



**AGENDA**  
**Town of Indialantic**  
**Local Planning Agency/Zoning and Planning Board**  
**216 Fifth Avenue, Indialantic, FL 32903, Council Chamber**  
**Tuesday, January 23, 2024 at 5:30 p.m.**

**A. Call to Order:**

Rick Bertel, Chair  
Ed Mackiewicz, Vice Chair  
Dan Sullivan, Member  
Michael Lentini, Member  
Alan King, Member  
Jeanne Allen, 1st Alternate  
Erin Trauger, 2<sup>nd</sup> Alternate  
(Vacant), School Board Representative

**B. Approval of Prior Meeting Minutes:**

December 12, 2023 Meeting Minutes

**C. New Business:**

1. Ordinance 2024-02 *Relating to platting and subdivisions:*

AN ORDINANCE OF THE TOWN OF INDIALANTIC, BREVARD COUNTY, FLORIDA RELATING TO PLATTING AND SUBDIVISIONS; MAKING FINDINGS; AMENDING SECTION 1-2, TOWN CODE OF ORDINANCES, REVISING AND ADDING DEFINITIONS AND A SHORT TITLE TO SECTION 111-1, TOWN CODE; AMENDING SECTION 111-2, TOWN CODE, TO ADD A JUSTIFICATION AND PURPOSE AND AMENDING PROVISIONS REQUIRING PLAT APPROVAL PRIOR TO FILING OF A PLAT; AMENDING SECTION 111-3, TOWN CODE, DELETING TEXT AND PROVIDING FOR A PLAT APPROVAL PROCESS; AMENDING SECTION 111-4, TOWN CODE, PROHIBITING THE RECORDING OF A PLAT ON OR AFTER APRIL 1, 2024, THAT HAS NOT BEEN DESIGNED AND APPROVED SUBJECT TO THIS ORDINANCE; PROVIDING SECTION 111-5, TOWN CODE, SETTING FOR REQUIRED IMPROVEMENTS, DESIGN, PLANS, AND DRAWINGS; PROVIDING SECTION 111-6, TOWN CODE, PROVIDING FOR

SUBDIVISION VARIANCES; PROVIDING SECTION 111-7, TOWN CODE, SETTING FORTH THE METHOD OF INTERPRETATION AND AMENDMENT TO THE SUBDIVISION CODE; PROVIDING SECTION 111-8, TOWN CODE, RELATING TO TECHNICAL SPECIFICATIONS; PROVIDING A SEVERABILITY/ INTERPRETATION CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

2. Ordinance 2024-03 *Relating to the zoning code:*

AN ORDINANCE OF THE TOWN OF INDIALANTIC, BREVARD COUNTY, FLORIDA, RELATING TO THE ZONING CODE; MAKING FINDINGS; AMENDING SECTIONS 113-4, 113-334, 113-335, AND 113-337, TOWN CODE OF ORDINANCES, TO PROVIDE FOR TOWNHOUSE RESIDENTIAL UNIT DEVELOPMENT WITHIN THE R-3, R-P, AND T ZONING DISTRICTS; DEFINING "TOWNHOUSE RESIDENTIAL UNIT;" SETTING STANDARDS; PROVIDING A SEVERABILITY/ INTERPRETATION CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

3. Discuss Town Code Article 5- Signs

**D. Unfinished Business (discussion):**

1. Article VIII Section 103-245 of our building code as it pertains to commercial buildings:

The Town Council will provide guidance to the Zoning and Planning Board to update the color palette ordinance to be consistent with a beach-town look and feel, taking into consideration such municipalities as Sanibel or Naples, also allowing for their own ideas and input.

**E. Reports – Building Official**

**F. Adjourn:**

NOTICE: Pursuant to Section 286.0105, Florida Statutes, the Town hereby advises the public that if a person decides to appeal a decision made by this Board with respect to any matter considered at its meeting or hearing, he or she will need a record of the proceedings and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes testimony and evidence upon which the appeal is to be based, as the Town does not provide one. Americans with Disabilities Act: Persons planning to attend the meeting who require special assistance must notify the Office of the Town Clerk at 321-723-2242 no later than 48 hours prior to the meeting.

**Meeting Minutes**  
**Town of Indialantic**  
**Local Planning Agency/Zoning and Planning Board**  
**216 Fifth Avenue, Indialantic, FL 32903, Council Chamber**  
**Tuesday, December 12, 2023 at 5:30 p.m.**

**A. Call to Order:**

A regular meeting of the Indialantic Local Planning Agency / Zoning and Planning Board was called to order at 5:33 p.m. by Chairperson Bertel with the following members present:

**Present:**

Rick Bertel	Chairperson
Ed Mackiewicz	Vice Chairperson
Alan King	Member
Jeanne Allen	1st Alternate
Erin Trauger	2 <sup>nd</sup> Alternate

**Absent:**

Michael Lentini	Member
Dan Sullivan	Member

**Also attending:**

Michael Casey	Town Manager
Mollie Carr	Town Clerk
Paul Gougelman	Town Attorney
Mark McDermott	Mayor
Doug Wright	Councilmember
Loren Strand	Councilmember

**B. Approval of Prior Meeting Minutes:**

September 27, 2023- Meeting Minutes

**Motion by Member King, seconded by Member Allen to approve the meeting minutes.**

**AYES: Bertel, Mackiewicz, King, Allen, Trauger**

**THE MOTION CARRIED UNANIMOUSLY. (5 TO 0)**

**C. New Business:**

**1. Article VIII Section 103-245 of our building code as it pertains to commercial buildings:**

**The Town Council will provide guidance to the Zoning and Planning Board to update the color palette ordinance to be consistent with a beach-town look and feel, taking into consideration such municipalities as (To Be Determined), also allowing for their own ideas and input.**

Chairperson Bertel read the Town Council's request.

Town Manager Casey informed the Board that the Town Council is requesting the Board review the current ordinance as it pertains to the paint palette for commercial buildings.

Discussion ensued and the following items were discussed:

- Attorney Gougelman confirmed that the Board may be more restrictive and prohibit certain colors.
- The ordinance will address only commercial properties.
- Attorney Gougelman suggested the Board consider not only the allowable colors but the possible color combinations.
- The Board has free reign to recommend colors be allowable or prohibited, as well as certain color combinations.
- It was established that the Board will have no definitive timeline for completion.
- The Board was advised that the current color palette is by Sherwin Williams and the four lightest shades on each color sample are allowable by Code.

#### **Public Comments-**

Mayor Mark McDermott, 137 Eighth Ave, Indialantic- Mayor McDermott said they have previously discussed having an architectural committee, because he feels there is a general feeling that change is coming and right now there are no architectural guidelines for the commercial area. Mayor McDermott explained that an architectural committee is a huge undertaking, and the color code is probably the easiest thing to check on. Mayor McDermott does not care for the look or color of the ABC building; it is brown and not beachy. He said the general feeling people think of is Sanibel or Naples, not necessarily the commercial development but the feel, they have a nice, classy beach feel.

Councilmember Doug Wright, 321 Tampa Ave, Indialantic- Councilmember Wright thanked the Board for getting together at the Council's request. He said the color code has not been reviewed lately and feels its review is part of a larger initiative of how we can control our own destiny. Councilmember Wright said he feels this is an opportunity to come together in a non-contentious form to see what we can do to make Indialantic better.

Councilmember Loren Strand, 120 Ormond Drive, Indialantic- Councilmember Strand said he feels this is more about pride, he is hearing a lot of residents want to feel good about coming into our community. Councilmember Strand stated he feels we have a "hodge podge" and people would like to see something more cohesive. Councilmember Strand advised the Board that they are free to reach out for professional advice and they will have very broad discretion. Councilmember Strand explained that he sees this as a way to engage businesses for potential economic development, it is an opportunity to forge a relationship with the businesses.

Discussion ensued and the following items were discussed:

- The initiative is proactive on the Town Council's part, it does not come from citizen complaints or concerns.

- Member Mackiewicz advised he likes the way the Town looks and feels we need to lay low and stop the development, stop the influx, and stop the traffic and get back to maintaining the beach lifestyle.
- The 5<sup>th</sup> Avenue Committee brought to light some of the struggles the local businesses face such as foot traffic.

**Motion by Member King, seconded by Member Trauger to put the discussion regarding the Town's color palette on the next agenda.**

**AYES: Bertel, Mackiewicz, King, Allen, Trauger**

**THE MOTION CARRIED UNANIMOUSLY. (5 TO 0)**

- 2. Reports** – Attorney Gougelman informed the Board that they will have two new Ordinances on the upcoming agenda. The Ordinances will address Townhome in Zones T-Tourist, RP- Residential Professional and R-3 Residential; and Replatting.

**3. Adjourn: 6:32 p.m.**

**Motion by Member Trauger, seconded by Member Mackiewicz to adjourn.**

**AYES: Bertel, Mackiewicz, King, Allen, Trauger**

**THE MOTION CARRIED UNANIMOUSLY. (5 TO 0)**

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Rick Bertel, Chairperson

Attested by:

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Mollie Carr, Town Clerk

## Memorandum

**To:** Zoning and Planning Board  
**From:** James G. LaRue, FAICP  
**Date:** January 8, 2024  
**Subject:** Planning Consistency Review of Ordinance No. 2024-02

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The Zoning and Planning Board will be asked to review Ordinance No. 2024-02, (relating to platting and replatting and subdivisions). The Board will determine consistency of the ordinance with the Town's Comprehensive Plan and Code Section 17-37 (duties of Zoning and Planning Board).

Our Comprehensive Plan contains the following Goals, Objectives and Policies that are pertinent to a determination of Plan consistency by the Zoning and Planning Board.

### Future Land Use Element:

**Policy 1.1:** Adopt new regulations or implement existing land development regulations that will contain specific and detailed provisions necessary to implement the Comprehensive Plan, and which as a minimum:

- a. Regulate the subdivision of land if necessary. (The entire Town is already platted.)
- b. Regulate the use of land and water consistent with this Element and ensure that land uses are compatible with adjacent land uses in the County and the Town of Melbourne Beach.
- c. Regulate areas subject to seasonal and periodic flooding and provide for drainage and stormwater management.
- d. Regulate signage and ensure safe and convenient on-site traffic flow and vehicular parking needs.
- e. Protect aquifer recharge areas. (There are no potable water wellfields in the Town.)
- f. Protect environmentally sensitive areas adjacent to the Indian River Lagoon and the Atlantic Ocean.
- g. Provide that development orders and permits will not be issued which result in a reduction of the level of services for the affected public facilities below the level of service standards adopted in this Plan.
- h. Regulate the development of single-family residential lots .

**Policy 6.1:** The Town will continue to condition development orders, including but not limited to building permits, upon the availability of the public facilities and services necessary to serve the proposed development at the levels of service adopted by the Town in the Plan.

**Objective 7:**

Encourage the use of innovative land development regulations.

Transportation Element:

**Goal 1:**

Support a coordinated, well integrated, cost effective, and environmentally sound transportation system which will adequately serve current and future needs of the Town.

**Policy 3.3:** The Town shall require consideration of pedestrian safety in the planning, design, and construction of all transportation facilities.

**Policy 3.7:** Although no new construction of roads is anticipated, the Town shall continue to review land development regulations to provide for the safe and efficient location of the connections and access points of driveways and roads to roadways.

Coastal Management and Conservation Element:

**Policy 1.4:** Review and revise, as necessary, the stormwater management regulations to ensure that the maximum protection to the Indian River Lagoon has been given and ensure that the Town's goals, objectives and policies are consistent with those of the Indian River Lagoon Comprehensive Conservation and Management Plan.

The proposed ordinance is consistent with the Future Land Use Element as it will lead and regulate subdivisions, provide public facilities that need to be built concurrent with new development and encourage the use of innovative regulation techniques. Consistency with the Transportation Element will assist in planning daily trips and peak hour traffic, as well as permit the planning of sidewalks and pedestrian safety, while minimizing direct access to certain roads. Lastly, subdivision planning allows the inclusion of stormwater regulations thereby showing consistency with the Coastal Management and Conservation Element.

From the above discussion, there seems to be enough evidence that the Zoning and Planning Board will be able to give a recommendation of approval to the Council for Ordinance No. 2024-02, because it is consistent both with the review factors of Section 17-37 (3) and the Town's Comprehensive Plan. If there are any questions at the meeting, staff or the attorney will be present to answer them.

ORDINANCE NO. 2024-02

AN ORDINANCE OF THE TOWN OF INDIALANTIC, BREVARD COUNTY, FLORIDA RELATING TO PLATTING AND SUBDIVISIONS; MAKING FINDINGS; AMENDING SECTION 1-2, TOWN CODE OF ORDINANCES, REVISING AND ADDING DEFINITIONS AND A SHORT TITLE TO SECTION 111-1, TOWN CODE; AMENDING SECTION 111-2, TOWN CODE, TO ADD A JUSTIFICATION AND PURPOSE AND AMENDING PROVISIONS REQUIRING PLAT APPROVAL PRIOR TO FILING OF A PLAT; AMENDING SECTION 111-3, TOWN CODE, DELETING TEXT AND PROVIDING FOR A PLAT APPROVAL PROCESS; AMENDING SECTION 111-4, TOWN CODE, PROHIBITING THE RECORDING OF A PLAT ON OR AFTER APRIL 1, 2024, THAT HAS NOT BEEN DESIGNED AND APPROVED SUBJECT TO THIS ORDINANCE; PROVIDING SECTION 111-5, TOWN CODE, SETTING FOR REQUIRED IMPROVEMENTS, DESIGN, PLANS, AND DRAWINGS; PROVIDING SECTION 111-6, TOWN CODE, PROVIDING FOR SUBDIVISION VARIANCES; PROVIDING SECTION 111-7, TOWN CODE, SETTING FORTH THE METHOD OF INTERPRETATION AND AMENDMENT TO THE SUBDIVISION CODE; PROVIDING SECTION 111-8, TOWN CODE, RELATING TO TECHNICAL SPECIFICATIONS; PROVIDING A SEVERABILITY/ INTERPRETATION CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Zoning and Planning Board has determined that it is in the public interest to adopt land development regulations relating to platting of subdivisions; and

WHEREAS, the need and justification of this Ordinance is to implement Chapter 177, Florida Statutes, to provide land development regulations providing for subdividing and platting of property as provided for in the Comprehensive Plan, and to promote a subdivision plan for future redevelopment of the town; and

WHEREAS, Future Land Use Policy 1.1 of the Comprehensive Plan provides:

Policy 1.1: Adopt new regulations or implement existing land development regulations that will contain specific and detailed



provisions necessary to implement the Comprehensive Plan,  
and which as a minimum:

a. Regulate the subdivision of land if necessary. (The  
entire town is already platted.)

\* \* \*

h. Regulate the development of single-family  
residential lots; and

WHEREAS, this Ordinance is consistent with Future Land Use Element Policy 1.1,  
because it will lead to and regulate land subdivision as provided in the Comprehensive  
Plan; and

WHEREAS, Future Land Use Element Policy 6.1 of the Comprehensive Plan  
provides:

Policy 6.1: The Town will continue to condition development  
orders, including but not limited to building permits, upon the  
availability of the public facilities and services necessary to  
serve the proposed development at the levels of service  
adopted by the Town in the Plan; and

WHEREAS, this Ordinance is consistent with Future Land Use Element Policy 6.1,  
because public facility concurrency can be better implemented through subdivision  
regulation; and

WHEREAS, Future Land Use Element Objective 7 of the Comprehensive Plan  
provides:

Objective 7: Encourage the use of innovative land  
development regulations.

WHEREAS, this Ordinance is consistent with Future Land Use Element Objective  
7, because platting and subdivision regulation is hereby found to be an innovative land  
development regulation technique; and

WHEREAS, Transportation Element Goal 1 of the Comprehensive Plan provides:

Goal 1: Support a coordinated, well integrated, cost effective,  
and environmentally sound transportation system which will  
adequately serve current and future needs of the Town.

83 WHEREAS, this Ordinance is consistent with Transportation Element Goal 1,  
84 because platting and subdivision regulation will assist in planning of average daily trips  
85 and peak hour traffic thereby allowing planning of a transportation system free of  
86 congestion; and

87  
88 WHEREAS, Transportation Element Policy 3.3 of the Comprehensive Plan  
89 provides:

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91 Policy 3.3: The Town shall require consideration of pedestrian  
92 safety in the planning, design, and construction of all  
93 transportation facilities; and  
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95 WHEREAS, this Ordinance is consistent with Transportation Element Policy 3.3,  
96 because platting will permit planning for and provision of sidewalks and pedestrian safety;  
97 and  
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99 WHEREAS, Transportation Element Policy 3.7 of the Comprehensive Plan  
100 provides:

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102 Policy 3.7: Although no new construction of roads is  
103 anticipated, the Town shall continue to review land  
104 development regulations to provide for the safe and efficient  
105 location of the connections and access points of driveways  
106 and roads to roadways; and  
107

108 WHEREAS, this Ordinance is consistent with Transportation Element Policy 3.7,  
109 because subdivision platting and regulation will permit plan approval by minimizing direct  
110 access to certain roads; and  
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112 WHEREAS, Coastal Management and Conservation Element Policy 1.4 of the  
113 Comprehensive Plan provides:

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115 Policy 1.4: Review and revise, as necessary, the stormwater  
116 management regulations to ensure that the maximum  
117 protection to the Indian River Lagoon has been given and  
118 ensure that the Town's goals, objectives and policies are  
119 consistent with those of the Indian River Lagoon  
120 Comprehensive Conservation and Management Plan; and  
121

122 WHEREAS, this Ordinance is consistent with Coastal Management and  
123 Conservation Policy 1.4, because new subdivision planning will allow for preparation of

stormwater management systems in an effort to minimize flooding and providing for treatment of stormwater runoff; and

WHEREAS, the Zoning and Planning Board finds that this Ordinance is consistent with the Comprehensive Plan and in particular Future Land Use Element Objective 7 and Policies 1.1 and 6.1, Transportation Element Goal 1 and Policies 3.3 and 3.7, and Coastal Management and Conservation Element Policy 1.4; and

WHEREAS, the Town Council adopts the findings of the Zoning and Planning Board; and

WHEREAS, the Town Council finds that this Ordinance is in promotion of the public health, safety, welfare, and aesthetics of the Town by providing for design regulations for new subdivisions and that this Subdivision Code will implement chapter 177, Florida Statutes.

NOW, THEREFORE, BE IT ENACTED BY THE TOWN OF INDIALANTIC, FLORIDA:

SECTION 1. Recitals. Each and all of the recitals ("WHEREAS" clauses) are hereby incorporated herein.

SECTION 2. That Section 1-2 of the Code of Ordinances of Indialantic, Florida, is hereby amended to read as follows:

**Sec. 1-2. Definitions, rules of construction.**

In the construction of this Code the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the council:

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

*Computation of time.* In computing any period of time prescribed or allowed by this code ~~Code~~, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

\* \* \*

*Gender.* The masculine includes the feminine and neuter and vice versa.

*Interpretation.* In the interpretation and application of any provision of this code, it shall be held to be the minimum requirement adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision imposes greater restrictions upon the subject matter than the general provisions imposed by this Code, the provision imposing the greater restriction or regulation shall be controlling.

*Holiday.* The word "holiday" shall refer to a town designated holiday.

*Joint authority.* All words purporting to give a joint authority to three (3) or more town eity officers or other persons shall be construed as giving such authority to a majority of such officers or other persons unless it shall be otherwise expressly declared.

*Keeper and proprietor.* The terms "keeper" and "proprietor" include persons, acting by themselves or through a servant, agent or employee.

*Land development regulation* means the provisions in the town code for regulation of any aspect of development and includes zoning, rezoning, subdivision, building construction, sign regulation, or any other regulation controlling the development of land, as set forth in subpart B of the town code of ordinances.

*May.* The term "may" is to be construed as being permissive.

*May not.* The term "may not" has a prohibitory effect and states a prohibition.

*Month.* A month is 30 consecutive days, and unless the text so provides, a month shall not necessarily refer to a calendar month.

*Must.* The term "must" is to be construed as being mandatory.

*Number.* The singular includes the plural and vice versa ~~vice versa~~.

*Oath* includes affirmations.

*Officers, departments, agencies.* Whenever reference is made herein to any office, officer, department or agency, it shall mean such office, officer, department or agency of the town and shall include the duly authorized personnel and subordinates of such office, officer, department or agency.

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

*Person.* The word "person" includes individuals, children, firms, associations, joint ventures ~~adventures~~, limited liability companies, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations of legal entities.

*Personal property.* Personal property shall extend and be applied to every species of property except real property.

\* \* \*

*State.* The words "the state" or "this state" shall mean the State of Florida.

*Statutory citations.* Citations herein, unless otherwise specified, are to Florida Statutes, and are intended and shall be construed merely as a convenience to the user of this code. The fact that a citation herein may be rendered no longer appropriate or correct because of subsequent enactments of the legislature shall not invalidate or otherwise affect the meaning of the provision in which the citation appears, and such citation shall be deemed to refer to the appropriate provisions under such subsequent legislation.

*Tense.* The present tense includes the past and future and vice versa ~~vice versa~~.

*Town.* The words "the town" or "this town" shall be construed as if the words "of Indialantic" followed the word "town," and shall extend to and include its several officers, agents and employees.

*Town code.* The words "town code" shall refer to the town code of ordinances.

*Week.* The word "week" shall be construed to mean seven (7) days; ~~and but~~ publication in a newspaper or any notice or other matter indicated to be for a stated number of weeks shall be construed to mean one insertion in each week, unless specifically stated to be for each day of the week or for more than one day in each week.

*Will.* The term "will" is to be construed as being mandatory and not permissive.

*Written or writing* includes handwriting, printing, typewriting, and all other methods and means of forming letters and characters upon paper, stone, wood, or other materials. The

word "writing" also includes information which is created or stored in any electronic medium and is retrievable in perceivable form.

Year. A year is 365 consecutive days, and unless the text so provides, a year shall not necessarily refer to a calendar year. ~~The term "year" means a calendar year.~~

SECTION 3. That Section 111-1 of the Code of Ordinances of Indialantic, Florida, is hereby amended to read as follows:

**Sec. 111-1. - Short title; Definitions.**

(a) Short title. This chapter shall be known and may be cited as the "Subdivision Code of the Town of Indialantic, Florida."

(b) Definitions. The following words and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Arterial road or arterial street. (See definition of "street.")

As-built drawings means drawings which show the location of all required improvements as installed by the subdivider or developer of the subdivision and approved by the town engineer.

Bikeways (bicycle ways) means a facility within the street, within the street right-of-way, or within a separate right-of-way or easement improved for use by bicyclists.

Block means that tier or group of property abutting on a street on one side of such street and lying between or within well-defined and fixed boundaries including, the two nearest intersecting streets or waterway, park, or other open space, and having an assigned number, letter, or other name through which it may be identified.

Board means the board appointed by the governing body known as the local planning agency/zoning and planning board.

Building official means the official charged with administration and enforcement of building regulations, as provided for in chapter 6 of the town code.

Building lines means lines established by the zoning code along the front, rear and sides of a lot which govern the location of structures on a lot.

Code means the subdivision code of the town, as amended from time to time; alternatively, the term *town code* refers to the codification of town ordinances.

*Collector road or collector street.* (See definition of "street.")

*Cul-de-sac.* (See definition of "street.")

*Dedication* means the deliberate donation or appropriation of land, or an easement, by its owner for any general public uses, reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted, and acceptance thereof by the town.

*Developer* means the person who applies for approval of a plat of a subdivision pursuant to this code or constructs the subdivision improvements required by this code.

*Development* Development shall be defined as set forth in F.S. ss. 163.3164 or 380.04, with the exception of mining or demolition but shall include construction within rights-of-way.

*Director* means and refers to the individual town employee appointed to act as the planning and zoning director by the town manager, an independent consultant contracted by the town to act as the planning and zoning director, or their respective designee.

*Easement* means an area of land created by a subdivider reserved for ingress or egress, public utilities, drainage, sanitation, access, gas, communications, telephone, cable television, other public services, conservation, or other specifications having limitations, the title to which shall remain in the name of the property owners, subject to the right of use designated in the reservation of a servitude.

*Engineer* means a professional engineer registered in the state who has been admitted to practice by and is in good standing with the state board of professional engineers, pursuant to chapter 471, F.S.

*Environmental impact assessment* means a report providing the description and location of protected species of wildlife or plants, wildlife habitats, wetlands, surficial aquifer recharge areas, physical features, and natural resources identified in the town comprehensive plan, designated as endangered, threatened, rare species, or species of special concern, by federal or Florida, or designated pursuant to Florida or federal law or regulation as wetlands, and proposed preservation measures and/or management plan to preserve such protected species and their habitats.

Escrow agreement means an instrument which provides for a financial agreement between the developer or subdivider, the escrow agent, and the town to hold the construction funds for subdivision improvements in an account to be disbursed in accordance with a specified schedule. Such agreements shall be in form and substance acceptable to the town attorney and town manager.

Fill dirt means soil materials (excavated earth) used to change the elevation or existing grade of the development. This material may be obtained from on-site or brought in from another location.

Final plat means the final map or drawing on which the subdivider's plan of subdivision is presented to the town council for approval, and which, if approved, will be submitted to the clerk of the circuit court of this county for recording in the public records of the county.

Frontage means distance measured along a public or private street right-of-way.

Governing body means the town council of the town.

Group development means a development of land which comprises two or more buildings, such as a group of apartments, but where the land is not subdivided into the customary street and lot layout.

Improvements means street pavements, curbs and gutters, sidewalks, bikeways, alley pavements, water mains, water reuse lines, sanitary sewers, pedways, stormwater management systems, signs, landscaping, luminaries or lighting, or any other physical construction benefiting a subdivision required by the governing body and this code.

Infrastructure/construction (maintenance) warranty bonds means the placement of a bond executed by a town approved surety company or a cash payment in the amount of ten percent (10%) of the total construction cost of the subdivision improvements, as determined by the town engineer, lasting two (2) years from the date of issuance of a certificate of completion to insure maintenance and repair of all improvements installed by the subdivider. Maintenance bond monies shall not be used for routine subdivision ground maintenance, tract management, landscape repair and replacement or other maintenance generally required to be performed by the developer or a homeowners or property owners association. The bond shall include provisions for both payment and performance of maintenance and repair of the improvements, including labor, materials, and supplies, and insure the town against losses, damages, expenses, costs, and attorneys' and paralegals' fees that the town may sustain because of a default by the principal under bond. The bond may be in the form of cash, a money order, a certified or cashier's check, or a letter of credit, issued by a bank or savings and loan association



located in and licensed by the federal government or state comptroller to do business in this state; or bond issued by a surety authorized to do business in the state as a surety by the state insurance commissioner. The bond issuer shall have permanent offices within the state. All instruments shall be in form and substance acceptable to the town's legal counsel.

Local street or local road. (See definition of "street.")

Lot means a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of a single lot of record; a portion of a lot of record; a combination of complete lots of record, or complete lots of record and portions of lots of record, or of lots of record; a parcel of land described by metes and bounds; provided, that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of the town code.

(1) Corner lot means any lot situated at the intersection of two streets and abutting such streets.

(2) Dimensions of lots.

a. Depth of lot or lot depth. The depth of a lot is the distance measured in the mean direction of the side lines of the lot from the standpoint of the front lot line to the midpoint of the opposite main rear line of the lot.

b. The width of a lot is the distance between the side lines thereof if such side lines are parallel to each other; if side lines are not parallel, width shall be construed as mean width. Provided, however, width between wide lot lines at their foremost points where they intersect with the street lines shall not be less than eighty percent (80%) of the required lot width except in the case of lots on the turning circle cul-de-sac, where the eighty percent (80%) requirement shall not apply; provided, however, that all lots shall have a minimum of 25 feet facing a street.

c. A flag lot may be created from a parent lot only if the flag lot and the remaining lot meet the minimum lot requirements pertaining to lot size and building setback. Any flag lot shall maintain at least a 25-foot wide accessway connecting the main portion of the lot to a public or private street. No flag lot shall be created which would result in the creation of a substandard lot or lot dimension. For flag lots, the lot width, lot depth and side and rear lot lines shall be established by the boundaries of the main body of such lot exclusive of the 25-foot wide strip of land providing access to a platted or deeded right-of-way.

(3) Interior lot means a lot other than a corner lot with only one frontage on a street.

(4) Lot line means the boundary line of a lot.

(5) Lot of record. A lot whose existence, location and dimensions have been

legally recorded or registered in a deed, or on a plat, recorded in the public records of this county.

*Lot grading plan* means a plan prepared as part of the subdivision construction plans indicating the proposed lot elevations of each lot and tract to be constructed in the proposed subdivision with references indicating the elevations in tenths of a foot on each corner of a lot or tract, indicating the proposed finished floor elevations.

Marginal access/service road. (See definition of "street.")

*Monument* means a survey marker which must:

(1) Be composed of a durable material.

(2) Have a minimum length of 18 inches.

(3) Have a minimum cross-section area of material of 0.2 square inches.

(4) Be identified with a durable marker or cap bearing either the Florida registration number of the professional surveyor and mapper in responsible charge or the certificate of authorization number of the legal entity, which number shall be preceded by LS or LB as applicable.

(5) Be detectable with conventional instruments for locating ferrous or magnetic objects.

If the location of the monument falls in a hard surface, such as asphalt or concrete, alternate monumentation may be used that is durable and identifiable.

~~Newspaper of general circulation~~ Newspaper of general circulation means a newspaper meeting the requirements of F.S. ss. 50.011 and 50.031, F.S., and shall include publication in a publicly accessible internet web-site as provided in F.S. s. 50.0311.

*Official map or official plan* means any of the latest maps or plans approved and in use by the town council as a guide for development of the town, such as the land use map in the comprehensive plan.

*Pedway (pedestrian way)* means a physical course or improvement provided within a right-of-way or access easement used exclusively by pedestrians or bicyclists.

*P.C.P.* means permanent control point and shall be considered a reference monument.

(1) "P.C.P.s" set in impervious surfaces must:

a. Be composed of a metal marker with a point of reference; and

b. Have a metal cap or disk bearing either the Florida registration number of the professional surveyor and mapper in responsible charge or the certificate of authorization number of the legal entity, which number shall be preceded by LS or LB as applicable and the letters "P.C.P."

452 (2) "P.C.P.s" set in pervious surfaces must:

453 a. Consist of a metal rod having a minimum length of 18 inches and a  
454 minimum cross-section area of material of 0.2 square inches. In certain materials,  
455 encasement in concrete is optional for stability of the rod. When used, the concrete shall  
456 have a minimum cross-section area of 12.25 square inches and be a minimum of 24  
457 inches long.

458 b. Be identified with a durable marker or cap with the point of reference  
459 marked thereon bearing either the Florida registration number of the professional  
460 surveyor and mapper in responsible charge or the certificate of authorization number of  
461 the legal entity, which number shall be preceded by LS or LB as applicable and the letters  
462 "P.C.P."

463 (3) "P.C.P.s" must be detectable with conventional instruments for locating  
464 ferrous or magnetic objects.

465 P.R.M. means a permanent reference monument which must:

466 (1) Consist of a metal rod having a minimum length of 18 inches and a minimum  
467 cross-section area of material of 0.2 square inches. In certain materials, encasement in  
468 concrete is optional for stability of the rod. When used, the concrete shall have a minimum  
469 cross-section area of 12.25 square inches and be a minimum of 24 inches long.

470 (2) Be identified with a durable marker or cap with the point of reference marked  
471 thereon bearing either the Florida registration number of the professional surveyor and  
472 mapper in responsible charge or the certificate of authorization number of the legal entity,  
473 which number shall be preceded by LS or LB as applicable and the letters "P.R.M."

474 (3) Be detectable with conventional instruments for locating ferrous or magnetic  
475 objects.

476 If the location of the "P.R.M." falls in a hard surface such as asphalt or concrete, alternate  
477 monumentation may be used that is durable and identifiable.

478 Plat means a map or delineated representation of the subdivision of lands, being a  
479 complete and exact representation of the subdivision and other information in compliance  
480 with the requirements of all applicable sections of this code, chapter 177, Florida Statutes,  
481 and other land development regulations, and may include the terms "plat," "replat,"  
482 "amended plat," "revised plat," or "final plat."

483 Practical difficulty. In the case of a subdivision variance, a practical difficulty is a standard  
484 which is similar to but less rigorous than the unnecessary hardship standard. It may be  
485 a non-self created or self-created condition of a development. The standard asks  
486 whether a literal enforcement of the subdivision code will create a practical difficulty in the  
487 platting, use, and development of a parcel of land for the purpose or in the manner for  
488 which it is zoned. Some of the factors that *may* be considered in determining whether a  
489 practical difficulty exists include: (i) how substantial the variance is in relation to the  
490 practical difficulty exists include: (i) how substantial the variance is in relation to the

requirement sought to be varied; (ii) whether a substantial change will be produced in the character of the adjacent neighborhood; (iii) whether the difficulty can be obviated by some method feasible for the subdivider to pursue other than by a variance; and (iv) whether, in view of the manner in which the difficulty arose, the interest of justice will be served by allowing the variance. Finding that factors (i) that the variance requested is not substantial; (ii) that a substantial change in the character of the neighborhood will not occur if the variance is granted; (iii) that the difficulty occurring can only be obviated by grant of the variance; and (iv) that the interest of justice will be served by granting of the variance, are all factors in support of the variance.

*Preliminary plat* means the preliminary map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the director, the town engineer, and the zoning and planning board for recommendations, to the town council for approval or the taking of other appropriate actions.

*Private street.* (See definition of "street.")

*Residential street lights* means lights installed by the town, a developer, or Florida Power and Light Co., in accordance with the National Electrical Code, and Florida Department of Transportation and town standards for the purpose of providing lighting.

*Right-of-way* means land dedicated, deeded, conveyed, reserved, or used for a street, alley, walkway, boulevard, pedway, bikeway, drainage facility, access for ingress and egress or other public purpose, certain designated persons, or public governmental entities.

*Roadways.* (See definition of "street.")

*Sketch plan* means a graphic presentation or map drawn to approximate scale depicting a proposed method of land subdivision.

*State plane coordinates* means the system of plane coordinates which has been established by the National Ocean Service for defining and stating the positions or locations of points on the surface of the earth within the state and shall hereinafter be known and designated as the "Florida State Plane Coordinate System." For the purpose of the use of this system, the zones shall be as set forth in s. 177.151(2), F.S., shall be used, and the appropriate projection and zone designation shall be indicated and included in any description using the Florida State Plane Coordinate System.

*Stormwater maintenance plan or stormwater maintenance study* means a report prepared by a state licensed engineer evaluating the hydrologic conditions of a site

related to groundwater location, permeability rates, location, and flow of surface water systems, and the soil conditions on-site. This detailed analysis shall meet the standards required by the town code and the St. Johns River Water Management District.

*Stormwater maintenance system* means the designed features of the property which collect, convey, channel, hold, inhibit, or divert the movement of stormwater.

*Streets and alleys* means any accessway such as a street, road, lane, highway, avenue, boulevard, alley, parkway, viaduct, circle, court, terrace, place, or cul-de-sac, and also includes all of the land lying between the right-of-way lines as delineated on the plat showing such streets, whether improved or unimproved, but shall not include those accessways such as easements and rights-of-way intended solely for limited utility purposes, such as for electric power lines, gas lines, telephone lines, water reuse lines, potable water lines, drainage and sanitary sewers, cable television, and easements of ingress and egress.

(1) *Arterial street:*

a. *Principal (major) arterial.* A street that primarily provides traffic movement services, serving longer distance trips and traffic traveling through a given area. Vehicles on these facilities generally operate at higher speeds, and there is little direct access to abutting properties. Turning movements to and from these facilities occur primarily at roadway intersections.

b. *Minor arterial.* A street that serves medium to long distance trips and traffic traveling within a given area. Vehicles on this facility generally operate at high to moderate speeds, and there is little to moderate direct access permitted to abutting properties. Turning movements to and from these facilities occur primarily at roadway intersections and major traffic generator driveways.

(2) *Collector road or collector street.* Collector roads provide both land access and traffic circulation service within residential, commercial, and industrial areas. Their primary function is to move traffic from local roads and streets to the arterial highway system, while providing some direct access to abutting property. While not dominated by signalized intersection traffic control, these facilities do tend to have more frequent intersection control such as stop and yield signs.

(3) *Local road or local street.* Local roads provide for direct access and traffic circulation to abutting lands within residential, commercial, and industrial areas. These roadways have frequent access points and frequent intersection control such as stop signs. Trip length on local streets is short, feeding trips to collectors and arterials. There are two sub-categories of local streets. They include:

a. *Major local.* This type of street serves commercial areas and higher density residential areas. Major local streets also may provide direct access for residential subdivisions to the collector and arterial roadway. Local streets with an average daily traffic of greater than 600 trips constitute major local streets in residential

subdivisions.

b. Minor local. This type of local street provides access and circulation in residential areas and carries average daily traffic volumes of 600 or less trips per day.

(4) Marginal access/service road. A marginal access/service road provides direct access to abutting property and is parallel or adjacent to arterial or collector roads. Access to an adjacent arterial/collector street is provided at limited intersections.

(5) Private street. Private street means a private right-of-way for vehicular and pedestrian traffic dedicated and held and maintained in common ownership usually by an incorporated homeowners or property owners association.

(6) Cul-de-sac. A cul-de-sac is a street terminated at the end by a vehicular turnaround.

(7) Alley. An alley is a right-of-way providing a secondary means of access and service to adjoining property.

Street (roadway) segment means a single linear section of roadway or street extending from one street intersection to another street intersection. A cul-de-sac shall be considered as one street segment. Roadway segments shall be constructed with a single uniform width.

Subdivider means any person commencing proceedings under this chapter to effect a subdivision of land hereunder for the subdivider or for another person.

Subdivision means a division of a parcel of land or platting of real property into three or more lots, parcels, tracts, tiers, blocks, sites, units, or the division of land for the purpose of a transfer of ownership and building development. The term includes resubdivision, replat, revised plat, or amended plat and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided. A group development which is developed so that it might be broken into smaller parcels at some future time shall also be considered a subdivision and shall meet the requirements of this code. Creation of a single condominium, other than a land condominium, shall not be construed to be a subdivision. Condominiums including three or more separate parcels of land owned by a condominium association or other legal entity, excluding condominium units, and the condominium itself shall not be construed to be a single condominium. ~~means and refers to the division of real property into three (3) or more tracts or parcels of land.~~

Survey data means all information shown on the face of a plat that would delineate the physical boundaries of the subdivision and any parts thereof.

(2) Point of tangency, written "P.T." means the point where a tangent circular curve ends and becomes tangent.

(3) Point of compound curvature, written "P.C.C." means the point where two circular curves have a common point of tangency, the curves lying on the same side of the

common tangent.

(4) Point of reverse curvature, written "P.R.C." means the point where two circular curves have a common point of tangency, the curves lying on opposite sides of the common tangent.

Surveyor means a state-registered land surveyor and mapper, registered under chapter 472, F.S., who is in good standing with the state Board of Professional Land Surveyors and Mappers.

Town engineer means a professional engineer, registered in the state, employed or appointed by the town, to perform the duties of that position.

Traffic calming measures means the combination of mainly physical measures that are designed and implemented to reduce the negative effects of motor vehicle use, alter driver behavior, and improve conditions for non-motorized street users.

Tree survey means a graphic drawing indicating the location of all trees and a tabular listing indicating the size and species of all trees.

Tri-party agreement means an agreement between the town, site developer, and mortgagee of said development site by which the proceeds of the mortgage are pledged as collateral for installation and construction of the project's subdivision improvements. The mortgage must contain sufficient proceeds to fund construction and installation of the subdivision improvements. A tri-party agreement may only be consummated with an institutional lender including only a banking corporation or savings and loan association chartered by the United States of America or the state comptroller, and based in or with offices in this state.

Utilities means, but is not limited to, water systems, electrical power systems, fiber optics, gas systems, sanitary sewer systems, water reuse systems, storm drainage systems, telephone systems, and cable television systems.

SECTION 4. That Section 111-2 of the Code of Ordinances of Indialantic, Florida, is hereby amended to read as follows:

**Sec. 111-2. – Jurisdiction; Purpose; Approval required prior to filing plats.**

(a) Jurisdiction. The chapter shall govern all subdivisions of land within the corporate limits of the town, as now or hereafter established, except that no requirements in this chapter shall be retroactively applied to subdivision plats approved by the town prior to April 1, 2024. Nor is it intended by this chapter to repeal, abrogate, annul or in any

way impair or interfere with existing provisions of other laws or ordinances, except those in conflict with this code, or with private restrictions placed upon property by deed, covenant or other private agreement. Where this chapter imposes a greater restriction upon land than is imposed or required by such existing provisions of law, ordinance, contract, agreement, covenant, or deed, the provisions of this code shall control.

(b) *Purpose.* The purpose of this chapter is to establish procedures and standards for the development and subdivision of real estate within the town, in an effort to, among other things, ensure proper legal description, identification, monumentation and recording of real estate boundaries; further orderly layout and appropriate use of land; provide safe, convenient, and economic circulation of vehicular traffic; provide suitable building sites which drain properly and are readily accessible to emergency vehicles; assure the installation of improvements; help conserve and protect the physical and economic resources of the town; and promote the public health, safety, aesthetics, and general welfare. All subdivision of properties within the town shall at a minimum meet the requirements of this code and chapter 177, F.S.; provided, however, that no subdivider shall be required to plat in the manner provided hereunder or to meet the requirements of this code as a pre-condition to the alienation of real property (*i.e.*, deeding or leasing real property; conveyancing of an easement). Property owners shall be on constructive notice by virtue of the adoption of this code that no development of land shall be permitted on properties proposed to be subdivided after April 1, 2024, unless a plat shall have been approved by the town council and recorded in the public records of the county, all in a manner required by this code.

**[Drafter's Note: See *Kass v. Lewin*, 104 So.2d 572 (Fla. 1958).]**

~~(c) (a)~~ No person shall file for record or cause to be filed for record any plat or map of a subdivision of any tract of land, or portion thereof, located within the town, whereby the tract or portion thereof is shown on the plat or map to be subdivided into lots and blocks, either with or without street rights-of-way, unless the plat or map, before filing for record, shall have been submitted to and approved by the town council. ~~All plats or maps of the subdivision of any tract of land, or portion thereof, submitted to the town council shall be prepared consistent with the regulations in Chapter 177, Florida Statutes.~~

(d) *Conveyance by reference to unapproved plat.* It shall be unlawful to convey property by reference to a plat or map of a subdivision of any tract of land, or portion thereof, located within the town, unless the plat or map: (i) has been previously approved by the town council or other governmental body, and (ii) was recorded in the public records of the county. This provision shall not be interpreted to eliminate the requirement of bonding for improvements not previously made by the time of recording.



(e) Mandatory platting of land for development or redevelopment shall be required if a subdivision is created. Further, no application for a building permit for the construction of a principal building on a subdivided parcel of land shall be granted unless a plat including such parcel of land has been approved by the town and recorded in the official public records of this county subsequent to April 1, 2024. No application for a building permit for the construction of a principal building on a parcel of land proposed to be developed as a townhouse residential unit development of more than two units shall be granted unless a plat including each such townhouse unit has been approved by the town and recorded in the official public records of this county subsequent to April 1, 2024.

SECTION 5. That Section 111-3 of the Code of Ordinances of Indialantic, Florida, is hereby amended to read as follows:

**Sec. 111-3. Platting; Procedure for securing approval of subdivisions.**

(a) Submission of sketch plan and pre-application conference.

(1) Applicants are encouraged, but not required, to have a pre-application meeting with the town manager, so that the town can prepare for an accelerated review procedure. Prior to submission of a preliminary plat application, the subdivider may submit in writing a pre-application notice in the form of a letter with a sketch drawing to the town engineer for the proposed development and may confer with the town manager, the director and the town engineer to become familiar with the regulations affecting the land to be subdivided. This procedure does not require a formal application or fee. The sketch plan so submitted shall be considered by the town manager, as a means of advising the subdivider of the general requirements for development and the preliminary plat and to permit the subdivider to explain the general plan of development and obtain suggestions pertaining to it beneficial to the subdivider and the town.

(2) During the pre-application conference, the town manager is authorized to waive the submittal of certain items set forth in section 111-3(b), or to waive the requirement of a preliminary plat, if determined based on the location, size, condition of the property to be subdivided, and nature of the proposed subdivision such requirement is not necessary. An aggrieved developer or property owner may appeal the decision of the town manager to the town council, if the appeal is filed with the town clerk within ten (10) days of the rendition of the town manager's decision. The appeal shall be de novo, and the standard of review shall be to demonstrate that the town manager made an error in determining not to waive the requirement of the preparation of a preliminary plat. The fee for an appeal may be set by resolution of the town council from time to time.

(b) Submission of preliminary plat. Submission of a preliminary plat, unless

waived by the town manager, shall be a prerequisite to the development of any subdivision. The preliminary plat shall be submitted before the final plat.

(1) *Procedure.* The procedure for obtaining preliminary plat review and approval is as follows:

a. The subdivider shall submit a completed application with all required exhibits as set forth in section 111-3(b)(2) to the town clerk. The application and exhibits shall include:

1. 12 black or blueline prints on paper 24 inches by 36 inches and a digital version of the plan, of the proposed subdivision prepared in accordance with the design standards as set forth in section 111-4. All wording shall be in type that is at least one-tenth of an inch in height.

2. Three preliminary construction plan prints at the same scale of the proposed subdivision prepared in accordance with the specifications and required exhibits as set forth in section 111-5(b)(2).

3. Two signed and sealed surveys by a state registered land surveyor certified to and for reliance by the town.

4. Two signed statements describing the proposed use of the land, and a draft of the subdivision restrictive covenants and a copy of the homeowner's or property owner's association articles of incorporation and bylaw to be applied to the subdivision, if any.

5. Two certified copies of an environmental impact assessment report including a tree survey.

b. *Service charges and cost recovery.*

1. At the time of submission of the preliminary plat, the subdivider shall pay to the town a fee for the cost of administrative processing of the application, as set from time to time by resolution of the town council.

2. In addition to the administrative processing fees collected above, the town will impose a consultant fee for the various costs attributable to the use by the town of outside consultants, such as but not limited to engineer, attorney, planning and zoning, and surveying, for reviewing and processing the preliminary and final plat application request. Such consultant fee(s) shall be equal to the various costs of the consultant time expended and actual expenses. The town will establish a schedule for initial deposits for plat applications. The town will account for the deposit as well as the town's actual costs incurred and may require additional deposits if the initial deposit is exhausted prior to a final decision on the final plat application. The subdivider will be refunded the unexpended balance of the deposit within 60 days of a final plat development order being issued.

3. Any costs or charges associated with the need to re-advertise or re-notice an application shall be borne by the party responsible for the delay which requires a re-notice.

779 4. The town and its outside consultants will maintain  
780 adequate financial records which track monthly charges of hours and expenses to be  
781 charged to the applicant.

782 c. Before acting on the preliminary plat, the director shall receive  
783 written reports from the public works director, the police and fire departments, the town  
784 engineering department, the building division, the town attorney, and such other public  
785 officials or agencies determined to be necessary by the town manager or the director.  
786 Such report or reports shall comment on factors relating to the preliminary and final plat  
787 which bear upon the public interest, consistency of the plat with the comprehensive plan,  
788 and relationship of the plat to town land development regulations. Thereafter, the director  
789 shall consolidate the comments and recommendations and shall make a formal  
790 recommendation of approval, approval with conditions, or denial to the town manager and  
791 the zoning and planning board.

792 d. The zoning and planning board shall review the preliminary  
793 plat and required exhibits to determine its conformity with the comprehensive plan and  
794 these regulations. Upon completing its review, the zoning and planning board shall  
795 recommend to the town council approval, approval subject to conditions, or disapproval  
796 of the preliminary plat. In recommending approval subject to conditions or in  
797 recommending disapproval, the reasons for such action shall be stated in writing and  
798 reference shall be made to the specific sections of this code with which the preliminary  
799 plat does not comply. The subdivider shall be notified of the recommendation.

800 e. The town council shall consider the recommendation of the  
801 zoning and planning board and approve, approve subject to conditions, or disapprove the  
802 preliminary plat. All preliminary plat approvals are conditioned upon the subdivider's  
803 compliance with the requirements of section 111-3(d)3.a., town code.  
804

805 (2) Required exhibits.

806 a. A preliminary plat shall be drawn at a scale of not less than  
807 100 feet to one inch on paper 24 inches by 36 inches, by a state registered surveyor  
808 and/or by a state registered professional engineer, depicting the criteria below and  
809 meeting the standards listed in sections 111-3 and 111-5:

810 1. Boundaries of tract shown with bearings, distance,  
811 closures and bulkhead lines;

812 2. Location, width, and depth of canals and waterways, if  
813 any;

814 3. Names of adjoining subdivisions;

815 4. Zoning classification, both on the land to be developed  
816 and on adjoining lands;

817 5. Proposed street rights-of-way, street names, other  
818 proposed rights-of-way or easements, and their locations, widths, and purposes, if any;

819 6. Proposed lot lines, lot and block numbers (if any), and

approximate dimensions;  
7. Proposed parks, school sites, tracts, parcels, or other  
public open spaces, if any;  
8. Title, date of preparation, date of draft revisions, job or  
project number, true north point, and graphic scale;  
9. Name and address of owner, surveyor, and engineer  
who prepared the plat and surveyed the property;  
10. Total acreage in each tract;  
11. Total acreage in public or other land usage, including  
tracts;  
12. Average lot size;  
13. Total number of lots; and  
14. Building line setbacks.  
15. Current vicinity map showing relationship between  
area proposed for development and the surrounding area.  
b. A survey of the property, including topographic and location  
data drawn at the same scale as the preliminary plat certified to the town for reliance, and  
prepared by a state registered land surveyor showing:  
1. The location of existing property lines, streets,  
buildings, watercourses, transmission lines, sewers, bridges, culverts and drain pipes,  
water mains, water reuse lines, town limit lines, and any public utility easements, if any;  
2. Wooded areas, marshes, wetlands, scrub vegetation  
and any other physical conditions affecting the site; and  
3. Contours and spot elevations based on National  
Geodetic Survey datum with a contour interval of one foot. Contours and spot elevations  
shall extend a minimum distance of 25 feet beyond property lines or a greater distance if  
topographic conditions warrant.  
c. Preliminary construction plans showing and meeting the  
standards in section 111-5.  
1. Existing ground contours at one foot intervals and  
proposed elevation of area proposed for development;  
2. Typical cross sections of proposed grading, streets,  
sidewalks bikeways, and pedways;  
3. Preliminary layout of potable water distribution,  
sanitary and stormwater sewers, and water reuse lines, with grades and sizes indicated  
streets, sidewalks, and pedways; and  
4. Preliminary lot grading plan prepared according to  
town standards and specifications.  
d. Environmental impact assessment.  
  
(c) Construction plan approval.

(1) Construction plans meeting the standards in section 111-5 and technical provisions adopted pursuant to section 111-8 and showing the following:

- a. Water plan (profile required at utility crossings).
- b. Sanitary sewer plan and profile.
- c. Stormwater management study and stormwater management system plan, profile, and sections.
- d. Sidewalks, pedways, and bikeways plans.
- e. Streets plan and profile.
- f. Reuse/reclaimed water plan.
- g. Lot grading plan with lot corner elevations.

(2) Approval of the preliminary plat shall not be construed as authority for filing of the plat with the clerk of the circuit court of this county, nor as authority for the sale of lots in reference thereto. Approval of the preliminary plat shall, however, authorize the subdivider to exercise either of the following options preparatory to submitting the final plat:

a. *Option 1. Complete construction.* Prepare construction plans and specifications for all required improvements which shall meet the approval of the town engineer and this code. After receiving an erosion and sedimentation control permit issued by the town, and receiving written approval of construction plans from the town engineer, a tree removal permit may be considered for issuance by the building department. Upon issuance thereof the subdivider is allowed to install all required improvements, including fill dirt, in accordance with the approved plans and specifications and shall complete the required improvements within 365 days from the date of construction plan approval. Time extensions to complete construction may be granted, if approved by the town engineer. Dependent upon the location of the proposed subdivision, the subdivider may be required to construct sidewalks in accordance with section 111-6(b)(7). The subdivider shall construct the required sidewalk for vacant lots within 365 days from the date of issuance of a certificate of completion of the required subdivision improvements. In the interim, the subdivider shall post a bond, cash escrow, or letter of credit issued by a bank having offices in this state, for sidewalks in the amount of 110 percent (110%) of the cost of construction of said sidewalks, as estimated by the town engineer as a condition of final approval and acceptance of a certificate of completion. The bond, cash escrow, or letter of credit shall satisfy the requirements of section 111-3(d)4.b. The subdivider may periodically reduce the bond amount to account for the units already constructed.

b. *Option 2. Surety for completion of improvements.* Prepare construction plans and specifications for all required improvements which shall meet the approval of the town engineer as described for option 1 and this code and provide a bond or other similar surety, cash escrow, or letter of credit, to guarantee construction and completion of all improvements as provided for in subsection 111-5(d)4.b. The bond/surety, cash escrow, or letter of credit issue by a bank with offices in the state shall

be in the amount of 110 percent (110%) of the construction costs, including fill dirt, as estimated by the town engineer.

No dedicated utility or road work shall be undertaken prior to a pre-construction conference, which shall be scheduled by the town manager in consultation with the town engineer. Regardless of the option exercised, all work shall conform to all town regulations and shall be subject to the inspection and approval of the town manager, who shall be regularly consulted by the subdivider and kept advised by the subdivider of each new phase of work being done. The town engineer, or his designee, shall make regular inspections to assure that the work meets all code requirements.

(d) *Submission of the final plat.* Submission of a final plat shall be required of every subdivider, and no street shall be accepted and maintained by the town, nor shall any permit be issued by any administrative agent or department of the town for the construction of any building upon land on which a plat is required to be approved, unless and until a final plat has been approved by the town council and duly recorded by the clerk of the circuit court of this county.

(1) *Sale of land with reference to unrecorded plats.* Until a final plat is submitted, reviewed by the zoning and planning board, approved by the town council, and recorded by the clerk of the circuit court in the public records of the county, no sale of lots or tracts with reference to said plat shall be consummated, nor shall the town accept any streets or other improvements which are intended to be dedicated to the public.

(2) *Issuance of building permits on unrecorded plat.* No more than one building permit for single-family model home, for a multiple-family building, or for a commercial building may be issued by the building official prior to final plat approval in a proposed subdivision if:

a. A preliminary plat has been approved;  
b. Construction plans have been approved;  
c. The portion of the unrecorded plat on which the building is to be located must meet all requirements of town code, including meeting the definition of a "lot"

d. Improvements have been completed which provide fire service and fire access including a stabilized road and water service to the area where the model will be located; and

e. Any other improvement that the town manager in consultation with the building official or town engineer may deem necessary for safety. No certificate of occupancy (CO) or certificate of completion shall be issued, or any additional permits for construction of residential or commercial units be issued, unless and until: i) a town approved final plat is recorded by the clerk of the circuit court of this county for the section of the project in which the CO is requested; and ii) all subdivision improvements and related requirements have been completed and approved by the town engineer for

the section of the project where the CO is requested.

(3) Final plat approval procedure. The procedure for obtaining final plat approval is as follows:

a. The subdivider shall submit to the town manager an original mylar, one reproducible copy and 12 black or blueline prints of the final plat. Failure to commence construction of site improvements or to file an application for final plat approval within 365 days of the preliminary plat approval or any extension granted by the town council upon written request by the subdivider, shall result in the preliminary plat approval expiring and being automatically terminated.

b. At the time of submission of the final plat, the subdivider shall pay to the town, a fee as prescribed from time to time by resolution of the town council. The final plat shall be properly signed and executed by the subdivider and the subdivider's surveyor.

c. Before the zoning and planning board acts on the final plat, the town engineer will certify compliance with or deviations from, the approved preliminary plat and the requirements of these regulations and that all subdivision improvements shall be or are constructed as provided in option 1 or option 2 as set forth herein above.

d. The zoning and planning board shall review the final plat and required exhibits to determine conformity with the comprehensive plan and the preliminary plat. Upon completing its review, the planning and zoning board shall ensure the applicants have completed all application requirements and recommend to the town council approval, approval subject to conditions, or disapproval of the final plat. In recommending approval subject to conditions or in recommending disapproval, the reasons for such action will be stated in writing and reference shall be made to the specific sections of this code with which the final plat does not comply. The subdivider shall be notified of the recommendations.

e. The town council shall consider the final plat and recommendations of the zoning and planning board and approve, approve subject to conditions, or disapprove the final plat.

f. Action of the town council and the zoning and planning and zoning board shall be noted on the original mylar, the reproducible copy, and on the 11 prints of the final plat. The original mylar and required documents are to be recorded with the clerk of the circuit court of this county. One reproducible copy and 11 prints of the plat and one copy of the recorded subdivision documents shall be retained by the town for administrative records. All fees and documents required by the clerk of the circuit court of this county for the filing and recording of approved final plats and any subdivision documents shall be deposited by the subdivider with the clerk of the circuit court when final approval is received.

(4) Required exhibits. Exhibits a. through f., conforming to the requirements hereinafter set forth, shall be provided by the subdivider at the time of

application for final plat approval.

a. The final plat shall be drawn on a mylar at a scale of not less than 100 feet to the inch, meeting all the platting requirements of the town and state, and shall substantially conform to the preliminary plat as approved. The plat shall be drawn on mylar, as described above, 24 inches wide by 36 inches long at a scale of not less than 100 feet to one inch. A margin of one inch shall be left on the top, bottom and right side of each sheet with a three-inch margin on the left side of each sheet for binding purposes. The final plat shall constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time; provided, however, that such portion conforms to all requirements of this code. All legal documents set forth in section 111-3(d)(4)g. or other documents to be recorded prior to or simultaneous with the final plat shall be submitted to the town prior to or simultaneously with the final plat. The final plat shall be prepared by a surveyor, who shall be qualified by law to prepare plats for recording in the public records of the county, and shall show all of the following information:

1. Each plat shall show the applicable section, township, and range of the property to be platted, and, if a land grant, the plat will so state.

2. The name of the town, county, and state in which the land being platted is situated shall appear under the name of the plat as applicable.

3. Each plat shall show a metes and bounds legal description of the lands subdivided, and the description shall be exactly the same in the title certification required to be submitted by section 111-3(d)(4)c., of this code. The description must be so complete that from it, without reference to the plat, the starting point and boundary can be determined.

4. Vicinity map indicating the location of the subdivision in proximity to arterial and collector streets and adjoining land uses.

5. Name of surveyor/engineer of record with seal, signature, and a date of survey and plat preparation.

6. Title, date, name of the subdivision, true north point, and graphic scale.

7. The circuit court clerk's certificate and the land surveyor's certificate and seal.

8. All section lines and quarter section lines occurring in the map or plat shall be indicated by lines drawn upon the map or plat, with appropriate words and figures. The point of beginning shall be indicated, together with all bearings and distances of the boundary lines. If the platted lands are in a land grant or are not included in the subdivision of governments surveys, then the boundaries are to be defined by metes and bounds and courses. The initial point in the description shall be tied to the nearest government corner or other recorded and well established corner.

9. Location, width, and names of all streets, waterways, or other rights-of-way shall be shown, as applicable.



1025 10. All contiguous properties shall be identified by zoning,  
1026 subdivision title, and plat book and page, or, if unplatted, the land shall be so designated.  
1027 If the subdivision to be platted is a resubdivision of a part or the whole of a previously  
1028 recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the  
1029 earlier plat to permit an overlay to be made; the fact of its being a resubdivision shall be  
1030 stated as a subtitle following the name of the subdivision wherever it appears on the plat.  
1031 11. All lots shall be numbered either by progressively  
1032 higher numbers or, if in blocks, progressively higher numbered in each block, and the  
1033 blocks progressively numbered or lettered, except that blocks in numbered additions or  
1034 phases bearing the same name may be numbered consecutively throughout the several  
1035 additions or phases.  
1036 12. Block corner radii dimensions shall be shown.  
1037 13. Sufficient survey data shall be shown to positively  
1038 describe the bounds of every lot, block, tract, street, easement, and all other areas shown  
1039 on the plat. When any lot or portion of the subdivision is bounded by an irregular line, the  
1040 major portion of that lot or subdivision shall be enclosed by a witness line showing  
1041 complete data, with distances along all lines extended beyond the enclosure to the  
1042 irregular boundary shown with as much certainty as can be determined or as "more or  
1043 less," if variable. Lot, block, street, and all other dimensions except to irregular  
1044 boundaries, shall be shown to a minimum of hundredths of feet. All measurements shall  
1045 refer to horizontal plane and be in accordance with the definition of the U.S. survey foot  
1046 or meter adopted by the National Institute of Standards and Technology.  
1047 14. Curvilinear lots shall show the radii, arc distances, and  
1048 central angles or radii, chord, and chord bearing, or both. Radial lines will be so  
1049 designated. Direction of non-radial lines shall be indicated.  
1050 15. Sufficient angles, bearings, or azimuth to show  
1051 direction of all lines shall be shown, and all bearings, angles, or azimuth shall be shown  
1052 to the nearest second of an arc.  
1053 16. The centerlines of all streets shall be shown with  
1054 distances, angles, bearings or azimuth, "P.C.s," "P.T.s," "P.R.C.s," "P.C.C.s," arc  
1055 distance, central angles, tangents, radii, chord, and chord bearing or azimuth, or both.  
1056 17. Park and recreation parcels as applicable shall be so  
1057 designated.  
1058 18. A certificate of consent and joinder to the plat,  
1059 dedication of lands upon the plat, and recording of the plat executed by any mortgagee  
1060 and lien holder, in form and substance reasonably acceptable to the town attorney.  
1061 19. The purpose of all areas dedicated must be clearly  
1062 indicated or stated on the plat.  
1063 20. When it is not possible to show curve detail information  
1064 on the map, a tabular form may be used.  
1065 21. A note stating that fences are regulated in easements

pursuant to the town code.

22. The plat shall include in a prominent place the following statement: NOTICE: There may be additional restrictions that are not recorded on this plat that may be found in the public records of this county.

23. Location and widths of reservation, easements, tracts, and any areas to be dedicated for public use or sites for other than residential or commercial uses with notes stating their purpose and any limitations.

24. A note stating: All platted public utility easements shall also be easements for the construction, installation, maintenance, and operation of cable television services; provided, however, no such construction, installation, maintenance, and operation of cable television services shall interfere with the facilities and services of an electric, telephone, gas, or other public utility. In the event a cable television company damages the facilities of a public utility, it shall be solely responsible for the damages. This section shall not apply to those private easements granted to or obtained by a particular electric, telephone, gas, or other public utility. Such construction, installation, maintenance, and operation shall comply with the National Electrical Safety Code as adopted by the Florida Public Service Commission.

25. Information and certificates as required by ss. 177.071 and 177.081, F.S.

26. Text dimensions. All text and numerical data shown on the plat must be a minimum of one-tenth inch in height. Details should be added where appropriate. Neatness and clarity on the plat is mandatory.

b. Where the required improvements have not been completed prior to the submission of the final plat, the approval of the plat shall be subject to the subdivider, guaranteeing the installation of said improvements by filing a performance and payment bond executed by a surety company authorized to do business in this state by the state insurance commissioner; cash escrow; tri-party agreement; or a letter of credit issued by a Florida bank or savings and loan association, located in the state and licensed by the federal government or the state comptroller to do business in Florida as a bank or savings and loan association in the amount of 110 percent (110%) of the construction cost, including fill dirt, as determined by the town engineer. The bond instrument may provide that portions of the security may be partially released, proportionate to the work completed on the installation of public improvements, to the subdivider, from time to time, as work progresses; but the amount to be released shall be determined by the town engineer in accordance with the foregoing. All instruments shall be in form and substance satisfactory to and approved by the town attorney.

c. Every plat of a subdivision submitted to the approving agency of the town must be accompanied by a title opinion by an attorney-at-law licensed to practice in the state or a certification by an abstractor or a title insurance company, authorized to do business as such by the Florida Insurance Commissioner, confirming that record title to the land as described and shown on the plat is in the name of the

1107 person or legal entity executing the dedication, if any, as it is shown on the plat and, if the  
1108 plat does not contain a dedication, that the subdivider has record title to the land. The title  
1109 opinion or certification shall also show all mortgages or other liens not satisfied nor  
1110 otherwise terminated by law on the land to be platted and all other encumbrances or  
1111 easements. The title opinion shall be certified to and in favor of the town and the county  
1112 commission and clerk of the circuit court. Said opinion shall be in form and substance  
1113 acceptable to the town attorney. No title opinion shall be more than 90 days old as of the  
1114 date of recording of the final plat. As of the date of recording of the final plat, the  
1115 subdivider shall certify under oath to and for reliance by the town and the clerk of the  
1116 circuit court that there have been no changes in the state of title as depicted on the title  
1117 opinion.

1118 d. Any proposed subdivision within a flood hazard area must  
1119 comply with chapter 107 of the town code. If proposed structure elevations are contingent  
1120 upon a letter of map change as defined by the Federal Emergency Management  
1121 Administration (FEMA), no certificates of occupancy (CO) shall be issued for a structure  
1122 on any platted lot formerly located in FEMA designated flood zone A, AE, AO, AH, V, or  
1123 VE until a map amendment or letter of map revision (LOMR) has been obtained for said  
1124 lot or structure indicating that such structure has been removed from a special flood  
1125 hazard area as acknowledged by FEMA as a result of construction improvements. All lots  
1126 where no change in the status of the special flood hazard area has occurred shall remain  
1127 eligible for building permits; provided, that the lowest floor elevation is elevated 1.33 feet  
1128 above the base flood elevation. No building permit or permit for subdivision  
1129 improvements will be issued until the construction has been approved by the town's  
1130 floodplain administrator pursuant to chapter 107, town code.

1131 e. A stormwater maintenance agreement substantially, in a form  
1132 approved, from time to time, by resolution of the town council specifying the location,  
1133 function, ownership, maintenance responsibility and access responsibilities for the  
1134 stormwater management system consistent with chapter 14, town code, and consistent  
1135 with the requirements of the St. Johns River Water Management District, shall be  
1136 executed by the owner of the properties to be platted and joined in and consented to by  
1137 any mortgagee or lienholder of the aforesaid. The agreement shall be in form and  
1138 substance acceptable to the town attorney and town manager.

1139 f. The subdivider shall submit for review and approval to the  
1140 town manager the documents set forth in this sub-paragraph. These documents shall be  
1141 reviewed by the town attorney. Upon review and approval of the documents, the  
1142 documents shall be recorded with the Florida division of corporations or in the public  
1143 records of this county, simultaneous with the recordation of the final plat:

1144 1. Articles of incorporation for a homeowner's, property  
1145 owner's, or condominium association, if the property to be platted includes more than one  
1146 parcel of property to be platted. The town manager may waive this requirement at the  
1147 time of final plat approval, if there are no private improvements serving more than one lot.

The articles of incorporation shall satisfy all requirements of chapters. 607 or 617, F.S., relating to corporations. The articles of incorporation shall include a provision stating that the town is not required to take title to or to operate any of the improvements in the subdivision upon dissolution of the association. The provision shall also provide that said provision cannot be amended or terminated without consent of the town. Upon approval of the articles of incorporation, they shall be filed with the state secretary of state at the expense of the subdivider. Prior to recording of the final plat, copies of the corporate charter and articles of incorporation marked "Filed" in the secretary of state's office shall be submitted to the town attorney. It is recommended, although not required by the town, that the original corporate charter and articles of incorporation marked "Filed" in the secretary of state's office be recorded in the public records of this county, simultaneous with the recordation of the final plat;

2. Declaration of covenants, conditions, and restrictions for the subdivision, if the property to be platted includes more than one parcel of property to be platted. This document shall include provisions providing: that the covenants shall be covenants running with the land; that the common areas are subject to the jurisdiction of the association incorporated above in sub-paragraph f.1; that the association shall be responsible for maintenance of the common areas; that the association shall have the power to assess the various lots in the subdivision for funds to maintain the common areas; that upon failure to pay said assessments, the association may place a lien against said lots; restrictions on use of portions of the property to be subdivided; and for a method by which the covenants and restrictions may be enforced. The covenants and restrictions shall continue in force for so long as the subdivision may exist. The common areas shall include entry areas for landscaping and display of subdivision related signage, stormwater retention/detention facilities, drainage parcels or easements, recreational areas, and other subdivision related facilities, and may include conservation areas;

3. Deed conveying parcels of the common areas to the association incorporated above in subparagraph f.1. The deed shall be a statutory warranty deed;

4. Easements to the town or public utility for water, sewer, drainage, conservation, or other purposes, whether on- or off-site. No easement shall be conveyed unless requested by the town or the public utility. All easements shall warrant title, that the grantor holds title to the property and has the power to convey title, and that the grantor will defend the town against all claims against the title;

5. Stormwater maintenance agreement substantially conforming to the form approved by the town;

6. Water and sewer agreements required as a condition of construction plan approval;

7. Letter from the St. Johns River Water Management District acknowledging receipt of the documents listed in this subparagraph;

8. Receipt for payment of applicable impact fees, if any;

and

9. Form of infrastructure/construction (maintenance) warranty bond. Upon approval of the form of infrastructure/construction (maintenance) warranty bond, letter of credit, or cash escrow which shall be consummated and filed with the town prior to recordation of the final plat.

The instruments set forth in subparagraphs f.1.-5. shall be joined in and consented to by mortgagees and lienholders of record at the time of recording of the final plat. All documents must be in form and substance acceptable to the town manager and town attorney. All costs for recording, documentary stamp taxes, and other applicable taxes and fees shall be paid by the subdivider.

g. Installation of permanent reference monument and permanent reference points. Upon approval of the final plat by the town council, but prior to the recording of the final plat the subdivider shall cause a registered surveyor to install permanent reference monument (P.R.M.) points. Permanent reference monument points shall be placed in accordance with the following requirements:

1. Subdivision corner tie. At least one corner of the subdivision shall be designated by course and distance (tie) from a readily discernible reference marker, such as a U.S. government marker, section corner or quarter-section corner. When such a monument or station is not available, the tie shall be made to some pertinent and readily recognizable landmark or identifiable point, physical object or structure.

2. Permanent reference monuments. Permanent reference monuments shall be placed at each corner or change in direction on the boundary of the lands being platted; however, "P.R.M.s" need not be set closer than 310 feet (unless the bend is shorter), but shall not be more than 1,400 feet apart. In all cases, there shall be a minimum of four "P.R.M.s" placed on the boundary of the lands being platted. Additional "P.R.M.s" shall be placed by the subdivider where required by the town engineer. Where such corners are in an inaccessible place, "P.R.M.s" shall be set on a nearby offset with the boundary of the plat, and such offset shall be noted on the plat. Where corners are found to coincide with a previously set "P.R.M.," the number on the previously set "P.R.M." shall be shown on the new plat or, if unnumbered, shall so state. Permanent reference monuments shall be set before the recording of the plat, and this will be so stated in the surveyor's certificate on the plat. Such "P.R.M." shall be shown on the plat by an appropriate designation.

3. Permanent control points. "P.C.P.s" shall be set at the intersection of the centerline of the right-of-way at the intersection of all streets, at "P.C.s," "P.T.s," "P.R.C.s" and "P.C.C.s" and no more than 1,000 feet apart, on a tangent, between changes of direction, or along the street right-of-way or block lines at each change in direction, no more than 1,000 feet apart. Such "P.C.P.s" shall be shown on the plat by an appropriate designation. "P.C.P.s" shall be set prior to the expiration of the

bond or other surety or guarantee insuring the installation of subdivision improvements. It is the land surveyor's responsibility to furnish the town engineer with said surveyor's certificate that the "P.C.P.s" have been set and the dates the "P.C.P.s" were set.

4. *Accuracy.* The angular error of closure for surveys shall not exceed 25 seconds times the square root of the number of angles turned. The total error shall be no greater than 40 seconds. The linear error of closure for surveys shall not exceed one foot per 7,500 feet measured on the perimeter (1:7500).

h. *Recording of the final plat.* Within 90 days after the final plat has been approved by the town council, it shall be recorded with the clerk of the circuit court of this county by the applicant, unless such recording within 90 days is prevented by some legal regulation or requirement of the clerk of the circuit court, in which case, the recording shall be accomplished as soon as the subdivider has satisfied such regulation or requirement. If the subdivider fails to satisfy all requirements of approval which are a condition precedent to recording the final plat and fails to record the plat within 90 days following town council approval, the final plat approval shall automatically terminate, unless the foregoing time is extended by the town council for good cause. Filing of a lawsuit or other administrative action within said 90 day period shall automatically stay the aforesaid time period.

(a) Approval. No lot or parcel of property shall be platted or replatted without prior approval of the town council.

(b) Application. An application for platting or replatting may be obtained from the town clerk and shall be completed by the applicant.

(c) Notice of hearing. Upon receipt of the application, the town clerk shall cause a notice of the application and the time and place of the hearing thereon to be published at least fifteen (15) days and not more than thirty (30) days prior to such hearing, in a newspaper of general circulation, and shall post a copy of said notice in the town hall. The town clerk shall also send by certified mail a notice to those persons owning property within the radius of two hundred (200) feet of the property lines affected by the application.

(d) Mailed notice. The mailed notice shall include the following:

(1) That any persons owning property within the said radius above shall have the right to protest the platting or replatting requested.

(2) That protests may be filed in writing in the office of the town clerk not more than ten (10) days after the date the notice was published.

(3) That the person who has timely filed a written protest may be heard at the hearing, giving the time, date, and place of same.

(4) The particulars of the platting application.

(5) That any person desiring to appeal the determination of the town council may need to ensure that a verbatim transcript of the hearing is prepared.

(e) Protests. Prior to the public hearing the town clerk shall forward to the town council the application and any protests filed regarding same.

1271 (f) ~~Costs. The costs incurred by the town for the required publication of notice(s)~~  
1272 ~~and for the required mailing of copies of such notice(s) shall be paid by the applicant~~  
1273 ~~submitting the proposed plat or replat.~~

1274  
1275 SECTION 6. That Section 111-4 of the Code of Ordinances of Indialantic, Florida,  
1276 is hereby amended to read as follows:

1277  
1278 **Sec. 111-4. Construction of new subdivision on unplatted lands.**  
1279

1280 No recording of an approved plat ~~development of a subdivision on or after October~~  
1281 1,2025, shall be undertaken on ~~unplatted~~ land without the recommendation of the zoning  
1282 and planning board and approval of the plat by the town council, all of which is subject to  
1283 these regulations and designed as provided in these regulations.

1284  
1285 SECTION 7. That the Code of Ordinances of Indialantic, Florida, is hereby  
1286 amended by adding a new section, to be numbered section 111-5, which said  
1287 section reads as follows:

1288  
1289 **Sec. 111-5. - Required improvements.**  
1290

1291 (a) Minimum standards of design; plans and drawings. The design of the  
1292 preliminary plat and final construction drawings, shall comply with the requirements  
1293 herein. Approval of the final plat shall be subject to the subdivider's having installed the  
1294 improvements hereinafter designated or having guaranteed, with bond or other surety as  
1295 aforesaid, the installation of the improvements. The town engineer shall be responsible  
1296 for approving all plans and specifications, for the required improvements, assuring  
1297 adequate inspection of construction for compliance with the approved plans and  
1298 specifications and for issuing a certificate of completion upon the acceptable completion  
1299 of the work and installation of the improvements, subject to the required maintenance  
1300 period. All plans shall be prepared by a registered Florida professional engineer, sealed  
1301 by said engineer, and certified to and in favor of the town. All improvements shall be  
1302 constructed by the subdivider and inspected and approved by the town engineer prior to  
1303 acceptance by the town. All construction and inspection shall comply with the  
1304 requirements of the town, state, and federal agencies, including, but not limited to, the  
1305 Florida Department of Environmental Protection, the U.S. Fish and Wildlife Service, the  
1306 Florida Fish and Wildlife Conservation Commission, the Florida Department of  
1307 Transportation, and the Florida Department of Health, all as applicable. Upon completion  
1308 of the streets, stormwater systems, water, sewer, and reclaimed water systems (if any),  
1309 electric, gas, telephone utilities, cable television, and traffic control devices, acceptable to  
1310 the town engineer and town manager, the town engineer may issue a certificate of  
1311 substantial completion. This certificate does not certify completion of all improvements in

the subdivision and is considered as a conditional certificate of completion. After completion of construction of all improvements and preliminary acceptance by the town engineer, the subdivider shall provide reproducible as-built drawings to the town for the purpose of maintaining a permanent record. Said drawings shall be prepared by a Florida registered surveyor and certified by a Florida registered professional engineer, under seal, and certified to and in favor of the town. The certificate of completion shall not be issued until the drawings are delivered to and approved by the town engineer. The certificate of completion shall also signify acceptance of the town of all dedicated improvements.

(b) *Street improvements.* The following requirements shall apply to all streets within the subdivision.

(1) *General requirements.*

a. The location and width of all proposed streets and bridges shall be in conformity with official plans and maps of the town, the comprehensive plan, and the town code.

b. The proposed street layout of subdivisions with public streets shall be integrated with the street system of the surrounding area. Existing streets shall be extended to provide a connection with adjacent compatible developments where platted public rights-of-way or other public streets abut the parcel being considered for subdivision approval. Parcels being developed for subdivision approval adjacent to other vacant parcels shall provide street rights-of-way and street improvements to the boundary of the adjacent parcel providing a future connection to the non-platted parcel if the land use and/or zoning of the adjacent parcel is compatible with the proposed plat. Connections shall be provided as required in section 111-5(b)(4)m. Subdivisions constructed with private streets shall be required to provide street connections to adjacent development to vacant parcels, except that a temporary wall, gate, landscaped barrier, or other acceptable barrier may be permitted between the private street of a subdivision and the vacant parcel. Public pedestrian ways may be permitted, if desired, to provide a connection between subdivisions.

c. Where it is possible to provide for street access to an adjoining property, proposed streets shall be extended, by dedication to the boundary of such property and a temporary turnaround shall be required, unless waived by the town due to public safety or for environmental protection. An easement for the turnaround shall be conveyed to the town in form and substance acceptable to the town manager and town attorney. The easement property shall be free of liens and security interests or consented to and joined in by all lienholders.

d. There shall be no private streets or tracts platted in any subdivision, except where their control is dedicated or conveyed by warranty deed to the homeowners, or property owners, association with rights of use and right of reversion granted to the town under conditions set forth on the deed and stipulated on the final plat. The property shall be free of liens and security interests or the deed shall be consented



to and joined in by all lienholders. The warranty deed shall be in form and substance required by the town manager and town attorney. All private streets shall conform with town standards for design and construction.

e. Auxiliary lanes. Auxiliary lanes refer to acceleration, deceleration, and storage lanes. Developments that generate a.m. or p.m. peak hour traffic that exceeds the following thresholds shall provide the following site related acceleration, deceleration, and storage lanes:

1) If more than 20 left turning vehicles per hour on a two-lane arterial or collector roadway, then left-turn lanes are warranted.

2) If more than 50 right turning vehicles per hour on a two-lane arterial or collector roadway, then right-turn lanes are warranted.

3) If more than 80 right turning vehicles per hour on a four-lane arterial or collector roadway, then a right-turn lane is warranted.

4) If more than 100 right turning vehicles per hour on a six-lane arterial or collector roadway, then a right-turn lane is warranted.

5) If an applicant for a development objects to the requirement for a turn lane, then a traffic analysis shall be submitted per the requirements outlined in the latest edition of the state department of transportation (FDOT) Transportation Technical Manual.

6) A left-turn lane is recommended for any intersection that exceeds 30 vehicles per hour on multi-lane roadways. Exclusive left-turn lanes are identified as a required base on Highway Capacity Manual level of service analysis for multi-lane collector roadways. Two-way continuous left-turn lanes shall be designed as per the FDOT guidelines.

Notwithstanding the above-referenced thresholds, the town engineer will make the final determination whether to require an auxiliary lane in the interest of public safety. Special consideration will be given to commercial areas containing substantial pedestrian traffic, as well as roadways that are maintained by other governmental agencies. There may be cases where it will be desirable to provide room for right-turn deceleration, but an entirely separate deceleration lane is either too difficult to install due to design constraints, or is not reasonable. In such cases, a right-turn curb taper may be provided in accordance with FDOT standards. Right-turn acceleration lanes shall not be provided.

f. The proposed street layout of subdivisions with residential public streets shall be reviewed for conditions which would promote or result in operating speeds greater than the posted speed or which unreasonably attract traffic volumes beyond the immediate street or area streets within or in close proximity to the subdivision. A town or other traffic engineer may require the redesign of the road pattern to address traffic safety issues including the construction of traffic calming measures.

(2) Street names. Proposed streets that are obviously in alignment with other existing and named streets, shall bear the assigned name of the existing streets. In

no case shall the name for a proposed street duplicate or be phonetically similar to existing street names, and the fact that the name is sought to be distinguished only by employing a different designation of the type of public way, such as street, avenue, boulevard, drive, place, court and the like, shall not suffice. Street names shall require the approval of the town engineer, town manger, and the county 911 emergency system. Street name and other regulatory signs including pavement markings and signal systems shall be provided within the subdivision by the subdivider. All traffic control devices shall be in accordance with the most recent edition of the Manual of Uniform Traffic Control Devices (MUTCD).

(3) *Design standards for streets.* The following street design standards shall be considered minimum requirements for rights-of-way within subdivisions and for rights-of-way for all facilities in the town:

a. *Right-of-way widths.* Minimum street right-of-way widths shall be in accordance with the major street plan and shall not be less than the following:

		(feet)
1.	Major arterial	130
2.	Minor arterial	100
3.	Collectors (4 lane and 5 lane)	90
4.	Collectors (3 lane)	66
5.	Collectors (2 lane)	60
6.	Local street	50
7.	Cul-de-sac, radius	50
8.	Marginal access streets	40
9.	Residential traffic circle, radius	57
10.	Alleys	20
11.	Pedways and bikeways	12

b. *Paving.* Road base and paving shall be installed in accordance with the specifications and standards of the town or as approved by the town manager and the town engineer.

c. *Pavement widths.* All street or roadway segments shall be constructed with a single uniform width. Pavement widths measured from back-to-back of curb shall be not less than the following and shall apply to all streets within subdivisions and for all other facilities in the town:

		(feet)
1.	Major arterial (4 lane div.)	84
2.	Major arterial (5 lane)	72
3.	Major arterial (4 lane div.)	64
4.	Collector (5 lane)	72
5.	Collector (4 lane div.)	64
6.	Collector (3 lane)	48

7.	Collector (2 lane)	36
8.	Local street (major)	32
9.	Local street (minor)	28
10.	Cul-de-sac, radius:	
	Less than 300 feet in length	39.5
	Greater than 300 feet in length	42.5
11.	Marginal access streets	24
12.	Traffic circle (one way no parking)	16
13.	Alleys	20
14.	Bikeways and pedways (two way)	8

d. Pavement repairs. Materials for making pavement repairs shall conform to the town's specifications for street construction.

e. Curbs and gutters. Combination curb and gutter shall be installed in accordance with the specifications and standards of the town except for residential alleys.

1. Gutter slopes shall be a minimum of 0.28 percent.  
2. Standard curb and gutter shall be provided on both sides of arterial and collector streets.

3. Miami curb may be permitted on all other streets.

f. Horizontal curves. Where a centerline deflection angle of more than two degrees occurs, a circular curve shall be introduced, having a centerline radius of not less than the following:

	(feet)
1. <u>Arterial streets</u>	<u>300</u>
2. <u>Collector streets</u>	<u>200</u>
3. <u>Residential streets</u>	<u>100</u>
4. <u>Street intersections</u>	<u>55</u>

g. Vertical curves. Vertical curves are required when the algebraic difference of the intersecting grades is equal to or exceeds one percent (1%). The required minimum length for vertical curves shall be as follows: On both sag vertical curves and crest vertical curves, the length required for the site difference shall be based on the designed speed.

h. Minimum grade. Minimum slope for all streets shall be 0.28 percent (.28%). Finished grades shall be approved by the town engineer. Street crowns shall be according to town specifications.

i. Tangents. A tangent of not less than 100 feet in length shall be provided between reverse curves on all collector and major streets.

j. Intersections. Street intersections shall be laid out as follows:

1. Streets shall intersect as nearly as possible at right angles, and no street shall intersect at less than 60 degrees.

2. Intersections with a major arterial shall be at least 800 feet apart measured from centerline to centerline, or meet the minimum separation requirements established by the jurisdiction having authority over the maintenance of the roadway, whichever is greater.

3. Property lines at street intersections shall be rounded with a minimum radius of 25 feet. At an angle of intersection of less than 75 degrees and greater radius may be required.

4. A centerline offset of at least 125 feet shall be provided at street jogs.

5. On any major or minor arterial within 150 feet of its intersection with another major or minor arterial, the right-of-way width shall be increased by 12 feet on both sides to permit proper intersection design. This additional right-of-way shall be dedicated or conveyed as a public right-of-way easement or deeded to the jurisdiction having operational and maintenance authority over the roadway.

k. Cul-de-sac. Permanent dead-end streets shall not exceed 1,000 feet in length, and shall be provided with a turnaround having a right-of-way radius of at least 50 feet and with a paving radius of at least 42.5 feet. Culs-de-sac less than 300 feet in length may provide a paved circular turn around of 79 feet in diameter measured back-of-curb to back-of-curb. However, no parking shall be permitted in culs-de-sac with less than an 85-foot paved surface diameter. Temporary dead-end streets shall be constructed with a turnaround radius of at least 39.5 feet. Temporary turnarounds shall be constructed in accordance with the town's specifications and provided by executing a cul-de-sac agreement pursuant to section 111-5 of the town code.

l. Alleys. Alleys shall be provided to the rear of all lots used for other than residential purposes, unless other provisions are made for service access and are approved by the town council. Alleys in residential blocks must be recommended by the zoning and planning board and approved by the town council. All alleys shall be constructed in accordance with town specifications and standards.

m. Blocks. The maximum and minimum lengths and widths of blocks shall be as follows:

1. Length. Blocks shall not exceed 1,500 feet nor be less than 500 feet.

2. Nonresidential blocks. Such blocks shall require a length sufficient to serve the intended use without adversely affecting traffic circulation of existing or proposed surrounding streets. The width shall be sufficient to provide adequate service areas and parking without requiring excessive points of ingress and egress on abutting streets, and without requiring vehicular maneuvering on public right-of-way. Lots within such blocks shall require a common vehicular access easement dedicated to the use, maintenance and benefit of all lots within the block, or a marginal

access street shall be provided, to prevent points of ingress and egress from each lot to the abutting street.

n. *Traffic calming measures required.* When in the opinion of the town engineer, the design of the street system within a subdivision could likely create the potential for excessive speeds or excessive traffic volumes due to restrictive or hindered design options available to develop a subdivision, the town engineer is authorized to require the construction of traffic calming measures within the street system of the subdivision as a condition of preliminary plat review and approval and subdivision construction plan review and approval.

(4) *Right-of-way landscaping.* All unpaved areas, and above ground utility facility locations within street rights-of-way shall be properly treated with top soil, sprigged, and maintained until growth is relatively permanent. The plan for such landscaping shall be in conformance with currently approved standards of the town, and the design for landscaping at intersections adopted by FDOT, Roadway and Traffic Design Standards, Index No. 546 with most current revisions. Landscaped islands or medians may be permitted within the right-of-way of all subdivisions including entrances. These islands shall be designated on the plat and in the subdivision covenants, conditions, and restrictions or stormwater maintenance agreement, as separate tracts to be maintained by an incorporated homeowners' or property owners' association having an enforceable right of assessment for maintenance purposes. The tracts shall at the time of recordation of the final plat in the public records be conveyed by warranty deed to the homeowners' or property owners' association. The islands shall meet applicable town landscaping requirements. Subdivision identification signs may be constructed consistent with town standards and town custom, gatehouses, guard stations, and other such structures, if any, constructed at the entrances of subdivisions or other commercial or residential developments, shall be placed so that a minimum of 20 feet of horizontal clearance is maintained for both access drives or travel lanes. Such structures shall not obstruct sight distance at intersections and shall be setback at least ten feet from the pavement edge of the public street intersecting the subdivision entry streets. Such structures shall be provided and constructed in platted tracts.

(5) *Sidewalks.* As a condition of the issuance of a building permit for any construction project, the town may require the subdivider or developer to construct a sidewalk, if required by the town, along the subdivider/developer's street frontage at the time of development.

a. Unless waived by the town manager or the town council, all development, including subdivisions, shall provide sidewalks adjacent to the roadway on which the subdivision or development fronts. Unless waived by the town council, sidewalks shall also be provided on both sides of all arterials, collectors, local streets, and marginal access streets located within a subdivision, or on streets abutting the subdivision, unless otherwise provided in this code or in the town comprehensive plan.

b. All sidewalks shall be placed within a right-of-way if possible.

Whenever this is not possible, sidewalks shall be provided through the creation of easements conveyed to the town.

c. Location and width. All sidewalks shall be placed as far from the roadway as practical and shall be free of all obstructions. The location criteria established in the "FDOT Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways" should be followed. If a sidewalk must be placed immediately adjacent to the curb, a wider sidewalk shall be required. Sidewalks along arterial and collector streets shall be a minimum of five feet in width. Sidewalks no less than four feet in width shall be required along both sides of local residential streets, unless waived by the town.

d. Unless waived by the town council or the town manager, the owner/subdivider shall be responsible for constructing sidewalks in common areas, including tracts, and such sidewalks shall be installed prior to the final inspection of the subdivision improvements for the issuance of a certificate of completion. Each sidewalk shall extend to a curb cut at all street intersections which provides access connections to the sidewalk from the street. All access connections shall provide Americans with Disabilities Act handicapped accessible ramps consistent with requirements to implement the Americans with Disabilities Act, 42 USC §12101 et seq. All sidewalks shall be constructed in accordance with the provisions set forth in town standards or as provided by FDOT.

(c) Utilities. Sanitary sewer, water distribution, and reclaimed water systems shall be designed in accordance with requirements of the utility provider to the specifications and standards in effect at the time of construction plan submittal, and the systems shall be installed by the subdivider and subject to town approval. The number and location of fire hydrants and the size of water mains supplying the hydrants shall be reviewed by the town fire chief and subject to approval by the town engineer. In residential subdivisions developed after January 1, 2021, utility service connections to individual properties of electric, telephone, gas, and cable television communication shall be placed underground. All utilities shall be installed within rights-of-way, tracts with utility easements, or within utility easements designated on the plat.

(1) Utility easements. Utility easements shall be provided for all lots as follows:

a. Width of easements. All lots in subdivisions platted after January 1, 2021, shall have a minimum of a ten-foot wide easement along the front lot line parallel to the street for public utilities and all lots, except those utilizing zero lot line construction, shall have a minimum of a 7.5-foot wide easement centered on common side and rear lot lines. Utility easements to be used for storm sewer, sanitary sewer, or for water lines and water reuse lines six inches or greater in diameter, centered on common lot lines shall be a minimum of 20 feet wide. Other easements in subdivisions platted after January 1, 2021, desired by the subdivider for access, or for the installation of gas mains,

reclaimed water lines and water lines less than six inches in diameter, telephone lines, electric service lines and conduits, and cable television lines shall be a minimum of ten feet wide centered on the side and/or rear lot line and meet the requirements of this code.

b. Structures. Structures or other obstructions not pertaining to public utilities or public sidewalks shall not be located in any utility easements; provided that fences or walls may be installed but may be removed by the town or the utility provider. Neither the town nor the utility provider shall be required at its expense to re-install or erect such fences or walls removed.

(2) Oversized utility facilities. The town or the utility provider may participate in the cost of facilities and improvements which must be designed to serve more extensive areas than the subdivision, if in the opinion of the town council, an unnecessary burden would be imposed on the subdivider.

(3) Luminaries. Luminaries including street lights shall be installed within the street rights-of-way and shall conform to the latest state or town approved edition of the National Electrical Code and any applicable FDOT or town design standards in effect at the time of construction plan approval for residential development or commercial development, depending on the type of subdivision. All street light utility systems shall be provided with minimum separation and shall be designed to reduce glare on non-public property. Street light locations shall be approved by the town engineer. Luminaries shall be provided throughout the subdivision upon issuance of a certificate of completion. Luminaries shall be placed no closer than 300 feet to one another, except in cul-de-sacs or as determined by the town engineer during construction plan review. For the purposes of providing uniformity in street lighting standards, street lights may be installed in strategic areas in the subdivision prior to issuance of a certificate of completion. Street lights situated on rights-of-way or easements shall be maintained free from vegetation and/or other obstructions that may block, deflect or redirect light patterns, or potentially interfere with street light operation or maintenance of cause a fire.

(d) Stormwater management.

(1) A complete stormwater maintenance system plan, in conformance with chapter 14 of the town code and meeting the minimum or greater requirements of regulations of the St. Johns River Water Management District, shall be provided for all areas of the subdivision for conveying and storing stormwater runoff within or across the subdivision lands. All drainage improvements shall be installed in accordance with the town approved stormwater maintenance system plan and all specifications and standards of the town and meeting the minimum or greater requirements of regulations of the St. Johns River Water Management District, and shall be platted as tracts or parcels for treatment facilities, and shall include necessary easements for conveyance.

1603                   (2)    The provisions of the plan shall meet the following general  
1604 requirements:

1605                   a.    All proposed stormwater management systems shall be  
1606 designed to not create flood, safety or health hazards, or increase the net loading of  
1607 TN, TP or sediment to the receiving waters.

1608                   b.    All stormwater management systems shall be designed to  
1609 enhance groundwater recharge while reducing pollution. However, in an area  
1610 designated as groundwater recharge area, the developer shall limit runoff from the  
1611 proposed site to the greatest practicable extent. In addition, the town engineer, while  
1612 enforcing standards set for pollution and sedimentation control, may encourage or  
1613 request innovative approaches to achieve the above-stated purpose.

1614                   c.    Concurrent control of erosion, sedimentation, water  
1615 pollution and flooding shall be mandatory.

1616                   d.    The name and address of the maintenance agencies,  
1617 property or homeowners association, or legal entity, providing for continuous proper  
1618 maintenance and operation.

1619                   e.    Documentation sufficient to demonstrate that the  
1620 maintenance agency is the legal entity empowered and obligated to perpetually  
1621 maintain the stormwater management systems.

1622                   f.    A written description of the methods to be used to maintain  
1623 stormwater management systems sufficiently to comply with the standards as provided  
1624 by this sub-section (d) and as may be required by chapter 14 of the town code.

1626                   (3)    Stormwater management plans shall be approved by the town  
1627 engineer when it can be demonstrated that the proposed development activity has been  
1628 planned, designed and will be constructed and maintained to meet each of the following  
1629 performance standards:

1630                   a.    The installed system required by this sub-section (d) shall  
1631 be maintained by the legal entity responsible for maintenance.

1632                   b.    The town engineer shall approve a written maintenance  
1633 plan upon a finding that the plan meets the terms of this article. The approved  
1634 construction and maintenance plans shall become a part of the maintenance plan.

1635                   c.    The stormwater management system to be maintained by  
1636 the legal entity shall have adequate easements to permit the town to inspect, and, if  
1637 necessary, to take corrective action should the legal entity fail to maintain the system  
1638 properly.

1639                   d.    If inspection reveals that the legal entity is not maintaining  
1640 the stormwater management system in accordance with this section, the code  
1641 enforcement division shall give the legal entity written notice of the corrective action



required to be taken. Should the legal entity fail, within 30 days of the notice, to complete such corrective action, the town may enter upon the property, take the necessary corrective action, and file a lien upon the properties responsible for the maintenance of the stormwater system for the cost of such action.

e. The town may, but shall not be obligated to, enter at any time, with or without notice, in an emergency to maintain the system. In the event an emergency situation is determined to exist by the code enforcement official after consulting with the town engineer, which endangers persons and/or property, the town may take corrective action. Any town actions and costs incurred may be recovered by the placement of a lien on the properties responsible for the maintenance of the stormwater system.

f. The legal entity shall execute and record a document acceptable to the town attorney and town manager, which defines its authority and responsibility for maintenance of the stormwater management system, defines how the maintenance is to be performed, and provides a legal mechanism assuring the perpetuation of the maintenance.

g. Maintenance of stormwater facilities shall include the performance of the system as originally designed and permitted by the town and/or appropriate governmental agencies and as stated in the written plan.

h. Maintenance shall include compliance with town building and construction codes, town nuisance codes, and other applicable town codes.

(4) Upon approval and execution of the plan into a binding stormwater maintenance agreement, the agreement shall be recorded in the public records of the county. The agreement shall be joined in and consented to by any mortgage, lien, or security interest holder of property, any portion of which is to be encumbered by the agreement. All town costs of the preparation of the agreement and recording thereof shall be paid by the subdivider.

(e) *Bulkheads.* Bulkheads, if any, shall be designed by a registered state professional engineer and constructed along the waterfront perimeter of all landfills, one foot within the property line. The top of the bulkheads shall be not less than three feet above mean sea level. Construction shall meet town specifications and standards.

(f) *Concurrency; Parks and open space in platted subdivisions.* Standards shall be as set forth in the town code, if any, shall be adhered to by subdividers.

(g) *Lots.* All lots shall front upon a public or private street paved to town or FDOT specifications. Double-frontage lots, except for corner lots, are to be avoided if possible. Where land is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow for the opening of future streets and logical

further subdivision. The size, shape and orientation of nonresidential lots shall be appropriate for the type of development and use contemplated. All lots and lot dimensions shall comply with the requirements of the town zoning ordinance as to width, depth and area. In addition, the following requirements shall apply to residential lots:

(1) Width. All lots fronting on a curve shall have a minimum width at the front lot line meeting town approved requirements. If no requirement exists, the requirement shall be as designated by the town engineer, using town standards as a guide.

(2) Orientation. Side lot lines shall be substantially at right angles or radial to street lines.

(3) Building lines. The minimum setback from property lines shall be as required by the town land development regulations.

(h) Special buffers for residential subdivisions. Where a residential subdivision borders on or contains a collector or an arterial street, an opaque buffer screen of decorative masonry, or a landscaped berm with plant materials, shall be required in the design. Such buffers shall be provided with an easement in favor of the homeowners' or property owners' association on the platted lots or within a tract to be owned and maintained by the homeowners' or property owners' association. The buffer easement width shall be a minimum of five (5) feet wide and may contain a wall or landscaped area and/or berm. When an easement is provided, the area of the easement shall be considered a side or rear yard where applicable.

SECTION 8. That the Code of Ordinances of Indialantic, Florida, is hereby amended by adding a new section, to be numbered section 111-6, which said section reads as follows:

**Sec.111-6. – Subdivision variances.**

(a) The town council may authorize a variance to the extent that these regulations are inconsistent with the town comprehensive plan, as amended from time to time. Alternatively, a variance from this code may be granted, if the subdivider demonstrates by a preponderance of the evidence that:

(1) There are circumstances or conditions affecting the property which are such that the strict application of the provisions of this code would substantially limit the applicant in the reasonable use of his land;

(2) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner;

(3) That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated;

(4) Compliance with the requirements in this code causes a practical difficulty; and

(5) Approval of the variance is consistent with the town comprehensive plan.

(b) In granting any variance, the town council shall prescribe only conditions that it deems necessary to or desirable for the public interest. In making its findings as required herein below, the town council shall take into account the nature of the proposed use of the land and the existing use of the land in the vicinity.

(c) Application for any such variance shall be submitted in writing by the subdivider to the town manager for review by the director and town engineer and reviewed by the zoning and planning board at the time the preliminary plat is considered. The petition shall state fully the grounds for the application and all the facts relied upon by the subdivider. All such applications shall be considered and studied by the zoning and planning board who shall make written recommendations to the town council concerning such application, which recommendations shall become a part of the final record of the town in connection with said application. In considering such application, the zoning and planning board shall use the criteria set forth in subsection (a) of this section.

SECTION 9. That the Code of Ordinances of Indialantic, Florida, is hereby amended by adding a new section, to be numbered section 111-7, which said section reads as follows:

**Sec. 111-7. - Amendments; interpretations.**

(a) Amendments. The town council shall from time to time on its own motion, or on recommendation of the zoning and planning board or any other department or agency of the town, amend, supplement, or repeal the regulations and provisions of this code to ensure consistency with federal, state, and local law.

(b) Interpretation.

(1) Town manager to interpret. All questions of interpretation relating to this subdivision code and any regulations promulgated pursuant hereto shall be first presented to the town manager. Interpretations of this subdivision code may include, but shall not be limited to, ascertaining the meaning and application of words, terms, and provisions herein and regulations promulgated pursuant hereto.

a. In interpreting this code and the regulations promulgated pursuant hereto, the town manager shall consult with the town attorney and, as appropriate, the director, building official, or the town engineer. In making an interpretation, the town manager shall be guided first by the plain meaning of the word and terms in this code and the implementing regulations and second by the intent expressed herein, if any. The town manager shall make interpretations by interpreting the

town code and its implementing regulations as a whole and not by taking specific words or clauses in isolation.

b. Interpretation of the provisions of this subdivision code and its implementing regulations shall be made in writing, shall state the code provision or regulation being interpreted, the interpretation made, the basis for the interpretation, and advise the recipient that appeals may be taken to the town council. The time within which an appeal must be taken and the manner of filing an appeal shall also be included within the director's letter of interpretation.

c. After the town manager interprets the code or implementing regulation, copies of the interpretation shall be promptly distributed to the party seeking the interpretation, the town engineer, building official, the director, and the town clerk. Upon receipt of the letter of interpretation, the town clerk, or said clerk's designee, shall promptly log on the letter of interpretation the date that the letter of interpretation was filed in the clerk's office. This date is the date of rendition of the interpretation. The town clerk shall keep an index of letters of interpretation indexed by code or implementing regulation section.

d. The town council shall have the authority to hear and decide appeals from the decision of the town manager, where it is alleged that there is an error in any decision or determination made by the town manager in interpreting this chapter.

(2) Hearings; appeals; notice.

a. Appeals to the town council may be taken by any person aggrieved by any decision of the town manager in the interpretation of any portion of this chapter. A person aggrieved by an interpretation of the town manager is an individual who is affected in a manner differently than the community as a whole or greater in degree than the community as a whole.

b. A fee for the filing of the appeal may be charged, as set from time to time by resolution of the town council.

b. Such appeal must be initiated, if at all, within a reasonable time not to exceed 30 days following the date of rendition of the interpretation by filing with the town clerk a notice of appeal. The notice of appeal shall specify the section or subsection of the subdivision code or regulation involved, and the interpretation appealed from. The notice of appeal shall also briefly state the grounds upon which the appeal is based.

c. Upon the filing of the notice of appeal, the town clerk shall note the date of filing of the appeal, collect any fees for the appeal, fix a time for hearing of the appeal, and give public notice thereof. Copies of the interpretation and any supporting information shall be forwarded to the town council and shall automatically comprise a part of the record of the proceedings.

d. At the hearing, the town manager, town engineer, building official, director, or aggrieved person may appear in person and be heard by the town council.

e. Decisions of the town manager shall be made in the form of a final order, which shall be filed with the town clerk. The written order shall include the date that the order was filed in the records of the town clerk.

(3) Stay of proceeding. An appeal stays all proceedings in furtherance of the action appealed from, unless the town manager certifies to the town council after the notice of appeal is filed, that by reason of facts stated in the notice of appeal, a stay would, in said individual's opinion, cause imminent peril to life and property. In such cases proceedings shall not be stayed other than by a restraining order which may be granted by the town council or by a court of competent jurisdiction on application.

SECTION 10. That the Code of Ordinances of Indialantic, Florida, is hereby amended by adding a new section, to be numbered section 111-8, which said section reads as follows:

**Sec. 111-8. - Technical specifications and standards.**

(a) The town manager, public works director, and the town engineer may create technical specifications and standards implementing this code controlling construction practices and materials and any policies applicable, all at the direction of the town council or the town manager.

(b) Technical specifications that may be adopted by resolution pursuant to this section to implement this code include:

- (1) Street design specifications.
- (2) Water system specifications.
- (3) Sewer system specifications.
- (4) Stormwater system specifications.
- (5) Landscaping specifications.
- (6) Sidewalk and bike path specifications.
- (7) Illumination specifications.
- (8) Thoroughfare plan.
- (9) Lift station specifications.
- (10) Reclaimed water system specifications.
- (11) Cross connection control manual.
- (12) Driveway specifications.
- (13) As-built drawing requirements.

SECTION 11. Severability Clause/Interpretation.

(a) In the event that any term, provision, clause, sentence or section of this Ordinance shall be held by a court of competent jurisdiction to be partially or wholly

unenforceable or invalid for any reason whatsoever, any such invalidity, illegality, or unenforceability shall not affect any of the other or remaining terms, provisions, clauses, sentences, or sections of this Ordinance, and this Ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

(b) That in interpreting this Ordinance, underlined words indicate additions to existing text, and ~~stricken through~~ words include deletions from existing text. Asterisks (\* \* \* \*) indicate a deletion from the Ordinance of text, which exists in the Code of Ordinances. It is intended that the text in the Code of Ordinances denoted by the asterisks and not set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this Ordinance.

SECTION 12. Effective Date. This Ordinance shall be effective upon adoption.

PASSED by the Town Council of the Town of Indialantic on first reading on the \_\_\_\_ day of \_\_\_\_\_, 2024, and ADOPTED by the Town Council of the Town of Indialantic, Florida on final reading on the \_\_\_\_ day of \_\_\_\_\_, 2024.

TOWN OF INDIALANTIC

\_\_\_\_\_  
Mark McDermott  
Mayor

ATTEST: \_\_\_\_\_  
Mollie Carr, Town Clerk



## MEMORANDUM

TO: Zoning & Planning Board Chairman and Members

FROM: Paul Gougelman, Town Attorney

SUBJECT: Zoning for Townhouses

DATE: November 28, 2023

Over the past few years, the most popular form of new development in the Town has been townhouse development. There are several reasons for this, including:

- 1) The single-family residential areas have been almost completely developed; and
- 2) The cost of new housing beachside has sky-rocketed due to the beach areas being almost completely developed and the desirability of beachside living;

As a result, the new residential development trend in the Town has been toward multifamily development, and the trend of multi-family development has been toward townhouses. There are several reasons for this. For one, townhouses do not have to be condominium. They can be separate deeded subject to ownership in much the same fashion of single-family homes. For another reason, condominium development has taken on a negative view in the minds of some consumers due to state regulation, condominium association abuse and corruption especially in South Florida, and recent problems with condominium building maintenance such as the building collapse in Surfside, Florida. A final reason for the trend toward townhouse development is for deed multi-family residences, it allows for developers to maximum the number of units on a lot without going for the condominium form of ownership.

Consequently, the Town Manager and I have asked the Town Planner, Jim LaRue, to develop some minimal standards to regulate townhouse development. The attached ordinance does the following:

- 1) Provides for townhouse development in the R-3, R-P, and T zoning districts;
  - 2) Provides that the maximum density in the R-P and R-3 districts will be 15 units an acre, which it is doubtful can be achieved with townhouse development as provided for in this ordinance. In the T zoning district, the maximum density permitted will be 20 units per acre, because the T zoning district is in a high density land use category permitting at least 15 units per acre;
  - 3) Provides a minimum average of 2,000 square feet per unit, similar to a small residence;
  - 4) Provides uniform standards for front and rear yards that conform to the standards for other residence in the particular zoning district;
-

- 5) Provides a cap of 35 feet or three stories in building height in the T zoning district consistent with the town maximum height and a cap of 30 feet or two stories in building height in the R-3 and R-P zoning district, which is consistent with the standards for that zoning district; and
- 6) Requires that all new townhouse units will be platted for ease of conveyancing, the unit boundary lines of which form the boundary lines of the plat lot.

The Zoning and Planning Board is being asked to recommend approval to the Town Council, together with any other comments. In addition, the Board is being asked to find the ordinance consistent with the Town's Comprehensive Plan and in the promotion of the public health, safety, welfare, economic order, and aesthetics, all for reasons set forth in the recitals to the Ordinance.

At your hearing, we will ask Mr. LaRue to attend if only by telephone.

PRG/mb

pc: Mike Casey, Town Manager  
Cliff Stokes, Building Official  
Jim LaRue, Town Planner



## Memorandum

**To:** Zoning and Planning Board  
**From:** James G. LaRue, FAICP  
**Date:** January 8, 2024  
**Subject:** Planning Consistency Review of Ordinance No. 2024-03

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The Zoning and Planning Board will be asked to review Ordinance No. 2024-03, (setting standards for approving townhouse residential units in the R-3, T and R-P Zoning Districts). The Board will determine consistency of the ordinance with the Town's Comprehensive Plan and Code Section 17-37 (duties of Zoning and Planning Board). Providing townhouse development regulations governing setbacks, density, and minimum lot size, will make efficient, economical, and aesthetically pleasing use of the land, while preserving the compatibility of the surrounding area.

Our Comprehensive Plan contains the following Goals, Objectives and Policies that are pertinent to a determination of Plan consistency by the Zoning and Planning Board.

### Future Land Use Element:

**Goal 1:** Maintain and perpetuate the primarily low density residential character of the Town with all other uses of land being secondary in nature while at the same time providing for commercial and professional areas to meet the needs of the residents.

**Policy 1.1:** Adopt new regulations or implement existing land development regulations that will contain specific and detailed provisions necessary to implement the Comprehensive Plan, and which as a minimum:

- a. Regulate the subdivision of land if necessary. (The entire Town is already platted.)
- b. Regulate the use of land and water consistent with this Element and ensure that land uses are compatible with adjacent land uses in the County and the Town of Melbourne Beach.
- c. Regulate areas subject to seasonal and periodic flooding and provide for drainage and stormwater management.
- d. Regulate signage and ensure safe and convenient on-site traffic flow and vehicular parking needs.
- e. Protect aquifer recharge areas. (There are no potable water wellfields in the Town.)
- f. Protect environmentally sensitive areas adjacent to the Indian River Lagoon and the Atlantic Ocean.

g. Provide that development orders and permits will not be issued which result in a reduction of the level of services for the affected public facilities below the level of service standards adopted in this Plan.

h. Regulate the development of single-family residential lots .

**Policy 1.2:** Land development regulations adopted to implement the Plan will be based on and be consistent with the following standards for residential densities:

low density - 0 to 4 units per acre;

medium density - greater than 4 up to 15 units per acre;

high density - greater than 15 up to 20 units per acre.

**Policy 1.5:** Maintain the existing zoning pattern which protects the single family areas from the encroachment of incompatible uses and which provides for a mix of residential and non-residential use consistent with the low density residential character of the Town.

**Objective 7:**

Encourage the use of innovative land development regulations.

**Housing Element:**

**Goal 1:** Ensure that the current housing stock is maintained in standard condition, that infill housing is compatible with existing housing, and that there is the opportunity for affordable housing to all income levels.

**Objective 1:**

Encourage the provision of adequate and affordable housing sites for all income groups and ensure that the housing supply meets the needs of existing and anticipated population based upon the DCA Affordable Housing Needs Assessment.

This ordinance strives for the balance of supporting the medium density residential character within the Town while perpetuating the residential fabric of Indialantic with all other uses being secondary in nature. The above policies support the townhouse regulations being consistent and compatible with the Town's Comprehensive Plan.

In reference to Section 17-37 (3)(A) even though an absence of this legislation would not endanger or harm the public health, welfare, economic order, aesthetics, safety or public interests of the Town, this ordinance will promote these important concerns of the Town.

From the above discussion, there seems to be enough evidence that the Zoning and Planning Board will be able to give a recommendation of approval to the Council for Ordinance No. 2024-03, because it is consistent both with the review factors of Section 17-37 (3) and the Town Comprehensive Plan. If there are any questions at the meeting, staff or the attorney will be present to answer them.

# ORDINANCE NO. 2024-03

**AN ORDINANCE OF THE TOWN OF INDIALANTIC, BREVARD COUNTY, FLORIDA, RELATING TO THE ZONING CODE; MAKING FINDINGS; AMENDING SECTIONS 113-4, 113-334, 113-335, AND 113-337, TOWN CODE OF ORDINANCES, TO PROVIDE FOR TOWNHOUSE RESIDENTIAL UNIT DEVELOPMENT WITHIN THE R-3, R-P, AND T ZONING DISTRICTS; DEFINING "TOWNHOUSE RESIDENTIAL UNIT;" SETTING STANDARDS; PROVIDING A SEVERABILITY/ INTERPRETATION CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the Town Council desires to consider setting zoning standards for townhouse residential units in the R-3, T, and R-P zoning districts; and

WHEREAS, the Town Council finds it to be in the public interest to define the terms “townhouse” or “townhouse residential unit”; and

WHEREAS, pursuant to Section 113-65 of the Town Code of Ordinances, the Zoning and Planning Board has examined this Ordinance, and has reported its findings to the Town Council; and

WHEREAS, based in part on the report of the Zoning and Planning Board, the Town Council finds that the absence of this regulation would not endanger or harm the public health, welfare, economic order, aesthetics, safety, or public interest of the Town, given that this Ordinance sets minimal standards for certain types of multi-family residential housing; and

WHEREAS, this Ordinance will promote the public health, welfare, economic order, aesthetics, safety, or public interest of the Town for the following reasons:

\* Minimal standards are set for yard size for townhouse residential units to provide an environment similar to that of other residential dwelling units within the Town; and

\* This Ordinance sets minimal dwelling size square footage for townhouse residential units providing for improved habitability; and

WHEREAS, based in part on the report of the Zoning and Planning Board, the Town Council finds that there is a reasonable relationship between the exercise of the police power of the Town and the protection of the public health, welfare, economic order, aesthetics, safety, or public interest included within this Ordinance; and

WHEREAS, pursuant to Section 113-65 of the Town Code of Ordinances, the Zoning and Planning Board has examined this Ordinance and reported its findings to the Town Council; and

WHEREAS, based in part on the report of the Zoning and Planning Board, the Town Council has examined this Ordinance, and finds that the Ordinance is being adopted to allow some flexibility for the development of design and width of townhouse residential units; and

WHEREAS, pursuant to Section 163.3174(4), Florida Statutes, and Section 113-65 of the Town Code of Ordinances, the Zoning and Planning Board, sitting as the Local Planning Agency, has examined this Ordinance and reported its findings to the Town Council with regard to consistency of the Ordinance with the Comprehensive Plan; and

WHEREAS, Goal 1 of the Future Land Use Element of the Town Comprehensive Plan states:

Goal 1: Maintain and perpetuate the primarily low density residential character of the Town with all other uses of land being secondary in nature while at the same time providing for commercial and professional areas to meet the needs of the residents.

WHEREAS, the Zoning and Planning Board finds that this Ordinance is consistent with Goal 1 of the Future Land Use Element, because this Ordinance, while supporting medium density development, will maintain and perpetuate the residential character of the Town with all other uses of land being secondary in nature; and

WHEREAS, the Zoning and Planning Board finds that this Ordinance is consistent with Goal 1 of the Future Land Use Element, because this Ordinance will maintain compatibility of development with nearby development patterns; and

WHEREAS, Policies 1.2 and 1.5 of the Future Land Use Element of the Town Comprehensive Plan state:

Policy 1.2: Land development regulations adopted to implement the Plan will be based on and be consistent with the following standards for residential densities: low density - 0 to 4 units per acre; medium density - greater than 4 up to 15 units per acre; high density - greater than 15 up to 20 units per acre.

Policy 1.5: Maintain the existing zoning pattern which protects the single family areas from the encroachment of incompatible uses and which provides for a mix of residential and non-residential use consistent with the low density residential character of the Town; and

WHEREAS, the Zoning and Planning Board finds that this Ordinance is consistent with Policies 1.2 and 1.5 of the Future Land Use Element, because this Ordinance supports medium density development within areas of the town land use planned in the comprehensive plan for medium density and will perpetuate the residential character of the Town with all other uses of land being secondary in nature; and

WHEREAS, Objective 7 of the Future Land Use Element of the Town Comprehensive Plan states:

Objective 7: Encourage the use of innovative land development regulations; and

WHEREAS, the Zoning and Planning Board finds that this Ordinance is consistent with Objective 7 of the Future Land Use Element, because this Ordinance provides flexible development standards for a type of development, that of townhouses, previously not provided for in the Town's zoning code; and

WHEREAS, Goal 1 of the Housing Element of the Town Comprehensive Plan state:

Goal 1: Ensure that the current housing stock is maintained in standard condition, that infill housing is compatible with existing housing, and that there is the opportunity for affordable housing to all income levels.

WHEREAS, the Zoning and Planning Board finds that this Ordinance is consistent with Goal 1 and Objective 1 of the Housing Element, because this Ordinance supports improvement of the medium density housing stock by providing for an alternative form of multi-family development; and

WHEREAS, the Zoning and Planning Board has found, and the Town Council finds, that this Ordinance in all manner is consistent with the Town's Comprehensive Plan; and

WHEREAS, the Town Council finds this Ordinance to be in the best interests of the Town and promote the public health, safety, welfare, and aesthetics of the Town.

BE IT ENACTED BY THE TOWN OF INDIALANTIC, FLORIDA:

SECTION 1. Recitals. Each and all of the foregoing recitals ("WHEREAS" clauses) be and the same are hereby incorporated herein as if specifically set forth in this Section.

SECTION 2. That Section 113-4 of the Code of Ordinances of Indialantic, Florida, is hereby amended to read as follows:

**Sec. 113-4. - Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:



h. Townhouse residential units subject to the following restrictions.

1. Density shall be no greater than 15 units per acre.

2. Lot area for each unit. No townhouse residential unit site shall be less than 2,000 square feet, and each unit shall have its foundation on its individual site, except where the units are separated by a common party wall in which the foundation may be installed equidistant on each side of the lot line for the length of the party wall and its extension along the offset of the townhouses on abutting lots.

3. No townhouse residential unit shall be smaller than 900 square feet, and the average size of the townhouses in any grouping shall be 1,000 square feet.

4. No townhouse residential unit shall exceed two stories or 30 feet in height.

5. No townhouse residential unit shall be less than 18 feet in width, and the average width of the townhouses in any grouping shall be 20 feet.

6. Grouping length. A grouping of townhouse residential units shall not exceed 150 feet in length and shall not contain more than six units.

7. Front yards for a townhouse residential unit shall be not less than 25 feet.

8. Rear yards for a townhouse residential unit shall be not less than 25 feet.

9. Side yards for a townhouse residential unit shall be not less than 10 feet at each end of the group of townhouses.

10. For all individual townhouse residential units the building permit for which is issued after April 1, 2024 and which unit is not subject to a condominium form of ownership, said individual townhouse residential unit shall be subject to a plat or replat, the lot lines of which shall be coincident with the boundaries of the individual townhouse residential unit.



i. h. Satellite dish antenna in the manner specified in section 113-243.  
j. h. Community residential home (level I or level II facilities) subject to satisfying the standards set forth in section 113-246.

(2) *Accessory buildings, structures and uses.*

a. Accessory buildings, structures and uses customarily incidental to any use permitted by this section shall be allowed.

b. All accessory buildings and structures located in the rear yard shall be set back not less than four feet from all lot lines. Utility sheds may be placed as permitted by .

(3) *Prohibited uses.* The following are specifically prohibited uses. Merely because a use is not specifically listed does not mean that the use is not prohibited.

a. All uses which are not permitted uses.

b. Vacation rentals.

c. Bed and breakfast facilities.

d. Medical marijuana treatment center dispensing facility.

(4) *Building height limitation.*

a. The maximum height (see definition, section 113-4) of any building other than an accessory use shall be 30 feet and the building shall not exceed two stories.

b. The maximum height permitted for an accessory use structure shall be eight feet, if the use is set back at least four feet from the rear and side lot lines. The maximum height permitted for an accessory use structure shall be increased 1½ feet to a maximum of 14 feet for each additional one foot that the accessory structure is set back, in excess of four feet, from the rear and side lot lines.

(5) *Lot area.* Except as otherwise provided herein, the ~~The~~ minimum area of any lot shall be 10,000 square feet.

(6) *Lot dimensions.* Except as otherwise provided herein, the ~~The~~ minimum dimensions of any lot shall be:

a. Depth: 100 feet.

- b. Width at building line: 100 feet.
- (7) *Front yards.* Front yards shall be not less than 25 feet in depth.
- (8) *Side yards.* Side yards shall be not less than:
- a. Interior lots: ten feet in depth on each side.
- b. Where side yard of a corner lot abuts one of two intersecting streets: 25 feet in depth on the side abutting the street and ten feet in depth on the other side.
- (9) *Rear yards.* Rear yards shall be not less than 25 feet in depth.
- (10) *Living area.* The minimum living area of any dwelling shall be:
- a. Single-family units: 1,350 square feet.
- b. Duplexes: 1,000 square feet for each unit.
- c. Apartments (except townhouse residential units): 800 square feet for each unit. For new apartments the building permit for which is issued after April 1, 2024, the square footage shall be a minimum of 1,000 square feet.
- d. ~~Condominiums: 1,000 square feet per unit.~~
- [DRAFTER'S NOTE:** Reference to condominium is deleted, because a condominium is a form of ownership, not a use, and the zoning code is not intended to regulate forms of ownership. See §718.507, Fla.Stat.; City of Miami Beach v. Arlen King Cole Condominium Association, Inc., 302 So.2d 777 (Fla. 3d DCA 1974), *cert denied*, 308 So.2d 116 (Fla. 1975). Section 718.507, Florida Statutes, provides in relevant part that:
- All laws, ordinances, and regulations concerning buildings or zoning shall be construed and applied with reference to the nature and use of such property, without regard to the form of ownership. No law, ordinance, or regulation shall establish any requirement concerning the use, location, placement, or construction of buildings or other improvements which are, or may thereafter be, subjected to the condominium form of ownership, unless such requirement shall be equally applicable to all buildings and improvements of the same kind not then, or thereafter to be, subjected to the condominium form of ownership. . . .]
- (11) *Parking spaces.* Section 113-232 applies.
- (12) *Ground covering.* In addition to meeting the following requirements, a landscape plan shall be submitted to the town along with architectural plans:

a. At least 20 percent of the parcel of land must be devoted to lawn or plants. At least one-half of the minimum required landscaping must be contained in the front yard area.

b. A landscape buffer of not less than five feet wide shall be provided between parking areas and near side lines.

c. A landscape buffer of not less than five feet wide shall be provided along front property line except for ingress and egress areas.

(13) *Density*. The maximum density for this zone shall be not greater than 15 units per acre.

(14) *Buffer wall*. Where the property abuts property in the R-1-A district, R-1-B district, or R-2 district, a solid wall, six feet high and at least six inches thick, constructed of brick, block, mortar, or similar building materials, and sufficient to obstruct the view of such abutting residential property, shall be provided. The buffer wall shall be placed at the common property line of the R-3 district and the R-1-A district, R-1-B district or R-2 district and shall parallel the length of the common boundary. A wooden fence is strictly prohibited.

(15) *Grading and drainage*. Chapter 14, article V., ~~section 14-107, et seq.~~ applies.

SECTION 4. That Section 113-335 of the Code of Ordinances of Indialantic, Florida, is hereby amended to read as follows:

**Sec. 113-335. - R-P Residential—Professional Districts.**

Within R-P Residential—Professional Districts, the following regulations shall apply:

(1) *Permitted uses*. The following uses only shall be permitted:

a. Single-family dwellings.

b. Parish houses.

c. Essential municipal uses.

d. Public utilities serving the neighborhood area, excluding towers, buildings or storage areas.

- e. Gardening activities customarily incidental to single-family dwellings.
- f. Duplex family living units.
- g. Multiple family living units, except townhouse residential units.
- h. Satellite dish antenna in the manner specified in section 113-243.
- i. The professional activities listed below, to the extent that they do not involve the manufacture, preparation, or sale of an article or commodity on or from within the premises except that uses accessory to the principal permitted uses shall be allowed:
1. Accountants.
  2. Architects.
  3. Attorneys.
  4. Barber shops/beauty salons.
  5. Chiropractors.
  6. Dental labs.
  7. Dentists.
  8. Engineers.
  9. Existing church building.
  10. Insurance brokers.
  11. Optometrists.
  12. Osteopaths.
  13. Physicians.
  14. Real estate brokers.
  15. Consultants to the above.
  16. Professional activities similar and conforming to the standards governing the above and not more detrimental, objectionable, or annoying to the community.
- j. Community residential home (level I or level II facilities) subject to satisfying the standards set forth in section 113-246.

k. Townhouse residential units subject to the following restrictions:

1. Lot area for each unit. No townhouse residential unit site shall be less than 2,000 square feet, and each unit shall have its foundation on its individual site, except where the units are separated by a common party wall in which the foundation may be installed equidistant on each side of the lot line for the length of the party wall and its extension along the offset of the townhouses on abutting lots.

2. No townhouse residential unit shall be smaller than 900 square feet and the average size of the townhouses in any grouping shall be 1,000 square feet.

3. No townhouse residential unit shall be less than 18 feet in width and the average width of the townhouses in any grouping shall be 20 feet.

4. Grouping length. A grouping of townhouses shall not exceed 150 feet in length and shall not contain more than six units.

5. Side yards for a townhouse residential unit shall be not less than 10 feet at each end of the group of townhouses.

6. For all individual townhouse residential units the building permit for which is issued after April 1, 2024 and which unit is not subject to a condominium form of ownership, said individual townhouse residential unit shall be subject to a plat or replat, the lot lines of which shall be coincident with the boundaries of the individual townhouse residential unit.

(2) *Standards governing permitted uses.* The following standards shall govern uses:

a. No odor, dust, fumes, gas, smoke or other atmospheric pollutants shall be disseminated beyond the boundaries of the immediate site of the building in which the use is conducted.

b. Noise level from operations shall be negligible. No noise or vibration resulting from or in connection with the use shall be perceptible from any part of any residence district.

c. There shall be no glare resulting from or in connection with the use that is observable from outside the boundaries of the R-P Residential-Professional district.

d. The vehicular traffic resulting from or in connection with the use shall not add materially to the traffic on streets that primarily serve residence districts.

e. The use shall not be otherwise detrimental, objectionable, or annoying to the owners or occupants of nearby property.

(3) *Prohibited uses.* The following are specifically prohibited uses. Merely because a use is not specifically listed does not mean that the use is not prohibited.

a. All uses which are not permitted uses.

b. Vacation rentals.

c. Bed and breakfast facilities.

d. Medical marijuana treatment center dispensing facility.

(4) *Building height limitation:*

a. The maximum height (see definition, section 113-4) of any building other than an accessory use shall be 30 feet, and the building shall not exceed two stories.

b. The maximum height permitted for an accessory use structure shall be eight feet, if the use is set back at least four feet from the rear and side lot lines. The maximum height permitted for an accessory use structure shall be increased 1½ feet to a maximum of 14 feet for each additional one foot that the accessory structure is set back, in excess of four feet, from the rear and side lot lines.

(5) *Lot area.* Except as otherwise provided herein, the The minimum area of any lot shall be 10,000 square feet.

(6) *Lot dimensions.* Except as otherwise provided herein for townhouse residential units, the The minimum dimensions of any lot shall be:

a. Depth: 100 feet.

b. Width at building line: 100 feet.

(7) *Front yards.* Front yards shall be not less than 25 feet in depth.

(8) *Side yards.* Except as otherwise provided herein for townhouse residential units, side Side yards shall be not less than:

- a. Interior lots: ten feet in depth on each side;
- b. Where side yard of a corner lot abuts one of two intersecting streets: 25 feet in depth on the side abutting the street and ten feet in depth on the other side.

(9) *Rear yards.* Except as otherwise provided herein for townhouse residential units, rear Rear yards shall be not less than 20 feet in depth.

(10) *Living and professional use areas.*

- a. The minimum living area of any dwelling shall be:
  1. Single-family dwellings: 1350 square feet.
  2. Duplex dwellings: 800 square feet per unit.
  3. Multifamily dwellings (except townhouse residential units):: 800 square feet per unit. For multifamily dwellings subject to a building permit issued after April 1, 2024, the minimum living area shall be 1,000 square feet.
  4. ——— Condominiums: 1,000 square feet per unit.

**[DRAFTER'S NOTE:** Reference to condominium is deleted, because a condominium is a form of ownership, not a use, and the zoning code is not intended to regulate forms of ownership. See §718.507, Fla.Stat.; City of Miami Beach v. Arlen King Cole Condominium Association, Inc., 302 So.2d 777 (Fla. 3d DCA 1974), *cert denied*, 308 So.2d 116 (Fla. 1975). Section 718.507, Florida Statutes, provides in relevant part that:

All laws, ordinances, and regulations concerning buildings or zoning shall be construed and applied with reference to the nature and use of such property, without regard to the form of ownership. No law, ordinance, or regulation shall establish any requirement concerning the use, location, placement, or construction of buildings or other improvements which are, or may thereafter be, subjected to the condominium form of ownership, unless such requirement shall be equally applicable to all buildings and improvements of the same kind not then, or thereafter to be, subjected to the condominium form of ownership. . . .]

- b. The minimum area for any professional use shall be 1000 square feet per unit.

(11) *Parking spaces.*

a. All off-street parking facilities shall meet the requirements of section 113-232.

b. For professional uses, one parking space for every 400 square feet of floor area devoted to such use, excluding storage space, shall be provided.

(12) *Rental use.* Renting rooms shall be permitted, provided the area devoted to such use shall not exceed 25 percent of the total area of any dwelling unit.

(13) *Signs.* Article V of this chapter applies.

(14) *Buffer wall.*

a. Where the property abuts property in the R-1-A district, R-1-B district, R-2 district, or R-3 district, a solid wall, six feet high and at least six inches thick, constructed of brick, block, mortar, or similar building materials, and sufficient to obstruct the view of such abutting residential property, shall be provided.

b. The buffer wall shall parallel the length of the common boundary between the subject property located within the R-P district and the R-1-A district, R-1-B district, R-2 district, or R-3 district. The buffer wall shall be placed at the common property line of the R-P district and the R-1-A district, R-1-B district, R-2 district, or R-3 district. A wooden fence is strictly prohibited.

c. The buffer wall shall be installed when there is a substantial improvement to the R-P zoned property. As used in this section, the term "substantial improvement" means:

1. A change in the use of a major and material nature. For example, a change from a residential use to a professional office use would constitute a major and material change;

2. Clearing of an entirely undeveloped property and making use of the property. For example - use of the property as a parking lot;

3. Demolition of an existing principal structure and construction of a new principal structure for use as a professional office;

4. An expansion of the floor area of an existing professional office structure by ten percent or more; or



5. Construction of a professional office structure on undeveloped property.

(15) *Ground covering.* In addition to meeting the following requirements, a landscape plan shall be submitted to the town along with architectural plans.

a. At least 20 percent of the parcel of land must be devoted to lawn or plants. At least one-half of the minimum required landscaping must be contained in the front yard area.

b. A landscape buffer of not less than two feet wide along the side property lines shall be provided.

(16) *Density.* The maximum density for this zone shall be not greater than 15 units per acre.

(17) *Accessory buildings, structure and uses.*

a. Accessory buildings, structures and uses customarily incidental to any use permitted by this section shall be allowed.

b. All accessory buildings and structures located in the rear yard shall be set back not less than four feet from all lot lines. Utility sheds may be placed as permitted by section 113-225 of this Code. On corner lots when the lot abuts two intersecting streets, accessory use structures shall be set back not less than 25 feet from any lot line abutting a street or public right-of-way. All accessory use structures shall be set back not less than five feet from any principal or primary permitted use.

c. All accessory uses shall meet the requirements of section 113-225.

(18) *Grading and drainage.* Chapter 14, article V applies.

SECTION 5. That Section 113-337 of the Code of Ordinances of Indialantic, Florida, is hereby amended to read as follows:

**Sec. 113-337. T Tourist Districts.**

Within T Tourist Districts, the following regulations shall apply:

(1) *Permitted uses.* The following uses only shall be permitted, subject to prior review and approval of plans by the zoning board:

- 442 a. Uses permitted in R-P Residential—Professional Districts.
- 443 b. Any multiple-living unit, hotels, motels. Hotels or motels must contain
- 444 not less than ten rental units.
- 445 c. Hotels and motels of not less than ten rental units are permitted to
- 446 have related service activities such as restaurants or shops, provided such uses are
- 447 situated on and are part of the hotel or motel building and that the sale of alcoholic
- 448 beverages shall conform to the provisions of this code. Total floor area devoted to shops
- 449 operated within a hotel or motel building shall be no greater than 1,000 square feet.
- 450 There shall be no more than three such establishments per hotel or motel.
- 451 d. Clubs.
- 452 e. Lodges.
- 453 f. Bed and breakfast facilities.
- 454 g. Vacation rentals.
- 455 h. Townhouse residential units, subject to the following restrictions.
- 456 1. Density shall be no greater than 20 units per acre.
- 457 2. Lot area for each unit. No townhouse residential unit site shall
- 458 be less than 2,000 square feet, and each unit shall have its foundation on its individual
- 459 site, except where the units are separated by a common party wall in which the foundation
- 460 may be installed equidistant on each side of the lot line for the length of the party wall and
- 461 its extension along the offset of the townhouses on abutting lots.
- 462 3. No townhouse residential unit shall be smaller than 900
- 463 square feet, and the average size of the townhouses in any grouping shall be 1,000
- 464 square feet.
- 465 4. No townhouse residential unit shall exceed three stories or 35
- 466 feet in height.
- 467 5. No townhouse residential unit shall be less than 18 feet in
- 468 width, and the average width of townhouses in any grouping shall be 20 feet.

469                               6.       Grouping length. A grouping of townhouses shall not exceed  
470 150 feet in length and shall not contain more than six units.

471                               7.       Front yards for a townhouse residential unit shall be not less  
472 than 25 feet.

473                               8.       Rear yards for a townhouse residential unit shall be not less  
474 than 25 feet.

475                               9.       Side yards for a townhouse residential unit shall be not less  
476 than 10 feet at each end of the group of townhouses.

477                               10.      For all individual townhouse residential units the building  
478 permit for which is issued after April 1, 2024 and which unit is not subject to a  
479 condominium form of ownership, said individual townhouse residential unit shall be  
480 subject to a plat or replat, the lot lines of which shall be coincident with the boundaries of  
481 the individual townhouse residential unit.

482               (2)    *Accessory buildings and uses.*

483                   a.       Accessory buildings and uses customarily incidental to any use  
484 permitted by this section shall be allowed.

485                   b.       Where a parcel of land is developed with more than one building,  
486 buildings will be spaced by at least 20 feet between outside walls.

487                   c.       All accessory buildings shall be located in the rear yard and set  
488 back not less than four feet from all lot lines.

489                   d.       Satellite dish antenna in the manner specified in section 113-243.

490               (3)    *Prohibited uses.* The following are specifically prohibited uses. Merely  
491 because a use is not specifically listed does not mean that the use is not prohibited.

492                   a.       All uses which are not permitted uses.

493                   b.       Medical marijuana treatment center dispensing facility.

494               (4)    *Lot area.* Except as otherwise provided herein, the ~~The~~ minimum area of  
495 any lot shall be 10,000 square feet.

496               (5)    *Lot dimensions.* Except as otherwise provided herein, the ~~The~~ minimum  
497 dimensions of any lot shall be:

498                   a.     Depth: 90 feet.  
499                   b.     Width: 100 feet.

500           (6)    *Front yards.* Front yards shall be not less than 25 feet in depth.

501           (7)    *Side yards.* Except as otherwise provided herein, side ~~Side~~ yards on  
502 interior lots shall be not less than ten feet in depth on each side. Side yards on corner  
503 lots shall be not less than 20 feet on the street side.

504           (8)    *Rear yards.* Except as otherwise provided herein, rear ~~Rear~~ yards shall be  
505 not less than 15 feet in depth.

506           (9)    *Living area.* The minimum living area of any dwelling shall be:

507                   a.     Motels: 300 square feet per unit.

508                   b.     Apartments (construction commenced or building permit issued  
509 prior to October 1, 2007): 500 square feet per unit.

510                   c.     Condominiums/apartments/vacation rentals (except townhouse  
511 residential units): 1,000 square feet per unit.

512                   d.     Bed and breakfast facilities: 200 square feet per dwelling room or  
513 suite, which may include a bathroom, with at least one common area for the use of  
514 guests from all dwelling rooms or suites only.

515           (10)   *Parking spaces.*

516                   a.     There shall be provided off-street parking for each living or rental  
517 unit as designated in each of the following categories:

518                             1.     Hotels, motels: One space per unit.

519                             2.     Duplexes and apartment houses with rental units: 1½ spaces  
520 per unit.

521                             3.     Separately and/or privately owned apartments, triplexes,  
522 condominiums, vacation rentals, or co-op apartments: Two spaces per unit.

523                             4.     Restaurants and lounges will be required to meet an  
524 additional parking requirement of one parking space for every five seats.

525                             5.     Bed and breakfast facility: one space per unit (dwelling  
526 room).

b. All off-street parking areas shall meet the requirements of section 113-232(b).

(11) *Advertising signs.* Section 113-301 applies.

(12) *Floor area ratio.* The floor area ratio is defined as the gross floor area of a building on a lot or parcel, divided by the total area of the lot or parcel. The maximum floor area of buildings or structures erected after April 1, 1971, in a T district shall be determined by a floor area ratio of 2.0.

(13) *Ground covering.* In addition to meeting the following requirements, a landscape plan shall be submitted along with architectural plans.

a. At least 20 percent of the parcel of land must be devoted to lawn or plants.

b. A landscape buffer of not less than five feet wide shall be provided between parking areas and near side lines.

c. A landscape buffer of not less than five feet wide shall be provided along front property line except for ingress and egress areas.

(14) *Building height limitation.* The maximum height (see definition, section 113-4) of any building shall be 35 feet and the building shall not exceed three stories.

(15) *Density.* The maximum density for this district shall be not greater than 25 units per acre for motels and not greater than 20 units per acre for all other multifamily uses.

(16) *Oceanfront setbacks.* All buildings must be set back not less than 25 feet from the bluff line or not less than 50 feet of the mean high-water line along the Atlantic Ocean (see section 113-220), whichever is greater.

(17) *Breezeways.* A minimum 30 percent breezeway will be maintained on all property in the tourist zone. The term "breezeway" means a clear, open vertical area free of construction or buildings running from the ocean to Highway A1A. The 30 percent calculation is measured on a line parallel to Highway A1A to include the percentage of open distance (breezeway) from the building to the property lines perpendicular to Highway A1A. This provision requires a 30 percent breezeway defined by rectangular

556 dimensions (running basically east to west) with a clear and open line of sight from  
557 Highway A1A to the ocean. This requirement shall apply regardless of the configuration  
558 of platted lots of record (or portions thereof) and regardless of the configuration of a  
559 building site (or portion thereof) based on ownership of that site.

560 (18) *Grading and drainage.* Chapter 14, article V applies.  
561

562 SECTION 6. Severability Clause/Interpretation.

563 (a) In the event that any term, provision, clause, sentence or  
564 section of this Ordinance shall be held by a court of competent jurisdiction to be partially  
565 or wholly unenforceable or invalid for any reason whatsoever, any such invalidity, illegality,  
566 or unenforceability shall not affect any of the other or remaining terms, provisions, clauses,  
567 sentences, or sections of this Ordinance, and this Ordinance shall be read and/or applied  
568 as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did  
569 not exist.

570 (b) That in interpreting this Ordinance, underlined words indicate  
571 additions to existing text, and ~~stricken through~~ words include deletions from existing text.  
572 Asterisks (\* \* \* \*) indicate a deletion from the Ordinance of text, which exists in the Code  
573 of Ordinances. It is intended that the text in the Code of Ordinances denoted by the  
574 asterisks and not set forth in this Ordinance shall remain unchanged from the language  
575 existing prior to adoption of this Ordinance.

576 (c) Drafter's Notes shall not be codified.

577 SECTION 7. Effective Date. This Ordinance shall become effective upon  
578 adoption of this Ordinance.

PASSED by the Town Council of the Town of Indialantic on first reading on the 10th day of January, 2024, and ADOPTED by the Town Council of the Town of Indialantic, Florida on final reading on the 14<sup>th</sup> day of February, 2024.

TOWN OF INDIALANTIC, a  
Florida Municipal Corporation

\_\_\_\_\_  
Mark McDermott  
Mayor

ATTEST: \_\_\_\_\_  
Mollie Carr, Town Clerk

## ***ARTICLE V. SIGNS<sup>1</sup>***

### **Sec. 113-301. Signs.**

- (a) *Generally.* This article shall be known as the "Indialantic Sign Ordinance" and may be cited as "the sign code." Its intent is to make it possible to erect adequate, yet decorous, identifying signs. This article accomplishes that goal. This article is enforceable under section 1-9. Violators will receive written notification from the code enforcement officer, requesting compliance within a specified time. Noncompliance by that time will result in the issuance of a written notice of hearing before the code enforcement board which has the authority to levy substantial daily penalties.
- (b) *Purpose.* It is the intent of this article to promote and protect the public health, safety, general welfare and aesthetics of the town by regulating the existing and proposed posting, display, erection, use and maintenance of signs and advertising structures within the town. Signs placed on land or on a building for identification or advertising shall be deemed to be accessory and incidental to subject land, building or use.
- (1) It is hereby recognized that regulation of location, size, placement, and certain features of signs is necessary to enable the public to locate goods, services and facilities, without difficulty and confusion, and to prevent wasteful use of natural resources in competition among businesses for attention. It is specifically intended to avoid excessive proliferation and clutter among such competing businesses.
- (2) It is further intended to prevent hazards to life and property and to assure the continued attractiveness of the community, to protect property values, to create a more attractive economic and business climate, to enhance and protect the physical appearance of the community, and to preserve the scenic natural beauty of the town.
- (3) It is further determined that signs which may lawfully be erected and maintained under the provisions of this article are consistent with customary usage. Signs which may not lawfully be erected or maintained under the provisions hereof are not consistent with customary usage and are an unwarranted invasion of the rights of legitimate business interests and of the public.
- (c) *Definitions.* For the purposes of this article, the following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Attached sign* means a removable sign attached to the building to which it is related.

*Awning* means a roof-like cover, securely fastened on one side or end to a building, and the balance of which extends over or before a place (as over walkway or before a window) as a shelter and whose bottom edge is at least seven feet above the highest grade level beneath it.

*Awning sign* means a sign which is suspended from, attached to, applied to, or forms any part of any awning or canopy, and which does not extend beyond the limits of the awning either horizontally or vertically.

*Banner* means any advertising device, composed primarily of paper, fabric or other material, supported by wire, rope or similar means, including decorative streamers, with or without lettering thereon.

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<sup>1</sup>State law reference(s)—Sign regulations required, F.S. § 163.3202(2)(f).



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*Building* means any structure constructed or used for residence, business, industry or other public or private purposes, or accessory thereto, and including tents, lunch wagons, dining cars, trailers, mobile homes, sheds, garages, accessory buildings, carports, animal kennels, and similar structures whether stationary or movable.

*Business area* means a defined area, consisting of at least 240 square feet, either on a plot of land or in a building such as a store or office, which is owned or rented by an occupant and used for other than residential purposes.

*Canopy* means a covering over a walkway extending from a building wall.

*Changeable copy sign* means a sign on which the message may be changed manually.

*Construction sign* means a sign, placed on the property of a construction project, listing names of the people or firms engaged in the project.

*Convenience store* means a retail establishment that stocks limited quantities of popular items such as milk, bread, etc., and usually is open for business earlier and later than other stores.

*Detached sign* means a sign which is attached to and supported by mountings other than the structure itself to which it is related.

*Directional sign* means:

- (1) A sign, consisting of three or less words, which may have an arrow, placed beside a roadway to point the direction to a place or building;
- (2) Off-premises sign of a temporary nature to direct the public to a special event or function.

*Flashing light* means illumination produced by any type of source which turns on and off, or appears to turn on and off, at a rate other than that rate used by street lights.

*Illuminated sign*. Types of illuminated signs include the following:

- (1) Externally illuminated means any sign which reflects light from a source that is intentionally directed upon the sign;
- (2) Internally illuminated means any sign designed to provide artificial light through translucent material from a light source within the sign concealed from exterior view.

*Light source* means any manmade product which produces illumination.

*Marquee sign* means an identification placard or board mounted on a permanent roof-like projection over the entry to a building.

*Mobile or portable sign* means any visual advertising, identification or informational device or placard which is readily movable.

*Mural* means a mural is a type of sign which consists of a painting or artistic work composed of pictures or arrangements of color. Murals are applied to and made integral with a wall or ceiling surface.

*Nonconforming sign* means a sign or sign structure which does not conform to the requirements of this article.

*Occupant* means one who is in possession of a premises under title, lease or other rental plan.

*Painted wall sign* means any sign painted directly on any exterior building wall or door surface.

*Permanent window sign* means any sign which is painted, applied or attached on the interior or exterior surface of windows or doors, or any sign which is three-dimensional in character and is affixed with screws, bolts, nails, etc., to the interior surface of the window or door.

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*Perpendicular* means being at right angles to, and projecting outward from, the exterior wall of a building or structure.

*Placard* means a notice posted in a public place.

*Political sign* means a sign concerning candidacy for public office or urging action on any ballot issue in a forthcoming election.

*Real estate sign* means a temporary sign erected by the owner or agent advertising the real property upon which the sign is located for rent, for lease, for sale, or open house.

*Rider sign* means a small sign bearing a word or short phrase to be attached above or below a real estate sign.

*Roof overhang or underhang signs* mean signs which project from the roof line that abut or nearly abut a building, to identify the various businesses in the building.

*Roof sign* means a sign erected over or on, and wholly or partially dependent upon, the roof of any building for support, or attached to the roof above the eave line in any way.

*Sign* means every ground sign, mural, wall sign, flag, banner, pennant, balloon, temporary sign, marquee, awning sign, announcement, declaration, figure, writing, graphic or pictorial presentation, number, illustration, figure, insignia, symbol, picture, painted wall sign, drawing or three-dimensional figure, which is used to announce, display, direct attention to, or otherwise make anything known, when the same is placed out-of-doors in view of the general public or designed to be viewed from public rights-of-way, alleys, other public property, and/or the areas visible to the public.

*Structure* means anything constructed or erected which requires location on the ground or attached to something having location on the ground, including signs and billboards, but not including fences or walls used as fences.

*Temporary sign* means a sign whose uses are limited to political, real estate, construction, garage sales and directional purposes.

*Transient sign* means a sign made of paper, cardboard or particle board placed on the inside of windows and doors.

*Window sign* means any sign which is painted on, applied to, attached to, or projected upon or within the interior or exterior of a window area, including doors.

(d) *Building identification.* Letters or numbers, or both, placed on a building to designate the name of the building are permitted and are not to be considered an occupant's sign. Said name and numbers are not to exceed nine square feet.

(e) *Permits.*

(1) *Permit required.* Any person or firm intending to construct, erect, alter, change colors, install, replace, or relocate any sign on any building, structure, awning, lot or right-of-way within any zoning district shall first obtain a sign permit from the building official.

(2) *Permit waived.* Permits are not required for those temporary signs that are specifically authorized in section 113-304(1) through (5). Temporary signs are limited in the number that may be used and will be supervised by the town's code enforcement officer and the police department. They are: Construction signs, real estate signs, garage sale signs, directional signs, and political signs. However, no such signs shall be placed on any tree or utility pole.

(3) *Permit fees.* Application, initial inspection and square footage fees are required for all signs, with the exception of subsection (e) of this section. A fee schedule may be obtained at the town hall.

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- (4) *Penalty fee.* Double the usual fees may be assessed for signs that are or have been erected prior to receiving an official sign permit from the town.
  - (5) *Fees waived.* Sign permits or fees are not required for the replacement signs which are the exact duplicates of signs damaged during a town council declared "natural disaster." Application, inspection and square footage fees are not required in cases of minor alterations, such as changes in color, provided a permit is obtained from the building official prior to work commencing.

(Code 1993, § 17-106; Ord. No. 84-344, § 4, 3-20-1984; Ord. No. 84-349, § 1, 6-19-1984; Ord. No. 91-9, § 1, 1-15-1991; Ord. No. 97-6, § 4, 5-6-1997; Ord. No. 04-08, § 1, 4-20-2004; Ord. No. 10-10, § 1, 8-17-2010; Ord. No. 14-10, § 17, 7-15-2014; Ord. No. 14-10, § 2, 7-15-2014)

### **Sec. 113-302. Sign plan and construction standards.**

- (a) *Plan required.* Applications for permits shall be accompanied by a dimensioned plan, sketch or scale drawing clearly showing the proposed sign with lettering superimposed thereon in correct proportion and type style and with notation of the type of materials and lettering. A dimensioned plan, sketch or scale drawing shall be furnished, clearly showing the proposed location of the sign, either on a plot plan for a detached sign, or on an elevation drawing of the building for an attached or painted sign. Locations and types of lighting shall be given.
- (b) *Construction standards.* All signs must be aesthetically pleasing, artistically created, and of professional quality. All signs must be designed, constructed and maintained in accordance with the state building code. All signs shall be able to withstand the force of 130 miles per hour wind. The top of all poles, on which signs are mounted, shall not be above the top horizontal edge of the sign unless the poles are part of the design of the sign.
- (c) *Lighting.* The source of light of illuminated signs or illumination in shop windows, display windows and displays, in or upon any land or ground, building or structure, shall be concealed from exterior view except as specifically permitted. Intensities of illumination shall not exceed those stipulated in the building code. All electric lights on all types of signs (wood, plastic, metal, etc.) shall be grounded in accordance with the National Electrical Code.
- (d) *Neon signs.* Nonflashing, nonmoving neon signs, not to exceed in area ten percent of each window's total area or three square feet in area, whichever is smaller, may be mounted on or near the inside surface of store windows. A nonflashing, nonmoving neon sign bearing the word "Open" may occupy all of the glass area of a transom over the doorway to the street.
- (e) *Warning signs.* Signs with words or symbols denoting "Danger" are permitted only on buildings, equipment, fences or other locations, provided that actual danger to life and limb could result from trespassing or ignorance of proper precautions.
- (f) *Content.* All signs, except for murals, shall be limited to identifying the occupant, the street number, and the street name; and the type of products or merchandise or services sold, handled, or conducted on the premises on which the sign is located. If desired, the sign may include a picture of, or a miniature of, or a full-size sample of, one of the wares available on the premises, provided that all of the information, including the ware is contained within the size limitations of the sign.
- (g) *Permit number.* Each sign shall include in an unobtrusive area its sign permit number, directly following or directly underneath the words "permit no." and such words and number shall be legible for inspection from ground level.

(Code 1993, § 17-106.1; Ord. No. 84-344, § 4, 3-20-1984; Ord. No. 11-17, § 2, 8-16-2011; Ord. No. 14-10, § 3, 7-15-2014)

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## Sec. 113-303. Prohibited signs.

The following types of signs are specifically prohibited:

- (1) *Obsolete signs.* Any sign, except for a mural, displayed which no longer identifies a bona fide business or service organization conducted upon the premises (or identifies a service no longer conducted on the premises) shall be removed, taken down, or completely obliterated within 30 days after written notice by the building official or the code enforcement officer.
- (2) *Other prohibited signs.* Other prohibited signs include the following:
  - a. Mobile, portable, billboard, flags (except as part of a sidewalk sale, grand opening, special event, or anniversary sale conducted pursuant to section 28-4 or chapter 113), or banner (except as specifically authorized by the town council or as part of a sidewalk sale, grand opening, special event, or anniversary sale conducted pursuant to section 28-4 or chapter 113). The official flags of the state and the United States of America, as well as all other flags of all other nations, are excluded from the definition of the term "prohibited signs";
  - b. Signs which will constitute a hazard or a potential menace to life or limb or which will endanger public safety in any manner. The building official may require the removal of any sign which is not properly maintained or which otherwise shows evidence of neglect or which, in his opinion, will become unsafe and constitute a hazard to life, limb or property or in any other manner endanger public health and safety. Should such sign not be removed after the expiration of a 24 hour written notification from the building official, properly receipted by the owner or tenant, regarding the inherent danger of said sign then town employees shall have the power to remove said sign and the code enforcement officer shall send to the owner of said sign a written notice of hearing before the code enforcement board;
  - c. Any sign that has any intentional motion or rotation of any part of the structure or of the sign, or the display of intermittent, rotating, flowing or flashing lights;
  - d. Real estate "Sold" signs;
  - e. Any sign using the word "Stop" or "Danger" (except as provided in section 113-302(e)) or implying the need of a requirement of stopping or the existence of danger, or which is a copy of or imitation of official traffic signs, unless such sign has been installed by an authorized governmental agency;
  - f. Any sign that would or does obstruct the view of the operator of a vehicle approaching corners or obstruct any direction of the operator's vision needed to safely pilot the vehicle;
  - g. A sign or any portion of a sign that overhangs or is installed in any street right-of-way except permitted temporary real estate and garage sale signs and related directional signs;
  - h. Any sign that is suspended across any public street, avenue, alley or other public road except those signs established by town, county, state, and federal governments;
  - i. A sign that is painted, printed, posted, nailed, placed or otherwise affixed to any curb, sidewalk, tree, light standard, utility pole, hydrant, bridge or structure within the right-of-way of any street, avenue, alley or other public thoroughfare within the town limits, except those signs established by town, county, state or federal governments;
  - j. A sign that is placed in such manner as to obstruct physical egress through any door, window or fire escape of any building;

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- k. Any sign that is animated, which has physical action or motion, or the appearance thereof including that which may be referred to as an electronically controlled changeable message sign.
- (3) *Disposition of removed signs.* Signs removed by town employees will be stored on town property for a period of 30 days. After that time all unclaimed signs will, at the option of the town manager, be destroyed.

(Code 1993, § 17-106.2; Ord. No. 84-344, § 4, 3-20-1984; Ord. No. 94-7, § 3, 1-18-1994; Ord. No. 09-09, § 1, 4-21-2009; Ord. No. 11-17, § 3, 8-16-2011; Ord. No. 14-10, § 4, 7-15-2014)

### **Sec. 113-304. Permitted temporary signs.**

The following temporary signs are permitted:

- (1) *Real estate signs.* The following regulations govern the use and placement of temporary real estate signs. These are small signs advising that the property upon which they are placed is "For Sale," "For Rent," or "For Lease." They shall be removed within 48 hours after the property has been sold, rented or leased.
- a. The permitted wording on, and size of, real estate signs shall consist of only the following:
    - 1. The owner's or the realtor's name, address, telephone number, and the insignia of his organization;
    - 2. The words "For Sale," "For Rent," or "For Lease";
    - 3. If desired, not more than two "rider" signs, not more than six inches in height and 20 inches in length, each of which may bear words such as "Pool" or "By Appointment Only" or "Owner Financed", etc., may be attached to the 20 inch by 24 inch sign;
    - 4. The above signs shall not exceed 20 inches by 24 inches in overall dimension.
  - b. The sign shall not be located closer than 15 feet from any edge of the pavement of any street, except that signs in vacant lots shall be placed at least two feet inside the lot line.
  - c. There shall not be more than one sign showing the owner or principal broker, except that for corner properties there may be one such sign on each street.
  - d. In addition, one sign not exceeding overall dimensions of 20 inches by 24 inches, with the words "Open House" to indicate that a building is open for inspection, may be displayed at all times. In the case of corner properties there may be one such sign on each street.
  - e. The signs permitted may not be illuminated, flashing, rotating or moving types. No other flags, banners or other displays may be used. All signs shall be removed from the property within 48 hours from the time a contract has been executed between the seller and the buyer of the property for the sale of the property.
  - f. Any real estate sign that has been erected for more than 24 consecutive months or 30 total months within a three-year period shall be and is hereby deemed to be nontemporary, and shall require a permit to remain erected, with the applicant demonstrating good cause why same should not be removed.
- (2) *Construction signs.* One temporary construction sign may be displayed on a lot or plot on which construction work is in progress, in accordance with the following provisions:
- a. The sign shall be located inside the property lines;

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- b. In all districts, except residential zoning districts, the sign shall not exceed 32 square feet in area. In residential zoning districts, the sign shall not exceed 20 inches by 24 inches in overall dimension;
  - c. The sign shall display nothing more than: the names of the owner, financial institution, architect, contractor or builder and subcontractors; the use of the structure; the words "Now Leasing," "Now Selling," or "Now Available"; and telephone numbers. A picture or drawing may be included on the sign. No other wording, numbers or other information is permitted;
  - d. In the residential districts, those signs required by law, such as building permits, shall be posted without a permit;
  - e. The sign shall not be illuminated; and
  - f. The sign is to be removed within 48 hours after issuance of the final unconditional certificate of occupancy.
- (3) *Garage sale signs.* Temporary garage sale signs shall be allowed on property, provided:
- a. The sign shall not exceed 20 by 24 inches in overall dimension;
  - b. The sign shall not be located closer than 15 feet to any edge of any pavement of any street;
  - c. There shall not be more than one sign stating:
    - 1. The words "Garage Sale" and street address;
    - 2. Not more than three names of the days of the week on which the garage sale is to be conducted;
    - 3. The hours of the day during which the sale will be conducted;
  - d. The same information can appear on both sides of the sign;
  - e. No sign shall be illuminated, nor moving, nor have lights. No flags, banners, nor other displays shall be used;
  - f. All garage sale signs shall be removed from the property within 30 minutes after the closing hour of each day of the garage sale.
- (4) *Directional signs.* A maximum of two temporary directional signs shall be allowed on various rights-of-way, provided:
- a. The sign shall not exceed 12 inches in height by 18 inches in length;
  - b. The sign shall not be located closer than 15 feet to any edge of any pavement of any street, except that signs placed on vacant lots shall be placed at least two feet inside the lot line. The sign shall not exceed 36 inches in height above the ground;
  - c. The words on the sign shall be either "Garage Sale" or "Open House," with an arrow pointing horizontally either to the right or the left. The same words may appear on both sides of the sign. The direction of the arrow may be reversed on the opposite side of the sign;
  - d. The signs shall not be illuminated nor moving. No flags, banners, lights, nor other displays shall be used;
  - e. Directional signs shall be removed from each and every right-of-way within 30 minutes after the closing hour of each day of the garage sale or the open house.
- (5) *Political signs.*

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- a. *Temporary political signs on public property.* If the sign becomes a hazard to public health and safety, the police, the building official, the public works director, or the code enforcement officer hereby shall have the authority to remove the sign immediately.
1. Persons hand carrying political signs may stand on sidewalks or nonpaved portions of public rights-of-way or in parks but on no other public property.
  2. No political signs shall be placed in the sidewalk or paved portion of the right-of-way.
  3. On an area in front of or alongside of a lot, on a public right-of-way, or a combination thereof in the following land use classifications: R-1-A, R-1-B, R-2, R-3, R-P and T, there shall be not more than four non-illuminated political signs, each not more than four square feet in area. The top of the sign shall not exceed a height of 36 inches above the crest of the road. Temporary political signs may not otherwise be placed on public rights-of-way. Any such political sign may only be installed with the express consent of the owner or lessee of the abutting lot or principal structure or portion of said principal structure. Said owner or lessee shall be responsible for the placement and removal of such signs.
  4. For county, state and national elections, no political sign shall be erected or displayed earlier than 35 days before the date on which the qualifying period opens for the candidate whose name is advertised on the political sign. In the case of political signs advertising a referendum issue subject to such an election ballot, no such sign shall be erected or displayed earlier than 75 days before the referendum election at which the referendum issue advertised on said political sign shall be voted upon. For all town elections, no political sign shall be erected or displayed earlier than 45 days prior to the election in which the candidate or referendum issue will be voted on. Political signs which advertise issues or points of view not subject to a referendum election shall not be subject to this subsection (5)a.4.
  5. No political sign is to remain displayed to the public on said lot longer than 48 hours after the closing of the polls for the campaign for which the political sign was erected. The term "campaign," as used in this subsection, shall include all primaries, special elections, and general elections at which the candidate's name or referendum to be voted upon by electors shall appear on the ballot. Political signs which advertise issues or points of view not subject to a referendum election shall not be subject to this subsection (5)a.5.
  6. For all town elections candidates for any town office, or in the case of town referendum issues (including, but not limited to, charter or ordinance amendments), any individual or the chairperson of any political committee, seeking to place a referendum issue on the ballot, shall be requested to sign a form containing a statement that the candidate, individual, or political committee chairperson agrees to comply with the requirements of this section. The town clerk shall place said form in the qualifying packets of all town candidates. Failure to sign said form shall not invalidate or otherwise operate to deny any person the right to qualify for elective office or to have placed on the ballot a referendum issue.
- b. *Temporary political signs on private property.*
1. No political sign shall be placed or displayed on or within 50 feet from any polling place on the day of any election, unless permitted by the supervisor of elections or the clerk of the election precinct, or unless the sign is erected and displayed as permitted by F.S. § 102.031.
  2. On each lot a maximum of four non-illuminated political signs, each not more than four square feet in area, shall be permitted. Any such political sign may only be hand-carried or installed with the express consent of the owner or lessee of the lot or principal structure or

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portion of said principal structure, all on said lot. Said owner or lessee shall be responsible for the placement and removal of such signs.

3. For county, state and national elections, no political sign shall be erected or displayed earlier than 35 days before the date on which the qualifying period opens for the candidate whose name is advertised on the political sign. In the case of political signs advertising a referendum issue subject to such an election ballot, no such sign shall be erected or displayed earlier than 75 days before the referendum election at which the referendum issue advertised on said political sign shall be voted upon. For all town elections, no political sign shall be erected or displayed earlier than 45 days prior to the election in which the candidate or referendum issue will be voted on. Political signs which advertise issues or points of view not subject to a referendum election shall not be subject to this subsection (5)b.3.
  4. No political sign is to remain displayed to the public on said lot longer than 48 hours after the closing of the polls for the campaign for which the political sign was erected. The term "campaign," as used in this subsection, shall include all primaries, special elections, and general elections at which the candidate's name or referendum to be voted upon by electors shall appear on the ballot. Political signs which advertise issues or points of view not subject to a referendum election shall not be subject to this subsection (5)b.4.
  5. For all town elections candidates for any town office, or in the case of town referendum issues (including, but not limited to, charter or ordinance amendments), any individual or the chairperson of any political committee, seeking to place a referendum issue on the ballot, shall be requested to sign a form containing a statement that the candidate, individual, or political committee chairperson agrees to comply with the requirements of this section. The town clerk shall place said form in the qualifying packets of all town candidates. Failure to sign said form shall not invalidate or otherwise operate to deny any person the right to qualify for elective office or to have placed on the ballot a referendum issue.
- (6) *Sidewalk sales, special events, and anniversary sales.* As part of and during any sidewalk sale, special event, or anniversary sale, a merchant (for a duration not exceeding seven consecutive days as permitted) may display:
- a. One banner or one flag not exceeding a size of three feet by five feet. Display of any banner or flag, any part of which exceeds 14 feet in height above ground level, shall be prohibited;
  - b. Strings of pennants may be displayed, provided that:
    1. The display of pennants is conducted such that no part of any pennant is displayed at a height exceeding 14 feet above ground level; and
    2. No pennant has any wording or symbol upon it; and
  - c. Signage, the wording of which is not legible from any paved roadway.
- (7) *Removal of signs.* Failure to remove temporary signs within the allotted period may result in a summons to the code enforcement board, which has the power to assess substantial daily penalties.
- (8) *Special event.*
- a. Signs, banners, and flags (without wording or symbols) may be temporarily erected in recognition of special events (e.g., town birthdays) as determined by the town council. A non-fee permit must be obtained from the town manager who will be responsible for authorizing the location of such temporary signs, banners, and flags. The signs, banners, or flags cannot extend over a curb



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or sidewalk in the street and their placement will not be erected for more than two weeks prior to the event and will be removed within 48 hours of the conclusion of the event.

- b. Signs, banners and flags (without wording or symbols) may be temporarily erected at a special event during the special event as authorized by section 8-7, subject to the sole discretion of the town manager or his designee.

(Code 1993, § 17-106.3; Ord. No. 84-344, § 4, 3-20-1984; Ord. No. 84-349, § 2, 6-19-1984; Ord. No. 86-24, § 1, 11-18-1986; Ord. No. 91-9, § 2, 1-15-1991; Ord. No. 94-7, § 4, 1-18-1994; Ord. No. 95-2, § 1, 11-30-1994; Ord. No. 00-12, § 1, 10-17-2000; Ord. No. 04-02, §§ 1, 2, 2-17-2004; Ord. No. 04-12, § 1, 9-14-2004; Ord. No. 06-09, § 2, 6-20-2006; Ord. No. 09-09, § 2, 4-21-2009; Ord. No. 11-02, §§ 1, 2, 12-16-2010; Ord. No. 12-06, § 1, 3-5-2012; Ord. No. 14-01, § 1, 11-17-2013)

### **Sec. 113-305. Signs authorized in the various zoning districts.**

Only those types of signs that are listed below are permitted in the following zoning districts:

- (1) *R-1-A Single-Family Residence Districts.* Only the following temporary signs: real estate (see section 113-304(1)), construction (see section 113-304(2)), garage sale (see section 113-304(3)), directional (see section 113-304(4)) and political (see section 113-304(5)).
  - a. Building numbering is required in accordance with section 28-10;
  - b. Any sign that is affixed to a fence must be comprised of plastic or metal and must be placed in such a manner that it faces a street adjacent to the property upon which the fence has been installed unless otherwise permitted by law.
- (2) *R-1-B Single-Family Residence Districts.* Only the temporary signs permitted for R-1-A.
  - a. Building numbering is required in accordance with section 28-10;
  - b. Any sign that is affixed to a fence must be comprised of plastic or metal and must be placed in such a manner that it faces a street adjacent to the property upon which the fence has been installed unless otherwise permitted by law.
- (3) *R-2 Duplex Residence Districts.* Only the temporary signs permitted for R-1-A. Building numbering is required in accordance with section 28-10.
- (4) *R-3 Multifamily Districts.*
  - a. The temporary signs permitted for R-1-A;
  - b. One attached, mural, or painted sign; (See definition of the term "attached signs."); the area enveloped by the sign shall not exceed 24 square feet and must comply with all of the other requirements of signs authorized in C and C-I districts;
  - c. One detached sign. The same regulations apply as for attached signs. The sign must be erected inside the lot lines;
  - d. Building numbering is required in accordance with section 28-10.
- (5) *RP Residential—Professional Districts.*
  - a. *Residential use.* Temporary signs as permitted for district R-1-A, except that garage sales are permitted only for the remaining residences in these districts. Building numbering is required in accordance with section 28-10;
  - b. *Professional use.*

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1. Only the following temporary signs are permitted: Real estate (see section 113-304(1)), construction (see section 113-304(2)), directional (see section 113-304(4)), and political (see section 113-304(5));
  2. Grand opening signs are permitted only once for each occupant or change of ownership of the property, or only once after each extensive remodeling of the premises, which must cost at least 15 percent of the assessed valuation of the building. Grand opening signs shall not exceed 18 inches by 48 inches in size and shall not be displayed for more than seven days;
  3. One attached sign identifying professional offices is permitted; provided, that the attached sign does not exceed 12 square feet in area and does not protrude more than one foot beyond the exterior wall of the building. The attached sign may be a mural. Only one such sign is permitted for each business or service, except for offices occupying a corner lot where one such identical sign is permitted on each street side. Where parking is provided in the area, an identical sign is permitted on the rear of the building;
  4. The height of all attached signs shall not exceed the eave line of the building or structure;
  5. A grand opening banner may be permitted for a duration not exceeding seven consecutive days as permitted provided that the banner does not exceed a size of three feet by five feet. Display of any banner, any part of which exceeds 14 feet in height above ground level shall be prohibited. Grand opening banners are permitted only once for each occupant or change of ownership of the property, or only once after each extensive remodeling of the premises which must cost at least 15 percent of the assessed valuation of the building;
  6. Building numbering is required in accordance with section 28-10.
- (6) *C, C-1, and C-2 Commercial Districts.*
- a. *Temporary signs.* The following temporary signs are allowed: Real estate (see section 113-304(1)), construction (see section 113-304(2)), political signs on private property (see section 113-304(5)(b)), sidewalk sale (see section 113-304(6)), grand opening sign (see section 113-305(6)(b)), grand opening banner (see section 113-305(6)(g)), grand opening sign (see section 113-305(6)(i)). The following temporary signs are not allowed: garage sale (see section 113-304(3)), political signs on public property (see section 113-304(5)(a)), and directional (see section 113-304(5)(b)).
  - b. *Attached and painted (on the building surface) signs.* The following conditions regulate signs attached or painted upon any front, rear or side surface of the occupant's building, which include, but is not limited to, mural signage, provided the signs comply with all other requirements of this section:
    1. Only one wall of the building may have an attached sign, except in the case of buildings with rear entrances and buildings on corner lots. The signs on this wall shall be subject to the following restrictions:
      - (i) There shall not be more than one sign per occupant;
      - (ii) No sign shall exceed 32 square feet in area;
      - (iii) The area of the sign, or combined area of the sign, shall not exceed ten percent of the surface area of the wall. Calculation of the surface area shall include doors and windows.
    2. In the case of rear entrances, each such entrance may have one sign not to exceed 12 square feet in area over or beside the rear entrance.

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3. In the case of buildings located on corner lots, a sign not to exceed 32 square feet is permitted on the wall which is closest to the side street, unless the property owner requests a different but parallel wall that faces the side street (only one wall facing the particular side street may have signs).
  4. The zoning and planning board has the authority, upon application, to permit an attached sign on any one face (and on the side street face of corner lot buildings) to encompass an area up to five percent of the total exposed face of the building. This provision is applicable to large buildings whereon such sized signs will be proportional to those permitted for smaller buildings. The board will evaluate such proposed sign in relation to the size of the building, its general appearance, and its architectural similarity to neighboring buildings.
  5. The sign may be constructed of multiple parts and its content shall be limited to permanent letters, numerals, insignia, and a picture of, or a miniature of, or a full-size sample of one of the wares available on the premises, provided that all of the information, including the ware is contained within the size limitations of the sign. No portion of an attached sign shall protrude more than one foot beyond the wall on which the sign is attached.
  6. The height of attached signs shall not exceed the eave line of the building.
- c. *Permanent door and window signs.* (See definition, section 13-301(c).) Permanent signs may be attached to or painted upon doors and windows provided that:
1. No more than 25 percent of the total door and window area shall be covered, but in no event shall the coverage exceed 58 square feet;
  2. All window areas between three feet and four feet above the crown of the building's street shall be free from any type of sign or any other obstruction;
  3. All areas in glass doors, or in windows in other types of doors, shall be kept free of any type of sign or any other obstruction which prevents clear sight for ingress and egress, except signs warning of hazards to health and safety;
  4. The construction of the permanent sign shall be limited to long-lasting letters, numbers and insignia. An interior message composed of replaceable letters and numerals may be changed without obtaining a sign permit.
- d. *Detached signs.* (See definition, section 13-301(c).) Exactly the same information may appear on both sides of any sign. The following provisions shall apply:
1. Each building may have one 32 square foot sign which may be shared by all business areas within the building;
  2. Or, where the signs can be placed at least 20 feet apart, each business area may have a separate detached sign not to exceed nine square feet in area;
  3. Or, if there are more than four business areas located in one building, the building may have two detached signs, each having a maximum of 24 square feet, provided the signs are at least 50 feet apart;
  4. A detached sign may not be placed within 20 feet of any other detached sign;
  5. Where the building is accessible from the rear and does not abut a residential district, a second detached sign, not to exceed 32 square feet, permanently anchored in the ground, is permitted in the rear for each business. For property abutting a residential district a second detached sign, not to exceed nine square feet, permanently anchored in the ground, is permitted in the rear for each business. However, if several businesses are

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- served by one common driveway, each such sign shall be permanently affixed to the same common mounting permanently anchored in the ground;
6. Detached signs may be illuminated in accordance with section 113-302(c);
  7. The height of detached signs shall not exceed the top of the roof or 14 feet above the ground level at the front of the building, whichever is the lesser;
  8. There shall be at least seven feet clearance below the bottom of the sign, unless the top of the sign is not higher than six feet above the ground level at the front of the building;
  9. The top of all poles, on which signs are mounted, shall not be above the top horizontal edges of the sign unless the poles are part of the design of the sign.
- e. *Transient signs.* A sign made of paper, cardboard, or particle board placed on the inside of windows and doors.
1. Transient signs may be affixed to the inside of doors and windows or otherwise displayed from inside structures, provided that:
    - (i) No more than 25 percent or 58 square feet less the square footage for any permitted permanent door and window signs, whichever is the lesser, of the total door and window area is covered;
    - (ii) No portion of any transient sign shall exceed 14 feet in height above ground level;
    - (iii) All window areas, between three feet and four feet above the crown of the building's street level, shall be free from any type of sign or any other obstruction;
    - (iv) All areas in glass doors, or in windows in other types of doors, shall be kept free of any type of sign or any other obstruction which prevents clear sight for ingress and egress, except signs warning of hazards to health and safety;
    - (v) The message on a sign containing movable letters and numerals may be changed without obtaining a sign permit;
    - (vi) No transient sign shall be erected, placed, or otherwise displayed on any property, lot, or parcel of land, without a sign permit obtained from the town. Sign permits may be obtained at no cost from the town manager or said manager's designee at any time during regular business hours of the town hall. All permit applicants must include in their application the name, address, and telephone number of both the property owner and lessee, if any, and the permit applicant. The application must be executed by the applicant who must have written approval from the property owner or lessee to obtain sign permits from the town. The application shall include the text, symbols, pictures, wording and the like to be placed on the sign;
    - (vii) Sign permits shall be issued for a period of not more than 30 consecutive calendar days but permits are renewable.
  2. Transient signs pertaining to civic affairs such as town birthdays, parades, Police Explorer's car wash, Halloween party, etc., after obtaining a gratuitous permit from the town manager, may be temporarily erected for not more than two weeks prior to the affair, provided the signs are placed at least 15 feet away from any edge of any street, except that the signs may be located between the curb and the sidewalk on Fifth Avenue and Miramar Avenue provided that no part of the sign extends over the curb.

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- f. *Banner.* A banner may be permitted for a duration not exceeding 75 consecutive days as permitted provided that the banner does not exceed a size of three feet by five feet. Display of any banner, any part of which exceeds fourteen 14 feet in height above ground level shall be prohibited.
    - 1. Strings of pennants may be displayed, provided that the display of pennants is conducted such that no part of any pennant is displayed at a height exceeding 14 feet above ground level and no pennant has any wording or symbols on it. Such strings of pennants may not be displayed for more than 30 consecutive days.
    - 2. Only one banner (which is suggested for a business opening soon, celebrating a grand opening, celebrating an anniversary, or experiencing a major remodeling) may be permitted in a calendar year unless ownership changes.
  - g. *Banner.* A sidewalk sale, special event, and anniversary sale opportunity may result in a permit being issued for a banner for a duration not exceeding seven consecutive days as permitted (see section 113-304(6)).
  - h. *Opening soon and/or grand opening sign.* Opening soon and/or grand opening signs are permitted only once for each occupant or change of ownership of the property. Grand opening signs are allowed after each extensive remodeling of the premises, which must cost at least 15 percent of the assessed valuation of the building. Opening soon and/or grand opening signs shall not be more than 18 inches by 48 inches in size and shall not be displayed more than a combined 75 days. Opening soon signs are permitted only during a period of time prior to the property being allowed to open for business.
- (7) *S-C Shopping Center Districts.* All provisions of the C and C-1 districts apply except as modified below:
- a. Attached signs, excluding murals, may be mounted on the roof;
  - b. The height of attached signs shall not exceed the height of the roof at the ridge-pole;
  - c. Each business area may have an attached sign not to exceed, in area, 32 square feet or ten percent of the total exposed building face's square feet, whichever is greater;
  - d. Detached signs are not permitted, except one detached sign is permitted for each shopping center. The actual sign area shall not exceed ten feet in height and 15 feet in width. The supporting structure shall not exceed 20 feet in height and 20 feet in width. The total height of the entire structure and sign shall not exceed 30 feet in height;
  - e. Where the business unit is available from the rear, a second sign not to exceed nine square feet in area may be attached to the rear of the building unit;
  - f. In the case of buildings located on corner lots, a sign not to exceed 32 square feet is permitted on the wall which is closest to the side street, unless the property owner requests a different but parallel wall that faces the side street, and a wall that is perpendicular to the side street instead.
- (8) *T-Tourist Districts.* All sign provisions for the C and C-1 districts apply, except that:
- a. Garage sale and directional signs are permitted only for residences;
  - b. The attached sign and detached sign may contain, in addition to other allowed material, not more than five of the words or pseudo-phrases which follow: "No Vacancy," "Vacancy," "Housekeeping Units," "Kitchenettes," "Ocean View," "Pets Welcome," "No Pets," or such other words as are specifically authorized upon application to the zoning and planning board;
  - c. Signs permitted on property used for single-family residences and duplexes are the same as permitted in the R-1-B district;

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- d. Signs permitted on property used for multifamily residences are the same as permitted in the R-3 district;
  - e. Signs permitted for nonresidential property are the same as permitted in the C and C-1 districts, except that not more than one detached sign is permitted;
  - f. Lighting of signs for a bed and breakfast facility shall only be external to the sign.
- (9) *CH-Church Districts.*
- a. Bulletin boards, attached signs (including, but not limited to, murals), and similar signs of churches shall be permitted (instead of commercial detached signs) and shall not exceed 32 square feet in area, shall not exceed eight feet in height, shall be located within the property lines, and shall not exceed one sign facing each street;
  - b. The bulletin boards may contain changeable letters and numerals, both of which may be changed without obtaining a sign permit.
- (10) *Private parking lots signs.*
- a. Detached, attached or paint-on structure, signs in black and white or uniform in color to the building exterior to regulate parking lots are permitted as follows:
    - 1. One detached directional sign per entry, and one per exit, to and from a parking lot, is permitted. The content of these signs shall be limited to one or two of the following words: "Enter," "Entrance," "In," "Exit," "Egress," "Out," "Only," and may bear a directional arrow. Each sign shall have a maximum area of two square feet, the top of the sign and its support shall not be more than three feet above the ground, and it shall be located not less than three feet from the edge of the pavement of any street, except, where a paved sidewalk exists, it shall be located on the property side of the sidewalk, not closer than one foot to the sidewalk;
    - 2. Markings on the surface of the paved parking areas shall be limited to arrows and traffic-flow-directional words, such as "Drive-up Window," "Drive-up Lane," "Drive-up Tellers";
    - 3. In addition, one parking space identification sign lettered only on concrete car stops or curbs is permitted per parking space, not to exceed three inches in height and 18 inches in length;
    - 4. In addition, one parking lot identification sign per street from which there is an entrance to said lot is permitted. The content of this sign shall be limited to any or all of the following words: "Private Parking for Customer Of \_\_\_\_\_," plus only the name or identifying symbol and the address of the business, institution, professional association, or service corporation. The maximum size of each such sign shall not exceed four and 4½ square feet. If the nine square foot "Tow Away" sign described in subsection (10)a.5 of this section is used, the above information must be included on the tow away sign in lieu of a separate sign;
    - 5. Any property owner desiring to use vehicle tow away signs must do so in accordance with F.S. § 715.07, as amended from time to time. Signs shall not exceed nine square feet;
    - 6. Signs for disabled persons' parking spaces as provided in F.S. ch. 316;
    - 7. For establishments selling beer, wine or other alcoholic beverages, as defined in chapter 4, not exceeding two parking lot signs meeting the requirements of section 4-8(c).

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- b. Sign permits must be obtained from the town prior to painting, construction and erection of the above signs, with the exception of subsection (3) of this section; but the provisions of subsection (3) of this section, must be fully complied with.

- (11) *Beautification recognition signs.* Signs representing an award for beautification of grounds or buildings presented by the town, after obtaining a gratuitous permit from the town manager, may be temporarily erected for not more than 30 days, provided the signs are placed at least 15 feet away from the edge of any street pavement. These signs may be placed in any zoning district.

(Code 1993, § 17-106.4; Ord. No. 84-344, § 4, 3-20-1984; Ord. No. 84-349, § 3, 6-19-1984; Ord. No. 86-11, § 3, 4-15-1986; Ord. No. 90-8, § 1, 2-20-1990; Ord. No. 95-1, § 2, 11-30-1994; Ord. No. 97-1, § 3, 12-3-1996; Ord. No. 9 7-7, 5-6-1997; Ord. No. 02-07, § 1, 4-16-2002; Ord. No. 03-06, § 1, 4-15-2003; Ord. No. 04-01, § 1, 12-16-2003; Ord. No. 05-02, § 1, 12-16-2004; Ord. No. 05-11, § 1, 6-21-2005; Ord. No. 06-01, § 1, 12-14-2005; Ord. No. 07-01, § 1, 11-21-2006; Ord. No. 09-9, §§ 3—5, 4-21-2009; Ord. No. 11-17, § 4, 8-16-2011; Ord. No. 13-15, § 1, 10-15-2013; Ord. No. 14-10, § 5, 7-15-2014; Ord. No. 15-06, § 1, 9-9-2015; Ord. No. 16-02, § 1, 11-12-2015; Ord. No. 16-15, § 2, 10-12-2016; Ord. No. 17-13, § 2, 8-9-2017)

### **Sec. 113-306. Nonconforming signs.**

A nonconforming sign or sign structure existing within the town limits on or after the effective date of the ordinance from which this article is derived shall be subject to removal. Removal of such signs, signs that were or are erected without a permit, "grandfathered" nonconforming signs, abandoned signs, damaged signs or other nonconforming signs, shall be achieved as follows:

- (1) *At the time of owner or occupant change.* All nonconforming signs in existence, at the time a property is sold or rented as a new and separate business area, shall be made to conform or shall be replaced after 30 days notice by the code enforcement officer;
- (2) *All others.* All other owners of nonconforming signs shall be granted a reasonable period, as set forth below, in which to amortize the cost of such signs. In return for such amortization period, all nonconforming signs must be maintained in good condition by their owners. At the conclusion of the time periods herein set forth, all such nonconforming signs shall be removed in accordance with subsection (7) of this section:
  - a. Nonconforming signs consisting of materials that have a monetary value of less than \$500.00 shall be removed within five years from March 20, 1984 (the effective date of Ordinance No. 84-344, from which this article is derived). The monetary value shall be determined by the building official, whole opinion may be appealed to the board of adjustment;
  - b. Nonconforming signs consisting of materials that have a monetary value of at least \$500.00 but less than \$1,000.00 shall be removed within ten years from March 20, 1984 (the effective date of Ordinance No. 84-344, from which this article is derived). The monetary value shall be determined by the building official, whose opinion may be appealed to the board of adjustment;
  - c. Nonconforming signs consisting of materials that have a monetary value of at least \$1,000.00 shall be removed within 15 years from March 20, 1984 (the effective date of Ordinance No. 84-344, from which this article is derived);
  - d. The zoning and planning board may extend the period of use of a nonconforming sign for up to an additional five years beyond the initial period, when, in its judgment, the useful life of the sign has not been completely amortized. In no event, however, shall any nonconforming sign remain in existence for more than 20 years from March 20, 1984 (the effective date of Ordinance No. 84-344, from which this article is derived);

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- (3) *Fee waived.* At the time a nonconforming sign is replaced, a permit for a conforming sign shall be issued with no fee attached;
  - (4) *Abandoned signs.* A landowner shall not permit any sign which has been erected upon his land to be abandoned upon such land. Thirty days after the cessation of business at such location, it shall be presumed that an on-premises sign has been abandoned. On-premises signs whose words, numbers or other symbols are completely obliterated by paint or other neutralizing agent are not deemed abandoned by this section;
  - (5) *Occupancy change.* Any change in the type of occupancy of property on which any nonconforming sign is located, shall cause the removal of all nonconforming signs within 30 days;
  - (6) *Mixture of conforming with nonconforming signs prohibited.* No conforming sign or sign structure shall be erected on the same premises with an existing nonconforming sign until the nonconforming sign has been removed or made conforming. However, in residential-professional, commercial, shopping center or tourist districts, the fact that one particular business or activity has a nonconforming sign or sign structure will not prohibit another business or activity on the same premises from erecting a conforming sign or sign structure;
  - (7) *Removal of nonconforming signs.* Nonconforming or abandoned signs erected in the town shall be removed in accordance with the procedures established by the code enforcement board.

(Code 1993, § 17-106.5; Ord. No. 84-344, § 4, 3-20-1984)

**Secs. 113-307—113-330. Reserved.**