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## CHAPTER 174. STANDARDS FOR ACCESSORY, TEMPORARY, AND OTHER USES AND STRUCTURES

### PART 1. ACCESSORY USES AND STRUCTURES

#### § 174.001. PURPOSE

The purpose of this chapter is to provide standards for specific land uses that are allowable as accessory uses or structures, temporary uses, or as permitted subject to additional standards as noted in Tables 173-1 through 173-3. The regulations of this chapter are intended to supplement, rather than supersede, the district regulations found in Chapter 173.

#### § 174.002. ACCESSORY USES AND STRUCTURES GENERAL REQUIREMENTS

Accessory structures shall meet the following provisions, unless stated otherwise in Table 174-1 or other sections in this Part.

(A) *Placement*: No accessory structure shall be erected within:

- (1) Any public drainage and utility easement.
- (2) Any required front yard setback.
- (3) Any required side yard setback.
- (4) Within ten (10) feet of any rear property line.
- (5) Within five (5) feet from any building on the same lot.
- (6) Accessory structures erected on lots fronting on two (2) streets shall conform to the principal structure setbacks for the side corner yard setback.

(B) *Height*: No accessory structure, **unless located in a GU, RE, SRE, and RR district and encompassing two (2) acres or more**, shall exceed twenty-five (25) feet in height or the height of the principal structure, whichever is less.

(C) *Timing*: No accessory building may be erected upon a property without the presence of a principal building and such accessory buildings shall not be used until after the principal structure has been fully constructed and a certificate of occupancy issued.

(D) *Size*: No accessory structure, or the cumulative size of all accessory structures on a site, shall exceed the size of the principal structure, except that:

- (1) Sheds in residential zoning districts may not exceed 50% of the size of the principal structure's living area.
- (2) Properties zoned RR (Rural Residential District) of two (2) acres or more shall be permitted to have accessory structures that exceed the square footage of the principal structure's living area.

(E) *Tents*: Erection of tents as accessory structures is prohibited.

- (F) *Satellite dish antennae.* For the purpose of this chapter, satellite dish antennae are considered an accessory structure, and a building permit shall be required when installing, moving or reconstructing a dish antenna. Satellite dish antennae shall meet the following requirements:
- (1) Satellite dish antennae may be roof-mounted provided that the twenty-five (25) foot height restriction in single-family residential districts and the maximum height limits in commercial, industrial, and multi-family districts are not exceeded. The height of the antenna/dish shall be that distance as measured vertically from the highest point of the dish/antenna, when positioned at its lowest angle for operation, to ground level.
  - (2) Dish antennae located in single family residential districts shall not have a dish which exceeds ten (10) feet in diameter.
- (G) *Metal structures.* Metal accessory structures over three hundred (300) square feet or over twelve (12) feet in height in residential zoning districts shall be designed to simulate non-metal construction, treated with a textured coating on all four sides or painted to match the color scheme of the primary residence.
- (H) *Animal enclosures or cages.* Animal cages or enclosures accessory to residential uses shall be limited in size to fifteen (15) feet in length by ten (10) feet in width. They shall not exceed six (6) feet in height and shall provide a ten (10) foot side setback and a fifteen (15) foot rear setback. Properties zoned GU, RE, SRE, and RR encompassing two (2) acres or more are exempt from this subsection.

**Table 174 - 1. Minimum Requirements**

TYPE OF STRUCTURE	SETBACK REQUIREMENT	MAX HEIGHT
Carport or detached garage	Carports shall not be permissible in the front yard. REAR: ten (10) feet from any rear property line. SIDE: same as the side yard setback of the principal structure.	Height of the principal structure or twenty-five (25) feet, whichever is less
Animal enclosures or cages <sup>1</sup>	REAR: fifteen feet (15') SIDE: ten feet (10')	Six feet (6')
Metal structures	Metal structures shall not be erected within side or front yards. REAR: ten (10) feet from any rear property line.	Twelve feet (12') OR Height of the principal structure or twenty-five (25) feet, whichever is less for structures meeting design standards
Swimming pools, as defined by Chapter 515, Florida Statutes, and associated barriers	REAR: ten (10) feet from any rear property line. SIDE: same as side setback of the principal structure.	Height of the principal structure or twenty-five (25) feet, whichever is less
Satellite dish (ground-mounted)	Radius of the dish plus five feet (5') for side and rear yard setback.	Satellite dish (ground-mounted)

TYPE OF STRUCTURE	SETBACK REQUIREMENT	MAX HEIGHT
Screen room (non-habitable space only)	REAR: ten (10) feet from any rear property line. SIDE: setback same as side setback of the principal structure	Height of the principal structure or twenty-five (25) feet, whichever is less
Sheds, gazebos, and pergolas over 120 square feet	REAR: ten feet (10') SIDE: six feet (6') CORNER LOTS: ten feet (10')	Height of the principal structure or twenty-five (25) feet, whichever is less

### § 174.003. ACCESSORY DWELLING UNITS

The following standards apply to accessory dwelling units if permitted per Table 173-1:

- (A) The unit shall be accessory to and on the same property as a single-family dwelling unit and may only be located on lots or parcels of land that meet the minimum lot size requirement of the district where single-family dwellings are permitted.
- (B) The unit shall be developed in conjunction with or after development of the principal dwelling unit and the owner of the property must reside within either the principal or the accessory dwelling unit.
- (C) Not more than one (1) accessory dwelling unit per property is permitted.
- (D) No accessory dwelling unit shall be sold separately from the principal dwelling unit. The accessory dwelling unit and the principal dwelling unit shall be located on a single lot or parcel.
- (E) The air-conditioned floor area of the accessory dwelling unit shall not exceed 50% of the air-conditioned floor area of the principal structure, or 800 square feet, whichever is less. The accessory dwelling unit shall have no less than 200 square feet of air-conditioned floor area.
- (F) The unit shall meet the accessory structure setback and height provisions identified in §174.002.
- (G) The unit shall be designed so that the exterior façade material is similar in appearance (style, material and color) to the existing principal structure.
- (H) A minimum of one (1), but not more than two (2) parking spaces shall be provided for the accessory dwelling unit, in addition to the spaces required for the principal dwelling unit.
- (I) Construction of the accessory dwelling unit, in combination with all structures on the property, shall not cause the maximum lot coverage of the zoning district to be exceeded.
- (J) The accessory dwelling unit shall be serviced by centralized water and wastewater or meet the health department's well and septic tank and drain field requirements. Modification, expansion or installation of well or septic tank facilities to serve the accessory dwelling unit shall be designed in a manner that does not render any adjacent vacant properties "unbuildable" for development when well or septic tank facilities would be required to service development on those adjacent properties.
- (K) An accessory dwelling unit shall be treated as a mobile home unit for impact fees.
- (L) ADUs may be allowed in Planned Developments only if the ordinance specifically states it.
- (M) Accessory dwelling units shall not be counted for density calculation purposes.

**§ 174.004. AIR CONDITIONING UNITS.**

- (A) In all residential districts, the exhaust or mechanical part of any air conditioning or heating unit, other than window units, shall be subject to side yard requirements except if such air conditioning or heating unit faces a street or an alley and is located fifteen (15) feet or more from an adjoining property.
- (B) In all other districts, the exhaust or mechanical part of any air conditioning unit or heating unit may encroach five (5) feet into the side yard building setback.

**§ 174.005. BACKYARD CHICKENS.**

- (A) No person shall keep or maintain in, on or upon any lot, building, premises or property any farm animal in any zoning category outside of the RR and GU districts except as provided for in this section or §174.012 (PIGEONS).
- (B) Up to four (4) chickens may be kept on single family lots in the RE, RS-1, RS-2, RS-3, and SRE Zoning Districts subject to adherence to the following criteria:
  - (1) Hens only may be kept. Roosters are prohibited.
  - (2) Chickens must be caged at all times and cages/coops shall meet the criteria for animal cages and enclosures contained in §174.002.
  - (3) Breeding of chickens is prohibited.
  - (4) Dead chickens shall be immediately removed from the premises and disposed of properly.
  - (5) The cage/coop and surrounding areas shall be clean and properly maintained to avoid the attraction of vermin, insects or predators.

**§ 174.006. DOGS WITHIN RESIDENTIAL ZONING DISTRICTS.**

- (A) No person shall keep or maintain in, on or upon any lot, building, premises or property more than four dogs per dwelling unit. A dog shall be considered any canine six months in age or older. This section shall apply to all lands within the RE, RS-1, RS-2, RS-3, SRE, RT-10, RM 15, RM-20, RMH, CMU, UMU, and PUD Zoning Districts.
- (B) All persons who own or keep more than four dogs as of the effective date of this section must either come into compliance with the section or obtain a certificate authorizing such person to temporarily keep such greater number within 90 days. Once obtained, said certificate shall only remain valid until the number of dogs owned or kept is reduced to four or less, at which time said certificate shall expire. No additional dogs can be added to those already registered to replace any dog that shall be given away, sold or that dies. There shall be only one valid certificate per residential dwelling unit at any time. If the holder of a certificate moves to another dwelling unit within the city, the holder of the certificate must notify the city and request the transfer of the certificate. Failure to transfer a certificate within 30 days of moving shall make the certificate void. If the holder of a certificate moves out of the city, the certificate shall immediately become void.
- (C) Application for a certificate shall be made on a form provided by the city and submitted to the Palm Bay Code Compliance Division. In order to obtain a certificate, applicants must provide the following information and documentation on all dogs owned or kept by the applicant:

- (1) Dog license and certificate of inoculation for rabies, issued prior to the passage of this section, for each dog.
- (2) Complete physical description of all dogs owned or kept by the applicant, including age, weight, color and name; and
- (3) Photograph of all dogs owned or kept by the applicant.

**§ 174.007. FENCES AND WALLS**

- (A) *Types of fences and walls permitted.* Fences and walls constructed within the city shall conform to one (1) of the following:
- (1) *Type A.* Wood fences constructed of rot- and termite-resistive species of wood or wood chemically pressure treated to resist rot and termite attack. All portions of a wooden fence shall display the finished face on the outside.
  - (2) *Type B.* Posts of pressure treated wood or non-corrodible metal and wire fences with a fabric of a minimum of twelve and one-half (12½) gauge galvanized or other non-corrodible metal.
  - (3) *Type C.* Ornamental iron.
  - (4) *Type D.* Concrete or masonry.
  - (5) *Type E.* Plastic.
  - (6) *Type F.* Barbed Wire. Barbed wire may only be permitted upon lands that are zoned GC, General Commercial, LI, Light Industrial and Warehousing and HI, Heavy Industrial Zoning Districts.
- (B) *Use of certain wire prohibited.* The utilization or installation of barbed tape, razor tape or razor wire and concertina barbed wire, for fencing, partitions or obstacles is prohibited within the city limits of the City of Palm Bay, except as permitted above.
- (C) *Chain link setbacks.* In the CMU and UMU zoning districts, chain link fences shall not be placed within twenty (20) feet of the front or side corner property lines.
- (D) *Height limitations.*
- (1) Walls and fences located, erected, constructed, reconstructed or altered outside of the building lines shall not exceed four (4) feet in height when placed in the front setback, and not more than six (6) feet in height at any other location.
  - (2) For corner lots, a maximum fence height of six (6) feet may be permitted within the side corner yard area, provided the requirements in provision (3) below are met.
  - (3) Walls and fences shall not interfere with the vision clearance triangle (see Chapter 176).
- (E) *Fencing of easements.* It shall be unlawful for any person to fence any utility or drainage easements unless the proposed fence is properly permitted, limited to Type A, Type B, or Type E as set forth in §174.07(A) and constructed in accordance with the following:
- (1) Any fence proposed to be installed within a utility or drainage easement that accesses, abuts or provides the city or any utility company with a maintenance area to lot line ditches, canals, drainage tracts, drainage rights-of-way, shall be so constructed so that it can be easily removed. Such removal

shall be the responsibility of the property owner within five (5) days after written notice from the city or utility company and all costs incurred in such removal and replacement shall be the responsibility of the property owner.

- (2) Any fence proposed to be installed within a utility drainage easement not included in division (1) above may be of permanent nature, with the understanding that if the removal of such fence is necessitated for the installation, repair or replacement of any drainage or utility facility, it will be the owner's responsibility and at the owner's expense. Such removal shall be accomplished within five (5) days of written notice by the city or utility company.
  - (3) The property owner shall be responsible for maintaining the area within the easement of this property regardless of the placement of the fence. The city may remove any fence within an easement, as needed, in case of emergency.
- (F) *Fencing on rights-of-way prohibited.* It is prohibited to construct or install a fence or wall upon a drainage or street right-of-way, nor shall a fence or wall preclude access to the drainage or street right-of-way.
- (G) *Exemptions.* Any property owner required by Ch. 588, F.S., to prevent livestock from running at large, and whose property is zoned RR Rural Residential, shall be exempt from the requirements of subsections (A) and (D).
- (H) *Fence and wall maintenance.*
- (1) All fences shall be maintained in their original upright condition.
  - (2) Fences and walls designed for painting or similar surface finishes shall be maintained in their original condition as designed or erected.
  - (3) Missing boards, iron work, wire fabric or posts shall be replaced in a timely manner with material of the same type and quality.
  - (4) All fences will be secured and held upright with the same materials as originally constructed and indicated on Miscellaneous Structure application.
- (I) *Plans, permit, fee.* Plans showing the location of any proposed fence or wall and the type of construction shall be submitted to the Building Official and a permit obtained therefor from the Building Official, upon payment of a fee as set forth in Chapter 172. Fences in residential districts accessory to a single-family residence may be exempted from the requirements of obtaining a building permit provided that the property owner can show on a to scale plan that the fence is wholly located with the subject property and that such fence will not interfere with utilities, rights-of-way, public drainage and utility easements (except as provided for in Subsection (E)) or septic systems and will not block sight lines for driveways or intersections. All other provisions of this section shall be applicable.
- (J) *Required construction prior to inspection or issuance of certificate of occupancy.*
- (1) Where a fence or visual screen is required to be constructed, such fence or visual screen shall be drawn on the plans of any new construction or alteration and shall actually be constructed before the Building Official may make a final inspection or issue a certificate of occupancy for the premises.
  - (2) Where the visual screen is to be made of plant material such as trees or shrubs, it shall meet the provisions of the zoning code set forth in Chapter 185 of this title and all information concerning it,



such as plant name (common and botanical), planting size, size at maturity, quantity, and how transplanted to the site, shall be indicated on the plans of any new construction or alteration.

#### **§ 174.008. HOME OCCUPATIONS**

In a residentially zoned district, a home-based business tax receipt may be issued for a home-based business provided the following criteria are met:

- (A) The activities of the home-based business are secondary to the property's use as a residential dwelling.
- (B) The business shall not change the character of the dwelling or reveal from the exterior that the dwelling is being utilized for conduct of a home-based business. External modifications made to a residential dwelling to accommodate a home-based business must conform to the residential character and architectural aesthetics of the neighborhood.
- (C) No supplies or equipment shall be used or stored in connection with the business that would create fire or explosion hazards, electrical interference, noise, vibration, glare, fumes or odors detectable to the normal senses on adjacent properties or residential units.
- (D) Activities conducted and equipment or material used shall not change the fire safety or occupancy classifications of the premises.
- (E) A business operating under a Cottage Food License is permissible with proof of such license from the governing authority.
- (F) A licensed firearms dealer may operate within their home, provided a Federal Firearms Permit is valid and secured prior to the business tax receipt application. No on- site storage of ammunition or items related to ammunition reloading, musket ball or muzzle manufacturing or re-loading may be permitted. Transfer of firearms to private individuals may not occur at the property where the home is located.
- (G) Parking related to the business activities of the home-based business shall comply with citywide parking requirements and the need for parking generated by the business may not be greater in volume than would normally be expected at a similar residence where no business is conducted.
- (H) Employees of the business who work at the residential dwelling must also reside in the residential dwelling, except that up to a total of two employees or independent contractors who do not reside at the residential dwelling may work at the business. The business may have additional remote employees that do not work at the residential dwelling.

#### **§ 174.009. OUTDOOR DINING**

An outdoor seating and/ or dining area is an allowable use when such use is in conjunction with a licensed restaurant. The outdoor seating and/ or dining area shall be identified on an approved site plan that demonstrates the following conditions are met:

- (A) The outdoor seating and/ or dining area is within the boundary lines of the property for which the licensed restaurant is located.
- (B) The outdoor dining area shall be aesthetically and architecturally pleasing and in alignment with the architectural style requirements.

- (C) The outdoor seating and/ or dining area must be clearly delineated on the site plan. Any such area which abuts a parking area shall have a protective buffer in the form of planters, decorative fencing, and/ or hedges.
- (D) The number of outdoor seats provided shall be counted as part of the restaurant's total allowable dining allotment and shall be shown on an approved site plan. All outdoor seating and/ or dining furniture and associated lighting shall be contained within the defined area on the site plan.
- (E) Outdoor seats shall not cause a licensed restaurant's required parking to become inadequate.
- (F) Outdoor dining areas shall not encroach upon any public right-of-way, public easements, or setbacks.
- (G) Outdoor dining shall not be placed within five feet of bus stops, loading zones, fire hydrants, site triangles, above ground public utilities, bike racks or any type of public street furniture.
- (H) Private sidewalks that abut restaurants may be used for such outdoor seating and/ or dining area, provided that there is a five- foot pedestrian clear zone, which shall be maintained at all times.
- (I) No outdoor seating and/ or dining furniture shall be allowed within five (5) feet of a pedestrian crosswalk.
- (J) All kitchen equipment used to service the outdoor dining area shall be located within a building.
- (K) All outdoor dining furniture, including all accessory appurtenances including but not limited to approved space heaters, misters, and portable umbrellas that are located within the outdoor dining area shall be stored inside a building after close of business.
- (L) No outdoor dining furniture shall be attached, chained or in any manner affixed to any tree, post, sign, or other fixtures.
- (M) Outdoor food service will terminate no later than 10: 00 p. m. on weekdays (Monday through Thursday) and 11: 00 p. m. on weekends (Friday through Sunday).
- (N) The serving or consumption of alcoholic beverages within an outdoor dining area shall comply with the regulations of applicable government agencies.
- (O) Outdoor seating and/ or dining areas must be maintained in a neat and orderly appearance at all times and must be cleared of all trash and debris on a periodic basis during the day and at the close of each business day.
- (P) If found to be necessary for the protection of the health, safety, and welfare of the public, the City Manager or his/ her designee may require the subject property to immediately remove or relocate all or part of the tables, chairs, etc. of the outdoor seating and/ or dining area.
- (Q) This section shall not apply to outdoor dining areas that are depicted on site plans approved prior to July 1, 2023.

#### **§ 174.010. OUTDOOR DISPLAY OF MERCHANDISE**

Retail establishments with outdoor display areas, including plant nurseries and building supplies but not including vehicle dealerships, shall meet the following provisions:

- (A) The outdoor display area may be open along the front of the lot but shall be effectively screened with a six (6) foot opaque wall or fence rendering the sides and rear opaque in order to avoid any deleterious effect on adjacent properties.
- (B) The outdoor display area shall be considered the same as the floor area for the purpose of calculating off-street parking requirements, yard, and lot coverage regulations.
- (C) All outdoor display items shall meet a twenty (20) foot front and side setback and a thirty (30) foot rear setback.

**§ 174.011. PIERS, DOCKS AND BOATHOUSES**

- (A) No piers, docks, or boathouses shall be constructed so as to encroach upon the riparian rights of other property owners.
- (B) Only the mooring of boats, and recreational, pleasure, or sport fishing use of the docks, piers, and boathouses as an accessory use shall be permitted. Boathouses or other structures with walls or sides shall be prohibited.
- (C) Only one (1) covered boathouse, without walls or sides, shall be permitted on, abutting or serving a lot. Overhangs shall be included in square footage calculations. Only one (1) dock shall be permitted per lot, on, or abutting or serving said lot.
- (D) More than one (1) dock, pier, or boathouse shall be considered a marina. See Chapter 173 to determine where marinas are allowed.
- (E) Piers, docks and boathouses, alone or together in combination to include the boat, boat mooring spaces and pilings, shall not project into a waterway more than thirty three percent (33%) of the minimum width of the waterway or two hundred fifty (250) feet, whichever is less, measured from the point at which the pier, dock or boathouse is proposed to be extended into the waterbody. Piers, docks, and boathouses shall also be set back at least twenty-five (25) feet from any channel established and physically marked by either an agency of the State of Florida or the federal government.
- (F) All docks, piers and boathouses shall have a minimum width of three (3) feet.
- (G) No pier or dock deck shall be higher than four (4) feet above the mean or ordinary high-water line. Piles and pilings and a guard rail may be permitted up to four (4) feet above the height of the pier or dock deck. The guard rail may be no more than twenty five percent (25%) opaque. No boat lift or boathouse shall exceed twenty (20) feet in height, as measured from the mean or ordinary high-water line to the highest point of a boat lift or boathouse.
- (H) The maximum square footage of the surface area of any dock or pier (including walkways), shall be limited to twelve (12) times the total length of the pier or dock permitted or eight hundred (800) square feet, whichever is greater. Marinas approved by the City Council as a conditional use are exempt from this subsection.
- (I) The maximum square footage of the surface allowed shall be one thousand (1,000) square feet for a covered boathouse.
- (J) All lighting of any pier, dock or boathouse shall be shielded or shaded in such a manner that the light source does not shine directly into adjacent homes.

- (K) Upon completion of the pier, dock or boathouse, a final survey prepared and certified by an engineer or surveyor showing the as-built location and depicting compliance with the minimum setback requirements of the pier, dock or boathouse shall be submitted to the Building Division for final approval.
- (L) No owner, lessee, or other person otherwise occupying any lot shall permit any piers, docks, or boathouses under said person's control or ownership located on or adjacent to said lot under said owner's control to become dilapidated, deteriorated, structurally unsound or a safety hazard. Piers, docks, and boathouses shall be kept free from debris, signage or other conditions which would otherwise cause an unsightly appearance.
- (M) All pilings and other mooring devices located in a waterway shall be marked with red or yellow reflectors or other acceptable reflectorized markings on each side.
- (N) A city building permit shall be obtained for the construction of any pier, dock, or boathouse. No building permit application shall be deemed complete when filed, unless the following items are appended thereto:
  - (1) A survey prepared by a State of Florida registered land surveyor (showing the straight-line water frontage of the lot subject to the permit application, mean high or ordinary water lines, seawalls, bulkheads, property lines, and the width of waterway).
  - (2) Plans showing the height, width and length of all proposed structures to include pilings, boat lifts, platforms, pavilions, detail and construction specifications and all other information deemed necessary by the Building Official to properly evaluate the plan. The design, construction, alteration and repair of the pier, dock or boathouse shall conform to the provisions of this chapter as amended or superseded from time to time. Pile dimensions, spacing and embedment shall be designed according to engineering practices.
- (O) A dock permit and submerged land lease or exemption letter shall be obtained for all proposed construction of piers, docks, or boathouses from the St. Johns River Water Management District, Army Corps of Engineers, and the Florida Department of Environmental Protection.

**§ 174.012. PIGEONS.**

- (A) No person shall keep or maintain in, on or upon any lot, building, premises or property any farm animal in any zoning category outside of the RR and GU districts except as provided for in this section or §174.005 (BACKYARD CHICKENS).
- (B) Pigeons may be kept on single family lots in the RE, RS-1, RS-2, RS-3, and SRE Zoning Districts subject to adherence to the following criteria:
  - (1) The keeping of pigeons is allowed in the RE, RS-1, RS-2, RS-3, and SRE Zoning Districts as an accessory use.
  - (2) A maximum of one hundred (100) pigeons may be kept in a parcel containing at least one (1) primary structure.
  - (3) Restrictions on flights.
    - (a) Maximum number to be released. No more than forty (40) pigeons may be released at any one time for exercise or training purposes.

- (b) Maximum number of flights per twenty-four (24) hour period. No more than two (2) flights shall be allowed within a twenty-four (24) hour period.
- (c) Pigeons shall only be released to fly between the hours of sunrise to sunset. When pigeons have been released from a distant location, they shall be allowed to fly into their home aviary upon their return- regardless of which day or time of day.
- (4) Enclosure requirements. Pigeon Aviaries shall meet the provisions of §174.002.
- (5) Aviary Maintenance and Cleaning Requirements:
  - (a) Structures where pigeons are housed shall be kept and maintained in a sanitary condition. Refuse and droppings shall be removed from the premises at least twice each calendar week. No aviary or loft shall create a nuisance onto adjacent properties.
  - (b) The owner shall comply with the rules and regulations of the Brevard County Health Department or Animal Control pertaining to the sanitary conditions and maintenance of the premises.
  - (c) The owner or person in charge of keeping the pigeon aviary shall maintain the property and all features of the property, including roofs, driveways and walkways in a clean manner, void of any visible pigeon droppings.
  - (d) Pigeons shall not be allowed to land or perch on the structures or property of others. Birds shall be trained not to land anywhere except on the landing board to the loft within four (4) weeks after the pigeon is first let out of the loft (first flight). The landing board shall be constructed in such a manner that allows for the entire flying flock to land at the loft at one time. The minimum loft size shall be regulated to a minimum of one (1) square foot per bird.
  - (e) Pigeon businesses or breeding activities for commercial purposes shall not be conducted in the RE, RS-1, RS-2, RS-3, and SRE Zoning Districts.
  - (f) No training flight shall occur two (2) hours before sunset or sunrise, and training flights shall not be conducted until four (4) hours after the feeding of birds.
  - (g) Any bird that is deemed diseased shall be removed from the loft and from the premises immediately.

#### **§ 174.013. SECURITY DWELLING**

- (A) A security dwelling unit may be provided within a subdivision or in conjunction with a site that has wholesale trade, warehousing, storage, contractor offices with storage, assembly, machine shops, commercial flex-space or similar uses subject to the following standards:
  - (1) No persons under the age of eighteen (18) may reside within the unit, and at no time may the unit be occupied by more than two (2) persons.
  - (2) The unit may contain no more than one thousand (1,000) square feet of gross floor area.
  - (3) There may be only one (1) security dwelling unit per subdivision or development.
  - (4) There shall be at least one (1) parking space designated on-site for the residents of the unit.
- (B) Security dwellings in non-residential developments listed above must also comply with the following:

- (1) The unit resident must be the owner of the property or an employee of the property owner. If the resident is not the owner, a signed and notarized contract between the property owner and the employee shall be provided to staff that addresses provisions for security.
- (2) Applicants must demonstrate that approval of an onsite security dwelling minimizes the need for other security measures including but not limited to chain link fencing, strands of barbed wire atop fencing or walls and excessive security lighting thereby promoting a more aesthetically acceptable site development pattern.

§ 174.014 through § 174.019 RESERVED.

## **PART 2. TEMPORARY USES AND STRUCTURES**

### **§ 174.020. PURPOSE**

The purpose of this chapter is to provide standards for specific land uses and structures that are allowable on a temporary basis. The regulations of this chapter are intended to supplement, rather than supersede, the district regulations found in Chapter 173.

### **§ 174.021. MODEL HOMES/MODEL DISPLAY GROUP (EARLY START HOMES)**

Model homes are permitted in conjunction with new residential developments provided they meet the following standards.

- (A) Single family model homes must be located on a single lot. Model units, however, are also permitted in any townhouse or multiple-family building.
- (B) Model homes must be connected to water, sewer and electricity and must receive a certificate of occupancy as a model home only, prior to use as a model for public use.
- (C) Model homes may be approved only in areas where they will not adversely affect existing residents.
- (D) Multiple Model Display Groups or Early Start Homes permitted under this code shall not be open to the public before a certificate of occupancy is issued.
- (E) Each model home must comply with the applicable zoning and sign regulations.
- (F) Model homes are not required to be constructed with garages, even in districts where such garages would normally be required, provided the following criteria are met:
  - (1) Prior to cessation of the use of the home as a model home, the builder must construct an operational garage door along the front face of the home. This garage door is required to be in place and operational prior to either selling the home or renting the home.
  - (2) Prior to issuance of a Certificate of Occupancy, the builder must file an affidavit with the Building Division certifying that the requirements of this section will be complied with prior to selling or renting the home for non-model home use.
- (G) Except when located in a group, all parking facilities for model homes shall be on private property. There shall be no paving, surfacing, or laying of any material within any adjoining right-of-way for parking purposes.

- (H) For model display groups, three off-street vehicular parking spaces, including the garage, shall be provided on the site or on an adjacent vacant property. Adjacent vacant single-family lot(s) may be used for model home parking. A plan to provide parking on an adjacent parcel shall require ownership by the same or an affidavit of authorization from the property owner as well as a surety deposit payable to the City to convert the property back to a residential or other permitted use when the structure is converted or sold. An accessible (ADA) parking space is required and shall be counted as one of the three required spaces.
- (I) Model homes shall have a way for prospective purchasers, visitors and prospective customers to get from parking facilities to the model home. Such access shall be forty-four (44) inches wide and must be either paved in accordance with this code of ordinances or be graded and covered with mulch.
- (J) Model homes must be designed for public access and shall, therefore, meet accessibility requirements throughout the home, per the current Florida Building Code, Accessibility. This shall include handrail and grab bar requirements.
- (K) No model home may be used for living purposes either temporarily or permanently while used as a model home or model display unit.
- (L) No real estate sales except those incidentals to the sale of model homes, model display units or lots within the development may be conducted in a model home or model unit.
- (M) The model home permit shall automatically expire upon the sale or transfer of the model home, except that if ownership of the model home is transferred to a qualified company, the model home permit may be transferred to the new owner. In the event the model home is sold, and the permit holder leases the model home from the purchaser, the permit holder may continue to operate the model home for the remainder of the permitted term, provided the permit holder is otherwise in compliance with this chapter. If the qualified company is not the original permit holder and the qualifying agent resigns or otherwise ceases to serve as the qualifying agent, the permit shall automatically expire and shall not be renewed.
- (N) A model home can be utilized as an example of a product offered for sale by the realtor, builder, developer, or contractor for the development. However, a model home unit shall not operate or function as a construction office. The model home shall be used primarily for demonstrating the type of units offered in the subdivision.
- (O) If a garage is proposed to be used as an office for a model home, the applicant must submit the following with the Building Permit application:
  - (1) Floor plan showing temporary walls, electrical and plumbing facilities. All the accessibility requirements for a business use must be met.
  - (2) The plan should include a block note stating that a Change of Occupancy application will be submitted along with a Building Permit application that details the garage conversion when it is returned to the original use along with a ten thousand dollar (\$10,000.00) refundable surety to ensure that the garage is converted back to the original use
- (P) Model homes on properties zoned under any non- commercial/Industrial District shall comply with the provisions set forth in this section except to the extent such provisions are modified by the City Council when the zoning is approved or subsequently amended.



(Q) Any model home not in compliance with the provisions of this section shall be brought into compliance with these provisions within sixty (60) days of the effective date of this section. Thereafter, violations of the provisions of this section shall be presented to the Code Enforcement Board as provided by law.

#### **§ 174.022. MOBILE FOOD VENDORS**

(A) *Purpose and intent.* The purpose and intent of this section are to establish land use and zoning regulations for real property upon which a mobile vendor is authorized to operate within the jurisdictional limits of the City. This section is neither intended to prohibit mobile food dispensing vehicles from operating within the entirety of the city nor regulate the licensing, registration, permitting, and fees of mobile food dispensing vehicles preempted by the state under § 509.102, F.S., as may be amended from time to time.

(B) *Violations.* It is a violation of this land development code for a mobile food vendor to sell any product at any location or in any manner that is not in compliance with the requirements of this section and the requirements of state law. The provisions of this section shall not apply to a mobile food vendor operating pursuant to a special event permit or temporary use permit.

(C) *Location.* A mobile food vendor is authorized to operate in the following locations:

- (1) A mobile food vendor may operate on city-owned or public property and the total operation must be contained within the area designated for their operation for their operation by the mayor or designee. Notwithstanding the preceding, a mobile food vendor may not operate at any location where the Mayor/City Manager or designee determines that a conflict exists between a mobile food vendor's operation and an existing license or franchise agreement, contractual obligation, or any other public health or safety concern, including but not limited to a special event or facility rental.
- (2) A mobile food vendor may operate on private property only with the written permission of the property owner(s). Evidence of a property owner's written permission must be available for inspection by the city upon request while the mobile food vendor is operating.

(D) *Separation.* When operating on private property, shall not:

- (1) Locate within fifty (50) feet of any flammable combustible liquid or gas storage and dispensing structure.
- (2) Be located within fifty (50) feet of a single-family, multifamily residential lot unless separated and screened by a minimum six (6) foot high opaque wall.
- (3) Be located within ten (10) feet of any building, or structure.

(E) *Catering.* A mobile food vendor may operate on any property in any zoning district for the sole purposes of providing catering services for an event subject to a city-issued special event permit or temporary use permit issued to the owner of the property and subject to the following additional conditions:

- (1) No more than one (1) mobile food vendor shall operate on any private residential property subject to a city-issued special event permit or temporary use permit.
- (2) A mobile food vendor providing catering services pursuant to a city-issued special event permit or temporary use permit is prohibited from selling food and beverages to the public. The distribution of food and beverages is solely restricted to the patrons of the special event.



- (3) A city-issued special event permit or temporary use permit for mobile food vendors on property with residential structures shall be limited to a maximum duration of twelve (12) hours per site, and for other properties shall be limited to a maximum duration of eighteen (18) hours.
- (F) No more than four (4) mobile food vendors shall operate on any private property at any one time, except as provided herein or as allowed by a city-issued special event permit or temporary use permit.
- (G) A mobile food vendor shall not operate or park in any location that impedes the ingress or egress of traffic, building entrances, emergency exits, or access to businesses. A mobile food vendor shall not operate in a public or private right-of-way.
- (H) A mobile food vendor may operate on private property that has an active building permit as part of a commercial or multi-family construction site. Such operation may also occur on a site undergoing master infrastructure construction within a single-family subdivision until the first certificate of occupancy is issued.
- (I) Except as otherwise provided herein, a mobile food vendor may only operate on a lot that has a principal structure. However, operating on a vacant lot is permitted where the vacant lot is under the same ownership as, and is abutting, a lot that has a principal structure. Lots located across a public right-of-way shall not be considered abutting.
- (J) A mobile food vendor must operate from a stationary location but may operate from multiple locations throughout the day, except as otherwise permitted in this subsection.
- (K) A mobile food vendor may only operate during the posted operating/business hours of the park or on-site office, business, or construction, or between the hours of 6:00 a.m. and 2:00 a.m. if no such activity is on-site. Operating hours include the time required for setup and breakdown of the mobile food vending operations.
- (L) A mobile food vendor is only permitted to sell food and beverages. The sale and serving of food from a free-standing barbeque grill or fryer is prohibited.
- (M) Amplified music or other sounds from any mobile food vendor or from audio equipment installed on the developed site by the property owner or the mobile food vendor for purposes of vending, attracting, or encouraging the congregation of customers shall be prohibited.
- (N) At any time during operation, upon request, a mobile food vendor must provide the City a valid state license issued pursuant to § 509.241, F.S., as may be amended from time to time.
- (O) Except as provided herein, the placement or storage of any item related to a mobile food vendor's business is prohibited from being on the street, sidewalk, or ground immediately surrounding an operating mobile food vendor. The following items may be placed in the immediate area of operation as long as they do not impede, endanger, or interfere with pedestrian or vehicular traffic:
- (1) Two trash receptacles,
  - (2) One recycling receptacle, and
  - (3) One menu board no larger than thirty (30) inches by fifty (50) inches in height.

- (P) A mobile food vendor must provide receptacles for trash and recycling. The area immediately surrounding an operating mobile food vendor shall be kept neat and orderly at all times and garbage or trash shall be removed prior to departure of the mobile food vendor.
- (Q) For outdoor dining, one (1) ten (10) foot by ten (10) foot area, covered or uncovered, may be permitted to accommodate seating and tables per mobile food vendor.
- (1) Outdoor dining areas including, but not limited to, tables, chairs, booths, bar stools, benches, and standup counters shall only be permitted if expressly authorized in a site plan or a special event permit.
  - (2) No tables, chairs or other furniture or equipment intended to provide accommodation for the patrons of mobile food vendors may be placed in the public right of way.
  - (3) Any canopies, awnings, or any other attachments must be supported entirely by the mobile food vendor's vehicle or vehicle-mounted trailer and may not touch the ground.
- (R) Mobile food vendors are responsible for the proper disposal of all waste generated on-site. No grease, waste, trash, or other by-product from a mobile food vendor's business may be deposited or released onto city-owned property, including but not limited to the streets, sidewalk, into the gutter or storm drainage system, or other public place.
- (S) If a generator or open flame is utilized, a fire extinguisher must be located on-site.
- (T) The sale of alcoholic beverages is prohibited unless authorized by a special event permit.
- (U) When operating on city-owned property, a mobile food vendor must maintain insurance and coverage in occurrence form, as required by this section. The mobile food vendor must also have a current certificate of insurance on file with the city, naming the city as an additional insured.
- (1) Commercial general liability insurance. The policy must include a minimum limit of \$300,000.00 for each accident, \$600,000.00 for general aggregate, \$600,000.00 for products and completed ops, and \$100,000.00 damage to rented premises.
  - (2) Commercial auto liability insurance. The policy must include a minimum limit of \$1,000,000.00 for each accident for property damage and bodily injury with contractual liability coverage.
  - (3) Workers' compensation insurance. The policy must include a minimum limit of \$100,000.00 for each accident, \$100,000.00 for each employee, a \$500,000.00 policy limit for diseases; coverage must apply for all employees at the statutory limits provided by state and federal laws. Including proof of current workers' compensation coverage or workers' compensation exemption (notarized affidavit).

Upon the cancellation or lapse of any policy of insurance required by this paragraph a mobile food vendor is prohibited from operating on city-owned property. A mobile food vendor must notify the city within three business days of any changes in the insurance coverage required by this section. At all times, a mobile food vendor must maintain all insurance policies required by local, state, and federal law and regulation.

#### **§ 174.023. TEMPORARY MOBILE HOMES FOR OFFICE USE.**

Temporary mobile homes for office use may be permitted as a conditional use in the LI and HI districts subject to the following restrictions:

- (A) The conditional use shall be granted for a one (1) year period.
- (B) Temporary mobile homes shall meet all setbacks for the applicable district.

**§ 174.024. TEMPORARY STORAGE UNITS IN RESIDENTIAL AREAS.**

- (A) Temporary storage units are allowable in residential areas without a permit provided the following criteria are met:
  - (1) A maximum of one (1) temporary storage unit is permitted per lot;
  - (2) The maximum size of the temporary storage unit is ten (10) feet wide, twenty-four (24) feet long, and nine (9) feet high;
  - (3) The maximum time a temporary storage unit is permitted to remain on the lot is fourteen (14) consecutive days with a maximum of two (2) placements permitted per year;
  - (4) The temporary storage unit shall not be placed in any right-of-way or easement and shall not create a site obstruction for any vehicular or pedestrian traffic;
  - (5) The temporary storage unit shall not be utilized for the storage of live animals;
  - (6) The temporary storage unit shall not be utilized for human habitation;
  - (7) The temporary storage unit shall not be utilized for the storage of hazardous or flammable materials;
  - (8) Advertising is prohibited on the temporary storage unit with the exception of the name and phone number of the vendor of the unit; and
  - (9) Notice is provided to the city by the vendor, on forms provided by the city, identifying the location and time of placement of the temporary storage unit.
- (B) The City Manager, or his designee, may grant one (1) extension to the time limit established in subsection A above, subject to the following criteria:
  - (1) A maximum of one (1) fourteen (14) day extension per lot may be granted during any calendar year;
  - (2) A permit shall be required for the fourteen (14) day extension beyond the fourteen (14) day period permitted in subsection A; and such permit shall be accompanied by a fee as established by resolution; and
  - (3) The applicant must affix to a placard, issued at the time of permitting and clearly visible from the nearest roadway, to the temporary storage unit which provides information identifying the placement date, date of required removal, and the number to report violations to the Code Compliance Division.
- (C) The above regulations shall not apply to temporary storage units that are placed for construction purposes in connection with a valid building permit or during any period of declared emergency by federal, state or local official action.

§ 174.025 through § 174.029 RESERVED.

## PART 3. STANDARDS FOR SPECIFIC USES

### § 174.030. PURPOSE

The purpose of this chapter is to provide standards for specific land uses that are permitted subject to additional standards as noted in Tables 173-1 through 173-3. The regulations of this chapter are intended to supplement, rather than supersede, the district regulations found in Chapter 173.

### § 174.031. ADULT ENTERTAINMENT ESTABLISHMENTS AND SEXUALLY-ORIENTED BUSINESSES

- (A) *Distance restrictions.* All adult entertainment establishments or sexually-oriented businesses shall not be located within:
- (1) Two thousand five hundred (2,500) feet of a developed public school or a private school;
  - (2) Two thousand five hundred (2,500) feet of a developed public park;
  - (3) One thousand five hundred (1,500) feet of another adult entertainment establishment or sexually-oriented business;
  - (4) One thousand (1,000) feet of a federal highway;
  - (5) Three hundred (300) feet of a commercially zoned business serving alcoholic beverages for consumption on premises or a commercially zoned business permitting the consumption of alcoholic beverages on premises.
- (B) *Measurement of distances.* Measurement of distances as required herein pursuant to this section shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of the adult entertainment establishment or sexually-oriented business to the closest property line of the establishment serving alcoholic beverages for consumption on premises. Measurement of distances as required herein pursuant to this section shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of the adult entertainment establishment or sexually-oriented business to the closest exterior structural wall of the closest adult entertainment establishment or sexually-oriented business. Further measurement of distances as required herein pursuant to this section shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of the adult entertainment establishment or sexually-oriented business to the closest property line of the developed public park, developed public school, or private school as applicable.
- (C) *Non-conforming establishments - distance requirements.* Any adult entertainment establishments or sexually-oriented businesses existing and operating as of the effective date of this subchapter which are not located within the permissible locations identified as set forth herein shall be classified as non-conforming. If any such nonconforming adult entertainment establishment or sexually-oriented business either transfers any of its ownership interest (be it stock, membership units, partnership interest or any other indicia of ownership) or voluntarily ceases to do business for a period of ninety (90) consecutive days then it shall be deemed abandoned and thereafter shall not reopen except in conformance with these location, distance, and dispersal standards. A nonconforming adult entertainment establishment or sexually-oriented business shall not expand the square footage or cubic footage of the establishment or business beyond its existing dimensions.

(D) *Distances between schools, public parks, and businesses serving alcoholic beverages for consumption on premises.*

- (1) Subsequent to the passage of this subchapter, no person or entity shall cause or permit the establishment of a developed public school or private school within two thousand five hundred (2,500) feet of an adult entertainment establishment or sexually-oriented business.
- (2) Subsequent to the passage of this subchapter, no person or entity shall cause or permit the establishment of a developed public park within two thousand five hundred (2,500) feet of an adult entertainment establishment or sexually-oriented business.
- (3) No person or entity shall cause or permit a commercial zoned business serving alcoholic beverages for consumption on premises or a commercial zoned business permitting the consumption of alcoholic beverages on premises within three hundred (300) feet of an adult entertainment establishment or sexually-oriented business.
- (4) All measurements herein shall be made in accordance with subsection (B) above.

(E) Adult entertainment establishments and sexually oriented businesses shall also meet the standards of Chapter 180.

#### **§ 174.032. AGRICULTURAL PRODUCTS SALES**

Retail sales of agricultural products grown or raised on the same lot are permitted where agriculture uses are allowed, provided the following standards are met:

- (A) No structure for sale of such products shall contain a floor area greater than two hundred (200) square feet in the GU district and four hundred (400) feet in the RR district.
- (B) The area and structure used for the sale of such products shall meet the setbacks established for principal structures.

#### **§ 174.033. ARCADES/AMUSEMENT CENTERS**

Arcade amusements centers; subject to the following regulations:

- (A) The facility shall be located no less than one thousand (1,000) feet, measured from the outer wall of the facility to the closest property line, of any school.
- (B) No two facilities operating pursuant to this subdivision shall be located closer than five hundred (500) feet from one another, measured from the closest outer wall of each facility.
- (C) The number of devices within the facility shall be governed by applicable Florida Statutes and laws.

#### **§ 174.034. CHURCHES**

A conditional use may be granted under the following conditions:

- (A) The site has direct access to a collector or arterial roadway.
- (B) Minimum setbacks shall be twenty (20) feet from all property lines or the minimum setback of the district, whichever is greater.

(C) Proposed sites not having direct access to a collector or arterial roadway must prepare a traffic impact study, approved by the City Engineer, to support the compatibility of the church use with surrounding uses. In addition, day care centers and schools are not permitted as accessory uses on these sites.

(D) Minimum size: one (1) acre.

#### **§ 174.035. COMMUNICATION TOWERS AND FACILITIES**

(A) *Purpose.* The purpose of this chapter is to uniformly regulate the size, number, type and location of communication towers, antennas and support facilities. Advances in information technology and the Federal Telecommunications Act of 1996 generated an increase in the number of requests to site commercial communication support facilities in the city. The city encourages advances in communication technology that better serve its residents and does not prohibit communication systems. However, the purpose of the chapter is to protect city character and public safety by controlling tower, antenna, and facilities location, height, construction, and aesthetics ensuring that communication systems are compatible with surrounding land uses. Moreover, the city seeks to discourage visual clutter resulting from the potential, simultaneous deployment and proliferation of multiple communication towers or systems. To that end, this chapter is intended to encourage the co-location of communication antennas on existing public or private utility facilities, and to either camouflage antennas, towers and other communication facilities, or minimize visual impacts of communication systems through careful design, siting, buffering, and landscaping.

(B) *Applicability.* The terms and provisions of this chapter shall apply to all communication facilities on land lying within the city limits, including publicly owned land, rights-of-way, and easements except as provided in subsection (C), below. This chapter shall supersede all conflicting ordinances or codes regarding the locating and permitting of communication facilities.

(C) *Exceptions.* The following exceptions to complying with the requirements of this chapter shall be permitted:

(1) Any communication tower or antenna that is owned and operated by a federally licensed amateur radio operator.

(2) Any communication antenna which is not attached to a communication tower or building which is accessory to any commercial, industrial, residential, institutional, multi-family, or public utility structure provided that:

(a) The communication antenna does not exceed 20 feet above the highest point of the structure. This includes ground mounted satellite dish antennas that are regulated as accessory structures in the Zoning Code.

(b) Communication antennas that comply with all applicable FCC, FAA, and State of Florida regulations.

(c) The communication antenna complies with applicable building codes.

(3) The communication antenna or tower is located in U.S. military facilities, regardless of size.

(4) Temporary telecommunications towers that comply with applicable FCC regulations.

(D) *General requirements.*

- (1) Communication towers and communication antennas must comply with all applicable Federal Aviation Administration (FAA) and Federal Communications Commission (FCC) regulations. Proof of FAA approval is required for all communication tower applications.
- (2) Any structurally adequate structure including interstate signs and billboards, may be used to support one or more antennas. Appropriate structures are buildings, water towers, utility poles, monopoles, and towers.
- (3) An applicant seeking to construct a tower must demonstrate that there are no reasonable opportunities to locate the antenna(s) on existing towers or other support structures within a two (2) mile radius of the proposed tower. An engineer's report submitted to the city must show one or more of the following:
  - (a) No existing towers or structures have sufficient height to meet the applicant's engineering requirements.
  - (b) No existing towers or structures have sufficient structural strength to support the proposed antenna and related equipment.
  - (c) The applicant's proposed antenna would cause electromagnetic interference with or would be interfered with by other antennas if placed on any existing tower or structure.
  - (d) Other information that demonstrates that the wireless carrier's designated service cannot be provided through placement of the antennas on existing structures.
  - (e) There are other bona fide limiting engineering factors submitted to the city that preclude co-location.
- (4) No signs or advertising shall be permitted on towers, antennas, or ground mounted facilities.
- (5) All tower plans must be designed and sealed by a professional engineer registered in the State of Florida.
- (6) Communication towers shall either maintain a galvanized steel or concrete finish appearance or, subject to any applicable standards of the FAA, be painted so as to reduce the visual obtrusiveness of the structure.
- (7) Temporary telecommunications towers associated with a special event shall be permitted for a limited period of time by the City Manager as part of the event, not to exceed the time of the special event. Temporary telecommunications towers necessary to aid in post disaster relief efforts are exempt from this permitting process.
- (8) In addition to the general requirements for the filing of a building permit application, the applicant shall include a statement in writing that the proposed communications facility shall be maintained in a safe manner, and in compliance with all conditions of the building permit, including all conditions of any conditional use approvals.
- (9) Construction of the communications facility, and all other work performed at the site, shall only be conducted by persons with a Florida's contractor's license.

(E) *Where permitted.*



- (1) Freestanding communication towers and all other communication facilities may be permitted by right or conditional use as stated in chapter 173
- (2) Freestanding communication towers, antennas, and other equipment may also be located in residential and non-residential planned unit developments (PUDs). However, when located within a residential PUD, the City Council can establish a minimum separation between the towers and nearby residential units.
- (3) Antennas only may be located in residential districts when attached to electrical transmission towers or poles.

(F) *Performance standards.*

- (1) Lighting - Communication facilities shall not be artificially lit, except for:
  - (a) Security and safety lighting of equipment buildings if such lighting is compliant with the model lighting ordinance prepared by the International Dark Sky Association and the Illuminating Engineering Society of North America; and
  - (b) Required lighting by the FAA or other applicable authority, such lighting shall be installed in a manner to minimize impacts on adjacent residences.
- (2) Noise - No equipment shall be operated at a communication facility so as to produce noise in excess of the applicable City Noise Ordinance, Chapter 92, except when emergency situations require the use of backup generators.
- (3) Structural integrity - At the time of permitting all towers must be designed and certified to conform with the Florida Building Code, and any of its updates or amendments.
- (4) Setbacks: For the purpose of this section, setbacks shall be measured from the support structure to the property line of the parcel on which the communication facility is located.
  - (a) All towers, regardless of their type or zoning district, shall be setback from all property lines of the property for which the tower resides, a minimum distance equal to half the height of the tower.
  - (b) All towers must also be camouflaged in the CC, HC, and IU zoning districts.
  - (c) Anchoring. All guy wires or other communication tower anchoring devices shall maintain at least a ten (10) foot setback to any property lines. Guyed or lattice towers are permitted only in the LI and HI zoning districts. All other communication towers, where permitted, shall be self-supporting monopole towers.
- (5) Fencing and landscaping.
  - (a) An eight (8) foot tall fence or wall, as measured from the finished grade of the site, shall be required around the perimeter of all communication tower sites. Access to the tower(s) shall be through a locked gate.
  - (b) A ten (10) foot wide landscape buffer shall either be installed or preserved in the natural state around the fence or wall. This landscape buffer shall screen the base of the communications tower and ancillary structures. All landscaping shall be drought tolerant or irrigated and shall be maintained in good health. Planted shrubs shall be a minimum of two (2) feet tall and spaced a



minimum of three (3) feet apart. Planted trees shall contain a minimum 2-inch DBH and have an overall height of ten (10) feet at the time of planting.

- (6) High voltage and "No Trespassing" warning signs.
- (a) If high voltage is necessary for the operation of the communications tower or any accessory structures, "High Voltage-Danger" warning signs shall be permanently attached to the fence or wall and shall be spaced not more than 40 feet apart.
  - (b) At least one "No Trespassing" sign shall be permanently attached to the fence or wall.
  - (c) At least one (1) sign shall be permanently attached to the fence or wall that provides the name of the owner of the tower and the name of each carrier that has antennae on the tower, as well as emergency phone numbers for each. The sign shall be visible from the access point of the site. Whenever the information on this sign changes, such as the tower being sold, the antennae or other apparatus are sold, a new service provider co-locates on the tower, the owner or lessee changes contact information, etc., the sign must be updated accordingly within seven (7) business days.
- (7) Equipment storage. Mobile or immobile equipment not used in direct support of a tower facility shall not be stored or parked on the site of the communication tower, unless repairs to the tower are being made. Storage sheds or buildings shall be allowed on communication sites if fully enclosed with a roof.
- (8) Hurricane evacuation routes. Communication towers shall not be constructed at a height and location that, in the event the tower is toppled, the tower fall zone would totally or partially block or impede any road designated as a hurricane evacuation route.
- (9) Communication facilities not on towers. Excluding residential districts, communication facilities which are not attached to a tower may be permitted on any alternative support structure, regardless of the zoning restrictions applicable to the zoning district where the structure is located. The owner of such structure shall provide written certification of the following when applying for a building permit:
- (a) That the height of the communications facilities does not exceed the height of the alternative support structure by more than 20 feet.
  - (b) That any communications facilities and their appurtenances, located above the primary roof of an alternative support structure, are set back one foot from the edge of the primary roof for each two feet in height above the primary roof of the communications facilities. However, this setback requirement shall not apply to communications facilities and their appurtenances that are appropriately screened from view through the use of panels, walls, fences or other screening techniques approved by the city or located on non-inhabitable structures. Setback requirements shall not apply to camouflaged antennas. Camouflaged antennas shall not protrude more than 18 inches from the side of the alternative support structure.
  - (c) The alternative support structure and communications facilities shall comply with the Florida Building Code and the city's land development regulations.

- (d) The communications antenna and supporting electrical and mechanical equipment must be of a color that is identical to, or closely compatible with the color of the supporting structure, so as to make the communications facilities visually unobtrusive.
- (10) Adjacent to residential. No fence gates, equipment structure doors, or driveways shall be constructed facing any residentially zoned property, or the gates may be offset or otherwise buffered so they are not directly visible from the residential property.
- (G) *Application.* In addition to the conditional use submittal requirements, all permits for tower construction must submit the following items:
  - (1) Completed site plan and building application forms, and a plans review checklist.
  - (2) Building, site, and landscaping plans drawn to scale.
  - (3) The name, address, and telephone number of the owner and lessee of the parcel of land upon which the tower is situated. If the applicant is not the owner of the property, then the written consent of the owner must be provided.
  - (4) Written affidavit attesting that the applicant made diligent efforts for permission to co-locate the communication facilities on existing towers or other structures and that the applicant will allow co-location by and for other entities involved in the same business or industry as the applicant. This shall include an engineer's report certifying that there are limiting engineering factors that preclude co-location as per subsection (D) of this section, if applicable.
  - (5) Each application to allow construction of a tower shall include a written statement from an engineer(s) that the construction and placement of the tower will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications service enjoyed by adjacent properties. Submittal of FCC approval is considered sufficient.
  - (6) Copy of the FCC license applicable for the intended use of the communications tower or facility.
  - (7) A map showing the closest existing communication towers.
  - (8) An elevation view of any proposed camouflaged towers.
  - (9) Written confirmation that the communication facility meets FCC and FAA radio frequency emission and lighting standards.
  - (10) Landscape plan showing the landscape buffer and irrigation per Chapter 175.
- (H) *Modification of existing towers.*
  - (1) Existing towers constructed prior to the effective date of this chapter which do not meet the requirements of this chapter may continue as a non-conforming use. These towers may be replaced or modified for co-location, or to improve functionality as long as the height of the tower does not exceed 40 feet above the original tower height.
  - (2) Minor modifications to communication towers shall be approved by staff administrative review. Minor modifications include the addition of antennas, provided either that the antennas add no more than 40 feet in height to the tower, or that the tower is rebuilt to the same height or no more than 40 feet above the original tower height. Prior to receiving a building permit for the modified tower, the

applicant must meet the requirements of subsection (G). In lieu of submitting "full-scale" site plan drawings, the applicant shall submit a current survey of the communications tower facility showing not only the tower compound, but all equipment contained within. The survey must also show the proposed equipment, and be accompanied by a written statement, on company letterhead, describing the amount that the tower height is being increased, if applicable. If the tower is not being increased in height, the letter shall describe the location of the new antennae.

- (3) Major modifications to communication towers shall be approved as stated in the zoning districts and may include conditional use review. Major modifications are those that exceed the definition of minor modifications.
- (4) Co-locations, on alternative support structures that meet the requirements of subsections (F)(9)(a) through (d) or on existing towers, including nonconforming structures or towers, that meet the requirements provided in subparagraphs (a) - (c) below, are subject only to building permit review. Such co-locations are not subject to any design or placement requirements in effect at the time of the co-location that are more restrictive than those in effect at the time of the initial tower or antennae placement approval, or to public hearing review.
  - (a) The co-location does not increase the height of the tower or structure to which the antennae are to be attached, measured to the highest point of any part of the tower or structure or any existing antennae attached to the tower;
  - (b) The co-location does not increase the ground space area, commonly known as the compound, approved in the site plan for equipment enclosures and ancillary facilities; and
  - (c) The co-location consists of antennae, equipment enclosures, and ancillary facilities that are of a design and configuration consistent with all applicable regulations, restrictions, or conditions, if any, applied to the initial antennae placed on the tower or structure and its accompanying equipment enclosures and ancillary facilities and, if applicable, to the tower or structure supporting the antennae. Such regulations may include the design and aesthetic requirements, but not procedural requirements, in effect at the time the initial tower or antennae placement was approved.

(I) *Abandonment.*

- (1) Discontinued use of a communication tower shall be deemed abandoned. Determination of the date of abandonment shall be made by the City Manager or designee, who shall have the right to request documentation or affidavits regarding the active use of the tower.
- (2) The tower owner/operator shall have 90 days from the date of the City Manager or designee's notice to either reactivate the use of the tower with the same operator or another or dismantle and remove the tower.
- (3) If there are two or more users on a communications tower, then these provisions shall not become effective until all users cease operations.
- (4) Under the following circumstances, the City Manager or designee may determine that the health, safety and welfare of the city warrant and require removal of communications facilities:

- (a) A communications facility (hereinafter referred to as facility) has fallen into such a state of disrepair as to create a health or safety hazard;
  - (b) The tower has been modified without obtaining the required permits to do so or the approval granted for construction of the tower has been revoked.
- (5) If the City Manager or designee determines that a tower or facility shall be removed the owner shall dismantle and remove such equipment from the site and restore the aboveground site to as close to its original condition as possible, within 90 days of receipt of written notice from the City Manager or designee. However, if the landowner for which the facility resides wishes to retain any access roadway to the site, the owner may do so with the approval of the City Manager or designee.
- (6) If the facility ordered to be removed under this section is not removed or substantial progress has not been made to remove the facility within the 90-day period, then the city may remove the facility at the sole expense of the facility owner, dispose of the equipment as it sees fit, and in order to cover the city's cost.
- (7) Notwithstanding anything in this section to the contrary, the City Manager or designee may approve a temporary use agreement to operate the facility for no more than 180 days, during which time a suitable plan for removal, conversion, or re-location of the affected facility shall be developed by the facility owner. This agreement, and the terms of resolution of the facility, must be approved by the City Manager or designee and signed by both the City Manager or designee and the facility owner.
- (J) *Performance security.* Prior to issuance of any building permit, the applicant or the owner of the site for which the communications facility will be located shall, at its cost and expense, be required to execute and file with the City a bond, or other form of security acceptable to the City Attorney, in an amount of at least \$50,000 for a new facility. The full amount of the bond or security shall remain in full force and effect while the facility is in existence and until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to issuance of the original building permit.

#### **§ 174.036. CONTRACTORS' OFFICES**

Contractors' offices (plumbers, electricians, carpenters, masons, roofers, builders, cabinet makers, fence installers, gutter and siding installers, flooring and tile installers, drywall installers, painters, heating and air conditioning installers, glass repair and replacement and similar uses).

- (A) All work shall be conducted within an enclosed structure.
- (B) Any outside storage of vehicles or materials used or needed in conjunction with the business shall be stored upon an improved surface and shall be screened on all sides with a minimum six-foot-tall opaque material, as approved by the Land Development Division.

#### **§ 174.037. CORRECTIONS FACILITIES**

Correctional facilities, where allowed per Tables 173-1 through 173-3, are subject to the following:

- (A) The minimum site area required shall be 20 acres.
- (B) Shall not be located within 1,000 feet of any residentially zoned property.

#### **§ 174.038. CREMATORIUMS**

Human crematoriums in the CC district may only be allowed in conjunction with a funeral home and subject to the following.

- (A) Crematoriums shall adhere to the principal use setbacks of the CC district, except where the subject property abuts residentially zoned land. In this instance, all portions of the building that contains the crematorium must be set back a minimum of one hundred (100) feet from any land zoned residential.
- (B) All crematoriums must be placed within a soundproof building and this building shall be constructed in such a manner to reduce vibrations. The building shall also contain the proper apparatus for eliminating emissions.
- (C) All crematorium facilities shall have an annual Visual Emissions Test conducted and a copy of the inspection report provided to the City.
- (D) All crematoriums must obtain a Florida Department of Environmental Protection (FDEP) Non-Title V permit, per Rule 62-296.401, F.A.C.

#### **§ 174.039. DANCE CLUBS, DRINKING ESTABLISHMENTS, AND RESTAURANTS OFFERING MUSIC AND DANCING**

Dance clubs, drinking establishments, restaurants and other establishments that play loud music shall meet the following standards:

- (A) The applicant shall provide information and documentation that noise from the establishment will be abated so that the business will be in full compliance with Title IX: General Regulations, Chapter 92, Noise, Palm Bay Code of Ordinances.
- (B) Methods of crowd control in both interior and exterior portions of the establishment shall be provided in the application.
- (C) Compliance with §562.45, F. S., regarding the minimum distance from nearby schools shall be required.
- (D) The establishment shall not be located within five hundred (500) feet of a residential zoning district.

#### **§ 174.040. EVENT HALLS**

- (A) The minimum size of a property for an event hall shall be five (5) acres.
- (B) The subject property shall have direct access to a collector roadway or higher classification roadway.
- (C) The event hall structure and the associated parking areas shall meet the setbacks established for the zoning district.
- (D) The hours of operation shall be from sunrise to 12:00 A.M., not including venue setup and breakdown.
- (E) Parking surfaces shall utilize stabilized materials and shall meet the provisions established in Chapter 176.
- (F) A two-way driveway must be a minimum of twenty-four (24) feet in width at the right-of-way line and shall be paved from the right-of-way line to the edge of pavement of the roadway that the driveway connects to.

- (G) A one-way driveway must be a minimum of fifteen (15) feet in width at the right- of-way line and shall be paved from the right-of-way line to the edge of pavement of the roadway that the driveway connects to.
- (H) All site lighting is subject to the provisions established in Chapter 177, Part 3.
- (I) All site noise is subject to the provisions established in Chapter 92.
- (J) The establishment shall not be located within five hundred (500) feet of a residential zoning district.
- (K) Compliance with §562.45, F. S., regarding the minimum distance from nearby schools shall be required.

#### **§ 174.041. FUEL STATIONS**

Gasoline/fuel sales, where permitted in commercial districts per §173.021, shall meet the following:

- (A) Retail automotive gas/fuel sales establishments shall be located on arterial roadways, at a signalized intersection of a major road collector, or on corner lots at intersections of collector streets or higher functional classification as identified in the adopted Palm Bay Comprehensive Plan. No more than two (2) corner lots at any one (1) intersection shall be used for retail gasoline or automotive fuel sales. No driveway or access shall be permitted within one hundred (100) feet from an intersection of collector streets or higher functional classification.
- (B) The establishment shall have a minimum street frontage of one hundred and fifty (150) feet on each abutting street.
- (C) Gasoline/ fuel pumps, storage tanks and other service island equipment shall be at least twenty (20) feet from all property lines, fifteen (15) feet from any building and one hundred (100) feet from the nearest residentially zoned land. No gasoline/fuel pump, storage tank or other equipment shall be located closer than one thousand (1,000) feet from any municipal or public supply well.
- (D) In the NC district, no fuel pump and tank installation shall have more than four (4) pump islands nor more than eight (8) pumps.
- (E) Underground storage required for all receptacles for combustible materials in excess of two hundred (200) gallons (no limit in the HI district).
- (F) The proposed use will not constitute a nuisance or hazard because of vehicular traffic movement, delivery of fuel movement, noise or fume generation.
- (G) Signs, if any, and proposed exterior lighting will be so designed and arranged so as to promote traffic safety and to eliminate or minimize any undue glare, incompatibility or disharmony with adjoining properties.
- (H) Development and operation of the fuel pumps and attendant storage tanks shall comply with §174.042.

#### **§ 174.042. FUEL, PROPANE, AND NATURAL GAS DISPENSARIES**

Automotive fuel, propane, and natural gas dispensaries and refueling stations, where permitted per §173.021, shall meet the following provisions:

- (A) All pumps, storage tanks and other service island equipment shall be at least twenty (20) feet from all property lines, fifteen (15) feet from any building and one hundred (100) feet from the nearest

residentially owned land. No pump, storage tank or other equipment shall be located closer than one thousand (1,000) feet from any municipal or public supply well.

- (B) Liquid gasoline, liquid kerosene, or liquid diesel fuels may be stored onsite for use by the operator of the property and stored onsite for offsite delivery to the general public, and stored, dispensed, and sold onsite to the general public for onsite sales of such substances.
- (C) Liquid and non-liquid propane, and liquid and non-liquid natural gas and other petroleum-based fuel products (including liquid gasoline, liquid kerosene, or liquid diesel fuel) may be stored onsite for the use of the operator of the property, stored and sold onsite for offsite delivery to the general public, and stored, dispensed, and sold onsite to the general property.
- (D) The proposed use will not constitute a nuisance or hazard because of vehicular travel movement, delivery of fuel movement, noise or fume generation.
- (E) Development and operation of the fuel pumps and attendant storage tanks shall be in compliance with the following to protect groundwater and surface water quality from the discharge of fuels from underground fuel storage tanks:
  - (1) All storage tanks and associated piping installed, repaired or modified after the effective date of these regulations shall be designed, constructed, tested and monitored to prevent or detect discharges of all gasoline, diesel, kerosene or other petroleum derivatives to the land, groundwaters or surface waters of the city in accordance with the requirements and standards of this chapter.
  - (2) Inventory records on forms provided by the city shall be maintained for all underground fuel storage tanks including:
    - (a) Fuel type;
    - (b) Physical measure of fuel;
    - (c) Input and output of fuel;
    - (d) Amount of water, if any, in tank;
    - (e) Reconciliation of the above;
    - (f) Reconciliation with previous closing physical inventory.
  - (3) Inventory data shall be accumulated for each day fuel is added or withdrawn from tank, but not less frequently than once a week, and shall be available for inspection by the city at the facility.
  - (4) For the purpose of this chapter, AVERAGE UNACCOUNTED OUTPUT shall mean an amount of fuel which cannot be accounted for after reconciliation of the physical inventory and input and output records.
  - (5) All new tanks installed for the underground storage of fuels shall be designed and constructed to meet the following standards:
    - (a) Cathodically-protected steel meeting the specifications in API 1632, sandblasted to SSPC6, and coated according to NACE RP-01-69. A sacrificial anode tank shall meet the requirements of ULC 603.1-M-1982 and be electrically isolated; or



- (b) Glass fiber-reinforced plastic meeting ASTM Specification D4021-81 and be UL labeled “Nonmetallic Underground Tank for Petroleum Products”; or
  - (c) Glass fiber-reinforced plastic clad steel tank sandblasted to SSPC6 with resin and fiberglass one hundred (100) mils thick; or
  - (d) Double-walled steel or plastic tank.
- (6) All associated piping systems shall be constructed of corrosion-resistant materials or protected against corrosion by the use of double-walled piping or cathodic protection.
- (7) Tank and piping specifications shall be provided to ensure construction and design is appropriate for intended use.
- (8) System monitoring.
- (a) All underground storage tanks and piping shall be provided with a means of monitoring for any leakage of the stored fuel. Such monitoring system shall consist of:
    - 1. A continuous leak detection system between the walls of double-walled tanks and piping; or
    - 2. A single monitoring well or detector located in an impervious secondary containment; or
    - 3. A network of at least four (4) monitoring wells placed around the tank or tanks.
  - (b) All leak detection systems and devices shall be installed, maintained, and operated in accordance with manufacturer's requirements and inspected every two (2) weeks to determine that the device is functioning. All wells shall be either monitored every two (2) weeks or be equipped with a continuously functioning leak detection device.
- (9) System testing.
- (a) The owner or operator of a fuel storage system shall test the integrity of the storage tank and piping by type, according to the following:
    - 1. A sacrificial anode-type tank shall have structure to soil potential tested annually in accordance with manufacturer's requirements.
    - 2. An impressed current tank shall be tested monthly in accordance with manufacturer's requirements.
    - 3. A glass fiber-reinforced plastic tank shall be tested for deflection at the time of installation in accordance with manufacturer's requirements.
  - (b) All systems shall also be tested if:
    - 1. The operator of the storage system has failed to comply with the inventory requirements; or
    - 2. A discharge detection device or monitoring well indicates that the contents of the system has been or is being discharged; or
    - 3. Groundwater contamination by fuels exists in the vicinity; or
    - 4. The average unaccounted physical inventory output exceeds one-half of one percent (0.5%) of total monthly output.



- (c) Such tests shall be conducted by a person trained and certified by the manufacturer of the test equipment or his agent.
- (d) If for any reason testing cannot be performed in accordance with the above, the tank shall be deemed to be abandoned.
- (10) When an underground storage tank is found to be leaking, the operator shall empty the tank of all free liquid or otherwise contain the leak within twenty-four (24) hours from testing.
- (11) No person shall operate or put back into service any underground tank which has leaked or has otherwise failed the testing without having repairs performed in a manner which restores the structural integrity of the tank and piping and having the tank retested.
- (12) Abandoned fuel storage systems.
  - (a) Any fuel storage system which has been abandoned or has not been in service for over three (3) years shall be removed or filled with sand, concrete or other inert material.
  - (b) No person shall place or store any fuels in an abandoned storage system.
  - (c) No abandoned storage system shall be used or put into service unless the system meets the construction, monitoring, testing and detection requirements of this chapter.
- (13) All records of testing, inspections, monitoring and inventory required by this chapter shall be maintained for a two (2) year period and be made available to the city for inspection.

#### **§ 174.043. MINING / EXCAVATION OPERATIONS**

- (A) *Findings.* The City Council finds that the regulation of the opening and the operation of pits, quarries and excavations in the city is necessary for the protection of the health, safety and welfare of the people, and further that such regulation is necessary to minimize soil erosion, possible flooding, air pollution, ground subsidence, deterioration of public streets, and preemption of preferred land use.
- (B) *Open excavations prohibited.* Open excavations are prohibited within the city unless specifically authorized by permit as provided for herein, except as follows:
  - (1) Installation of utilities;
  - (2) Foundations of any building or structure or other on-site leveling or excavation where approved under a valid building permit;
  - (3) Excavations relating to the accessory use of land and designed to be filled upon completion of excavation; such as septic tanks, graves, and the like;
  - (4) Swimming pools when a building permit has been issued for construction of such pool;
  - (5) Borrow pits designated or controlled by any governmental agency, or any governmental operation or other entity created by law providing for mosquito control or drainage or any drainage district created pursuant to applicable Florida statutes;
  - (6) Excavation in conjunction with agricultural use of lands, where no excavated materials are sold, whether directly or indirectly, or transferred from one (1) parcel of land to any noncontiguous parcel;
  - (7) Construction of subdivisions complying with the city subdivision regulations;

- (8) Any leveling of land within the confines of a single tract of land where the plans for such leveling are approved by the City Engineer.
  - (9) Excavations or leveling for private drives to provide ingress or egress; and
  - (10) Conditional use under provisions of the GU - General Use Zoning District.
- (C) *Approval required.* No excavator may either excavate or level a parcel of land until first obtaining special exception approval from the City Council. The special exception application for excavation shall include the following:
- (1) The name and address of the person seeking the permit;
  - (2) A legal description of the property;
  - (3) A map showing the exact location and boundaries of the tract of land in question, to include the location and type of trees existing thereon;
  - (4) Drawings to scale by a registered, professional engineer showing the dimensions of the proposed excavation to be undertaken;
  - (5) The applicant shall provide a topographical survey of the property including the location of water courses or water bodies;
  - (6) The exact location and means of vehicular ingress and egress to the proposed excavation;
  - (7) A detailed statement and plan for the proposed reclamation and future use of the property at the conclusion of the excavation operation;
  - (8) A detailed statement indicating the nature, purpose and method of the proposed excavation;
  - (9) An acknowledged written consent of the owner of the premises and mortgagee, if any, including their addresses;
  - (10) A proposed and precise vehicular route indicating the streets and roadways over which all vehicles utilized to remove and transport the materials removed from any excavation shall travel, together with a statement from the city's engineering director that such streets and roadways are capable of accommodating such vehicles. A statement granting permission to use such roads from the appropriate county, city and state officials shall also be included; and
  - (11) An affidavit from a person authorized to act on behalf of the applicant stating both a familiarity with all federal and state statutes, rules and regulations applicable to the project and that the applicant has fully complied with them.
- (D) *General requirements and setbacks.*
- (1) All sides of the excavated area shall be of no greater than one (1) foot vertical drop for each two (2) feet of horizontal distance to the maximum depth of the excavation as indicated on the approved plan. The excavation pit shall be enclosed by a fence at least six (6) feet high, which fence enclosure shall include a gate that shall be closed and locked at all times during which the excavation pit is not in use.
  - (2) Pits, quarries, artificial lakes or other uses of land excavated and designed to be left open upon completion, shall be excavated within the following setback lines, as measured from the right-of-way

line to the top of the beginning of the slope and shall conform with the requirements of the State Department of Transportation requirements, if any, but not less than the following:

- (a) One hundred and fifty (150) feet from the right-of-way line of any state or federal numbered highway;
- (b) Fifty (50) feet from the right-of-way line of any other public street, road or highway;
- (c) Fifty (50) feet from side, rear or abutting property line; and
- (d) (Where the proposed excavation site abuts residentially zoned property, the setback from the abutting residential property line shall be one hundred and fifty (150) feet.

- (3) Whenever the Public Works Director determines that the use of any city street, designated by the applicant for ingress and egress to and from the excavation site will be subject to excessive deterioration resulting in the breakdown of the subsurface and base of such street, the applicant shall be required to agree to maintain the street free from any safety hazards during the excavation operation, which hazards are caused by such operation and shall further agree that upon completion of the excavation operation he shall place the street in the same condition as it was prior to the beginning of the operation. In furtherance of this agreement, the excavator may be required by the City Manager to post an acceptable bond in the amount of one hundred percent (100%) of estimated reconditioning costs, as estimated by the Public Works Director, conditioned upon meeting the requirements of this subsection.
- (4) Reclamation of the excavation pit is required at the termination of the project in order to prevent either soil erosion, adverse effects on city-maintained rights-of-way, or natural drainage pattern, or to protect the natural environment surrounding the excavation pit, or to protect the character and value of surrounding property. The City Council shall require an acceptable bond in the amount of the reclamation costs, which bond shall contain a condition that the excavation and reclamation shall be made in accordance with the plans as approved by the City Council.

(5) Violations; notice

- (a) Whenever any excavation is determined by the City Manager or designee to be in violation of this chapter and where it is determined that such excavation constitutes a clear and present danger to the public, the Building Official shall direct the posting of a notice which shall read as follows:

“THIS PROPERTY IS UNSAFE AND ITS USE OR  
OCCUPANCY HAS BEEN PROHIBITED BY THE  
BUILDING OFFICIAL.”

- (b) Such notice shall remain posted until the property has been brought into compliance with this chapter. It shall be unlawful for any person, firm or corporation or their agent to remove such notice without written permission from the City Manager or designee, or for any person to enter the property except for the purpose of correcting this violation.

- (E) *Presently existing excavation.* All persons excavating from pits, quarries or landfills presently in existence shall be required to obtain a permit from the City, within ninety (90) days from the effective date of this

chapter. Permits shall be issued for continuing operation of such excavation after the City Manager or designee, finds as follows:

- (1) That the applicant has obtained special exception approval from the City Council for the excavation project, or evidence of a legal nonconforming use;
- (2) That the applicant has submitted plans to the City Manager or designee which plans shall include items set forth in subsection (D).

- (F) *Conflicting laws and regulations.* This chapter shall be supplemental to any and all other laws or regulations, whether county, state or federal, and in the event of any conflict between this chapter and any other law or regulation, the stricter provisions shall apply. If any part of this chapter is held to be unconstitutional, it shall be construed to have been the legislative intent to pass this chapter without such unconstitutional part and the remainder of this chapter as to the exclusion of such part shall be held to be valid as if such part had not been included herein. If this chapter or any provision hereof is held to be inapplicable to any person, group of persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability hereof to any other person, property or circumstances.
- (G) *Penalty.* The violation of any provision of this chapter by an owner, or contractor or their tenants or agents shall be punishable by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment not exceeding sixty (60) days or both fine and imprisonment. Each day a violation continues shall be considered a separate offense.

#### **§ 174.044. PET DAY CARE**

Pet day care and related services shall meet the following:

- (A) There shall be no more than one (1) pet per thirty-five (35) square feet of the area within the facility that the dogs will be housed.
- (B) The facility must have an outdoor area for exercise and bathroom relief. Said area shall be enclosed with a minimum six (6) foot tall fence.
- (C) All kennels and housing areas shall be within an air-conditioned building. Outside kenneling shall not be permitted.
- (D) Fecal matter shall be disposed of daily.
- (E) Pets shall be indoors between the hours of 10:00 p.m. and 6:00 a.m.

#### **§ 174.045. RECREATIONAL VEHICLE PARKS**

- (A) Recreational vehicle parks, where allowed, shall comply with the following.
- (1) Minimum size: ten (10) acres.
  - (2) Maximum density: fifteen (15) RV sites per gross acre of land. This shall also apply to any tent camping areas.
  - (3) Streets and parking:

- (a) Direct access to the recreational vehicle park shall be from an arterial roadway. The administrative office of the park shall be so located as to assure that no recreational vehicles are parked in the right-of-way during the check-in process or while waiting for others to be checked in.
  - (b) Width of streets. Streets or driveways in a recreational vehicle park shall be private and shall have the following widths:
    - 1. A one-way street/drive shall be at least twelve (12) feet in width.
    - 2. A two-way street/drive shall be at least twenty-four (24) feet in width.
  - (c) Street surfacing. All roads or driveways shall be paved, meeting city standards.
  - (d) Road curves. All road curves shall have a minimum turning radius of fifty (50) feet. All culs-de-sac shall have a maximum length of five hundred (500) feet and terminate in a turning circle having a minimum radius of fifty (50) feet.
  - (e) Parking. Each travel RV site shall have off-street parking pads for both recreational vehicles and for towing vehicles. The pads shall be composed of a stabilized material meeting city standards.
- (4) Buffer strips. A twenty-five (25) foot minimum yard setback shall be provided from all exterior property lines and rights-of-way. The recreational vehicle park shall be entirely enclosed, exclusive of driveways, at its external boundaries by a solid wall, wood or PVC fence, or evergreen hedge not less than six (6) feet in height. The buffer strip shall be separate from recreational areas, streets, driveways, RV sites, and utility sites but may be utilized for stormwater drainage and retention purposes.
- (5) Recreational areas. A minimum of ten percent (10%) of the total land area of An RV park shall be devoted to one (1) or more common use areas for recreational activity. In addition, for every RV and tent site, there shall be allocated an additional one hundred (100) square feet of land for recreational activity. However, this requirement is not necessary when the proposed development is a density of ten (10) sites per gross acre or less. Such recreational areas shall be exclusive of RV sites, buffer strips, street right-of-way and storage areas; however, the periphery of such areas may contain utility sites, and other nonrecreational service buildings, the area of which will be subtracted from the computed "recreational area." Recreational areas shall be easily accessible to all park users and management. Although the required space for recreational usage may be met through more than one (1) recreational site, the minimum size of any such area shall be twenty thousand (20,000) square feet. Provision for all common open space and the construction of recreational facilities which are shown on the site plan shall proceed at an equivalent, or greater, rate as the construction of individual RV sites.
- (6) Tent camping. Areas may be set aside for tent camping in accordance with all provisions of this section, except:
- (a) There shall be a stabilized pad on the site for parking the vehicle.
  - (b) Tent camping may be permitted on an RV site.
- (7) Provision of service in recreational vehicle parks.
- (a) Service buildings. All service buildings shall comply with the building code and regulations concerning buildings, electrical installations, plumbing and sanitation systems.

- (b) Water supply. An adequate supply of water shall be provided in accordance with the regulatory agencies. A minimum of one (1) potable water supply outlet shall be provided for every two (2) RV sites. Each recreational area and bathhouse-restroom facility shall have at least one (1) approved drinking fountain in close proximity.
- (c) Sewage disposal.
  - 1. All sewage disposal facilities shall be provided in accordance with the regulatory agencies.
  - 2. At least one (1) sanitary dumping station shall be provided in every RV park. Such station shall be readily accessible and well- lighted. The following schedule shall be used in determining additional dumping stations based on the number of sites which are not connected individually to sewer lines: for every fifty (50) sites or fractional part thereof, beyond the first (50) sites, one (1) sanitary dumping station shall be provided.
  - 3. At least one (1) central bathhouse-restroom facility shall be located within three hundred (300) feet of all camping units which are either not supplied with sewer connections or not capable of utilizing such connections (e.g., tents, camper trailers). Any dispersed bathhouse-restroom facility provided to meet the distance requirement of three hundred (300) feet shall have at least two (2) of each of the following fixtures for men and women: Toilets, urinals, lavatories and showers. Recreational areas shall be located within three hundred (300) feet of a bathhouse-restroom facility.
  - 4. The minimum number of bath and toilet facilities shall be determined by the latest adopted Florida Building Code.
- (d) Lighting. All entrances, exits, streets, and service buildings shall be well lit during the hours of darkness. Street lighting may be overhead or low level but must be shielded and reflected into the street and should be of low intensity. All recreational facilities which are to be utilized during the hours of darkness shall be adequately lit to ensure the safety of all users of such facilities.
- (e) Electricity. All requirements of the National Electrical Code adopted by the City must be met.
- (f) Service and utility lines. All service utility lines in an RV park shall be installed underground and at a minimum depth of eighteen (18) inches.
- (g) Refuse handling. Each RV site shall be provided with at least one (1) fly-tight, watertight, rodent-proof container of a capacity not less than four (4) gallons and not more than thirty (30) gallons. However, this is not required when sites are within two hundred (200) feet of a large, covered trash receptacle (e.g., dumpster). All refuse shall be collected at least twice weekly and where public or private collection service is not available, the owner or operator of the RV park shall dispose of the refuse by transporting it to a disposal site approved by the regulatory agency. All refuse shall be collected and transported in covered vehicles or covered containers.
- (h) Insect and rodent control. Grounds, buildings, and structures shall be maintained free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform to the requirements and regulations of the regulatory agency. Adequate drainage systems will be provided and maintained in such a manner as to prevent the breeding of mosquitoes and other obnoxious insects in the park.

- (i) Fire protection. The RV park shall be subject to the rules and regulations of the Fire Department.
  - (j) Fuel supply and storage. All installations and tanks furnishing or storing any type of gaseous fuels to be used by the occupants of the RV park shall comply with the Fire Prevention Code of the National Fire Prevention Association, as adopted.
  - (k) Storage. Outdoor storage of RVs is permitted that such storage takes place within an area especially set aside for such use.
  - (l) Signs. Those signs necessary for directional or safety purposes are permitted. All other signs as per the sign regulations set forth in Chapter 178 of this code of ordinances.
- (8) Operation of recreational vehicle park.
- (a) Responsibilities of park management. The owner of an RV park or the park management shall at all times maintain the park and its facilities in a clean, orderly, and sanitary condition. The park management shall inform all park occupants of the provisions of this section, other related code provisions and ordinances of the city, and statutes, and of their responsibilities thereunder.
  - (b) Length of occupancy. No guest of an RV park shall remain in the same park for no more than thirty (30) days.
  - (c) Register of occupants. A register of all RV occupants in the park shall be maintained with the following information:
    - 1. The name and address of each RV owner or operator making use of the RV park.
    - 2. The dates of arrival and departure of each RV.
  - (d) Evacuation. It shall be the responsibility of the park management to notify all park occupants of the need to evacuate the RV park in case of fire, wind, water or other manmade disasters or acts of God.
  - (e) Animal control. It shall be the responsibility of the park manager to ensure that no owner or person in charge of an animal shall permit the animal to run at large or to commit any nuisance within the limits of any RV park.
- (9) Regulation of RV parks.
- (a) Use and occupancy permits. It shall be unlawful for any person to operate an RV park within Palm Bay without first obtaining a business tax receipt, in the name of such person, to operate the specific park.
  - (b) Inspection. The Health Official, Building Official, Code Enforcement Official and Fire Department are authorized to make periodic inspections of the RV park and RV sites for the purpose of determining satisfactory compliance with the regulations of this section pertaining to the health, safety, and welfare of the residents of the city.
  - (c) Revocation of permit. Whenever any of the above officials, upon inspection of an RV park, find that conditions or practices exist which are in violation of any applicable provision of this section, they shall furnish the permittee with a list of violations that the inspection shall reveal, and give the permittee written notice of a specific reasonable time in which to remedy the violations. Failure of



the permittee to remedy the violations within the specific time shall result in the revocation of the business tax receipt. Such permit shall be reissued only if the violations have been remedied to comply with the requirements of this section. The users of the RV park shall have two (2) days from the date of the revocation in which to vacate the RV park. The permittee shall be granted a hearing on such revocation before the City Council provided a request is made by the applicant within thirty (30) days after the revocation.

- (d) Development site plan review. As part of the supplementary data required to complete an application for a public hearing for an RV park development, a scaled and dimensioned plot or site plan of the development shall be submitted as part of such application (if the site plan is greater than eleven (11) inches by seventeen (17) inches, two (2) copies are needed, as well as a digital copy); and if the application is approved, the RV park shall be built in accordance with such a plan. The site plan shall include, but not be limited to, the location of all RV sites, service areas, drives, streets, signs, buildings, parking, recreational space, setbacks, public utility locations and any other pertinent information. Site plan approval is limited to one (1) year by the City Council.

(B) Design requirements for recreational vehicle sites.

(1) Minimum size.

- (a) Back-in parking sites shall have a minimum area of one thousand five hundred (1,500) square feet with a minimum width of thirty (30) feet and a minimum length of fifty (50) feet.

- (b) Drive-through parking sites shall have a minimum area of one thousand two hundred (1,200) square feet with a minimum width of twenty (20) feet and a minimum length of sixty (60) feet.

- (2) Access. Each RV site shall abut on at least one (1) street or driveway within the boundaries of the RV park and access to the site shall be only from such an internal street or driveway.

- (3) Setback requirements. No part of an RV placed on an RV site shall be closer than five (5) feet to any site line and ten (10) feet to any street or driveway.

- (4) Appurtenances. Temporary appurtenances, such as cabanas and awnings, may be erected on an RV site as long as such appurtenances do not violate the setback requirements as set forth in this section and as long as such appurtenances are capable of being dismantled and stored within four (4) hours.

**§ 174.046. SALVAGE YARDS**

Salvage yards shall meet the following in addition to all other requirements of the code.

- (A) Minimum lot area — five (5) acres.

- (B) Minimum lot width — two hundred (200) feet.

- (C) Minimum lot depth — three hundred (300) feet.

- (D) Maximum building coverage — fifty percent (50%).

- (E) Minimum floor area — None.

- (F) Maximum height — fifty (50) feet.

- (G) Minimum yard requirements:



- (1) Front — forty (40) feet minimum building setback. Parking areas may be located in the front yard except within ten (10) feet of the front lot line.
- (2) Side interior — twenty (20) feet minimum building setback. Parking areas may be located in the side yard except within ten (10) feet of the side lot line.
- (3) Side corner — twenty-five (25) feet minimum building setback. Parking areas may be located in the side corner yard except within ten (10) feet of the side corner lot line.
- (4) Rear — twenty-five (25) feet.
- (H) A six (6) foot high completely opaque masonry wall, or wood fence shall be provided along the entire length of any side or rear property line abating property zoned residential. Landscaping shall be provided in accordance with the landscape requirements of this chapter.

#### **§ 174.047. SELF-STORAGE FACILITIES**

Self-storage shall meet the following standards:

- (A) *Design Standards.* The following minimum design standards shall apply to the construction of new self-storage facilities or, to the maximum extent feasible, the expansion or redevelopment of existing self-storage facilities.
  - (1) No door openings for any storage unit, with the exception of emergency egress doors, shall be constructed facing any residentially zoned property.
  - (2) Interior traffic lanes shall be a minimum of thirty-five (35) feet wide for two-way traffic and a minimum of twenty-five (25) feet for one-way traffic, to accommodate loading and unloading as well as through or emergency traffic.
  - (3) The maximum storage unit size is limited to 300 square feet.
  - (4) There shall be no outdoor storage at the site.
  - (5) No roll-up door openings for any storage unit shall be constructed facing any right- of-way.
  - (6) Properties with the principal use as self-storage may be located along major collector or higher classified roads. For locations on lower classified roads, ground floor retail is required, or the building shall be setback from the roadway a minimum of one hundred (100) feet.
  - (7) The exterior surface materials of the primary/street façade shall include a combination of high quality materials that can help reduce building massing and scale and create visual interest.
  - (8) The base of the building (the first two to five feet above the sidewalk) shall be differentiated from the rest of the facade with treatments such as change in material and/or color.
  - (9) The primary/street facade of all buildings shall incorporate no less than two (2) building materials including, but not limited to, tile, brick, stucco, cast stone, stone, formed concrete or other high-quality, long- lasting masonry material over a minimum of seventy- five (75) percent of the surface area excluding windows, doors, and curtain walls. The remainder of the wall area may incorporate other materials.

(10) Self-storage facilities resembling long, traditional warehouse buildings are prohibited. Self-storage facilities must be designed to emulate multi-family or office buildings compatible and in harmony with the surrounding area.

(B) *Operational requirements.* The following minimum operational standards shall apply to self-service storage facilities and tenants of individual storage units:

(1) Individual storage units shall not be used for activities such as residences, offices, workshops, studios, or hobby or rehearsal areas. Further, storage units shall not be used for manufacturing, fabrication or processing of goods, services or repair of vehicles, engines, appliances or other equipment, or any other industrial activity whatsoever. In addition, storage units shall not be used for commercial activity or places of business of any kind including, but not limited to, retail sales, garage or estate sales, or auctions, unless done so by the property management company.

(2) Storage of flammable, explosive, perishable or hazardous materials within individual storage units and on site is prohibited.

(3) Rental agreements shall provide tenants with written notice of the minimum operational standards set forth in this section and any other conditions imposed by the city.

#### **§ 174.048. TREE AND LANDSCAPE RECYCLING**

Tree and landscape recycling sites are subject to the following:

(A) A minimum lot size of five (5) acres.

(B) An eight (8) foot opaque fence or wall surrounding the site on all sides.

(C) A one hundred (100) foot setback between any property line and any operation of tree or landscape recycling machinery (with the exception of vehicle or product storage).

(D) A two hundred fifty (250) foot buffer between any residentially zoned land and any operation of tree or landscape recycling machinery (with the exception of vehicle or product storage).

(E) Tree and landscape recycling operations restricted to 8:00 a.m. to 6:00 p.m.

(F) Adherence to Maximum Permissible Sound Levels for Industrial Land, as set forth in Table 1 of § 92.06, Palm Bay Code of Ordinances.

#### **§ 174.049. VEHICLES, MAJOR RECREATIONAL EQUIPMENT, AND MOBILE HOMES SALES, RENTALS, AND STORAGE**

New and used motor vehicles, major recreational equipment and mobile home sales and rentals with accessory uses are subject to the following restrictions:

(A) All outside areas where merchandise is displayed shall be paved, meeting city specifications.

(B) All servicing and repair facilities, except for gasoline pumps, shall be located in an enclosed structure.

(C) There shall be no storage of junked or wrecked automobiles other than temporary storage for those awaiting repair. Such temporary storage shall be in an enclosed area and the vehicles shall not be visible from outside the property. All such vehicles awaiting repair shall have attached at all times current vehicle registration license plates.

- (D) In the CC district, the lot must have at least one hundred (100) feet of frontage on an arterial roadway; as identified in the adopted City Comprehensive Plan.
- (E) All areas utilized for the parking of motor vehicles, major recreational equipment, and mobile homes for sales, lease or rental or awaiting repair must meet the parking setbacks and vehicular use landscaping provisions, and must be in addition to the parking spaces, aisles and drives required by Chapter 176.
- (F) Gasoline facilities may be permitted as accessory uses, provided the requirements of §174.041 (FUEL STATIONS) are complied with.
- (G) RV and Boat Storage Lots.
  - (1) Storage lots shall be screened on all sides by a minimum 6' tall completely opaque wood or PVC fence, or a masonry wall with a finished exterior surface.
  - (2) Storage lots shall be constructed of paved or stabilized surfaces as approved by the City Engineer or designee, and the driveway shall be paved from the property line to the edge of pavement of the abutting roadway.

#### **§ 174.050. VEHICLE REPAIR**

Repair service establishments are subject to the following:

- (A) There shall be no storage of junked or wrecked motor vehicles other than temporary storage for those vehicles awaiting repair.
- (B) All vehicles shall have attached at all times a current vehicle registration license plate and shall be parked on a paved surface. Any wrecked vehicles shall be in an enclosed area and shall not be visible from outside the property.
- (C) Any wrecked vehicles awaiting repair shall be in an enclosed area and the vehicle shall not be visible from outside the property and shall be parked on a paved surface.

#### **§ 174.051. WEDDING VENUES.**

- (A) The minimum size of a property for a wedding venue shall be five (5) acres.
- (B) The subject property shall have direct access to a collector roadway or higher classification roadway.
- (C) The structure used for wedding venues and the associated parking areas shall meet the setbacks established for principal structures of the District.
- (D) The hours of operation shall be from sunrise to 11:00 P.M., not including venue setup and breakdown.
- (E) Parking surfaces shall utilize stabilized materials and shall meet the provisions established in Chapter 176.
- (F) A two-way driveway must be a minimum of twenty-four (24) feet in width at the right-of-way line and shall be paved from the right-of-way line to the edge of the roadway that the driveway connects to.
- (G) A one-way driveway must be a minimum of fifteen (15) feet in width at the right- of-way line and shall be paved from the right-of-way line to the edge of the roadway that the driveway connects to.

- (H) If a wedding venue chooses to have a sign, one detached sign shall be permitted for the venue site not to exceed six (6) feet in height, with a maximum sign area of sixteen (16) square feet, and setback a minimum of ten (10) feet from any property line.
- (I) All site lighting is subject to the provisions established in Chapter 177.
- (J) All site noise is subject to the provisions established in Chapter 92.