixed (removal of phrase in last sentence)

The error in the cross reference was Mr. Martsoff's and we didn't catch it.

Martsoff, Samuel
<Samuel.Martsoff@marioncountyfl.org>
Mon 4/17/2017

Commented [RQ4R3]: So now we have to make those corrections legislatively

Commented [HA5]: Class 8 prerequisite, see OFM guidance. Rather than refer to the FBCR, this can specify BFE plus 1 foot.

Commented [RQ6R5]: Other paragraphs in this section point to the FBCR, so I left this one
BUT
If you want to just say BFE + 1, replace the first sentence with : All manufactured homes that are placed, replaced, or substantially improved in flood hazard areas shall be elevated such that the bottom of the frame is at or above the base flood elevation plus one foot.

~~G.~~ Elevation requirement for certain existing manufactured home parks and subdivisions. Manufactured homes that are not subject to Section 5.3.12(F) of this section, 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 in the *Florida Building Code, Residential* Section R322.2 (Zone A); or

(2) Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 48 inches in height above grade.

~~F.-H.~~ Enclosures. Enclosed areas below elevated manufactured homes shall comply with the requirements of the *Florida Building Code, Residential* Section R322.2 for such enclosed areas.

~~G.-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.

(Ord. No. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.13. - Recreational vehicles and park trailers.

A. Temporary placement. Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:

(1) Be on the site for fewer than 180 consecutive days; or

(2) Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.

B. Permanent placement. Recreational vehicles and park trailers that do not meet the limitations in Section 5.3.13(A) of this ~~section-division~~ for temporary placement shall meet the requirements of Section 5.3.12 for manufactured homes.

(Ord. No. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.14. - 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 5.3.14(C) of this ~~section-division~~ shall be permitted in flood 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.

- C. Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.
- D. Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
 - (1) At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 - (2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(Ord. No. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.15. - 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 section-division or the *Florida Building Code*, shall:
 - (1) Be located and constructed to minimize flood damage;
 - (2) Meet the limitations of Section 5.3.11(D) of this section-division 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 5.3.11(D) of this section-division.
- 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 5.3.11(D) of this section-division.
- 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 side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 5.3.11(D) of this section-division. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of Section 5.3.5(C)(3) of this section-division.

(Ord. No. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

SECTION 2. APPLICABILITY.

For the purposes of jurisdictional applicability, this ordinance shall apply in **{insert name of community or all unincorporated areas of the county}**. This ordinance shall apply to all applications for development in flood hazard areas submitted on or after the effective date of this ordinance.

Commented [HA7]: Use your standard here down.

SECTION 3. INCLUSION INTO THE CODE OF ORDINANCES.

It is the intent of the **{community's governing body}** that the provisions of this ordinance shall become and be made a part of the **{name of community's governing body}** Code of Ordinances, and that the sections of this ordinance may be renumbered or re-lettered. The word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 4. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

SECTION 5. EFFECTIVE DATE.

This ordinance shall take effect on **{insert date}**.

Use community's standard signature block

ORDINANCE NO. _____

AN ORDINANCE BY THE {community’s governing body} AMENDING THE XXX TO SPECIFY ELEVATION OF MANUFACTURED HOMES IN FLOOD HAZARD AREAS; PROVIDING FOR APPLICABILITY AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in Chapter 125 – County Government, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the {name of community} participates in the National Flood Insurance Program and participates in the NFIP’s Community Rating System, a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum program requirements and achieved a CRS rating of Class {insert CRS Class #}, making citizens who purchase NFIP flood insurance policies eligible for premium discounts; and

WHEREAS, in 2020 the NFIP Community Rating System established certain minimum prerequisites for communities to qualify for or maintain class ratings of Class 8 or better; and

WHEREAS, to satisfy the prerequisite and for {name of community} to maintain the current CRS rating, all manufactured homes installed or replaced in special flood hazard areas must be elevated to or above at least the base flood elevation plus 1 foot, which necessitates modification of the existing requirements; and

WHEREAS, the {community’s governing body} determined that it is in the public interest to amend the floodplain management regulations to better protect manufactured homes and to continue participating in the Community Rating System at the current class rating.

NOW, THEREFORE, BE IT ORDAINED by the {community’s governing body} of the {name of community} that the {insert appropriate citation} is amended as set forth in the following amendments, as shown in ~~striketrough~~ and underline format in Section 1 and Section 2.

SECTION 1. INSERT LDC ARTICLE 1 DEFINITIONS AMENDMENTS

SECTION 2. Amend LDC Article 5, Division 3.

DIVISION 3. - FLOODPLAIN MANAGEMENT

Sec. 5.3.1. - General.

- A. Title. These regulations shall be known as the Floodplain Management Ordinance of Marion County, hereinafter referred to as "this division."
- B. Scope. The provisions of this division 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 division and the flood load and flood resistant construction requirements of the *Florida Building Code* are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:
- (1) Minimize unnecessary disruption of commerce, access and public service during times of flooding;
 - (2) Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
 - (3) Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
 - (4) Manage the alteration of flood hazard areas, 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 the Title 44 Code of Federal Regulations, Section 59.22.
- D. Coordination with the *Florida Building Code*. This division 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 division and the *Florida Building Code*, as amended by Marion County, 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 division 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 division.

- F. Disclaimer of Liability. This division shall not create liability on the part of the Board of County Commissioners of Marion County or by any officer or employee thereof for any flood damage that results from reliance on this division or any administrative decision lawfully made thereunder.

(Ord. No. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.2. - 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 division applies. This division shall apply to all flood hazard areas within the unincorporated areas of Marion County, as established in Section 5.3.2(C) of this division.
- C. Basis for establishing flood hazard areas. The Flood Insurance Study for Marion County, Florida and Incorporated Areas dated April 19, 2017, 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 division and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the Marion County Growth Services Department.
- D. Submission of additional data to establish flood hazard areas. To establish flood hazard areas and base flood elevations, pursuant to Section 5.3.5 of this division 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 division 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.
- D. Other laws. The provisions of this division shall not be deemed to nullify any provisions of local, state or federal law.
- E. Abrogation and greater restrictions. This division supersedes any ordinance or regulation in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing sections including but not limited to land development regulations, zoning regulations, stormwater management regulations, or the Florida Building Code. In the event of a conflict between this division and any other regulations, the more restrictive shall govern. This division shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this division.

- F. Interpretation. In the interpretation and application of this division, 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. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.3 - Duties and powers of the floodplain administrator.

- A. Designation. The Growth Services Director 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 division. The Floodplain Administrator shall have the authority to render interpretations of this division consistent with the intent and purpose of this division 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 division without the granting of a variance pursuant to Section 5.3.7 of this division.
- 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 division;
 - (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 division 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 division.
- 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 division 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 5.3.7 of this division.
- 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 division.
- G. Inspections. The Floodplain Administrator shall make the required inspections as specified in Section 5.3.6 of this division for development that is not subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*. The Floodplain Administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.
- H. Other duties of the Floodplain Administrator. The Floodplain Administrator shall have other duties, including but not limited to:
- (1) Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 5.3.3(D) of this division;
 - (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 6 months of such data becoming available;

- (4) Review required design certifications and documentation of elevations specified by this division and the *Florida Building Code* to determine that such certifications and documentations are complete; and
 - (5) Notify the Federal Emergency Management Agency when the corporate boundaries of Marion County are modified.
- 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 division 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 division; 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 division and the flood resistant construction requirements of the *Florida Building Code*. These records shall be available for public inspection at the Marion County Growth Services Department.

(Ord. No. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.4. - 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 division, including buildings, structures and facilities exempt from the *Florida Building Code*, which is wholly within or partially within any flood hazard area shall first make application to the Floodplain Administrator, and the Building Official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this division 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 division 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 division:
- (1) Railroads and ancillary facilities associated with the railroad.
 - (2) Nonresidential farm buildings on farms, as provided in section 604.50, F.S.

- (3) Temporary buildings or sheds used exclusively for construction purposes.
 - (4) Mobile or modular structures used as temporary offices.
 - (5) Those structures or facilities of electric utilities, as defined in section 366.02, F.S., which are directly involved in the generation, transmission, or distribution of electricity.
 - (6) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
 - (7) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
 - (8) Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
 - (9) Structures identified in section 553.73(10)(k), F.S., are not exempt from the *Florida Building Code* if such structures are located in flood hazard areas established on Flood Insurance Rate Maps
- D. Application for a permit or approval. To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the Marion County. 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 5.3.5 of this division.
 - (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 division shall not be construed to be a permit for, or approval of, any violation of this division, the *Florida Building Codes*, or any other section of this Code. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions.
- F. Expiration. A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.
- G. Suspension or revocation. The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of

incorrect, inaccurate or incomplete information, or in violation of this division or any other section, regulation or requirement of Marion County.

- 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 St. Johns River Water Management District or Southwest Florida Water Management District, as applicable; section 373.036, F.S.
 - (2) Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.
 - (3) Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.
 - (4) Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.
 - (5) Federal permits and approvals.

(Ord. No. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.5. - 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 division 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 5.3.5(B)(2) or (3) of this division.
 - (3) Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 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 5.3.5(B)(1) of this division.
 - (4) Location of the proposed activity and proposed structures, and locations of existing buildings and structures.
 - (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) 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 division 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 division.

- 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 5.3.5(D) of this division 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 flood hazard area identified as Zone A, AE, AH or AO, including isolated flood hazard areas whether connected or not connected to a riverine flood hazard area, or 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 at any point within unincorporated Marion County outside of contiguously owned land by the applicant, and demonstrate compliance with Section 6.13.5.

- (3) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which 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 which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in Section 5.3.5(D) of this division
- 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. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.6. - 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 division 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 division 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 5.3.5(B)(3)(b) of this division, 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 5.3.6(D) of this division.
- 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 division 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. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.7. - Variances and appeals.

- A. General. The Marion County Development Review Committee shall hear and decide on requests for appeals and requests for variances from the strict application of this division. Pursuant to section 553.73(5), F.S., the Development Review Committee shall hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the *Florida Building Code*.
- B. Appeals. The Development Review Committee 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 division. Any person aggrieved by the decision may appeal such decision to the Circuit Court, as provided by Florida Statutes.
- C. Limitations on authority to grant variances. The Development Review Committee shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 5.3.7(G) of this division, the conditions of issuance set forth in Section 5.3.7(H) of this division, and the comments and recommendations of the Floodplain Administrator and the Building Official. The Development Review Committee has the right to attach such conditions as it deems necessary to further the purposes and objectives of this division.
- 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 5.3.5(C) of this division.
- 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 division, provided the variance meets the requirements of Section 5.3.7(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 Development Review Committee shall consider all technical evaluations, all relevant factors, all other applicable provisions of the *Florida Building Code*, this division, 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 division or the required elevation standards;
- (2) Determination by the Development Review Committee 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 sections; and
 - (c) The variance is the minimum necessary, considering the flood hazard, to afford relief;
- (3) Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and
- (4) If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

(Ord. No. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.8. - Violations.

- A. Violations. Any development that is not within the scope of the *Florida Building Code* but that is regulated by this division that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this division, shall be deemed a violation of this division. 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 division 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 division 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. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.9. - Buildings and structures.

- A. Design and construction of buildings, structures and facilities exempt from the *Florida Building Code*. Pursuant to Section 5.3.4(C) of this division, 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 5.3.15 of this division.
- B. Furthering noncompliance. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of Division 5.3 Floodplain Management or the *Florida Building Code*, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.

(Ord. No. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.10. - 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 A, AE, 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 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with Section 5.3.5(B)(1) of this division; and
 - (3) Compliance with the site improvement and utilities requirements of Section 5.3.11 of this division.

(Ord. No. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.11. - 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 A, AE, AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.
- B. Sanitary sewage facilities. All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.
- C. Water supply facilities. All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.
- D. Limitations on 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 5.3.5(C)(1) of this division 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 division, 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*. For all placement of fill,

demonstration that the compensating storage or other hydraulic characteristics requirement of Section 5.13.5 of the Land Development Code has been met.

(Ord. No. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.12. - Manufactured homes.

- A. General. All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to section 320.8249, F.S., and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this division.
- 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 are designed in accordance with the foundation requirements of the *Florida Building Code Residential* Section R322.2 and this division. Foundations for manufactured homes subject to Section 5.3.12(G) of this division are permitted to be reinforced piers or other foundation elements of at least equivalent strength.
- 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. All manufactured homes that are placed, replaced, or substantially improved in flood hazard areas shall be elevated such that the bottom of the frame is at or above the elevation required in the Florida Building Code, Residential Section R322.2 (Zone A).
- F. Enclosures. Enclosed areas below elevated manufactured homes shall comply with the requirements of the *Florida Building Code, Residential* Section R322.2 for such enclosed areas.
- G. 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.

(Ord. No. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.13. - Recreational vehicles and park trailers.

- A. Temporary placement. Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:
 - (1) Be on the site for fewer than 180 consecutive days; or
 - (2) Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.

- B. Permanent placement. Recreational vehicles and park trailers that do not meet the limitations in Section 5.3.13(A) of this division for temporary placement shall meet the requirements of Section 5.3.12 for manufactured homes.

(Ord. No. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.14. - 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 5.3.14(C) of this division shall be permitted in flood 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.
- C. Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.
- D. Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
 - (1) At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 - (2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(Ord. No. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

Sec. 5.3.15. - 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 division or the *Florida Building Code*, shall:
 - (1) Be located and constructed to minimize flood damage;
 - (2) Meet the limitations of Section 5.3.11(D) of this division 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 5.3.11(D) of this division.
- 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 5.3.11(D) of this division.
- 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 side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 5.3.11(D) of this division. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of Section 5.3.5(C)(3) of this division.

(Ord. No. 17-08, § 2, (Exh. A, § 1), 4-11-2017)

SECTION 2. APPLICABILITY.

For the purposes of jurisdictional applicability, this ordinance shall apply in **{insert name of community or all unincorporated areas of the county}**. This ordinance shall apply to all applications for development in flood hazard areas submitted on or after the effective date of this ordinance.

SECTION 3. INCLUSION INTO THE CODE OF ORDINANCES.

It is the intent of the **{community's governing body}** that the provisions of this ordinance shall become and be made a part of the **{name of community's governing body}** Code of Ordinances, and that the sections of this ordinance may be renumbered or re-lettered. The word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 4. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

SECTION 5. EFFECTIVE DATE.

This ordinance shall take effect on **{insert date}**.

Use community's standard signature block



Marion County

Land Development Regulation Commission

Agenda Item

File No.: 2025-18169

Agenda Date: 2/19/2025

Agenda No.: 2.2.

SUBJECT:

Discussion for Proposed Marion County Land Development (LDC) Amendments to Review and Update Section 4.3.12 Roadside Vendors

DESCRIPTION/BACKGROUND:

Staff has identified the need for changes to Section 4.3.12 Roadside Vendors of the Land Development Code to be discussed by the Land Development Regulation Commission.

LDC CODE UPDATE	
DATE:	January 27, 2025
LDC SECTION:	Section 4.3.12 Roadside Vendors
COMP PLAN REFERENCE:	N/A
DISCUSSION:	
<p>Background</p> <p>Text changes to Section 4.3.12 Roadside vendors are proposed to address recent issues as identified by County staff. The following memo is intended to summarize the recommended text changes, and provide clarity for staff and applicants as to when a roadside vendor operation would require approval under a Minor Site Plan or Major Site Plan.</p> <p>Changes to the LDC Section</p> <p>Changes to the text of Section 4.3.12 Roadside Vendors address the following topics.</p> <ul style="list-style-type: none"> • Correct the reference to the permitting agency name from the “Florida Department of Business and Regulation, Division of Hotels and Restaurants” to the “Florida Department of Business and <u>Professional</u> Regulation, Division of Hotels and Restaurants.” • Clarify what qualifies as a roadside vendor by removing the descriptor, “cart: food such as but not limited to hot dogs or sausages, barbecued meat and uncooked seafood” and replacing it with “Hot Dog Cart or Mobile Food Dispensing Vehicle (aka “Food Truck”).” This change makes the LDC consistent with State definitions and terms. • Add requirements for Minor or Major Site Plan review and approval where more than one roadside vendor operates on a single parcel of land. Revise subsection lettering sequence accordingly. • Clarify the intended temporary nature of roadside vendors. <p>Attachments: Redline LDC Changes to Section 4.3.12 Roadside Vendors</p>	

Sec. 4.3.12. Roadside vendors.

- A. Roadside vendors as used herein shall mean a person who sells goods as follows:
- (1) From a roadside stand: fruit, vegetables, produce, peanuts, , Christmas trees, firewood, dry goods, homemade crafts, etc.; and
 - (2) From a Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants approved Hot Dog Cart or Mobile Food Dispensing Vehicle (aka "Food Truck").
 - (3) Seasonal firework sales (exception to roadside rules – requires a temporary use permit from zoning and a building permit).
- B. Operation of more than two Roadside Vendor, Mobile Food Dispensing Vehicle, Food Truck, etc. on a single parcel of land, or in a shared area, or roadside vendors not operating on a temporary basis, shall require either a Minor Site Plan or Major Site Plan approval as set forth in Article 2 of this Code.
- C. Sale of the above listed merchandise shall be conducted from a flame retardant tent or pole-barn type facility, with applicable building permits, with the exception of food vendors, vendors with a standalone food or merchandise truck, and Christmas trees, which are not required to have a structure on the land. This facility shall be located on private property which is either owned or leased by the vendor. Sales are prohibited within the County right-of-way.
- D. Roadside vendors are intended to function temporarily and independently. Services such as electric, water, and sewer shall not be permitted on vacant land. Permanent structures such as, but not limited to, sheds, carports, modular buildings, etc., shall be prohibited.
- E. Permitted Zoning Classifications. Sale of listed merchandise will be allowed by right in the following zoning classifications: A-1, A-2, A-3, B-1, B-2, B-4, B-5, M-1, and RAC, upon meeting the following conditions:
- (1) Driveway access shall be controlled and permits obtained from the appropriate permitting agency.
 - (2) Adequate parking area shall be provided on site for customers including handicapped persons, who shall be provided service without leaving their vehicle if requested.
 - (3)
 - (4) On site rest room facilities are to be provided when more than two employees are present.
 - (5) Water and soap for the washing of hands shall be available on site.
 - (6) A covered trash or garbage receptacle with a plastic liner will be kept on site.
 - (7) Products to be sold will be covered overnight or removed from the site and if required by State law, refrigeration will be provided.
 - (8) A non-temporary roadside stand for the sale of farm products raised or produced on the premises shall be permitted provided such stands are located not less than 30 feet from any street, highway or right-of-way. Non-temporary roadside stands for farm products shall be regulated by applicable Site Plan and Building Plan regulations
- F. All advertising signs shall be removed when the roadside vendor ceases business for the day. The maximum number of signs shall not exceed four signs per vendor and shall be no larger than six square feet in size.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

LDC CODE UPDATE	
DATE:	January 27, 2025
LDC SECTION:	Section 4.3.12 Roadside Vendors
COMP PLAN REFERENCE:	N/A
DISCUSSION:	
<p>Background</p> <p>Text changes to Section 4.3.12 Roadside vendors are proposed to address recent issues as identified by County staff. The following memo is intended to summarize the recommended text changes, and provide clarity for staff and applicants as to when a roadside vendor operation would require approval under a Minor Site Plan or Major Site Plan.</p> <p>Changes to the LDC Section</p> <p>Changes to the text of Section 4.3.12 Roadside Vendors address the following topics.</p> <ul style="list-style-type: none"> • Correct the reference to the permitting agency name from the “Florida Department of Business and Regulation, Division of Hotels and Restaurants” to the “Florida Department of Business and <u>Professional</u> Regulation, Division of Hotels and Restaurants.” • Clarify what qualifies as a roadside vendor by removing the descriptor, “cart: food such as but not limited to hot dogs or sausages, barbecued meat and uncooked seafood” and replacing it with “Hot Dog Cart or Mobile Food Dispensing Vehicle (aka “Food Truck”).” This change makes the LDC consistent with State definitions and terms. • Add requirements for Minor or Major Site Plan review and approval where more than one roadside vendor operates on a single parcel of land. Revise subsection lettering sequence accordingly. • Clarify the intended temporary nature of roadside vendors. <p>Attachments: Redline LDC Changes to Section 4.3.12 Roadside Vendors</p>	

Sec. 4.3.12. Roadside vendors.

- A. Roadside vendors as used herein shall mean a person who sells goods as follows:
- (1) From a roadside stand: fruit, vegetables, produce, peanuts, ~~fireworks~~, Christmas trees, firewood, dry goods, homemade crafts, etc.; and
 - (2) From a Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants approved Hot Dog Cart or Mobile Food Dispensing Vehicle (aka "Food Truck").
 - (3) Seasonal firework sales (exception to roadside rules – requires a temporary use permit from zoning and a building permit).
- B. Operation of more than two Roadside Vendor, Mobile Food Dispensing Vehicle, Food Truck, etc. on a single parcel of land, or in a shared area, or roadside vendors not operating on a temporary basis, shall require either a Minor Site Plan or Major Site Plan approval as set forth in Article 2 of this Code.
- C. Sale of the above listed merchandise shall be conducted from a flame retardant tent or pole-barn type facility, with applicable building permits, with the exception of ~~peanuts~~, food vendors, vendors with a standalone food or merchandise truck, and Christmas trees, which are not required to have a structure on the land. This facility shall be located on private property which is either owned or leased by the vendor. Sales are prohibited within the County right-of-way.
- ~~DC.~~ Roadside vendors are intended to function temporarily and independently. Services such as electric, water, and sewer shall not be permitted on vacant land. Permanent structures such as, but not limited to, sheds, carports, modular buildings, etc., shall be prohibited.
- ~~DE.~~ Permitted Zoning Classifications. Sale of listed merchandise will be allowed by right in the following zoning classifications: A-1, A-2, A-3, B-1, B-2, B-4, B-5, M-1, and RAC, upon meeting the following conditions:
- (1) Driveway access shall be controlled and permits obtained from the appropriate permitting agency.
 - (2) Adequate parking area shall be provided on site for customers including handicapped persons, who shall be provided service without leaving their vehicle if requested.
 - (3) ~~Parking areas shall be covered with a layer (minimum 1½" thick) of bark chips, sawdust, shavings or combination thereof, or construct a stabilized base parking area or pave the parking area.~~
 - (4) On site rest room facilities are to be provided when more than two ~~persons~~ employees are employed on the site present.
 - (5) Water and soap for the washing of hands shall be available on site.
 - (6) A covered trash or garbage receptacle with a plastic liner will be kept on site.
 - (7) Products to be sold will be covered overnight or removed from the site and if required by State law, refrigeration will be provided.
 - (8) A non-temporary roadside stand for the sale of farm products raised or produced on the premises shall be permitted provided such stands are located not less than 30 feet from any street, highway or right-of-way. ~~A site plan will be submitted as part of the building permit process for a permanent structure or for the installation of electrical, water or rest room facilities. The applicable site plan shall be submitted as set forth in Article 2 of this Code.~~ Non-temporary roadside stands for farm products shall be regulated by applicable Site Plan and Building Plan regulations
- F. All advertising signs shall be removed when the roadside vendor ceases business for the day. The maximum number of signs shall not exceed four signs per vendor and shall be no larger than six square feet in size.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

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(Supp. No. 5)



Marion County

Land Development Regulation Commission

Agenda Item

File No.: 2025-18166

Agenda Date: 2/19/2025

Agenda No.: 2.3.

SUBJECT:

Discussion for Proposed Marion County Land Development (LDC) Amendments to Review and Update Section 2.8.1 Special Use Permits

DESCRIPTION/BACKGROUND:

Staff has identified the need for changes to Section 2.8.1 Special Use Permits of the Land Development Code to be discussed by the Land Development Regulation Commission.

LDC CODE UPDATE	
DATE:	January 27, 2025
LDC SECTION:	Section 2.8.1 Special Use Permit
COMP PLAN REFERENCE:	N/A
DISCUSSION:	
<p>Background</p> <p>Section 2.8.1 of the Land Development Code outlines the Special Use Permit (SUP) requirements and review process. The primary intent of the recommended text changes is to clarify that a requested SUP must be consistent with the Comprehensive Plan, including the underlying Future Land Use designation.</p> <p>Changes to the LDC Section</p> <p>Changes to the text of Section 2.8.1 Special Use Permits address the following issues.</p> <ol style="list-style-type: none"> 1. Add the following statement to the applicability standards in Section 2.8.1, “Any use requested under a SUP shall be compatible with the Comprehensive Plan, including the underlying Future Land Use designation.” 2. Revise the submittal requirement under Section 2.8.2.D(5) to remove text that implies that screening and buffering is not always necessary between dissimilar uses. Buffers and screening are always required. 3. Add clarification to the review and approval procedures provided in Section 2.8.3.B that the Growth Services Department shall review the application based not only on the application’s consistency with the Comprehensive Plan, including the Future Land Use designation. <p>Attachments: Redline LDC Changes to Section 2.8.1 Special Use Permit</p>	

DIVISION 8. SPECIAL USE PERMIT

Sec. 2.8.1. Applicability.

Uses not specifically listed by this Code in a zoning classification may be deemed by the Growth Services Director to be permissible in such zoning classification, based on their similarity with listed uses; any other non-listed use may be considered for approval by a Special Use Permit (SUP). The listing of permitted uses in a zoning classification is not meant to be all inclusive. Any use requested under a SUP shall be compatible with the Comprehensive Plan, including the Future Land Use designation.

An application for a special use permit shall not be construed to be, or be processed as, an application for a rezoning or vice versa. However, an applicant may submit applications in the alternative, one being an application for a rezoning, and the other being an application for a special use permit, upon payment of the applicable fee for each type of application. The Board of County Commissioners may consider such alternative applications with respect to the same parcel at the same public hearing. In such case, each alternative application shall be noticed and advertised so that the public will be on notice that the two alternatives will be considered during the same public hearing. Each alternative will receive the appropriate staff analysis and recommendation in a written report, but such analysis and recommendation may be included in a single staff report as long as the two alternatives are clearly distinguished for the reader.

(Ord. No. 13-20, § 2, 7-11-2013; Ord. No. 15-25, 12-16-2015; Ord. No. 23-12, § 2, 5-2-2023)

Sec. 2.8.2. Submittal requirements.

- A. A formal written application for a SUP on a form provided by the Growth Services Department is submitted to the Planning/Zoning Manager indicating the section of this Code under which the SUP is sought and stating the grounds on which it is requested.
- B. A fee in the amount established by resolution of the Board shall accompany the application. The fee schedule is available at the Growth Services Department.
- C. A Conceptual Plan prepared in accordance with the provisions of Article 6 and at an appropriate scale showing proposed placement of structures on the property, provisions for ingress and egress, off-street parking and off-street loading areas, refuse and service areas, and required yards and other open spaces.
 - (1) Plans for screening and buffering with reference as to type, dimensions and character. Where additional requirements on the preparation of conceptual plan is required to demonstrate the General Findings below, those requirements shall be met.
 - (2) Proposed locations for utilities including water and sewer.
- D. The application shall include a description of the following findings. The P&Z may make further written findings that the specific requirements, if any, governing the individual SUP, excluding towers, have been made concerning the following matters, where applicable:
 - (1) Provision for ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe.

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- (2) Provision for off-street parking and loading areas, where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the SUP on adjoining properties and properties generally in the surrounding area.
 - (3) Provisions for refuse and service area, with particular reference to the items in (1) and (2) above.
 - (4) Provision for utilities, with reference to locations, availability and compatibility.
 - (5) Provision for screening and buffering of dissimilar uses and of adjacent properties.
 - (6) Provision for signs, if any, and exterior lighting with consideration given to glare, traffic safety, economic effects and compatibility and harmony with properties in the surrounding area.
 - (7) Provision for required yards and other green space.
 - (8) Provision for general compatibility with adjacent properties and other property in the surrounding area.
 - (9) Provision for meeting any special requirements required by the site analysis for the particular use involved.
- E. Applications for Telecommunication Towers shall include a description of the following findings. The P&Z may make further written findings that the specific requirements contained in Section 4.3.25 governing a SUP for telecommunication towers has been made concerning the following matters, where applicable:
- (1) Setbacks from Parent Property Lines
 - (2) Certified fall radius
 - (3) Locational Requirements Relative to Offsite Uses and Zoning
 - (4) Provisions for Collocation
 - (5) Tower Clustering
 - (6) Landscaping, Screening and Buffers
 - (7) Lighting of Tower
 - (8) Color of Tower
 - (9) Building design and blending of tower facilities to the natural setting and built environment
 - (10) Antenna Compatibility
 - (11) Signage
 - (12) Security Fencing
 - (13) Inventory of Existing Sites
 - (14) Compliance with current standards and regulations of the FAA, the FCC and any other Federal governmental agency with the authority to regulate towers and antennas
 - (15) Building Codes and Standards
 - (16) Provision of parking spaces and provisions for removal of refuse
 - (17) Provision for utilities
 - (18) Provisions for general compatibility with adjacent properties and other property in the surrounding area
- F. Findings and submittal requirements for Mining applications as specified in Article 4.

These findings and recommendations shall be forwarded to the Board for review and approval.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 2.8.3. Review and approval procedures.

- A. Public hearings related to this application request are set for the calendar year and the schedule is available from the Growth Services Department. A normal SUP application cycle will take 90± days to complete.
- B. The Growth Services Department shall review the application for a SUP and shall make recommendations to the P&Z respecting the applications' consistency with the Comprehensive Plan, including the Future Land Use Designation.
- C. If the Growth Services Department fails to make a written recommendation to the P&Z by the date the P&Z has set to officially act on the request, the Growth Services Department shall be deemed to have recommended approval of the application and consistency with the Comprehensive Plan.
- D. Public hearings. The P&Z shall hold public hearings to consider applications for SUPs in the manner set forth in Division 1.4.
- E. P&Z Hearing.
 - (1) Conditions and safeguards. In recommending any SUP, the P&Z may prescribe appropriate conditions and safeguards in conformity with this Code.
 - (2) Time limit. The P&Z may recommend a reasonable time limit within which the use for which the SUP is required to be started or completed.
 - (3) Denial. If the P&Z recommends denial of a SUP, it shall state fully in writing its reasons for denial. Reasons may include the lack of provisions stated in Section 2.6.2.D above.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 2.8.4. Completion and close out.

- A. The Board shall hold a public hearing after each P&Z public hearing with due public notice as defined in Division 1.2 herein to consider recommendations from the P&Z for approval or denial of SUPs. The decision of the Board shall be final.
- B. Applicant's request for withdrawal. At the request of the applicant, the P&Z or the Board shall permit withdrawal of an application. The fee paid shall not be refunded. If an applicant withdraws one type of application and files a different type of application, the new application shall satisfy all requirements of the Land Development Code including all advertising, notice and fee requirements shall be enforced with respect to the new application.
- C. Applicant's request for continuance. At the request of an applicant and for good cause shown, the P&Z or the Board may continue the public hearing on an application for a SUP. The applicant shall be required to pay an additional application fee to cover the cost of re-advertising and re-notifying the adjacent property owners. The P&Z or the Board shall not grant an applicant's request for continuance when the application is the result of a notice of zoning code violation and the SUP is necessary to cure such violation. The applicant will not be required to pay an additional application fee if the continuance is granted by the P&Z or the Board, on their own initiative, when deemed necessary or desirable.
- D. Limitation on SUPs. When the Board has denied an application for a SUP, no applicant shall submit an application for a SUP for any part or all of the same property for the same use for a period of 12 months from the date of denial unless the property is incorporated, annexed or there is a Comprehensive Plan Amendment which would affect the area.
- E. Board decisions, appeals. All applications requesting a SUP shall be approved or denied by a majority vote of the Board members present and voting at the public hearing of the Board to consider the application. If the vote of the Board results in a tie vote, the tie vote may operate as a deferral to the next zoning public hearing or date otherwise designated by the Board and the Board may defer the application until a full Board is present. Appeal of any decision of the Board granting or denying a SUP application shall be by filing a Petition for Writ of Certiorari with the Circuit Court in Marion County within 30 days of rendition of the decision to be reviewed.

(Ord. No. 13-20, § 2, 7-11-2013; Ord. No. 23-12, § 5, 5-2-2023)

LDC CODE UPDATE	
DATE:	January 27, 2025
LDC SECTION:	Section 2.8.1 Special Use Permit
COMP PLAN REFERENCE:	N/A
DISCUSSION:	
<p>Background</p> <p>Section 2.8.1 of the Land Development Code outlines the Special Use Permit (SUP) requirements and review process. The primary intent of the recommended text changes is to clarify that a requested SUP must be consistent with the Comprehensive Plan, including the underlying Future Land Use designation.</p> <p>Changes to the LDC Section</p> <p>Changes to the text of Section 2.8.1 Special Use Permits address the following issues.</p> <ol style="list-style-type: none"> 1. Add the following statement to the applicability standards in Section 2.8.1, “Any use requested under a SUP shall be compatible with the Comprehensive Plan, including the underlying Future Land Use designation.” 2. Revise the submittal requirement under Section 2.8.2.D(5) to remove text that implies that screening and buffering is not always necessary between dissimilar uses. Buffers and screening are always required. 3. Add clarification to the review and approval procedures provided in Section 2.8.3.B that the Growth Services Department shall review the application based not only on the application’s consistency with the Comprehensive Plan, including the Future Land Use designation. <p>Attachments: Redline LDC Changes to Section 2.8.1 Special Use Permit</p>	

DIVISION 8. SPECIAL USE PERMIT

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 - (1) Plans for screening and buffering with reference as to type, dimensions and character. Where additional requirements on the preparation of conceptual plan is required to demonstrate the General Findings below, those requirements shall be met.
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- (2) Provision for off-street parking and loading areas, where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the SUP on adjoining properties and properties generally in the surrounding area.
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 - (4) Provision for utilities, with reference to locations, availability and compatibility.
 - (5) Provision for screening and buffering of dissimilar uses and of adjacent properties ~~where necessary~~.
 - (6) Provision for signs, if any, and exterior lighting with consideration given to glare, traffic safety, economic effects and compatibility and harmony with properties in the surrounding area.
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 - (5) Tower Clustering
 - (6) Landscaping, Screening and Buffers
 - (7) Lighting of Tower
 - (8) Color of Tower
 - (9) Building design and blending of tower facilities to the natural setting and built environment
 - (10) Antenna Compatibility
 - (11) Signage
 - (12) Security Fencing
 - (13) Inventory of Existing Sites
 - (14) Compliance with current standards and regulations of the FAA, the FCC and any other Federal governmental agency with the authority to regulate towers and antennas
 - (15) Building Codes and Standards
 - (16) Provision of parking spaces and provisions for removal of refuse
 - (17) Provision for utilities
 - (18) Provisions for general compatibility with adjacent properties and other property in the surrounding area
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These findings and recommendations shall be forwarded to the Board for review and approval.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 2.8.3. Review and approval procedures.

- A. Public hearings related to this application request are set for the calendar year and the schedule is available from the Growth Services Department. A normal SUP application cycle will take 90± days to complete.
- B. The Growth Services Department shall review the application for a SUP and shall make recommendations to the P&Z respecting the applications' consistency with the Comprehensive Plan, [including the Future Land Use Designation](#).
- C. If the Growth Services Department fails to make a written recommendation to the P&Z by the date the P&Z has set to officially act on the request, the Growth Services Department shall be deemed to have recommended approval of the application and consistency with the Comprehensive Plan.
- D. Public hearings. The P&Z shall hold public hearings to consider applications for SUPs in the manner set forth in Division 1.4.
- E. P&Z Hearing.
 - (1) Conditions and safeguards. In recommending any SUP, the P&Z may prescribe appropriate conditions and safeguards in conformity with this Code.
 - (2) Time limit. The P&Z may recommend a reasonable time limit within which the use for which the SUP is required to be started or completed.
 - (3) Denial. If the P&Z recommends denial of a SUP, it shall state fully in writing its reasons for denial. Reasons may include the lack of provisions stated in Section 2.6.2.D above.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 2.8.4. Completion and close out.

- A. The Board shall hold a public hearing after each P&Z public hearing with due public notice as defined in Division 1.2 herein to consider recommendations from the P&Z for approval or denial of SUPs. The decision of the Board shall be final.
- B. Applicant's request for withdrawal. At the request of the applicant, the P&Z or the Board shall permit withdrawal of an application. The fee paid shall not be refunded. If an applicant withdraws one type of application and files a different type of application, the new application shall satisfy all requirements of the Land Development Code including all advertising, notice and fee requirements shall be enforced with respect to the new application.
- C. Applicant's request for continuance. At the request of an applicant and for good cause shown, the P&Z or the Board may continue the public hearing on an application for a SUP. The applicant shall be required to pay an additional application fee to cover the cost of re-advertising and re-notifying the adjacent property owners. The P&Z or the Board shall not grant an applicant's request for continuance when the application is the result of a notice of zoning code violation and the SUP is necessary to cure such violation. The applicant will not be required to pay an additional application fee if the continuance is granted by the P&Z or the Board, on their own initiative, when deemed necessary or desirable.
- D. Limitation on SUPs. When the Board has denied an application for a SUP, no applicant shall submit an application for a SUP for any part or all of the same property for the same use for a period of 12 months from the date of denial unless the property is incorporated, annexed or there is a Comprehensive Plan Amendment which would affect the area.
- E. Board decisions, appeals. All applications requesting a SUP shall be approved or denied by a majority vote of the Board members present and voting at the public hearing of the Board to consider the application. If the vote of the Board results in a tie vote, the tie vote may operate as a deferral to the next zoning public hearing or date otherwise designated by the Board and the Board may defer the application until a full Board is present. Appeal of any decision of the Board granting or denying a SUP application shall be by filing a Petition for Writ of Certiorari with the Circuit Court in Marion County within 30 days of rendition of the decision to be reviewed.

(Ord. No. 13-20, § 2, 7-11-2013; Ord. No. 23-12, § 5, 5-2-2023)



Marion County

Land Development Regulation Commission

Agenda Item

File No.: 2025-18163

Agenda Date: 2/19/2025

Agenda No.: 2.4.

SUBJECT:

Discussion for Proposed Marion County Land Development (LDC) Amendments to Review and Update Section 4.2.30 Government Use

DESCRIPTION/BACKGROUND:

Staff has identified the need for changes to Section 4.2.30 Government Use of the Land Development Code to be discussed by the Land Development Regulation Commission.

LDC CODE UPDATE

DATE:	January 27, 2025
LDC SECTION:	Section 4.2.30 Government Use (G-U) Classification
COMP PLAN REFERENCE:	N/A

DISCUSSION:

Background

Section 4.2.30 of the Land Development Code outlines uses permitted and permissible by Special Use Permit within the Government Use (G-U) zoning category. Currently, the G-U zoning category does not provide for any uses as permissible by right and all uses must obtain a Special Use Permit. The text changes identify uses that are recommended to be permitted by right within the G-U zoning category, based on the premise that the proposed allowable uses are generally not impactful to surrounding properties, and that they are allowed by right in other zoning categories.

Changes to the LDC Section

Changes to the text of Section 4.2.30 Government Use (G-U) address the following issues.

1. Add a Permitted Use subsection to the G-U zoning category and revise letter subsection sequencing accordingly.
2. Move the following list of uses from the Special Uses (requiring permit) subsection to the newly created Permitted Use subsection of the G-U zoning category:
 - a. Fire Station
 - b. Library
 - c. Park and Recreation Areas up to ten acres
 - d. Post Office
 - e. Schools
 - f. Sheriff's Substation
 - g. Government Owned Auditorium up to 250 seats
3. Add the use "Government Administrative Use such as office buildings and similar uses" to the newly created Permitted Uses subsection.
4. Following adoption of these changes, the allowable uses for G-U in the zoning tables will need to be updated.

Attachments: Redline LDC Changes to Section 4.2.30 Government Use (G-U) Classification

Sec. 4.2.30. Government Use (G-U) classification.

A. Intent of Classification. The Governmental Use classification is intended to apply to those areas where the only activities conducted are those of the U. S. Government, State of Florida, and Marion County Board of Commissioners, Marion County School Board or incorporated communities in Marion County.

B. Permitted Use:

Fire station

Library

Park and recreation areas up to ten acres in size.

Post Office

Schools

Sheriff's Substation

Government owned assembly/auditorium/conference center up to 250 seats

Government Administrative Use such as office buildings and similar uses

BC. Special Uses (requiring permit):

Airport

Armory

Equipment yards

Fire station

Garbage transfer station.

Gas meter facility and supply lines, high pressure (except where such permits are pre-empted by state or federal regulations)

Government owned assembly/auditorium/conference center greater than 250 seats Hospital (County owned)

Landfill, any type

Landfill, construction, and demolition

Park and recreation areas greater than ten acres in size~~Park and recreation areas~~

Penal institution, jail

~~Post Office (US Postal Service owns land and building)~~

Schools

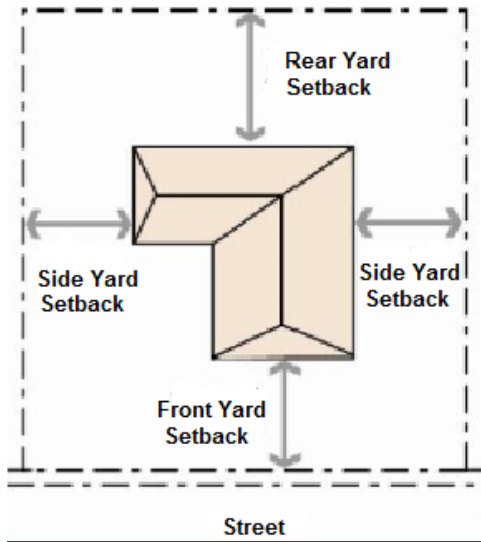
Sewage treatment plants with an inflow exceeding 5,000 gallons per day

Sheriff's Substation

Sprayfields or other type of effluent disposal area when application rate exceeds 5,000 gallons per day, if allowed by law

Water wellfields

D. Development Standards:



Minimum Lot Area: None

Minimum Lot Width: None

Maximum Building Height: 50 feet

Maximum Floor Ratio: 1.0

E. Setbacks:

Minimum Front Setback: 40 feet

Minimum Rear Setback: 25 feet

Minimum Side Setback: 10 feet

F. Special Requirements

1. For items requiring a special use permit approval, applications shall be accompanied by Architectural plans for the proposed facilities.

2. Loading and unloading bays for facilities shall be screened from view by a minimum 8' opaque screening e.g. (wall, fence, intense vegetative plantings) with installation to be completed prior to commencing operation of facilities.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

LDC CODE UPDATE

DATE:	January 27, 2025
LDC SECTION:	Section 4.2.30 Government Use (G-U) Classification
COMP PLAN REFERENCE:	N/A

DISCUSSION:

Background

Section 4.2.30 of the Land Development Code outlines uses permitted and permissible by Special Use Permit within the Government Use (G-U) zoning category. Currently, the G-U zoning category does not provide for any uses as permissible by right and all uses must obtain a Special Use Permit. The text changes identify uses that are recommended to be permitted by right within the G-U zoning category, based on the premise that the proposed allowable uses are generally not impactful to surrounding properties, and that they are allowed by right in other zoning categories.

Changes to the LDC Section

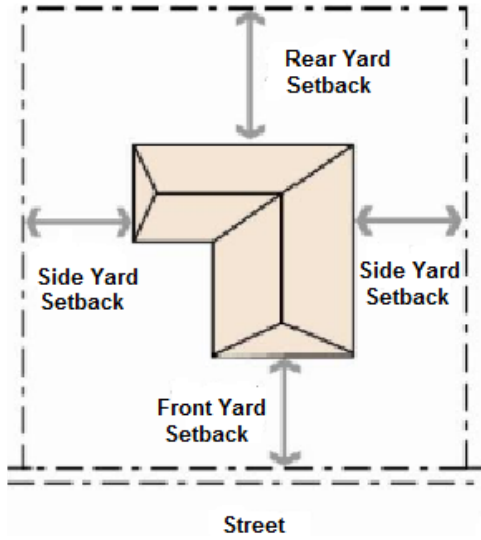
Changes to the text of Section 4.2.30 Government Use (G-U) address the following issues.

1. Add a Permitted Use subsection to the G-U zoning category and revise letter subsection sequencing accordingly.
2. Move the following list of uses from the Special Uses (requiring permit) subsection to the newly created Permitted Use subsection of the G-U zoning category:
 - a. Fire Station
 - b. Library
 - c. Park and Recreation Areas up to ten acres
 - d. Post Office
 - e. Schools
 - f. Sheriff's Substation
 - g. Government Owned Auditorium up to 250 seats
3. Add the use "Government Administrative Use such as office buildings and similar uses" to the newly created Permitted Uses subsection.
4. Following adoption of these changes, the allowable uses for G-U in the zoning tables will need to be updated.

Attachments: Redline LDC Changes to Section 4.2.30 Government Use (G-U) Classification

Sec. 4.2.30. Government Use (G-U) classification.

- A. Intent of Classification. The Governmental Use classification is intended to apply to those areas where the only activities conducted are those of the U. S. Government, State of Florida, and Marion County Board of Commissioners, Marion County School Board or incorporated communities in Marion County.
- B. Permitted Use:
 - Fire station
 - Library
 - Park and recreation areas up to ten acres in size.
 - Post Office
 - Schools
 - Sheriff's Substation
 - Government owned assembly/auditorium/conference center up to 250 seats
 - Government Administrative Use such as office buildings and similar uses
- C. Special Uses (requiring permit):
 - Airport
 - Armory
 - Equipment yards
 - Garbage transfer station.
 - Gas meter facility and supply lines, high pressure (except where such permits are pre-empted by state or federal regulations)
 - Government owned assembly/auditorium/conference center greater than 250 seats Hospital (County owned)
 - Landfill, any type
 - Landfill, construction, and demolition Park and recreation areas greater than ten acres in size
 - Penal institution, jail
 - Sewage treatment plants with an inflow exceeding 5,000 gallons per day
 - Sprayfields or other type of effluent disposal area when application rate exceeds 5,000 gallons per day, if allowed by law
 - Water wellfields
- D. Development Standards:



Minimum Lot Area: None

Minimum Lot Width: None

Maximum Building Height: 50 feet

Maximum Floor Ratio: 1.0

E. Setbacks:

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