



# City Commission Regular Meeting

## Agenda

**October 26, 2022 @ 3:30 pm**

City Hall - Commission Chambers  
401 S. Park Avenue

### welcome

Agendas and all backup material supporting each agenda item are accessible via the city's website at [cityofwinterpark.org/bpm](http://cityofwinterpark.org/bpm) and include virtual meeting instructions.

### assistance & appeals

Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk's Office ([407-599-3277](tel:407-599-3277)) at least 48 hours in advance of the meeting.

"If a person decides to appeal any decision made by the Board with respect to any matter considered at this hearing, a record of the proceedings is needed to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based." (F.S. 286.0105).

### please note

Times are projected and subject to change.

**1. Meeting Called to Order****2. Invocation**

- a. [Pastor Weaver Blondin, Mt. Moriah Missionary Baptist Church](#) 1 minute

**Pledge of Allegiance****3. Approval of Agenda****4. Mayor Report**

- a. [Proclamation for Week of the Family](#)

**5. City Manager Report****6. City Attorney Report****7. Non-Action Items**

- a. [Presentation: FDOT Vision/Target Zero - Loreen Bobo](#) 20 minutes

**8. Public Comments | 5 p.m. or soon thereafter**

(if the meeting ends earlier than 5:00 p.m., public comments will be at the end of the meeting)

(Three minutes are allowed for each speaker)

**9. Consent Agenda**

- a. [Approve the minutes of the regular meeting, October 6, 2022](#) 1 minute
- b. [Approve the minutes of the regular meeting, October 12, 2022](#) 1 minute
- c. [Approve the following formal solicitations:](#) 1 minute
1. Abbott Printing Company, Inc. - RFP28-22 - Printing and Mailing Services; Amount: \$150,000
  2. CJ's Sales and Service Inc. - IFB29-22 - Water Treatment Plant Generator Replacement; Amount: \$149,000
- d. [Approve the following piggyback contracts:](#) 1 minute
1. Ingenium Power and Sport, LLC - Sourcewell Contract #031121-GNR - Grounds Maintenance Equipment; For goods on an as-needed basis during the term of the Agreement through April 30, 2025; Amount: \$225,000.
  2. Vermeer Manufacturing Company - Sourcewell Contract #110421-VRM - Public Utility Equipment; For goods on an as-needed basis during the term of the Agreement through



December 27, 2025; Amount: \$300,000.

3. Alan Jay Fleet Sales - Sourcewell Contract #091521-NAF - Cars, Trucks, Vans, SUVs, Cab Chassis, & Other Vehicles; For goods on an as-needed basis during the term of the Agreement through November 08, 2025; Amount: \$150,000.
4. Atlantic Pipe Services LLC - City of Orlando Contract #IFB22-0161 - Sanitary Sewer Lining and Manhole Rehabilitation; For services on an as-needed basis during the term of the Agreement through July 17, 2025; Amount: \$1,250,000.
5. Fifth Asset, Inc dba DebtBook - Region 14 Education Service Center/NCPA Contract #14-03; Debt and Lease Management Software and Consulting Services; For services on an as-needed basis during the term of the Agreement through July 31, 2024; Amount: \$75,000.
6. Axon Enterprise, Inc. - OMNIA Partners Contract #151089 - Body Cameras for PD; For goods on an as-needed basis during the term of the Agreement through February 15, 2028; Amount: \$1,000,000.
7. USIC Holdings, Inc. d/b/a USIC Locating Services, LLC - OUC Contract #5038OQ - Underground Facilities Line Locating Services; For services on an as-needed basis during the term of the Agreement through December 17, 2024; Amount: \$75,000.

e. [Approve the following contracts:](#)

1 minute

1. Graef-USA, Inc. - Renewal of RFQ19-18 - Professional Structural Engineering Consulting; Amount: \$125,000 for services on an as needed basis during the term of the Agreement.
2. Irvine Mechanical, Inc. - Renewal of IFB19-19C - HVAC Installation, Repair & Replacement Services; Amount: \$300,000 for services on an as needed basis during the term of the Agreement.
3. Novoaglobal, Inc. - FY23-1 - Red Light Safety and Speeding Enforcement Program; Amount: \$2,200,000 for services on an as needed basis during the term of the Agreement through October 27, 2027.
4. Sternberg Lanterns (Landreth) - SS23-27 - Decorative Streetlighting; Amount: \$200,000 for goods on an as needed basis during FY23.
5. Florida Fish and Wildlife Conservation Commission - FY23-2 - Aquatic Vegetation Control Services for City Eligible Water Bodies; for services on an as needed basis during the term

of the Agreement through February 28, 2025.

6. Thomson Reuters-West - FY23-3 - CLEAR Services; Amount: \$75,000 for services on an as needed basis during the term of the Agreement through October 30, 2025.

- f. [Authorize the annual financial allocation to Habitat for Humanity of Winter Park/Maitland, Inc.](#) 1 minute

## 10. Action Items Requiring Discussion

- a. [Review of 5/25 Year Capital Plan](#) 45 minutes

## 11. Public Hearings: Quasi-Judicial Matters

**(Public participation and comment on these matters must be in-person.)**

- a. [Request of the City of Winter Park and Elevation Plaza LLC for:](#) 5 minutes
1. Ordinance 3254-22: Amending the Comprehensive Plan Future Land Use map:
    - from Institutional to Office on a portion of the property at 631 N. New York Avenue and
    - from Office to Institutional on a portion of the property at 507 N. New York Avenue (2nd reading)
  2. Ordinance 3255-22: Changing zoning:
    - from Public, Quasi-Public (PQP) to Office (O-1) on a portion of the property at 631 N. New York Avenue.
    - from Office (O-1) to Institutional (PQP) on a portion of the property at 507 N. New York Avenue (2nd reading)
- b. [Ordinance - Amending adopted FY22 Budget \(1st Reading\)](#) 2 minutes
- c. [Ordinance amending Chapter 58, "Land Development Code", Article III, "Zoning Regulations" Sections 58-61 through 58-71, collectively, the residential zoning code provisions, and Section 58-95 "Definitions" providing for updates, simplification, and modernization to the current regulations. \(1st Reading\)](#) 30 minutes

## 12. Public Hearings: Non-Quasi Judicial Matters

**(Public participation and comment on these matters may be virtual or in-person.)**

- a. [Ordinance 3256-22: Amending Chapter 2, Article III, "Subsidiary Boards of the City of Winter Park," to provide for the appointment of a non-resident to the Keep Winter Park Beautiful and Sustainable Advisory Board \(2nd reading\)](#) 5 minutes

## 13. City Commission Reports

**14. Summary of Meeting Actions**

**15. Adjournment**



# City Commission **agenda item**

|                         |                               |
|-------------------------|-------------------------------|
| item type Invocation    | meeting date October 26, 2022 |
| prepared by Kim Breland | approved by                   |
| board approval          |                               |
| strategic objective     |                               |

## subject

Pastor Weaver Blondin, Mt. Moriah Missionary Baptist Church

## motion / recommendation

## background

## alternatives / other considerations

## fiscal impact



City Commission

# agenda item

|                          |                                                               |
|--------------------------|---------------------------------------------------------------|
| item type Mayor Report   | meeting date October 26, 2022                                 |
| prepared by Craig O'Neil | approved by Clarissa Howard, Michelle del Valle, Randy Knight |
| board approval Completed |                                                               |
| strategic objective      |                                                               |

## subject

Proclamation for Week of the Family

## motion / recommendation

## background

## alternatives / other considerations

## fiscal impact



# City Commission **agenda item**

|                            |                               |
|----------------------------|-------------------------------|
| item type Non-Action Items | meeting date October 26, 2022 |
| prepared by Rene Cranis    | approved by                   |
| board approval             |                               |
| strategic objective        |                               |

## subject

Presentation: FDOT Vision/Target Zero - Loreen Bobo

## motion / recommendation

## background

## alternatives / other considerations

## fiscal impact



# City Commission **agenda item**

|                                 |                                                     |
|---------------------------------|-----------------------------------------------------|
| <b>item type</b> Consent Agenda | <b>meeting date</b> October 26, 2022                |
| <b>prepared by</b> Rene Cranis  | <b>approved by</b> Michelle del Valle, Randy Knight |
| <b>board approval</b> Completed |                                                     |
| <b>strategic objective</b>      |                                                     |

## **subject**

Approve the minutes of the regular meeting, October 6, 2022

## **motion / recommendation**

## **background**

## **alternatives / other considerations**

## **fiscal impact**

## **ATTACHMENTS:**

[CC-min-2022-10-06.pdf](#)



# City Commission Regular Meeting Minutes

October 6, 2022 at 5:00 p.m.

City Hall, Commission Chambers  
401 S. Park Avenue | Winter Park, Florida

## Present

Mayor Phil Anderson (Virtual), Commissioners Marty Sullivan, Sheila DeCiccio, Kris Cruzada, and Todd Weaver; City Manager Randy Knight; City Attorney Dan Langley and City Clerk Rene Cranis.

### 1) Meeting Called to Order

Mayor Anderson called the meeting to order at 5:04 p.m. Vice-Mayor Weaver chaired the meeting.

### 2) Invocation

The invocation was given by Finance Director Wes Hamil followed by the Pledge of Allegiance.

### 3) Approval of Agenda

**Motion made by Commissioner Sullivan to approve the agenda; seconded by Commissioner DeCiccio. Motion carried unanimously with a 5-0 vote.**

### 4) Millage Rate and Budget Public Hearings

- a. ORDINANCE 3252-22 - AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA ADOPTING A 4.0923 MILL AD VALOREM TAX LEVY UPON ALL REAL AND PERSONAL PROPERTY FOR APPROPRIATION TO THE GENERAL OPERATING EXPENSES OF THE CITY, AND A 0.2647 MILL VOTED DEBT SERVICE LEVY UPON ALL REAL AND PERSONAL PROPERTY FOR APPROPRIATION TO THE CITY OF WINTER PARK, FLORIDA GENERAL OBLIGATION BONDS, SERIES 2017 & 2020. (2nd reading)
- b. ORDINANCE 3253-22 - AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA ADOPTING THE ANNUAL BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2022 AND ENDING SEPTEMBER 30, 2023 AND ACCOMPANYING FIVE YEAR CAPITAL IMPROVEMENT PLAN; APPROPRIATING FUNDS FOR THE GENERAL FUND, DESIGNATIONS TRUST FUND, STORMWATER UTILITY FUND, COMMUNITY REDEVELOPMENT FUND, AFFORDABLE HOUSING TRUST FUND, FEDERAL FORFEITURE FUND, POLICE



GRANT FUND, DEBT SERVICE FUND, WATER AND SEWER FUND, ELECTRIC UTILITY FUND, FLEET MAINTENANCE FUND, EQUIPMENT REPLACEMENT FUND, EMPLOYEE INSURANCE FUND, GENERAL INSURANCE FUND, CEMETERY TRUST FUND, GENERAL CAPITAL PROJECTS FUND AND STORMWATER CAPITAL PROJECTS FUND; PROVIDING FOR MODIFICATIONS; PROVIDING FOR AMENDMENTS TO SAID ANNUAL BUDGET TO CARRY FORWARD THE FUNDING OF PURCHASE ORDERS OUTSTANDING AND UNSPENT PROJECT BUDGETS AS OF SEPTEMBER 30, 2022; AND AUTHORIZING TRANSFER OF FUNDS HEREIN APPROPRIATED BETWEEN DEPARTMENTS SO LONG AS THE TOTAL FUND APPROPRIATIONS SHALL NOT BE INCREASED THEREBY. (2nd reading)

Vice-Mayor Weaver said the millage rate needed for FY 2023 to generate the same property tax revenue in 2022 is 3.8076 mills. The proposed budget requires a millage rate of 4.0923 mills which will remain the same tax rate for a 15th year. The increase in property tax levy is due to increases in assessed value of properties. In addition, a 0.2647 voted debt service is levied to cover bonds issued in 2017 and 2020 approved by the voters in March 2016.

A simultaneous public hearing was held on these ordinances. Attorney Langley read the ordinances by title and staff responded to questions.

Commissioner Cruzada suggested a revenue audit to determine where fees could be adjusted to increase revenue.

Mayor Anderson noted that the budget can be amended which may be required as the result of issues that arose from Hurricane Ian.

**Motion made by Mayor Anderson to adopt the budget as presented; seconded by Commissioner DeCiccio.**

**Motion to amend the motion to adopt the millage rate and budget ordinances made by Mayor Anderson, seconded by Commissioner DeCiccio.**

Mr. David Williams, 209 Tyree Lane, said that his neighborhood was without power and said he feels the city is failing its residents by not completing the undergrounding project and urged the city to increase the budget move more quickly on the project. He spoke about issues with garbage pickup and said he feels the garbage contractor is also failing residents.

Mayor Anderson asked electric utility staff to communicate with Mr. Williams on the progress of undergrounding.

**Upon a roll call vote to adopt the millage rate, Commissioners Sullivan, DeCiccio and Cruzada, Vice-Mayor Weaver and Mayor Anderson voted yes. Motion carried unanimously with a 5-0 vote.**

**Upon a roll call vote to adopt the budget, Commissioners Sullivan, DeCiccio and Cruzada, Vice-Mayor Weaver and Mayor Anderson voted yes. Motion carried unanimously with a 5-0 vote**

#### **5) Mayor Report**

Mayor Anderson noted the restoration of power by Sunday after the storm and the goal to continue undergrounding. He commended staff on the management of the Emergency Operations Center (EOC) and expressed his appreciation for staff and residents for their resiliency.

He said this is rescheduled meeting to consider the millage rate and budget and other time-sensitive matters. He asked Mr. Knight to provide a summary of staff's after-action meeting scheduled for Friday.

Vice-Mayor Weaver noted the complexity of the electric utility system and that outages were the result of failed equipment due to flooding. He advised that debris removal has begun but some restoration may be delayed until water levels recede.

#### **6) City Manager Report**

Mr. Knight introduced Charles Ramdatt, Director of Public Works.

He gave an update on statistics related to the hurricane and stated that staff will be holding an after-action meeting tomorrow to discuss what went well, what needs to be addressed and what could be done differently. A report will be provided to the commission and community when it is completed in about two weeks. He thanked staff for working long hours during and after the hurricane. He reported on restoration efforts and issues and advised that use of lakes is still banned, that residents are still advised to restrict water usage while staff continues to work on issues with sewer systems and lift station, and that debris clean-up has begun. Information on the city's low-income uninsured homeowner water remediation grant program to help with flood damage is posted on the city's website.

#### **7) City Attorney Report**

#### **8) Non-Action Items**

#### **9) Public Comments | 5 p.m. or soon thereafter**

Sonia Burton, 1602 Arbor Park Drive, advised of ongoing issues with storm drains in her neighborhood that have caused flooding of the street and her driveway for many years. She asked the city for an update on improvements.

Nancy Morgan, 1622 Arbor Park Drive, spoke about storm drain problems on Arbor Park Drive between Walnut and Chestnut that have caused flooding of her property and home and stated berms that were installed provided some help but there are still problems with storm drains. She said before new larger homes are constructed in the area, infrastructure needs to be budget for improvements.

Mayor Anderson advised of this commission's development of a long-term planning process to address infrastructure improvements which includes stormwater. He assured residents that staff is looking into issues raised.

Assistant Director of Public Works Don Marcotte explained that the project to improve the drainage system behind homes on Arbor Park Drive is underway in partnership with Seminole County with design at 60% completion and construction expected to begin in the spring of 2023. He said drainage improvements were done at intersection of Oneco and Arbor Park Drive and Mrs. Morgan's drive was raised to help to alleviate flooding. He said he will reassess the problem.

David Davich, 1610 Pennsylvania Avenue, expressed his concerns about traffic, speeding and increased truck traffic and asked that the city consider and enforce traffic laws for the safety of pedestrians, cyclists and particularly children. He spoke about the long wait of pedestrians between pressing the pedestrian signal and being able to safely cross the street.

Jeanne Wall was called to speak but was unable to speak due to technical difficulties. She spoke after the Consent Agenda.

## **10) Consent Agenda**

- a. Approve the minutes of the regular meeting, September 14, 2022
- b. Approve the minutes of the work session, September 15, 2022
- c. Approve the following contracts:
  1. Jacobs Engineering Group, Inc. - Renewal of RFQ17-10 - Continuing Engineering Services for W-WW Systems; Amount: \$500,000 for services on an as needed basis during the term of the Agreement.
  2. Credit Bureau Systems, Inc. - Renewal of RFP13-20 - EMS Billing Services; Amount: \$96,000 for services on an as needed basis during the term of the Agreement.
  3. Power Engineers, Inc. - Renewal of RFQ-18-2018 - Professional Engineering Services to Design Underground Conversion of Power Lines;

Amount: \$200,000 for services on an as needed basis during the term of the Agreement.

4. Zyscovich, LLC - RFQ3-17 - Continuing Contract for Architectural Services; Amount \$190,000 for additional funds needed for services for the remainder of the agreement through October 31, 2022.
  5. ESRI, Inc. - Renewal of FY20-8 - Utility Network & Security Management Software; Amount: \$200,000 for services on an as needed basis during the term of the Agreement through September 30, 2025.
  6. Elizabeth Morse Genius Foundation - Renewal of FY06-01 - Parking Garage Maintenance; Amount: \$130,000 for services on an as needed basis during the term of the Agreement.
  7. Advanced Compatible Solutions - Renewal of FY19-10 - Fire Alarm System & Monitoring; Amount: \$175,000 for services on an as needed basis during the term of the Agreement.
  8. Metlife - Renewal of FY19-3 - Group PPO Dental Benefits; Amount: \$400,000 for services on an as needed basis during the term of the Agreement.
  9. Cigna Health and Life Insurance Co. - Renewal of FY20-18 - Medical Insurance Stop Loss & Administration; Amount: \$1,220,400 for services on an as needed basis during the term of the Agreement.
  10. Lina (Cigna) - Life, AD&D and Disability Insurance - Renewal of FY20-21 - Life, AD&D and Disability Insurance; Amount: \$175,000 for services on an as needed basis during the term of the Agreement.
  11. Brown & Brown of Florida, Inc. - Renewal of RFP22-18 - Insurance Agent/Broker of Record; Amount: \$1,100,000; All City insurance premium payments are processed directly through Brown & Brown of Florida.
- d. Approve the following formal solicitations:
1. Allcrete, Inc. - IFB23-22 - Continuing Concrete Services; Amount: \$125,000
  2. PSG Concrete & Excavation, LLC - IFB23-22 - Continuing Concrete Services; Amount: \$125,000
  3. MSL, P.A. - RFP25-22 - External Auditing Services; Amount: \$201,000 (\$67,000 per Fiscal Year) for the duration of the three-year Agreement.
  4. Magellan Advisors, LLC - RFP26-22 - Connectivity Master Plan & Smart City Initiative Consultant Services; Amount: \$160,100
- e. Approve the following piggyback contracts:
1. Motorola Solutions, Inc. - Orange County Contract #Y18-170-MV - Motorola Services; For services on an as-needed basis during the remainder of the current term of the Agreement through December 31, 2022; Amount: \$171,000.

2. Odyssey Manufacturing Company - City of Lake Wales Contract ITB#21-488 – Purchase and Delivery of Sodium Hypochlorite; For goods on an as-needed basis during the remainder of the current term of the Agreement through September 30, 2023; Amount: \$275,000
3. Ring Power Systems - Sourcewell Contract #120617-CAT - CAT Diesel & Natural Gas Generator Sets; For goods on an as-needed basis during the remainder of the current term of the Agreement through January 29, 2023; Amount: \$700,000
4. Core & Main LP - City of St. Petersburg Blanket Purchase Agreement 226457; Amount \$1,460,862.57 for goods on an as-needed basis during the remainder of the current term of the Agreement.

**Motion made by Commissioner DeCiccio to approve the Consent Agenda; seconded by Commissioner Sullivan.**

Staff responded to questions clarifying terms, contract and components of purchases and explained the provisions and responsibilities for maintenance of the parking garage (Item (c)(6) Mr. Knight advised that staff has discussed the frequency of maintenance and repairs with the Foundation.

There were no public comments. **Upon a roll call vote, Commissioners DeCiccio, Sullivan and Cruzada, Vice-Mayor Weaver and Mayor Anderson voted yes. Motion carried unanimously with a 5-0 vote.**

#### **11) Action Items Requiring Discussion**

- a. Collective Bargaining Agreement Between the City of Winter Park and Winter Park Professional Firefighters Local 1598, IAFF

Mr. Knight stated this is a three-year renewal of the agreement which has been ratified by the unit members. It includes a 5% COLA and up to 2.5% merit and \$1,000 bonus included in the FY 23 budget and a 3.5% merit for Years 2 and 3 of the agreement. It also modifies the Compassionate Leave program as a result of changes to the city's Long-Term Disability provisions and changes to physical requirements.

There were no public comments. **Motion made by Commissioner DeCiccio to approve the agreement; seconded by Commissioner Sullivan. Upon a roll call vote, Commissioners Sullivan, DeCiccio and Cruzada, Vice-Mayor Weaver and Mayor Anderson voted yes. Motion carried unanimously with a 5-0 vote.**

#### **9) Public Comments | 5 p.m. or soon thereafter (continued)**

Jeanne Wall, 211 Lake Drive, thanked commission and staff on efforts after the hurricane and said she feels this event should be used an opportunity to improve infrastructure to

protect from future flooding as experienced by residents due to overflow from Lake Bell into Lake Killarney and flooding of Lee Road. She advised of the availability of federal funds through membership in FEMA's Community Rating System (CRS) to help restore and repair aging infrastructure and explained the application process. She encouraged the commission to request that staff to review and consider membership since the process could continue to 2024 and also encouraged hiring a consultant or additional staff to help with the application process.

**12) Public Hearings: Quasi-Judicial Matters**

**13) Public Hearings: Non-Quasi-Judicial Matters**

**14) City Commission Reports**

Commissioner Sullivan -

- Advised that he toured flooded areas and thanked staff for supplying roll-off dumpsters and for the program to help low-income homeowners with water remediation.
- Reported that Trust for Public Land is continuing to investigate the city's potential purchase of the Bank of the Ozarks property. Commissioner Weaver said he believes the Ozarks property could provide stormwater capacity and treatment in the area. Commissioner DeCiccio agreed.

Commissioner DeCiccio -

- Supported the city's application for membership in the CRS since it will take years to apply and become eligible for funds. She stressed the need to prepare for future storms and suggest coordinating with Maitland since they are not members but could make for stronger possibility for federal funds.
- Thanked staff for their work post-hurricane and said the after-action discussions need to include identifying weaknesses found.
- Said volunteers are need to paint benches at Mead Garden on Saturday.
- Addressed customer complaints about the absence of water usage history on bills. Mr. Knight said staff is working on changing the billing format.
- Advised of a dangerous situation for bicyclists on Glenridge Way causing them to ride on the road and asked staff to study and implement changes to improve pedestrian and bicycle safety.
- Spoke about different types of street lights – amber and bright white and said that some residents have expressed their preference for amber lights.

Director of Electric Utility Dan D'Alessandro explained the types of lights available and said LED lights are more energy efficient and that lights are changed in groups by staff as through attrition.

Commissioner Cruzada -

- Thanked staff for recovery efforts and said he is looking forward to staff's report on what happened to consider what can be done better. He supported the city's participation in the CRS which could provide reduced rates for flood insurance.

Vice-Mayor Weaver -

- Reminded of the Art Festival is this weekend and that some downtown streets will be closed.
- Announced that the dedication of new Central Park Stage is Saturday morning.

Mayor Anderson -

- Shared a story told by a resident whose friends were impressed with city's communication efforts particularly through e-mail.
- Reported that FDOT is rapidly convening their groups to evaluate Brewer Curves and preparing for public comments. He thanked staff for putting this in motion.

### **15) Summary of Meeting Actions**

- Approved ordinances adopting the millage rate and FY 23 budget.
- Introduced new Director of Public works.
- Received an update on the storm.
- Approved Consent Agenda.
- Approved Fire member collective bargaining agreement.
- Directed staff to evaluate membership in the CRS and report back to Commission (in-process).

### **16) Adjournment**

The meeting adjourned at 6:27 p.m.

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Mayor Phillip M. Anderson

ATTEST:

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City Clerk Rene Cranis



# City Commission **agenda item**

|                          |                                              |
|--------------------------|----------------------------------------------|
| item type Consent Agenda | meeting date October 26, 2022                |
| prepared by Rene Cranis  | approved by Michelle del Valle, Randy Knight |
| board approval Completed |                                              |
| strategic objective      |                                              |

## subject

Approve the minutes of the regular meeting, October 12, 2022

## motion / recommendation

## background

## alternatives / other considerations

## fiscal impact

## ATTACHMENTS:

[CC-min-2022-10-12.pdf](#)





# City Commission Regular Meeting Minutes

October 12, 2022 at 3:30 p.m.

City Hall, Commission Chambers  
401 S. Park Avenue | Winter Park, Florida

## Present

Mayor Phil Anderson, Commissioners Marty Sullivan, Sheila DeCiccio, Kris Cruzada, and Todd Weaver; City Manager Randy Knight; City Attorney Kurt Ardaman and City Clerk Rene Cranis.

### 1) Called to Order

Mayor Anderson called the meeting to order at 3:34 p.m.

### 2) Invocation

The invocation was given by Pastor Bruce Mayhew, Gateway Church, followed by the Pledge of Allegiance.

### 3) Approval of Agenda

**Motion made by Commissioner DeCiccio to approve the agenda; seconded by Commissioner Sullivan. Motion carried unanimously with a 5-0 vote.**

### 4) Mayor Report

Mayor Anderson thanked staff for their work in the aftermath of Hurricane Ian and record flooding.

#### a. Proclamation for SpaceKids Global

Mayor Anderson thanked Sharon Hagle for sharing her experience in flying into space and recognized her founding of SpaceKids Global to encourage kids to participate in space and technology opportunities with a proclamation declaring September 28, 2022 to be SpaceKids Global Day. Mrs. Hagle thanked the city for the recognition.

### 5) City Manager Report

#### a. City Manager Report

Mr. Knight reported on staff's after-action meeting on Hurricane Ian. The Lakes and Stormwater divisions are still involved in post-hurricane work and will have a report this week. Staff is looking at capital and infrastructure needs exposed by the hurricane. He explained how the city's GIS mapping was an important tool to log storm events and locations. Staff identified the need for sandbags for post-storm use, electric switch gear equipment to be installed at higher levels in remaining undergrounding project areas, a

telemetry system for lakes to measure lake levels and retractable barriers to allow for drainage from lakes. Staff will work with the advisory boards to develop a timeline for drawing down the lakes to educate neighbors and is conducting a vulnerability study with FDEP. The city is revising the street sweeping contract to have better access to resources after a storm. Staff is also evaluating the CRS process and will provide a report to the commission. Waste Pro reports daily on debris pickup with the first pass to be completed by this coming Sunday. He responded to questions stating staff is connecting residents to programs to begin recovery efforts.

In response to questions, Mr. Knight explained that Utility Billing is close to returning to a regular billing schedule; the payment system is now running and staff continues to work with residents to set-up electronic payment. There will be no penalties or disruption of service but bills may show the previous amount due because of the short time between billing cycles. The billing format is being revised.

Mayor Anderson suggested more personalized communication with residents about automatic/recurring billing.

**6) City Attorney Report**

**7) Non-Action Items**

**8) Public Comments | 5 p.m. or soon thereafter (taken after recess)**

**9) Consent Agenda**

- a. Approve the minutes of the work session, September 30, 2022
- b. Approve the following contracts:
  1. High Performance Sports Management - Renewal of RFP17-18 - Tennis Programming & Instructional Services; Amount: \$450,000 for services on an as needed basis during the term of the Agreement.
  2. A Budget Tree Service Inc. - Renewal of ITN23-18 - Vegetation Management Services; Amount: \$800,000 for services on an as needed basis during the term of the Agreement.
  3. The Davey Tree Expert Co. - Renewal of ITN23-18 - Vegetation Management Services; Amount: \$500,000 for services on an as needed basis during the term of the Agreement.
  4. Credit Bureau Systems, Inc. - Renewal of RFP13-20 - EMS Billing Services; Amount: \$96,000 for services on an as needed basis during the term of the Agreement.
  5. Roman Roads Hardscapes, Inc. - IFB10-22 - Purchase and Installation of Bricks; Amount: \$55,000 for additional funds for paver removal at the Country Club.

6. Paymentus Corp - Renewal of FY20-75 - Payment Management and Processing Services; Amount: \$350,000 for services on an as-needed basis during the term of the Agreement.

**Motion made by Commissioner Weaver to approve the Consent Agenda; seconded by Commissioner Cruzada.** There were no public comments. **Motion carried unanimously with a 5-0 vote.**

#### **10) Action Items Requiring Discussion**

- a. Patel, Greene & Associates, LLC presentation of Transportation Master Plan Scope.

Director of Planning and Zoning Jeff Briggs advised that the current Transportation Master Plan is outdated and not based on current costs. The consultant will work with Asst. Director of Planning Allison McGillis and Engineer (Transportation Division) Hong Lim as staff project managers.

Project Manager Josh Peterson, Patel, Green, and Associates, introduced Gabe Gonzales and Angelo Rao who gave a presentation on the scope. Mr. Gonzales reviewed the overall plan to add and remove projects, update costs, expand and refresh the technology component, and create a connectivity component, process and elements to develop the plan without "reinventing the wheel." He reviewed the tasks and components of the six scope of work tasks.

Mr. Rao reviewed current and emerging technology trends as a key part of transportation, including rapid reflective beacon technology to improve pedestrian crossing and future connected vehicle and fiberoptic technology.

Mr. Gonzales advised that the goal is to identify and prioritize projects with a focus on greenways network/connection and infrastructure. Presentations will be made to staff, the Transportation Advisory Board and the commission. Additional information and details were provided in response to questions.

Mr. Lim gave an update status of 426/Brewer Curve FDOT study and the timing of potential improvements after the stakeholder meetings and a review of options. Discussion followed on the parameters for the transportation study and expectations. Mayor Anderson suggested that staff ensure the team is invited to appropriate FDOT public meetings to understand the study to incorporate into their final product.

Commissioner Sullivan suggested the team incorporate the city's comprehensive plan priorities (modes of transportation - pedestrian, bicycle, public transit, Sunrail/transit links, private/commercial vehicles) as they prioritize core projects for the city. Mr. Gonzalez said the team will need to look at the data first to identify potential locations for transit facilities.

Mayor Anderson spoke about traffic safety concerns that he would like addressed sooner than later. He asked that the team provide an interim report to TAB and Commission on these items: 1. traffic calming on Capen, Denning and Bennett and around Mead Garden; 2, a truck routing map to enforce limits on heavy trucking through neighborhoods; 3. 426 improvements, and 4. arterial bicycle paths (east/west connectivity of MLK Park to Central Park and to City of Orlando).

Commissioner Weaver suggested a study of the intersection of Denning and Fairbanks which he feels will need a crossover or tunnel due to heavy traffic.

Mrs. McGillis stated that some of the neighborhood traffic calming issues can be looked at by staff to move forward more quickly.

**Motion made by Mayor Anderson to approve the scope and fee for the Transportation Master Plan with the addition of the 426 public meetings process and interim report on micro items (listed above); seconded by Commissioner Weaver.**

**Motion made by Mayor Anderson to amend the motion to approve the scope and fee for the Transportation Master Plan with the addition of 426 public meetings process and interim report on micro items (noted above) and to include a reasonable budget adjustment to accommodate minor modifications to the scope; seconded by Commissioner Weaver.** There were no public comments. **Motion carried with a 5-0 vote.**

b. Howell Branch Preserve Design

Director of Parks and Recreation Jason Seeley presented a revised design of Howell Branch Preserve based on stakeholder meetings. The public access points from Lolissa Lane and Drum Street have been removed with a new public access point from the police training ground and the boardwalk has been pulled further inland away from Lake Waumpi. The trail along Lolissa Lane has been moved northward to be less intrusive to the residents along the back side of the area. He reviewed costs for the Waumpi Loop at \$226k (not part of the grant), the unpaved parking area, and safeguarding (fencing/gates) at \$100k. He noted that staff is reviewing the results of a traffic study on Temple Trail to identify ways to make the area safer.

Discussion was held on funding to complete the project and potential need to revise the commission priorities list. Consensus was to discuss project costs as part of the priorities discussion at the next commission meeting.

**Motion made by Commissioner Weaver to approve as presented; seconded by Commissioner Sullivan.** There were no public comments. **Motion carried unanimously with a 5-0 vote.**

A recess was held from 4: 49 p.m. to 5:02 p.m.

**8) Public Comments | 5 p.m. or soon thereafter (None)**

**11) Public Hearings: Quasi-Judicial Matters**

- a. Request of the City of Winter Park and Elevation Plaza LLC for:
  1. Amendments to the sales contract to confirm the legal descriptions for parcels, approve the forms of the appurtenant easements, and provide for release of mineral rights by the City.
  2. Ordinance: Amending the Comprehensive Plan Future Land Use map:
    - from Institutional to Office on a portion of the property at 631 N. New York Avenue and
    - from Office to Institutional on a portion of the property at 507 N. New York Avenue (1st reading)
  3. Ordinance: Changing zoning:
    - from Public, Quasi-Public (PQP) to Office (O-1) on a portion of the property at 631 N. New York Avenue.
    - from Office (O-1) to Institutional (PQP) on a portion of the property at 507 N. New York Avenue (1st reading)

Attorney Ardaman read the ordinances by title. A simultaneous public hearing was held on these requests.

Mr. Briggs stated that these requests are related to the land swap for properties on N. New York Avenue. It includes rezoning of these properties and amendments to the sales contract to confirm legal descriptions, easements and transfer of mineral rights needed to move forward with closing. He responded to questions regarding the proposed plan.

Commissioner Weaver noted that there is a large deposit of lithium on the city property being swapped and asked if the city retains the mineral rights for the triangular portion of the property. Mr. Ardaman explained that unless the city expressly agrees otherwise, the mineral rights on the conveyed property are retained by the city. He explained that Elevation LLC is asking for the mineral rights and the title company has requested that the commission affirm the agreement to convey mineral rights. Unless the commission wants to retain the mineral rights, his recommendation is to convey the mineral rights along with the rest of the property rights. Discussion followed on mineral rights, conveyance, and the city wellhead and aquifer. Mr. Knight noted that the city is retaining the property where the wellhead is located.

**Motion made by Commissioner Weaver to approve the amendments and two rezoning ordinances.** There were no public comments. **Upon a roll call vote, Commissioners Sullivan, DeCiccio, Cruzada and Weaver and Mayor Anderson voted yes. Motion carried unanimously with a 5-0 vote.**

- b. Request of Winter Park Town Center LTD for Conditional Use approval to redevelop the Ruth's Chris restaurant pad within the Winter Park Village (490 N. Orlando Avenue) with a one- story, 16,186-square-foot building for an Arhaus furniture store, zoned C-1.

John Harbilas, Senior Planner, reviewed this request and presented images of the location and surrounding area. The new use has a much lower parking requirement and the majority of spaces will be captured on site with the remaining requirement being met through use of overall parking at Winter Park Village. The Planning and Zoning Board recommended approval.

**Motion made by Commissioner Weaver to approve the request; seconded by Commissioner Sullivan.** There were no public comments. **Upon a roll call vote, Commissioners Sullivan, DeCiccio, Cruzada and Weaver and Mayor Anderson voted yes. Motion carried unanimously with a 5-0 vote.**

## **12) Public Hearings: Non-Quasi-Judicial Matters**

- a. Ordinance amending Chapter 2, Article III, "Subsidiary Boards of the City of Winter Park," to provide for the appointment of a non-resident to the Keep Winter Park Beautiful and Sustainable Advisory Board (1st reading)

Attorney Ardaman read the ordinance by title.

**Motion made by Mayor Anderson to approve the ordinance; seconded by Commissioner DeCiccio.** There were no public comments. **Upon a roll call vote, Commissioners Sullivan, DeCiccio, Cruzada and Weaver and Mayor Anderson voted yes. Motion carried unanimously with a 5-0 vote.**

## **13) City Commission Reports**

Commissioner Sullivan -

- Advised the Bank of the Ozarks property talks are continuing.
- Addressed complaints from residents regarding the brightness of the street lights. He asked for consensus for staff to research options for a softer lighting color rather than bright white lights and suggested more amber lights in residential and historic areas of the city. Commissioner Weaver agreed provided it meets energy efficiency.

Mayor Anderson stated that this is a two-part request: 1. For staff to look at LED amber lighting options and potential purchasing limitations 2. Consider what the impact would be to use low sodium vapor lighting for historic districts. Mr. Knight added that some residents like the brighter lights for visibility and safety and stated that staff will bring back a report on options. Commissioner Sullivan expressed hope that residents will provide their input. Approved by consensus.

Commissioner DeCiccio -

- Stated that the Friends of Hannibal Square is hosting Taste of Hannibal Square on November 17, 2022 and has asked that the City split the cost of approximately \$5k.

Mr. Knight stated that he will get additional details and determine whether there are discretionary funds in the CRA budget.

- Stated that the city needs to make decision on whether to purchase Bank of the Ozarks property. She is opposed to the idea of a three-story office building on this site and discussed issues related to traffic. She asked for consensus to put the topic of purchasing the property on an upcoming agenda for discussion.

Commissioner Weaver asked for an update on Public Land Trust progress. Mr. Knight will be meeting with them tomorrow and will provide an update. He added that the asking price is still \$7.5m and the Land Trust is working on presenting a contingent offer to the owner. Consensus was to place on an upcoming agenda.

Commissioner Cruzada –

- Gave an update on the 2300 S. Semoran property. Culver's withdrew their application and is no longer seeking restaurant/retail on the site.

Mr. Knight advised he asked the broker for the property for a sales price in case the city would be interested in purchasing, but Culver's is looking at other options for a different type of restaurant. He informed the broker of opposition from neighbors for any use with high traffic or extreme lighting.

- Noted that prior to the hurricane there was a community meeting at Winter Park High School regarding upcoming major renovations. The renovations are in design phase and another meeting will be held in the next six months.

Commissioner Weaver –

- Spoke about OAO and goals to stimulate development in the corridor. He explained that the city doesn't want to buy the Bank of the Ozarks to prevent a three-story development from being built, but to provide regional stormwater for the area and become an intra-city train stop and also to be used for potential a roundabout.

Commissioner Sullivan added that another option for the site could be arts and culture/non-profit that was original part of Progress Point discussions.

Mayor Anderson –

- Stated that the Bank of the Ozarks purchase discussion has triggered a lot of prioritization about where the city needs to and should be spending money. He spoke about the flooding that occurred with Hurricane Ian and funding needed for stormwater projects to prepare for future storms and flooding. He expressed concerns about using general fund money for a discretionary investment in land

purchases instead of fixing flooding problems. His priority is to fix flooding and storm water issues. Discussion followed on funding for stormwater projects.

Commissioner DeCiccio said the city needs to make sure infrastructure is sufficient and address weaknesses; however, she feels the city needs to take a hard look at potential funding sources to purchase the Bank of the Ozarks such as funds set aside for restrooms at Progress Point said other funding sources funds are available that would not impact funding stormwater improvements.

#### **14) Summary of Meeting Actions**

- Presented Proclamation for SpaceKids Global.
- Received after-action report on Hurricane Ian.
- Received update on utility billing matters.
- Approved the Consent Agenda.
- Adopted Transportation Master Plan scope with recommendations from the City Commission
- Approved Howell Branch Preserve design - funding to be discussed on next agenda.
- Approved requests of Elevation Plaza, LLC.
- Approved Conditional Use request of Ruth's Chris.
- Approved ordinance revising Subsidiary Boards to allow a non-resident to KWPB/S Board.
- Directed staff to investigate street lighting options.
- Place Bank of Ozarks discussion on next agenda.

#### **15) Adjournment**

The meeting adjourned at 5:45 p.m.

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Mayor Phillip M. Anderson

ATTEST:

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City Clerk Rene Cranis





# City Commission **agenda item**

|                                                |                                                                     |
|------------------------------------------------|---------------------------------------------------------------------|
| <b>item type</b> Consent Agenda                | <b>meeting date</b> October 26, 2022                                |
| <b>prepared by</b> Michael Hall                | <b>approved by</b> Jennifer Maier, Michelle del Valle, Randy Knight |
| <b>board approval</b> Completed                |                                                                     |
| <b>strategic objective</b> Fiscal Stewardship. |                                                                     |

## **subject**

Approve the following formal solicitations:

## **item list**

1. Abbott Printing Company, Inc. - RFP28-22 - Printing and Mailing Services; Amount: \$150,000
2. CJ's Sales and Service Inc. - IFB29-22 - Water Treatment Plant Generator Replacement; Amount: \$149,000

## **motion / recommendation**

Commission approve item as presented and authorize the Mayor to execute the agreements.

## **background**

1-2: A formal solicitation process was conducted to award this contract.

## **alternatives / other considerations**

N/A

## **fiscal impact**

Total expenditure included in approved budgets.



# City Commission **agenda item**

|                                               |                                                                     |
|-----------------------------------------------|---------------------------------------------------------------------|
| <b>item type</b> Consent Agenda               | <b>meeting date</b> October 26, 2022                                |
| <b>prepared by</b> Michael Hall               | <b>approved by</b> Jennifer Maier, Michelle del Valle, Randy Knight |
| <b>board approval</b> Completed               |                                                                     |
| <b>strategic objective</b> Fiscal Stewardship |                                                                     |

## **subject**

Approve the following piggyback contracts:

## **item list**

1. Ingenium Power and Sport, LLC - Sourcewell Contract #031121-GNR - Grounds Maintenance Equipment; For goods on an as-needed basis during the term of the Agreement through April 30, 2025; Amount: \$225,000.
2. Vermeer Manufacturing Company - Sourcewell Contract #110421-VRM - Public Utility Equipment; For goods on an as-needed basis during the term of the Agreement through December 27, 2025; Amount: \$300,000.
3. Alan Jay Fleet Sales - Sourcewell Contract #091521-NAF - Cars, Trucks, Vans, SUVs, Cab Chassis, & Other Vehicles; For goods on an as-needed basis during the term of the Agreement through November 08, 2025; Amount: \$150,000.
4. Atlantic Pipe Services LLC - City of Orlando Contract #IFB22-0161 - Sanitary Sewer Lining and Manhole Rehabilitation; For services on an as-needed basis during the term of the Agreement through July 17, 2025; Amount: \$1,250,000.
5. Fifth Asset, Inc dba DebtBook - Region 14 Education Service Center/NCPA Contract #14-03; Debt and Lease Management Software and Consulting Services; For services on an as-needed basis during the term of the Agreement through July 31, 2024; Amount: \$75,000.
6. Axon Enterprise, Inc. - OMNIA Partners Contract #151089 - Body Cameras for PD; For goods on an as-needed basis during the term of the Agreement through February 15, 2028; Amount: \$1,000,000.
7. USIC Holdings, Inc. d/b/a USIC Locating Services, LLC - OUC Contract #5038OQ - Underground Facilities Line Locating Services; For services on an as-needed basis during the term of the Agreement through December 17, 2024; Amount: \$75,000.

## **motion / recommendation**

Commission approve items as presented and authorize the Mayor to execute the Agreements.

### background

1, 3-6: The originating agency conducted a formal solicitation process to award this contract.

2: The originating agency conducted a formal solicitation process to award this contract. This is for the purchase of horizontal directional drill rig/equipment to replace the existing drill that is past it's useful life.

7. The originating agency conducted a formal solicitation process to award this contract.

### alternatives / other considerations

N/A

### fiscal impact

Total expenditures included in approved budgets.



# City Commission **agenda item**

|                                               |                                                                     |
|-----------------------------------------------|---------------------------------------------------------------------|
| <b>item type</b> Consent Agenda               | <b>meeting date</b> October 26, 2022                                |
| <b>prepared by</b> Michael Hall               | <b>approved by</b> Jennifer Maier, Michelle del Valle, Randy Knight |
| <b>board approval</b> Completed               |                                                                     |
| <b>strategic objective</b> Fiscal Stewardship |                                                                     |

## **subject**

Approve the following contracts:

## **item list**

1. Graef-USA, Inc. - Renewal of RFQ19-18 - Professional Structural Engineering Consulting; Amount: \$125,000 for services on an as needed basis during the term of the Agreement.
2. Irvine Mechanical, Inc. - Renewal of IFB19-19C - HVAC Installation, Repair & Replacement Services; Amount: \$300,000 for services on an as needed basis during the term of the Agreement.
3. Novoaglobal, Inc. - FY23-1 - Red Light Safety and Speeding Enforcement Program; Amount: \$2,200,000 for services on an as needed basis during the term of the Agreement through October 27, 2027.
4. Sternberg Lanterns (Landreth) - SS23-27 - Decorative Streetlighting; Amount: \$200,000 for goods on an as needed basis during FY23.
5. Florida Fish and Wildlife Conservation Commission - FY23-2 - Aquatic Vegetation Control Services for City Eligible Water Bodies; for services on an as needed basis during the term of the Agreement through February 28, 2025.
6. Thomson Reuters-West - FY23-3 - CLEAR Services; Amount: \$75,000 for services on an as needed basis during the term of the Agreement through October 30, 2025.

## **motion / recommendation**

Commission approve items as presented and authorize Mayor to execute Agreements.

## **background**

- 1-2: Formal solicitations were issued to award these contracts.
- 3: Formal Agreement for the Police Department's system to monitor and enforce speeding and red light violations.
- 4: Sole Source was posted on the City's website for 15 business days in accordance with Florida Statutes.
- 5: Formal Agreement for Natural Resources and Sustainability for Aquatic Vegetation

Control Services on eligible water bodies within the City.

6: Formal Agreement for the Police Department's On Line Investigative Services (CLEAR).

**alternatives / other considerations**

N/A

**fiscal impact**

Total expenditures included in approved budgets.



# City Commission **agenda item**

|                                   |                                                     |
|-----------------------------------|-----------------------------------------------------|
| <b>item type</b> Consent Agenda   | <b>meeting date</b> October 26, 2022                |
| <b>prepared by</b> Jeffrey Briggs | <b>approved by</b> Michelle del Valle, Randy Knight |
| <b>board approval</b> Completed   |                                                     |
| <b>strategic objective</b>        |                                                     |

## **subject**

Authorize the annual financial allocation to Habitat for Humanity of Winter Park/Maitland, Inc.

## **motion / recommendation**

Approval of the funding as consistent with the Joint Participation Agreement.

## **background**

Habitat for Humanity of Winter Park/Maitland, Inc. is requesting the annual allocation of \$200,000 in order for them to complete the purchase of the vacant lot at 715 Douglas Avenue, that they have under contract for \$225,000.

The Joint Participation Agreement (attached) provides for an annual commitment for lot acquisition to Habitat of up to \$200,000 for each budget fiscal year.

This is Year #2 of the 5 Year Agreement. In Year #1 the allocation was used for the acquisition of 865 W. Comstock, for which Habitat is now completing the construction of a single family home.

## **alternatives / other considerations**

## **fiscal impact**

## **ATTACHMENTS:**

[Habitat Joint Participation with City 2021.pdf](#)

## **JOINT PARTICIPATION AGREEMENT WITH HABITAT FOR HUMANITY**

THIS JOINT PARTICIPATION AGREEMENT (the "Agreement") is made and entered into this 24<sup>th</sup> day of March 2021 between the CITY OF WINTER PARK, FLORIDA, a municipality of the State of Florida (the "City"), 401 Park Avenue South, Winter Park, Fl. 32789, and HABITAT FOR HUMANITY OF WINTER PARK/MAITLAND, INC., a Florida Not for Profit Corporation whose address is P. O. Box 1196, Winter Park, Florida, 32790 ("Habitat").

**WHEREAS**, the City has worked in partnership with Habitat for Humanity of Winter Park/Maitland, Inc. since 1992 in the development of affordable housing within the City of Winter Park by providing building lots and other fee waivers; and

**WHEREAS**, the City desires to continue this partnership and provide the responsibility for the acquisition of lots to be with Habitat in order to more efficiently budget the revenues of the Affordable Housing Trust Fund in line with the normal budget adoption cycles; and

**WHEREAS**, Habitat desires to obtain some certainty over the continuance of the financial assistance that is provided to accomplish the mission of Habitat for Humanity along with implementing the goals of the City for the continued construction of new affordable housing for sale to lower income families; and

**WHEREAS**, Habitat and the City agree that while these housing projects may compliment the activities of the Community Redevelopment Area (CRA) Plan, they are not governed by the CRA Plan, funded with CRA revenues nor subject to any of the requirements for CRA projects as set forth in Chapter 163, Part II, Florida Statutes.

**NOW, THEREFORE**, in consideration of the premises hereof and of the mutual covenants set forth herein, the parties hereby agree as follows:

1. **GRANT OF FINANCIAL ASSISTANCE:** The City will endeavor to provide financial assistance to Habitat on an annual basis as part of the normal

budget preparation process and adoption. The annual allocation of funding shall be based on the availability of funds within the Affordable Housing Trust Fund and other factors as deemed appropriate by the City Commission, and shall be at the sole discretion of the City Commission. Following the first year's allocation from the existing available housing trust funds, of \$200,000 for lot acquisition, any future financial request by Habitat shall be done as part of the normal budget approval process by the City Commission and shall also include a report and documentation outlining the disposition of funds previously granted in order to verify the need for additional funding. Nothing in this Agreement shall commit the City for any future funding beyond the \$200,000 referenced above, which shall be drawn from existing available housing trust funds. However, it is anticipated that a similar level of annual funding would be requested during the term of the Agreement.

2. **ELIGIBLE ACTIVITIES:** Financial assistance from the City to Habitat may be both in the context of the direct costs, as referenced above, and indirect financial assistance via fee waivers or payment from affordable housing funds. Direct costs shall be those expenses incurred by Habitat in the acquisition of lots including the cost of the lot and other normal closing costs as may be specified in the sales contract. Other indirect financial assistance previously supplied by the City may also be provided including either waiver or use of affordable housing funds of the City for impact fees, tree trimming and tree removal expenses (when done by the City Contractor/Parks Dept.), sewer and water connections/impact fees including laterals and connection fees (paid with affordable housing revenues), and electrical connection fees (waived).



3. **FUND RAISING ASSISTANCE:** The City shall also assist in fund raising activities by Habitat in providing a 50% discount on all fees and charges paid to the City for events such as for 5K events, and Night Golf Course events, limited to no more than three (3) per year.
4. **METHOD OF PAYMENT:** Financial assistance for lot acquisition to Habitat shall be done as a lump sum following the adoption of each year's fiscal budget, pending availability of funds. Habitat shall maintain such city funds in a separate land acquisition account so that the disbursement of funds from this account and the current balance of this account are easily accountable. Any investment interest gained in this account shall remain in the account and not be transferred. Habitat shall provide to the City on an annual basis, all records of disbursements from this land acquisition account and the purpose of such disbursements.
5. **DESIGN REQUIREMENTS:** As a condition of financial assistance, Habitat agrees to construct new homes or housing rehabilitations in conformance with design guidelines for homes as may be adopted by the City Commission.
6. **LOCATION OF HABITAT PROJECTS:** Lot acquisitions shall occur within the city limits of Winter Park or within one quarter mile of the city limits if within an area designated for annexation within the Comprehensive Plan. Habitat may obtain financial assistance for eligible activities involving properties within unincorporated Orange County that are in close proximity to the city limits if such projects receive the approval of the City Commission prior to the expenditure of any funds by Habitat.
7. **TERM OF THE AGREEMENT:** This Agreement shall be for an initial term beginning March 24, 2021 and ending September 30, 2026. The term of

this Agreement may be extended thereafter upon mutual written agreement of the parties. However, this Agreement shall not commit the City Commission to provide financial assistance to Habitat if such funding is not available from the Affordable Housing Trust Fund or if the City Commission in its sole discretion determines not to provide financial assistance.

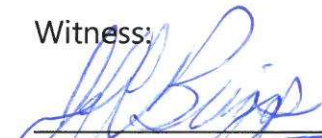
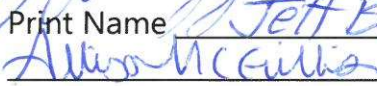
8. **AUTHORITY**: Each party represents and warrants to the other that it has all necessary power and authority to enter into and consummate the terms and conditions of this Agreement and that all acts, approvals, procedures and similar matters required in order to authorize this Agreement have been taken or followed, as the case may be, and that upon execution of this Agreement by both parties, this Agreement shall be valid and binding upon the parties hereto.
9. **GOVERNING LAW**: This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Exclusive venue for any dispute or litigation between the parties arising from this Agreement shall be in a court of competent jurisdiction in Orange County, Florida.
10. **AMENDMENT**: This Agreement may be amended in writing by mutual consent of the City and Habitat, subject to the public hearing requirements, if applicable.
11. **SEVERABILITY**: If any provisions of this agreement are held to be illegal or invalid by a court of competent jurisdiction, the other provisions of this agreement shall remain in full force and effect.
12. **SOVEREIGN IMMUNITY & RELATIONSHIP OF PARTIES**. Nothing contained in this Agreement shall be considered or deemed a waiver of the City's sovereign immunity or any other privilege, immunity, or defense available to the

City or its officers, elected and appointed officials, agents, and representatives under the law. Nothing in this Agreement shall be construed to create a partnership or joint venture between the City and Habitat. Habitat is not an agent, partner, agency, sub-agency, or subdivision of the City and Habitat shall have no authority to bind the City to any obligation.

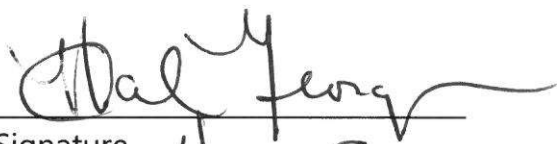
**IN WITNESS WHEREOF**, this 24th day of March, 2021.

Signed, Sealed and Delivered  
In the Presence of:

Witness:

  
Print Name Jeff Briggs  
  
Print Name Allison McGillis

Habitat for Humanity of Winter  
Park/Maitland, Inc.  
BY:

  
Signature  
Print Name: HAL GEORGE  
Title: PRESIDENT

Witness:

  
Print Name Rene Cranis  
  
Print Name Kim Breland

CITY OF WINTER PARK  
BY:

  
Signature  
Print Name: Phillip M. Anderson  
Title: Mayor



# City Commission agenda item

|                                             |                               |
|---------------------------------------------|-------------------------------|
| item type Action Items Requiring Discussion | meeting date October 26, 2022 |
| prepared by Peter Moore                     | approved by Randy Knight      |
| board approval Completed                    |                               |
| strategic objective Fiscal Stewardship      |                               |

## subject

Review of 5/25 Year Capital Plan

## motion / recommendation

Discuss and rank priorities to meet funding availability constraints.

## background

At the last Commission meeting changes were made to the draft 5/25-year capital plan. Those changes have been reflected in the attachment. In addition, some other priority projects were raised as well as funding adjustments made to the short-term time horizon of the plan. These suggested projects cannot all be funded as currently proposed in the next five years given estimated available funds, so some projects may need to be postponed or have their scopes changed, or additional revenue sources may need to be found.

Various funding suggestions were raised at the meeting and staff has included a discussion of available funding sources and their fiscal implications. Additionally, the updated 5/25 plan is attached to this document with a one-page summary that highlights the current unfunded project priorities and revenue sources.

## Funding Source Possibilities and Scenarios

**General Fund Reserves:** Likely to reach over \$19 million by the end of this current fiscal year. This is in-line with achieving the goal of having 30% of unencumbered reserves as a percentage of non-reoccurring operating expenses. With the proposed budget for FY23, while reserves are expected to increase slightly, the percentage will slip to about 28.5% as the rising cost of services is outpacing the amount set aside to add to reserves. Each \$1 million removed from reserves today, will drop the percentage by 1.5%. *As an example, the removal of \$3 million would reduce reserves percentage to 25.5% by the end of this year and 24% by the end of FY23. This would be similar to levels last seen in FY2018.*

**Borrow Funds:** Interest rate borrowing costs have likely doubled this year from about 2% to 4% for non-taxable issuance of public debt or bank loans. Borrowing does provide the benefit of being able to access larger sums to execute projects, however it will be a cost that puts ongoing operating pressure on the General Fund over a 20-year timeframe. *As an example, the General Fund budget for FY23 has a contingency of just over \$100k. If this was pledged to debt service it would generate roughly \$1.36 million in present value.*

The city charter requires a referendum to issue bonds under the following categories:

- General obligation bonds.
- Revenue bonds intended to finance enterprises or projects, which involve the purchase, lease and/or acquisition of real property.
- Revenue bonds which pledge specific non-ad valorem taxes as the primary source(s) of revenue to pay the principal and interest and which have a principal value in excess of one million dollars.

The \$1 million-dollar threshold for a referendum is adjusted annually for inflation and would total approximately \$2.7 million in debt today. The issuance of bonds to purchase land for park-use/projects is exempt from the referendum requirement. *It was suggested that the Stormwater Utility could front a bond to purchase the Ozark property and then recoup the payment over time through developer contributions. This is not an uncommon practice in municipalities; however, it would require the Stormwater fund to generate enough free-cash flow to cover the debt service while it waits for reimbursement. Currently the Stormwater Fund is the most fiscally constrained fund in the city and a rate increase would likely be necessary to create that financial space. Currently rates are proposed to increase 5% in FY23 and will likely need ongoing annual increases to keep pace with inflation. As an example, if the stormwater fund wanted to front about \$4 million in project costs, it would require annual debt service of about \$300k or about an 8% increase to existing rates.*

**Old Library Building:** The city is currently in receipt of a proposal to lease the existing site in return for annual payments made to the city. The respondent has offered annual payments of \$250k. This can be viewed monetarily by thinking about the debt issuance it could support. *As an example, if \$250k was pledged to annual debt service, it would support a potential borrowing of about \$3.4 million using the same terms as the example above. The potential sale value of the site as an office property would be likely to generate over \$10 million in proceeds however the city would no longer retain ownership of the property. The value proposed by the respondent is likely to be around \$5.5 to \$6.5 million (depending upon discount rate, term, and final lease amount).*

**ARPA:** The city has about \$326k left of funding from monies provided by the federal government. These are already assumed to go toward an unfunded short-term project in the 5-year capital plan, however some funds previously allocated may be repurposed

towards other priorities. Staff recommends reprioritizing \$962k that was earmarked as a potential reimbursement for the fiber co-build work that is being completed. It was paid from the utilities to finish connecting the city's information infrastructure. In addition, \$100k was set aside for Humanitarian Support and Utility Assistance Programs. Neither of these was defined and could be reprioritized to other needs. Lastly there is approximately \$228k in funds that would not need to be spent on the Old Library building for AC improvements if the site is leased or sold. *As an example, reprioritizing these items would result in almost \$1.4 million of additional funds for projects.*

**Public Art Fee:** The short-term 5 Year capital list includes \$100k for a signature art piece at the Library and Events Center. It is assumed that this would be provided by fundraising or grants at some point. If the city moves forward with a public art fee, those monies could be dedicated towards supporting this item and other public art projects.

**Special Assessments:** Special assessments can be levied against geographically defined areas to make infrastructure improvements. There are many nuances, including the need to pass a favorable vote of those being assessed, however depending upon the infrastructure needs proposed, this is a common way of making regional improvements. *As an example, the original Orange Avenue streetscape improvements which included bricking, lighting, landscaping and some undergrounding, are currently being paid by an assessment of the properties fronting the avenue. There are five more years of payments to be made before this is completed.*

#### **alternatives / other considerations**

NA

#### **fiscal impact**

NA

#### **ATTACHMENTS:**

[DRAFT- 5 & 25 Year Capital Plan and Summary Sheet 9-22-22.pdf](#)

Unfunded Projects: Short-Term 5-Year Time Horizon

| Project                                                               | Already Allocated for Project | Already Spent/ Encumbered for Project (9/2/22) | Allocation Remaining | Total Project Costs | Unfunded in 5 Years |                                     |
|-----------------------------------------------------------------------|-------------------------------|------------------------------------------------|----------------------|---------------------|---------------------|-------------------------------------|
| Ozark Property - Acquisition                                          | -                             | -                                              | -                    | 6,500,000           | 3,500,000           | Assumes \$3 million fund            |
| Ozark Property - Improvements                                         | -                             | -                                              | -                    | 2,000,000           | 2,000,000           |                                     |
| Howell Branch Preserve & access funding                               | 2,000,000                     | 1,539,102                                      | 460,898              | 2,480,000           | 400,000             |                                     |
| Downtown Restroom                                                     | -                             | -                                              | -                    | 350,000             | 350,000             | Restroom building only, v           |
| Library & Event Center Signature Artwork                              | -                             | -                                              | -                    | 100,000             | 100,000             |                                     |
| Station 61 Improvements (Canton)                                      | -                             | -                                              | -                    | 250,000             | 250,000             |                                     |
| Station 64 Improvements (Howell Branch)                               | -                             | -                                              | -                    | 200,000             | 200,000             |                                     |
| Fire Training Facility                                                | 550,000                       | -                                              | 550,000              | 850,000             | 300,000             |                                     |
| <b>Subtotal Unfunded As of Last Commission Meeting</b>                | <b>2,550,000</b>              | <b>1,539,102</b>                               | <b>1,010,898</b>     | <b>12,730,000</b>   | <b>7,100,000</b>    |                                     |
| <b>Additional Project Priorities Raised by Commission</b>             |                               |                                                |                      |                     |                     |                                     |
| Station 62 Improvements (Lakemont)                                    |                               |                                                |                      | 5,000,000           | 5,000,000           | Was originally to be half           |
| Ravaudage/Killarney Annexation - Fire Station (and land costs)        |                               |                                                |                      | 7,000,000           | 7,000,000           | Funding this would be pa            |
| Mead Gardens                                                          |                               |                                                |                      | 5,050,000           | 5,050,000           |                                     |
| City Hall                                                             |                               |                                                |                      | 2,000,000           | 2,000,000           |                                     |
| <b>Subtotal of Additional</b>                                         |                               |                                                |                      | <b>19,050,000</b>   | <b>19,050,000</b>   |                                     |
| <b>Total Unfunded Project Priorities</b>                              |                               |                                                |                      | <b>31,780,000</b>   | <b>26,150,000</b>   |                                     |
| <b>Estimated Surplus Funds over next five years:</b>                  |                               |                                                |                      |                     |                     |                                     |
| CRA- Thru 2027 Sunset                                                 |                               |                                                |                      |                     | 1,487,715           | Could only be used for re           |
| Amercan Recovery Act                                                  |                               |                                                |                      |                     | 326,064             | May be used for any proj            |
| General Funds- CIP Plan 23/27                                         |                               |                                                |                      |                     | -                   |                                     |
| Parks Acquisition/Impact Fund                                         |                               |                                                |                      |                     | 1,833,031           | May be used for Ozark, H            |
| Other Misc Funded Sources                                             |                               |                                                |                      |                     | -                   |                                     |
| Borrowed Funds/Sale of Assets                                         |                               |                                                |                      |                     | -                   |                                     |
| Mobility Impact Fee                                                   |                               |                                                |                      |                     | 906,666             | May be used for Ozark (v            |
| <b>Total Estimated Funding Uncommitted</b>                            |                               |                                                |                      |                     | <b>4,553,476</b>    | Not all estimated funds c projects. |
| <b>Net Surplus/Deficit Assuming all Surplus Funding is Applicable</b> |                               |                                                |                      |                     | <b>(21,596,524)</b> | Deficit remaining if all sur        |

Funding Source Possibilities & Scenarios\*

|                              |  |  |  |  |            |                                                         |
|------------------------------|--|--|--|--|------------|---------------------------------------------------------|
| General Fund Reserves        |  |  |  |  | 19,000,000 | Each \$1 million spent wo 1.5%. The city is currently   |
| Borrow Funds                 |  |  |  |  | TBD        | Interest rates have likely c                            |
| Old Library Building - Lease |  |  |  |  | 3,400,000  | The current offer to lease could afford \$3.4 million i |
| Old Library Building - Sale  |  |  |  |  | 10,000,000 | The property if sold as an                              |
| ARPA                         |  |  |  |  | 1,400,000  | Repurposing some curren capital                         |



| "Non-Recurring" Project Priorities                                                                              |                                                                                     |  |  | 5 YEAR PLAN FY 2021 |                            |                     |                            |                            |                      |
|-----------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|--|--|---------------------|----------------------------|---------------------|----------------------------|----------------------------|----------------------|
|                                                                                                                 |                                                                                     |  |  | Total Project Costs | 5 Year Plan- Costs         | Unfunded in 5 Years | 6-25 Year Plan- Costs      | CRA- Thru 2027 Sunset      | America Recover Act  |
| <b>Non-Recurring Project Funding (Excluding FDOT and Utility Funds)</b>                                         |                                                                                     |  |  |                     |                            |                     |                            |                            |                      |
| Total 5 Year Available Committed                                                                                |                                                                                     |  |  |                     | 47,408,469<br>(42,854,993) |                     | 48,710,838<br>(66,334,000) | 26,169,708<br>(24,681,993) | 861,000<br>(535,000) |
| Balance Available                                                                                               |                                                                                     |  |  |                     | 4,553,476                  |                     | (17,623,162)               | 1,487,715                  | 326,000              |
| <b>Subtotal- Non-Recurring Costs (Excluding FDOT, Utility Funds)</b>                                            |                                                                                     |  |  | 161,539,274         | 95,205,274                 | 7,100,000           | 66,334,000                 |                            | 55%                  |
| <b>Surplus/Deficit of 5 Yr. Plan Funds over Unfunded 5 Yr. proposed costs</b>                                   |                                                                                     |  |  |                     |                            | (2,546,524)         |                            |                            |                      |
| <b>6-25 Year Non-Recurring Funds Available, including selected "unspent Carryovers from 2021 CRA Reversion"</b> |                                                                                     |  |  |                     |                            |                     |                            |                            |                      |
| Annual Revenue - 2027                                                                                           |                                                                                     |  |  |                     |                            |                     |                            | 8,440,942                  |                      |
| Less County Share                                                                                               |                                                                                     |  |  |                     |                            |                     |                            | (3,849,994)                |                      |
| Absorb Expenses into General Fund - 2028                                                                        |                                                                                     |  |  |                     |                            |                     |                            | (1,352,864)                |                      |
| Less CRA Small Scale CIP Improvements- 5 yr. CIP (Keep as "Recurring")                                          |                                                                                     |  |  |                     |                            |                     |                            | (40,000)                   |                      |
| Less CRA Infrastructure Improvements- 5 yr. CIP (Keep as "Recurring")                                           |                                                                                     |  |  |                     |                            |                     |                            | (100,000)                  |                      |
| Less Recurring Community Initiatives- FYE 27 (includes Business Façade 100k; Aff Hsg 200k)                      |                                                                                     |  |  |                     |                            |                     |                            | (427,000)                  |                      |
| Subtotal per year                                                                                               |                                                                                     |  |  |                     |                            |                     |                            | 2,671,084                  |                      |
| Available for "Non-Recurring" Projects                                                                          |                                                                                     |  |  |                     |                            |                     |                            | 50%                        |                      |
| <b>Over 20 Years</b>                                                                                            |                                                                                     |  |  |                     |                            |                     | 26,710,838                 |                            |                      |
| <b>General Fund- Misc Surplus over Reoccurring Funds, Over 20 years; 750k to 1,000k per year</b>                |                                                                                     |  |  |                     |                            |                     | 17,500,000                 |                            |                      |
| <b>City Hall Bond Referendum - Assumes that we will borrow when this happens</b>                                |                                                                                     |  |  |                     |                            |                     | 2,000,000                  |                            |                      |
| <b>Parks Acquisition Funds - Future estimated revenue</b>                                                       |                                                                                     |  |  |                     |                            |                     | 2,500,000                  |                            |                      |
| <b>EXECUTIVE SUMMARY</b>                                                                                        |                                                                                     |  |  |                     |                            |                     |                            |                            |                      |
| 1-5                                                                                                             | <b>Major Projects (Central Park, Progress Point, MLK, Other Parks, Old Library)</b> |  |  | 77,412,005          | 55,767,005                 | 5,900,000           | 21,645,000                 |                            |                      |
| 6-8                                                                                                             | <b>Traffic, Parking and Fairbanks Ave</b>                                           |  |  | 57,325,693          | 19,636,693                 | 0                   | 37,689,000                 |                            |                      |
| 10                                                                                                              | <b>Programs and Operations, Small Projects</b>                                      |  |  | 7,307,000           | 7,307,000                  | 450,000             | 0                          |                            |                      |
| 9                                                                                                               | <b>Internet- Broadband, Smart Cities</b>                                            |  |  | 4,711,642           | 4,711,642                  | 0                   | 0                          |                            |                      |
| 11-12                                                                                                           | <b>Public Safety &amp; Sustainability</b>                                           |  |  | 9,617,169           | 4,617,169                  | 750,000             | 5,000,000                  |                            |                      |
| 13                                                                                                              | <b>Other Projects</b>                                                               |  |  | 5,165,765           | 3,165,765                  | 0                   | 2,000,000                  |                            |                      |



| "Non-Recurring" Project Priorities                                            |                               |                                               |                      |                            |                    |                     | 5 YEAR PLAN FY 2022        |                            |                      |
|-------------------------------------------------------------------------------|-------------------------------|-----------------------------------------------|----------------------|----------------------------|--------------------|---------------------|----------------------------|----------------------------|----------------------|
|                                                                               | Already Allocated for Project | Already Spent/Encumbered for Project (9/2/22) | Allocation Remaining | Total Project Costs        | 5 Year Plan- Costs | Unfunded in 5 Years | 6-25 Year Plan- Costs      | CRA- Thru 2027 Sunset      | America Recover Act  |
| <b>Non-Recurring Project Funding (Excluding FDOT and Utility Funds)</b>       |                               |                                               |                      |                            |                    |                     |                            |                            |                      |
| Total 5 Year Available Committed                                              |                               |                                               |                      | 47,408,469<br>(42,854,993) |                    |                     | 48,710,838<br>(66,334,000) | 26,169,708<br>(24,681,993) | 861,000<br>(535,000) |
| Balance Available                                                             |                               |                                               |                      | 4,553,476                  |                    |                     | (17,623,162)               | 1,487,715                  | 326,000              |
|                                                                               |                               |                                               |                      | 161,539,274                | 95,205,274         | 7,100,000           | 66,334,000                 |                            | 55%                  |
| <b>Subtotal- Non-Recurring Costs (Excluding FDOT, Utility Funds)</b>          |                               |                                               |                      |                            |                    |                     |                            |                            |                      |
| <b>Surplus/Deficit of 5 Yr. Plan Funds over Unfunded 5 Yr. proposed costs</b> |                               |                                               |                      |                            |                    |                     |                            |                            |                      |
|                                                                               |                               |                                               |                      | 0                          | 0                  | 0                   | 0                          |                            |                      |
|                                                                               |                               |                                               |                      | 0                          | 0                  | 0                   | 0                          |                            |                      |
|                                                                               |                               |                                               |                      | 0                          | 0                  | 0                   | 0                          |                            |                      |
|                                                                               |                               |                                               |                      | 0                          | 0                  | 0                   | 0                          |                            |                      |
| <b>3.0 MLK Park (Excl Sports Fields)</b>                                      |                               |                                               |                      |                            |                    |                     |                            |                            |                      |
|                                                                               | 1,025,000                     | 197,430                                       | 827,570              | 3,925,000                  | 3,925,000          | 0                   | 0                          | 2,900,000                  |                      |
|                                                                               | 700,000                       | 207,764                                       | 492,236              | 700,000                    | 700,000            | 0                   | 0                          |                            |                      |
|                                                                               | 1,702,400                     | 1,544,547                                     | 157,853              | 2,024,165                  | 2,024,165          | 0                   | 0                          | 321,765                    |                      |
|                                                                               |                               |                                               |                      |                            |                    |                     |                            |                            |                      |
|                                                                               | -                             | -                                             |                      | 9,000,000                  | 1,500,000          | 0                   | 7,500,000                  | 1,500,000                  |                      |
| <b>4.0 Other Parks and Land</b>                                               |                               |                                               |                      |                            |                    |                     |                            |                            |                      |
|                                                                               | 200,000                       | -                                             | 200,000              | 1,200,000                  | 1,200,000          | 0                   | 0                          |                            |                      |
|                                                                               | 25,000                        | -                                             | 25,000               | 25,000                     | 25,000             | 0                   | 0                          |                            |                      |
|                                                                               | 104,750                       | 93,049                                        | 11,701               | 104,750                    | 104,750            | 0                   | 0                          |                            |                      |
|                                                                               |                               |                                               |                      |                            |                    |                     |                            |                            |                      |
|                                                                               | 2,000,000                     | 1,539,102                                     | 460,898              | 2,480,000                  | 2,480,000          | 400,000             | 0                          |                            |                      |
|                                                                               | 563,090                       | 317,558                                       | 245,532              | 563,090                    | 563,090            | 0                   | 0                          |                            |                      |
|                                                                               |                               |                                               |                      |                            |                    |                     |                            |                            |                      |
|                                                                               | -                             | -                                             |                      | 5,955,000                  | 585,000            | 0                   | 5,370,000                  |                            |                      |
|                                                                               | 2,300,000                     | 74,200                                        | 2,225,800            | 2,300,000                  | 2,300,000          | 0                   | 0                          |                            |                      |
|                                                                               | 272,398                       | 272,398                                       | -                    | 1,000,000                  | 1,000,000          | 0                   | 0                          |                            |                      |
|                                                                               | 1,000,000                     | 326,479                                       | 673,521              | 1,600,000                  | 1,600,000          | 0                   | 0                          |                            |                      |
|                                                                               | 300,000                       | 49,008                                        | 250,992              | 300,000                    | 300,000            | 0                   | 0                          |                            |                      |
|                                                                               | 8,000,000                     | 7,685,107                                     | 314,893              | 8,000,000                  | 8,000,000          | 0                   | 0                          |                            |                      |
|                                                                               | 402,548                       | 327,981                                       | 74,567               | 500,000                    | 500,000            | 0                   | 0                          |                            |                      |
|                                                                               | -                             | -                                             | -                    | 90,000                     | 90,000             | 0                   | 0                          |                            |                      |
|                                                                               | -                             | -                                             | -                    | 250,000                    | 250,000            | 0                   | 0                          |                            |                      |
|                                                                               | -                             | -                                             | -                    | 190,000                    | 190,000            | 0                   | 0                          |                            |                      |
|                                                                               | 125,000                       | 1,163                                         | 123,837              | 150,000                    | 150,000            | 0                   | 0                          |                            |                      |
|                                                                               | 30,000                        | -                                             | 30,000               | 70,000                     | 70,000             | 0                   | 0                          |                            |                      |
|                                                                               | 112,369                       | -                                             | 112,369              | 250,000                    | 250,000            | 0                   | 0                          |                            |                      |
|                                                                               | 85,000                        | -                                             | 85,000               | 185,000                    | 185,000            | 0                   | 0                          |                            |                      |
|                                                                               |                               |                                               |                      | 250,000                    | 250,000            | 0                   | 0                          |                            |                      |



| "Non-Recurring" Project Priorities                                            |                                                      |                                               |                      |                     |                            |                     | 5 Year Plan FY 20          |
|-------------------------------------------------------------------------------|------------------------------------------------------|-----------------------------------------------|----------------------|---------------------|----------------------------|---------------------|----------------------------|
|                                                                               | Already Allocated for Project                        | Already Spent/Encumbered for Project (9/2/22) | Allocation Remaining | Total Project Costs | 5 Year Plan-Costs          | Unfunded in 5 Years | 6-25 Year Plan-Costs       |
| <b>Non-Recurring Project Funding (Excluding FDOT and Utility Funds)</b>       |                                                      |                                               |                      |                     |                            |                     |                            |
| Total 5 Year Available Committed                                              |                                                      |                                               |                      |                     | 47,408,469<br>(42,854,993) |                     | 48,710,838<br>(66,334,000) |
| Balance Available                                                             |                                                      |                                               |                      |                     | 4,553,476                  |                     | (17,623,162)               |
| <b>Subtotal- Non-Recurring Costs (Excluding FDOT, Utility Funds)</b>          |                                                      |                                               |                      |                     |                            |                     | 55%                        |
|                                                                               |                                                      |                                               |                      | 161,539,274         | 95,205,274                 | 7,100,000           | 66,334,000                 |
|                                                                               |                                                      |                                               |                      |                     |                            | (2,546,524)         |                            |
| <b>Surplus/Deficit of 5 Yr. Plan Funds over Unfunded 5 Yr. proposed costs</b> |                                                      |                                               |                      |                     |                            |                     |                            |
|                                                                               |                                                      |                                               |                      |                     |                            |                     |                            |
|                                                                               | -                                                    | -                                             | -                    | 7,000,000           | 0                          | 0                   | 7,000,000                  |
|                                                                               | -                                                    | -                                             | -                    | 0                   | 0                          | 0                   | 0                          |
| 9.0                                                                           | <b>IT Cybersecurity and "Smart City" Investments</b> |                                               |                      |                     |                            |                     |                            |
|                                                                               | 674,642                                              | 304,161                                       | 370,481              | 1,874,642           | 1,874,642                  | 0                   | 0                          |
|                                                                               | 500,000                                              | 385,277                                       | 114,723              | 500,000             | 500,000                    | 0                   | 0                          |
|                                                                               | 375,000                                              | -                                             | 375,000              | 375,000             | 375,000                    | 0                   | 0                          |
|                                                                               | 962,000                                              | -                                             | 962,000              | 962,000             | 962,000                    | 0                   | 0                          |
|                                                                               | 1,000,000                                            | 75,000                                        | 925,000              | 1,000,000           | 1,000,000                  | 0                   | 0                          |
|                                                                               |                                                      |                                               |                      |                     |                            |                     |                            |
|                                                                               | -                                                    | -                                             | -                    | 0                   | 0                          | 0                   | 0                          |
|                                                                               | -                                                    | -                                             | -                    | 0                   | 0                          | 0                   | 0                          |
| 10.1                                                                          | <b>General Fund - Programs and Operations</b>        |                                               |                      |                     |                            |                     |                            |
| X                                                                             | 1,300,000                                            | 1,300,000                                     | -                    | 1,300,000           | 1,300,000                  | 0                   | 0                          |
| X                                                                             | 500,000                                              | 500,000                                       | -                    | 500,000             | 500,000                    | 0                   | 0                          |
| X                                                                             | -                                                    | -                                             | -                    | 100,000             | 100,000                    | 0                   | 0                          |
| X                                                                             | 75,000                                               | 75,000                                        | -                    | 75,000              | 75,000                     | 0                   | 0                          |
|                                                                               | -                                                    | -                                             | -                    | 535,000             | 535,000                    | 0                   | 0                          |
| 10.2                                                                          | <b>Non-Profit Support</b>                            |                                               |                      |                     |                            |                     |                            |
| X                                                                             | 600,000                                              | 600,000                                       | -                    | 600,000             | 600,000                    | 0                   | 0                          |
| X                                                                             | 750,000                                              | 750,000                                       | -                    | 750,000             | 750,000                    | 0                   | 0                          |
| X                                                                             | 300,000                                              | 300,000                                       | -                    | 300,000             | 300,000                    | 0                   | 0                          |
| X                                                                             | 300,000                                              | 300,000                                       | -                    | 300,000             | 300,000                    | 0                   | 0                          |
| X                                                                             | 310,000                                              | 310,000                                       | -                    | 233,000             | 310,000                    | 0                   | 0                          |
|                                                                               | -                                                    | -                                             | -                    | 233,000             | 233,000                    | 0                   | 0                          |
| 10.3                                                                          | <b>Households and Small Businesses</b>               |                                               |                      |                     |                            |                     |                            |
|                                                                               | 100,000                                              | -                                             | 100,000              | 100,000             | 100,000                    | 0                   | 0                          |
|                                                                               | 100,000                                              | -                                             | 100,000              | 100,000             | 100,000                    | 0                   | 0                          |
|                                                                               | 100,000                                              | -                                             | 100,000              | 100,000             | 100,000                    | 0                   | 0                          |
|                                                                               | 400,000                                              | 20,000                                        | 380,000              | 400,000             | 400,000                    | 0                   | 0                          |





# City Commission **agenda item**

|                                                                                                                                    |                                                     |
|------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|
| <b>item type</b> Public Hearings: Quasi-Judicial Matters<br>(Public participation and comment on these matters must be in-person.) | <b>meeting date</b> October 26, 2022                |
| <b>prepared by</b> Rene Cranis                                                                                                     | <b>approved by</b> Michelle del Valle, Randy Knight |
| <b>board approval</b> Completed                                                                                                    |                                                     |
| <b>strategic objective</b>                                                                                                         |                                                     |

## **subject**

Request of the City of Winter Park and Elevation Plaza LLC for:

## **item list**

1. Ordinance 3254-22: Amending the Comprehensive Plan Future Land Use map:
  - from Institutional to Office on a portion of the property at 631 N. New York Avenue and
  - from Office to Institutional on a portion of the property at 507 N. New York Avenue (2nd reading)
2. Ordinance 3255-22: Changing zoning:
  - from Public, Quasi-Public (PQP) to Office (O-1) on a portion of the property at 631 N. New York Avenue.
  - from Office (O-1) to Institutional (PQP) on a portion of the property at 507 N. New York Avenue (2nd reading)

## **motion / recommendation**

Staff recommendation on the contract amendments and P&Z recommendation on the ordinances is for approval.

## **background**

This is second reading of the Comp Plan amendment and rezoning ordinances. The agreement was approved on first reading, October 12, 2022.

The City Commission has entered into contract to sell/swap a portion of the City's former water plant site at 631 N. New York Avenue to the Elevation Plaza LLC group that owns the Elevation Financial office building directly to the south at 507 N. New York Avenue. In return, the City is receiving a portion of Elevation's existing office building parking lot. Since the City is swapping 0.665 acres of city land for 0.433 acres of private land, the City

is being compensated with a \$1 million dollar payment.

The proposed amendment confirms the legal descriptions for the parcels, approves the form of the appurtenant easements, and provides for the release of mineral rights by the City which the city attorney can explain in more detail.

Attached is the survey and site plan drawings showing the properties and their intended uses. The City intends to use the property received from Elevation for a new golf course maintenance building in order to replace the unsightly yellow metal storage building adjacent on the golf course. The \$1 million will pay to construct the new building. The Elevation Plaza LLC group intends to build a new office building on the land acquired from the City. Since the new office building will be a conditional use (as a building over 10,000 square feet) that project will come back to the P&Z Board and City Commission at a later time. The Elevation Plaza LLC group is trying to acquire the Century Link/Lumen parking lot along New York Avenue in order to be able to enlarge the size of the new office project.

In order to close on this transaction, the City and Elevation Plaza LLC need to swap their respective future land use and zoning designations. Institutional (PQP) on the City property to Office (O-1) for Elevation Plaza LLC to use. Office (O-1) to Public Quasi-Public (PQP) for the City to use.

#### **alternatives / other considerations**

#### **fiscal impact**

##### **ATTACHMENTS:**

[Survey for City and Elevation LLC swap.pdf](#)

##### **ATTACHMENTS:**

[First Amendment to Exchange Agreement CLEAN AKA revd 9-21-22.pdf](#)

##### **ATTACHMENTS:**

[Site\\_and\\_Development\\_Plans.pdf](#)

##### **ATTACHMENTS:**

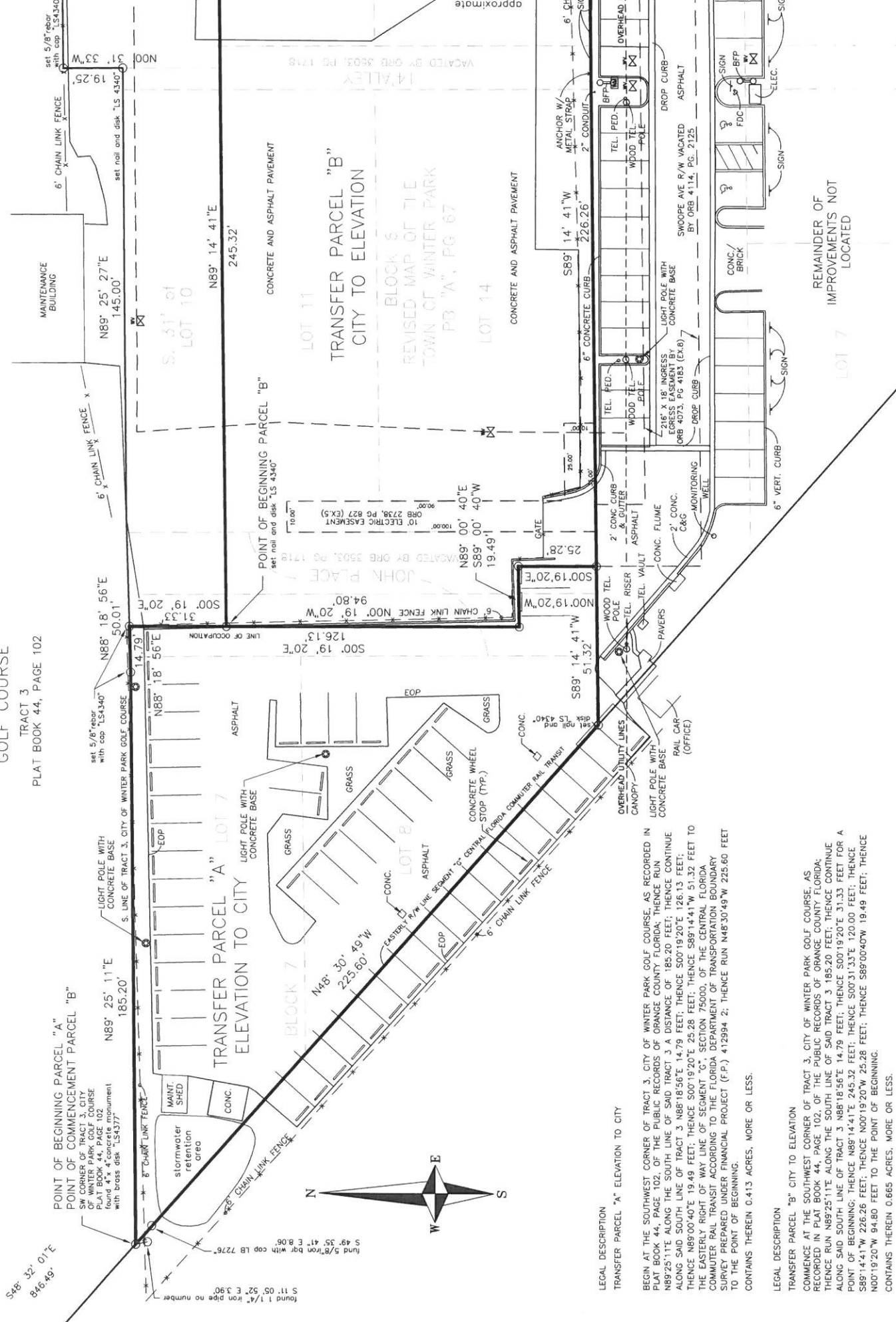
[Ord. 3254-22 \\_Comp.\\_Plan\\_New York properties.doc](#)

##### **ATTACHMENTS:**

[Ord. 3255-22 Rezoning New York properties.doc](#)

# CITY OF WINTER PARK GOLF COURSE

TRACT 3  
PLAT BOOK 44, PAGE 102



LEGAL DESCRIPTION  
TRANSFER PARCEL "A" ELEVATION TO CITY

BEGIN AT THE SOUTHWEST CORNER OF TRACT 3, CITY OF WINTER PARK GOLF COURSE, AS RECORDED IN PLAT BOOK 44, PAGE 102, OF THE PUBLIC RECORDS OF ORANGE COUNTY FLORIDA; THENCE RUN N89°25'11"E ALONG THE SOUTH LINE OF SAID TRACT 3 A DISTANCE OF 185.20 FEET; THENCE CONTINUE ALONG SAID SOUTH LINE OF TRACT 3 N88°18'56"E 14.79 FEET; THENCE S00°19'20"E 126.13 FEET; THENCE N89°00'40"E 19.49 FEET; THENCE S00°19'20"E 25.28 FEET; THENCE S89°14'41"W 51.32 FEET TO THE EASTERLY RIGHT OF WAY LINE OF SEGMENT "C", SECTION 75000, OF THE CENTRAL FLORIDA COMMUTER RAIL TRANSIT ACCORDING TO THE FLORIDA DEPARTMENT OF TRANSPORTATION BOUNDARY SURVEY PREPARED UNDER FINANCIAL PROJECT (F.P.) 412994 2; THENCE RUN N48°30'49"W 225.60 FEET TO THE POINT OF BEGINNING.  
CONTAINS THEREIN 0.413 ACRES, MORE OR LESS.

LEGAL DESCRIPTION  
TRANSFER PARCEL "B" CITY TO ELEVATION

COMMENCE AT THE SOUTHWEST CORNER OF TRACT 3, CITY OF WINTER PARK GOLF COURSE, AS RECORDED IN PLAT BOOK 44, PAGE 102, OF THE PUBLIC RECORDS OF ORANGE COUNTY FLORIDA; THENCE RUN N89°25'11"E ALONG THE SOUTH LINE OF SAID TRACT 3 185.20 FEET; THENCE CONTINUE ALONG SAID SOUTH LINE OF TRACT 3 N88°18'56"E 14.79 FEET; THENCE S00°19'20"E 31.33 FEET FOR A POINT OF BEGINNING; THENCE N88°14'41"E 245.32 FEET; THENCE S00°31'33"E 120.00 FEET; THENCE S88°14'41"W 226.26 FEET; THENCE N00°19'20"W 25.28 FEET; THENCE S89°00'40"W 19.49 FEET; THENCE N00°19'20"W 94.80 FEET TO THE POINT OF BEGINNING.  
CONTAINS THEREIN 0.665 ACRES, MORE OR LESS.

SURVEY NOTES:

**FIRST AMENDMENT TO  
EXCHANGE AGREEMENT**

**THIS FIRST AMENDMENT TO EXCHANGE AGREEMENT** (hereinafter “First Amendment”) is made and entered into effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between the **CITY OF WINTER PARK, a Florida municipal corporation** (hereinafter “City”); and **ELEVATION PLAZA, LLC, a Florida limited liability company** (hereinafter “Elevation”).

**WHEREAS**, on or about July 6, 2022, City and Elevation entered into that certain Exchange Agreement (hereinafter the “Agreement”) whereby the City agreed to sell and convey to Elevation that certain real property of approximately .695 acres in size (the “City Property”) and Elevation agreed to sell and convey to the City that certain real property of approximately .426 acres (the “Elevation Property”); and

**WHEREAS**, because precise legal descriptions were not available at the time the Agreement was executed, the City Property and the Elevation Property were depicted by a diagram attached to the Agreement as Exhibit “A”; and

**WHEREAS**, the parties have now agreed upon legal descriptions for the City Property and the Elevation Property and therefore wish to amend the Agreement to delete Exhibit “A” and replace it with the attached Exhibit “A-1”, which sets forth the legal description for the City Property, and with Exhibit “A-2”, which sets forth the legal description for the Elevation Property; and

**WHEREAS**, in addition to the conveyances of the above parcels, the City agreed to convey to Elevation an access and utility easement that benefits the City Property and Elevation agreed to convey to the City an access and utility easement that benefits the Elevation Property, which easements were generically described pursuant to Section 4 of the Agreement and the Exhibit “B” attached to the Agreement.

**WHEREAS**, the City and Elevation have now agreed upon the form of said easements and wish to amend the Agreement to confirm the same and to replace Exhibit “B” with a new Exhibit “B-1” and Exhibit “B-2”.

**NOW, THEREFORE**, in consideration of the mutual promises set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Elevation agree as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference.
2. Exhibit “A”. Exhibit “A” attached to the Agreement is deleted and replaced with the attached Exhibit “A-1, which sets forth the legal description of the City Property, and with the attached Exhibit “A-2”, which sets forth the legal description of the Elevation Property.



3. Easements and Exhibit “B”. Exhibit “B” attached to the Agreement is deleted and replaced with the attached Exhibit “B-1”, which is the form of the Easement Benefitting the City Property as contemplated by Section 4 of the Agreement, and with the attached Exhibit “B-2”, which is the form of the Easement Benefitting the Elevation Property as contemplated by Section 4 of the Agreement.

4. Conveyance of City Property. Section 9B of the Agreement is revised such that the Warranty Deed from the City to Elevation shall include sufficient language for the City to release its rights pursuant to Florida Statute 270.11 so that the Title Company is able to delete the exception set forth in paragraph 11 of Schedule B-II of the City Property Title Commitment.

5. No Further Changes. The foregoing terms and conditions are hereby incorporated into the Agreement. Except as set forth in this First Amendment, the Agreement shall have full force and effect. In the event of any conflict or ambiguity between the Agreement and this First Amendment, this First Amendment controls. This First Amendment may be executed in one or more counterparts. Signed counterparts delivered by facsimile or electronic mail shall constitute originals and shall be binding.

[Signatures on following page]

**IN WITNESS WHEREOF**, the parties have executed this First Amendment effective as of the date set forth above.

**THE CITY:**

**CITY OF WINTER PARK**  
a Florida municipal corporation

By: \_\_\_\_\_  
Randy Knight  
City Manager

Date: \_\_\_\_\_

**ELEVATION:**

**ELEVATION PLAZA, LLC**  
a Florida limited liability company

By: \_\_\_\_\_

\_\_\_\_\_  
(Print Name)

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT "A-1"**  
**(Legal Description of City Property)**

COMMENCE AT THE SOUTHWEST CORNER OF TRACT 3, CITY OF WINTER PARK GOLF COURSE, AS RECORDED IN PLAT BOOK 44, PAGE 102, OF THE PUBLIC RECORDS OF ORANGE COUNTY FLORIDA; THENCE RUN N89°25'11"E ALONG THE SOUTH LINE OF SAID TRACT 3 185.20 FEET; THENCE CONTINUE ALONG SAID SOUTH LINE OF TRACT 3 N88°18'56"E 14.79 FEET; THENCE S00°19'20"E 31.33 FEET FOR A POINT OF BEGINNING; THENCE N89°14'41"E 245.32 FEET; THENCE S00°31'33"E 120.00 FEET; THENCE S89°14'41"W 226.26 FEET; THENCE N00°19'20"W 25.28 FEET; THENCE S89°00'40"W 19.49 FEET; THENCE N00°19'20"W 94.80 FEET TO THE POINT OF BEGINNING.

CONTAINS THEREIN 0.665 ACRES, MORE OR LESS.

**EXHIBIT "A-2"**  
**(Legal Description of Elevation Property)**

BEGIN AT THE SOUTHWEST CORNER OF TRACT 3, CITY OF WINTER PARK GOLF COURSE, AS RECORDED IN PLAT BOOK 44, PAGE 102, OF THE PUBLIC RECORDS OF ORANGE COUNTY FLORIDA; THENCE RUN N89°25'11"E ALONG THE SOUTH LINE OF SAID TRACT 3 A DISTANCE OF 185.20 FEET; THENCE CONTINUE ALONG SAID SOUTH LINE OF TRACT 3 N88°18'56"E 14.79 FEET; THENCE S00°19'20"E 126.13 FEET; THENCE N89°00'40"E 19.49 FEET; THENCE S00°19'20"E 25.28 FEET; THENCE S89°14'41"W 51.32 FEET TO THE EASTERLY RIGHT OF WAY LINE OF SEGMENT "G", SECTION 75000, OF THE CENTRAL FLORIDA COMMUTER RAIL TRANSIT ACCORDING TO THE FLORIDA DEPARTMENT OF TRANSPORTATION BOUNDARY SURVEY PREPARED UNDER FINANCIAL PROJECT (F.P.) 412994 2; THENCE RUN N48°30'49"W 225.60 FEET TO THE POINT OF BEGINNING.

CONTAINS THEREIN 0.413 ACRES, MORE OR LESS.

## **EXHIBIT “B-1”**

After Recording Return to:

Mark F. Ahlers, Esquire  
Fishback Dominick  
1947 Lee Road  
Winter Park, FL 32789

### **NON-EXCLUSIVE ACCESS AND UTILITIES EASEMENT**

**THIS NON-EXCLUSIVE ACCESS AND UTILITIES EASEMENT (hereinafter “Easement”),** is made this \_\_\_\_ day of \_\_\_\_\_, 2022, by and between the **CITY OF WINTER PARK**, a Florida municipal corporation, whose address is 600 North Park Avenue, Winter Park, Florida 32789, hereinafter called the “Grantor”, in favor of **ELEVATION FINANCIAL GROUP, LLC**, a Florida limited liability company, whose address is 201 E. Pine Street, Suite 200, Orlando, Florida 32801, hereinafter called the “Grantee”.

**WHEREAS**, pursuant to the certain Exchange Agreement between Grantor and Elevation Plaza, LLC (hereinafter “Plaza”), and in accordance with Plaza’s assignment of its rights under the Exchange Agreement to Grantee, Grantor conveyed the property described on the attached Exhibit “A” (hereinafter the “Property”) to Grantee.

**WHEREAS**, pursuant to said Exchange Agreement, Grantor is also obligated to convey to Grantee a non-exclusive perpetual access and utilities easement to benefit the Property over that portion of Grantor’s property more particularly described on the attached Exhibit “B” (hereinafter the “Easement Area”).

**NOW THEREFORE**, in consideration of the sum of ten dollars and no cents (\$10.00) and certain other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby grants and conveys unto the Grantee and its successors and assigns, a non-exclusive perpetual easement for the benefit of the Property over, under, through and across the Easement Area: (i) for vehicular and pedestrian access between New York Avenue and the Property; and (ii) for the construction, installation, repair, replacement, reconstruction, maintenance, operation, use, and modification of underground utilities.

Grantor shall maintain the surface improvements including pavement, sod and landscaping within the Easement Area at Grantor’s sole cost and expense. However, to the extent Grantee’s use of the Easement Area for access to and from the Property causes damage in excess of normal wear and tear, Grantee shall complete the repair, replacement, and/or maintenance necessary to remedy such damage within a reasonable time. In addition, to the extent Grantee’s construction, installation, repair, replacement, reconstruction, maintenance, operation, use or modification of underground utilities causes damage to the Easement Area or the improvements therein or to Grantor’s other property, Grantee shall complete the repair, replacement, and/or maintenance necessary to remedy such damage within a reasonable time. All

covenants, terms, rights, and provisions herein contained shall inure and extend to and be obligatory upon the successors and assigns of the respective parties hereto.

Grantee and its successors and assigns shall have the right to clear and keep all trees, undergrowth and other obstructions that may interfere with the normal use, operation, or maintenance of the Easement Area and the utilities and facilities therein, out of and away from the Easement Area. Grantee, its successors and assigns, shall not build, construct, or create, nor permit others to build, construct, or create any buildings or other structures within the Easement Area. Grantee shall not construct or create, nor permit others to construct or create, any other improvement or obstruction that may interfere with Grantor's normal operation, use or maintenance of the Easement Area and the utilities and facilities therein, and Grantee shall not interfere with Grantor's utilities and facilities within the Easement Area or Grantor's access to and from the Easement Area. Grantor warrants that Grantor is the fee simple owner of the Easement Area and has the authority to grant the Easement herein.

Grantor has the right to relocate, at any time, the Easement Area to another location provided: (a) the new easement area is of the same width and provides Grantee with reasonable access between the Property and New York Avenue; (b) Grantor, at Grantor's sole cost, relocates any utilities Grantee has installed within the Easement Area to the new easement area. In the event of such relocation, Grantor and Grantee shall execute and deliver to Grantor for recording a document that amends this Easement to release the original Easement Area and replaces it with the new easement area.

Wherever used herein, the terms "Grantor" and "Grantee" include their respective heirs, legal representatives, successors and assigns of individuals, and the successors and assigns of corporations, limited liability companies, or other entities. Grantee, by its acceptance of this Easement, agrees to be bound by the terms and provisions set forth herein. Use and/or operation where used in the Easement include, without limitation, use and/or operation by Grantee's guests and invitees.

**IN WITNESS WHEREOF**, Grantor and Grantee have executed this Easement on the day and year first written above.

{Signatures on the following pages}

Witnesses:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print

**GRANTOR:**

CITY OF WINTER PARK, a Florida municipal corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of physical presence this \_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_, as \_\_\_\_\_ of the City of Winter Park, a Florida municipal corporation, on behalf of the corporation. He/she (check one) ☐ is personally known to me, or ☐ has produced a valid driver's license as identification.

\_\_\_\_\_  
Notary Public, State and County Aforesaid  
Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
My Commission Number is: \_\_\_\_\_

Witnesses:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print

**GRANTEE**

ELEVATION FINANCIAL GROUP, LLC  
a Florida limited liability company

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of physical presence this \_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_, as \_\_\_\_\_ of Elevation Financial Group, LLC, a Florida limited liability company, on behalf of the company. He/she (check one) ☐ is personally known to me, or ☐ has produced a valid driver's license as identification.

\_\_\_\_\_  
Notary Public, State and County Aforesaid

Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

My Commission Number is: \_\_\_\_\_



**EXHIBIT "A"**

COMMENCE AT THE SOUTHWEST CORNER OF TRACT 3, CITY OF WINTER PARK GOLF COURSE, AS RECORDED IN PLAT BOOK 44, PAGE 102, OF THE PUBLIC RECORDS OF ORANGE COUNTY FLORIDA; THENCE RUN N89°25'11"E ALONG THE SOUTH LINE OF SAID TRACT 3 185.20 FEET; THENCE CONTINUE ALONG SAID SOUTH LINE OF TRACT 3 N88°18'56"E 14.79 FEET; THENCE S00°19'20"E 31.33 FEET FOR A POINT OF BEGINNING; THENCE N89°14'41"E 245.32 FEET; THENCE S00°31'33"E 120.00 FEET; THENCE S89°14'41"W 226.26 FEET; THENCE N00°19'20"W 25.28 FEET; THENCE S89°00'40"W 19.49 FEET; THENCE N00°19'20"W 94.80 FEET TO THE POINT OF BEGINNING.

CONTAINS THEREIN 0.665 ACRES, MORE OR LESS.

**EXHIBIT "B"**

BEGIN AT THE SOUTHEAST CORNER OF TRACT 3, CITY OF WINTER PARK GOLF COURSE, AS RECORDED IN PLAT BOOK 44, PAGE 102, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE RUN S00°31'33"E ALONG THE WEST RIGHT OF WAY LINE OF NORTH NEW YORK AVENUE A DISTANCE OF 20.00 FEET; THENCE LEAVING SAID WEST RIGHT OF WAY LINE RUN S89°14'41"W 104.42 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 10.70 FEET AND A CENTRAL ANGLE OF 90°00'00"; THENCE RUN SOUTHWESTERLY ALONG THE ARC OF SAID CURVE 16.81 FEET TO THE POINT OF TANGENCY; THENCE RUN SOUTH 00°45'19" EAST 20.00 FEET; THENCE S89°14'41"W 215.32 FEET; THENCE N00°19'20"W 20.00 FEET; THENCE N89°14'41"E 195.17 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 30.70 FEET AND A CENTRAL ANGLE OF 90°00'00"; THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE 48.22 FEET TO THE POINT OF TANGENCY; THENCE RUN N89°14'41"E 104.50 FEET TO THE POINT OF BEGINNING.

## **EXHIBIT “B-2”**

After Recording Return to:

Mark F. Ahlers, Esquire  
Fishback Dominick  
1947 Lee Road  
Winter Park, FL 32789

### **NON-EXCLUSIVE ACCESS AND UTILITIES EASEMENT**

**THIS NON-EXCLUSIVE ACCESS AND UTILITIES EASEMENT** (hereinafter “**Easement**”), is made this \_\_\_\_ day of \_\_\_\_\_, 2022, by and between **ELEVATION FINANCIAL GROUP, LLC**, a Florida limited liability company, whose address is 201 E. Pine Street, Suite 200, Orlando, Florida 32801, hereinafter called the “**Grantor**”, in favor of the **CITY OF WINTER PARK**, a Florida municipal corporation, whose address is 600 North Park Avenue, Winter Park, Florida 32789, hereinafter called the “**Grantee**”.

**WHEREAS**, pursuant to the certain Exchange Agreement between Grantee and Elevation Plaza, LLC (hereinafter “**Plaza**”), and in accordance with Plaza’s assignment of its rights under the Exchange Agreement to Grantor, Grantor conveyed the property described on the attached Exhibit “**A**” (hereinafter the “**Property**”) to Grantee.

**WHEREAS**, pursuant to said Exchange Agreement, Grantor is also obligated to convey to Grantee a non-exclusive perpetual access and utilities easement to benefit the Property over that portion of Grantor’s property more particularly described on the attached Exhibit “**B**” (hereinafter the “**Easement Area**”).

**NOW THEREFORE**, in consideration of the sum of ten dollars and no cents (\$10.00) and certain other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby grants and conveys unto the Grantee and its successors and assigns, a non-exclusive perpetual easement for the benefit of the Property over, under, through and across the Easement Area: (i) for vehicular and pedestrian access between West Swoope Avenue and the Property; and (ii) for the construction, installation, repair, replacement, reconstruction, maintenance, operation, use, and modification of underground utilities.

Grantor shall maintain the surface improvements including pavement, sod and landscaping within the Easement Area at Grantor’s sole cost and expense. However, to the extent Grantee’s use of the Easement Area for access to and from the Property causes damage in excess of normal wear and tear, Grantee shall complete the repair, replacement, and/or maintenance necessary to remedy such damage within a reasonable time. In addition, to the extent Grantee’s construction, installation, repair, replacement, reconstruction, maintenance, operation, use or modification of underground utilities causes damage to the Easement Area or the improvements therein or to Grantor’s other property, Grantee shall complete the repair, replacement, and/or maintenance necessary to remedy such damage within a reasonable time. All covenants, terms, rights, and provisions herein contained shall inure and extend to and be obligatory upon the successors and assigns of the respective parties hereto.

Grantee and its successors and assigns shall have the right to clear and keep all trees, undergrowth and other obstructions that may interfere with the normal use, operation, or maintenance of the Easement Area and the utilities and facilities therein, out of and away from the Easement Area. Grantee, its successors and assigns, shall not build, construct, or create, nor permit others to build, construct, or create any buildings or other structures within the Easement Area. Grantee shall not construct or create, nor permit others to construct or create, any other improvement or obstruction that may interfere with Grantor's normal operation, use or maintenance of the Easement Area and the utilities and facilities therein, and Grantee shall not interfere with Grantor's utilities and facilities within the Easement Area or Grantor's access to and from the Easement Area. Grantor warrants that Grantor is the fee simple owner of the Easement Area and has the authority to grant the Easement herein.

Grantor has the right to relocate, at any time, the Easement Area to another location provided: (a) the new easement area is of the same width and provides Grantee with reasonable access between the Property and West Swoope Avenue; (b) Grantor, at Grantor's sole cost, relocates any utilities Grantee has installed within the Easement Area to the new easement area. In the event of such relocation, Grantor and Grantee shall execute and deliver to Grantor for recording a document that amends this Easement to release the original Easement Area and replaces it with the new easement area.

Wherever used herein, the terms "Grantor" and "Grantee" include their respective heirs, legal representatives, successors and assigns of individuals, and the successors and assigns of corporations, limited liability companies, or other entities. Grantee, by its acceptance of this Easement, agrees to be bound by the terms and provisions set forth herein. Use and/or operation where used in the Easement include, without limitation, use and/or operation by Grantee's guests and invitees.

**IN WITNESS WHEREOF**, Grantor and Grantee have executed this Easement on the day and year first written above.

{Signatures on the following pages}

Witnesses:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print

**GRANTOR**

ELEVATION FINANCIAL GROUP, LLC  
a Florida limited liability company

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of physical presence this \_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_, as \_\_\_\_\_ of Elevation Financial Group, LLC, a Florida limited liability company, on behalf of the company. He/she (check one) ☐ is personally known to me, or ☐ has produced a valid driver's license as identification.

\_\_\_\_\_  
Notary Public, State and County Aforesaid  
Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
My Commission Number is: \_\_\_\_\_

Witnesses:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print

**GRANTEE:**

CITY OF WINTER PARK, a Florida municipal  
corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of physical presence this \_\_\_\_  
day of \_\_\_\_\_, 2022, by \_\_\_\_\_, as \_\_\_\_\_ of the  
City of Winter Park, a Florida municipal corporation, on behalf of the corporation. He/she (check one) ☐  
is personally known to me, or ☐ has produced a valid driver's license as identification.

\_\_\_\_\_  
Notary Public, State and County Aforesaid  
Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
My Commission Number is: \_\_\_\_\_

s:\aka\clients\winter park\elevation plaza, llc w600-26113\closing documents\non exclusive access and utilities easement (to the city) mfa  
clean.doc

**EXHIBIT "A"**

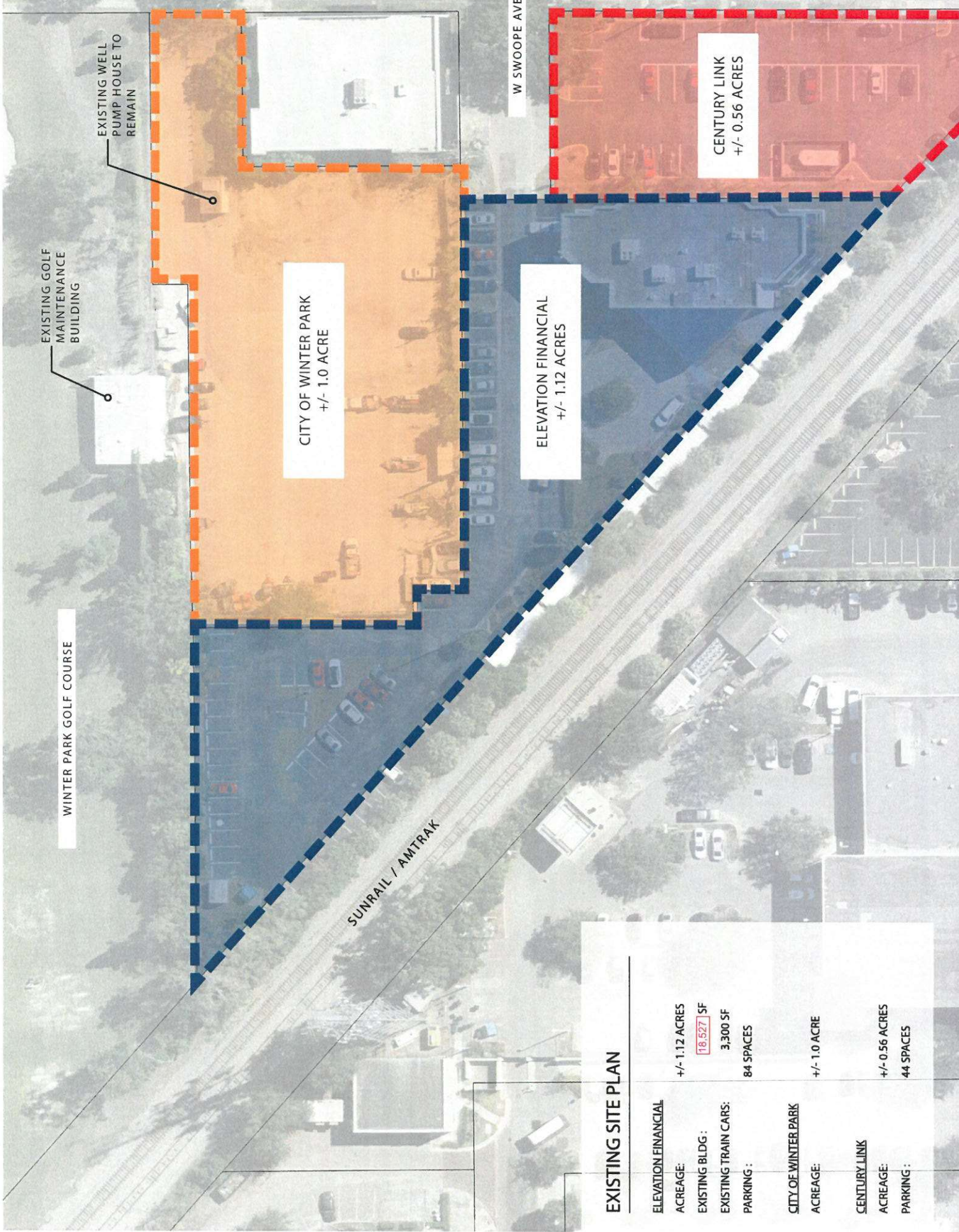
BEGIN AT THE SOUTHWEST CORNER OF TRACT 3, CITY OF WINTER PARK GOLF COURSE, AS RECORDED IN PLAT BOOK 44, PAGE 102, OF THE PUBLIC RECORDS OF ORANGE COUNTY FLORIDA; THENCE RUN N89°25'11"E ALONG THE SOUTH LINE OF SAID TRACT 3 A DISTANCE OF 185.20 FEET; THENCE CONTINUE ALONG SAID SOUTH LINE OF TRACT 3 N88°18'56"E 14.79 FEET; THENCE S00°19'20"E 126.13 FEET; THENCE N89°00'40"E 19.49 FEET; THENCE S00°19'20"E 25.28 FEET; THENCE S89°14'41"W 51.32 FEET TO THE EASTERLY RIGHT OF WAY LINE OF SEGMENT "G", SECTION 75000, OF THE CENTRAL FLORIDA COMMUTER RAIL TRANSIT ACCORDING TO THE FLORIDA DEPARTMENT OF TRANSPORTATION BOUNDARY SURVEY PREPARED UNDER FINANCIAL PROJECT (F.P.) 412994 2; THENCE RUN N48°30'49"W 225.60 FEET TO THE POINT OF BEGINNING.

CONTAINS THEREIN 0.413 ACRES, MORE OR LESS.

**EXHIBIT "B"**

COMMENCE AT THE INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF WEST SWOOPE AVENUE WITH THE WEST RIGHT OF WAY LINE OF NORTH NEW YORK AVENUE; THENCE RUN S89°14'41"W ALONG THE SOUTH RIGHT OF WAY LINE OF SAID WEST SWOOPE AVENUE 104.00 FEET; THENCE RUN N00°31'33"W 10.52 FEET FOR A POINT OF BEGINNING; THENCE RUN S89°39'45"W 196.78 FEET; THENCE N49°28'09"W 57.66 FEET; THENCE N89°14'41"E 30.31 FEET; THENCE S49°28'09"E 27.43 FEET; THENCE N89°39'45"E 189.26 FEET; THENCE S00°31'33' E 20.00 FEET TO THE POINT OF BEGINNING.





## EXISTING SITE PLAN

|                            |                |
|----------------------------|----------------|
| <u>ELEVATION FINANCIAL</u> |                |
| ACREAGE:                   | +/- 1.12 ACRES |
| EXISTING BLDG :            | 18,527 SF      |
| EXISTING TRAIN CARS:       | 3,300 SF       |
| PARKING :                  | 84 SPACES      |
| <u>CITY OF WINTER PARK</u> |                |
| ACREAGE:                   | +/- 1.0 ACRE   |
| <u>CENTURY LINK</u>        |                |
| ACREAGE:                   | +/- 0.56 ACRES |
| PARKING :                  | 44 SPACES      |



WINTER PARK GOLF COURSE

EXISTING GOLF  
MAINTENANCE SHED AND  
DRIVEWAY (IMPERVIOUS  
AREA) TO BE DEMOLISHED  
AND LANDSCAPED

CITY OF WINTER PARK  
+/- 0.66-ACRE

6,000 SF  
(4,000 SF 1ST FLOOR,  
2,000 SF 2ND FLOOR)

EXISTING WELL  
PUMP HOUSE TO  
REMAIN

PROPOSED BLDG.  
6,525 SF  
FLOORPLATE

W SWOOPE AV

ELEVATION FINANCIAL  
+/- 1.44 ACRES

EXISTING BLDG.  
20,160 SF  
TOTAL

SUNRAIL / AMTRAK

#### ELEVATION FINANCIAL

ACREAGE: APPROX. 1.45 ACRES

NET CHANGE AC: APPROX. 0.33-ACRE INCREASE

PROPOSED BLDG: 3 STORY WITH GROUND FLOOR PARKING / 6,750 SF  
FLOORPLATE / 13,500 SF TOTAL  
NET CHANGE BLDG: +13,500 SF

PARKING REQ: 3 SPACES PER 1,000 SF

EX. BUILDING: 56 SPACES

PROP. BUILDING: 41 SPACES

PARKING REQ/PROVIDED: 97 SPACES / 105 SPACES (INCLUDING 24 GROUND FLOOR SPACES)

\* INCLUDING 8 PARKING SPACES WITHIN CITY PROPERTY



WINTER PARK GOLF COURSE

EXISTING GOLF  
MAINTENANCE SHED AND  
DRIVEWAY (IMPERVIOUS  
AREA) TO BE DEMOLISHED  
AND LANDSCAPED

CITY OF WINTER PARK  
+/- 0.66-ACRE

6000 SF  
(4,000 SF 1ST FLOOR,  
2,000 SF 2ND FLOOR)

PROPOSED BLDG.  
3,300 SF  
FLOORPLATE

EXISTING WELL  
PUMP HOUSE TO  
REMAIN

PROPOSED PROPERTY  
LINE UPDATE

SUNRAIL / AMTRAK

W SWOOPE AVE

ELEVATION FINANCIAL  
+/- 1.44 ACRES

EXISTING BLDG.  
20,160 SF  
TOTAL

ELEVATION FINANCIAL

ACREAGE: APPROX. 1.47 ACRES  
NET CHANGE AC: APPROX 0.35-ACRE INCREASE

PROPOSED BLDG: 3 STORY / 3,433 SF FLOORPLATE / 10,300 SF TOTAL  
NET CHANGE BLDG: +10,300 SF

PARKING REQ: 3 SPACES PER 1,000 SF  
EX. BUILDING: 56 SPACES  
PROP. BUILDING: 31 SPACES

PARKING REQ/PROVIDED: 87 SPACES / 94 SPACES  
\* INCLUDING 8 PARKING SPACES WITHIN CITY PROPERTY  
FAR: 45%

CITY OF WINTER PARK

## **ORDINANCE 3254-22**

### **AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE I, "COMPREHENSIVE PLAN" TO AMEND THE COMPREHENSIVE PLAN FUTURE LAND USE MAP TO CHANGE THE FUTURE LAND USE DESIGNATION OF INSTITUTIONAL TO OFFICE ON A PORTION OF THE PROPERTY AT 631 N. NEW YORK AVENUE AND TO CHANGE FROM OFFICE TO INSTITUTIONAL ON A PORTION OF THE PROPERTY AT 507 N. NEW YORK AVENUE AS PART OF A SWAP OF PROPERTIES.**

**WHEREAS**, the owners of these properties, more particularly described herein have voluntarily agreed to a swap of properties and swap of comprehensive plan future land use designations, and

**WHEREAS**, the City Commission intends to amend its Comprehensive Plan to establish a municipal Comprehensive Plan future land use map designation as a small-scale amendment to the Comprehensive Plan, and

**WHEREAS**, on September 6, 2022, the Planning and Zoning Board held a public hearing on the proposed future land use map amendment set forth herein and made a recommendation to the City Commission concerning the same, and

**WHEREAS**, the amendment of the Comprehensive Plan maps and the establishment of a future land use designation meets the criteria established by Chapter 163, Florida Statutes and pursuant to and in compliance with law.

### **NOW THEREFORE BE IT ENACTED, AS FOLLOWS:**

**SECTION 1.** That Chapter 58 "Land Development Code", Article I, "Comprehensive Plan" future land use plan map is hereby amended so as to change from Institutional future land use designation an Office future land use designation on a portion of the property at 631 N. New York Avenue, more particularly described as follows:

COMMENCE AT THE SOUTHWEST CORNER OF TRACT 3, CITY OF WINTER PARK GOLF COURSE, AS RECORDED IN PLAT BOOK 44, PAGE 102, OF THE PUBLIC RECORDS OF ORANGE COUNTY FLORIDA; THENCE RUN N89°25'11"E ALONG THE SOUTH LINE OF SAID TRACT 3 185.20 FEET; THENCE CONTINUE ALONG SAID SOUTH LINE OF TRACT 3 N88°18'56"E 14.79 FEET; THENCE S00°19'20"E 31.33 FEET FOR A POINT OF BEGINNING; THENCE N89°14'41"E 245.32 FEET; THENCE S00°31'33"E 120.00 FEET; THENCE S89°14'41"W 226.26 FEET; THENCE N00°19'20"W 25.28 FEET; THENCE S89°00'40"W 19.49 FEET; THENCE N00°19'20"W 94.80 FEET TO THE POINT OF BEGINNING.

CONTAINS THEREIN 0.665 ACRES, MORE OR LESS.

**SECTION 2.** That Chapter 58 "Land Development Code", Article I, "Comprehensive Plan" future land use plan map is hereby amended so as to change from an Office future land use designation to an Institutional future land use designation on a portion of the property at 507 N. New York Avenue, more particularly described as follows:

BEGIN AT THE SOUTHWEST CORNER OF TRACT 3, CITY OF WINTER PARK GOLF COURSE, AS RECORDED IN PLAT BOOK 44, PAGE 102, OF THE PUBLIC RECORDS OF ORANGE COUNTY FLORIDA; THENCE RUN N89°25'11"E ALONG THE SOUTH LINE OF SAID TRACT 3 A DISTANCE OF 185.20 FEET; THENCE CONTINUE ALONG SAID SOUTH LINE OF TRACT 3 N88°18'56"E 14.79 FEET; THENCE S00°19'20"E 126.13 FEET; THENCE N89°00'40"E 19.49 FEET; THENCE S00°19'20"E 25.28 FEET; THENCE S89°14'41"W 51.32 FEET TO THE EASTERLY RIGHT OF WAY LINE OF SEGMENT "G", SECTION 75000, OF THE CENTRAL FLORIDA COMMUTER RAIL TRANSIT ACCORDING TO THE FLORIDA DEPARTMENT OF TRANSPORTATION BOUNDARY SURVEY PREPARED UNDER FINANCIAL PROJECT (F.P.) 412994 2; THENCE RUN N48°30'49"W 225.60 FEET TO THE POINT OF BEGINNING.

CONTAINS THEREIN 0.413 ACRES, MORE OR LESS.

**SECTION 3.** This Ordinance shall become effective 31 days after its adoption unless timely challenged pursuant to Florida Statutes Section 163.3187 within 30 days after adoption. If timely challenged, this Ordinance will not become effective until the State Land Planning Agency or the Administration Commission, respectively, issues a Final Order determining the Ordinance is in compliance pursuant to Chapter 163, Florida Statutes.

**ADOPTED** at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this 26th day of October, 2022.

---

Mayor Phillip M. Anderson

Attest:

---

City Clerk Rene Cranis

Ordinance 3254-22

Page 2 of 2



## **ORDINANCE 3255-22**

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE III, "ZONING" AND THE OFFICIAL ZONING MAP SO AS TO CHANGE FROM PUBLIC, QUASI-PUBLIC (PQP) ZONING TO OFFICE (O-1) ZONING ON A PORTION OF THE PROPERTY AT 631 N. NEW YORK AVENUE AND TO CHANGE FROM OFFICE (O-1) TO PUBLIC, QUASI-PUBLIC (PQP) ON A PORTION OF THE PROPERTY AT 507 N. NEW YORK AVENUE AS PART OF A SWAP OF PROPERTIES.**

**WHEREAS**, the owner of these properties more particularly described herein have voluntarily agreed to a swap of properties and swap of zoning designations, and

**WHEREAS**, on September 6, 2022, the Planning and Zoning Board held a public hearing on the rezoning set forth herein and made a recommendation to the City Commission regarding such rezoning, and

**WHEREAS**, the City Commission finds that the changes in zoning set forth herein is consistent with the Comprehensive Plan and meets the requirements for rezoning under the City's Comprehensive Plan and land development regulations, and

**WHEREAS**, the establishment of municipal zoning meets the criteria established by Chapter 166, Florida Statutes and pursuant to and in compliance with law, notice has been given to Orange County and to the public by publication in a newspaper of general circulation to notify the public of this proposed Ordinance and of public hearings to be held.

**NOW THEREFORE BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, AS FOLLOWS:**

**SECTION 1.** That Chapter 58 "Land Development Code", Article III, "Zoning" and the Official Zoning Map is hereby amended so as to change from Public, Quasi-Public (PQP) district zoning to Office (O-1) district zoning on a portion of the property at 631 N. New York Avenue, more particularly described as follows:

COMMENCE AT THE SOUTHWEST CORNER OF TRACT 3, CITY OF WINTER PARK GOLF COURSE, AS RECORDED IN PLAT BOOK 44, PAGE 102, OF THE PUBLIC RECORDS OF ORANGE COUNTY FLORIDA; THENCE RUN N89°25'11"E ALONG THE SOUTH LINE OF SAID TRACT 3 185.20 FEET; THENCE CONTINUE ALONG SAID SOUTH LINE OF TRACT 3 N88°18'56"E 14.79 FEET; THENCE S00°19'20"E 31.33 FEET FOR A POINT OF BEGINNING; THENCE N89°14'41"E 245.32 FEET; THENCE S00°31'33"E 120.00 FEET; THENCE S89°14'41"W 226.26 FEET; THENCE N00°19'20"W 25.28 FEET; THENCE S89°00'40"W 19.49 FEET; THENCE N00°19'20"W 94.80 FEET TO THE POINT OF BEGINNING.

CONTAINS THEREIN 0.665 ACRES, MORE OR LESS.

**SECTION 2.** That Chapter 58 "Land Development Code", Article III, "Zoning" and the Official Zoning Map is hereby amended so as to change from Office (O-1) Zoning district to Public Quasi-Public (PQP) district zoning on a portion of the property at 507 N. New York Avenue more particularly described as follows:

BEGIN AT THE SOUTHWEST CORNER OF TRACT 3, CITY OF WINTER PARK GOLF COURSE, AS RECORDED IN PLAT BOOK 44, PAGE 102, OF THE PUBLIC RECORDS OF ORANGE COUNTY FLORIDA; THENCE RUN N89°25'11"E ALONG THE SOUTH LINE OF SAID TRACT 3 A DISTANCE OF 185.20 FEET; THENCE CONTINUE ALONG SAID SOUTH LINE OF TRACT 3 N88°18'56"E 14.79 FEET; THENCE S00°19'20"E 126.13 FEET; THENCE N89°00'40"E 19.49 FEET; THENCE S00°19'20"E 25.28 FEET; THENCE S89°14'41"W 51.32 FEET TO THE EASTERLY RIGHT OF WAY LINE OF SEGMENT "G", SECTION 75000, OF THE CENTRAL FLORIDA COMMUTER RAIL TRANSIT ACCORDING TO THE FLORIDA DEPARTMENT OF TRANSPORTATION BOUNDARY SURVEY PREPARED UNDER FINANCIAL PROJECT (F.P.) 412994 2; THENCE RUN N48°30'49"W 225.60 FEET TO THE POINT OF BEGINNING.

CONTAINS THEREIN 0.413 ACRES, MORE OR LESS.

**SECTION 3.** This Ordinance shall become effective immediately upon the effective date of this Ordinance.

**ADOPTED** at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this 26th day of October, 2022.

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Mayor Phillip M. Anderson

Attest:

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City Clerk Rene Cranis



# City Commission **agenda item**

|                                                                                                                                    |                                                     |
|------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|
| <b>item type</b> Public Hearings: Quasi-Judicial Matters<br>(Public participation and comment on these matters must be in-person.) | <b>meeting date</b> October 26, 2022                |
| <b>prepared by</b> Peter Moore                                                                                                     | <b>approved by</b> Michelle del Valle, Randy Knight |
| <b>board approval</b> Completed                                                                                                    |                                                     |
| <b>strategic objective</b> Fiscal Stewardship                                                                                      |                                                     |

## **subject**

Ordinance - Amending adopted FY22 Budget (1st Reading)

## **motion / recommendation**

As required by statute, approve the ordinance adopting amendments made to the FY22 budget over the course of the last fiscal year (2021 - 2022).

## **background**

The City Commission is required by Statute to approve any budget adjustments that alter the total amount budgeted in any fund or when funds are transferred between different fund types. The City has adopted the practice of bringing budget amendments to the City Commission as they arise and then bringing a year-end ordinance adopting all the amendments formally to comply with Statute.

Through the receipt of grants or due to a need to revise original revenue estimates the city periodically needs to make changes to stated account revenues and expenditures. This is primarily a housekeeping process and it properly provides departments and divisions with an accurate picture of the funds available to undertake programs and projects. The following attachment highlights the budget amendments (Exhibit A of the Ordinance) that have already been approved by the Commission at prior meetings and now need to be formally adopted through public hearing. In addition to those previously adopted, a few additional amendments have been brought for approval and are all related to facility or operating functions in the city that due to increased use also have increased associated costs:

1) Winter Pines Budget: The city purchased the course in April of 2022 and this amendment provides a revised budget to reflect the majority of revenues received and expenditures incurred for the partial year of operation that was not part of the original



budget. The total amendment is \$409,500 and is merely an accounting change that will better represent the overall revised budget performance for FY22.

2) Winter Park 9 Amendment: The course has seen increased membership revenue as well as purchase of merchandise and food and beverages. This total amendment of \$105,000 accounts for that improved performance.

3) Police Special Detail Pay: The Police Department provides security for events that occur throughout the year. As part of the budget this is structured as a wash, where revenues are expected to match expenses. There has been greater use of police services by 3rd parties and this amendment reflects those added revenues and expenses. Like the other amendments, this \$90k change is for accounting purposes and better reflects budget performance.

These additional amendments will properly reflect the use of revenues to offset costs that are already incurred on the books and are all budget neutral.

#### **alternatives / other considerations**

Not approving this would require staff to remove the amendments in the accounting system it would not affect actual revenues received or expenditures incurred.

#### **fiscal impact**

None. All the amendments have been previously approved by the Commission or are revenue neutral.

#### **ATTACHMENTS:**

[Budget\\_Amendment\\_Ord\\_FY22\\_year\\_end.docx](#)

#### **ATTACHMENTS:**

[Budget Amendments Sheet - FY22 YrEnd.pdf](#)

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING THE ADOPTED BUDGET AND ACCOMPANYING FIVE YEAR CAPITAL IMPROVEMENT PLAN FOR FISCAL YEAR 2021 – 2022 BY PROVIDING FOR CHANGES IDENTIFIED IN EXHIBIT A; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Ordinance No. 3216-21, the City of Winter Park, Florida has adopted the Budget and Capital Improvement Program for the fiscal year 2021 – 2022; and

**WHEREAS**, the City of Winter Park, Florida desires to amend the Budget and Capital Improvement Program for supplemental appropriations in the amounts identified in Exhibit A; and

**WHEREAS**, Section 166.241(4)(c) Florida Statutes require such a budget amendment be adopted in the same manner as the original budget.

**BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA THAT:**

**SECTION 1.** The Budget and Capital Improvement Program for fiscal year 2021 – 2022 is hereby amended by providing for changes identified in Exhibit A.

**SECTION 2.** If any section, subsection, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 3.** In the event of any conflict between the provisions of this Ordinance and any other ordinance, resolution, or portions thereof, the provisions of this Ordinance shall prevail to the extent of such conflict.

**SECTION 4.** The provisions of this Ordinance shall become effective immediately upon passage.

**ADOPTED** at a regular meeting of the City Commission of the City of Winter Park, held in City Hall, Winter Park, Florida this 9<sup>th</sup> day of November, 2022.

\_\_\_\_\_  
Phil Anderson, Mayor

Attest:

\_\_\_\_\_  
Rene S. Cranis, City Clerk

Exhibit A

| Item                                             | Amount     | Source Account | Source Acct. Name                                 | Exp. Account                                       | Exp. Acct. Name                     | Note                                                                                                                                                                                                                                                                 | Approval Date |
|--------------------------------------------------|------------|----------------|---------------------------------------------------|----------------------------------------------------|-------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| 1401 Howell Branch Purchase - Vet Clinic         | \$ 470,000 | 0010383 383100 | General Fund - Fund Balance                       | 3013101 565344                                     | 1401 Howell Branch Project          | This amendment affords the purchase of the old vet clinic at 1401 Howell Branch for the purpose of creating the future home for the Building Department and Code Enforcement operations. It was supported by reserve funds from the Building Dept. and General Fund. | 12/8/2021     |
|                                                  | \$ 940,000 | 0010383 383211 | Restricted Building Dept. Reserves - Fund Balance |                                                    |                                     |                                                                                                                                                                                                                                                                      |               |
| Library FF&E from ARPA                           | \$ 300,000 | 3010381 381113 | Transfer from Covid Fund                          | 3013101 565313                                     | WP Library Project                  | Contribution to library furniture, fixtures, and equipment. Funds needed to be moved from the ARPA fund to the Capital Projects fund.                                                                                                                                | 1/26/2022     |
| MLK Memorial Funding                             | \$ 400,000 | 1040383 383100 | CRA Fund Balance                                  | 1042308 565185                                     | MLK Park Project                    | Additional funding approved by the CRA Agency to support the plans for the MLK Memorial Corner.                                                                                                                                                                      | 2/9/2022      |
| Winter Pines Golf Course Partial Year Operations | \$ 409,500 | Various        | See Attachment                                    | Various                                            | See Attachment                      | The Pines was purchased during the fiscal year and has generated some operating costs and revenues which are being partially reflected for FY22.                                                                                                                     | Pending       |
| Police Special Detail                            | \$ 90,000  | 0010342 342101 | Police Special Detail - Rev                       | 0014104 515020                                     | PD Special Detail                   | Estimates are made to be a wash in the budget however revenues and expenses have exceeded estimates and are being accounted for here.                                                                                                                                | Pending       |
| WP9 Golf Operations                              | \$ 105,000 | 0010347 347231 | WP9 Membership Fees                               | 0016301 552016<br>0016301 552012<br>0016301 552015 | WP9 Food, Beverage, and Merchandise | Revenues and expenses at the WP9 are higher than originally forecasted and this amendment partially corrects for that.                                                                                                                                               | Pending       |

## Winter Park Pines Budget Amendments

*Accounting for partial year of operations not originally in budget*

| Account #                       |        | Account Name                   | Amount         |
|---------------------------------|--------|--------------------------------|----------------|
| 0010347                         | 347250 | PARKS-GOLF GREEN FEES-PINES    | 270,000        |
| 0010347                         | 347251 | PARKS-GOLF MEMBERSHIP FEE-PINE | 25,000         |
| 0010347                         | 347252 | PARKS-DRIVING RANGE-PINES      | 50,000         |
| 0010347                         | 347254 | PARKS-PRO SHOP MERCH-PINES     | 12,500         |
| 0010347                         | 347255 | PARKS-GOLF PRO SHOP FOOD-PINES | 50,000         |
| 0010347                         | 347257 | PARKS-GIFT CARDS/CERTS-PINES   | 2,000          |
| <b>Total Revenue Adjustment</b> |        |                                | <b>409,500</b> |

| Account #                           |        | Account Name                   | Amount         |
|-------------------------------------|--------|--------------------------------|----------------|
| 0016303                             | 534040 | OTHER SERVICES - CONTRACTUAL   | 50,000         |
| 0016303                             | 546030 | REPAIR & MAINT - GROUNDS       | 5,000          |
| 0016303                             | 546050 | REPAIR & MAINT - VEHICLE       | 20,000         |
| 0016303                             | 552010 | OPERATING SUPPLIES - GENERAL   | 25,000         |
| 0016303                             | 552012 | OPERATING SUPPLIES - MERCHDISE | 15,000         |
| 0016303                             | 552016 | OPERATING SUPPLIES - ALCOHOL   | 100,000        |
| 0016303                             | 552020 | OPERATING SUPPLIES - FUEL      | 5,000          |
| 0016303                             | 552050 | OPERATING SUPPLIES - CHEMICALS | 20,000         |
| 0016303                             | 552060 | OPERATING SUPPLIES - JANITOR   | 2,000          |
| 0016303                             | 552090 | OPERATING EQUIP UNDER \$5000   | 500            |
| 0016303                             | 552090 | OPERATING EQUIP UNDER \$5000   | 30,000         |
| 0016303                             | 564050 | CAPITAL OUTLAY - MACH & EQUIP  | 60,000         |
| 0016303                             | 512010 | REGULAR SALARIES AND WAGES     | 77,000         |
| <b>Total Expenditure Adjustment</b> |        |                                | <b>409,500</b> |



# City Commission agenda item

|                                                                                                                                    |                                                                                      |
|------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|
| <b>item type</b> Public Hearings: Quasi-Judicial Matters<br>(Public participation and comment on these matters must be in-person.) | <b>meeting date</b> October 26, 2022                                                 |
| <b>prepared by</b> John Harbilas                                                                                                   | <b>approved by</b> John Harbilas, Allison McGillis, Michelle del Valle, Randy Knight |
| <b>board approval</b> Completed                                                                                                    |                                                                                      |
| <b>strategic objective</b>                                                                                                         |                                                                                      |

## subject

Ordinance amending Chapter 58, "Land Development Code", Article III, "Zoning Regulations" Sections 58-61 through 58-71, collectively, the residential zoning code provisions, and Section 58-95 "Definitions" providing for updates, simplification, and modernization to the current regulations. (1st Reading)

## motion / recommendation

Staff recommendation is for approval of the Ordinance.

## background

At the direction of the City Commission, staff has prepared an Ordinance to modernize the residential zoning codes. This modernization aims at replacing outdated zoning regulations, as well as simplifying the codes to make them easier to enforce and explain to the public. The changes result in a net reduction of over 10 pages of antiquated and repetitive language, in exchange for a clear and concise set of zoning regulations that can be largely reflected in table format. City staff has worked diligently with the Planning & Zoning Board over the course of 5 work sessions, including a joint session with the City Commission to create and fine tune the code language, to better serve the community at large. The Planning and Zoning Board heard this item on October 4, 2022 and voted 7-0 to recommended approval.

## Summary of Changes

- Accessory structures – generalized categories based on size of the accessory structure, rather than use, and eliminated majority of the exceptions.
- Rear setbacks – left the rear setbacks the same as they exist today since they are a standard 25 feet to the first floor, and 35 feet to the second floor.
- Impervious surface ratio – changed the impervious surface ratio to 50% for both

one-story and two-story homes.

- Floor area ratio – simplified FAR into two categories based on lot size to 40% for lots under 12,500 square feet and 35% for lots over 12,500 square feet. Eliminated the exception for increased FAR in exchange for increased side setbacks.
- Building height – removed the exception to allow for additional height; lots under 12,500 square feet are permitted 32 feet in height, and lots over 12,500 square feet are permitted 35 feet in height (inclusive of any architectural features or appendages).
- Attics – improved the definition of an attic and added that any living area within the roof slope(s), not accessed by a pulldown ladder is permitted up to an additional 3% of the maximum FAR allowed for the lot. These areas include bonus rooms, air-conditioned storage areas, dens, etc. In addition, dormers or windows above the second story may only face the public right-of-way.
- Side setbacks – removed the sliding scale of increased setbacks for increased FAR and standardized them to 30% to the first floor and 40% to the second floor.
- Street-side setbacks – standardized side and rear setbacks for corner lots.
- Front setbacks – standardized the front setback to be 20% of the lot depth, or the established front setback of the existing/previously demolished home, whichever is greater; in lieu of requiring a survey to determine the average setback of the adjacent homes.

## **alternatives / other considerations**

### **fiscal impact**

ATTACHMENTS:

[CH 58\\_SFH Code\\_Final Ordinance.docx](#)

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE III, "ZONING REGULATIONS" SECTIONS 58-61 THROUGH 58-71, COLLECTIVELY, THE RESIDENTIAL ZONING CODE PROVISIONS, AND SECTION 58-95 "DEFINITIONS" PROVIDING FOR UPDATES, SIMPLIFICATION, AND MODERNIZATION TO THE CURRENT REGULATIONS, PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.**

**WHEREAS,** the City Commission of the City of Winter Park desires to amend the City's land developments regulations pertaining to single-family residential uses with the goal of replacing outdated zoning regulations, as well as simplifying the codes to make them easier to enforce and explain to the public; and

**WHEREAS,** this Ordinance seeks to maintain similar entitlements and yields as permitted under the preexisting single-family regulations so as not to impact economic yields or values; and

**WHEREAS,** the Winter Park Planning and Zoning Board, acting as the designated Local Planning Agency, has reviewed and recommended adoption of proposed amendments to the Land Development Code set forth in this Ordinance having held an advertised public hearing on October 4, 2022, and has recommended approval of this Ordinance to the City Commission; and

**WHEREAS,** the City Commission has conducted the necessary public hearings to adopt the land development regulation amendments set forth in this Ordinance; and

**WHEREAS,** in addition to conducting public hearings, the City Commission and the Planning and Zoning Board have held multiple public workshops to discuss the proposed amendments to the zoning regulations set forth in this Ordinance; and

**WHEREAS,** the City Commission hereby finds that this Ordinance is consistent with the City of Winter Park Comprehensive Plan; and

**WHEREAS,** the City Commission hereby finds that this Ordinance serves a legitimate government purpose and is in the best interests of the public health, safety, and welfare of the citizens of Winter Park, Florida.

**NOW THEREFORE, BE IT ENACTED** by the City Commission of the City of Winter Park, Florida, after due notice and public hearing, that:

**SECTION 1.** That Chapter 58 "Land Development Code", Article III "Zoning Regulations", Sections 58-61 through 58-64 of the City of Winter Park Land Development Code is

hereby amended as shown below (underlined language are additions; ~~stricken through~~ language are deletions; subsections not included are not being modified):

### **ARTICLE III. ZONING REGULATIONS**

#### **Sec. 58-61. Short title; establishment of districts; provision for official zoning map.**

(a) *Intent and purpose.*

- (1) These regulations are intended to promote the orderly development and redevelopment of the City of Winter Park, Florida, in accordance with the official comprehensive plan and the other component portions of the land development code.
- (2) The city is primarily a residential community but has the elements of a true city. The primary goals of the city, upon which the comprehensive plan was developed, are to preserve the natural beauty, pleasant environment and unique character of the city; to retain the quality of our existing residential neighborhoods by encouraging the residents to maintain and improve their property and protect these areas from the encroachment of detrimental and noncompatible land uses; and to insure that future residential areas are well planned and provided with full and adequate urban services. The intent of this zoning article is to ensure that these goals are pursued and to ensure that other necessary and desired land uses are located and regulated to encourage the development of the city toward the city's adopted goals.
- (3) This article is also adopted for the following purposes:
  - a. To promote and protect the public health, safety, comfort, morals, and general welfare;
  - b. To secure adequate light, pure air, privacy, and convenience of access to property;
  - c. To regulate and limit the heights and size of buildings, to regulate and limit the intensity of use of lot areas, to regulate and determine the areas of open spaces between buildings, to classify, regulate and restrict the location of trades and industries and the location of buildings designed for specified industrial, business, residential and other uses;
  - d. To protect against fire, panic, explosion, noxious fumes and other dangers;
  - e. To secure clean waterways and other public bodies of water and to protect public land and conservation areas;



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- f. To promote a wholesome, serviceable and attractive city, increase the safety and security of home life, and preserve and create a more favorable living environment;
  - g. Encourage the redevelopment and renewal of blighted areas;
  - h. Encourage the elimination or reduction of uses inconsistent with the city's character and future land uses;
  - i. Discourage the proliferation of urban sprawl;
  - j. Ensure the availability of suitable land for utilities necessary to support proposed development;
  - k. Ensure the protection of natural resources, the natural environment and designated historically significant resources, structures and properties; and
  - l. Relate future growth and future land uses appropriately with topography, soil conditions and the availability of facilities and services;
  - m. Ensure smooth and orderly land use transition;
  - n. Ensure infill development is compatible with surrounding properties.
- (4) This general statement of the goals, intent and purpose of this article includes, among others, the specific purposes set forth in the preamble to the respective districts and groups of districts.
- (5) The city has developed over the years as a city with a unique character and environment. Since a primary goal of the city is to retain this environment as much as possible, this article must impose certain extraordinary restrictions on the use of land within the corporate limits of the city to ensure that future development is in keeping with the existing development.
- (6) The regulations and requirements herein set forth have been made in accordance with the city's comprehensive plan, adopted pursuant to F.S. ch. 163 and applicable rules of the state department of community affairs. In the preparation of the comprehensive plan, reasonable consideration has been given to, among other things, the prevailing land uses, growth characteristics and the character of respective districts and their peculiar suitability for particular uses, and the encouragement of the most appropriate use of land throughout the city.
- (b) *Official zoning map.*
- (1) The city is hereby divided into zones or districts as shown on the official zoning map, which together with all explanatory matter thereon, is hereby adopted by reference and declared to be part of this article.
- (2) The official zoning map shall be identified by the signature of the mayor, attested by the city clerk and bearing the seal of the city under the following

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words: "This is to certify that this is the Official Zoning Map of the City of Winter Park, Florida."

- (3) If in accordance with the provisions of these zoning regulations changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the eCity eCommission.
- (4) No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this article. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this article.
- (5) Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map which shall be located in city hall shall be the final authority as to the correct zoning status of land and water areas, buildings and other structures in the city.

(c) *Replacement and updating of official zoning map.*

- (1) The eCity eCommission may by ordinance adopt a new official zoning map or amendments there to which shall supersede the prior official zoning map.
- (2) The official zoning map may be updated from time to time to approved amendments or to include any updates, correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map.

(Ord. No. 2796-10, § 1(Exh. A), 2-22-10)

**Sec. 58-62. Rules for interpretation of district boundaries.**

Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

- (1) Boundaries indicated as approximately following the center line of streets, highways or alleys shall be construed to follow such center lines.
- (2) Boundaries indicated as approximately following platted lot lines shall be construed to follow such lot lines.
- (3) Boundaries indicated as approximately following city limits shall be construed as following such city limits.
- (4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

- 
- (5) Boundaries indicated as following shorelines shall be construed to follow such shorelines and in the event of change in the shoreline, shall be construed as moving with the actual shoreline; boundaries indicated as approximately following center lines of streams, canals, lakes or other bodies of water shall be construed to follow such center lines.
  - (6) Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through (5) above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
  - (7) Where physical features existing on the ground are at variance with those shown on the official zoning map or in other circumstances not covered by subsections (1) through (6) above, the eCity eCommission shall interpret the district boundaries.
  - (8) Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.

### **Sec. 58-63. Application of district regulations.**

The regulations set by this article within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure of land. Except as otherwise provided in this article:

- (1) No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.
- (2) No building or other structure shall hereafter be erected or altered:
  - a. To exceed the height or bulk limitations;
  - b. To accommodate or house a greater number of families;
  - c. To occupy a greater percentage of lot area;
  - d. To have narrower or smaller rear yards, front yards, side yards or other open spaces;than herein required, or in any other manner contrary to the provisions of this article.
- (3) No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying

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with this article shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.

- (4) No yard or lot existing at the time of passage of this article shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this article shall meet at least the minimum requirements established by this article. Notwithstanding any other provision of this article to the contrary, no existing yard, lot, building site or parcel (or contiguous combination thereof) shall, without prior variance or subdivision approval, be sold, conveyed or subdivided, in whole or in part, in such a manner as to cause a residential or an accessory structure to be located in whole or in part within any setbacks required by the provisions of this article applicable to the zoning district in which that structure is located. No sale, conveyance or subdivision in violation of the above shall be recognized as valid for the purpose of issuance of building permits.
- (5) All territory which may hereafter be annexed to the city shall be considered to continue to retain the zoning requirements of its prior governmental jurisdiction until an appropriate zoning district for the city can be established in accordance with the procedures outlined in this article.

#### **Sec. 58-64. Nonconforming lots, nonconforming uses and nonconforming structures.**

(a) *Purpose and intent.*

- (1) Within the zoning districts established by this article or amendments that may later be adopted here exist: (a) lots; (b) structures, and (c) uses of land and structures which were lawful before this article was passed or amended but which would be prohibited, regulated or restricted under the terms of this article or future amendment. It is the intent of this article that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or to allow uses prohibited elsewhere in the same district.
- (2) Nonconforming uses are incompatible with permitted uses in the districts involved. A nonconforming use of land or of a structure or in combination shall not be extended or enlarged after passage of this article by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.
- (3) To avoid undue hardship, nothing in this article shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption of amendment of this article and upon which actual building construction has

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been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction provided that work shall be carried on diligently.

(b) *Nonconforming lots of record.*

- (1) Notwithstanding any limitations as to frontage and total area imposed by any other provision of this article, any residential lots which were of record upon any recorded plat upon August 25, 1971, may be used to construct thereon a dwelling in conformity with the district provided (a) that such dwelling does not exceed a two-family residence as defined in this article, (b) that such lots shall have a minimum width throughout their length of at least 50 feet, (c) that any such dwelling shall conform to the requirements for the district in which it is located, (d) that wherever there may exist a residence which by itself or with accessory structures exists on a building site containing more than one platted lot of record, such building site shall not henceforth be reduced or diminished in dimension or area below the minimum requirements set forth in this article for the district in which it is located (regardless of whether the residence or accessory structures have been demolished, destroyed or removed from there, in whole or in part).
- (2) If two or more lots or combinations of lots and portions of lots with continuous frontage are under single ownership at any time after April 12, 1994, and if all or part of the lots do not meet the requirements for lot width or area imposed by any other provision of this article, the lots involved shall be considered to be an undivided parcel for the purposes of this article, and no portion of such lot shall be used or sold which does not meet lot width and area requirements established by this article, nor shall any division of the parcel be made which leaves remaining any lot or parcel with width or area below the requirements stated in this article.

(c) *Nonconforming structures.* Where a lawful structure exists at the effective date of adoption or amendment of this article that could not be built under the terms of this article by reason of restrictions on area, lot coverage, height, yards, floor area ratio, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No nonconforming structure or portion thereof may be enlarged or altered in a way which increases its nonconformity, including enlargement of a structure or building into a required setback at any floor level (irrespective of the gross

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building area), but any structure or portion thereof may be altered to decrease its nonconformity.

- (2) If a nonconforming structure or portion thereof be demolished or destroyed through repair, remodeling, reconstruction or any other means to an extent of more than 50 percent of the ~~replacement cost~~ assessed value of the improvements detailed on the most current records of the Orange County Property Appraiser, at the time of demolition or destruction, it shall not be reconstructed or restored except in conformity with the provisions of these zoning regulations. Removal and replacement of a nonconforming portion of a building with a new structure (such as new walls or roof) is not to be permitted. When 90 percent or more of the roof structure of a nonconforming building is removed, and interior floor areas are remodeled including the substantial removal of existing plumbing, electrical and mechanical systems, then that building shall be deemed to have exceeded the 50 percent destruction threshold referenced in this paragraph.
  - (3) If a nonconforming structure is to be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
  - (4) Should such nonconforming structure be demolished, destroyed, or damaged by fire, wind storm, hurricane, tornado, flood, explosion, or other such calamity, such structure may be rebuilt or restored to its original dimensions and building setback as long as the nonconformities are not increased beyond the pre-existing condition and the building is rebuilt at same setback but not less than least five feet from the closest property line for those portions of the building which had nonconforming setbacks.
- (d) *Nonconforming uses of land, nonconforming structures or structures and land in combination.* If lawful use involving land or individual structures or involving structures and land in combination, exists at the effective date of adoption or amendment of this article that would not be allowed in the district under the terms of this article, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:
- (1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this article.
  - (2) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this article.
  - (3) No existing structure devoted to a use not permitted by this article in the district in which it is located shall be enlarged, extended, constructed,

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reconstructed, moved or structurally altered, except in changing the use of the structure to a use permitted in its zoning district.

- (4) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this article, but no such use shall be extended to occupy any land outside such building.
- (5) If any structure, or part of a structure, or a structure and land in combination, in or on which a nonconforming use exists, is then superseded by a permitted use, the structure, structure and land in combination or any part of the structure or land shall then thereafter conform to the regulations of its zoning district, and the nonconforming use may not thereafter be resumed.
- (6) When a nonconforming use of land or a structure or land and structure in combination is discontinued for three consecutive months (except when governmental action impedes access to the premises), the land or structure or land and structure in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located. If a nonconforming use is discontinued or abandoned on a portion of the land or structure for three consecutive months, that portion of the land or structure shall not thereafter be used except in conformity with the regulations of the district in which it is located. Land or structures shall not be deemed to be active and in continued nonconforming usage solely from the existence of a state license or local business tax receipt permitting such a use or business, but such use or business must be actively undertaken, staffed and in operation, unless other facts show legally sufficient activity, for such use or business to be deemed in active continued nonconforming usage.
- (7) When the nonconforming use of a structure involves an accessory garage apartment or other accessory living unit, if such accessory use is not occupied by a tenant for six consecutive months, then the structure must be used in conformity with the regulations of its zoning district, unless such unit has been actively advertised for lease or purchase during the six-month period.
- (8) Where nonconforming uses status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purposes of this subsection is defined as damage to an extent of more than 50 percent of the replacement cost at the time of destruction market-rate value of the structure as determined by an independently certified and licensed property appraiser, or as set forth in the most recent records of the Orange County Property Appraiser.

(e) *Repairs and maintenance.*

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- (1) On any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding ten percent of the current replacement cost of the nonconforming structure or nonconforming portion of the structure, provided that the cubic content existing when it became nonconforming shall not be increased.
  - (2) If a nonconforming structure becomes physically unsafe or unlawful due to the lack of repairs and maintenance and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located.
  - (3) Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

*(f) Nonconforming building additions.*

- (1) One-story residential building additions may be constructed less than the required side setback on lots built in line with the predominant side wall setback of an existing dwelling subject to the conditions set forth in section 58-71(g).

*(gf) Special permit.*

- (1) The intent and purpose of this section is to recognize that there are limited and special circumstances where overall community and public policy objectives of the city encourage, and shall be served by, the continuation of some nonconforming uses and structures, provided said uses and structures are not detrimental to the surrounding neighborhood and to the community values established in the city's comprehensive plan and city codes. The eCity eCommission desires to establish specific standards for this category of special permit in order to allow the continuation of some nonconforming uses and structures notwithstanding any contrary provisions of this article or City Code.
- (2) The eCity eCommission at a duly held public hearing may grant a special permit to allow the continuation of a nonconforming use or structure provided the following terms and conditions are strictly satisfied:
  - a. The owner of the property on which the nonconforming use or structure exists files a special permit application provided by the city; and
  - b. The applicant demonstrates that the continuation of the nonconforming use or structure:



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1. Is capable of contributing in a positive way to the character and serves the need of the community, or reuse of buildings with architectural or historic value; and reuse of buildings that generate a significant necessary economic benefit to the community; and
  2. Is compatible with, and not detrimental to, the surrounding neighborhood in terms of traffic, noise, parking, odor, light, intensity and land uses, hours of operation, landscaping, aesthetics, structural design, and density; and
  3. Is consistent with the community values, objectives, and policies established in the city's comprehensive plan and City Code.
- (3) The eCity eCommission may impose conditions and safeguards as a condition of approval of any special permit granted under this section and may also provide time limits and expiration of such special event.

(Ord. No. 2796-10, § 1(Exh. A), 2-22-10; Ord. No. 3098-17 , § 9, 12-11-17)

Editor's note(s)—Ord. No. 2796-10, § 1(Exh. A), adopted Feb. 22, 2010, amended § 58-64 in its entirety as set out herein. The former § 58-64 pertained to similar subject matter.

**SECTION 2.** That Chapter 58 "Land Development Code", Article III "Zoning Regulations", Sections 58-65 through 58-66 of the City of Winter Park Land Development Code is hereby repealed and replaced as shown below (underlined language are new sections; ~~stricken through~~ language are repealed sections):

**~~Sec. 58-65. R-1AAA lakefront district.~~**

- (a) ~~*Purpose and intent.*~~ This district is established within the city to provide areas for single-family dwellings and necessary accessory buildings that minimize impacts on the lakes, which are among the city's greatest assets. The regulations enumerated for this district are designed to promote the construction of and continued use of land for a single-family dwelling and to provide as conditional uses certain structures and uses required to serve the residents, such as churches and noncommercial recreational area. Prohibited are uses of the land that would overburden public facilities or create impacts to adjacent lakes; thus, diminishing their water quality and aesthetic appeal. Areas zoned R-1AAA shall be those existing low-density residential areas adjacent to lakes or other water bodies, plus certain undeveloped areas whose development in a manner prescribed by this district would fulfill the intent of the comprehensive plan.
- (b) ~~*Permitted uses.*~~ Detached single-family dwellings.
- (c) ~~*Accessory uses permitted.*~~ Accessory buildings, including private garages to serve the residences, accessory living quarters which contain no cooking facilities, a

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recreation room, guesthouse, greenhouse, dock, boathouse, swimming pools, spas are permitted. Stormwater retention facilities servicing exclusively uses permitted in this district are permitted. In addition, for properties which contain a residence that is 5,000 square feet in gross floor area or larger, a second kitchen may be included in a dwelling or cabana subject to not having a separate utility meter and not allowing this portion of the dwelling to be rented, let or hired out for occupancy whether compensations be paid directly or indirectly and subject to executing a deed restriction which outlines the above restrictions. That deed restriction shall be recorded prior to the issuance of the building permit and shall be removed only with the consent of the city.

~~(d) *Conditional uses.* The following uses may be permitted within this district only after review by the planning and zoning commission and approval by the city commission in accordance with provisions of this article:~~

~~(1) Churches or similar places of worship with necessary accessory structures, but not including mission or revival tents. Churches may not operate day nurseries, kindergartens or schools (grades 1—12) without first receiving conditional use approval for this use.~~

~~(2) Public parks, playgrounds, playing fields and neighborhood municipal recreation buildings and uses in keeping with the character and requirements of the district.~~

~~(3) Libraries, community centers and other public buildings.~~

~~(4) Tennis courts.~~

~~(e) *Minimum building site.*~~

~~(1) The minimum lot area for the R-1AAA lakefront district shall be 25,000 square feet with a minimum width at the building line, which is the front setback line of the main residence of 150 feet and a minimum frontage at the street and at the lake of 150 feet.~~

~~(2) The creation of new lakefront "flag" lots within this district shall be prohibited. Flag lots are any lot with dimensions at the street less than would exist at the building line front setback for the main residence.~~

~~(f) *Site and building improvement regulations.*~~

~~(1) *Floor area ratio.*~~

~~a. Limitations on allowable floor area are established for the following purposes:~~

~~1. To provide adequate living space for single family dwellings;~~

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- ~~2. To assure that the overall bulk and mass of all buildings on each site will be harmoniously related to the size of the building sites on which they are constructed;~~
  - ~~3. To prevent out-of-scale developments that are inconsistent with the preservation of neighborhood character and open space.~~
- ~~b. Buildings and accessory structures constructed in the single-family zoning districts shall not exceed a gross floor area based on lot size as follows:~~
- ~~1. Properties with an area of 11,600 square feet or less shall use a maximum floor area ratio of 38 percent.~~
  - ~~2. Properties with an area between 11,600 square feet to 13,600 square feet shall have a maximum gross floor area of 4,500 square feet.~~
  - ~~3. Properties with an area larger than 13,600 square feet shall use a maximum floor area ratio of 33 percent.~~
  - ~~4. Additional allowance for greater gross floor area may be permitted in accordance with the side setback standards in subsection 58-65(f)(6).~~
- ~~c. For one-story homes or homes with the second floor located within a sloping roof that has a roof slope of 12:12 or less, the allowable floor area ratio may be increased by up to five percent for properties less than 11,600 square feet in area or properties over 13,600 square feet in area. For homes utilizing this special allowance with lot areas between 11,600 to 13,600 square feet, a gross floor area of up to 5,200 square feet is permitted. Homes qualified to receive this additional special floor area allowance may provide roof dormers with a maximum width of eight feet, occupying up to 45 percent of the roof area within the same roof plane and the dormer(s) must be placed at least 2.5 feet back from the required setback of the home. In addition, one-story homes may utilize a maximum allowable impervious coverage of 60 percent.~~
- ~~d. Gross floor area shall be defined as the sum of the gross horizontal areas of the several floors of a building or buildings measured from the exterior surface of the walls or columns of open-roofed structures. Basement areas or other below-grade floor areas are excluded when more than one-half of that basement or floor height is below the established existing grade or curb level or edge of street when no curb is present. The area of stairways, elevators and multistory rooms or atriums shall be counted on each floor level. The area within carports, screened or roofed porches and balconies shall be counted, except those areas permitted to be excluded in this article and except as provided in the definitions for "gross floor area".~~
- ~~e. The area of screen pool enclosures shall not be counted in the floor area ratio. However, the area within screen pool enclosures shall not exceed~~

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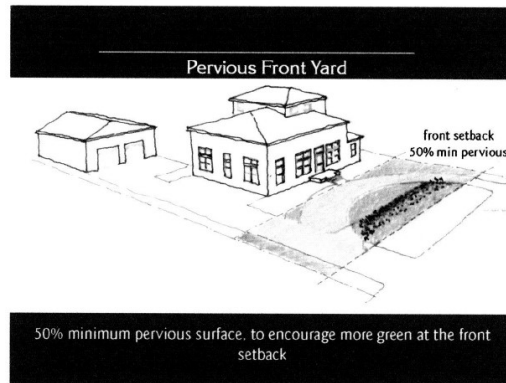
~~eight percent of the lot area unless approved by the planning and zoning commission. Properties may exceed the eight percent limitation for screen pool enclosures without planning and zoning commission approval provided the total area of all structures, including screen pool enclosures, does not exceed the combination of the permitted floor area ratio and the eight percent of lot area. This approval shall insure that the screen enclosure and pool equipment is adequately set back, adequately buffered by landscaping, sufficiently designed to accommodate onsite retention, and appropriate in size and scale so as to negate any detriment to adjacent properties.~~

- ~~f. Floor area ratio on lakefront lots shall only be computed using the site area used for the building. Land area located across a street and separated from the building site shall not be included in the available land area calculation.~~
- ~~g. The gross floor area of a single family building shall include the area of stairways, elevators, atriums, and volume ceiling spaces on each floor level, when such height would permit a floor level to exist with seven and one-half feet clearance. This is deemed to occur when the interior floor to ceiling height exceeds 17½ feet.~~
- ~~h. The area within an open street front porch and entry may be excluded from the "gross floor area," subject to the limitations in this paragraph. This exclusion shall be limited to a maximum area of 400 square feet. The area on the first floor within an open or screened rear or open side porch, lanai, porte cochere or other covered area shall not be included within the "gross floor area." This exclusion shall be limited to a maximum area of 500 square feet. On the second floor, rear or side porches must have exterior sides that are 75 percent open in order to utilize up to 300 square feet of the total allowable 500 square feet of excludable gross floor area. An open front porch, entry area or porte cochere utilizing this exemption shall also comply with the provisions in subsection 58-65(f)(5)c.~~

~~(2) Impervious lot or site coverage.~~

- ~~a. Limitations on allowable impervious lot or site coverage are established for the following purposes:~~
  - ~~1. To provide sufficient area on each building site for landscaping and open space;~~
  - ~~2. To protect existing vegetation including trees;~~
  - ~~3. To assure adequate percolation of rainfall into the soil thereby avoiding excessive erosion or runoff of water onto neighboring properties and promoting aquifer recharge.~~

- b. ~~Buildings, accessory structures, patios, decks, drives and other impervious surfaces shall not cover more than 50 percent of the total land area of the lot and at least 50 percent of the front yard area must consist of pervious surfaces with landscaping material. In any area of the front yard hard surfaces such as concrete, asphalt, brick, pavers or similar materials and driveways with stone or gravel may cover a maximum of 50 percent of the front yard area. Mulch drives are prohibited. The front yard area includes that area between the front lot line and the front wall(s) or front porch of the home. One-story homes may utilize a maximum impervious coverage of 60 percent.~~

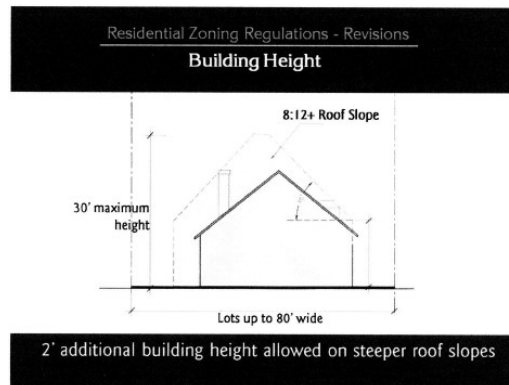


- c. ~~Impervious lot or site coverage shall be defined as the percentage of the lot land area that is covered with impervious materials such as buildings, swimming pools, decks, patios, driveways, etc. Standard engineering coefficients of permeability may be utilized for mixed surfaces.~~
- d. ~~On lakefront lots, land located across a street and separated from the building site shall not be included in the available land area calculation.~~

~~(3) Building height.~~

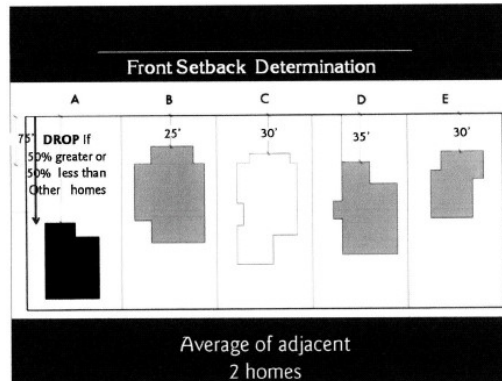
- a. ~~Limitations on the maximum allowable height of structures are established for the following purposes:~~
- ~~1. To protect the value and enjoyment of neighboring properties by avoiding excessively massive buildings or buildings which dominate over neighborhood structures;~~
  - ~~2. To preserve reasonable access to light, air and privacy for all properties;~~
  - ~~3. To prevent the inequitable loss of private views or the unreasonable interference with significant public views resulting from excessively tall or poorly planned structures.~~
- b. ~~Height limits. The following limits shall apply to all height determinations in residential districts:~~

1. ~~No building shall have more than two stories except as permitted in this section. Attic area above the second floor within a sloping roof with a maximum slope of 12:12 and within the allowed building height may be air conditioned and finished space and may be excluded from the gross floor area to be used in calculating the allowable floor area ratio. Homes with a mansard or gambrel roof types may not utilize this exception. This area shall also comply with the building code.~~
2. ~~No building or portion thereof shall exceed 30 feet in height. Exception: homes with a roof slope of 8:12 or greater may be permitted to have two feet of additional building height.~~



- c. ~~Building height shall be defined as the vertical distance measured from the average elevation of the existing lot grade measured directly adjacent to the front of the building or proposed building.~~
  - d. ~~Properties or lots with at least 80 feet of width at the building line are permitted building heights of 35 feet if the side setbacks are increased to 20 feet. Exception: homes with a roof slope of 8:12 or greater are permitted two feet of additional building height.~~
  - e. ~~Properties or lots exceeding 50,000 square feet in size with at least 100 feet width at the building line may be permitted building heights of 40 feet if side setbacks are increased to 35 feet.~~
  - f. ~~The special side setbacks referenced above shall be measured to the two-story roof component of the building over 30 feet in height.~~
- ~~(4) Setbacks:~~
- a. ~~Minimum setback standards are established for the following purposes:~~
    1. ~~To provide open space on each building site;~~
    2. ~~To assure a harmonious relationship of buildings on each site to the public right-of-way;~~

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- ~~3. To protect access within building sites for emergency existing and fire protection access.~~
  - ~~4. To protect trees by providing greater area for them.~~
- ~~b. *Effect of setback standards.* Setback standards define a yard area on the building site that is parallel and adjacent to the property line from which the setback is measured. Setbacks shall be maintained at not less than the minimum width specified by the setback standard. This minimum yard area shall be maintained as unoccupied space and shall be kept open and unobstructed from the ground upward along its full length and width. Required yard dimensions shall be measured between the property line of the building and that part of any structure or improvement nearest to the property line.~~
  - ~~c. *Second-story setbacks.* For the purposes of determining required setbacks, a building wall that exceeds 12 feet in height above the natural grade to the wall plate shall be located on a lot so as to be in compliance with the setback requirements for the two-story portion of the building. In the case of a gable end or similar walls, the height shall be measured from the grade to the top plate at the bottom of the gable. Framed or trussed knee walls that add to the height of the wall shall be included when determining the allowable height of the wall.~~
- ~~(5) *Front yard setbacks.*~~
- ~~a. The front setback shall be the average of the adjacent two homes on each side of the subject property located on the same side of street. If one of the four homes is set back 50 percent greater or 50 percent less than the other three homes, then that larger or smaller setback number shall be removed from the average, and the front setback of the three remaining homes shall be used to determine the average. If the adjacent lot is vacant, then the next adjacent home shall be used for the front setback comparison. If the subject lot is a corner lot or one lot away from a corner, then the adjacent three homes shall be used to compute the setback. The front setback shall be measured to the front vertical wall of the home, however, when the adjacent homes have an open front porch qualifying as an open front porch under subsection 58-65(f)(5)c., the front setback measurement shall be made to a point five feet behind the porch column line, and the new home or addition utilizing this front setback average may not include a two-story structure or structural component in front of the main house wall of the existing adjacent homes.~~



- ~~b. The front setback shall be 25 feet when an average front setback has not been established as described above.~~
- ~~c. For an open front or street side yard porch or entry, the front setbacks established above and the street side yard setback on corner lots may be reduced by up to five feet in order to permit the addition of an open front porch or entry. Properties utilizing this exemption shall record a deed covenant outlining the restrictions precluding the screening or enclosing of such porch or entry. Open front porches or entry areas utilizing this setback exception shall have a maximum height of 12 feet from grade to the wall plate or to the top of the beam above the columns. The gable end walls on these porches may extend an additional maximum height of six feet. In order to exclude open front porches or entry areas from the floor area ratio, the exterior sides of these building elements must be approximately 75 percent open when measured from the floor to the underside of the opening with a maximum enclosed area of three feet above the opening to the wall plate or top of the support beam.~~
- ~~d. Notwithstanding the required or established front setback for a residence, no garage or carport shall be located so as to provide a front setback or street side yard setback of less than 20 feet to the garage or carport opening.~~
- ~~e. See subsection 58-71(i)(3) for provisions on garages and carports.~~
- ~~(6) Side yard setbacks.~~
  - ~~a. The side setback for one-story homes or the first floor of two-story homes is equal to 25 percent of the lot width in feet equally divided on each side of the home, except the side setback is 7.5 feet for lots which are 60 feet wide or less.~~
  - ~~b. The side setback for two-story homes measured to the second story wall shall be 35 percent of the lot width in feet equally divided on each side of the home, except the second floor side setback is ten feet for lots which are 60 feet wide or less.~~



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- c. ~~Special setbacks to allow increased floor area. In order to allow additional floor area for two-story homes, the required side setback on both floors must increase in feet by one percent of the lot width for each one percent increase in the allowable floor area up to a maximum allowable increase of five percent for properties less than 11,600 square feet in area or for properties over 13,600 square feet in area.~~

~~For homes utilizing this special setback allowance with lot areas between 11,600 to 13,600 square feet, use 4,500 square feet of gross floor area as the allowable base area. This base area may be increased to a maximum of 5,200 square feet by increasing the side setback in increments of 140 square feet for each one percent increase in the side setbacks until reaching the maximum of 5,200 square feet. For example, to allow a gross floor area of 4,640 square feet (4,500 + 140), the required side setbacks must be increased by one percent on both floors which is 26 percent of the lot width on the first floor and 36 percent on the second floor.~~

~~Exception to allow five percent increase in the floor area ratio for narrow lots: Lots which are 60 feet wide or less shall use a second floor setback of 12.5 feet or greater.~~

- d. ~~General side setback rules. The lot width is measured at the building line across the front of the existing or proposed home. The required setback must be rounded up to the next whole number when the required setback number is one-half foot or greater, and rounded down to the next whole number when the required setback is less than one-half foot. Lots over 200 feet in width shall use the required setback for lots which are 200 feet in width.~~
- e. ~~One or two-story homes on lots over 60 feet and up to 110 feet in width which have a first floor side wall height of 11 feet or less measured from the natural grade to the top of the roof sheathing may utilize a side setback of ten feet to the first floor wall. To utilize this setback allowance, homes with a gable end side wall must limit the gable end width to 24 feet and the roof height to 24 feet. The side wall height of a gable end wall is measured from pre-construction existing grade to plate height or to a point 12 feet below the gable roof ridge, whichever is lower in elevation. One-story homes with a flat roof may utilize a side setback of ten feet when the maximum height of the roof is 13 feet.~~
- f. ~~The table below provides examples of the required side setbacks for various lot widths in accordance with paragraphs "a," "b," "c" and "d" above:~~

~~Setbacks Based on % of lot width at 1st and 2nd floors using 25%—35%~~

| Lot width               | 50'  | 60'  | 75' | 80' | 90' | 100' | 125' | 175' | 200' |
|-------------------------|------|------|-----|-----|-----|------|------|------|------|
|                         |      |      |     |     |     |      |      |      |      |
| 1st floor setback [25%] | 7.5' | 7.5' | 9'  | 10' | 11' | 13'  | 16'  | 22'  | 25'  |
| 2nd floor setback [35%] | 10'  | 10'  | 13' | 14' | 16' | 18'  | 22'  | 31'  | 35'  |

Setbacks Based on % of lot width at 1st & 2nd floors using 30%—40%

| Lot width               | 50'   | 60'   | 75' | 80' | 90' | 100' | 125' | 175' | 200' |
|-------------------------|-------|-------|-----|-----|-----|------|------|------|------|
|                         |       |       |     |     |     |      |      |      |      |
| 1st floor setback [30%] | 7.5'  | 9'    | 11' | 12' | 14' | 15'  | 19'  | 26'  | 30'  |
| 2nd floor setback [40%] | 12.5' | 12.5' | 15' | 16' | 18' | 20'  | 25'  | 35'  | 40'  |

- g. ~~Special side setback option for narrow lots (65 feet wide or less) with rear parking areas or garages: Provide a side setback of 11 feet on one side to allow driveway access and provide a minimum setback of six feet on the other side with a side wall height limit of 11 feet measured from existing grade to the top of the roof sheathing and provide a second floor setback of ten feet; or as an alternate for lots 60 feet wide or less provide a minimum setback of eight feet to both floor walls on one side and a minimum setback of ten feet to both floor walls on the other (driveway) side. The driveway may utilize a side setback of one foot subject to not diverting drainage onto the neighboring property. The maximum allowed floor area ratio is permitted when using this option.~~
- h. ~~For lots with a front to rear sloping topography, an average side wall height of 12 feet measured from the natural or pre-existing site grade to the wall plate may be utilized at the required side setback. Walls averaging higher than 12 feet must be located at the required second floor setback.~~
- i. ~~Lot width is measured at the front building line across the lot. The building line is located at the required front setback for vacant home sites or properties being redeveloped and at the front building wall closest to the street of the existing homes. If an existing home has an open front porch or carport encroaching into the established front setback as determined above in paragraph (5), then the building line shall be determined to be located five feet behind the front support columns of the porch or carport. For unusual shaped lots such as pie-shaped lots that have a reducing or increasing width toward the rear of the lot, an average lot width may be utilized as measured between the front setback line and the required rear setback line. In addition, the lot width shall be determined by the building director for other unusual lot configurations.~~

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- ~~(7) *Rear yard setbacks.* The rear setback shall be 25 feet to a one-story structure and 35 feet to the two-story portion of any building. The rear setback may be reduced to 25 feet from 35 feet for two-story components when those consist of a second-story loft or mezzanine that is within the normal scale and height (not to exceed 18 feet) of a typical one-story structure.~~

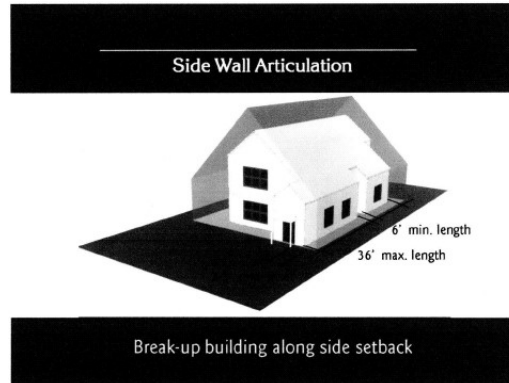
~~The rear setback may be reduced to ten feet when the rear yard of the residential property abuts non-residentially zoned property or property zoned R-3 or R-4, State of Florida railroad property or a permanent stormwater retention area over 25 feet in width.~~

- ~~(8) *Side wall articulation.* Each side wall shall provide architectural articulation by stepping the wall plane in or out by at least two feet when the side wall plane and side roof line extend more than 36 feet along the side lot line. The articulation must be provided on one-story walls, on both floors for two-story-high walls, and on the first floor of two-story homes where the second floor is set back from the first floor by at least two feet and includes roof articulation unless the omission of roof line articulation is critical to maintain the architectural style of the home. The inset or projection must extend a distance of at least six feet along the side property line and may continue for another 36 feet of wall length before repeating the articulation. Projections designed to accomplish this articulation requirement must meet the required side setback. The minimum inset or projection is two feet. Bay windows, chimneys or imitation chimneys up to eight feet wide may be utilized to accomplish articulation and may extend up to two feet into the required side setback except where the permitted side setback is six feet or greater. See subsection 58-71(g) for additional chimney setback allowance.~~

~~Alternate allowances for articulation:~~

- ~~a. For existing homes without articulation which have a side wall length of 48 feet or less, extending the existing side wall without articulation is permitted for a maximum additional distance of 12 feet for one-story homes.~~
- ~~b. A one-story side entry garage set back at least 24 feet from the side lot line with entry door(s) recessed at least eight inches from the plane of the garage wall that faces the side lot line.~~
- ~~c. Glazed openings covering over 25 percent of the side wall that provide relief in the mass of the wall area by recessing the plane of the glazed surface by at least two inches from the wall plane and with a maximum side wall length of 48 feet.~~
- ~~d. An open or screened porch having one side in line with the side wall plane or within two feet of the side wall plane at the rear of a one-story home with roof line articulation when the wall plane changes.~~

- e. ~~Articulation breaks of 12 inches in lieu of two feet including the roof line, combined with the use of contrasting materials with a minimum three-inch depth, such as brick, stone, siding or similar materials that provide relief in the mass of the wall.~~



~~(9) *Special setback situations:*~~

- a. ~~Special setbacks exist for corner lots and through lots that may impose more restrictive setbacks for principal and accessory structures, garages, swimming pools and other improvements. See subsection 58-71(h).~~
- b. ~~Flag lots shall observe a 20-foot setback from the property side parallel to the street on the side closest to the street.~~
- c. ~~Any residential construction on lots within 200 feet of the lake's edge or with canal frontage shall have the approval of the planning and zoning commission. The setback from the lake's edge for structures other than boathouses, docks, gazebos, or retaining walls shall be the average established by the adjacent lakefront properties within 200 feet of the subject property, or 50 feet, whichever is greater. The planning and zoning commission shall have the authority to approve lakefront and canal front setbacks less than the average to a minimum of 50 feet in accordance with their lakefront review authority.~~

~~(g) *Nonconforming lots.* Lots of record that have widths at the building line or frontages at the street or lake, or that have lot areas less than that required by this R-1AAA district shall also observe the following provision, in addition to those defined elsewhere in this article.~~

- ~~(1) When two or more adjoining lots of record with continuous frontage are in a single ownership on or any time after January 23, 1979, and such adjoining lots have a width at the building line or frontage at the street or lot areas less than is required by this R-1AAA district in which they are located, such lots shall be considered as one tract so as to create one or more lots which conform to, or more closely conform to the building line, frontage and area requirements of this district.~~

- 
- (2) ~~Any single lot of record on January 23, 1979, may be used for a single-family dwelling, provided it has a minimum width at the building line of at least 50 feet. However, such a lot must not have been of continuous frontage with other lots in the same ownership on or at any time after January 23, 1979.~~

~~(Ord. No. 2377, § 1, 9-12-00; Ord. No. 2443-01, §§ 1, 8, 10-9-01; Ord. No. 2510-03, § 1, 4-8-03; Ord. No. 2512-03, § 1, 4-8-03; Ord. No. 2590-04, § 1, 7-12-04; Ord. No. 2601-04, § 1, 9-13-04; Ord. No. 2664-06, § 1, 2-27-06; Ord. No. 2705-07, § 1, 3-12-07; Ord. No. 2711-07, § 1, 5-29-07; Ord. No. 2795-10, § 1, 2-22-10; Ord. No. 2875-12, § 1, 6-11-12; Ord. No. 2885-12, § 1, 9-24-12; memo of 4-22-13; Ord. No. 3030-16, §§ 1, 3, 2-8-16)~~

### **~~Sec. 58-66. R-1AA and R-1A districts.~~**

- (a) ~~*Purpose and intent.* These districts are established within the city to provide areas for single-family dwellings and necessary accessory buildings. The regulations enumerated for this district are designed to encourage and promote the construction of and the continued use of the land for single-family dwellings, to promote and encourage a suitable environment for family life, to prohibit uses of the land which would substantially interfere with development or continuation of single-family dwellings in the districts, and to prevent use of the land for purposes which would overburden the public facilities. Permitted as conditional uses within these districts will be certain structures and uses required to serve the residents such as public schools, churches and noncommercial recreational uses. Areas zoned for R-1AA and R-1A districts shall be those existing low-density residential areas plus certain undeveloped areas which should develop in a similar manner according to the comprehensive plan.~~
- (b) ~~*Permitted uses.* Detached single-family dwellings.~~
- (c) ~~*Accessory uses permitted.* Accessory buildings including private garages to serve the residences, accessory living quarters which contain no cooking facilities, a recreation room, guest house, greenhouse, dock boathouse, swimming pools, spas are permitted. Stormwater retention facilities servicing exclusively uses permitted in this district are permitted. In addition, for properties which contain a residence that is 5,000 square feet in gross floor area or larger, a second kitchen may be included in a dwelling or cabana subject to not having a separate utility meter and not allowing this portion of the dwelling to be rented, let or hired out for occupancy whether compensations be paid directly or indirectly and subject to executing a deed restriction which outlines the above restrictions. That deed restriction shall be recorded prior to the issuance of the building permit and shall be removed only with the consent of the city.~~

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~~(d) *Conditional uses.* The following uses may be permitted within this district only after review by the planning and zoning commission and approval by the city commission in accordance with provisions of this article.~~

- ~~(1) Churches or similar places of worship with necessary accessory structures, but not including mission or revival tents. Churches may not operate day nurseries, kindergartens or schools (grades 1—12) without first receiving conditional use approval for this use;~~
- ~~(2) Public playgrounds, parks, playing fields and neighborhood municipal recreation buildings and uses in keeping with the character and requirements of the district;~~
- ~~(3) Libraries, community centers and other public buildings;~~
- ~~(4) Tennis courts;~~
- ~~(5) Affordable or workforce housing developments within a designated community redevelopment area (CRA).~~

~~(e) *Minimum building site.*~~

- ~~(1) The minimum lot area for the R-1AA district shall be 10,000 square feet with a minimum frontage at the building line of 100 feet. Corners lots shall have an extra ten feet of lot width required.~~
- ~~(2) The minimum lot area for the R-1A district shall be 8,500 square feet with a minimum frontage at the building line of 75 feet. Corners lots shall have an extra ten feet of lot width required.~~
- ~~(3) The minimum lot width for lakefront property located across a street from the principal lot with the main residence shall be the same lot width as is required for main residence.~~

~~(f) *Site and building improvement regulations.*~~

~~(1) *Floor area ratio.*~~

~~a. Limitations on allowable floor area are established for the following purposes:~~

- ~~1. To provide adequate living space for single family dwellings;~~
- ~~2. To assure that the overall bulk and mass of all buildings on each site will be harmoniously related to the size of the building sites on which they are constructed;~~
- ~~3. To prevent out-of-scale developments that are inconsistent with the preservation of neighborhood character and open space.~~

~~b. Buildings and accessory structures constructed in the single-family zoning districts shall not exceed a gross floor area based on lot size as follows:~~

- 
1. ~~Properties with an area of 11,600 square feet or less shall use a maximum floor area ratio of 38 percent.~~
  2. ~~Properties with an area between 11,600 square feet to 13,600 square feet shall have a maximum gross floor area of 4,500 square feet.~~
  3. ~~Properties with an area larger than 13,600 square feet shall use a maximum floor area ratio of 33 percent.~~
  4. ~~Additional allowance for greater gross floor area may be permitted in accordance with the side setback standards in subsection 58-66(f)(6).~~
- c. ~~For one-story homes or homes with the second floor located within a sloping roof that has a roof slope of 12:12 or less, the allowable floor area ratio may be increased by up to five percent for properties less than 11,600 square feet in area or properties over 13,600 square feet in area. For homes utilizing this special allowance with lot areas between 11,600 to 13,600 square feet, a gross floor area of up to 5,200 square feet is permitted. Homes qualified to receive this additional special floor area allowance may provide roof dormers with a maximum width of eight feet, occupying up to 45 percent of the roof area within the same roof plane and the dormer(s) must be placed at least 2.5 feet back from the required setback of the home. In addition, one-story homes may utilize a maximum allowable impervious coverage of 60 percent.~~
- d. ~~Gross floor area shall be defined as the sum of the gross horizontal areas of the several floors of a building or buildings measured from the exterior surface of the walls or columns of open-roofed structures. Basement areas or other below-grade floor areas are excluded when more than one-half of that basement or floor height is below the established existing grade or curb level or edge of street when no curb is present. The area of stairways, elevators and multistory rooms or atriums shall be counted on each floor level. The area within carports, screened or roofed porches and balconies shall be counted, except those areas permitted to be excluded in this article and except as provided in the definitions for "gross floor area".~~
- e. ~~The area of screen pool enclosures shall not be counted in the floor area ratio. However, the area within screen pool enclosures shall not exceed eight percent of the lot area unless approved by the planning and zoning commission. Properties may exceed the eight percent limitation for screen pool enclosures without planning and zoning commission approval provided the total area of all structures, including screen pool enclosures, does not exceed the combination of the permitted floor area ratio and the eight percent of lot area. This approval shall insure that the screen enclosure and pool equipment is adequately set back, adequately buffered by landscaping, sufficiently designed to accommodate onsite retention,~~

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and appropriate in size and scale so as to negate any detriment to adjacent properties.

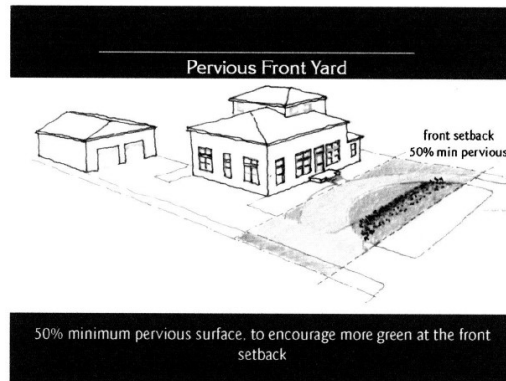
- f. ~~Floor area ratio on lakefront lots shall only be computed using the site area used for the building. Land area located across a street and separated from the building site shall not be included in the available land area calculation.~~
- g. ~~The gross floor area of a single-family building shall include the area of stairways, elevators, atriums, and volume ceiling spaces on each floor level, when such height would permit a floor level to exist with seven and one-half feet clearance. This is deemed to occur when the interior floor to ceiling height exceeds 17½ feet.~~
- h. ~~The area within an open street front porch and entry may be excluded from the "gross floor area," subject to the limitations in this paragraph. This exclusion shall be limited to a maximum area of 400 square feet. The area on the first floor within an open or screened rear or open side porch, lanai, porte cochere or other covered area shall not be included within the "gross floor area." This exclusion shall be limited to a maximum area of 500 square feet. On the second floor, rear or side porches must have exterior sides that are 75 percent open in order to utilize up to 300 square feet of the total allowable 500 square feet of excludable gross floor area. An open front porch, entry area or porte cochere utilizing this exemption shall also comply with the provisions in subsection 58-65(f)(5)c.~~

~~(2) Impervious lot or site coverage.~~

- a. ~~Limitations on allowable impervious lot or site coverage are established for the following purposes:~~
  - 1. ~~To provide sufficient area on each building site for landscaping and open space;~~
  - 2. ~~To protect existing vegetation including trees;~~
  - 3. ~~To assure adequate percolation of rainfall into the soil thereby avoiding excessive erosion or runoff of water onto neighboring properties and promoting aquifer recharge.~~
- b. ~~Buildings, accessory structures, patios, decks, drives and other impervious surfaces shall not cover more than 50 percent of the total land area of the lot and at least 50 percent of the front yard area must consist of pervious surfaces with landscaping material. In any area of the front yard hard surfaces such as concrete, asphalt, brick, pavers or similar materials and driveways with stone or gravel may cover a maximum of 50 percent of the front yard area. Mulch drives are prohibited. The front yard area includes that area between the front lot line and the front wall(s) or front porch of~~



the home. One-story homes may utilize a maximum impervious coverage of 60 percent.



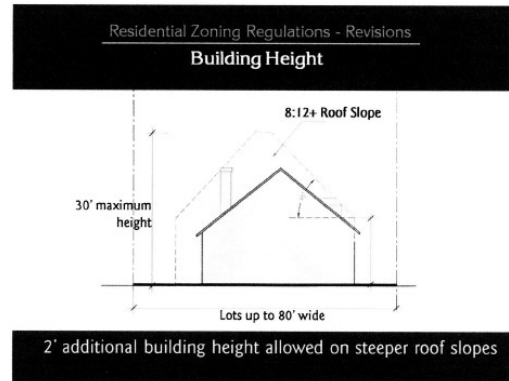
- c. ~~Impervious lot or site coverage shall be defined as the percentage of the lot land area that is covered with impervious materials such as buildings, swimming pools, decks, patios, driveways, etc. Standard engineering coefficients of permeability may be utilized for mixed surfaces.~~
- d. ~~On lakefront lots, land located across a street and separated from the building site shall not be included in the available land area calculation.~~

~~(3) Building height.~~

- a. ~~Limitations on the maximum allowable height of structures are established for the following purposes:~~
  - 1. ~~To protect the value and enjoyment of neighboring properties by avoiding excessively massive buildings or buildings which dominate over neighborhood structures;~~
  - 2. ~~To preserve reasonable access to light, air and privacy for all properties;~~
  - 3. ~~To prevent the inequitable loss of private views or the unreasonable interference with significant public views resulting from excessively tall or poorly planned structures.~~
- b. ~~Height limits. The following limits shall apply to all height determinations in residential districts:~~
  - 1. ~~No building shall have more than two stories except as permitted in this section. Attic area above the second floor within a sloping roof with a maximum slope of 12:12 and within the allowed building height may be air conditioned and finished space and may be excluded from the gross floor area to be used in calculating the allowable floor area ratio. Homes with a mansard or gambrel roof~~

types may not utilize this exception. This area shall also comply with the building code.

2. ~~No building or portion thereof shall exceed 30 feet in height. Exception: homes with a roof slope of 8:12 or greater may be permitted to have two feet of additional building height.~~



- c. ~~Building height shall be defined as the vertical distance measured from the average elevation of the existing lot grade measured directly adjacent to the front of the building or proposed building.~~
  - d. ~~Properties or lots with at least 80 feet of width at the building line are permitted building heights of 35 feet if the side setbacks are increased to 20 feet. Exception: homes with a roof slope of 8:12 or greater are permitted two feet of additional building height.~~
  - e. ~~Properties or lots exceeding 50,000 square feet in size with at least 100 feet width at the building line may be permitted building heights of 40 feet if side setbacks are increased to 35 feet.~~
  - f. ~~The special side setbacks referenced above shall be measured to the two-story roof component of the building over 30 feet in height.~~
- (4) ~~Setbacks.~~

- a. ~~Minimum setback standards are established for the following purposes:~~
  1. ~~To provide open space on each building site;~~
  2. ~~To assure a harmonious relationship of buildings on each site to the public right-of-way;~~
  3. ~~To protect access within building sites for emergency existing and fire protection access.~~
  4. ~~To protect trees by providing greater area for them.~~
- b. ~~Effect of setback standards. Setback standards define a yard area on the building site that is parallel and adjacent to the property line from which~~

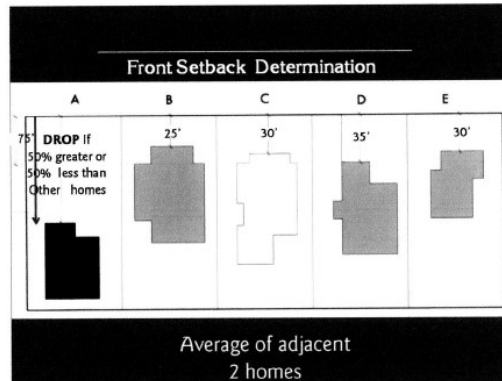
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the setback is measured. Setbacks shall be maintained at not less than the minimum width specified by the setback standard. This minimum yard area shall be maintained as unoccupied space and shall be kept open and unobstructed from the ground upward along its full length and width. Required yard dimensions shall be measured between the property line of the building and that part of any structure or improvement nearest to the property line.

- c. ~~*Second-story setbacks.*~~ For the purposes of determining required setbacks, a building wall that exceeds 12 feet in height above the natural grade to the wall plate shall be located on a lot so as to be in compliance with the setback requirements for the two-story portion of the building. In the case of a gable end or similar walls, the height shall be measured from the grade to the top plate at the bottom of the gable. Framed or trussed knee walls that add to the height of the wall shall be included when determining the allowable height of the wall.

~~(5) *Front yard setbacks.*~~

- a. ~~The front setback shall be the average of the adjacent two homes on each side of the subject property located on the same side of street. If one of the four homes is set back 50 percent greater or 50 percent less than the other three homes, then that larger or smaller setback number shall be removed from the average, and the front setback of the three remaining homes shall be used to determine the average. If the adjacent lot is vacant, then the next adjacent home shall be used for the front setback comparison. If the subject lot is a corner lot or one lot away from a corner, then the adjacent three homes shall be used to compute the setback. The front setback shall be measured to the front vertical wall of the home, however, when the adjacent homes have an open front porch qualifying as an open front porch under subsection 58-66(f)(5)c., the front setback measurement shall be made to a point five feet behind the porch column line, and the new home or addition utilizing this front setback average may not include a two-story structure or structural component in front of the main house wall of the existing adjacent homes.~~



- b. The front setback shall be 25 feet when an average front setback has not been established as described above.
  - c. For an open front or street side yard porch or entry, the front setbacks established above and the street side yard setback on corner lots may be reduced by up to five feet in order to permit the addition of an open front porch or entry. Properties utilizing this exemption shall record a deed covenant outlining the restrictions precluding the screening or enclosing of such porch or entry. Open front porches or entry areas utilizing this setback exception shall have a maximum height of 12 feet from grade to the wall plate or to the top of the beam above the columns. The gable end walls on these porches may extend an additional maximum height of six feet. In order to exclude open front porches or entry areas from the floor area ratio, the exterior sides of these building elements must be approximately 75 percent open when measured from the floor to the underside of the opening with a maximum enclosed area of three feet above the opening to the wall plate or top of the support beam.
  - d. Notwithstanding the required or established front setback for a residence, no garage or carport shall be located so as to provide a front setback or street side yard setback of less than 20 feet to the garage or carport opening.
  - e. See subsection 58-71(i)(3) for provisions on garages and carports.
- (6) *Side yard setbacks.*
- a. The side setback for one-story homes or the first floor of two-story homes is equal to 25 percent of the lot width in feet equally divided on each side of the home, except the side setback is 7.5 feet for lots which are 60 feet wide or less.
  - b. The side setback for two-story homes measured to the second story wall shall be 35 percent of the lot width in feet equally divided on each side of the home, except the second floor side setback is ten feet for lots which are 60 feet wide or less.

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- c. ~~Special setbacks to allow increased floor area. In order to allow additional floor area for two-story homes, the required side setback on both floors must increase in feet by one percent of the lot width for each one percent increase in the allowable floor area up to a maximum allowable increase of five percent for properties less than 11,600 square feet in area or for properties over 13,600 square feet in area.~~

~~For homes utilizing this special setback allowance with lot areas between 11,600 to 13,600 square feet, use 4,500 square feet of gross floor area as the allowable base area. This base area may be increased to a maximum of 5,200 square feet by increasing the side setback in increments of 140 square feet for each one percent increase in the side setbacks until reaching the maximum of 5,200 square feet. For example, to allow a gross floor area of 4,640 square feet (4,500 + 140), the required side setbacks must be increased by one percent on both floors which is 26 percent of the lot width on the first floor and 36 percent on the second floor.~~

~~Exception to allow five percent increase in the floor area ratio for narrow lots: Lots which are 60 feet wide or less shall use a second floor setback of 12.5 feet or greater.~~

- d. ~~General side setback rules. The lot width is measured at the building line across the front of the existing or proposed home. The required setback must be rounded up to the next whole number when the required setback number is one-half foot or greater, and rounded down to the next whole number when the required setback is less than one-half foot. Lots over 200 feet in width shall use the required setback for lots which are 200 feet in width.~~
- e. ~~One or two-story homes on lots over 60 feet and up to 110 feet in width which have a first floor side wall height of 11 feet or less measured from the natural grade to the top of the roof sheathing may utilize a side setback of ten feet to the first floor wall. To utilize this setback allowance homes with a gable end side wall must limit the gable end width to 24 feet and the roof height to 24 feet. The side wall height of a gable end wall is measured from pre-construction existing grade to plate height or to a point 12 feet below the gable roof ridge, whichever is a lower in elevation. One-story homes with a flat roof may utilize a side setback of ten feet when the maximum height of the roof is 13 feet.~~
- f. ~~The table below provides examples of the required side setbacks for various lot widths in accordance with paragraphs "a," "b," "c" and "d" above:~~

~~Setbacks Based on % of lot width at 1st and 2nd floors using 25%—35%~~

| Lot width               | 50'  | 60'  | 75' | 80' | 90' | 100' | 125' | 175' | 200' |
|-------------------------|------|------|-----|-----|-----|------|------|------|------|
|                         |      |      |     |     |     |      |      |      |      |
| 1st floor setback [25%] | 7.5' | 7.5' | 9'  | 10' | 11' | 13'  | 16'  | 22'  | 25'  |
| 2nd floor setback [35%] | 10'  | 10'  | 13' | 14' | 16' | 18'  | 22'  | 31'  | 35'  |

Setbacks Based on % of lot width at 1st & 2nd floors Using 30%—40%

| Lot width               | 50'   | 60'   | 75' | 80' | 90' | 100' | 125' | 175' | 200' |
|-------------------------|-------|-------|-----|-----|-----|------|------|------|------|
|                         |       |       |     |     |     |      |      |      |      |
| 1st floor setback [30%] | 7.5'  | 9'    | 11' | 12' | 14' | 15'  | 19'  | 26'  | 30'  |
| 2nd floor setback [40%] | 12.5' | 12.5' | 15' | 16' | 18' | 20'  | 25'  | 35'  | 40'  |

- g. ~~Special side setback option for narrow lots (65 feet wide or less) with rear parking areas or garages: Provide a side setback of 11 feet on one side to allow driveway access and provide a minimum setback of six feet on the other side with a side wall height limit of 11 feet measured from existing grade to the top of the roof sheathing and provide a second floor setback of ten feet or as an alternate for lots 60 feet wide or less, provide a minimum setback of eight feet to both floor walls on one side and a minimum setback of ten feet to both floor walls on the other (driveway) side. The driveway may utilize a side setback of one foot subject to not diverting drainage onto the neighboring property. The maximum allowed floor area ratio is permitted when using this option.~~
- h. ~~For lots with a front to rear sloping topography, an average side wall height of 12 feet measured from the natural or pre-existing site grade to the wall plate may be utilized at the required side setback. Walls averaging higher than 12 feet must be located at the required second floor setback.~~
- i. ~~Lot width is measured at the front building line across the lot. The building line is located at the required front setback for vacant home sites or properties being redeveloped and at the front building wall closest to the street of the existing homes. If an existing home has an open front porch or carport encroaching into the established front setback as determined above in paragraph (5), then the building line shall be determined to be located five feet behind the front support columns of the porch or carport. For unusual shaped lots such as pie-shaped lots that have a reducing or increasing width toward the rear of the lot, an average lot width may be utilized as measured between the front setback line and the required rear setback line. In addition, the lot width shall be determined by the building director for other unusual lot configurations.~~

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- ~~(7) *Rear yard setbacks.* The rear setback shall be 25 feet to a one-story structure and 35 feet to the two-story portion of any building. The rear setback may be reduced to 25 feet from 35 feet for two-story components when those consist of a second-story loft or mezzanine that is within the normal scale and height (not to exceed 18 feet) of a typical one-story structure.~~

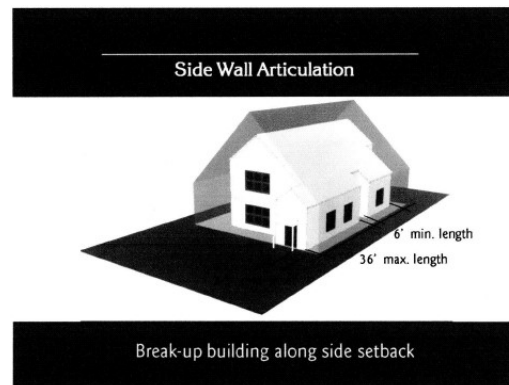
~~The rear setback may be reduced to ten feet when the rear yard of the residential property abuts non-residentially zoned property or property zoned R-3 or R-4, State of Florida railroad property or a permanent stormwater retention area over 25 feet in width. [See subsection 58-66(f)(9) for special reduced rear and front setbacks on certain lots with shallow depths of 105 feet or less.]~~

- ~~(8) *Side wall articulation.* Each side wall shall provide architectural articulation by stepping the wall plane in or out by at least two feet when the side wall plane and side roof line extend more than 36 feet along the side lot line. The articulation must be provided on one-story walls, on both floors for two-story-high walls, and on the first floor of two-story homes where the second floor is set back from the first floor by at least two feet and includes roof articulation unless the omission of roof line articulation is critical to maintain the architectural style of the home. The inset or projection must extend a distance of at least six feet along the side property line and may continue for another 36 feet of wall length before repeating the articulation. Projections designed to accomplish this articulation requirement must meet the required side setback. The minimum inset or projection is two feet. Bay windows, chimneys or imitation chimneys up to eight feet wide may be utilized to accomplish articulation and may extend up to two feet into the required side setback except where the permitted side setback is six feet or greater. See subsection 58-71(g) for additional chimney setback allowance.~~

~~Alternate allowances for articulation:~~

- ~~a. For existing homes without articulation which have a side wall length of 48 feet or less, extending the existing side wall without articulation is permitted for a maximum additional distance of 12 feet for one-story homes.~~
- ~~b. A one-story side entry garage set back at least 24 feet from the side lot line with entry door(s) recessed at least eight inches from the plane of the garage wall that faces the side lot line.~~
- ~~c. Glazed openings covering over 25 percent of the side wall that provide relief in the mass of the wall area by recessing the plane of the glazed surface by at least two inches from the wall plane and with a maximum side wall length of 48 feet.~~

- d. ~~An open or screened porch having one side in line with the side wall plane or within two feet of the side wall plane at the rear of a one-story home with roof line articulation when the wall plane changes.~~
- e. ~~Articulation breaks of 12 inches in lieu of two feet including the roof line, combined with the use of contrasting materials with a minimum three-inch depth, such as brick, stone, siding or similar materials that provide relief in the mass of the wall.~~



~~(9) Special setback situations:~~

- a. ~~Lots with short lot depth. Lots with an average depth of 75 feet or less may utilize a ten-foot rear setback to a one-story structure and a 25-foot rear setback to the two-story portion of any building. Properties with an average lot depth of 105 feet or less may utilize a 15-foot rear setback to a one-story structure and a 30-foot rear setback to the two-story portion of any building. Any front facing garage opening must be set back at least 20 feet.~~
- b. ~~Special setbacks exist for corner lots and through lots that may impose more restrictive setbacks for principal and accessory structures, garages, swimming pools and other improvements. See subsection 58-71(h).~~
- c. ~~Flag lots shall observe a 20-foot setback from the property side parallel to the street on the side closest to the street.~~
- d. ~~Any residential construction on lots within 200 feet of the lake's edge or with canal frontage shall have the approval of the planning and zoning commission. The setback from the lake's edge for structures other than boathouses, docks, gazebos, or retaining walls shall be the average established by the adjacent lakefront properties within 200 feet of the subject property, or 50 feet, whichever is greater. The planning and zoning commission shall have the authority to approve lakefront and canal front setbacks less than the average to a minimum of 50 feet in accordance with their lakefront review authority.~~



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~~(g) Affordable or workforce housing developments.~~

- ~~(1) The city may permit, within any designated community redevelopment area (CRA), as a conditional use, the use of land and buildings in this district as affordable or workforce housing developments. These developments shall be restricted to the use as independent households or living units including kitchens and all other normal amenities. This shall not include any use of these households or living units as an adult congregate living facility or any other type of assisted living facility where services are provided for food shopping, meal preparation, cleaning, laundry, nursing care, etc. The city commission may place conditions upon such conditional use approvals including conformance to operational, maintenance and management regulations.~~
- ~~(2) Each affordable or workforce housing unit shall have no less than 750 square feet and no more than 1,000 square feet of living area. Such units may be developed as independent detached buildings or as attached units of no more than three units in any building. No building shall be more than one story in height.~~
- ~~(3) The collective size or square footage of buildings developed as affordable or workforce housing shall not exceed the applicable floor area ratio for such property. Buildings developed as affordable or workforce housing shall meet all other applicable single family zoning requirements, except that the city commission may approve buildings with only one parking space per unit and/or utilizing a ten-foot rear building setback.~~
- ~~(4) Prior to the issuance of a building permit for the development of affordable or workforce housing, as approved via conditional use, the property owner shall record a deed restriction and covenant running with title to the land, the text of which shall be approved by the city attorney, restricting the use of the property as follows:
  - ~~a. Affordable housing shall be restricted such that with regard to a unit for sale, it must be sold for less than 80 percent of the median price of the single family homes sold the previous year in the Orlando metropolitan area, and with regard to units for rent, the unit must rent monthly for less than 80 percent of the median monthly cost of similar sized one bedroom units for the previous year in the Orlando metropolitan area.~~
  - ~~b. Affordable housing shall be restricted such that the tenants or purchasers shall not have annual incomes in excess of 80 percent of the median annual family income for the Orlando metropolitan area.~~
  - ~~c. Workforce housing shall be restricted such that with regard to a unit for sale, it must be sold for less than 120 percent of the median price of the single family homes sold the previous year in the Orlando metropolitan area, and with regard to units for rent, the unit must rent monthly for less than 120 percent~~~~

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of the median monthly cost of similar-sized one-bedroom units for the previous year in the Orlando metropolitan area.

- d. ~~Workforce housing shall be restricted as affordable housing such that the tenants or purchasers shall not have annual incomes in excess of 120 percent of the median annual family income for the Orlando metropolitan area.~~
- e. ~~These deed restrictions and covenants shall run with the land to successors in title to the property and may only be removed with the consent of the city.~~
- f. ~~These restrictions and covenants shall also require the property owner to provide to the city any information including copies of leases, contracts and other data to ascertain compliance with these conditions regarding the use of the property as elderly housing sold or rented as affordable housing.~~
- g. ~~These restrictions and covenants shall also require that the property owner of an elderly affordable housing development provide to the city an annual report outlining compliance with city codes regarding the maintenance and upkeep of the grounds, landscaping, buildings and parking lot.~~
- h. ~~These restrictions and covenants shall also require that the property owner convert such property to a single-family use (notwithstanding any nonconforming setbacks) in conformance with the R-1A or R-1AA zoning if such project fails to comply with these requirements for affordable housing.~~

~~(Ord. No. 2377, § 1, 9-12-00; Ord. No. 2443-01, §§ 2, 8, 10-9-01; Ord. No. 2510-03, § 2, 4-8-03; Ord. No. 2512-03, § 2, 4-8-03; Ord. No. 2590-04, § 2, 7-12-04; Ord. No. 2601-04, § 2, 9-13-04; Ord. No. 2664-06, § 1, 2-27-06; Ord. No. 2705-07, § 1, 3-12-07; Ord. No. 2795, § 2, 2-22-10; Ord. No. 2875-12, § 2, 6-11-12; Ord. No. 2885-12, § 2, 9-24-12; memo of 4-22-13; Ord. No. 3030-16, §§ 1-3, 2-8-16; Ord. No. 3098-17, § 10, 12-11-17)~~

### **Sec. 58-65. R-1A, R-1AA and R-1AAA districts.**

- (a) Purpose and intent. These districts are established within the city to provide areas for single-family dwellings and necessary accessory buildings. The regulations enumerated for this district are designed to encourage and promote the construction of and the continued use of the land for single-family dwellings, to promote and encourage a suitable environment for family life, to prohibit uses of the land which would substantially interfere with development or continuation of single-family dwellings in the districts, and to prevent use of the land for purposes which would overburden the public facilities. For lakefront properties, the regulations enumerated in this section are designed to encourage and promote the construction of residential uses in a manner which minimizes the impacts on the lakes, which are among the city's greatest assets; thus, diminishing their water

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quality and aesthetic appeal. Permitted as conditional uses within these districts will be certain structures and uses required to serve the residents such as public schools, churches and noncommercial recreational uses. Areas zoned for R-1A, R-1AA and R-1AAA districts shall be those existing low-density residential areas plus certain undeveloped areas which should develop in a similar manner according to the comprehensive plan.

- (b) Permitted uses. Detached single-family dwellings.
- (c) Accessory uses permitted. Accessory buildings including private garages to serve the residences, accessory living quarters which contain no cooking facilities, a recreation room, outdoor recreation areas, guest house, greenhouse, dock, boathouse, outdoor kitchens, swimming pools, and spas are permitted. Stormwater retention facilities servicing exclusively uses permitted in this district are permitted.
- (d) Conditional uses. The following uses may be permitted within this district only after review by the Planning and Zoning Board and approval by the City Commission in accordance with provisions of this article.
- (1) Churches or similar places of worship with necessary accessory structures, but not including mission or revival tents. Churches may not operate day nurseries, kindergartens or schools (grades 1—12) without first receiving conditional use approval for this use;
  - (2) Public playgrounds, parks, playing fields and neighborhood municipal recreation buildings and uses in keeping with the character and requirements of the district;
  - (3) Libraries, community centers and other public buildings;
- (e) Minimum building site.
- (1) The minimum lot area for the R-1A district shall be 8,500 square feet with a minimum width at the building line of 75-feet. Corners lots shall have an extra ten feet of lot width required.
  - (2) The minimum lot area for the R-1AA district shall be 10,000 square feet with a minimum frontage at the building line of 100-feet. Corners lots shall have an extra ten feet of lot width required.
  - (3) The minimum lot area for the R-1AAA district shall be 25,000 square feet with a minimum frontage at the building line, which is the front setback line of the main residence of 150-feet and a minimum frontage at the street and at the lake of 150-feet. Corner lots shall have an extra ten feet of lot width required.
- (f) Site and building improvement regulations. The following table summarizes the general development standards for single-family homes for all R-1 Districts as further addressed in the provisions throughout this section.

|                                                                                                                                                         | <b><u>Lots 12,500 square feet or less</u></b>                                                 | <b><u>Lots over 12,500 square feet</u></b>                                                    |
|---------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| <u>Front Setback</u>                                                                                                                                    | <u>20% of the lot depth or existing setback<sup>1</sup>, whichever is greater<sup>2</sup></u> | <u>20% of the lot depth or existing setback<sup>1</sup>, whichever is greater<sup>2</sup></u> |
| <u>First-floor Side Setback</u>                                                                                                                         | <u>30% of the lot width<sup>3</sup></u>                                                       | <u>30% of the lot width<sup>3</sup></u>                                                       |
| <u>Second-story Side Setback</u>                                                                                                                        | <u>40% of the lot width<sup>3</sup></u>                                                       | <u>40% of the lot width<sup>3</sup></u>                                                       |
| <u>First-floor Rear Setback</u>                                                                                                                         | <u>25 feet</u>                                                                                | <u>25 feet</u>                                                                                |
| <u>Second-story Rear Setback</u>                                                                                                                        | <u>35 feet</u>                                                                                | <u>35 feet</u>                                                                                |
| <u>Floor Area Ratio (FAR)</u>                                                                                                                           | <u>40%</u>                                                                                    | <u>35%</u>                                                                                    |
| <u>Max. Building Height</u>                                                                                                                             | <u>32 feet</u>                                                                                | <u>35 feet</u>                                                                                |
| <u>Impervious Surface Ratio</u>                                                                                                                         | <u>50%</u>                                                                                    | <u>50%</u>                                                                                    |
| <sup>1</sup> <u>Existing Setback.</u> Existing setback shall be calculated using the setback of the existing home or the most recently demolished home. |                                                                                               |                                                                                               |
| <sup>2</sup> <u>Lot Depth.</u> Lot depth is the average distance measured perpendicular to the front lot line and the rear lot line.                    |                                                                                               |                                                                                               |
| <sup>3</sup> <u>Lot Width.</u> Lot width is measured at the building line across the front of the existing or proposed home.                            |                                                                                               |                                                                                               |

(1) Floor Area Ratio (FAR).

- a. Limitations on allowable floor area are established for the following purposes:
  1. To provide adequate living space for single-family dwellings;
  2. To assure that the overall bulk and mass of all buildings on each site will be harmoniously related to the size of the building sites on which they are constructed;
  3. To prevent out-of-scale developments that are inconsistent with the preservation of neighborhood character and open space.
- b. The maximum Floor Area Ratio for single-family zoned property shall not exceed 40%.
  1. Properties with an area of 12,500 square feet or less shall use a maximum floor area ratio of 40 percent.
  2. Properties with an area larger than 12,500 square feet shall use a maximum floor area ratio of 35 percent.
- c. Gross floor area shall be defined as the sum of the gross horizontal areas of the floors of a building or buildings measured from the exterior surface

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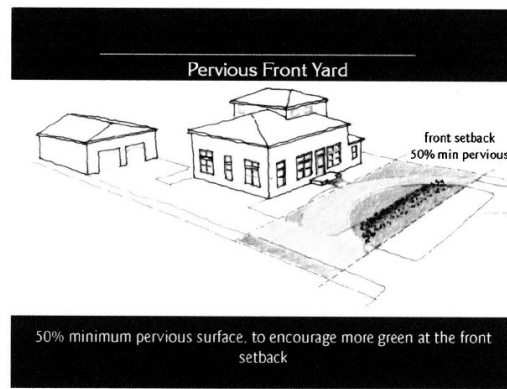
of the walls or columns of open-roofed structures. Basement areas or other below-grade floor areas are excluded when more than one-half of that basement or floor height is below the established existing grade or curb level or edge of street when no curb is present. The area of stairways, elevators, atriums, or any room with a height greater than 17 feet, shall be counted on each floor level. The area within carports, screened or roofed porches and balconies shall be counted, except those areas permitted to be excluded in this article and except as provided in the definitions for "gross floor area".

- d. The area of screen pool enclosures shall not be counted in the floor area ratio. However, the area within screen pool enclosures shall not exceed eight percent of the lot area. Properties may exceed the eight percent limitation for screen pool enclosures provided the total area of all structures, including screen pool enclosures, does not exceed the combination of the permitted floor area ratio and the eight percent of lot area.
- e. The area within an open street-front porch and entry may be excluded from the "gross floor area," subject to the limitations in this paragraph. This exclusion shall be limited to a maximum area of 400 square feet. The area within an open or screened rear or open side porch, lanai, porte cochere or other covered area shall not be included within the "gross floor area." This exclusion shall be limited to a maximum area of 500 square feet total, regardless of which floor the exception is located on. An open front porch, entry area or porte cochere utilizing this exemption shall also comply with the provisions in subsection 58-65(f)(5)c.
- f. Floor area ratio on lakefront lots shall only be computed using the site area used for the building. Land area located across a street and separated from the building site as well as any submerged land areas shall not be included in the available land area calculation.

(2) Impervious lot or site coverage.

- a. Limitations on allowable impervious lot or site coverage are established for the following purposes:
  - 1. To provide sufficient area on each building site for landscaping and open space;
  - 2. To protect existing vegetation including trees;
  - 3. To assure adequate percolation of rainfall into the soil thereby avoiding excessive erosion or runoff of water onto neighboring properties and promoting aquifer recharge.

- b. Buildings, accessory structures, patios, decks, drives and other impervious surfaces shall not cover more than 50 percent of the total land area of the lot and at least 50 percent of the front yard area must consist of pervious surfaces with landscaping material. In any area of the front yard hard surfaces such as concrete, asphalt, brick, pavers or similar materials, and driveways with stone or gravel may cover a maximum of 50 percent of the front yard area. Any areas outside of the defined driveway and walkways, shall contain landscaping materials. Mulch drives are prohibited. The front yard area includes that area between the front lot line and the front wall(s) or front porch of the home.



- c. Impervious lot or site coverage shall be defined as the percentage of the lot land area that is covered with impervious materials such as buildings, swimming pools, decks, patios, driveways, etc. Standard engineering coefficients of permeability may be utilized for mixed surfaces.
- d. On lakefront lots, land located across a street and separated from the building site as well as any submerged land areas shall not be included in the available land area calculation.

(3) Building height.

- a. Limitations on the maximum allowable height of structures are established for the following purposes:
1. To protect the value and enjoyment of neighboring properties by avoiding excessively massive buildings or buildings which dominate over neighborhood structures, preserving the character and charm of the community;
  2. To preserve reasonable access to light, air and privacy for all properties;
  3. To prevent the inequitable loss of private views or the unreasonable interference with significant public views resulting from excessively tall or poorly planned structures.

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b. Height limits. No building shall have more than two stories. Building height shall be defined as the vertical distance measured from the average elevation of the existing lot grade to the highest point of the roof, including all appurtenances, and architectural features. The following limits shall apply to all height determinations in residential districts:

1. For properties with a lot area of 12,500 square feet or less, no building or portion thereof shall exceed 32 feet in height.
2. For properties with a lot area over 12,500 square feet, no building or portion thereof shall exceed 35 feet in height.
3. Flat roofs, which are those roofs with a roof pitch of 2:12 or less, shall not exceed 28 feet in height.
4. Properties or lots exceeding 50,000 square feet in size with at least 100 feet width at the building line may be permitted building heights of 40 feet if side setbacks are increased to 35 feet.

(4) Attics.

a. Any living area within the roof slope(s) not accessed by a pulldown ladder, that is over five (5) feet in height is permitted up to an additional three percent (3%) of the maximum floor area ratio allowed for the lot. These areas include bonus rooms, air-conditioned storage areas, etc. In addition, dormers or windows above the second-story may only face the public right-of-way. Homes with a mansard, gambrel, or flat roof types may not utilize this exception. This area shall also comply with the building code.

(5) Setbacks.

a. Minimum setback standards are established for the following purposes:

1. To provide open space on each building site;
2. To assure a harmonious relationship of buildings on each site to the public right-of-way;
3. To protect access within building sites for emergency egress.
4. To protect trees by providing greater area for them.

b. Effect of setback standards. Setback standards define a yard area on the building site that is parallel and adjacent to the property line from which the setback is measured. Setbacks shall be maintained at not less than the minimum width specified by the setback standard. This minimum yard area shall be maintained as unoccupied space and shall be kept open and unobstructed from the ground upward along its full length and width. Required yard dimensions shall be measured between the property line of

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the building and that part of any structure or improvement nearest to the property line.

- c. Second-story setbacks. For the purposes of determining required setbacks, a building wall that exceeds 12 feet in height above the natural grade to the wall plate shall be located on a lot so as to be in compliance with the setback requirements for the two-story portion of the building. In the case of a gable end or similar walls, the height shall be measured from the grade to the top plate at the bottom of the gable.
- d. Setbacks to be rounded to the nearest whole number. Unless otherwise provided in this section, all required setbacks must be rounded to the nearest whole number. One-half foot or greater shall be rounded up unless otherwise stated in this section.

(6) Front yard setbacks.

- a. Standardized calculation method. The front yard setback shall be calculated using twenty percent (20%) of the lot depth or the setback of the existing or most recently demolished home, whichever is greater. The front setback shall not exceed a maximum ten (10) foot difference beyond the existing home. In instances where a lot has never been built upon, the 20% of the lot depth measurement shall be utilized.
- b. Notwithstanding the required or established front setback for a residence, no garage or carport shall be located so as to provide a front setback or street-side yard setback of less than 20 feet to the garage or carport opening.

(7) Side yard setbacks.

- a. The side setback for one-story homes or the first floor of two-story homes is equal to 30 percent of the lot width in feet equally divided on each side of the home, except the side setback is 7.5 feet for lots which are 60 feet wide or less.
- b. The side setback for two-story homes measured to the second story wall shall be 40 percent of the lot width in feet equally divided on each side of the home, except the second-floor side setback is ten feet for lots which are 60 feet wide or less.
- c. General side setback rules. The lot width is measured at the code required front setback, as defined in this chapter. Lots over 200 feet in width shall use the required setback for lots which are 200 feet in width.
- d. Special side setback option for narrow lots (70 feet wide or less) with rear parking areas or garages: Provide a side setback of 11 feet on one side to allow driveway access and provide a minimum setback of six feet on the



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other side. The driveway shall utilize a minimum side setback of one foot, subject to not diverting drainage onto the neighboring property.

(8) *Rear yard setbacks.* The rear setback shall be 25-feet for a one-story structure and 35-feet for any second-story portion of any building. The rear setback may be reduced to ten feet when the rear yard of the residential property abuts non-residentially zoned property.

(9) *Side wall articulation.* Each side wall shall provide architectural articulation by stepping the wall plane in or out by at least two feet every 36 feet. The articulation must be provided on one-story walls, and on both floors for two-story-high walls. Each structure is permitted one 2'x8' projection into each of the required side setback to satisfy the articulation requirement. Projections designed to accomplish any additional required articulation must meet the required side setback.

**SECTION 3.** That Chapter 58 "Land Development Code", Article III "Zoning Regulations", Sections 58-67 through 58-70 of the City of Winter Park Land Development Code is hereby amended as shown below (underlined language are additions; ~~stricken through~~ language are deletions; subsections not included are not being modified):

**Sec. 58-~~66~~7. Low density residential (R-2) district.**

*(a) Purpose and intent.*

- (1) Certain areas within the city are suitable for low-density residential development, but are not suitable for multiple-family development. These areas possess at least one of the following characteristics:
  - a. Areas of the city in which a mix of housing types is compatible with existing development;
  - b. Areas in which low density residential development presently exists;
  - c. Areas in which imposition of R-1A, or R-1AA, or R-1AA standards would impose a hardship upon persons desiring to build a single-family single-family residence; and
  - d. Areas in which a small tract of land would lend itself to clustering of units in such a way that a unified development is accomplished which would not adversely affect adjacent residential properties.

*(b) Permitted uses.*

- (1) Single-family residences.

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- (2) Duplexes.
  - (3) Principal dwellings and cottage dwellings.
  - (c) *Accessory uses permitted.* Accessory buildings to a principal structure including: ~~including private garages to serve the residences, a recreation room, and, guesthouse, only when a single-family dwelling exists on the property,~~ greenhouse, dock, boathouse, swimming pools, and spas. Stormwater retention facilities serving exclusively uses that are permitted in this district.
  - (d) *Redevelopment of existing buildings.* Properties which have existing single family residences, duplexes and/or existing detached garages may be modified or enlarged in accordance with the following standards:
    - (1) An existing single-family dwelling being enlarged or an existing duplex being converted to a single-family dwelling may be enlarged along existing nonconforming setbacks for one-story or two-story additions ~~subject to obtaining a letter of approval from all property owners abutting the side of the subject property with the nonconforming setback where the addition(s) are planned~~ and subject to a minimum setback of five feet from the side or rear lot lines.
    - (2) An existing garage or accessory building may be enlarged along existing nonconforming setbacks for the purpose of adding a one-story ~~or two-story~~ cottage dwelling addition or garage ~~subject to obtaining a letter of approval from all property owners abutting the side or the rear of the subject property with the nonconforming setback where the addition(s) are planned~~ and subject to a minimum setback of five feet from the side or rear lot lines.
    - (3) ~~Except where utilizing the setback redevelopment standards in subsections (1) and (2) above, all other development standards for these redeveloping properties shall conform to the standards in subsection (f), General development standards.~~
    - (4) ~~The letter of approval referenced in subsections (1) and (2) above must include information describing the use, height, size and setbacks of the proposed building addition, and this procedure for an administrative variance shall not preclude the property owner from applying for a variance through the board of adjustment.~~
  - (e) *Conditional uses.* The following uses may be permitted as conditional uses only after review by the ~~p~~Planning and ~~z~~Zoning Board~~commission~~ and approval by the ~~e~~City ~~e~~Commission in accordance with the provisions of this article.
    - (1) Any conditional use as listed in the R-1AA and R-1A Districts.
    - (2) ~~Cluster housing~~ Townhomes, but not including garden apartments or density in a single building greater than defined for this use. ~~Cluster housing on property,~~

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which is abutting or across the street from single family zoned property shall utilize a maximum floor area ratio of 45 percent. Cluster housing on property which is abutting single family zoned property shall provide the same rear yard setback as required in the abutting single family zoned property, except where the abutting single family zoned property is not used for residential purposes, such as churches, parks, community centers, etc.

Appearance review shall be conducted during the cluster housing application process to ensure compatibility with surrounding neighborhoods and to encourage the development of traditional building elevations with low density single family residential appearance while allowing flexibility of building design and site layout. The intent of the appearance review is to apply the basic design considerations described below in a manner, which meets the criteria while allowing a variety of architectural styles. Specific architectural types shall not be mandated, but rather many housing styles are encouraged while minimizing any negative impacts, such as large building mass next to smaller buildings on surrounding properties. Extremely unusual styles, not prevalent in the city, shall be prohibited. They shall include but are not limited to: dome houses, homes constructed of cast in place concrete with exposed unfinished walls, pyramid homes, and similar unusual styles unless approved as part of the conditional use.

The following parameters shall provide objective guidelines for preparing building plans for approval under the appearance review process:

**Building(s) layout:** Each site must provide a layout, which maintains the scale of a single family dwelling with attention to yards and open space.

**Location and adequacy of parking:** Parking must be located to the side and rear of the main dwellings with access from the rear through a private driveway or alley where possible.

**Exterior building finish:** All finishes must be traditional siding, clapboard, stucco (or similar coating material), brick, cedar shakes (or similar alternate), finished block, board and battens, stone or combinations of these finishes.

**Roof shape:** Roof patterns must be traditional standard shapes such as gable, hip, shed, gambrel, or flat with parapet walls.

**Fenestration:** Window and door openings must blend with and be in balance with architecture of the building and not undersized or oversized for any street front elevation, such as a small, out of scale window next to a larger window.

**Porch/Balcony:** Open porches or covered entry ways must be located on the street front side of the building with a minimum porch depth of seven feet for those cluster dwellings with street front locations. Balconies may project into a required setback by 3.5 feet.

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~~Building elevations: All street fronting elevations must provide approximately 15 percent window openings and provide a main entry for dwelling units with a street front location.~~

~~Height of building: The relationship of the height of buildings to that of nearby structures shall be taken into consideration through designs which utilize stepped down roof areas if the new buildings are located among homes with one-story or lower building heights. However, the design may utilize the height allowed under the development standards.~~

~~Use of impervious coverage: In achieving the 65 percent allowable impervious coverage, use of pervious paving materials may be utilized to enhance stormwater retention to the extent permitted by the city stormwater engineer. However, use of these materials shall not reduce the provision of landscaping on at least 25 percent of the property.~~

~~Landscaping: All sides of property along street frontages shall be landscaped. The landscape plan shall be prepared by a licensed design professional and shall be submitted to the city for review and approval.~~

~~Tree canopy and protection: Unless additional restrictions are imposed by the planning and zoning commission or city commission during the public review process, arbor control shall be regulated by the tree ordinance in section 58-281 et seq.~~

~~Waste containers: Use of individual waste disposal containers shall be required, except that large solid waste containers may only be used for developments utilizing four units per building or larger. When large solid waste containers are provided, a decorative enclosure shall be provided so as to blend in with the architecture of the buildings.~~

~~Alternative materials or designs may be considered during the appearance review process.~~

- (3) Adult congregate living facilities.
- (4) Outdoor recreation areas Tennis courts.
- (5) Non-profit educational facilities, deemed non-profit pursuant to IRS standards, limited to locations within the central business district, provided that the proposed use enables an appropriate adaptive reuse of a historic landmark building such that the historic character of the building is preserved for the duration of its new function. Buildings eligible for consideration include those buildings listed in or eligible for listing in the National Register of Historic Places as shown on the most recent Winter Park Architectural Survey and National Register Evaluation, or that represent a designated historic landmark of exceptional local significance as determined by the Winter Park Historic Preservation Board Commission. A use that would require modifications to the

building or site shall be locally designated and receive a certificate of review under sections 58-457 through 58-478. In addition, any such approval must meet the general conditional use requirements and the standards for consideration contained in subsection 58-86(i).

- (6) Child care centers which are operated by a non-profit educational institution. The location of such use may not have ingress and egress onto a street which serves primarily residential traffic. The proposed CUP must specifically address traffic impacts, parking, playground noise and hours of operation.

(f) *General development standards:*

(1) *Part 1, for properties over ~~65~~ 70 feet in width:*

|                                                                                                                                                                                                                                                                                                                                                                                                   | Single family detached | Duplexes            | Cluster housing<br>Townhomes |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|---------------------|------------------------------|
| Minimum land area (sq. ft.)                                                                                                                                                                                                                                                                                                                                                                       | 6,000                  | 9,000               | 12,000                       |
| Minimum lot width (ft.)                                                                                                                                                                                                                                                                                                                                                                           | 50                     | 50                  | 70                           |
| Min. land area/unit                                                                                                                                                                                                                                                                                                                                                                               | 6,000                  | 4,500               | 4,000                        |
| Minimum building setbacks (ft.)                                                                                                                                                                                                                                                                                                                                                                   |                        |                     |                              |
| Front yard                                                                                                                                                                                                                                                                                                                                                                                        | 25                     | 25                  | 25                           |
| 1st Floor                                                                                                                                                                                                                                                                                                                                                                                         | 25                     | 25                  | 25                           |
| 2nd Floor                                                                                                                                                                                                                                                                                                                                                                                         | 30                     | 30                  | 30                           |
| Side yard                                                                                                                                                                                                                                                                                                                                                                                         | 10                     | 10                  | 10                           |
| Side yard, two-story                                                                                                                                                                                                                                                                                                                                                                              | 15                     | <u>10</u> 5         | <u>10</u> 5                  |
| Rear yard, one-story                                                                                                                                                                                                                                                                                                                                                                              | 10                     | 10                  | 10                           |
| Rear yard, two-story                                                                                                                                                                                                                                                                                                                                                                              | <u>25</u> <u>20</u>    | <u>25</u> <u>20</u> | 25                           |
| Max. building coverage*                                                                                                                                                                                                                                                                                                                                                                           | 40%                    | 35%                 | 35%                          |
| Max. floor area ratio                                                                                                                                                                                                                                                                                                                                                                             | 55%                    | 55%                 | 55%                          |
| Max. impervious coverage                                                                                                                                                                                                                                                                                                                                                                          | 65%                    | 65%                 | 65%                          |
| Max. building height (ft.)                                                                                                                                                                                                                                                                                                                                                                        | 30                     | 30                  | 30                           |
| Max. building stories                                                                                                                                                                                                                                                                                                                                                                             | 2                      | 2                   | 2                            |
| * For determination of the allowable building coverage and floor area ratio, up to 300 square feet of area per dwelling unit may be excluded for open front porches or side and rear porches. Screen pool enclosures may also be permitted an additional eight percent of the lot area in addition to the permitted building coverage. Common driveways are permitted between two adjoining lots. |                        |                     |                              |

(2) *Part 2, for properties which are ~~65~~ 70 feet in width or less:*

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Principal dwelling<br><u>Single</u><br><u>Family</u><br><u>Detached</u> | Cottage dwelling | Single family dwelling* | Duplex dwelling** |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------|------------------|-------------------------|-------------------|
| Max. floor area ratio <sup>1</sup>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 30%                                                                     | 20%              | 55%                     | 50%               |
| Max. bldg. coverage                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 35%                                                                     |                  | 40%                     | 35%               |
| Minimum living area (sq. ft.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 1,000                                                                   | 500              | 1,000                   | 1,000/unit        |
| Maximum area of porches (sq.ft.) #                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 400 <sup>2</sup>                                                        | 300 <sup>2</sup> | 700 <sup>2</sup>        | 600 <sup>2</sup>  |
| Minimum building setbacks (ft.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                         |                  |                         |                   |
| Distance to main bldg. front at 1st story                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 25                                                                      | 25               | 25                      | 25                |
| Distance to 2nd floor in front                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 30                                                                      | 30               | 30                      | 30                |
| Side yard to 1st floor wall <sup>3</sup>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | 7                                                                       | 7                | 7                       | 7                 |
| Side yard, driveway side <sup>4</sup>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 11                                                                      | 11               | 11                      | 11                |
| Side yard to 2nd floor wall                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 10                                                                      | 10               | 10                      | 10 <sup>5</sup>   |
| Rear yard to 1st floor wall                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 10                                                                      | 10               | 10                      | 10                |
| Rear yard to 2nd floor wall <sup>6</sup>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | 25                                                                      | 25               | 25                      | 25                |
| Max. impervious coverage <sup>7</sup>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 65%                                                                     | 65%              | 65%                     | 60%               |
| Max. building height (ft.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | 30                                                                      | 30               | 30                      | 30                |
| Max. building stories                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 2                                                                       | 2                | 2                       | 2                 |
| * See subsection (f)(4) for additional requirements.<br>** See subsection (f)(6) for additional requirements.<br># Not counted in the floor area ratio.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                         |                  |                         |                   |
| Notes:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                         |                  |                         |                   |
| 1. If a single-family residence, only, is built on the lot, the maximum floor area ratio is 55 percent. The maximum total floor area ratio on a property developed with a principal dwelling and a cottage dwelling shall be 50 percent with the principal dwelling having a larger gross floor area than the cottage dwelling.<br>2. Only open porches in the front and screened or open porches in the rear and side of the building may be excluded from the floor area ratio up to a total area as indicated in table.<br>3. The seven-foot side setback shall only be permitted on one side of the lot except as in note 4 below, and a five-foot side setback to an attached or detached garage or carport shall be permitted on either side of an interior lot subject to limiting the building wall height to eight feet and limiting the building wall length to 22 feet.<br>4. The 11-foot side setback shall be provided on one side of an interior lot to the first |                                                                         |                  |                         |                   |

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and second floor walls to allow driveway access. Where two abutting properties utilize one common driveway, the side setback may be ten feet. Where properties utilize a rear or alley access, the seven-foot first floor setback may be utilized on both sides of the lot.

5. For duplexes, side building walls over 20 feet in length and over 17 feet in height above the existing grade must be set back an additional five feet from the lot line at the second-floor wall and continue at the additional five-foot setback for at least ten feet along the side of the building before returning to the ten-[foot] side setback.

Alternate methods to accomplish this relief from having long two-story boxlike buildings along the side lot line may be approved by staff.

6. For lots that have rear lot lines adjoining non-residential zoning, the second-floor setback may be ten feet.

7. Maximum impervious coverage includes principal and cottage dwelling and all other impervious surfaces.

*(3) Additional development standards (lots 65 70 feet or less in width):*

- a. Parking shall be provided behind the front dwelling with only one driveway entering the property.
- b. The driveway and parking surface setback are permitted to be one foot from the rear or side lot line subject to providing a design which will not cause additional drainage onto a neighboring property.
- c. The required off-street parking shall be two spaces for the principal building, one space for the cottage dwelling, and two spaces per unit for a duplex.
- d. Circular driveways and parking in front shall be prohibited.
- e. No front entry garages are permitted, except when provided in the rear half of the lot or on a corner lot.
- f. Open front porches or covered entryways must be provided or a similar alternate front entryway must be provided.
- g. The principal dwelling may be placed in either the front or the rear of the lot.
- h. For corner lots the street side setback shall be 14 feet and the interior side setback shall be seven feet to the first-floor wall only. Other site development requirements remain the same as established for lots 65 feet or less in width.
- i. The area between the building and the street shall be landscaped with grass, plantings or both, and any unusual designs shall be subject to the approval of the ~~parks director of Parks and Recreation~~ Zoning Official.

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- j. Screen pool enclosures may also be permitted an additional eight percent of the lot area in addition to the permitted building area.
  - k. Minor deviations of the floor area ratio for a principal dwelling and a cottage dwelling may be considered up to plus or minus one percent.
  - l. When utilizing one common driveway between two properties, the required side setback of 11 feet may be reduced to seven feet to the first-floor wall and ten feet to the second-floor wall.
- (4) *Additional development standards for development of a single-family residence, only:*
- a. Front entry garages are permitted if set back at least 35 feet from the front property line, and placed behind the front building line of the dwelling by at least four feet.
  - b. The 11-foot side setback shall be required if the garage is at the rear of the lot. If no driveway around the home is provided, then a seven-foot side setback shall be observed to the first-floor wall, and the second-floor setback shall be ten feet to the second-floor wall from the side lot line.
  - c. All other provisions of the development standards for lots 65 feet in width or less shall apply where applicable.
- (5) *Development standards for all properties in the R-2 District:*
- a. A minimum distance of 22 feet shall be provided in front of garages and carports for parking turn around space, except on corner lots a minimum distance of 20 feet may be permitted in front of a garage.
  - b. One common drive may serve two abutting properties without meeting the driveway setback requirement.
  - c. The architecture of the front of the building shall not include two-story high features such as entry areas, porches or columns unless set back at least 30 feet from the front lot line.
  - d. Open front porches or covered entryways may encroach up to seven feet into the required front setback. A porch depth of 8 feet or more is requested for functionality
  - e. Minimum living area. The minimum living area of any single-family residence shall be 1,000 square feet. The minimum living area of duplex or cluster residential units shall average 750 square feet but no individual unit shall be less than 400 square feet.
  - f. Properties or lots exceeding 10,000 square feet are permitted building heights of 35 feet if the side setback is increased to 20 feet measured to the roof component of the building over 30 feet in height.



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~~(6) Additional development standards for R-2 lots which abut single-family zoned properties:~~

- ~~a. The rear yard setback shall be 25 feet to the first floor wall and 35 feet to the second floor wall, except where the abutting single-family zoned property is not used for residential purposes, such as churches, parks, community centers, etc.~~
- ~~b. The maximum floor area ratio shall be 45 percent, except a single-family dwelling may utilize a floor area ratio of 55 percent.~~
- ~~c. All building plans for duplexes shall require appearance review approval by the town designer or planning department designee in accordance with criteria listed under (c)(2) of this section. Appeals of the appearance review determination of the town designer may be made by the applicant and shall be heard by the planning and zoning commission within 40 days of receipt of the appeal request. The applicant or city staff may appeal the decision of the planning and zoning commission to the city commission within 15 days from the date of that decision. The matter shall be heard by the city commission within 30 days for final determination.~~

~~(g) Stormwater control. Duplex and cluster housing shall provide onsite stormwater retention as provided by the land development code.~~

(Ord. No. 2436-01, § 1, 8-28-01; Ord. No. 2501-03, § 1, 1-28-03; Ord. No. 2646-05, § 11, 9-12-05; Ord. No. 2699-07, § 2, 2-12-07; Ord. No. 2729-08, § 1, 1-14-08; Ord. No. 3025-16, § 1, 1-11-16; Ord. No. 3030-16, § 4, 2-8-16)

**Sec. 58-678. Medium density multiple-family residential (R-3) district.**

- (a) *Purpose and intent.* This district provides areas within the city for medium-density residential developments. Residential development shall be limited in height and ground coverage to encourage medium-density multifamily structures, as well as duplex and single-family residences. The regulations of this district are so designed to stabilize, protect and provide the essential characteristics of a suitable residential environment.
- (b) *Permitted uses.*
  - (1) Single-family residences per the development standards of the R-2 district or as outlined in this section.
  - (2) Duplexes per the development standards of the R-2 district or as outlined in this section.
  - (3) Multiple-family residences per the development standards of cluster housing within the R-2 district or as outlined in the section.

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- (c) *Conditional uses.* The following uses may be permitted after review by the planning and zoning board and approval by the city commission in accordance with the provisions of this article. See section 58-90, conditional uses.
- (1) Any conditional use permitted in the ~~R-1AA district~~ and R-1A districts;
  - (2) Kindergartens, day nurseries and other child or adult day care facilities;
  - (3) Adult congregate living facilities;
  - (4) Nursing homes, retirement homes or villages, assisted living facilities for retirees, provided such building(s) are located at least 50 feet from any other residential property;
  - (5) Residential complexes which are developed and operated by the Winter Park Housing Authority, or by nonprofit 501(c) corporations providing affordable housing and receiving financial support for affordable or workforce housing from agencies of the federal, state or city government.
  - (6) ~~Tennis courts~~Outdoor recreation areas;
  - (7) Buildings over 10,000 square feet or any addition over 500 square feet to an existing building over 10,000 square feet or additions over 500 square feet to existing buildings that result in a building over 10,000 square feet in size, but not including detached accessory buildings such as garages, carports, storage buildings, etc.
  - (8) Buildings with a third floor within the central business district, provided that such conditional use approvals require two public hearing approvals by the city commission and buildings with a third floor outside the central business district subject to the normal public hearing approvals outlined in section 58-90.
  - (9) Nonprofit educational facilities, deemed nonprofit pursuant to IRS standards, limited to locations within the central business district, provided that the proposed use enables an appropriate adaptive reuse of a historic landmark building such that the historic character of the building is preserved for the duration of its new function. Buildings eligible for consideration include those buildings listed in for listing in the National Register of Historic Places as shown on the most recent Winter Park Architectural Survey and National Register Evaluation, or that represent a designated historic landmark of exceptional local significance as determined by the Winter Park Historic Preservation Commission. A use that would require modifications to the building or site shall be locally designated and receive a certificate of review under sections 58-457 through 58-478. In addition, any such approval must meet the general conditional use requirements and the standards for consideration.
  - (10) Bed and breakfast inns provided such property location is 100 feet from any single-family zoned property.

(d) *Minimum building site and maximum density.*

- (1) The minimum building site required for either a single-family residence or a duplex shall be the same as required by the R-2 district.
- (2) The minimum building site for a multiple-family complex shall be 15,000 square feet with a minimum front width of 100 feet and a minimum depth of 100 feet. For properties with less than 15,000 square feet in size, the provisions of the R-2 zoning district shall apply.
- (3) The maximum density shall be 17 units per acre.

(e) *Development standards.*

- (1) Development in the R-3 district, at the discretion of the property owner, may meet the requirements of the R-2 district or shall meet the following R-3 development standards. The requirements of R-2 district must be met for lots which are 7065 feet wide or less.

|                               | <i>Single Family</i> | <i>Duplexes</i> | <i>Multi-family housing</i> |
|-------------------------------|----------------------|-----------------|-----------------------------|
| Min. land area (sq. ft.)      | 6,000                | 9,000           | 15,000                      |
| Min. lot width (ft.)          | 50                   | 50              | 100                         |
| Min. land area per unit       | 6,000                | 4,500           | 2,562                       |
| Min. building setbacks (ft.): |                      |                 |                             |
| front yard                    | 25                   | 25              | 25                          |
| side yard                     | 10                   | 10              | 20                          |
| rear yard—one-story           | 10                   | 10              | 20                          |
| rear yard—two-story           | 25                   | 25              | 25                          |
| Max. building coverage        | 35%                  | 35%**           | 40%**                       |
| Max. impervious coverage      | 60%                  | 65%             | 70%                         |
| Max. building height (ft.)    | 30*                  | 30*             | 35/30*                      |
| Min. off-street parking       | 2/unit               | 2/unit          | 2.5/unit                    |

\*Note: The comprehensive plan limits development in the R-3 zoning district to a maximum of two stories and 30 feet of building height in the area bounded by Minnesota, Azalea Lane, Melrose and Pennsylvania Avenues, and the area bounded by Orlando, Orange, Fairbanks Avenues and Denning Drive.

\*Note: In cases where the interior building floor plan design includes a first-floor bedroom space in order to accommodate the housing needs of the elderly or mobility impaired, the building footprint coverage may be increased by the actual size of the first-floor bedroom space, up to a

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maximum of three percent, but this shall not allow any variance or exception to the required amount of open space pervious coverage.

- (2) Each residential unit shall have a minimum living area of 750 square feet, or if efficiency units are to be included within the complex, the average living area of the residential units within the complex shall at least equal 750 square feet.
- (3) On corner lots, the Zoning Official~~building director~~ shall determine the principal street front yard to comply with a minimum 25-foot front setback and the secondary street(s) to comply with a minimum 20-foot setback. All setbacks to be measured from the property lines.
- (4) The maximum floor area ratio shall be 110 percent for any building of three stories, and a maximum of 75 percent for any building of two stories or less. The floor area ratio shall include the floor area of any attached or detached above-grade private parking garage. The aggregate floor area ratio for projects with a variety of building heights shall not exceed 95 percent. The maximum floor area ratios outlined above are not an entitlement and are not achievable in all situations. Many factors may limit the achievable floor area ratio, including limitations imposed by the maximum height map, concurrency management/level of service standards, physical limitations imposed by property dimensions and natural features, as well as compliance with applicable Code requirements such as, but not limited to, parking and internal circulation, setbacks, landscaping requirements, impervious lot coverage, design standards and on-site and off-site improvements and design amenities required to achieve land use compatibility. Land located across a street and/or separated from the building site shall not be included in the floor area ratio calculations.
- (5) The land area included within interior courtyards enclosed by more than 75 percent by the surrounding building shall not be included within the pervious land area calculation, unless the interior courtyard is predominately visible from the street.
- (6) Other Code sections related to development that should be referenced include, but are not limited to, off-street parking regulations, general provisions, definitions, sign regulations (article IV), environmental protection (article V) (this section includes division 1, stormwater; division 6, tree preservation; division 8, landscape regulations; division 9, irrigation regulations; and division 10, exterior lighting), subdivision regulations (article VI), historic preservation (article VIII) and concurrency management regulations (article II).
- (7) The intent of the Code requirement for two and one-half spaces for multiple family projects is to provide resident and visitor parking spaces for guests, service calls, deliveries, etc. For multiple family projects providing two and one-half parking spaces per unit, the provision of those resident and visitor

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spaces may not be exclusively within enclosed garages or carports and there must be at least one visitor parking space for each two units that are open and accessible for guests, service calls, deliveries, etc. Multiple family projects may not sell or lease any of the code required visitor parking spaces to individual unit owners or residents. In cases where the city may grant or has granted a variance or exception enabling the total parking spaces for any multiple family project to be less than the code required two and one-half spaces per unit, then at least 15 percent of the total number of parking spaces approved by the city must be made available as visitor parking. All such visitor parking spaces shall be clearly marked on the pavement or have signage provided, indicating their use for visitor parking. In cases where there is restricted access security or gates for resident parking, then such restricted access security or gates, etc., shall not prohibit access to the required number of visitor parking spaces. Parking necessary for on-site management or other on-site employees shall be provided in parking spaces in excess of the number required as visitor parking. The city's code enforcement board may enforce these provisions when it is witnessed by city staff that on any four consecutive occasions within any two consecutive day period, the same resident vehicle or management employee vehicle is utilizing any designated visitor parking spaces. Two car garages utilized to meet the parking requirements shall be a minimum size of 22 × 22 feet.

- (8) Except within the central business district geographical area, multi-family residential development within areas designated R-3, shall not exceed two stories in height unless approved via conditional use by the city commission. In addition, such third floors must have a roof slope of a maximum 12:12 roof slope (45-degree angle) for the third floor starting at the second-floor eave height. When the roof slope height reaches the maximum roof height, then a flat roof is permitted or the roof slope may function as a parapet wall. Dormer windows are permitted on the third floor to provide light into such spaces but the dormers may not exceed 45 percent of within the same roof plane and must be placed at least two and one-half feet back from the second-floor wall below. Alternative methods of compliance may be approved by the city commission such as terracing and enhanced setbacks for the third floor, such as in wedding cake manner, that setbacks at least 75 percent of the third-floor walls without roof porch coverings from the floor walls below for a significant distance on the sides facing streets or other properties.

(Ord. No. 2297, § 1, 4-13-99; Ord. No. 2587-04, § 1, 6-14-04; Ord. No. 2729-08, § 1, 1-14-08; Ord. No. 2796-10, 2-22-10; Ord. No. 2849-11, § 1, 9-12-11; Ord. No. 2986-14, § 1, 12-8-14; Ord. No. 3110-18, § 2, 6-11-18)

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**Sec. 58-698. Multi-family (high density R-4) district**

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**Sec. 58-7069. Planned Unit Residential Development (PURD) district**  
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**SECTION 4.** That Chapter 58 "Land Development Code", Article III "Zoning Regulations", Section 58-71 of the City of Winter Park Land Development Code is hereby repealed and replaced with a new Sections 58-70 and 58-71 to read as shown below (underlined language are new sections; ~~stricken through~~ language are repealed sections):

**Sec. 58-70. Corner lots, through lots, flag lots, and other lots of unique shape or conditions.**

(a) Corner lots.

- (1) Front of lot. For corner lots, the side having the least street frontage shall be considered the front for setback purposes; however, the Zoning Official may waive this requirement and determine the front yard to be on the street front which is in line with the established building pattern of the street.
- (2) Corner lot. In case of corner lots, the side yard setback toward the street shall be 15-feet on lots where the front of the lot has a width at the building line of 70-feet or less. On corner lots where the front of the lot has a width at the building line of more than 70-feet, a setback of 20-feet shall be provided on the street side yard. These special corner lot setbacks are applicable within the R-1AAA, R-1AA, R-1A, and R-2 districts and within single-family areas of planned unit residential districts (PURD). The street-side yard setback for lots over 70-feet in width for lots in the R-2 district shall be 20-feet. Accessory buildings (structures), swimming pools, spas and outdoor recreational areas shall also be set back according to these standards.

(b) Through-lots. In case of through-lots, front yards shall be provided on all street frontages. Where one of the front yards that would normally be required on a through-lot is not in keeping with the prevailing yard pattern, the Zoning Official may determine whether it may be treated as a rear or street-side yard.

(c) Flag lots. Flag lots are any lot with dimensions at the street less than would exist at the building line front setback for the main residence. Flag lots shall observe a 20-foot setback from the property side parallel to the street on the side closest to the street.

- (1) The creation of new lakefront "flag" lots within the R-1AAA, R-1AA, and R-1A zoning districts shall be prohibited.

(d) Shallow lots. Lots with an average depth of 75-feet or less may utilize a ten-foot rear setback to a one-story structure and a 20-foot rear setback to the two-story

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portion of any building. Properties with an average lot depth of 115-feet or less may utilize a 15-foot rear setback to a one-story structure and a 25-foot rear setback to the two-story portion of any building.

- (e) *Lots of unusual shape.* For any lots of unusual shape, not forming part of a general rectangular lot pattern as determined by the Zoning Official, the Zoning Official may prescribe front and side yard setbacks.
- (f) *Garage and carport setbacks.* All lots shall maintain a setback to a garage or carport door(s)/entry of at least 20-feet from any street front lot line so as to preclude the parking of vehicles over a sidewalk or in the right-of-way. Unless approved as part of an overall project development plan by the City Commission, any garage doors or carport entry facing a public or private alley or access easement or other roadway used by more than two residences shall maintain a setback of at least 20-feet from the garage door(s) or carport entry to the roadway pavement of the public or private alley or access easement. In addition, for garage doors and carport entries facing a side or rear interior property line, a minimum distance of 22-feet shall be provided in front of garages and carports for the minimum parking exiting turn around space.
- (g) *Nonconforming building additions.* One-story residential building additions may be constructed less than the required side setback on lots built in line with the predominant side wall setback of an existing dwelling subject to the following conditions:
  - a. The existing dwelling has a nonconforming side setback of five feet or greater.
  - b. The length of the proposed addition does not exceed 24-feet.
  - c. The proposed addition is one story and no taller than the existing first-floor portion of the structure.

#### **Sec. 58-71. General provisions for residential zoning districts.**

- ~~(a) *Suitability of buildings.* Any proposed building shall be considered as to its suitability of design and type of construction in relation to the district and to the immediate neighborhood site, and if such design, lot grading or construction is markedly incongruous with the character of such neighborhood as to be detrimental to the value of adjacent or nearby properties, then the building director or the public works director shall deny the application for a building permit.~~
- ~~(b) *Grading of building site.*~~
  - ~~(1) Every lot which is used for a building site shall be so graded that it will be dry and free from standing water and the grade around the walls of every new building at the point where the sill meets these walls shall not be less than 12 inches above the crown line established or to be established for the street on which such a building faces, unless the lot has drainage away from the street~~

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- ~~to the lake or canal or has other adequate means of drainage as may be checked and approved by the building director or the public works director at the request of the city building director. If the street on which the lot faces has a slope between lot lines, an elevation half-way between the high and low points is to be used for determining the height of crown line.~~
- ~~(2) No lot owner shall grade a lot in such a way as to interfere with the natural drainage of adjoining lots, divert the drainage of a lot onto adjoining lots, or interfere with the natural drainage of any lot so that the drainage of such lot is diverted in a manner that is inconsistent with permitted stormwater management systems or upon any public street or thoroughfare in a manner or in such amounts as to flood a public street or thoroughfare.~~
- ~~(3) In addition, no lot shall be filled with elevated lot grades adjacent to or near other surrounding properties so as to require the use of retaining walls or other barriers to create an unnatural lot grade transition unless approved by the building director or the public works director based on one or more of the following criteria:~~
- ~~a. Verified topographic conditions on the property exist which include grading that requires the use of a retaining wall to prevent drainage onto adjacent properties.~~
  - ~~b. Terraced retaining walls are required to retain water on site to prevent storm water runoff into a water body or other properties. On the waterfront side of lakefront properties terraced retaining walls must not exceed three feet in height above the natural grade.~~
  - ~~c. The proposed retaining wall is located a large distance from the nearest residential property, such as, but not limited to 30 feet, or a distance determined proportionately based on the lot width in a manner that is designed to provide no adverse or increased storm water drainage onto an adjacent property.~~
  - ~~d. Terraced retaining walls are used for aesthetic landscaping only and are designed in a manner that does not create storm water drainage onto neighboring residential properties.~~
- ~~(c) Architectural towers, spires, chimneys, or other architectural appendages, etc.~~
- ~~(1) Any architectural tower, spire, chimney, flag pole or other architectural appendage to a building shall conform to that districts height limit. However, when necessary to meet the building code requirements, chimneys may exceed the height by that minimum required distance. One flag pole may be placed on a residential lot or parcel subject to a height limit of five feet less than the permitted building height and located in front of the home~~



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encroaching up to ten feet into the front setback and not within the required side and rear yard setbacks established for the subject property.

- ~~(2) Architectural appendages, embellishments and other architectural features may be permitted to exceed the roof heights specified in that section, except on one or two family buildings on a limited basis encompassing no more than 30 feet of the building roof length and area, up to eight feet of additional height upon approval of the city commission, based on a finding that said features are compatible with adjacent projects. For any such approval not part of a conditional use request the planning and zoning commission will review the plans at a public hearing after notification of such request is mailed to all owners of property within 500 feet. The planning and zoning commission will make a recommendation to the city commission for their final decision.~~

~~(d) *Parking of commercial vehicles in residential districts.*~~

- ~~(1) The regular or constant parking of commercial vehicles or vehicles used primarily for commercial purposes, or vehicles having outside lettering larger than three square feet in area per side displaying information identifying a business, product or service, including trucks (with a rated capacity over one ton), semi-trailers, truck tractors or any combination thereof or any other truck or special mobile equipment or heavy equipment, building materials and other similar materials is not permitted within the residential zoning districts. (R-1AAA, R-1AA, R-1A, R-2, R-3, R-4 or PURD).~~

~~(2) Exceptions. The provision of this section shall not apply to:~~

- ~~a. Property where construction is underway for which a current and valid building permit has been issued by the city, as to those vehicles and equipment actively engaged in such construction;~~
- ~~b. Those vehicles and equipment being used to perform lawful work upon the premises where the vehicle is parked, including immediate pick-up or delivery service;~~
- ~~c. Any vehicle, with a capacity rating under 10,000 pounds that is parked entirely inside a garage and not visible from the street or from surrounding properties;~~
- ~~d. Political signage on vehicles as otherwise permitted by the sign regulations.~~

- ~~(e) *Buses and mobile homes.* No mobile homes, as defined in the state statutes, shall be parked within a residential district. In residential districts, buses shall be parked only in designated bus parking areas approved pursuant to the notification and procedures outlined for conditional uses.~~

~~(f) *Boats, trailers, and recreational vehicles.*~~

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- ~~(1) Boats, trailers of any type, recreational vehicles, as defined in state statutes (including campers, travel trailers and motor homes) and similar vehicles shall not be parked or stored within any residential district including public rights-of-way, except as hereinafter specifically permitted. Under no circumstances shall any boat, trailer or recreational vehicle be slept in or otherwise used for lodging or habitation while parked or stored within a residential district.~~
- ~~(2) Boats and boat trailers may be parked if stored entirely within a carport, garage or enclosed structure. Recreational vehicles (including campers, travel trailers, and motor homes) and trailers (other than boat trailers) may be parked if stored entirely within a garage or other enclosed structure. As used herein, a garage or other enclosed structure shall mean a structure having at least 75 percent opaqueness.~~
- ~~(3) Boats, trailers and recreational vehicles having an overall length of 32 feet or less may be parked in a private driveway within a residential district for an aggregate of not more than 24 hours during any one calendar week.~~
- ~~(4) Boats, trailers and recreational vehicles may be parked or stored within side or rear lot areas of properties in residential districts provided no portion thereof shall be visible from the public right-of-way.~~
- ~~(5) The parking of boats, trailers and recreational vehicles in side and rear lot areas is permitted only if fences, walls and landscape screening, including hedges, trees, etc., of heights necessary to substantially screen the view of the boat, trailer or recreational vehicle shall be constructed and planted so as to buffer adjacent residential properties.~~
- ~~(6) Residents may allow their guests to park a boat, trailer or recreational vehicle having a length of 32 feet or less for up to seven days in the driveway or behind the main structure of the lot on which it is parked, provided that the building official shall be notified no later than 24 hours after such vehicle is so parked. After seven days have passed, at least 30 days shall elapse before the same vehicle shall be permitted to park on the same lot for another seven days.~~
- ~~(g) *Projections into setbacks.* Eaves, roof overhangs, open fire escapes, balconies, canopies, and awnings may project into the minimum yard or setback areas up to three and one-half feet. Chimneys and flues may project into the minimum yard or setback area up to three feet. Fabric canopies, awnings, etc., with ground supports are considered a structure and shall observe the setback requirements of the districts in which they are located. Bay windows may project two feet into the front, street side yard and rear setbacks and are limited to a maximum width of eight feet. Second floor open porches, two-story high columns or similar features shall not project into the required front setback or street side setback.~~
- ~~(h) *Corner lot and other residential setbacks.*~~

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- ~~(1) *Front of lot.* For corner lots, the side having the least street frontage shall be considered the front for setback purposes; however, the building director may waive this requirement and determine the front yard to be on the street front which is in line with the prevailing pattern of front yards on the street in order to be consistent with the established pattern of the street. For lots with front lot lines that are not generally perpendicular to the side lot lines and create a projection out on one side of the lot, the front setback shall be applied at the nonprojecting side of the lot and shall be extended across the lot perpendicular to the side lot line.~~
- ~~(2) *Corner lot.* In case of corner lots, the side yard setback toward the street shall be 15 feet on lots where the front of the lot has a width at the building line of 65 feet or less. On corner lots where the front of the lot has a width at the building line of more than 65 feet to 75 feet, a setback of 20 feet to the first floor and 22.5 feet to the second floor shall be provided on the street side yard. A setback of 25 feet shall be provided on corner lots over 75 feet in width, and the rear yard setback may be reduced by five feet on each floor. As an alternative, corner lots over 75 feet in width may utilize a side yard setback toward the street of 20 feet when the rear setbacks of 25 feet and 35 feet are provided to the first and second floors' walls. These special corner lot setbacks are applicable within the R-1AAA, R-1AA and R-1A districts and within single-family areas of planned unit residential districts (PURD). The street side yard setback for lots over 65 feet in width for lots in the R-2 district shall be 20 feet. Accessory buildings (structures), swimming pools, spas and tennis courts shall also be set back according to these setbacks. The 22.5 and 25-foot side yard setbacks shall not apply to properties in the R-3, and R-4 districts.~~
- ~~(3) *Through lots.* In case of through lots, front yards shall be provided on all street frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the building director may waive the requirement which shall not exceed the average of the yards provided on adjacent lots.~~
- ~~(4) *Lots of unusual shape.* For any lots of unusual shape, not forming part of a general rectangular lot pattern, the building director shall prescribe front and side yard setbacks subject to the following limitations:~~
- ~~a. No front yard shall be required to have a greater depth than is required generally within the district.~~
  - ~~b. No side yard shall be required to have a greater width than the depth required generally for front yards within the district.~~
- ~~(5) *Garage and carport setbacks.* All lots shall maintain a setback to a garage or carport door(s)/entry of at least 20 feet from any street front lot line so as to preclude the parking of vehicles over a sidewalk or in the right-of-way. Unless~~

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~~approved as part of an overall project development plan by the city commission, any garage doors or carport entry facing a public or private alley or access easement or other roadway used by more than two residences shall maintain a setback of at least 20 feet from the garage door(s) or carport entry to the roadway pavement of the public or private alley or access easement so as to preclude the parking of vehicles over the roadway. In addition, for garages doors and a carports entry facing a side or rear interior property line, a minimum distance of 22 feet shall be provided in front of garages and carports for the minimum parking exiting and turn around space.~~

~~(6) *Nonconforming building additions.* One-story residential building additions may be constructed less than the required side setback on lots built in line with the predominant side wall setback of an existing dwelling subject to the following conditions:~~

- ~~a. The existing dwelling has a nonconforming side setback of five feet or greater.~~
- ~~b. The length of the proposed addition does not exceed 24 feet.~~
- ~~c. The proposed addition is one story.~~
- ~~d. A letter of approval from the adjacent property owner is provided to the city.~~

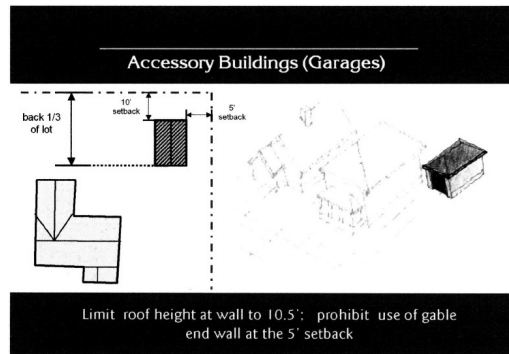
~~(i) Accessory buildings, structures, air conditioning equipment and other accessory uses in residential zones.~~

~~(1) No detached accessory use or structure shall be permitted in the required front yard. On double frontage lots or corner lots, no detached accessory use or structure shall be permitted in the required yards fronting on the streets. In addition, no storage sheds shall be permitted in the area between the building line of the main structure and street or streets.~~

~~(2) An accessory building may be attached to a principal structure by a one-story open-sided roofed breezeway with a maximum width of eight feet connected to the principal structure without meeting the setback requirements of the principal building and complying with the setbacks of the accessory building; however, all other zoning requirements must be met, such as impervious coverage, building coverage or floor area ratio, where applicable.~~

- ~~a. Accessory structures for the housing of persons such as guesthouses, bedrooms and garage apartments including bathrooms but excluding swimming pool cabanas, shall not be located in any required yard. Pool cabanas and greenhouses no more than 500 square feet in area may be located five feet from the side lot line and ten feet from the rear lot line. Cabanas which include or are used as accessory living quarters or guest houses must meet the same setbacks as the principal home.~~

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- b. ~~Air-conditioning equipment, swimming pool equipment and electric generators shall not be located in any front yard or required side yard with street frontage unless totally shielded from view from the street by shrubbery or walls and fences otherwise complying with the zoning code. Air-conditioning equipment may be located up to ten feet from a rear lot line as long as they are adjacent to the accessory structure or principal structure. Air-conditioning compressors and electric generators shall not be located in any side yard or within ten feet from the rear lot line except that they may be permitted six feet from a side or rear property line if written permission is granted by the adjacent property owner. In addition, for lots over 75 feet in width, air-conditioning compressors and electric generators may be located ten feet from the side lot line. Any air-conditioning equipment placed on a roof must be screened from view from surrounding properties and from public streets.~~
- c. ~~Other accessory structures or buildings, up to 100 square feet in size, may be located five feet from a side or rear interior property line. Accessory buildings over 100 square feet in size up to 320 square feet shall not be located closer than ten feet to any rear property line, and any two-story accessory building shall meet the same rear and side setback as required for the principal structure. No accessory structure shall exceed a height of 18 feet unless located so as to comply with the setbacks of the principal structure.~~
- d. ~~Accessory buildings in rear yards. The exterior walls of accessory buildings shall not exceed 10.5 feet in height measured from natural grade to the roof sheathing surface unless placed at the same setback as required for the principal building. Additionally, accessory buildings located less than ten feet from an interior side lot line must have a sloped or flat roof, e.g., the side wall adjacent to the lot line cannot be a gable end wall. Accessory buildings greater than 600 square feet (including garages) must comply with building setbacks of the principal building, except a garage with a maximum area of 820 square feet which meets the requirements of this section may be located ten feet from the rear lot line and must meet the required side setback of the home. A rear garage utilizing the setbacks in this section must be located in the rear third of the lot depth. All accessory buildings exceeding 320 square feet in size shall comply with the setback requirements of the principal building, except that a garage not exceeding 600 square feet may be located five feet from the interior side lot line and ten feet from the rear lot line. Additionally, private garages (attached or detached) shall be limited in size to no greater than 50 percent of the living area of the dwelling.~~



~~(3) Garages and carports for single-family dwellings on any lot and two-family dwellings on lots over 65 feet wide:~~

~~a. Front-facing garages must meet one of the following design standards:~~

- ~~1. The front wall of the garage must be located at least two feet behind or at least two feet in front of the main wall of the home with a maximum of two doors no greater than nine feet wide with the garage door face recessed at least six inches from the plane of garage wall. For an existing home undergoing a remodel or enclosing a carport, one garage door may be permitted up to 18 feet wide with architectural design features such as glazing, hardware and raised panels integrated into the door or other finishes matching the primary structure.~~
- ~~2. The garage wall face must be set back at least four feet behind the front building wall.~~
- ~~3. The garage must have a side entry or be located at the rear of the property behind the main dwelling.~~
- ~~4. A third front-facing garage bay with a maximum door width of nine feet if recessed back at least four feet from the adjacent front wall is permitted under #2 or #3 above.~~

~~In addition, no street-facing garage shall have a garage opening exceeding ten feet in height.~~

~~Open carports must be located at least two feet behind or at least two feet in front of the main house wall. In cases where the front setback is permitted to be less than 20 feet, the minimum front setback to the garage or carport opening shall be at least 20 feet after complying with one of the design standards in this section. Alternate methods to accomplish the setback shall be reviewed on a case-by-case basis. In addition, no front-facing garages on the front half of the lot shall have doors exceeding ten feet in height.~~

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- b. ~~Detached garages located in front of or within 25 feet behind the front wall of a home must adhere to the same required side yard setback as the main residence.~~
  - c. ~~Requirements when two courtyard garages are located in front of a home:~~
    - 1. ~~An additional five feet of front setback shall be required to the garage wall.~~
    - 2. ~~The entry drive width is limited to 16 feet from the front lot line to the front wall of the garages;~~
    - 3. ~~Windows or similar architectural features shall be provided in the garage wall facing the street.~~
    - 4. ~~Landscaping shall be provided to buffer at least 20 percent of side wall of the garages including one or more understory or shade trees in front of each garage wall facing the street. Specific details of proposed landscaping shall be shown on building plans.~~
  - d. ~~*Porte cochere.* The roof height of a porte cochere in front of a home must not exceed 14 feet unless located behind the front setback by five feet or more. A porte cochere attached to the side of a home may utilize a side-yard setback of five feet from an interior side lot line subject to the following: three sides of the structure must be at least 75 percent open; a maximum height of 13 feet from natural grade to roof top and a maximum roof overhang of 12 inches. If a porte cochere has an area greater than 250 square feet, then the principal building setbacks shall be applied.~~
- (4) ~~Accessory structures for the housing of persons such as guesthouses, bedrooms and garage apartments, including bathrooms but excluding swimming pool cabanas, shall not be located in any required yard. Pool cabanas and greenhouses no more than 500 square feet in area may be located five feet from the side lot line and ten feet from the rear lot line.~~
  - (5) ~~An accessory building or structure shall not be located within five feet of any other building. The building height of any accessory building shall not exceed the building height of the main building or principal residence on the property.~~
  - (6) ~~No combination of accessory structures, singly or together, shall exceed ten percent of the lot area. In addition, no lot shall contain more than two storage sheds (buildings).~~
  - (7) ~~A guesthouse or garage apartment shall not be constructed on a lot for occupancy before completion of the main buildings. This shall not prohibit the erection of other accessory buildings prior to the construction of the principal building, when such accessory buildings are neither constructed nor used for dwelling purposes.~~

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- ~~(8) Guesthouses or garage apartments are permitted accessory uses when they provide accommodations for guests, domestic service employees or members of a family occupying the main building on the same property. Guesthouses or garage apartments shall not exceed 1,000 square feet of floor area. Guesthouses or garage apartments as permitted accessory uses may not have a kitchen area or cooking facilities. They also may not have separate utility meters or be rented, let or hired out for occupancy whether compensations be paid directly or indirectly. In order to insure that these provisions are understood as ownership of property transfers and to protect the city from a proliferation of prohibited nonconforming rental uses, all applicants for building permits for guesthouses or garage apartments, or for the substantial improvement of same shall record a deed restriction outlining the above restrictions and conditions of that building permit. That deed restriction shall be recorded prior to the issuance of the building permit and shall be removed only with the consent of the city. Substantial improvement, for the purposes of this section, shall be work totaling more than 25 percent of the replacement construction value of the original accessory structure.~~
- ~~(9) An arbor, pergola or trellis structure may be placed up to five feet from side and rear lot lines and the overhead beams or framing members may be permitted to terminate on top of a six-foot wall or solid fence subject to a maximum length of 18 feet when attached along a side or rear yard wall or fence. The overall maximum height shall be ten feet, except within the building area of the lot, the structure may extend to no higher than the height of the principal building on the property. In front-yard and street-yard setback areas, a decorative arbor or trellis may be placed 15 feet from any front lot line or ten feet from any street side yard lot line, subject to approval by the building director and a maximum size of 50 square feet.~~
- ~~(10) *Play structures.* Play structures, tree forts and similar play structures used by children that incorporate an elevated floor level type of raised or elevated platform for walking or playing upon which has a height equal to or greater than six feet above natural grade shall maintain a side and rear setback of at least 15 feet. If attached accessories are incorporated, including swings, slides and similar play items used by children, that are not six feet in height or over those play structures may be permitted a side and rear setback of five feet. Play structures include playground-type equipment, swings, slides, forts and similar structures used by children. All other provisions of accessory building regulations shall also apply.~~
- ~~(11) Backyard chicken coop accessory structures.~~
- ~~a. Chicken coops, pens or chicken tractors must be located in the rear yard (behind the rear of the home) and be set back a minimum of ten feet from the rear and a minimum of seven and a half feet from the side lot~~



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lines. Coops must be screened at grade from adjacent properties with a solid six foot fence or wall. No coop will be allowed in any front or side-yard.

- b. ~~The coop, pen, or chicken tractor must be a minimum of 20 feet from any pre-existing neighboring residential principal structure, at least five feet from the principal structure on the subject property, and at least five feet from any property line. No setback is required between a coop and another accessory structure on the subject property.~~
- c. ~~Chicken coops must be less than 50 square feet and may have an attached run. The coop must also be tied down for wind resistance.~~
- d. ~~The maximum height of a coop shall be six feet, as measured from the existing grade to the highest part of the coop.~~
- e. ~~An applicant for a permit must demonstrate compliance with the criteria in the Code in order to obtain a permit. The application for a permit must be submitted to the building official. Applicants must submit photos of the proposed site of the coop/run areas, a to scale survey/site plan of the subject property showing the location, and proof of successful completion of a University of Florida Agricultural Extension Service class or an equivalent class approved by the building official, completed within the last year.~~
- f. ~~A building official determination is required for a permit. The building official is authorized to implement reasonable rules and regulations regarding backyard chickens. The building official must not approve locations with outstanding code violations.~~
- g. ~~No more than 25 permits will be issued citywide. Permits will be issued on a first come, first served basis. Participants choosing to leave the program must provide notice to the city. The city is then authorized to re-issue the permit to another qualified applicant. If a participant is removed from the program due to violations of the terms of this ordinance. The permit may also be re-issued to another qualified applicant.~~
- (j) ~~*Swimming pools and screen enclosures.* Swimming pools for private residential use are accessory uses and shall be constructed in accordance with the Florida Building Code. The location of pools, pool decks and screen enclosures shall be as follows:~~
  - (1) ~~Swimming pools and spas are permitted to have a rear setback of ten feet and a side setback of 7.5 feet for lots which are 60 feet wide or less and are permitted to have a side and rear setback of ten feet for lots which are over 60 feet in width. The setback to a lake, canal or stream shall not be construed as a side or rear setback.~~

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- ~~(2) Pool decks shall be located no closer to the side and rear lot line than 50 percent of the required setback for swimming pools. Pool decks may be permitted in the remaining area of the required side and rear setbacks only if screened from the adjacent property by a six-foot masonry wall. The setback to a lake, canal or stream shall not be construed as a side or rear setback. Instead, on lakefront lots, pool decks must be set back a minimum of 50 feet from the ordinary high water elevations established in this article. On streamfront or canalfront lots, pool decks may be setback a minimum of 20 feet from the canal bulkhead if approved by the planning and zoning commission.~~
- ~~(3) Screen pool enclosures on lakefront, canalfront or streamfront lots shall be regulated as structures and located only within the required setbacks and as approved by the planning and zoning commission. Screen pool enclosures on nonwaterfront lots shall be regulated as structures and located only within required setbacks for the respective zoning district except as provided for in the following paragraphs:~~
- ~~a. The rear setback may be ten feet, subject to limiting the height of the screen enclosure to ten feet at the sides of the enclosure and 13 feet at the apex of the enclosure with increases in height allowed on a basis of one to one ratio from that point to the 25-foot setback. For example: a screen enclosure with a rear yard setback of 11 feet could be built with side walls no higher than 11 feet and the apex of the enclosure at the middle could be 14 feet in height.~~
- ~~b. The rear setback may be seven and one-half feet subject to limiting the height of the screen enclosure to seven and one-half feet in height at the rear setback and compliance to the height limitations cited above provided that there is also a dense landscape or solid fence buffer along the rear lot line to a minimum height of six feet installed and maintained.~~
- ~~(4) Other screen enclosures (not enclosing a swimming pool or spa) with screen roofs shall also be regulated as described above.~~
- ~~(k) *Tennis courts.* Tennis courts require side and rear setbacks of ten feet. Their associated backstop and side fencing shall also conform to these setbacks and shall not exceed 12 feet in height. The composition of this fencing shall be chain link or other decorative fencing that does not impede the flow of air and which received the approval of the building director. The location of tennis courts, the composition and height of tennis court fences, the nature of any lighting and control of stormwater shall be subject to the approval of the planning and zoning and city commissions.~~
- ~~(l) *Residential decks; patios.* Any deck or patio shall not be closer to the side lot line than 50 percent of the required side setback. Decks or patios may not be located~~

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closer than five feet from a rear property line. These provisions shall apply to decks or patios only if they are less than two feet above grade, otherwise, such decks or patios must conform to the setbacks for the main structure.

~~(m) *Residential driveways; parking spaces; motor courts, sidewalks, etc.* Any residential sidewalk, driveway, parking space or other vehicle circulation area, whether of a paved surface such as asphalt, concrete or brick, or of an unpaved surface such as gravel, mulch or dirt, shall be setback at least two feet from the side or rear property lines, except where a common drive is permitted between adjoining properties or a nonconforming drive exists and does not create any drainage problem for an adjacent property. On lots that are 60 feet wide or less, a one-foot setback may be utilized as the driveway setback along a side lot line. The drive and parking surfaces must be designed to prohibit the diversion of drainage from vehicle driveways, parking or circulation areas onto adjacent properties.~~

~~(n) *Walls and fences.*~~

~~(1) *Permits.* Requests for permits for walls and fences must be accompanied by a site plan and drawings clearly showing the locations, heights and materials for which approval is requested.~~

~~(2) *Height and setbacks in residential districts.* In front yards and in side yards with street frontages, walls and fences shall not exceed three feet in height above the street curb elevation. However, these decorative front yard or street frontage walls and fences may be permitted columns or posts to exceed this height limit by one foot provided they are spaced at least ten feet apart. Light fixtures may also be placed on columns at driveway entrances up to one foot in height. In street-side yard areas of corner lots, a decorative fence or wall may be constructed five feet in height above the existing ground level when setback at least ten feet from the street-side property line. In all other side and rear yard areas, walls and fences may be a maximum of six feet in height above the ground. Where compliance with these height limits could cause a hardship due to the natural sloping topography of a particular lot, the administrative official may permit portions of a fence or wall to be up to eight feet in height in areas where the normal maximum height would be six feet; and where fences are normally limited to three feet in height above the street curb elevation, the administrative official may permit the fence to be measured from the natural ground level rather than the curb. No wall or fence shall be permitted which would in any way obstruct or impair the visibility of automobiles at intersections and points of ingress and egress to the public right-of-way. For walls and solid fences located on any street, a setback of one foot from the lot line is required to prevent interference with pedestrian mobility on existing or future sidewalks. Gates located on any street must match the openness of the fencing or no less than 60 percent open in composition whichever is greater. Walls and fences on the lakefront,~~

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canalfront, or streamfront side of properties shall meet the requirements established in this article for such waterfront properties. For purposes of locating walls and fences, front yards shall be the area from the front lot line to the front building wall or as determined by the building director.

- ~~(3) *Materials permitted in residential districts.* In any residential district, fences in the front yard or in a side yard with street frontage shall be decorative. Chain link, chicken wire or similar type fences shall be prohibited. Barbed wire, electrically charged fences and solid or mostly solid metal fences shall not be erected in any residential district. A wall, fence or similar structure erected in any residential district shall not contain material or substances such as broken glass, spikes, nails, barbs or similar materials designed to inflict pain or injury on any person or animal.~~
- ~~(4) *Additional fence height for certain fencing in front and street-side yard areas.* Fencing up to a maximum height of four feet shall only be permitted on a case-by-case basis by the town architect or building official for decorative open fencing such as wrought iron, aluminum, or similar types of fencing in front yards and in street-side yard areas with additional requirements such as landscaping and a setback from the lot line as determined for the specific property, and subject to not creating a traffic visibility hazard at points of ingress and egress to the public right-of-way. Wood, PVC (polyvinylchloride) and similar type picket fences are limited to 3.5 feet in height.~~
- ~~(5) The column and post height of a wall or fence may exceed the allowable wall or fence height by a maximum of two feet in areas outside the front yard and street-side yards provided they are spaced 20 feet apart in side and rear yards, except the additional two feet of post height may be permitted on columns located on either side of entry gates in areas outside the front yard and street-side yards.~~
- ~~(6) Walls and fences shall be finished on both sides with similar architectural treatments and color on both surfaces so that, for example, a brick veneered masonry wall shall have brick veneer on both sides or a stuccoed masonry wall shall have a stucco finish on both sides, a painted wood fence would be painted on both sides, unless different surface treatments and color are agreed upon by the property owners on both sides of the wall and the building director.~~
- ~~(7) Existing nonconforming walls or fences on corner lots located within a required setback may be repaired or replaced subject to verification that the new wall or fence does not create a traffic visibility obstruction, is not closer than five feet to a street-side property line and is constructed of a material permitted by this section. In addition, where a hedge or landscaping material was required as a screening buffer due to a variance or a condition of a permit, the hedge~~

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or landscaping material shall be maintained and irrigated to ensure continued viability.

- ~~(8) Corner lots with nonconforming walls or fences for one or two family dwellings: When an existing dwelling has a nonconforming building wall or fence located along a street side yard at a distance of ten feet or greater from the street side lot line, a new fence or wall complying with a permitted material up to six high is allowed to be constructed at the same nonconforming street side setback as a replacement in the same location.~~
- ~~(o) *Building to have access on a public street.* Every building hereafter erected or moved shall be on a lot with frontage on a public street or previously approved private street. The structures on these lots shall be so located so as to provide safe and convenient access for servicing, fire protection, other emergency vehicles, and required off-street parking. Furthermore, no building hereafter erected or moved shall be on a lot solely adjacent to an unpaved road.~~
- ~~(p) *Land and building uses seen generally.* (See general provisions for nonresidential districts for applicable regulations).~~
- ~~(q) *Solid waste containers.* Prior to the issuance of a building permit, plans for the location or use of any solid waste container must show the location of container(s) for solid waste disposal. The number of containers, their location and access to them for unloading purposes are subject to the approval of the city. Solid waste containers or dumpsters shall be screened from view of surrounding properties for all new development. Recycling containers may be exempted from this requirement by the city.~~
- ~~(r) *Relocation or moving a building.*~~
- ~~(1) No building shall be moved into or relocated to a new site within the city and no work shall be commenced in preparation therefore, unless a moving permit has first been issued.~~
- ~~(2) Applicants shall submit to the city photographs showing all elevations of the structure to be moved, the proposed relocation site with proposed setbacks and other details to allow verification of compliance with zoning requirements; detailed plans setting forth the new site and foundation plans signed and sealed by a civil or structural engineer registered and licensed in the state. Plans shall also show the proposed route to be taken and the hours in which the building will be moved. Plans shall show the proposed date of commencement of work on the building in preparation for moving and the proposed date of completion of moving.~~
- ~~(3) Plans shall be reviewed by the city's administrative staff to determine that the proposed route, time of moving, and relocation of site are in conformity to the~~

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- zoning, building and other applicable regulations of the city, and will not inconvenience the public or damage property.
- ~~(4) Plans shall also be submitted to all utility companies located in the city for their review and issuance of moving permits shall be conditioned upon approval of utility companies. Utility companies shall be entitled to make such requirements as they deem necessary to insure the utilities of the area will not be damaged or interrupted during the moving process.~~
- ~~(5) Prior to the issuance of a moving permit, the building shall be inspected by the building division of the city to insure that it is in conformity to the necessary building, plumbing, electrical, and other codes of the city or sufficient plans shall be provided showing compliance with all applicable building codes, and any deficiencies shall be corrected prior to the issuance of a moving permit or prior to final inspection approval of the building on the new site.~~
- ~~(6) Moving permits shall be issued only to companies or persons duly licensed as building movers in the city and who have posted the required \$10,000.00 bond. The code enforcement director of the city shall have the authority to require such other and additional bonds as may be necessary to insure that the building is moved in a safe and proper manner and that property is protected. Any damage to city property or city trees shall be compensated by the building mover based on the cost of repairs for damage to city infrastructure, including, but not limited to, electrical equipment, water and sewer systems, streets, curbs, sidewalks, drainage conveyances, street lights and signs. Compensation for tree damage shall be in accordance with section 58-287.~~
- ~~(7) The building director shall have the power to accept or reject an application for a moving permit and may impose such additional regulations, conditions, or restrictions, as it deems necessary or proper to insure that the building is moved in a safe and proper manner, that property is protected during the moving process, that the moving process will not unreasonably inconvenience the public and that the building proposed to be moved will fit harmoniously into the neighborhood wherein it is to be located. Applicants may appeal these decisions to the city commission. Larger buildings over 2,500 square feet in gross area may be referred to the city commission for approval and any building moving applicant may appeal building moving determinations of the building director to the city commission.~~
- ~~(s) *Curb cut permits.* Any proposed construction in zoning districts other than R-1AAA, R-1AA, R-1A and R-2 shall have its access points or curb cuts for off-street parking facilities approved by the building director. In all such cases where that use has an access point or curb cut onto one public street, no additional curb cuts may be made onto another public street without the approval of the building director.~~

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Approval shall be based on a finding that no additional traffic will be directed onto local residential streets.

~~(t) *Satellite dish antenna.*~~

- ~~(1) One satellite dish-shaped antenna is permitted as an accessory structure for each property within the residential districts of the city. The size of the satellite antenna shall not exceed ten feet in diameter or 12 feet in height.~~
- ~~(2) Satellite dishes in residential districts shall be setback 15 feet from the rear and/or side property lines. No satellite dish shall be permitted in front yards or in any yard area that is visible from any public right-of-way.~~
- ~~(3) Satellite dishes in residential districts shall be of the metal mesh variety that is painted in a corresponding color so as to blend in with the surrounding vegetation or buildings. Landscape screening including hedges, trees, etc., of heights necessary to screen the view of the dish shall be planted so as to buffer adjacent neighbors.~~
- ~~(4) Satellite dish-shaped antennae are permitted as accessory structures for properties within the nonresidential districts of the city. The number, location, and size of all satellite dishes on such properties shall be first subject to the site plan approval by the code enforcement director to insure that such satellite dishes are located in a manner to be not visible from any public street or visible as little as reasonably possible.~~
- ~~(5) A building permit shall be required for the installation of all satellite dishes so as to precipitate inspection for compliance with this section and for anchoring in accordance with the requirements of the building code.~~
- ~~(6) The above regulations shall only apply to satellite dish antenna greater than one meter in diameter.~~

~~(u) *Underground utilities.*~~

- ~~(1) It is the intent of the city to improve the aesthetic appeal of the city and the reliability of utility service by requiring that utility lines, such as electric, telephone, cable TV, fiber optics and other utilities, be placed underground in conjunction with the construction of all new buildings. The implementation of underground utilities shall also be required as a component to the substantial renovation of any existing building. Substantial renovations shall be interpreted as when the building permit value of such renovations and/or additions exceeds 50 percent of the value of the existing improvements on the most current property tax roll. Property owners shall provide space on site within the private property or within the building for any necessary pad-mounted transformers and switch gear and shall screen such to the degree possible with landscaping or other approved screening when visible from the public right-of-way.~~

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- (2) ~~The city recognizes that certain physical elements such as existing buildings, swimming pools, large trees and such may impose unreasonable hardships on property owner's compliance with the placement of utilities underground and for the location of transformers. Upon confirmation of these hardships by the utility companies, the building director may waive this requirement for such projects or may allow the waiver of up to two required parking spaces to be used for the required pad-mounted transformer and switch gear.~~

~~(v) Duplex-modified yard developments:~~

- (1) ~~This development concept is to provide for more flexible and creative site planning which may assist in lowering development and housing costs, expand the choice and type of dwelling units while maintaining compatibility with, and the integrity of, adjacent residential neighborhoods.~~
- (2) ~~"Duplex-modified yard development" defined. A duplex-modified yard development shall consist of a building designed for, or occupied exclusively by, two families and containing dwelling units erected as a single building on adjoining lots, each being separated from the adjoining unit by an approved party wall, thereby creating noncommunicating dwelling units. Such buildings shall be designated duplex-modified yard dwellings.~~
- (3) ~~Duplex-modified yard developments shall be permitted only when a declaration of covenants and restriction containing or addressing the provisions set forth in subsection (5) below is executed by all holders of any interest in or lien upon the real property upon which the duplex-modified yard dwelling is constructed, is approved by the city attorney as to form and content and is recorded in the Public Records of Orange County, Florida. Those desiring to utilize these duplex-modified yard provisions shall reimburse the city for the costs of the review and approval by the city attorney.~~
- (4) ~~The adjoining lots on which each duplex-modified yard dwelling is constructed shall together be considered to be one lot for the purpose of compliance with the development standards applicable to the particular zoning district in which the duplex-modified yard dwelling is located.~~
- (5) ~~The declaration of covenants and restrictions shall contain or address the following:~~
- ~~a. A legal description of the entire parcel of real property upon which the duplex-modified yard dwelling is constructed, hereinafter referred to as the "duplex-modified yard development property," and legal descriptions of each separate parcel therein to be subjected to fee simple ownership;~~
  - ~~b. A provision that restrictions shall run with the land, and shall not be amended or rescinded without the written consent of the city commission;~~



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- c. ~~A provision designating those portions of the duplex-modified yard development property that will be commonly used by both fee simple owners, if any; establishing mutual easements permitting such use and governing the insurance, maintenance and repair thereof;~~
  - d. ~~A provision governing the insurance, maintenance and repair of all party walls;~~
  - e. ~~A provision governing the insurance, maintenance and repair of all exterior portions of all improvements to the duplex-modified yard development property. This provision must require that any exterior maintenance or repair performed with respect to any portion of the duplex-modified yard development property be accomplished in such a duplex-modified yard development property as a whole, i.e., the entire duplex-modified yard dwelling must be repainted at the same time under a common color scheme.~~
  - f. ~~A provision governing the landscaping of the duplex-modified yard development property. This provision must require that the landscaping be performed and maintained at all times in such a manner so as to preserve the overall appearance and value of the duplex-modified yard development property as a whole.~~
  - g. ~~A provision governing the method by which the owners of the duplex-modified yard development property will be assessed for the expenses of insurance, maintenance and repair of those items set forth in the preceding paragraphs of this subsection. This provision must include a means by which one owner may perform any necessary maintenance or make any necessary repairs to the duplex-modified yard development property and receive contribution from the other owner should the other owner unreasonably refuse to bear his portion of the expense. This provision must also include a description of the remedies that the contributing owner shall have against the noncontributing owner, such remedies being generally consistent with the remedies afforded to co-tenants in common, and a method by which disputes concerning the necessity or reasonableness of a given item of maintenance or repair may be resolved.~~
  - h. ~~An optional provision establishing an incorporated owner's association to perform the duties of insurance, maintenance, repair and assessment described above. The owner's association may operate more than one duplex-modified yard development property in a common manner not inconsistent with this section.~~
- (6) ~~The foregoing duplex-modified yard development standards shall also apply to principal and cottage dwelling developments with the following provisions:~~

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- a. ~~The two dwelling units (principal and cottage dwellings) are not required to be joined by a common party wall.~~
  - b. ~~The dwelling units must be provided with at least ten feet of driveway access to each of the dwellings from the public street or alley.~~
  - (w) ~~*Significant changes to buildings or approved plans.* Various sections of this zoning article require approvals by the planning and zoning board and/or city commission. Within the section for conditional uses there are specific requirements defining significant changes for conditional uses. For all other types of approvals, the standards below will determine whether a significant change or substantial deviation shall be deemed to have occurred which then would require a subsequent review and approval for those changes by the planning and zoning board and/or the city commission as follows:~~
    - (1) ~~When there is an increase in the height of a building of more than one foot; or~~
    - (2) ~~When there is an increase in the square footage of a proposed building of more than 500 square feet above grade; or~~
    - (3) ~~When there is an increase in the impervious lot coverage of more than 1,000 square feet; or~~
    - (4) ~~When there is a change in the architectural style of the building; or~~
    - (5) ~~When there is a major shift or relocation of the site and floor plan(s) or distribution of uses within the building or major shift or relocation in the features of building location, stormwater retention, parking area and/or driveways; or~~
    - (6) ~~When additional variances are requested that were not part of the original public record in the review by the planning and zoning board and/or the city commission; or~~
    - (7) ~~When the planning director, building director or city commission finds that a material change has been made to a plan detail that was critical to the decision rendered by the board or the commission.~~
  - (x) ~~*Tents.* (See general provisions for nonresidential districts for applicable regulations).~~
  - (y) ~~*Special events.* (See provisions for nonresidential districts for applicable regulations).~~
  - (z) ~~*Home occupations.*~~
    - (1) ~~*Generally.* Any use customarily conducted entirely within a dwelling and carried on by members of the immediate family residing on the premises, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof, is permitted as a home~~

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occupation provided that there is used no sign or display that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling, there is no commodity sold upon the premises and no mechanical or electrical equipment is used except such as is permissible for purely domestic or household purposes, and no clients, customers or guests connected with the business may visit the property. Fabrication of articles, such as are commonly classified under the terms "arts and handicrafts" may be deemed a home occupation.

- (2) ~~Requirements for receiving a home business certificate.~~ All home occupations shall be required to obtain a business certificate prior to the start of such business and use of the property. The applicant must submit the following in order to obtain a business certificate. Business certificates issued for home occupations shall only be issued to the residential address and not to a post office box:
- a. ~~Address number and tax ID number of the property;~~
  - b. ~~A survey or sketch with dimension showing the floor plan and the area to be utilized for the home occupation along with the total floor area of the residence;~~
  - c. ~~A detailed written description of the exact nature of the home occupation;~~
  - d. ~~If the residence is a rental unit, a notarized letter of approval for the home occupation from the property owner or property manager is necessary;~~  
~~and~~
  - e. ~~A signed copy of the home occupation regulation form.~~
- (3) ~~Prohibited home occupations.~~ The building director shall make determination as to whether any business qualifies as a home occupation based upon its type and operational characteristics. The following list of uses indicates some the businesses which shall be prohibited as home occupations but is not intended to be a complete list:
- a. ~~Adult entertainment;~~
  - b. ~~Antique shops;~~
  - c. ~~Auto service and repair;~~
  - d. ~~Barber shop and beauty salon;~~
  - e. ~~Bed and breakfast facilities;~~
  - f. ~~Body scrubs, body art or tattoo;~~
  - g. ~~Child care of more than five pre school children and/or five after school children (see family day care definition);~~

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- h. ~~Churches;~~
  - i. ~~Clothes modeling or sales;~~
  - j. ~~Clubs, private;~~
  - k. ~~Escort services;~~
  - l. ~~Food processing and handling;~~
  - m. ~~Fortune tellers;~~
  - n. ~~Group instruction of more than two persons;~~
  - o. ~~Health spas;~~
  - p. ~~Kennels or overnight boarding of animals;~~
  - q. ~~Massage therapy;~~
  - r. ~~Retail commercial operations;~~
  - s. ~~Taxi or limousine service;~~
  - t. ~~Vehicle sales/rental;~~
  - u. ~~Storage or warehousing.~~
- (4) ~~*Storage of merchandise.* No merchandise shall be displayed or sold on the premises. No outside display of merchandise or outside storage of equipment or materials shall be permitted.~~
- (5) ~~*Employees.* No person shall be engaged in any home occupation as an employee or volunteer worker other than members of the immediate family residing in the dwelling unit. No accessory building shall be used for such home occupation. Any home occupation that creates objectionable noise, fumes, odor, dust, electrical interference shall be prohibited.~~
- (aa) ~~*Short-term rental of residential dwellings.* The rental, use or occupancy of any residential dwellings for less than one month shall be prohibited.~~
- (bb) ~~*Construction tolerances.* The city's building director may permit setback encroachments up to six inches upon request in writing on a sworn affidavit from the property owner attesting to the cause or reason for the error relating to technical reasons that is subject to acceptance by the city.~~
- (cc) ~~*Limitation on first or second floor walls of buildings in residential zoning districts.* First or second floor walls of buildings in residential zoning districts shall not extend above the top plate of the first floor for one-story buildings or above the second floor top plate of two-story buildings so as to create additional wall height or the appearance of an additional story unless such area is part of the allowable floor area and meets the required setbacks. This limitation does not prevent the provision of a parapet wall for flat roof buildings.~~

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~~(dd) *Required two-story setback applies.* The required two-story setback shall apply to walls which extend 12 feet in height or more above the existing pre-construction grade for buildings in residential zoning districts.~~

~~(ee) *Solar panels.* Solar photovoltaic (PV) is a permitted accessory use, provided that it meets the provisions of the respective zoning district and limited to the setbacks, area and coverage limitations of accessory structures in the respective zoning district. Solar panels shall be placed in locations that, to the greatest extent possible, are not visible from the public right-of-way or, as an alternative, other technologies such as roofing materials designed as photo-voltaic collectors shall be used if the optimum location is visible from the public right-of-way.~~

~~(ff) *Residential attics.* Attic areas may be air-conditioned subject to meeting state energy code requirements (including insulation, wall treatments and similar minimal finishing provisions) and subject to a maximum area of 200 square feet. Other non-air-conditioned attic spaces shall not have drywall or other wall finishing materials and shall only have minimal lighting unless the residential building has additional floor area available which does not exceed the allowable floor area ratio for the property.~~

~~(gg) *Canton Park site development standards.* The property described as and known as Canton Park Subdivision shall have the following development standards for lots in the R-2 and R-1A zoning district:~~

~~Front setback to main dwelling: 23 feet.~~

~~Porch setback: 15 feet from front lot line.~~

~~Side setbacks: Eight feet on one side and 12 feet on opposite side.~~

~~Rear setback: 25 feet to main dwelling. Lots less than 90 feet deep may utilize a rear setback of ten feet.~~

~~Garages in rear: Ten feet to rear lot line and five feet to side lot line.~~

~~Chimneys and bay windows may encroach two feet into the setback.~~

~~Side setback to a porte cochere is two feet.~~

~~Rear screened porches may be connected to the garage.~~

~~Air-conditioning compressors shall observe a five-foot side setback.~~

~~Other zoning provisions shall apply where applicable or not covered under this subsection.~~

~~(hh) *Reserved.*~~

~~(ii) *Parking garage setbacks.* Any above-grade parking garage or parking deck shall be setback at least 100 feet from any property used for single-family or low-density residential. The distance shall be measured from the closest point of the parking~~

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garage structure to the property line of the property used for single-family or low-density residential.

- ~~(jj) *Gateway plan conformance.* Pursuant to the desire to provide attractive entrance features and architectural interest at the gateway entrances into the city, the city commission shall have the authority in the review of plans for the development or redevelopment of properties to negotiate for a portion of such property to be reserved for the construction of gateway design structures, and the city commission may negotiate on a case-by-case basis, depending on the size of the project, a financial arrangement between the property owner/developer and the city to facilitate the construction of gateway design structures.~~
- ~~(kk) *Parking garage design guidelines.* Parking garages shall conform to the parking garage design guidelines and procedures outlined within section 58-84. This requirement, however, shall not apply to parking garages below grade within basements, defined as having at least half the height of the entire parking structure below existing grade or for parking garages that are totally enclosed by other liner building areas that are not visible from any public street other than the entrance/exit feature.~~
- ~~(ll) *Parking shelters.* For multi-family residential projects, the city may permit open accessory detached shelter structures for shade and rain protection for vehicles provided that the parking shelter is at least 80 percent open, that the posts or columns meet a minimum five foot setback from adjacent properties, that the structures meets all building code wind load requirements; are not more than one story in height and limited to no more than ten feet in height to the roof eave. Such parking shelters shall only cover a row of parking one space deep and may not span across a landscape island or the drive aisle. Such shelters may only located in the rear of the property or side of the property and not located in any area within 25 feet of a right-of-way. Furthermore, such parking shelters must be architecturally consistent with the principle building and as such, metal post and canvas type coverings are not permitted.~~
- ~~(mm) *Gated streets and gated communities.* Consistent with the subdivision regulations provisions that prohibit private streets, and in order to promote vehicular and pedestrian ingress and egress access and for providing uninhibited emergency services access to any neighborhood, in subdivision or other housing community or housing projects, the use of gates or other access controls to restrict access to streets, neighborhoods, condominiums or other housing communities shall be prohibited. This shall not interpreted to prohibit the access management controls and gates to private residential parking garages provided unrestricted access is provided to visitor parking, that may be required per this Code or by a condition of approval of a residential project by the city commission nor shall it be interpreted to prohibit gates on driveways to any individual single family home.~~

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~~(nn) Reserved.~~

~~(oo) Split residential zoning. In cases where a property has split and different zoning designations, the property may be used cumulatively for the density permitted by the combined zoning designations, subject to approval by the city commission.~~

~~(Ord. No. 2796-10, § 1(Exh. A), 2-22-10; Ord. No. 2795-10, § 4, 2-22-10; Ord. No. 2849-11, § 15, 9-12-11; Ord. No. 2875-12, § 4, 6-11-12; Ord. No. 3002-15, § 1, 7-13-15; Ord. No. 3006-15, § 1, 8-10-15; Ord. No. 3030-16, § 5, 2-8-16; Ord. No. 3096-17, § 6, 12-11-17; Ord. No. 3098-17, § 5, 12-11-17; Ord. No. 3182-20, § 5, 9-9-20; Ord. No. 3185-20, § 2, 10-14-20)~~

## **Sec. 58-71. General provisions for residential zoning districts.**

(a) Suitability of buildings. Any proposed building shall be considered as to its suitability of design and type of construction in relation to the district and to the immediate neighborhood site, and if such design, lot grading or construction is markedly incongruous with the character of such neighborhood as to be detrimental to the value of adjacent or nearby properties, then the Zoning Official shall deny the application for a building permit.

(b) Grading of building site.

- (1) Every lot which is used for a building site shall be so graded that it will be dry and free from standing water and the grade around the walls of every new building at the point where the sill meets these walls shall not be less than 12 inches above the crown line established or to be established for the street on which such a building faces, unless the lot has drainage away from the street to the lake or canal or has other adequate means of drainage as may be checked and approved by the building director or the public works director at the request of the city building director. If the street on which the lot faces has a slope between lot lines, an elevation half-way between the high and low points is to be used for determining the height of crown line.
- (2) No lot owner shall grade a lot in such a way as to interfere with the natural drainage of adjoining lots, divert the drainage of a lot onto adjoining lots, or interfere with the natural drainage of any lot so that the drainage of such lot is diverted in a manner that is inconsistent with permitted stormwater management systems or upon any public street or thoroughfare in a manner or in such amounts as to flood a public street or thoroughfare.
- (3) In addition, no lot shall be filled with elevated lot grades adjacent to or near other surrounding properties so as to require the use of retaining walls or other barriers to create an unnatural lot grade transition unless approved by the building director or the public works director based on one or more of the following criteria:

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- a. Verified topographic conditions on the property exist which include grading that requires the use of a retaining wall to prevent drainage onto adjacent properties.
  - b. Terraced retaining walls are required to retain water on site to prevent storm water runoff into a water body or other properties. On the waterfront side of lakefront properties terraced retaining walls must not exceed three feet in height above the natural grade.
  - c. The proposed retaining wall is located a large distance from the nearest residential property, such as, but not limited to 30 feet, or a distance determined proportionately based on the lot width in a manner that is designed to provide no adverse or increased storm water drainage onto an adjacent property.
  - d. Terraced retaining walls are used for aesthetic landscaping only and are designed in a manner that does not create storm water drainage onto neighboring residential properties.
- (c) Architectural towers, spires, chimneys, or other architectural appendages, etc.
- (1) Any architectural tower, spire, faux chimney, flag pole or other architectural appendage to a building shall conform to the maximum building height. However, when necessary to meet the building code requirements, functional chimneys may exceed the height by that minimum required distance. One flag pole may be placed on a residential lot or parcel subject to a height limit of five feet less than the permitted building height and located in front of the home encroaching up to ten feet into the front setback and not within the required side and rear yard setbacks established for the subject property.
- (d) Parking of commercial vehicles in residential districts.
- (1) The regular or constant parking of commercial vehicles or vehicles used primarily for commercial purposes, or vehicles having outside lettering larger than three square feet in area per side displaying information identifying a business, product or service, including trucks (with a rated capacity over one ton), semi-trailers, truck tractors or any combination thereof or any other truck or special mobile equipment or heavy equipment, building materials and other similar materials is not permitted within the residential zoning districts. (R-1AAA, R-1AA, R-1A, R-2, R-3, R-4 or PURD).
  - (2) Exceptions. The provision of this section shall not apply to:
    - a. Property where construction is underway for which a current and valid building permit has been issued by the city, as to those vehicles and equipment actively engaged in such construction. Those vehicles and equipment, not including construction machinery, must be removed each



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- evening and at any time the vehicles and equipment are not actively engaged in such construction;
- b. Those vehicles and equipment being used to perform lawful work upon the premises where the vehicle is parked, including immediate pick-up or delivery service;
  - c. Any vehicle, with a capacity rating under 10,000 pounds that is parked entirely inside a garage and not visible from the street or from surrounding properties;
  - d. Political signage on vehicles as otherwise permitted by the sign regulations.
- (e) Buses. In residential districts, buses shall be parked only in designated bus parking areas approved pursuant to the notification and procedures outlined for conditional uses.
- (f) Boats, trailers, and recreational vehicles.
- (1) Boats, trailers of any type, recreational vehicles, as defined in state statutes (including campers, travel trailers and motor homes) and similar vehicles shall not be parked or stored within any residential district including public rights-of-way, except as hereinafter specifically permitted. Under no circumstances shall any boat, trailer or recreational vehicle be slept in or otherwise used for lodging or habitation while parked or stored within a residential district.
  - (2) Boats and boat trailers may be parked if stored entirely within a carport, garage or enclosed structure. Recreational vehicles (including campers, travel trailers, and motor homes) and trailers (other than boat trailers) may be parked if stored entirely within a garage or other enclosed structure. As used herein, a garage or other enclosed structure shall mean a structure having at least 75 percent opaqueness.
  - (3) Boats, trailers and recreational vehicles having an overall length of 32 feet or less may be parked in a private driveway within a residential district for an aggregate of not more than 24 hours during any one calendar week.
  - (4) The parking of boats, trailers and recreational vehicles in side and rear lot areas is permitted only if fences, walls and landscape screening, including hedges, trees, etc., having at least 65 percent opaqueness of the view of the boat, trailer or recreational vehicle shall be constructed and planted so as to buffer adjacent residential properties.
  - (5) Residents may allow their guests to park a boat, trailer or recreational vehicle having a length of 32 feet or less for up to 48 hours in the driveway or behind the main structure of the lot on which it is parked. If additional time is needed,

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the Code Compliance Manager shall be notified no later than 24 hours after such vehicle is so parked.

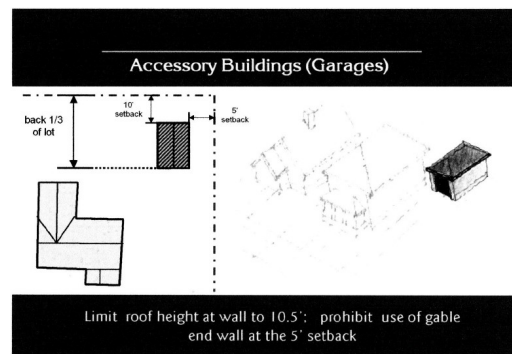
- (g) Projections into setbacks. Eaves, roof overhangs, canopies, chimneys and flues, and awnings may project into the minimum yard or setback areas up to three and one-half feet. Fabric canopies, awnings, balconies, etc., with ground supports, second floor open porches, two-story high columns or similar features are considered a structure or part of the main structure and shall observe the setback requirements of the districts in which they are located. Cantilevered bay windows which project from the wall at a minimum height of 24-inches above grade may project two feet into the front, and rear setbacks and are limited to a maximum width of eight feet.
- (h) Accessory buildings, structures, air-conditioning equipment and other accessory uses in residential zones.
- (1) No detached accessory use or structure shall be permitted in the required front yard. On double frontage lots or corner lots, no detached accessory use or structure shall be permitted in the required yards fronting on the streets. In addition, no storage sheds shall be permitted in the area between the building line of the main structure and street or streets, unless screened by an opaque fence or wall.
  - (2) An accessory building may be attached to a principal structure by a one-story open-sided roofed breezeway with a maximum width of eight feet connected to the principal structure without meeting the setback requirements of the principal building and complying with the setbacks of the accessory building; however, all other zoning requirements must be met, such as impervious coverage, building coverage or floor area ratio, where applicable.
  - (3) Mechanical equipment, which includes air-conditioning equipment, swimming pool equipment, generators, and similar type equipment, shall not be located in any front yard or required side yard with street frontage unless totally shielded from view from the street by walls or vinyl fences otherwise complying with the zoning code. Mechanical equipment may be located up to ten feet from a rear lot line as long as they are adjacent to the accessory structure or principal structure. Mechanical equipment shall not be located in any required side yard or within ten feet from the rear lot line except that they may be permitted up to six feet from a side or rear property line if surrounded by block wall equal in height of the equipment. Propane tanks shall not be located within five feet of any side or rear lot line. Any mechanical equipment placed on a roof must be screened from view from surrounding properties and from public streets.
  - (4) Accessory structures or buildings, up to 100 square feet in size, may be located five feet from a side or rear interior property line. Accessory buildings

over 100 square feet in size up to 400 square feet shall not be located closer than ten feet to any side or rear property line, and any two-story accessory building or any accessory building over 400 square feet shall meet the same rear and side setback as required for the principal structure. No accessory structure shall exceed a height of 18 feet unless located so as to comply with the setbacks of the principal structure. Total square footage of accessory structures shall be inclusive of all enclosed, and covered open air areas such as patios, summer kitchens, or porches.

- (5) The following table summarizes the side and rear setback requirements for accessory structures based on size and type as indicated throughout this section.

| <b><u>Accessory Structure Size (square feet)</u></b> | <b><u>Side Setback (feet)</u></b> | <b><u>Rear Setback (feet)</u></b> |
|------------------------------------------------------|-----------------------------------|-----------------------------------|
| <u>≤ 100</u>                                         | <u>5</u>                          | <u>5</u>                          |
| <u>101-400</u>                                       | <u>10</u>                         | <u>10</u>                         |
| <u>&gt; 400</u>                                      | <u>Principal</u>                  | <u>Principal</u>                  |
| <u>Detached Garage ≤ 620</u>                         | <u>5</u>                          | <u>10</u>                         |
| <u>Two-story structures</u>                          | <u>Principal</u>                  | <u>Principal</u>                  |

- (6) Accessory buildings in rear yards. The exterior walls of accessory buildings shall not exceed 10.5 feet in height. Additionally, accessory buildings located less than ten feet from an interior side lot line must have a sloped or flat roof, e.g., the side wall adjacent to the lot line cannot be a gable end wall. A garage not exceeding 620 square feet may be located five feet from the interior side lot line and ten feet from the rear lot line. Additionally, private garages (attached or detached) shall be limited in size to no greater than 50 percent of the living area of the dwelling. A rear garage utilizing the setbacks in this section must be located in the rear third of the lot depth.



- (7) Garages and carports for single-family dwellings on any lot and two-family dwellings on lots over 65 feet wide:

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a. Front-facing garages must meet one of the following design standards:

1. The front wall of the garage must be offset at least three feet from the main wall of the home with a maximum of two doors no greater than nine feet wide, with the garage door face recessed at least six inches from the plane of garage wall. For an existing home undergoing a remodel or enclosing a carport, one garage door may be permitted up to 18 feet wide with architectural design features such as glazing, hardware and raised panels integrated into the door or other finishes matching the primary structure. The main wall of the home is considered to be a solid wall which separates air-conditioned living space from the outdoors.
2. The garage must have a side entry or be located at the rear of the property behind the main dwelling.
3. A third front facing garage bay with a maximum door width of nine feet, shall be recessed back at least four feet from the adjacent front wall of the other garage doors or main wall of the home.

In addition, no street-facing garage shall have a garage opening exceeding ten feet in height.

b. Open carports must be located at least two feet behind or at least two feet in front of the main house wall. In cases where the front setback is permitted to be less than 20 feet, the minimum front setback to the garage or carport opening shall be at least 20 feet after complying with one of the design standards in this section. Alternate methods to accomplish the step back shall be reviewed on a case-by-case basis. In addition, no front-facing garages on the front half of the lot shall have doors exceeding ten feet in height.

c. Detached garages located in front of or within 25 feet behind the front wall of a home must adhere to the same required side yard setback as the main residence.

d. Requirements when two courtyard garages are located in front of a home:

1. An additional five feet of front setback shall be required to the garage wall.
2. The entry drive width is limited to 16 feet from the front lot line to the front wall of the garages,
3. Windows or similar architectural features shall be provided in the garage wall facing the street.
4. Landscaping shall be provided to buffer at least 20 percent of side wall of the garages including one or more understory or shade trees

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in front of each garage wall facing the street. Specific details of proposed landscaping shall be shown on building plans.

- e. *Porte cochere.* The roof height of a porte cochere in front of a home must not exceed 14 feet unless located behind the front setback by five feet or more. A porte cochere attached to the side of a home may utilize a side-yard setback of five feet from an interior side lot line or 15-feet from a street-side lot line subject to the following: three sides of the structure must be at least 75 percent open; a maximum height of 13 feet from natural grade to roof top and a maximum roof overhang of 12 inches. If a porte cochere has an area greater than 250 square feet, then the principal building setbacks shall be applied. Porte cocheres less than 250 square feet shall not be counted towards floor area ratio.
- (8) An accessory building or structure shall not be located within five feet of any other building. The building height of any accessory building shall not exceed the building height of the main building or principal residence on the property.
- (9) No combination of accessory structures, singly or together, shall exceed ten percent of the lot area. In addition, no lot shall contain more than two storage sheds (buildings).
- (10) A guesthouse or garage apartment shall not be constructed on a lot for occupancy before completion of the main buildings. This shall not prohibit the erection of other accessory buildings prior to the construction of the principal building, when such accessory buildings are neither constructed nor used for dwelling purposes.
- (11) Guesthouses or garage apartments are permitted accessory uses when they provide accommodations for guests, domestic service employees or members of a family occupying the main building on the same property. Guesthouses or garage apartments shall not exceed 1,000 square feet of floor area. Guesthouses or garage apartments as permitted accessory uses may not have a kitchen area or cooking facilities. They also may not have separate utility meters or be rented, let or hired out for occupancy whether compensations be paid directly or indirectly.
- (12) An arbor, pergola or trellis structure may be placed up to five feet from side and rear lot lines and the overhead beams or framing members may be permitted to terminate on top of a six-foot wall or solid fence subject to a maximum length of 18 feet when attached along a side or rear yard wall or fence. The overall maximum height shall be ten feet, except within the building area of the lot, the structure may extend to no higher than the height of the principal building on the property. In front-yard and street-yard setback areas, a decorative arbor or trellis may be placed 15 feet from any front lot line or ten

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feet from any street side yard lot line, subject to approval by the Zoning Official and a maximum size of 50 square feet.

(13) *Play structures.* Play structures, tree forts and similar play structures used by children that incorporate an elevated-floor-level-type of raised or elevated platform for walking or playing upon which has a height equal to or greater than six feet above natural grade shall maintain a side and rear setback of at least 15 feet. If attached accessories are incorporated, including swings, slides and similar play items used by children, that are not six feet in height or over those play structures may be permitted a side and rear setback of five feet. Play structures include playground-type equipment, swings, slides, forts and similar structures used by children. All other provisions of accessory building regulations shall also apply.

(14) Backyard chicken coop accessory structures.

- a. Chicken coops, pens or chicken tractors must be located in the rear yard (behind the rear of the home) and be set back a minimum of ten feet from the rear and a minimum of seven and a half feet from the side lot lines. Coops must be screened at grade from adjacent properties with a solid six-foot fence or wall. No coop will be allowed in any front or side-yard.
- b. The coop, pen, or chicken tractor must be a minimum of 20 feet from any pre-existing neighboring residential principal structure, at least five feet from the principal structure on the subject property, and at least five feet from any property line. No setback is required between a coop and another accessory structure on the subject property.
- c. Chicken coops must be less than 50 square feet and may have an attached run. The coop must also be tied down for wind resistance.
- d. The maximum height of a coop shall be six feet, as measured from the existing grade to the highest part of the coop.
- e. An applicant for a permit must demonstrate compliance with the criteria in the Code in order to obtain a permit. The application for a permit must be submitted to the building official. Applicants must submit photos of the proposed site of the coop/run areas, a to scale survey/site plan of the subject property showing the location, and proof of successful completion of a University of Florida Agricultural Extension Service class or an equivalent class approved by the building official, completed within the last year.
- f. A building official determination is required for a permit. The building official is authorized to implement reasonable rules and regulations

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regarding backyard chickens. The building official must not approve locations with outstanding code violations.

- g. No more than 25 permits will be issued citywide. Permits will be issued on a first-come, first-served basis. Participants choosing to leave the program must provide notice to the city. The city is then authorized to re-issue the permit to another qualified applicant. If a participant is removed from the program due to violations of the terms of this ordinance. The permit may also be re-issued to another qualified applicant.
- (j) *Swimming pools and screen enclosures.* Swimming pools for private residential use are accessory uses and shall be constructed in accordance with the Florida Building Code. The location of pools, pool decks and screen enclosures shall be as follows:
- (1) Swimming pools and spas are permitted to have a rear setback of ten feet and a side setback of 7.5 feet for lots which are 60 feet wide or less and are permitted to have a side and rear setback of ten feet for lots which are over 60 feet in width. The setback to a lake, canal or stream shall not be construed as a side or rear setback. Swimming pools and spas shall not be permitted in any required front or street-side yard.
- (2) Pool decks shall be located no closer to the side and rear lot line than 50 percent of the required setback for swimming pools. Pool decks may be permitted in the remaining area of the required side and rear setbacks only if screened from the adjacent property by a six-foot masonry wall. Pool and spa decks shall not be constructed more than three feet in height above the existing grade elevation at the tallest edge of the deck, patio or terrace. The setback to a lake, canal or stream shall not be construed as a side or rear setback. Instead, on lakefront lots, pool decks must be set back a minimum of 50 feet from the ordinary high-water elevations established in this article. On streamfront or canalfront lots, pool decks may be setback a minimum of 20 feet from the canal bulkhead if approved by the Planning and Zoning Board.
- (3) Screen pool enclosures on lakefront, canalfront or streamfront lots shall be regulated as structures and located only within the required setbacks and as approved by the Planning and Zoning Board. Screen pool enclosures on nonwaterfront lots shall be regulated as structures and located only within required setbacks for the respective zoning district except as provided for in the following paragraphs:
- a. The rear and side setback may be 7.5 feet, subject to limiting the height of the screen enclosure to 10 feet at the sides of the enclosure and 14 feet at the apex of the enclosure.
- b. The rear and side setback may be 5 feet subject to limiting the height of the screen enclosure to 7.5 feet in height at the rear and side setback and compliance to the apex height limitations cited above provided that there

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is also a dense landscape or solid fence buffer along the rear lot line to a minimum height of 6 feet installed and maintained.

c. No variance shall be granted regarding the height of screen pool enclosures.

(4) Other screen enclosures (not enclosing a swimming pool or spa) with screen roofs shall also be regulated as described above.

(k) *Outdoor recreational areas.* Outdoor recreational areas including tennis courts, basketball courts, etc., shall require side and rear setbacks of ten feet. Their associated backstop and side fencing shall also conform to these setbacks and shall not exceed 12 feet in height. The composition of this fencing shall be chain link or other decorative fencing that does not impede the flow of air and which received the approval of the Zoning Official.

(l) *Residential decks; patios.* Any deck or patio shall not be closer to the side lot line than 50 percent of the required side setback. Decks or patios may not be located closer than five feet from a rear property line. These provisions shall apply to decks or patios only if they are less than three feet above existing grade, otherwise, such decks or patios must conform to the setbacks for the main structure.

(m) *Residential driveways; parking spaces; motor courts, sidewalks, etc.* Any residential sidewalk, driveway, parking space or other vehicle circulation area, whether of a paved surface such as asphalt, concrete or brick, or of an unpaved surface such as gravel, mulch or dirt, shall be setback at least two feet from the side or rear property lines, except where a common drive is permitted between adjoining properties or a nonconforming drive exists and does not create any drainage problem for an adjacent property. On lots that are 60 feet wide or less, a one-foot setback may be utilized as the driveway setback along a side lot line. The drive and parking surfaces must be designed to prohibit the diversion of drainage from vehicle driveways, parking or circulation areas onto adjacent properties.

(n) *Walls and fences.*

(1) *Permits.* Requests for permits for walls and fences must be accompanied by a site plan and drawings clearly showing the locations, heights and materials for which approval is requested.

(2) *Height and setbacks in residential districts.* The table provided below summarizes the maximum height of walls and fences in each required yard as well as the types of walls and fences permitted, as outlined in the following paragraphs. Decorative fences must be a minimum of 75% open.



| <b><u>Required Yard</u></b>                                                                                                                                                                                                                                                                                                  | <b><u>Max. Height (feet)</u></b> | <b><u>Max. Column Height (feet)</u></b> | <b><u>Min. Column Spacing (feet)</u></b> | <b><u>Fence/Wall Types Permitted</u></b> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|-----------------------------------------|------------------------------------------|------------------------------------------|
| <u>Front</u>                                                                                                                                                                                                                                                                                                                 | <u>3<sup>1</sup></u>             | <u>4<sup>1</sup></u>                    | <u>10</u>                                | <u>Decorative</u>                        |
| <u>Street-Side</u>                                                                                                                                                                                                                                                                                                           | <u>3<sup>1,2</sup></u>           | <u>4<sup>1</sup></u>                    | <u>10</u>                                | <u>Decorative</u>                        |
| <u>Interior Side</u>                                                                                                                                                                                                                                                                                                         | <u>6</u>                         | <u>6</u>                                | <u>20</u>                                | <u>Decorative and Privacy</u>            |
| <u>Rear</u>                                                                                                                                                                                                                                                                                                                  | <u>6</u>                         | <u>6</u>                                | <u>20</u>                                | <u>Decorative and Privacy</u>            |
| <sup>1</sup> Above street curb elevation.<br><sup>2</sup> Street-side yard areas of corner lots may construct a decorative fence six feet in height above the existing ground level when setback at least ten feet from the street-side property line subject to vegetative planting on the street facing side of the fence. |                                  |                                         |                                          |                                          |

In front yards and in side yards with street frontages, walls and fences shall not exceed three feet in height above the existing grade. However, these decorative front yard or street frontage walls and fences may be permitted columns or posts to exceed this height limit by one foot provided they are spaced at least ten feet apart. Light fixtures may also be placed on columns at driveway entrances up to one foot in height. In street-side yard areas of corner lots, a decorative fence or wall may be constructed six feet in height above the existing ground level when setback at least ten feet from the street-side property line, subject to vegetative planting on the street facing side of the fence. In all other side and rear yard areas, walls and fences may be a maximum of six feet in height above the existing grade. No wall or fence shall be permitted which would in any way obstruct or impair the visibility of automobiles at intersections and points of ingress and egress to the public right-of-way. For walls and solid fences located on any street, a setback of one foot from the lot line is required to prevent interference with pedestrian mobility on existing or future sidewalks. Gates located on any street must match the material of the fencing or no less than 60 percent open in composition whichever is greater. Walls and fences on the lakefront, canalfront, or streamfront side of properties shall meet the requirements established in this article for such waterfront properties. For purposes of locating walls and fences, front yards shall be the area from the front lot line to the front building wall or as determined by the Zoning Official.

- (3) Materials permitted in residential districts. In any residential district, fences in the front yard or in a side yard with street frontage shall be decorative. In all yards, chain link, chicken wire or similar-type fences shall be prohibited.

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Barbed wire, electrically-charged fences and solid or mostly solid metal fences shall not be erected in any residential district. A wall, fence or similar structure erected in any residential district shall not contain material or substances such as broken glass, spikes, nails, barbs or similar materials designed to inflict pain or injury on any person or animal.

- (4) The column and post height of a wall or fence may exceed the allowable wall or fence height by a maximum of two feet in areas outside the front yard and street-side yards, provided they are spaced 20 feet apart in side and rear yards, except the additional two feet of post height may be permitted on columns located on either side of entry gates in areas outside the front yard and street-side yards.
- (5) Walls and fences shall be finished on both sides with similar architectural treatments and color on both surfaces so that, for example, a brick-veneered masonry wall shall have brick veneer on both sides or a stuccoed masonry wall shall have a stucco finish on both sides, a painted wood fence would be painted on both sides.
- (6) Existing nonconforming walls or fences on corner lots located within a required setback may be repaired or replaced subject to verification that the new wall or fence does not create a traffic visibility obstruction, is not closer than five feet to a street-side property line and is constructed of a material permitted by this section. In addition, where a hedge or landscaping material was required as a screening buffer due to a variance or a condition of a permit, the hedge or landscaping material shall be maintained and irrigated to ensure continued viability.
- (7) Corner lots with nonconforming walls or fences for one or two family dwellings: When an existing dwelling has a nonconforming building wall or fence located along a street side yard at a distance of ten feet or greater from the street side lot line, a new fence or wall complying with a permitted material up to six high is allowed to be constructed at the same nonconforming street side setback as a replacement in the same location.
- (o) *Building to have access on a public street.* Every building hereafter erected or moved shall be on a lot with frontage on a public street or previously approved private street. The structures on these lots shall be so located so as to provide safe and convenient access for servicing, fire protection, other emergency vehicles, and required off-street parking. Furthermore, no building hereafter erected or moved shall be on a lot solely adjacent to an unpaved road.
- (p) *Land and building uses seen generally.* (See general provisions for nonresidential districts for applicable regulations).
- (q) *Solid waste containers.* Prior to the issuance of a building permit, plans for the location or use of any solid waste container must show the location of container(s)

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for solid waste disposal. The number of containers, their location and access to them for unloading purposes are subject to the approval of the city. Solid waste containers or dumpsters shall be screened from view of surrounding properties for all new development. Recycling containers may be exempted from this requirement by the city.

(r) Relocation or moving a building.

- (1) No building shall be moved into or relocated to a new site within the city and no work shall be commenced in preparation therefore, unless a moving permit has first been issued.
- (2) Applicants shall submit to the city photographs showing all elevations of the structure to be moved, the proposed relocation site with proposed setbacks and other details to allow verification of compliance with zoning requirements, detailed plans setting forth the new site and foundation plans signed and sealed by a civil or structural engineer registered and licensed in the state. Plans shall also show the proposed route to be taken and the hours in which the building will be moved. Plans shall show the proposed date of commencement of work on the building in preparation for moving and the proposed date of completion of moving.
- (3) Plans shall be reviewed by the city's administrative staff to determine that the proposed route, time of moving, and relocation of site are in conformity to the zoning, building and other applicable regulations of the city, and will not inconvenience the public or damage property.
- (4) Plans shall also be submitted to all utility companies located in the city for their review and issuance of moving permits shall be conditioned upon approval of utility companies. Utility companies shall be entitled to make such requirements as they deem necessary to insure the utilities of the area will not be damaged or interrupted during the moving process.
- (5) Prior to the issuance of a moving permit, the building shall be inspected by the building division of the city to ensure that it is in conformity to the necessary building, plumbing, electrical, and other codes of the city or sufficient plans shall be provided showing compliance with all applicable building codes, and any deficiencies shall be corrected prior to the issuance of a moving permit or prior to final inspection approval of the building on the new site.
- (6) Moving permits shall be issued only to companies or persons duly licensed as building movers in the city and who have posted the required \$10,000.00 bond. The code enforcement director of the city shall have the authority to require such other and additional bonds as may be necessary to ensure that the building is moved in a safe and proper manner and that property is protected. Any damage to city property or city trees shall be compensated by the building mover based on the cost of repairs for damage to city

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infrastructure, including, but not limited to, electrical equipment, water and sewer systems, streets, curbs, sidewalks, drainage conveyances, street lights and signs. Compensation for tree damage shall be in accordance with section 58-287.

- (7) The Building Director shall have the power to accept or reject an application for a moving permit and may impose such additional regulations, conditions, or restrictions, as it deems necessary or proper to insure that the building is moved in a safe and proper manner, that property is protected during the moving process, that the moving process will not unreasonably inconvenience the public and that the building proposed to be moved will fit harmoniously into the neighborhood wherein it is to be located. Applicants may appeal these decisions to the City Commission. Larger buildings over 2,500 square feet in gross area may be referred to the City Commission for approval and any building moving applicant may appeal building moving determinations of the Building Director to the City Commission.
- (s) *Curb cut permits.* Any proposed construction in zoning districts other than R-1AAA, R-1AA, R-1A and R-2 shall have its access points or curb cuts for off-street parking facilities approved by the City Traffic Engineer. In all such cases where that use has an access point or curb cut onto one public street, no additional curb cuts may be made onto another public street without the approval of the City Traffic Engineer. Approval shall be based on a finding that no additional traffic will be directed onto local residential streets.
- (t) *Underground utilities.*
- (1) It is the intent of the city to improve the aesthetic appeal of the city and the reliability of utility service by requiring that utility lines, such as electric, telephone, cable TV, fiber optics and other utilities, be placed underground in conjunction with the construction of all new buildings. The implementation of underground utilities shall also be required as a component to the substantial renovation of any existing building. Substantial renovations shall be interpreted as when the building permit value of such renovations and/or additions exceeds 50 percent of the value of the existing improvements on the most current property tax roll. Property owners shall provide space on site within the private property or within the building for any necessary pad-mounted transformers and switch gear and shall screen such to the degree possible with landscaping or other approved screening when visible from the public right-of-way.
- (2) The city recognizes that certain physical elements such as existing buildings, swimming pools, large trees and such may impose unreasonable hardships on property owner's compliance with the placement of utilities underground and for the location of transformers. Upon confirmation of these hardships by the

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utility companies, the Building Director may waive this requirement for such projects or may allow the waiver of up to two required parking spaces to be used for the required pad-mounted transformer and switch gear.

(u) Duplex-modified yard developments.

- (1) This development concept is to provide for more flexible and creative site planning which may assist in lowering development and housing costs, expand the choice and type of dwelling units while maintaining compatibility with, and the integrity of, adjacent residential neighborhoods.
- (2) "Duplex-modified yard development" defined. A duplex-modified yard development shall consist of a building designed for, or occupied exclusively by, two families and containing dwelling units erected as a single building on adjoining lots, each being separated from the adjoining unit by an approved party wall, thereby creating noncommunicating dwelling units. Such buildings shall be designated duplex-modified yard dwellings.
- (3) Duplex-modified yard developments shall be permitted only when a declaration of covenants and restriction containing or addressing the provisions set forth in subsection (5) below is executed by all holders of any interest in or lien upon the real property upon which the duplex-modified yard dwelling is constructed, is approved by the city attorney as to form and content and is recorded in the Public Records of Orange County, Florida. Those desiring to utilize these duplex-modified yard provisions shall reimburse the city for the costs of the review and approval by the city attorney.
- (4) The adjoining lots on which each duplex-modified yard dwelling is constructed shall together be considered to be one lot for the purpose of compliance with the development standards applicable to the particular zoning district in which the duplex-modified yard dwelling is located.
- (5) The declaration of covenants and restrictions shall contain or address the following:
  - a. A legal description of the entire parcel of real property upon which the duplex-modified yard dwelling is constructed, hereinafter referred to as the "duplex-modified yard development property," and legal descriptions of each separate parcel therein to be subjected to fee simple ownership;
  - b. A provision that restrictions shall run with the land, and shall not be amended or rescinded without the written consent of the city commission;
  - c. A provision designating those portions of the duplex-modified yard development property that will be commonly used by both fee simple owners, if any; establishing mutual easements permitting such use and governing the insurance, maintenance and repair thereof;

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- d. A provision governing the insurance, maintenance and repair of all party walls;
  - e. A provision governing the insurance, maintenance and repair of all exterior portions of all improvements to the duplex-modified yard development property. This provision must require that any exterior maintenance or repair performed with respect to any portion of the duplex-modified yard development property be accomplished in such a duplex-modified yard development property as a whole, i.e., the entire duplex-modified yard dwelling must be repainted at the same time under a common color scheme.
  - f. A provision governing the landscaping of the duplex-modified yard development property. This provision must require that the landscaping be performed and maintained at all times in such a manner so as to preserve the overall appearance and value of the duplex-modified yard development property as a whole.
  - g. A provision governing the method by which the owners of the duplex-modified yard development property will be assessed for the expenses of insurance, maintenance and repair of those items set forth in the preceding paragraphs of this subsection. This provision must include a means by which one owner may perform any necessary maintenance or make any necessary repairs to the duplex-modified yard development property and receive contribution from the other owner should the other owner unreasonably refuse to bear his portion of the expense. This provision must also include a description of the remedies that the contributing owner shall have against the noncontributing owner, such remedies being generally consistent with the remedies afforded to co-tenants in common, and a method by which disputes concerning the necessity or reasonableness of a given item of maintenance or repair may be resolved.
  - h. An optional provision establishing an incorporated owner's association to perform the duties of insurance, maintenance, repair and assessment described above. The owner's association may operate more than one duplex-modified yard development property in a common manner not inconsistent with this section.
- (6) The foregoing duplex-modified yard development standards shall also apply to principal and cottage-dwelling developments with the following provisions:
- a. The two dwelling units (principal and cottage dwellings) are not required to be joined by a common party wall.
  - b. The dwelling units must be provided with at least ten feet of driveway access to each of the dwellings from the public street or alley.

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(v) Significant changes to buildings or approved plans. Various sections of this zoning article require approvals by the Planning and Zoning Board and/or City Commission. Within the section for conditional uses there are specific requirements defining significant changes for conditional uses. For all other types of approvals, the standards below will determine whether a significant change or substantial deviation shall be deemed to have occurred which then would require a subsequent review and approval for those changes by the Planning and Zoning Board and/or the City Commission as follows:

- (1) When there is an increase in the height of a building of more than one foot; or
- (2) When there is an increase in the square footage of a proposed building of more than 500 square feet above grade; or
- (3) When there is an increase in the impervious lot coverage of more than 1,000 square feet; or
- (4) When there is a change in the architectural style of the building; or
- (5) When there is a major shift or relocation of the site and floor plan(s) or distribution of uses within the building or major shift or relocation in the features of building location, stormwater retention, parking area and/or driveways; or
- (6) When additional variances are requested that were not part of the original public record in the review by the planning and zoning board and/or the city commission; or
- (7) When the Planning Director, Building Director, Zoning Official, or City Commission finds that a material change has been made to a plan detail that was critical to the decision rendered by the board or the commission.

(w) Tents. (See general provisions for nonresidential districts for applicable regulations).

(x) Special events. (See provisions for nonresidential districts for applicable regulations).

(y) Home occupations.

- (1) Generally. Any use customarily conducted entirely within a dwelling and carried on by members of the immediate family residing on the premises, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof, is permitted as a home occupation provided that there is used no sign or display that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling, there is no commodity sold upon the premises and no mechanical or electrical equipment is used except such as is permissible for purely domestic or household purposes, and no clients, customers or guests

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connected with the business may visit the property. Fabrication of articles, such as are commonly classified under the terms "arts and handicrafts" may be deemed a home occupation.

(2) *Requirements for receiving a home business certificate.* All home occupations shall be required to obtain a business certificate prior to the start of such business and use of the property. The applicant must submit the following in order to obtain a business certificate. Business certificates issued for home occupations shall only be issued to the residential address and not to a post office box.

- a. Address number and tax ID number of the property;
- b. A survey or sketch with dimension showing the floor plan and the area to be utilized for the home occupation along with the total floor area of the residence;
- c. A detailed written description of the exact nature of the home occupation;
- d. If the residence is a rental unit, a notarized letter of approval for the home occupation from the property owner or property manager is necessary; and
- e. A signed copy of the home occupation regulation form.

(3) *Prohibited home occupations.* The Building Director and/or Zoning Official shall make determination as to whether any business qualifies as a home occupation based upon its type and operational characteristics. The following list of uses indicates some the businesses which shall be prohibited as home occupations but is not intended to be a complete list:

- a. Adult entertainment;
- b. Antique shops;
- c. Auto service and repair;
- d. Barber shop and beauty salon;
- e. Bed and breakfast facilities;
- f. Body scrubs, body art or tattoo;
- g. Child care of more than five pre-school children and/or five after-school children (see family day care definition);
- h. Churches;
- i. Clothes modeling or sales;
- j. Clubs, private;
- k. Escort services;



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- l. Food processing and handling (excluding Cottage Food businesses subject to F.S. § 500.80);
  - m. Fortune-tellers;
  - n. Group instruction of more than two persons;
  - o. Health spas;
  - p. Kennels or overnight boarding of animals;
  - q. Massage therapy;
  - r. Retail commercial operations;
  - s. Taxi or limousine service;
  - t. Vehicle sales/rental;
  - u. Storage or warehousing.
- (4) *Storage of merchandise.* No merchandise shall be displayed or sold on the premises. No outside display of merchandise or outside storage of equipment or materials shall be permitted.
- (5) *Employees.* No person shall be engaged in any home occupation as an employee or volunteer worker other than members of the immediate family residing in the dwelling unit. No accessory building shall be used for such home occupation. Any home occupation that creates objectionable noise, fumes, odor, dust, electrical interference shall be prohibited.
- (z) *Short-term rental of residential dwellings.* The rental, use or occupancy of any residential dwellings for less than one month shall be prohibited.
- (aa) *Construction tolerances.* The city's Zoning Official may permit setback encroachments up to one-foot upon request in writing on a sworn affidavit from the property owner attesting to the cause or reason for the error relating to technical reasons that is subject to acceptance by the city.
- (bb) *Limitation on first or second floor walls of buildings in residential zoning districts.* First or second floor walls of buildings in residential zoning districts shall not extend above the top plate of the first floor for one-story buildings or above the second-floor top plate of two-story buildings so as to create additional wall height or the appearance of an additional story unless such area is part of the allowable floor area and meets the required setbacks. This limitation does not prevent the provision of a parapet wall for flat-roof buildings.
- (cc) *Required two-story setback applies.* The required two-story setback shall apply to walls which extend 12 feet in height or more above the existing pre-construction grade for buildings in residential zoning districts.

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(dd) *Solar panels.* Solar photovoltaic (PV) is a permitted accessory use, provided that it meets the provisions of the respective zoning district and limited to the setbacks, area and coverage limitations of accessory structures in the respective zoning district. Solar panels shall be placed in locations that, to the greatest extent possible, are not visible from the public right-of-way or, as an alternative, other technologies such as roofing materials designed as photo voltaic collectors shall be used if the optimum location is visible from the public right-of-way.

(ee) *Canton Park site development standards.* The property described as and known as Canton Park Subdivision as referenced in the Canton Avenue Cottages 1, plat page 108 of book 86 shall have the following development standards for lots in the R-2 and R-1A zoning district:

Front setback to main dwelling: 23 feet.

Porch setback: 15 feet from front lot line.

Side setbacks: Eight feet on one side and 12 feet on opposite side.

Rear setback: 25 feet to main dwelling. Lots less than 90 feet deep may utilize a rear setback of ten feet.

Garages in rear: Ten feet to rear lot line and five feet to side lot line.

Chimneys and bay windows may encroach two feet into the setback.

Side setback to a porte cochere is two feet.

Rear screened porches may be connected to the garage.

Air-conditioning compressors shall observe a five-foot side setback.

Other zoning provisions shall apply where applicable or not covered under this subsection.

(ff) *Parking garage setbacks.* Any above-grade parking garage or parking deck shall be setback at least 100 feet from any property used for single-family or low-density residential. The distance shall be measured from the closest point of the parking garage structure to the property line of the property used for single-family or low-density residential.

(gg) *Gateway plan conformance.* Pursuant to the desire to provide attractive entrance features and architectural interest at the gateway entrances into the city, the city commission shall have the authority in the review of plans for the development or redevelopment of properties to negotiate for a portion of such property to be reserved for the construction of gateway design structures, and the city commission may negotiate on a case-by-case basis, depending on the size of the project, a financial arrangement between the property owner/developer and the city to facilitate the construction of gateway design structures.

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(hh) *Parking garage design guidelines.* Parking garages shall conform to the parking garage design guidelines and procedures outlined within section 58-84. This requirement, however, shall not apply to parking garages below grade within basements, defined as having at least half the height of the entire parking structure below existing grade or for parking garages that are totally enclosed by other liner building areas that are not visible from any public street other than the entrance/exit feature.

(ii) *Parking shelters.* For multi-family residential projects, the city may permit open accessory detached shelter structures for shade and rain protection for vehicles provided that the parking shelter is at least 80 percent open, that the posts or columns meet a minimum five-foot setback from adjacent properties, that the structures meets all building code wind load requirements; are not more than one story in height and limited to no more than ten feet in height to the roof eave. Such parking shelters shall only cover a row of parking one space deep and may not span across a landscape island or the drive aisle. Such shelters may only located in the rear of the property or side of the property and not located in any area within 25 feet of a right-of-way. Furthermore, such parking shelters must be architecturally consistent with the principle building and as such, metal post and canvas type coverings are not permitted.

(jj) *Gated streets and gated communities.* Consistent with the subdivision regulations provisions that prohibit private streets, and in order to promote vehicular and pedestrian ingress and egress access and for providing uninhibited emergency services access to any neighborhood, in subdivision or other housing community or housing projects, the use of gates or other access controls to restrict access to streets, neighborhoods, condominiums or other housing communities shall be prohibited. This shall not be interpreted to prohibit the access management controls and gates to private residential parking garages provided unrestricted access is provided to visitor parking, that may be required per this Code or by a condition of approval of a residential project by the city commission nor shall it be interpreted to prohibit gates on driveways to any individual single family home.

(kk) *Split residential zoning.* In cases where a property has split and different zoning designations, the property may be used cumulatively for the density permitted by the combined zoning designations, subject to approval by the city commission.

(ll) *Air Traffic Hazards.* To ensure no air traffic hazards will be created, no structure, antenna, tower or appendage to a building may exceed the heights detailed in the Orlando/Orange County Airport Zoning Regulations text and map.

(Ord. No. 2796-10, § 1(Exh. A), 2-22-10; Ord. No. 2795-10, § 4, 2-22-10; Ord. No. 2849-11, § 15, 9-12-11; Ord. No. 2875-12, § 4, 6-11-12; Ord. No. 3002-15 , § 1, 7-13-15; Ord. No. 3006-15 , § 1, 8-10-15; Ord. No. 3030-16 , § 5, 2-8-16; Ord. No. 3096-17

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, § 6, 12-11-17; Ord. No. 3098-17 , § 5, 12-11-17; Ord. No. 3182-20 , § 5, 9-9-20; Ord. No. 3185-20 , § 2, 10-14-20)

**SECTION 5.** That Chapter 58 "Land Development Code", Article III "Zoning Regulations", Section 58-95 "Definitions" of the City of Winter Park Land Development Code is hereby amended as shown below (underlined language are additions; ~~stricken through~~ language are deletions; subsections not included are not being modified):

**Sec. 58-95. Definitions**

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*Attic* means ~~an area of a building between the roof and the ceiling of the highest habitable floor~~ the space enclosed within the roof structure of a building accessed by a pulldown ladder. Spaces or rooms on the same floor as living areas, which are more than five feet in height, are not included in the definition of attic, and therefore count towards FAR. Attic areas are not to be habitable areas but shall serve only as storage area or for mechanical equipment. Attics shall not contain plumbing fixtures or finished room areas. Attics shall have minimal lighting and air-circulation fans.

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*Existing grade* means the existing grade or elevation of the ground surface that exists or existed prior to man-made alterations, such as grading, grubbing, filling, or excavating.

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*Lot depth* means the average distance measured perpendicular to the front lot line and the rear lot line.

*Lot ~~frontage or width~~* means the measurement at the building line across the front of the existing or proposed home ~~the lot boundary dimension adjoining a street.~~

*Structure* means any combination of materials assembled at a fixed location and requiring attachment to the land through pilings, footings, foundations and the like, to give support or shelter and/or provide for human habitation or use, such as a building, tower, framework, tunnel, tent, stadium, platform, tank, fence, sign, flagpole, swimming pool, or the like.

*Substantial improvement* means, for a structure any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the assessed value of the improvements structure-based upon the most construction costs determined for the type of construction as set forth in the building code detailed on the most current property tax roll of the Orange County Property Appraiser.

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**SECTION 6. CODIFICATION.** Sections 1, 2, 3, 4, and 5 of this Ordinance shall be incorporated into the City of Winter Park Code of Ordinances.

**SECTION 7. SEVERABILITY.** The divisions, sections, subsections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, subsection, section, or division of this Ordinance shall be declared invalid, unconstitutional or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such invalidity, unconstitutionality or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs, subsections, sections, and divisions of this Ordinance. The City Clerk is given liberal authority to ensure proper codification of this Ordinance, including the right to correct scrivener's errors.

**SECTION 8. CONFLICTS.** In the event of a conflict between this Ordinance and any other ordinance of the City of Winter Park, this Ordinance shall control to the extent of such conflict.

**SECTION 9. EFFECTIVE DATE.** Once adopted, this Ordinance shall become effective on the 1st day of January, 2023.

**ADOPTED** at a regular meeting of the City Commission of the City of Winter Park, Florida held in City Hall, Winter Park, on this \_\_\_\_ day of \_\_\_\_\_ 2022.

By: \_\_\_\_\_  
Mayor Phil Anderson

ATTEST:

By: \_\_\_\_\_  
Rene Cranis, City Clerk



# City Commission **agenda item**

|                                                                                                                                                  |                                      |
|--------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|
| <b>item type</b> Public Hearings: Non-Quasi Judicial Matters<br>(Public participation and comment on these matters may be virtual or in-person.) | <b>meeting date</b> October 26, 2022 |
| <b>prepared by</b> Rene Cranis                                                                                                                   | <b>approved by</b> Randy Knight      |
| <b>board approval</b> Completed                                                                                                                  |                                      |
| <b>strategic objective</b>                                                                                                                       |                                      |

## **subject**

Ordinance 3256-22: Amending Chapter 2, Article III, "Subsidiary Boards of the City of Winter Park," to provide for the appointment of a non-resident to the Keep Winter Park Beautiful and Sustainable Advisory Board (2nd reading)

## **motion / recommendation**

Adopt the ordinance.

## **background**

At the September 9, 2022 Commission Meeting the Mayor mentioned wanting to appoint the staff member at Rollins College that oversees their sustainability efforts to the City's KWPB and Sustainable Advisory Board, but that our residency requirement for this board would not allow it. Staff was directed by the commission to bring back an ordinance allowing for one of the three mayoral appointees to this board be a non-resident with strong ties to the city and an expertise in sustainability. The attached ordinance meets that requirement.

## **alternatives / other considerations**

Keep the residency requirement for this board.

## **fiscal impact**

None.

## **ATTACHMENTS:**

[Ord 3256-22 Amending Chapter\\_2\\_Subsidiary\\_Boards\\_KWPB\\_and\\_Sustainable.doc](#)

## ORDINANCE 3256-22

### **AN ORDINANCE OF THE CITY OF WINTER PARK FLORIDA, AMENDING ARTICLE III OF CHAPTER 2 OF THE WINTER PARK CODE OF ORDINANCES REGARDING SUBSIDIARY CITY BOARDS TO MODIFY THE MEMBERSHIP REQUIREMENTS OF THE KEEP WINTER PARK BEAUTIFUL AND SUSTAINABLE ADVISORY BOARD; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the City Commission desires to modify the membership requirements of the Keep Winter Park Beautiful and Sustainable Advisory Board to allow the appointment of a non-resident member with strong ties and to the City and possessing a demonstrated expertise in sustainability, and

**WHEREAS**, the City Commission determines that this ordinance is in the best interest of the citizens of the City of Winter Park.

**NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, HEREBY ORDAINS AS FOLLOWS:**

Section 1. Recitals. The recitals set forth above are hereby adopted and incorporated by reference.

Section 2. Amendment/Adoption. Chapter 2, Article III, Division 3 of the City of Winter Park Code of Ordinances is hereby amended to read as follows: (underlined language are additions; ~~stricken through~~ language are deletions; provisions and sections not included are not being amended):

#### **ARTICLE III. - SUBSIDIARY BOARDS OF THE CITY OF WINTER PARK**

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#### **DIVISION 3. - DESCRIPTION, DUTIES AND PROCEDURES OF EACH CITY BOARD**

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##### **Sec. 2-62. – Keep Winter Park Beautiful and Sustainable Advisory Board.**

Pursuant to the authority of the City Commission, there is established with the City of Winter Park, a Keep Winter Park Beautiful and Sustainable Advisory Board, subject to the following provisions:

- (1) Membership. The number of members and the procedures for appointment thereof shall be in accordance with the provisions in divisions 1 and 2 of this article. One of the three mayoral appointments may be a non-resident with strong ties to the city and with documented sustainability expertise.
- (2) Advisory board. The Keep Winter Park Beautiful and Sustainable Advisory Board is an advisory board, and shall, after receiving such information as it

deems appropriate, and following due deliberation in accordance with its internal rules and procedures, give advice and recommendation to the city commission concerning matters related to the environmental, economic and social ~~sustainable~~ sustainability of the City of Winter Park. The Keep Winter Park Beautiful and Sustainable Advisory Board shall have no adjudicatory or enforcement authority.

- (3) Procedures. The procedures and rules for operation of the Keep Winter Park Beautiful and Sustainable Advisory Board shall be in accordance with the general requirements stated in division 1 and 2 of this article.

Section 3. Codification. Section 2 shall be codified in the City Code. Any section, paragraph number, letter or heading within the Code may be changed or modified as necessary to effectuate the codification. Grammatical, typographical and similar or like errors may be corrected in the Code, and additions, alterations and omissions not affecting a material substantive change in the construction or meaning of this Ordinance may be freely made.

Section 4. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural or any other reason, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion or portions hereof or hereto.

Section 5. Conflicts. In the event of any conflict between this Ordinance, or any part thereof, with any of the provisions of other City Ordinances or the City Code, this Ordinance shall control.

Section 6. Effective Date of Ordinance. This Ordinance shall become effective immediately upon adoption of the City Commission of the City of Winter Park, Florida.

Adopted by the City Commission of the City of Winter Park, Florida in a regular meeting assembled on the 26th day of October, 2022.

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Mayor Phillip M. Anderson

ATTEST:

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Rene Cranis, City Clerk