

## MEMORANDUM

**TO:** Tom Harmer, Town Manager

**FROM:** Allen Parsons, AICP  
Director, Planning, Zoning & Building Department

**DATE:** March 22, 2019

**SUBJECT:** Ordinance 2018-24, Amending and Replacing Chapter 158, Zoning Code

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### **Recommended Action**

Adopt Ordinance 2018-24.

### **Background**

The purpose of the Longboat Key Zoning Code is to ensure that development enhances, is compatible with the Town, and conducted in a manner that protects public health, safety and welfare. The Zoning Code protects the Town's natural and man-made resources and through orderly development it maintains the character and stability of present and future land uses along with the community's character. Regulations pertaining to permitted land uses, required setbacks, lot coverage, maximum building heights and regulations for accessory structures, such as docks, are included in the Zoning Code. Given the importance of the Town's Zoning Code as the primary implementing document establishing controls for development of land within the Town (based on the Comprehensive Plan) it is critical to have an on-going review of the Code to update as needed.

The last major analysis and rewrite of the Town's Zoning Code was in 1990. Interim revisions, which have added up over time, have been in a more piecemeal fashion.

The Zoning Code Analysis and Rewrite project (RFP #16-015) was initiated in 2016 for a comprehensive review to address needed updates due to changes over time, and to correct minor inconsistencies associated with piecemeal changes over the years. The Town entered into a contract with Calvin, Giordano & Associates (CGA) on April 4, 2016, for a Zoning Code Analysis and Rewrite. The initial intent of the Zoning Code update was to engage a professional planning firm to review, analyze and update the Town's Zoning Code. The intended result was to provide recommendations to enhance the Zoning Code's overall readability, understanding and organization, creating a more "user-friendly" document, along with addressing internal inconsistencies and other updates necessary to improve the Code.

The consultant's initial contractual efforts, were re-directed toward a more focused area of the Zoning Code. They were tasked with preparing recommended new Zoning Districts for existing non-conforming density developments, to be made conforming. With the Commission priority to address the non-conforming properties at their May 14, 2018 Regular Workshop Meeting, ordinances addressing nonconforming redevelopment were separated to proceed independently from the comprehensive Zoning Code rewrite. Those efforts were ultimately taken on by staff and were part of a series of amendments (Ordinance 2018-19, Ordinance 2018-20, and Ordinance 2018-14) recently approved in public hearings held on January 7, 2019, and on February 4, 2019. The amendments included: development of a nonconforming

Certificate of Built Conditions program; amendments to the Zoning Code nonconforming density redevelopment provisions, including the adoption of a new zoning overlay district (Conformance Overlay Redevelopment District or COD); and revisions to the Town's Planned Unit Development (PUD) process. These adopted ordinances have been incorporated into the existing draft Zoning Code.

Unfortunately, due to challenges receiving deliverables consistent with the original intent, staff terminated the consultant's contract in November 2018, and assumed the role of completing the Zoning Code update effort. Staff focused on organizational improvements, internal consistency issues, and various other issues with the Zoning Code. Additional improvements, to create a more user-friendly Zoning Code, and to address other policy issues, will be taken up separately in the next phases of this systematic review.

As part of this process, the Planning and Zoning (P&Z) Board held six public workshops on the Zoning Code Analysis and Rewrite effort. A brief summary of issues discussed at those workshops is provided below:

- **August 23, 2016.** Introduction of the overall project. Discussion of goals and desired outcomes. Most of the discussion at this workshop focused on the draft redevelopment and nonconforming use provisions.
- **March 21, 2017.** Discussed the draft outline of the Zoning Code, handicapped accessible parking, administrative waivers, draft table of decisions and appeals, and draft zoning tables.
- **May 16, 2017.** Discussed the draft outline of the Zoning Code and the table of decisions and appeals.
- **October 17, 2017.** Discussed the draft outline of the Zoning Code, residential floor area ratios, pool decks, pool cages, building eaves, and parking standards.
- **August 21, 2018.** Discussed approval processes and appeals, confirmed the deletion of references to stories, adding reference to "redevelopment", handicap parking standard, height, Burt Harris Act, PUD's and missing traffic impact language.
- **December 18, 2018.** Discussed purpose section text, administrative waivers (recommended to delete), several text clarifications, zoning text and map amendments sections organization, open space standards, and definitions of multi-family and hardship.

### **Proposed Revisions**

The attached updated Zoning Code draft reflects the P&Z Board Workshops and recommendations from their January 15, 2019 public hearing. The Town Commission Regular Workshops held on January 22, and February 19, 2019, and the Town Commission's first reading and public hearing on March 4, 2019 further refined the document. The revisions have been incorporated into the attached ordinance and do not appear in underline/strikethrough format. An underline/strikethrough version is available upon request. The document also includes editorial comments in italicized text, and in parenthetical references which reference to the current Code Section from which the text was taken. These references will be removed in the version of the Zoning Code when it is codified by Municode.

Following the March 4, 2019 Town Commission Regular Meeting other clarification points were identified, and are summarized below. Those changes are derived primarily from Town

Commission input, initiated at the March 4, 2019 Regular Meeting and conveyed to staff and also include additional minor clarification updates caught by the Town Attorney. These changes are characterized as non-substantive in nature and generally marginal additions/deletions to text to provide additional clarity. No additional substantive issues were raised.

### **Recommended Changes Following the March 2019 Town Commission Regular Meeting**

1. Throughout the Code cross-section references have been updated.
2. Sec. 158.013(A) (*Appeals of Planning and Zoning Official*): Added clarification regarding the appeal process to the Zoning Board of Adjustment and the allowance for a stay of work and situations that would allow for the continuance of work (where a stay would cause imminent peril to life or property). Language was cleaned up to clarify this step in the code section dealing with appeals of the Planning and Zoning Official.
3. Sec. 158.013 (*Appeals of Planning and Zoning Official*): Replaced the terms “petitioner” and “applicant” with the term “petitioning party” to recognize that appeals of the Planning and Zoning Official may be filed by members of the public, not just by an applicant. The term “petitioning party” replaces use of the previously substituted term “Appellant.” The Town Attorney (memo attached) noted that the term appellant has specific legal connotations that could introduce confusion. The term petitioning party has also been added to the Definitions section of the Zoning Code (Sec. 158.144) utilizing the definition previously applied to the term appellant.
4. Sec. 158.014 (*Right to Judicial Review*): Revised the Right to Judicial Review section to more clearly convey that the appeal process identified by this section applies to appeals of quasi-judicial decisions. Such decisions are more appropriately defined to be judicially appealable. This section presently duplicatively covers appeals of the Planning and Zoning Official, which is addressed in Sec. 158.013. The existing language also addresses appeals of any Town officials or departments, which is overly broad and unnecessary in the context of the Zoning Code Chapter. The Town Attorney’s attached memo further speaks to this proposed revision.
5. 158.021(C) (*Zoning Code Text Amendments, Town Commission Action on Planning and Zoning Board Recommendation*) and 158.022 (*Zoning Map Amendments, Town Commission Action on Planning and Zoning Board Recommendation*): Updated the language addressing the Town Commission vote required when the P&Z Board recommends denial of a proposed claim to mirror the language found in the Town Charter (Article II, Sec. 16) requiring the affirmative vote of “not less than” four Commission members. The current language in Sec. 158.021(C) indicates that four members are required for approval. The addition of the words “not less than” four add clarification that any number greater than four commission members is also acceptable to approve ordinances. The language also adds consistency with the Charter should there be votes that take place at Town Commission meetings with absent members.
6. 158.038 (*Open Space for Planned Unit Developments, PUD’s*): Amended the text to add to the description of tourist resort facilities to be consistent with, and mirror, the language describing tourist resort facilities found in Sec. 158.030(E)(2) (*Site Development Plan, Open Space and Landscape, Nonresidential Open Space Requirement*).

In addition, as part of the Zoning Code update, staff, the Planning & Zoning (P&Z) Board, and Town Commission, identified 17 items, provided below, as substantive future issues to address separately:

1. **Parking Standards- Multi Use Projects**
2. **Parking Standards-** Options for alternatives such as Valet or Shuttle Service
3. **Swimming Pool Related Code Standards:** Setback, Slope, Finished Grade
4. **Side Yard Setbacks-** Potential Additional Dimensional Standards for Structures Built on Residentially Zoned Properties Comprised of Two or More Lots
5. **Pickleball Court Accessory Use Standards-** Consider adding separate location and setback requirements for Pickleball Courts
6. **Parks and Open Space Land Acquisition-** Consider eliminating the option to dedicate land for parks and open space and provide only the Fee option.
7. **Docks/Structures Over Water-** consider the addition of provisions addressing docks within canals that may encroach into the maximum 30 percent width of the navigable waterway. Potential provisions include: requiring docks to be staggered in location, where possible, when built directly across from a neighboring dock; prohibiting mooring of vessels at the end of a dock that extends to the maximum 30 percent width.
8. **Gulf Waterfront Yard Setback Variances-** consider providing additional guidance and/or criteria or minimums in considering Variance applications.
9. **Appeals of Planning and Zoning Official** - consider adding process requirements for the Planning and Zoning Official to notify affected residents of administrative approvals in order for affected parties to be able to timely appeal determinations or decisions
10. **Accessory Internal Commercial Percentage Standards for Hotels & Mixed-Use Projects**
11. **Site Plan Exemptions Thresholds**
12. **Land Uses** (Permitted, Unpermitted, Special Exception) Assessment to Ensure Use Matrix is Comprehensive & Up-to-Date for the Town
13. **Commercial Revitalization Standards & Criteria**
14. **Landscaping Code Provisions** (New)
15. **Site Lighting Code Provisions** (New)
16. **Public Parking in Longbeach Village** (being addressed separately).
17. **User/Readability Improvements throughout the Zoning Code** (will be addressed as an ongoing staff effort).

At their March 19, 2019 Regular Workshop, the Commission provided direction to staff on a prioritized ranking and series of overlapping groupings for processing future policy amendments.

### **P & Z Board Recommendation**

Ordinance 2018-24 was considered by the P&Z Board at their January 15, 2019 Regular Meeting and was recommended for approval (6-0).

### **Staff Recommendation**

Adopt Ordinance 2018-24.

## **Attachments**

- A. Ordinance 2018-24
- B. Legislative Text - Chapter 158, Zoning Code
- C. March 22, 2019, Town Attorney Memorandum

## ORDINANCE 2018-24

**AN ORDINANCE OF THE TOWN OF LONGBOAT KEY, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF LONGBOAT KEY, BY AMENDING TITLE 15 LAND DEVELOPMENT CODE; AMENDING, REORGANIZING AND RECODIFYING CHAPTER 158, ZONING CODE; REORGANIZING ARTICLE I, GENERAL PROVISIONS AND AMENDING RELATED SECTIONS THEREIN; REORGANIZING ARTICLE II, DECISION MAKING AND APPEALS AND AMENDING RELATED SECTIONS THEREIN; REORGANIZING ARTICLE III, DEVELOPMENT REVIEW PROCEDURES AND AMENDING RELATED SECTIONS THEREIN; REORGANIZING ARTICLE IV, ZONING DISTRICTS AND AMENDING RELATED SECTIONS THEREIN; REORGANIZING AND ESTABLISHING ARTICLE V, SUPPLEMENTAL DEVELOPMENT STANDARDS AND AMENDING RELATED SECTIONS THEREIN; RESTATING AND CONSOLIDATING THE TOWN'S TOURISM USE RESTRICTION WITHIN ARTICLE V SUPPLEMENTAL DEVELOPMENT STANDARDS; REORGANIZING AND ESTABLISHING ARTICLE VI, NONCONFORMITIES AND LAWFULLY EXISTING USES AND AMENDING RELATED SECTIONS THEREIN; REORGANIZING AND ESTABLISHING ARTICLE VII, VIOLATIONS, ENFORCEMENT AND PENALTIES AND AMENDING RELATED SECTIONS THEREIN; REORGANIZING AND ESTABLISHING ARTICLE VIII, TRANSPORTATION PROPORTIONATE FAIR-SHARE PROGRAM AND AMENDING RELATED SECTIONS THEREIN; REORGANIZING AND ESTABLISHING ARTICLE IX, SCHOOL CONCURRENCY PROPORTIONATE-SHARE MITIGATION PROGRAM AND AMENDING RELATED SECTIONS THEREIN; REORGANIZING AND ESTABLISHING ARTICLE X, DEFINITIONS AND AMENDING RELATED SECTIONS THEREIN; REORGANIZING AND ESTABLISHING ARTICLE XI, APPENDICES AND AMENDING RELATED FIGURES THEREIN; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act (" the Act") as set forth in Part II, Chapter 163, Florida Statutes, the Town of Longboat Key amended its Comprehensive Plan on June 5, 2017; and

**WHEREAS**, the Act requires that the Town must adopt or amend and enforce land development regulations which are consistent with and implement their adopted comprehensive plan; and

**WHEREAS**, the Town Commission has indicated a desire to evaluate, update, clarify and revise its Zoning Code and has directed Town Staff and consultants to provide recommendations to create a more concise, readable, and usable document; and

**WHEREAS**, it is also the Town Commission's intention to protect and preserve certain vested and grandfathered rights that are recognized by applicable Florida law, and that this Zoning Code amendment as contemplated herein will not compromise those existing vested and grandfathered rights; and

**WHEREAS**, the purpose of the Town's Zoning Code is to establish comprehensive controls for the development of land that are consistent with the Town's Comprehensive Plan; that preserve the unique island character of the town; that protect the health, safety and welfare of the people; and that protect the town's resources through orderly growth and development: and

**WHEREAS**, the Town's Planning and Zoning Board which serves as the Town's local planning agency has reviewed the entire Zoning Code and certain other land development regulations and made recommendations to the Town Commission as to the consistency of their recommendations with the adopted comprehensive plan; and

**WHEREAS**, the Town finds and determines that the regulation of zoning for purposes of aesthetics has long been recognized as advancing public welfare; and

**WHEREAS**, the Town finds and determines that, from a planning perspective, one of the most important community goals is to define and protect aesthetics resources and community character; and

**WHEREAS**, the Town is a barrier island with unique natural attributes, aesthetic resources, and community character; and

**WHEREAS**, the Town finds and determines that the purpose of the regulation of zoning as set forth in the Town's Zoning Code is to preserve the attributes, resources, and character of the Town and to promote the health, safety, and welfare of the public through a comprehensive system of reasonable, consistent and nondiscriminatory standards and requirements; and

**WHEREAS**, after due public notice, the Town's Planning and Zoning Board held workshops on August 8, and December 18, 2018 and a public hearing on January 15, 2019, to consider the proposed amendment of the Zoning Code and provide recommendations to the Town Commission as the local governing body; and

**WHEREAS**, on March 4, 2019, the Town Commission conducted a duly noticed initial public hearing on the proposed Zoning Code; and

**WHEREAS**, on April 1, 2019, the Town Commission conducted a duly noticed second public hearing on the proposed Zoning Code and the Town Commission approved the Zoning Code.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF LONGBOAT KEY, FLORIDA, THAT:**

SECTION 1. The Recitals above are ratified and confirmed as true and correct and are hereby incorporated fully by reference.

SECTION 2. The Town Commission hereby amends and restates the code of ordinances of the Town of Longboat Key by amending and restating title 15 Land Development Code Chapter 158, Zoning Code, attached hereto as Exhibit "A" and incorporated as if fully set forth herein.

SECTION 3. Severability. If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

SECTION 4. Repeal of Ordinances in Conflict. All other ordinances of the Town of Longboat Key, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

SECTION 5. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Longboat Key upon adoption.

SECTION 6. This Ordinance shall take effect upon second reading in accordance with law and Charter of the Town of Longboat Key.

Passed on first reading and public hearing the 4th day of March, 2019.

Adopted on second reading and public hearing this 1st day of April, 2019.

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George L. Spoll, Mayor

ATTEST:

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Trish Shinkle, Town Clerk

Exhibit: "A": Chapter 158, Zoning Code



# Chapter 158 - ZONING CODE

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## Article I. – General Provisions

### 158.001 – Title.

This Chapter shall be known and cited as the Town of Longboat Key Zoning Code, which may, in subsequent Sections of this Chapter, be referred to as the Zoning Code. (158.001)

### 158.002 – Purpose.

- (A) The purpose of this Chapter is to establish comprehensive controls for the development and redevelopment of land in the Town based on the Comprehensive Plan, as defined in Chapter 160, and designed to preserve the unique island character of the Town and enacted in order to protect, promote and improve the public health, safety, comfort, order, appearance, convenience, morals and general welfare of the people; and to use and strengthen the Town's role in establishing and implementing the Comprehensive Planning process in order to protect natural and man-made resources and to maintain, through orderly growth and development, the character and stability of present and future land use and community development. It is recognized that the Town is predominantly built out with a significant portion of the structures and dwellings exceeding 30 years of age. Therefore, most of the development in the Town will be in the form of redevelopment of or renovations to existing sites or structures. The Zoning Code is intended to be comprehensive and flexible enough to address some of the challenges of redeveloping existing sites, whether they are conforming or non-conforming, in a consistent manner with existing uses. (158.002(A))
- (B) The objectives of this Chapter are to provide: For efficiency and economy in the process of development; for the appropriate and best use of land; for preservation, protection, development and conservation of the natural resources of land, water and air; for convenience of traffic and circulation of people and goods; for the use and occupancy of buildings; to maintain an appropriate balance for the scale of buildings; to promote and protect safety, light, air, access, and enhancement of appearance; for healthful and convenient distribution of population; for adequate public facilities and utilities; for promotion of civic amenities of beauty and visual interest; and for development in accord with the Comprehensive Plan. (158.002(B))
- (C) This Chapter shall include regulations in regard to the following:
- (1) Height, size, scale, interrelation among buildings and to the adjacent environment, bulk, location, erection, construction, repair, reconstruction, alteration and use of buildings and other structures, for trade, industry, residence and other purposes. (158.002(C)(1))
  - (2) Use of land and water for trade, profession, residence and other purposes. (158.002(C)(2))
  - (3) Size of yards and other open spaces. (158.002(C)(3))
  - (4) Percentage of lots that may be occupied. (158.002(C)(4))
  - (5) Density. (158.002(C)(5))
  - (6) Conditions under which various classes of nonconformities may continue. (158.002(C)(6))
  - (7) Use and types and sizes of structures in those areas subject to seasonal or periodic flooding so that danger to life and property in those areas will be minimized. (158.002(C)(7))
  - (8) Performance standards for use of property and location of structures thereon. (158.002(C)(8))
- (D) All regulations shall be uniform throughout each district, but the regulations in one district may differ from those in other districts. Each district shall designate the uses permitted in that district. (158.002(A))



### **158.003 – Interpretation.**

In interpreting and applying the provisions of this Chapter, they shall be held to be the minimum requirements for the protection, promotion and improvement of the public health, safety, comfort, order, appearance, convenience, morals and general welfare of the community. It is not intended by this Chapter to interfere with or abrogate or annul any easements, covenants, or other agreements between parties. However, where this Chapter imposes a greater restriction on the use of buildings or premises, or on the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants or agreements, the provisions of this Chapter shall control. If, because of error or omission in the Zoning Map, any property in the Town is not shown as being in a zoning district, the classification of the property shall be R-1SF unless changed by amendment to the Zoning Map or by subsequent zoning ordinances. (158.003)

### **158.004 – Application.**

Except as otherwise provided, the following restriction shall apply:

No building shall be erected and no existing building shall be moved, altered, added to, or enlarged, nor shall any land or building be designed, used, or intended to be used for any purpose or in any manner other than as permitted in the district in which the building or land is located. (158.004)

### **158.005 – Relationship to the Town's Comprehensive Plan.**

The Local Government Comprehensive Planning Act of 1975, as amended by the Local Government Planning and Land Development Regulation Act, provide that adopted Comprehensive Plans have legal status, and that no public or private development be permitted except in conformity with that Comprehensive Plan. The above referenced acts also assign to local governments the responsibility for implementing adopted Comprehensive Plans by the adoption of land development regulations. All land development regulations enacted or amended, including this Zoning Code, shall be consistent with the Town's adopted Comprehensive Plan or elements, or portion thereof. In the event that the regulations of this Zoning Code are inconsistent with any provisions of the Town's Comprehensive Plan, the provisions of the Town's Comprehensive Plan shall govern. (158.005)

### **158.006 – Zoning Map adopted, interpretation.**

- (A) The official Zoning Map of the Town 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 a part of this Chapter. The official Zoning Map shall be identified by the signature of the mayor, attested by the Town clerk, and bearing the seal of the Town under the following words: This is to certify that this is the Official Zoning Map referred to in Ordinance 2014-22 of the Town of Longboat Key, Florida, as may be amended from time to time. (158.007(A))
- (B) The district boundary lines are intended generally to follow the centerlines of waterways and streets, existing lot lines, or municipal boundary lines, as shown on the Zoning Map; but where a district boundary line does not follow such a line, its position is shown on the Zoning Map by a specific dimension expressing its distance in feet from a street centerline or other boundary line as indicated. In case of uncertainty as to the true location of a district boundary line the Planning and Zoning Official shall be responsible for interpreting the intent of the Zoning Map to determine such district boundary in accordance with the intent and purpose of this code. All Zoning Map Amendment Petitions shall be referred to the Planning and Zoning Board. (158.007(B))

**158.007 – Reserved.**

**158.008 – Reserved.**

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## Article II. – Decision Making and Appeals

### DIVISION 1. – CHART OF DECISIONS AND APPEALS

#### 158.009 – Decisions.

The following table summarizes the responsible entities for decisions of the applications and processes addressed in this Chapter.

Code Section	Application/Process	Approval Designee
158.006(B)	Zoning District Boundary Determinations	Planning & Zoning Official
158.010(E)	Appeals of order, requirement, decision, or determination of the Planning and Zoning Official	Zoning Board of Adjustment
158.010(F)	Daylight Plane Waivers	Zoning Board of Adjustment
158.020	Variances	Zoning Board of Adjustment
158.029(C)	Site Development Plans (other than multi-family developments with less than 10 dwelling units)	Planning & Zoning Board
158.100(M)	Parking Waivers	Planning & Zoning Board
158.046	Commercial Revitalization Waivers for Landscaping, building coverage, yards, and awnings projecting three feet or more	Planning & Zoning Board
158.113	Personal Wireless Service Facilities	Planning & Zoning Board
158.018	Special Exceptions	Planning & Zoning Board
158.046	Commercial Revitalization Waivers for Parking Agreements, awnings projecting less than three feet, additional building coverage.	Planning & Zoning Official, and Building Director
Article IV	Site Development Plans for multi-family developments with less than 10 dwelling units	Planning & Zoning Official
158.116	Repair, replacement, addition, or alteration to an Essential Service	Planning & Zoning Official
158.026	Minor Development Proposal/Changes	Planning & Zoning Official
158.132	Reconstruction of nonconformities	Planning and Zoning Board
158.023	Development Agreements	Town Commission
	Zoning code map and text amendments	Town Commission
158.015	Vested Rights Determinations	Town Commission
158.103(A)(4)	Landscaping or screening buffer Waivers	Town Commission
158.030(K)	Waivers of certain standards for multi-family or tourism units during Site Development Plan review	Town Commission
158.014	Appeal of decision of Official, Department, Board, or Commission that does not have an appeal right to the Planning & Zoning Board	Circuit Court

## DIVISION 2. – ZONING BOARD OF ADJUSTMENT

### 158.010 – Zoning Board of Adjustment.

- (A) (1) There is hereby established a Zoning Board of Adjustment, hereinafter referred to as a Zoning Board of Adjustment. The Zoning Board of Adjustment shall consist of five members who are registered voters and residents of the Town of Longboat Key who shall be appointed by the Town Commission. All members must attend a Sunshine and Public Records Law class within three months of their appointment. No member of the Zoning Board of Adjustment shall be an elected official or employee of the Town. A person appointed to this board may not serve concurrently on any of the following Town Boards: Code Enforcement Board, Planning and Zoning Board or retirement system board of trustees. (158.026(A)(1))
- (2) The term of office shall be for three years and shall be staggered so that not more than three terms expire within any one year. All terms of office shall expire on the second Wednesday of May of the year in which the term is set to expire. Any member who fails to attend three consecutive scheduled and called regular meetings or fails to make themselves available to attend three proposed meetings within a 12-month period shall automatically forfeit their appointment and the Town Commission shall promptly fill the vacancy. Appointments to fill vacancies shall be for the unexpired term of the member whose term becomes vacant. (158.026(A)(2))
- (B) The Zoning Board of Adjustment shall establish rules and regulations for its own operation not inconsistent with the provisions of applicable state statutes or of this Chapter. (158.026(B))
- (C) The Zoning Board of Adjustment shall elect a Chair, a Vice Chair, and a secretary from among its members. The Chair shall be the presiding member of the board, and the Vice Chair shall be the presiding member in the Chair's absence or disqualification. The Zoning Board of Adjustment may elect other officers as they deem necessary. The terms of all officers shall be for one year, with eligibility for reelection. (158.026(C))
- (D) The Zoning Board of Adjustment shall meet at the call of the Chair, at the written request of three or more regular members, or within 30 days after receipt of a matter to be acted upon by the board. Three members of the board shall constitute a quorum. All meetings of the Zoning Board of Adjustment shall be public. A record of all its resolutions, transactions, findings, and determinations shall be made, which shall be a public record on file in the office of the Town clerk. (158.026(D))
- (E) The concurring vote of a majority of members of the board shall be necessary to reverse any order, requirement, decision or determination of the Planning and Zoning Official or to decide in favor of the Appellant in respect to any matter on which it is required to pass under the terms of this Chapter or to effect any variations of this Chapter. Should a petition to the Zoning Board of Adjustment receive a vote of less than a majority of members, but affirmative votes of enough when added to the absent members to make a majority, the petition shall be rescheduled from meeting to meeting until the matter can be decided by a concurring vote of a majority of members of the board. (158.026(E))
- (F) The Zoning Board of Adjustment shall have the following powers and duties:
- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Planning and Zoning Official in the enforcement of this Chapter. (158.026(F)(1))

#### Chapter

- (2) To hear and decide Waivers from the Daylight Plane regulations of this Code pursuant to the procedures established for appeals as set forth in Section 158.013. In determining whether to grant a Waiver, the Zoning Board of Adjustment shall review the Waiver application including both site and schematic design drawings and shall consider: (a) impacts to view of neighbors and neighborhood; (b) uniqueness of the configuration of the lot upon which the structure is proposed; and (c) special circumstances or conditions affecting the property, such that the strict application of the daylight plane requirements would inordinately burden the property owner and would deprive the property owner of a reasonable design for the building as it relates to its environs. If the Zoning Board of Adjustment determines that a Waiver is appropriate

it may increase the angle for the daylight plane, with or without conditions. Such Waiver, if approved, shall apply to the building only and shall terminate upon the destruction of the building. (158.026(F)(3))

- (3) To authorize upon appeal in specific cases and where not otherwise prohibited by the terms of this Chapter, a Variance from the terms of this Chapter as will not be contrary to the public interest, owing to special conditions, where a literal enforcement of the provisions of this Chapter will result in unnecessary and undue hardship. As used in this Chapter a Variance can be authorized only for height, area and size of structure or size of yards and open spaces; but in no event may a Variance be granted by the Zoning Board of Adjustment that would allow an increase in density. (158.026(F)(4))
- (4) The Zoning Board of Adjustment shall not consider any matter when in the opinion of the board, after consideration of the recommendation of the Town Attorney, the matter presented is not within the jurisdiction of the board as set forth in this Chapter. (158.026(F)(5))

### **DIVISION 3. – PLANNING AND ZONING BOARD**

#### **158.011 – Planning and Zoning Board.**

- (A) The Planning and Zoning Board shall have the powers and duties in respect to the following:
  - (1) Matters referred to it by the Town Commission and report its recommendations thereon back to the Commission within a reasonable time or within any other time as may be specified. (33.22(A))
  - (2) Recommendations on all petitions to change the zoning district boundaries within the Town. (33.22(A))
  - (3) Recommendations for the amendment of a comprehensive road and zoning plan for the Town. The Comprehensive Plan and Zoning Code shall specify the location, width, and type of proposed streets and roads and the zoning of abutting property. The plan shall be prepared with a view toward bettering the public health, safety and welfare and promoting the orderly development of the Town. (33.22(B))
  - (4) Recommendations on all proposed Subdivision Plats within the Town. (33.22(C))
  - (5) Matters which it considers on its own motion that it deems beneficial with regard to the use and improvement of property within the Town, and consistent with other usual duties and powers of Planning and Zoning Boards, and in general do all things as may secure the recognized advantages of building and zoning regulations. (33.22(D))
  - (6) Approval authority of Site Development Plans.
  - (7) Approval authority of Parking Waivers.
  - (8) Approval of Personal Wireless Service Facilities.
  - (9) Approval of Special Exceptions.
- (B) Appeals of final decisions of the Planning and Zoning Board may be made to the circuit court for judicial relief, with the exception of appeals of landscaping or screening buffer Waivers which shall be made to the Town Commission.
- (C) Any appeals shall be submitted in writing within 30 days after rendition of the written decision by the Planning and Zoning Board.

## **DIVISION 4. – PLANNING AND ZONING OFFICIAL**

### **158.012 – Planning and Zoning Official.**

This Chapter shall be enforced by the Planning and Zoning Official of the Town. No Building Permit, Certificate of Occupancy, or Statement of Zoning Compliance shall be issued except where all the provisions of this Chapter and Chapter 159 have been complied with. (158.025)

## **DIVISION 5. – APPEALS OF PLANNING AND ZONING OFFICIAL**

### **158.013 – Appeals.**

Appeals to the Zoning Board of Adjustment may be taken by any person aggrieved by any decision or determination of the Planning and Zoning Official under any provision of this Chapter. (158.027)

- (A) An appeal to the Zoning Board of Adjustment automatically stays all work on the premises and all Town proceedings in furtherance of the action appealed from, unless the Planning and Zoning Official from whom the appeal was taken shall certify to the Zoning Board of Adjustment, by reason of facts stated in the appeal submittal, that a stay would cause imminent peril to life or property. In the case of such work continuing the work shall not be stayed except by an order granted by a court of record based on applicable law. (158.027(A))
- (B) Any person appealing any decision or determination of the Planning and Zoning Official shall make the appeal in writing within 30 days after rendition of such decision or determination to the Planning and Zoning Official. The appeal, shall be accompanied by an application fee as set by resolution of the Town Commission, and a sufficient number of copies of supporting facts and data to satisfy administrative needs as determined by the Town Manager, or designee. This does not, however, restrict the filing of a request for a Special Exception or Variance by any person at any time as provided for elsewhere in this Chapter. (158.027(B))
- (C) Upon receipt of the appeal, the Planning and Zoning Official shall forthwith examine the appeal together with all documents, plans, papers, or other materials constituting the record on which the action appealed was taken and transmit it to the Zoning Board of Adjustment. Concurrently, the Planning and Zoning Official shall transmit a copy of the appeal together with all documents, plans, papers, or other materials constituting the record to the Town Attorney for review and opinion. The Town Attorney shall present their opinion to the Zoning Board of Adjustment with respect to whether the appeal is in fact an appeal and within the jurisdiction of the Zoning Board of Adjustment (158.027(C))
- (D) Before rendering a decision on an appeal, the Zoning Board of Adjustment shall hold a public hearing. The Zoning Board of Adjustment shall fix a reasonable time of day for the hearing and cause public notice to be given at the petitioning party's expense.

Site specific appeals filed by a petitioning party, other than an Applicant for development approval, shall provide notice per the provisions of Section 158.013 (E) below.

Notice of public hearings of the Zoning Board of Adjustment shall, at least seven days prior to hearing, be: (158.027(D))

- (1) Prominently posted by the petitioning party by a sign provided by the Town on the property, as applicable, which is the subject of the application or petition. The posted notice shall be: (158.027(D)(1))
  - (a) Placed in a location in conformance with Chapter 156, Sign Code; (158.027(D)(1)(a))
  - (b) Placed in a location unobstructed to the view of passersby; (158.027(D)(1)(b))
  - (c) Maintained by the petitioning party until required to be removed and if damaged, destroyed or removed, shall be replaced as soon as possible by the petitioning party with another sign provided by the Town; (158.027(D)(1)(c))

- (d) Modified by the petitioning party to reflect any errors or changes in scheduling of the applicable public hearings so as to ensure accurate information; (158.027(D)(1)(d))
  - (e) Removed by the petitioning party within 48 hours after conclusion of the public hearing; and (158.027(D)(1)(e))
  - (f) Inspected by the Planning, Zoning and Building Department to ensure compliance with these posting requirements. (158.027(D)(1)(f))
- (2) Posted by the Town at Town hall. (158.027(D)(2))
  - (3) Published in a newspaper of general circulation within the Town; and (158.027(D)(3))
- (E) A copy of the legal notice sent by certified mail 14 days prior to the hearing by the petitioning party to all owners of property involved in the petition or application, and to all owners of property immediately adjacent to and within 500 feet of the perimeter of the subject property, and to each homeowners', property owners' or condominium association which annually registers with the planning, zoning and building department to receive such notice by first class mail. The guide for the mailing requirement to owners shall be the most current Town or county assessment roll. (158.027(E))
- (F) At the hearing, any party may appear in person, by agent or by Attorney. With respect to condominiums or cooperatives, notice required by this Section will be deemed notice to its property owners when notice is sent or delivered to the secretary and the president of the condominium or cooperative association, unless the offices are not filled, in which event notice to the registered agent designated for the service of process will be sufficient compliance with the notice requirements of this Section. However, in the discretion of the Zoning Board of Adjustment, notice may be required to be given to each condominium owner or cooperative unit owner. (158.027(F))

## **DIVISION 6. – RIGHT TO JUDICIAL REVIEW**

### **158.014 – Right to Judicial Review.**

Any person or persons aggrieved by a quasi-judicial decision, order, ordinance, or resolution by a Board or Commission of the Town may request review by the Circuit Court pursuant to the laws of the State of Florida within 30 days after rendition of such written decision. (158.031)

## **DIVISION 7. – VESTED RIGHTS DETERMINATIONS**

### **158.015 – Vested Rights Determination.**

If any person is in doubt whether rights have vested for a proposed development on property owned by that person, based on the granting of any Development Order by the Town or any of its Commissions, agencies or departments, the property owner may request a determination from the Town Commission. For the purposes of this provision the term "Vested Rights" shall be interpreted to include those rights obtained by a property owner who: 1) in good faith; 2) upon some act or omission of the government; 3) has made such a substantial change in position by incurring such extensive obligations and expenses that it would be highly inequitable and unjust to destroy the acquired right. In making its determination the Town Commission shall hold a public hearing after full payment of an application fee as set forth by resolution of the Town Commission and required public notice and assess each request for a Vested Rights interpretation on the particular facts relating to that case. Notwithstanding anything in this provision to the contrary, if the Town of Longboat Key shows that a new peril to the health, safety, morals or general welfare of the residents or property in the Town of Longboat Key has arisen subsequent to the approval of any Development Order, the Development Order may be revoked. (158.032)

### **158.016 – Reserved.**

### **158.017 – Reserved.**



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## Article III. – Development Review Procedures

### DIVISION 1. – SPECIAL EXCEPTIONS

#### 158.018 – Applications for Special Exception uses.

- (A) The Planning and Zoning Board shall hear and decide applications for Special Exceptions. The Planning and Zoning Board shall decide questions that are involved in determining when Special Exceptions should be granted or denied and grant Special Exceptions with appropriate conditions and safeguards, or deny Special Exceptions when not in harmony with the purpose and intent of this Chapter. (158.028(A))
- (B) In granting any Special Exception, the Planning and Zoning Board adjustment shall find that the grant will not adversely affect the public interest. The decision shall be reached only after the holding of a public hearing conducted in the manner set forth in Section 158.019. (158.028(B))
- (C) In granting any Special Exception, the Planning and Zoning Board adjustment in addition to the standards enumerated in Section 158.019, may prescribe appropriate conditions and safeguards in conformity with the provisions of this Chapter. Violation of the conditions and safeguards when made a part of the terms under which the Special Exception is granted, shall be deemed a violation of this Chapter. The Planning and Zoning Board may prescribe a reasonable time limit within which the action for which the Special Exception is required shall be begun or completed or both. (158.028(C))

#### 158.019 – Special Exception Uses.

Special Exception Uses, as enumerated in the use regulations in Article IV, shall be permitted only upon authorization by the Planning and Zoning Board pursuant to the provisions of Section 158.018, and upon public hearing, based upon the following pertinent requirements and other applicable requirements set forth in Article III, Division 5; provided that such uses shall be found by the Planning and Zoning Board to comply with the following requirements and other applicable requirements as set forth in Section 158.018. A Special Exception application, including full payment of an application fee as set forth by resolution of the Town Commission, shall be submitted to the Planning and Zoning Official for appropriateness and completeness and review in accordance with the procedure set forth in Subsections 158.029. The Planning and Zoning Board shall not receive, review, make recommendations or act on applications for Special Exceptions except during the Town's Annual Site Development Plan Season. For purposes of this Chapter, the Annual Site Development Plan Season shall include the months of September, October, November, December, January, February, March, April, May and June of each year. For purposes of calculating the required processing times set forth in this Section for the Planning and Zoning Board, the period of time from July 1 through August 31 shall not be counted in said computation. Upon receipt of the completed application, from the Planning and Zoning Official, the Planning and Zoning Board shall review the Special Exception application making their findings in respect to the Special Exception proposal, as set forth in this Section. For purposes of this Section the Planning and Zoning Board shall receive a Special Exception application from the Planning and Zoning Official at the Planning and Zoning Board's next regular meeting where a quorum is present following the Planning and Zoning Official's submittal of the application to the Planning and Zoning Board. Special Exception applications reviewed by the Planning and Zoning Board shall require Site Development Plan review in accordance with Article III, Division 5. (158.126)

- (A) *Findings.* Before any Special Exception shall be granted, the Planning and Zoning Board shall make a written finding of the following, where applicable: (158.126(A))
  - (1) Compliance with all elements of the Comprehensive Plan. (158.126(A)(1))
  - (2) That the use is a permitted Special Exception use as set forth in the schedule of use regulations. (158.126(A)(2))

- (3) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe. (158.126(A)(3))
  - (4) Off-street parking and loading areas, where required, with particular attention to the items in (3) above and the economic, noise, glare, or other effects of the Special Exception on adjoining properties and properties generally in the district. (158.126(A)(4))
  - (5) Refuse and service areas, with particular reference to in Subsections (3) and (4) above. (158.126(A)(5))
  - (6) Utilities, with reference to locations, availability and compatibility. (158.126(A)(6))
  - (7) Screening and buffering with reference to type, dimensions and character. (158.126(A)(7))
  - (8) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effects, and compatibility and harmony with properties in the district. (158.126(A)(8))
  - (9) Required yards and other open space. (158.126(A)(9))
  - (10) That the use conforms with all applicable regulations governing the district where located. (158.126(A)(10))
  - (11) Considerations relating to general compatibility with adjacent properties and other property in the district, including but not being limited to: (158.126(A)(11))
    - (a) Whether the proposed use would be contrary to the land use plan and would have an adverse effect on the Comprehensive Plan. (158.126(A)(11)(a))
    - (b) Whether the proposed use would be compatible with the established land use pattern. (158.126(A)(11)(b))
    - (c) Whether the proposed use would materially alter the population density pattern and thereby increase or overtax the load on public facilities such as schools, utilities and streets. (158.126(A)(11)(c))
    - (d) Whether changed or changing conditions find the proposed use to be advantageous to the community and the neighborhood. (158.126(A)(11)(d))
    - (e) Whether the proposed use would adversely influence living conditions in the neighborhood. (158.126(A)(11)(e))
    - (f) Whether the proposed use would create or excessively increase traffic congestion or otherwise affect public safety. (158.126(A)(11)(f))
    - (g) Whether the proposed use would create a drainage problem. (158.126(A)(11)(g))
    - (h) Whether the proposed use would seriously reduce the flows of light and air to adjacent areas. (158.126(A)(11)(h))
    - (i) Whether the proposed use would adversely affect property values in the adjacent area. (158.126(A)(11)(i))
    - (j) Whether the proposed use would be a deterrent to the improvement or development of adjacent property in accordance with existing regulations. (158.126(A)(11)(j))
    - (k) Whether the proposed use would be out of scale with the needs of the neighborhood or the Town. (158.126(A)(11)(k))
- (B) *Expiration.* Any Special Exception shall expire the later of 24 months from the date of grant, or the date of the Site Development Plan expiration, as applicable, unless appealed and extended by action of the Town Commission, if by that date the use for which the Special Exception was granted has not been commenced. An appeal for extension shall show that commencement of the use is being actively pursued by evidence of an application for a Building Permit, preliminary plat, or Site Development Plan, or other evidence satisfactory to the Town Commission. (158.126(B))
- (C) *Discontinuance.* Any Special Exception shall expire 12 months following the discontinuance of the use for which the Special Exception was granted. (158.126(C))

## DIVISION 2. – VARIANCES

### 158.020 – Variances.

- (A) Upon receipt of a complete application and application fee as set by resolution of the Town Commission the Zoning Board of Adjustment may authorize a Variance from the terms of this Chapter as will not be contrary to the public interest and as set forth in Subsection 158.010(F), where, owing to special conditions, a literal enforcement of the provisions of this Chapter will result in unnecessary and undue hardship. In order to authorize any Variance from the terms of this Chapter, the Zoning Board of Adjustment must and shall find the following: (158.029(A))
- (1) The Variance is in fact a Variance as set forth within this Chapter and within the jurisdiction of the Zoning Board of Adjustment after consideration of the recommendation of the Town Attorney. (158.029(A)(1))
  - (2) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. (158.029(A)(2))
  - (3) The special conditions and circumstances do not result from the actions of the Applicant. (158.029(A)(3))
  - (4) Granting the Variance requested will not confer on the Applicant any special privilege that is denied by this Chapter to other lands, buildings or structures in the same zoning district. (158.029(A)(4))
  - (5) Literal interpretation of the provisions of this Chapter would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the Applicant. (158.029(A)(5))
  - (6) The Variance granted is the minimum Variance that will make possible the reasonable use of the land, building or structure. (158.029(A)(6))
  - (7) The grant of the Variance will be in harmony with the general intent and purpose of this Chapter, and the Variance will not be injurious to the area involved or otherwise detrimental to the public welfare. (158.029(A)(7))
- (B) An Applicant for a Variance shall have the burden of establishing both that a literal enforcement of the provisions of this Chapter will result in unnecessary hardship, as that term is defined by law, including court decisions; and that allowance of the Variance shall not be contrary to the public interest. (158.029(B))
- (C) In granting any Variance, the Zoning Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Chapter. Violation of the conditions and safeguards, when made a part of the terms under which the Variance is granted, shall be deemed a violation of this Chapter. The Zoning Board of Adjustment may prescribe a reasonable time limit within which the action for which the Variance is required shall be begun or completed or both. Under no circumstances, except as permitted above, shall the Zoning Board of Adjustment grant a Variance to permit a use not generally or by Special Exception permitted in the zoning district involved or any use expressly or by implication prohibited by the terms of this Chapter in the zoning district. No nonconforming use of neighboring lands, structures or buildings in the same zoning district and no permitted use of lands, structures or buildings in other zoning districts shall be considered grounds for the authorization of a Variance. (158.029(C))
- (D) In granting any Variance, the Zoning Board of Adjustment shall hold a public hearing as set forth in Section 158.010, and shall make specific findings of fact which establish that a literal enforcement of this Zoning Code will result in unnecessary and undue hardship. The Zoning Board of Adjustment shall also make specific findings of fact that each of the criteria set forth in Subsection (A) of this Section have been met. The findings of fact as required by this Subsection shall be incorporated in the minutes of the meeting and in the written order. (158.029(D))

## DIVISION 3. – ZONING CODE TEXT AND MAP AMENDMENTS

### 158.021 – Zoning Text Amendments.

- (A) *Initiation of Proposals for Zoning Text Amendments.* The Town Commission may, from time to time, amend, supplement or repeal the regulations and provisions of this Chapter after public notice and hearings as provided by the Charter and upon initiation in one of the following ways: (158.030(A))
- (1) On its own motion; (158.030(A)(1))
  - (2) On recommendation of the Planning and Zoning Board; (158.030(A)(3))
  - (3) On application by a person who is a fee simple owner of any property in the Town. (158.030(C))
- (B) *Planning and Zoning Board Report and Recommendations.* The Planning and Zoning Board, regardless of the source of the proposed change, shall hold a public hearing thereon, with due public notice, and shall submit in writing its recommendation on the proposed change to the Town Commission for official action. The Planning and Zoning Board's recommendation shall be based on competent and substantial evidence in relation to the following findings as applicable:
- (a) The need and justification for the change;
  - (b) Applicability of the change Town-wide;
  - (c) Consistency with the adopted goals, objectives and policies contained in the Town's Comprehensive Plan; and
  - (d) The proposed change will further the purposes of the Zoning Code and other Town codes, regulations, and actions designed to implement the Comprehensive Plan.
- (C) *Town Commission Action on Planning and Zoning Board Recommendation.* Upon receiving the recommendation of the Planning and Zoning Board, the Town Commission shall then proceed to amend, supplement, repeal, or leave unchanged the regulations in accordance with applicable provisions of the Charter and this Code. The Town Commission's decision shall be based on competent and substantial evidence in relation to the findings listed in Subsection (B), above. If the recommendation of the Planning and Zoning Board is for denial of the proposed change, such change shall not become effective except by an affirmative vote of not less than four members of the Town Commission, after due public notice. When a Zoning Text Amendment and related Zoning Map Amendment are being considered at the same public hearing, the text amendment shall be considered first on the agenda. (158.030(B))

### 158.022 – Zoning Map Amendments.

- (A) *Initiation of Proposals for Zoning Map Amendments.* Whenever a fee simple owner of any property in the Town desires a change in zoning classification of their property, such owner or agent of such owner as Applicant shall make written application to the Planning and Zoning Official on a form as provided by the Town Staff together with full payment of an application fee as set forth by resolution of the Town Commission with the written application to be signed by the Applicant. The application shall be accompanied by any necessary information or documentation supporting the request and shall be reviewed in accordance with the provisions of this Chapter and the Charter. (158.030(C))
- (B) *Planning and Zoning Board Report and Recommendations.* The Planning and Zoning Board, regardless of the source of the proposed change, shall hold a public hearing thereon, with due public notice, and shall submit in writing its recommendation on the proposed change to the Town Commission for official action. The Planning and Zoning Board's recommendation shall be based on the following:
- (1) Whether the proposed change would be consistent with the land use designation on the Town's Future Land Use Map or other provisions of the Town's Comprehensive Plan;
  - (2) Whether the proposed change would be consistent with the adopted goals, objectives and policies contained in the Town's Comprehensive Plan;

- (3) Whether the proposed change would be compatible with the existing land use pattern and zoning categories of adjacent properties;
  - (4) Whether the proposed change would adversely impact the neighboring properties or the Town in general; and
  - (5) Whether the proposed change would cause the lot, structure, building, or use to become non-conforming.
- (C) *Town Commission Action on Planning and Zoning Board Recommendation.* Upon receiving the recommendation of the Planning and Zoning Board, the Town Commission shall then proceed to amend, supplement, repeal, or leave unchanged the regulations in accordance with applicable provisions of the Charter and this Code. If the recommendation of the Planning and Zoning Board is for denial of the proposed change, such change shall not become effective except by an affirmative vote of not less than four members of the Town Commission, after due public notice. When a Zoning Text Amendment and related Zoning Map Amendment are being considered at the same public hearing, the Zoning Text Amendment shall be considered first on the agenda. (158.030(B))

## DIVISION 4. – DEVELOPMENT AGREEMENTS

### **158.023 – Development agreements.**

- (A) The Town Commission may enter into Development Agreements in accordance with the provisions of Florida Statutes to encourage a stronger commitment to comprehensive and capital facilities planning, ensure compliance with special procedures and projects, ensure the provision of adequate public facilities for development, encourage the efficient use of resources, and reduce the cost of development. The following are procedures and requirements for the Town to consider entering into a Development Agreement with any person having a legal or equitable interest in the real property located within the Town. (158.018(A))
- (B) Before entering into, amending or revoking a Development Agreement, the Town shall conduct at least two public hearings. One public hearing shall be held before the Planning and Zoning Board and the other public hearing shall be held before the Town Commission. (158.018(B))
- (C) Notice of intent to consider a Development Agreement shall be advertised at least seven days before each public hearing in a newspaper of general circulation and readership within the Town. Notice of intent to consider a Development Agreement shall also be mailed prior to the first public hearing to all affected property owners within 500 feet of any portion of the property being considered for the Development Agreement. The notice of intent shall state the date, place and time of the first public hearing. The date, time and place at which the second public hearing will be held shall be announced at the first public hearing. (158.018(C))
- (D) The notice of intent shall specify the address of the property subject to the Development Agreement, the development uses proposed for the property, the proposed densities, and the proposed building intensities and height and shall specify a place where a copy of the proposed Development Agreement can be obtained. (158.018(D))
- (E) At a minimum, the Development Agreement shall include the following:
  - (1) A legal description of the land subject to the agreement, and the names of its legal and equitable owners; (158.018(E)(1))
  - (2) The duration of the agreement; (158.018(E)(2))
  - (3) The development uses permitted on the land, including population densities, and building intensities and height; (158.018(E)(3))
  - (4) A description of public facilities that will service the development, including who shall provide such facilities; the date any new facilities, if needed, will be constructed; and a schedule to assure public facilities are available concurrent with the impacts of the development; (158.018(E)(4))

- (5) A description of any reservation or dedication of land for public purposes; (158.018(E)(5))
- (6) A description of all local development permits approved or needed to be approved for the development of the land; (158.018(E)(6))
- (7) A finding that the development permitted or proposed is consistent with the local government's Comprehensive Plan and land development regulations; (158.018(E)(7))
- (8) A description of any conditions, terms, restrictions or other requirements determined to be necessary by the local government for the public health, safety or welfare of its citizens; and (158.018(E)(8))
- (9) A statement indicating that the failure of the agreement to address a particular permit, condition, term or restriction shall not relieve the developer of the necessity of complying with the law governing said permitting requirements, conditions, term or restriction. (158.018(E)(9))
- (F) A Development Agreement may provide that the entire development or any phase thereof be commenced or completed within a specific period of time. (158.018(F))
- (G) Duration. The duration of a Development Agreement shall not exceed the time period provided in F.S. § 163.3229. (158.018(G))
- (H) Periodic review. The Town shall review its Development Agreements at least once every 12 months to determine if there has been demonstrated good faith compliance with the terms of the Development Agreement. (158.018(H))
- (I) All Development Agreements entered into pursuant to this Section shall comply with F.S. §§ 163.3223 through 163.3243, as may be amended. (158.018(I))

## DIVISION 5. – SITE DEVELOPMENT PLAN

### **158.024 – Purpose**

The purpose of this division is to establish procedures and standards for the preparation, review, and approval of all plans to construct, reconstruct, or alter structures, or to carry on any other type of land development activity that does not fall under the regulatory purview of the Subdivision Regulations of this Code. The Site Development Plan review process is the principal way of enforcing the provisions of this Chapter regulating construction, development, and redevelopment in the Town.

### **158.025 – Required for certain permitted use applications.**

Applications for all permitted uses with Site Development Plan review shall require the submission of a Site Development Plan in accordance with the provisions of this Chapter. If not exempted pursuant to Section 158.026, applications for accessory uses shall require the submission of a Site Development Plan, as provided for in this Chapter. No Certificate of Occupancy shall be issued for any building unless all facilities included in the approved Site Development Plan or Building Permit Plan have been provided in accordance with Chapter 150. The Town may, prior to approving a Certificate of Occupancy, require evidence of the filing of record documents establishing the form of organization owning or maintaining any common open space and may also require evidence of the filing of record, covenants, grants of easement, or other restrictions imposed on the use of the land. The Town may require copies of such recorded documents. (158.095)

### **158.026 – Exemptions.**

- (A) Upon a determination by the Planning and Zoning Official that the following development proposals or changes are in accord with all of the elements of the Town's Comprehensive Plan, this Chapter, and the Town's Site Development Plan performance standards, they may be determined to be minor development proposals or changes which are exempt from the Site Development Plan submission requirements specified in Section 158.029. The Applicant shall submit a Site Development Plan sketch and provide such information as necessary to describe such development proposals

or changes at one or more preapplication conferences with the Planning and Zoning Official. Such minor development proposals or changes are as follows: (158.100(A))

- (1) Addition of awnings, canopies or other ornamental structures; redesign and different location of pools, parking spaces, drives and driveways; or modifications in stairs or elevations of decks, porches, terraces and fencing; (158.100(A)(1))
  - (2) Addition to parking spaces not to exceed 20 percent, including fractions thereof, of the total number of existing parking spaces or ten spaces, whichever is the lesser amount; when such addition does not occur in R-1SF zoning district; (158.100(A)(2))
  - (3) The paving, with a nonporous material, of existing parking areas, which are presently composed of porous material; (158.100(A)(3))
  - (4) Attached or detached additions to buildings which do not increase the floor area in excess of five percent of the ground floor area of the principal structure or 1,000 square feet, whichever is the lesser amount; (158.100(A)(4))
  - (5) The installation of utility system improvements including buildings not exceeding 100 square feet; (158.100(A)(5))
  - (6) Any changes of use to existing structures when such change is a permitted use, permitted use with Site Development Plan review, for the zoning district it lies within, in accordance with the "schedule of use regulations" in this Chapter, Article IV, and includes only minor changes, as per this section; (158.100(A)(6))
  - (7) Such minor accessory uses which include, but are not limited to the following uses or structures: Personal wireless service facilities classified as rooftop or building or structure-mounted antennas, davits, doghouses, carports, porte cocheres, sheds, private garages, porches, gazebos, private swimming pools; (158.100(A)(7))
  - (8) Minor architectural changes that do not increase the floor area by more than five percent of the ground floor area of the principal structure or increase the overall ground floor area by more than 1,000 square feet, whichever is less; (158.100(A)(8))
  - (9) The relocation of minor accessory structures, which include, but are not limited to: Gatehouses, guardhouses, trellises, sheds, carports or gazebos. Minor accessory structures, for the purposes of site plan exemptions, shall not exceed five percent of the ground floor area of the principal structure or 1,000 square feet, whichever is the lesser amount; (158.100(A)(9))
  - (10) Temporary uses. (158.100(A)(11))
- (B) The Planning and Zoning Official may impose such conditions or limitations on projects reviewed pursuant to this Section in order to ensure compliance with all applicable standards and policies of the Town. (158.100(B))
- (C) The exemptions of Section 158.026(A) may be applied regardless of whether or not the subject property had previously received Site Development Plan approval.

### **158.027 – Pre-application conference.**

In order to expedite the review of a Site Development Plan, coordinate its local review in respect to the provisions of this Chapter with the necessary outside agency reviews, and to inform the Town of a Site Development Plan in preparation, one or more preapplication conferences between the Applicant and the Planning and Zoning Official is required to informally discuss the applicable requirements and procedures. In cases of minor development proposals or changes, the Planning and Zoning Official may determine a pre-application conference is not necessary. For the purposes outlined above, the Applicant should provide such information as necessary to describe the proposed development. Formal application or filing of a Site Development Plan with the Planning and Zoning Official is not required for the pre-application conference. (158.098)



### **158.028 – Application for Site Development Plan approval.**

Any application for Site Development Plan approval shall be signed and submitted by the Applicant on a form provided by the Town together with full payment of an application fee as set forth by resolution of the Town Commission and in addition shall include at least the following information, unless the Planning and Zoning Official determines that one or more of the following elements do not apply to the particular development: (158.097)

- (A) The character of use and the location and size of the site, including a current land survey with a complete legal description prepared and certified by a registered surveyor. (158.097(A))
- (B) Site Development Plan with the title of the project, its lot configuration, finished ground floor elevations, contours (i.e., at six-inch intervals with reference to mean sea level), and designating number of dwelling units, square footage paved areas and open area, and dimensioned setbacks to scale indicating compliance with regulations. (158.097(B))
- (C) Verified statement, including a certificate of ownership, showing each and every individual person having a legal ownership, interest in the subject property except publicly held corporations whose stock is traded on a nationally recognized stock exchange, in which case the name and address of the corporation and principal executive officers will be sufficient. A property owners' affidavit shall be provided if the owners are authorizing an agent to submit the Site Development Plan application on their behalf. If the agent is acting on behalf of an Association, the agent shall provide a copy of the Board Meeting minutes and authorization that verifies the agent has authorization to act on behalf of the Association.(158.097(C))
- (D) The relationship of the site to existing development in the area including streets, utilities, residential and commercial development, and important physical features in and adjoining the project, including ecological features. (158.097(D))
- (E) The density or intensity of land use(s) to be allocated to all parts of the site to be developed together with tabulations by acreage and percentage thereof itemized by use and density. (158.097(E))
- (F) Tabulations by acreage and percentage as to the amount of the site that is uplands and wetlands, indicating those wetlands landward and seaward of the mean high-water line (MHWL). Additional related information should include the extent and type of wetlands in accordance with the Town's Comprehensive Plan. (158.097(F))
- (G) Architectural definitions for buildings in the development, include use, height, daylight plane, exterior construction material, exact number of dwelling units, sizes and types of building and dwelling units, together with typical floor plans of each type. The floor plans should indicate uses and square footage of each proposed use within each building or structure and all exterior dimensions of each type of building or structure. (158.097(G))
- (H) The type and location of all existing trees protected by Town regulations, including a plan how the removal of such vegetation would be avoided or replanted or replaced. (158.097(H))
- (I) Location, design and character of all utilities. (158.097(I))
- (J) Location, height and general character of perimeter and ornamental walls, fences, landscaping, including berms and other required screening devices and any other plans for protecting adjacent property owners. (158.097(J))
- (K) Location of all pedestrian walks, malls and bike paths. (158.097(K))
- (L) Location and character of recreation areas and facilities and the disposition of all open space indicated on drawings. This information should include calculations, verified by a licensed design professional, indicating how the Town's open space requirements are being met. If common facilities (such as recreation areas or structures, private streets, common open space, etc.) are to be provided for the development, statements as to how such common facilities are to be provided and permanently maintained. Such statements may take the form of proposed deed restrictions, deeds of trust, homeowners associations, surety arrangements, or other legal instruments providing adequate guarantees to the Town that such common facilities will not become a future liability of the Town. (158.097(L))

- (M) Location and character of all outside facilities for waste disposal, storage areas or display. (158.097(M))
- (N) A traffic impact analysis, if applicable under Section 158.030 (D)(1), to ensure that the adopted level of service standards are not exceeded before capacity-related improvements are implemented. (158.097(N))
- (O) The locations and dimensions of all curb cuts, driveways, including the number of parking spaces with their location and dimension, details of off-street parking, including interior parking areas and loading areas, all off-street vehicular surfaces available for maneuvering, surface materials, number of employees and number and type of vehicles owned by the establishment shall be provided. (158.097(N))
- (P) Flood protection elevation data and flood zones delineated. A surface water management plan based on best management practices and in accordance with the sanitary sewer, potable water, solid waste, and drainage element of the Town's Comprehensive Plan. (158.097(O))
- (Q) A soil erosion and sedimentation plan in accordance with of the Town's Comprehensive Plan and best management practices. (158.097(P))
- (R) Such additional data, maps, plans or statements as may be required for the particular use or activity involved. (158.097(R))
- (S) Such additional data, as the Applicant may believe is pertinent to the Site Development Plan. (158.097(S))
- (T) Such additional material and information as the Town may reasonably require. (158.097(T))
- (U) A list of all Waivers from the supplemental controls set forth in Subsection 158.030(K) and a clear description of the nature and extent of the requested Waiver and a statement specifically indicating the factual basis for any hardship claimed by the Applicant and a statement of the facts constituting the basis for a request for a Waiver of the supplemental controls as set forth in Subsection 158.030(K). (158.097(U))

**158.029 – Submission procedure.**

- (A) An application for a Site Development Plan review shall be made by the Applicant to the Planning and Zoning Official prior to an application for a Building Permit, and the application for a Site Development Plan review will only be approved if all other ordinances and provisions of the Town where a public hearing is required have been complied with and a pre-application conference has been conducted in accordance with Section 158.029. For development requiring subdivision approval under Chapter 157 of this Code, final subdivision plat approval must be obtained prior to Site Development Plan approval. (158.099(A))
- (B) Upon receipt of the Site Development Plan application, the Planning and Zoning Official shall determine the appropriateness and completeness and accept or reject the application in writing. Within a reasonable period of time after the application is found appropriate and complete, the Planning and Zoning Official shall refer the application, together with all supporting documentation and Staff weighted options, to the Planning and Zoning Board for their review. The Planning and Zoning Board shall not receive, review, make recommendations or act on applications for Site Development Plan approval except during the Town's Annual Site Development Plan Season. Chapter(158.099(B))
- (C) Upon receipt of the application from the Planning and Zoning Official, the Planning and Zoning Board shall review the Site Development Plan and make findings with respect to the proposed development as set forth in Section 158.030. The Planning and Zoning Board shall either approve the application as submitted; approve the application with changes or special conditions; or disapprove the application. For purposes of this Section, the Planning and Zoning Board shall receive a Site Development Plan application from the Planning and Zoning Official at their next regular meet-

ing where a quorum is present following the Planning and Zoning Official's submittal of the application to the Planning and Zoning Board. Appeals of the Planning and Zoning Board's decision shall be in accordance with Section 158.014. (158.099(C))

- (D) The Applicant may elect to revise the Site Development Plan submission at any time in the review process prior to the public hearing before the Planning and Zoning Board. The Applicant shall submit a letter of intent to revise to the Planning and Zoning Official who, upon receipt of the letter, will halt the normal review processing. Within a reasonable period of time after receiving the revised documents, the Town's Planning and Zoning Official will review the revisions and forward their comments and weighted options to the Planning and Zoning Board. (158.099(D))
- (E) Upon the granting of approval, either as submitted or with changes or special conditions, the Town shall, upon receipt of a complete Building Permit application, issue a Building Permit for a portion or all of the proposed development after finding that the Building Permit application is in compliance with Chapter 157 and all other Town, county, state, and federal requirements which may include the establishment of bonding, or other performance requirements as determined by the Town. An approved Site Development Plan becomes null and void if: (158.099(E))
  - (1) The Applicant shall abandon the plan or the Section thereof that has been finally approved, and shall so notify the Town; or (158.099(E)(1))
  - (2) Within 24 months of the date of approval of an application for Site Development Plan review, a complete application for Building Permit has not been submitted to the Town and a Building Permit issued; or (158.099(E)(2))
  - (3) A final Certificate of Occupancy for all phases of the project has not been issued within three years from the date set for receipt of a complete application for Building Permit for the final building or development phase of the project.

The Town may extend the period of approval only if special conditions and circumstances exist which do not result from the voluntary actions of the Applicant, representatives or agents, which have caused an unforeseeable delay in the ability of the Applicant to submit a complete application for a Building Permit or obtain a final Certificate of Occupancy for all phases of the project. Economic conditions or financing problems shall not, absent other relevant considerations, form the basis for an extension of the period of approval. The Town Commission, however, may extend the period of approval if it determines that no material benefit would be derived to the Town by requesting the Applicant to resubmit an application for Site Development Plan approval, in accordance with Division 5 of this Chapter. (158.099(E)(3))

- (F) Any changes or amendments to an approved Site Development Plan shall require a resubmission in accordance with the provisions of this Chapter. (158.099(F))

### **158.030 – Performance standards for Site Development Plans.**

The following standards shall be used by the Town in reviewing any site or development plan:

- (A) *Site location and character of use.* The Comprehensive Plan together with the Zoning Code, including size and dimension regulations, general provisions, performance standards, and the list of permitted and conditional uses, off-street parking, landscaping, required open spaces, yards and building setbacks, shall collectively be the principal guides in determining the suitability of the location and design of the proposed use. If the proposed use is a community residential home for seven to 14 residents, then it shall also be reviewed in accordance with applicable law. (158.102(A))
- (B) *Appearance of site and structures.* The appearance of site and structures shall be coordinated for the purpose of creating a pleasing and harmonious overall effect. The choice of building materials, plant materials, lighting and other building and site improvements shall be commensurate with the objectives of the subject use without generating adverse visual impact on surrounding properties or transportation corridors. Architectural style or design is not restricted. Evaluation of the appearance of a project shall be based on the quality of its overall design and relationship to the impacted area considering the following factors: (158.102(B))
  - (1) *Exterior appearance.* The exterior of buildings and structures, including mass, facade and materials, shall be in harmony with the site and the impacted area. Awnings or ornamental features shall be designed in a manner harmonious with the building design and shall be of appropriate scale, shape and pattern in order to reinforce good design principles. Similarly, awnings or ornamental features shall not use incompatible or extraordinary scale, shapes, color schemes, patterns or other extraordinary features for purposes of attracting attention. Except for buildings listed on the Florida Master Site File or the National Register of Historic Buildings, i.e., historic buildings, the appearance of buildings and structures shall be disapproved under this Section in extreme cases only and reasonable doubt shall be resolved in favor of the Applicant. Exterior alterations to historic buildings may be denied by the building division if not in accordance with the U.S. Secretary of Interior's Standards for Rehabilitation. (158.102(B)(1))
  - (2) *Design and arrangement of buildings.*
    - (a) Adequate provision shall be made for light, air, access and privacy in the arrangement of the buildings to each other. Each living space shall have sufficient exterior exposures. Adequate laundry facilities, including space and connections for washing machines and clothes dryers, shall be available for multifamily dwellings on the premises. (158.102(B)(2)(a))
    - (b) All buildings in the layout and design shall be an integral part of the development and have convenient access to and from adjacent uses. (158.102(B)(2)(b))
    - (c) Individual buildings shall be related to each other in design, masses, materials, placement and connections to provide a visually and physically integrated development. (158.102(B)(2)(c))
    - (d) Treatment of the sides and rear of all buildings within the development shall be comparable in amenity and appearance to the treatment given to street frontage of these same buildings. (158.102(B)(2)(d))
    - (e) The design of buildings and the parking facilities shall take advantage of the natural features and topography of the project site. (158.102(B)(2)(e))
    - (f) All building walls shall be so oriented as to ensure adequate light and air exposures to the room within. (158.102(B)(2)(f))
    - (g) All buildings shall be arranged so as to avoid undue exposure to concentrated loading or parking facilities wherever possible and shall be so oriented as to preserve visual and audible privacy between adjacent buildings. (158.102(B)(2)(g))
    - (h) All buildings shall be arranged so as to be accessible to emergency vehicles. (158.102(B)(2)(h))

- (3) *Screening of mechanical equipment.* Mechanical equipment or other utility hardware shall be harmonious with the building and shall be screened from the public way as well as from view of tenants within adjacent buildings by use of either landscaping or architectural features or a combination of both. Mechanical equipment and utilities in or adjacent to residential areas shall be designed in a manner which minimizes nuisance impacts, such as noise and odor, and shall be landscaped and screened in order to minimize adverse visual impacts and enhance their general appearance and to preserve the stability and integrity of adjacent residential areas. (158.102(B)(3))
  - (4) *Maintenance of activities within enclosed building.* All businesses or services should be conducted within completely enclosed buildings in all zoning districts, except as provided for in the Town Code of Ordinances. (158.102(B)(4))
  - (5) *Exterior lighting.* Exterior lighting shall be so arranged as to shield or deflect the light from adjoining properties, public streets, and the Gulf of Mexico, pursuant to Chapter 1 of the Town Code, Sea Turtles, as may be amended. (158.102(B)(5))
- (C) *Parking, internal circulation and access to public or private streets.* Driveways and areas for parking and internal circulation of vehicles shall be located, designed and controlled so as to provide for safe and convenient circulation within the site and safe and convenient access from adjoining streets. Parking requirements of the Zoning Code shall be applied for calculating required off-street parking. Among factors to be considered shall be the number and location of access drives from adjacent streets, the location and width of driveways and access aisles to parking spaces, the arrangement of parking areas and means of access to buildings for firefighting apparatus and other emergency vehicles. All nonresidential and residential development and uses except for single-family homes, shall be required to provide adequate off-street parking and facilities for on-site backup and turnaround movements. Parking areas and driveways shall be clearly identified and separated from principal pedestrian routes and recreation areas by curbs, pavement markings, planting areas, fences or similar features designed to promote pedestrian safety. (158.102(D))
- (D) *Traffic impacts.* A traffic impact analysis shall be required, except for voluntary reconstruction that does not generate a net increase in traffic, pursuant to standards, procedures and criteria defined herein for future land use plan map amendments, Outline Development Plans including amendments thereto, and Zoning Map Amendments when the change will increase the total number of trips generated for any of the above application types. If a specific land use is not known at the time of a future land use plan map amendment, Outline Development Plan application, or Zoning Map Amendment the highest trip generation rate of all the permitted uses shall be used in the calculation. A traffic impact analysis shall also be required for all major and minor development except as provided herein, pursuant to standards, procedures and criteria defined herein. The traffic impact analysis shall be reviewed by a qualified Florida registered engineer employed by the Town at the Applicant's expense. The traffic impact analysis is designed to achieve objectives stipulated in the traffic circulation element of the Comprehensive Plan. (158.102(E))
- (1) *Applicability.* A transportation impact analysis shall be required for the following:
- (a) A proposed development or redevelopment that generates more than 100 net new trips per day. Such development shall maintain a level of service C for peak season, peak hour for local and collector roads, and level of service E for peak season, peak hour conditions along Gulf of Mexico Drive. All intersections on Gulf of Mexico Drive within the Town will operate at level of service E or better in the peak season peak hour. All other intersections within the Town will operate at LOS D or better in the peak season peak hour. The peak season adjustment factor will be determined annually through coordination with the FDOT, District 1 Office. The trip generation rate shall be based on the most recent edition of the "Institute of Transportation Engineers Trip Generation Manual", unless a qualified traffic engineer demonstrates that unique development characteristics will result in substantially different rates. (158.102(E)(1)(a))
  - (b) A proposed development of a theater, auditorium, civic center, hotel ballroom, or other place of public assembly of either 7,650 square feet or larger, or designed to accommodate more than 425 people.

- (2) *Impact study areas.* The transportation impact study area shall include all arterial and collector streets within one-half mile of the site entrance or shall include the nearest arterial roads that will be impacted by the development. For developments which generate between 250 and 1,000 trips during the peak hour or over 1,000 trips during the peak hour, the study area shall be one and three miles respectively. Estimates of peak hour trip generation shall be determined by the Town's, Florida registered engineer. Peak hour traffic impact shall be assessed, with and without the development, for all collector and arterial road segments and their respective intersections with other collector and arterial roadways within the designated service area. If additional traffic counts are warranted, they shall be undertaken at the direction of the Town's, Florida registered engineer at the Applicant's expense. (158.102(E)(2))
- (3) *Contents.* The transportation impact analysis report shall contain the following:
  - (a) A detailed description of the collector and arterial road network within the impact study area, including existing and proposed roadway widths and right-of-way widths; existing and proposed traffic signals and traffic-control devices; existing and proposed ingress and egress locations, including existing or proposed acceleration or deceleration lanes or turning lane improvements. (158.102(E)(3)(a))
  - (b) A detailed description of the existing and proposed land uses within the impacted study area. (158.102(E)(3)(b))
  - (c) A detailed level of service C condition analysis of all local and collector roads and a detailed service level E condition analysis of arterial roadways and intersections within the study area based on procedures outlined in the most recent edition of the Transportation Research Board's Highway Capacity Manual. (158.102(E)(3)(c))
  - (d) A description of all the existing collector and arterial roadways and intersections that are at or below the service level C condition (service levels C, D, E or F). (158.102(E)(3)(d))
  - (e) A detailed analysis of traffic impact of the development, including trip generations (peak season peak hour), internal and external trips, trip absorptions and trip distributions over all collector and arterial roads within the study area. All methodology and assumptions must be clearly stated. The analysis shall utilize the most recent local transportation data available. (158.102(E)(3)(e))
  - (f) A detailed cumulative transportation impact of the existing traffic conditions, including traffic from the development, normal increases in traffic and increases from allocation of road capacity to already approved projects. This analysis must identify projected peak season peak hour volumes for all the local, collector and arterial roads and must describe all the roadways and intersections that will be at or below the adopted level of service. (158.102(E)(3)(f))
- (4) *Traffic study and traffic data inventory and file.* The Town Planning and Zoning Official shall keep a file on all traffic studies including the future capacity allocated for each project. In determining the projected demand in Subsection (E)(3)(f) above, the impact analysis shall include all trips already allocated in previous development proposals. Should a project's development plan expire pursuant to other provisions of this Chapter, the allocated capacity of each affected facility shall become reassigned coincident with the expiration of the development plan. The Town shall provide information when available and where appropriate data already exists in order to prevent duplication of efforts and unnecessary costs. (158.102(E)(4))
- (5) *Improvements to roadways or traffic-control devices.* Transportation improvements such as intersection improvements; additional turning, acceleration or deceleration lanes; modified land delineations; new or improved traffic-control devices; or other such improvements may be required in order to maintain the required level of service. In such case, the Applicant for a development permit may be required to fund and/or install the necessary improvements or provide a legal assurance, such as a performance bond or other surety approved by the Town Attorney, prior to the receipt of a Building Permit. Where the traffic impact does not generate traffic volume that substantiates the total improvement needs, the Planning and Zoning Board shall determine an equitable participation in the required improvement. The participation by

the Applicant may, at the discretion of the Planning and Zoning Board, consist of a pro rata dollar share of improvement costs. (158.102(E)(5))

- (E) *Open Space and landscape.* Open space for the purpose of calculating residential, nonresidential and mixed use open space requirements of this Subsection shall be defined as those areas not defined as impermeable surface as provided for in Section 158.144. The calculation of open space coverage shall be verified by a licensed design professional. Active recreation areas may be counted as open space as provided for in Section 158.144. Parking lots and driveways, whether paved or unpaved, shall not be included as open space. Swimming pools shall not count as open space. Other active recreation areas which are not defined as impermeable surface as provided for in Section 158.144 and not covered by an impermeable structure shall be included as open space. (158 158.026)
- (1) *Residential Open Space requirement.* All residential development shall preserve a minimum of 50 percent of the gross land areas as open space. Of the required 50 percent open space only a maximum of 60 percent of the total required open space acreage may be comprised of a golf course. The intent is to maximize usable active and passive open space and recreation area and to require good principles of urban design, including walkway systems which provide access to unique open spaces, courtyards, sitting areas, and other usable areas near the principal residential structures. Wetlands and landlocked waterbodies may be used in calculating open space, as long as minimum of 40 percent of the upland property is comprised of open space. (158.102(F)(1))
  - (2) *Nonresidential open space requirement.* All tourist accommodations including motels, hotels and tourist resort facilities, shall provide a minimum of 50 percent of the gross land area as open space. Wetlands and landlocked waterbodies may be used in calculating open space as long as a minimum of 40 percent of the upland property is comprised of open space. Other forms of nonresidential development shall provide a minimum of 20 percent open space. Wetlands and landlocked waterbodies may be used in calculating open space as long as minimum of 15 percent of the upland property is comprised of open space. (158.102(F)(2))
  - (3) *Mixed use Open Space requirement.* Where residential and nonresidential development is permitted pursuant to this Chapter, the development shall provide a minimum of 50 percent of the gross land area as open space. Wetlands and landlocked waterbodies may be used in calculating open space, as long as a minimum of 50 percent of the upland property is comprised of open space. (158.102(F)(3))
  - (4) *Use of Open Space.* Open space and spaces between buildings required by this Chapter shall be located and improved so as to reasonably serve the purposes for which the requirements are intended. These purposes include provisions of adequate light and air, appropriate separation between buildings and uses, enhancement of privacy, sufficient area for recreation and leisure pursuits (in residential areas) and to facilitate surface water drainage. (158.102(F)(4))
  - (5) *Preserve natural landscape, native vegetation and significant wildlife species and their habitats.* Any development proposal that threatens mortality to rare, endangered, or threatened wildlife, marine life, or plant life or species of special concern, or alters the natural processes of wetlands will not be approved by the Town. The natural landscape of the site shall be preserved as much as possible for purposes of enhancing the general appearance of the site as well as to prevent excessive stormwater runoff, erosion, siltation and dust. Sand dunes and natural landscape barriers fronting on the Gulf of Mexico shall be preserved, enhanced and restored to the greatest extent possible through the land development process. In landscaping efforts, priority is given to removing nuisance exotics, maintaining native trees, and using vegetation that is dry season and wet season tolerant. Every effort shall be made to avoid the removal of native vegetation. Wherever such native vegetation has to be removed however (i.e., having a diameter of four inches or more), the Applicant shall either replant or replace each tree on the site at the rate of at least two mature trees for every tree removed. All landscaping activities and work resulting from this condition shall be incorporated into a landscaping plan to be submitted to the Town. All landscaping work shall not only meet the conditions of this Development Order but also the provisions of the Town of Longboat Key Tree Ordinance. (158.102(F)(5))

- (a) Specimen or habitat of terrestrial species on the U.S. Fish and Wildlife Service (USFWS) lists, as amended, will not be adversely impacted by development unless appropriate mitigation is approved by the appropriate government agencies. (158.102(F)(5)(a))
  - (b) Specimen or habitat of bayside marine species on the appropriate lists shall not be altered by new dredging activity, while existing channels may be maintained only to their original dimension. (158.102(F)(5)(b))
  - (c) Specimens or habitat of gulfside marine species on the USFWS lists may be affected by beach restoration efforts, but only after such efforts are assessed and adequate mitigation programs are instituted for the affected species. (158.102(F)(5)(c))
  - (d) For Gulf-front properties, a Dune Enhancement and Protection Plan is required. The Dune Enhancement and Protection Plan will include the following information: installation and/or maintenance of salt-tolerant plants, such as sea oats, dune grasses, and other diverse species; minimize breaks in the vegetated dune zone at beach access corridors; identify access corridors where dune walkovers shall be installed (where appropriate); and seek to connect to the adjacent vegetated dune zones to maintain alongshore vegetative connectivity of the dunes. Where appropriate, the Applicant will import beach compatible sand to restore the elevation of the landward portion of the beach to re-establish the dunes prior to vegetative enhancement. The Plan will also acknowledge and discuss the requirement to acquire permits from the appropriate agencies for the implementation of the Plan (e.g. FDEP Coastal Construction Control Line permit).
- (6) The open space area requirements of this Section may be reduced through the use of pervious or semi-pervious parking as specified under Section 158.100(R), Incentive For Pervious or Semi-Pervious Parking. (158.102(F)(6))
- (F) *Wetland development restrictions.* Site specific investigations shall confirm the existence of wetland areas (see Section 158.144) based on on-site soil and vegetative analysis with assistance of appropriate representatives of the Florida Department of Environmental Protection (FDEP), the Southwest Florida Water Management District (SWFWMD), the U.S. Soil Conservation Service and the U.S. Army Corps of Engineers. No development activity shall be allowed in a wetland area unless "competent evidence" indicates that: (158.102(G))
- (1) Dominant vegetation is no longer comprised of wetland types. (158.102(G)(1))
  - (2) The water regime has been permanently altered artificially or naturally in a manner to preclude its associated watershed areas from functioning as wetlands and cannot function as part of the stormwater management system for the site. Applicants for Site Development Plan review shall have an opportunity to demonstrate that any wetland designations within the confines of their property no longer functions as wetlands, including its function as part of the stormwater management system, as defined above. The urban forester, the soil conservationist, as well as representatives of the Florida Department of Environmental Protection, the Southwest Florida Water Management District, and the U.S. Army Corps of Engineers, shall be made a part of the Site Development Plan review process to assist in identifying and delineating wetlands. The Applicant may request a Waiver of the provisions of this Section for docks or relatively small isolated marginal wetlands for which the developer shall provide viable compensatory preserve areas which mitigate against a loss of viable wetland systems. Subject to the provisions of this Section, no development shall be permitted in wetlands. However, where land is held under unity of title (common ownership) and such properties include both uplands and wetlands, density credit may be granted for wetland acreage with approval of the Planning and Zoning Board subject to provisions to be established in the land development code. However, in calculating credit for density in wetland areas, landward of the mean high-water line, in no case shall density credits exceed half the gross density assigned to the wetland area pursuant to the Comprehensive Plan land use map. No credit for density shall be given for wetland areas seaward of the mean high-water line. Furthermore, the net residential density in the upland area shall not exceed 1.5 times the gross density assigned to the site. (158.102(G)(2))
- (G) *Surface water management.* All stormwater runoff from development sites and construction sites shall meet applicable Southwest Florida Water Management District and Florida Department of



Environmental Protection applicable stormwater and wastewater discharge requirements; and all development and construction applications shall be reviewed to assure adequate drainage, flood prevention, and protection of water quality. The owner of any site will be responsible for the on-site management of runoff in such a manner that post-development discharge rates will not exceed pre-development conditions and requirements. No stormwater should be discharged directly into Sarasota Bay or the Gulf of Mexico unless it has been detained on-site in accordance with local and state regulations and conveyed to the open water in an acceptable manner. (158.102(H))

- (1) *Flood control policies.* The flood control ordinance, surface water drainage and flood control policies of the subdivision ordinance and other applicable rules and regulations of the Town of Longboat Key together with the flood management criteria and the Stormwater Treatment and Storage Regulations of the Southwest Florida Water Management District shall be used as a basis for reviewing surface water management plans. In case of conflict the more restrictive provision shall govern. (158.102(H)(1))
  - (2) *Surface water management plans.* Surface water management plans shall be submitted by the Applicant as part of all Site Development Plan reviews and shall be approved pursuant to procedures included in the Town of Longboat Key's Land Development Code, prior to the issuance of a Building Permit for any construction, including construction incidental to a new or changed use or major expansion. The intent is that criteria within the Town's subdivision ordinance for managing surface waters shall also be applied in review of development proposed for Site Development Plan review. Furthermore, the intent is to assure to the greatest feasible extent that all future development occurs at an intensity which will not impede or adversely impact natural hydrologic systems. The intent is that new development, redevelopment and expanded or changed uses to be planned, designed, and constructed to include design features necessary to achieve the following objectives: 1) prevent or restrict the construction of buildings in the most frequently flooded areas; 2) require the elevation or flood-proofing of buildings in less frequently flooded areas; 3) restrict interference with the normal movement of floodwaters; and 4) restrict increases in the rate or volume of surface water discharge. (158.102(H)(2))
  - (3) *Runoff from construction sites.* Construction activities shall implement proper erosion and sediment control practices at construction sites to minimize the amount of pollutant entering the stormwater system. (158.102(H)(3))
  - (4) *Domestic wastewater.* There shall be no connection to a storm system, or manmade or natural waterway from any domestic wastewater systems such as wastewater collection and transmission systems or septic tank systems. Prohibited connections may consist of piping connections, exfiltration, infiltration, seepage, leaks or ditching. (158.102(H)(4))
  - (5) *Surface water management criteria.* The Town may waive this requirement for minor construction as shall be hereafter defined by the Town. Criteria for managing such Waiver procedures shall be established as a departmental operations policy and shall be adopted by resolution of the Town Commission. All publications incorporated in the Southwest Florida Water Management District (SWFWMD) criteria for review of surface water management shall be used in planning and reviewing surface water management within the Town of Longboat Key. New or updated criteria approved for use by the Southwest Florida Water Management District or by the Town may be used to review and adequately manage water quality and drainage system improvements. The owner of any facility which fails to comply with these criteria will be required to cease all discharges to the storm sewer system unless such discharges are in strict conformity with all federal, state or Town permits or other local law or regulation. (158.102(H)(5))
  - (6) *Surface water management review coordination.* The Town shall coordinate the surface water management review process with the SWFWMD to prevent unnecessary duplication of effort. The Town may maintain more restrictive standards for review in order to adequately assess and manage surface water drainage within the Town limits. (158.102(H)(6))
- (H) *Available potable water.*
- (1) All new and existing development shall be required to connect to the Town's public water system except that development on islands geographically separated from the main island of

the Town may be exempted from this requirement. Any water service systems improvements required by proposed development or redevelopment shall be designed to satisfy performance standards of the state, county and the Town of Longboat Key. (158.102(l)(1))

- (2) All new development that requires additional potable water in an amount in excess of 500 gallons per day shall enter into a Development Agreement with the Town to insure that the additional potable water capacity required by the development is purchased from the Manatee County Water Utility, pursuant to the terms and conditions of the agreement between Manatee County and the Town of Longboat Key then in effect. (158.102(l)(2))
- (I) *Wastewater service.* All new and existing development shall be required to connect to the Town's central wastewater utility except that development on islands geographically separated from the main island of the Town may be exempted from this requirement. Any wastewater service systems shall be designed to satisfy performance standards of the state, county, and Town of Longboat Key. (158.102(J))
  - (J) *Soil erosion and sedimentation control.*
    - (1) *Applicability.* In order to prevent both soil erosion and sedimentation, a soil erosion and sedimentation control plan shall be required as a part of an application for Site Development Plan review whenever a development will involve any clearing, grading, transporting, or other form of disturbing land by the movement of earth, including the mining of minerals, sand and gravel, provided that any one of the following descriptions applies to said movement: (158.102(K)(1))
      - (a) Excavation, fill, or any combination thereof will exceed 250 cubic yards. (158.102(K)(1)(a))
      - (b) Fill will exceed three feet in vertical depth at its deepest point as measured from the natural ground surface. (158.102(K)(1)(b))
      - (c) Excavation will exceed four feet in vertical depth at its deepest point as measured from the natural ground surface. (158.102(K)(1)(c))
      - (d) Excavation, fill or any combination thereof will exceed an area of 5,000 square feet. (158.102(K)(1)(d))
      - (e) Plant and tree cover is to be removed from an area exceeding 5,000 square feet on any parcel of land. (158.102(K)(1)(e))
      - (f) Whenever any land located in a stream, stream channel, or body of water is disturbed, a soil erosion and sedimentation control plan shall be provided. (158.102(K)(1)(f))
    - (2) *Erosion-control measures.* All best management practices necessary to minimize soil erosion and to control sedimentation in the disturbed land area shall be implemented. Soil erosion and sedimentation by wind and water shall be minimized by retaining or restoring vegetation during and after construction. Protection shall be provided for all disturbed areas: minimize velocities of water runoff, maximize protection of disturbed areas from stormwater runoff, and retain sedimentation within the development site as early as possible following disturbances. A list of major problem areas for erosion and sedimentation control follows. For each one, the purpose(s) of requiring control is described. Soil erosion and sedimentation control measures for all such areas shall be provided with a view toward achieving the specific purpose listed below for which a control plan is required: (158.102(K)(3))
      - (a) *Erodable slopes.* Prevent detachment and transportation of soil particles from slope. (158.102(K)(3)(a))
      - (b) *Streams, streambeds, streambanks, bodies of water, lake shorelines.* Prevent detachment and transportation of soil particles. (158.102(K)(3)(b))

- (c) *Drainageways*. Prevent detachment and transportation of soil particles (which would otherwise deposit in streams, bodies of water, or wetlands); promote deposit or sediment loads (traversing these areas) before these reach bodies of water. (158.102(K)(3)(c))
- (d) *Land adjacent to the gulf, bay, tributaries and wetlands*. Prevent detachment and transportation of soil particles. (158.102(K)(3)(d))
- (e) *Enclosed drainage structure*. Prevent sedimentation in structure, erosion at outfall of system, and deposit of sediment loads within system or beyond it. (158.102(K)(3)(e))
- (f) *Large flat surface areas (unpaved)*. Prevent detachment of soil particles and their off-site transportation. (158.102(K)(3)(f))
- (g) *Impervious surfaces*. Prevent the detachment and transportation of soil (in response to an increase in the rate or volume of runoff of the site or its concentration caused by impervious surfaces). (158.102(K)(3)(g))
- (h) *Borrow and stockpile areas*. Divert runoff from face of slopes which are exposed in the excavation process; convey runoff in stabilized channels to stable disposal points; leave borrow areas and stockpiles in stable condition. (158.102(K)(3)(h))
- (i) *Adjacent properties*. Prevent their erosion or being deposited with sediment. (158.102(K)(3)(a))

(K) *Supplemental controls for multifamily residential and tourism uses*. In reviewing the proposed Site Development Plan for ten or more multifamily or tourism units, the Town shall be guided by the following controls. The supplemental control relating to the maximum length of buildings, as provided for in Subsection (3) of this Section, shall be taken as a mandatory requirement which cannot be waived by the Town Commission. The remaining controls in this Section shall be taken as mandatory requirements, except that the Town Commission may waive one or more of these requirements where it determines a hardship exists Notwithstanding any provision of this Section to the contrary, for properties located in a Planned Unit Development, the Town Commission may consider and grant a Departure, under the standards for a requested Departure as outlined in Subsection 158.036(D), for one or more of the supplemental controls of this Subsection 158.030(K), including Subsection (3) for the maximum length of buildings.

In any Development Order approving a Site Development Plan, the Town Commission shall make specific findings of facts constituting a hardship, if a hardship is found to exist, and shall make specific findings of any facts constituting the basis for a Waiver of these supplemental controls.

The provisions of Section 158.020 shall apply in determining whether a Waiver shall be granted upon a finding that a hardship exists, except that the Town Commission, rather than the Zoning Board of Adjustment, shall determine whether a hardship exists or not. The facts forming the basis for the grant of a Waiver under the provisions of this Section shall be specifically set forth in the Development Order. (158.102(L))

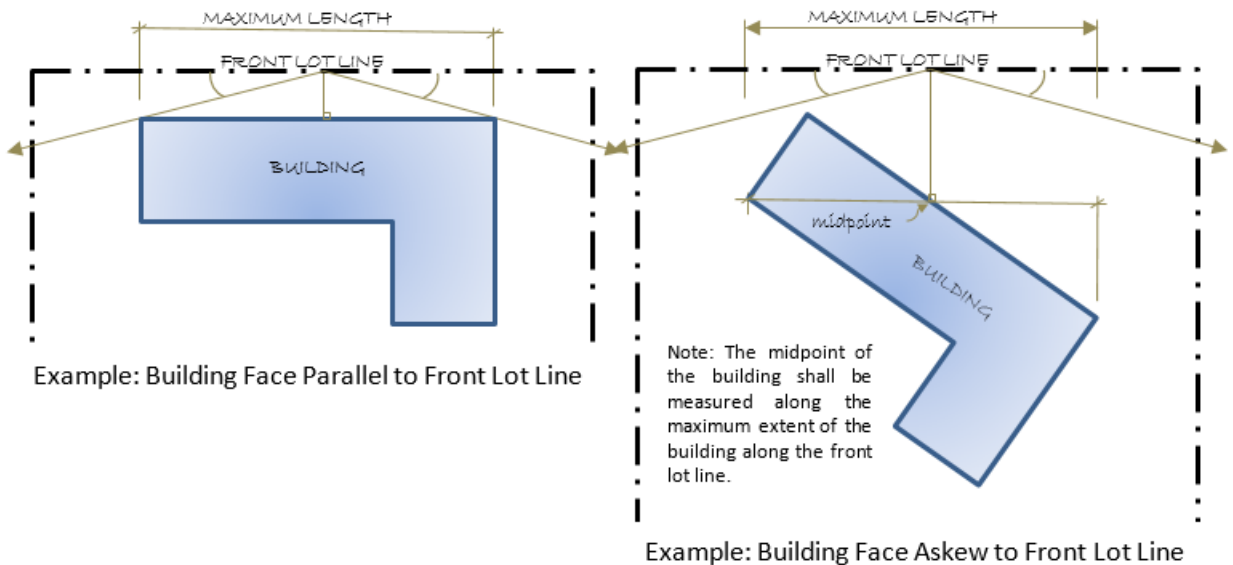
(1) *Minimum street yards (front setbacks)*.

- (a) The distance measured perpendicularly from any front lot line to the nearest surface of a building shall not be less than twice the height of the building, which height shall be measured from the lowest visible elevation under the building to the highest part of the building. (158.102(L)(1)(a))
- (b) Development lots in certain locations within the MUC-2 zoning district shall observe the following street yard (front setback) standards in lieu of the general standard above: (158.102(L)(1)(b))
  - 1. All buildings must be set back at least 100 feet from Gulf of Mexico Drive, except that a covered entrance portico that is attached to a building can be as close as 50 feet to Gulf of Mexico Drive. (158.102(L)(1)(b).i)

2. Development lots that are separated by a private street from an adjacent lot that is permanently restricted as open space or golf course shall have the minimum street yard (front setback) measured as follows: (158.102(L)(1)(b).ii)
  - a. Buildings must be set back from the private street at least a distance equal to their height, but never more than 100 feet. (158.102(L)(1)(b).ii.A)
  - b. If the front of a building has two or more vertical planes, the setback distances apply to each plane. For example, a building with a two-story podium and six stories above the podium must have its podium set back at least a distance equal to the podium's height and the remainder of the building must be set back at least a distance equal to the height of all eight stories, but never more than 100 feet. (158.102(L)(1)(b).ii.B)
  - c. These private street setbacks shall be measured to the edge of the street's pavement. (158.102(L)(1)(b).ii.C)
- (2) *Distance between buildings.* No building shall be located closer to another building on the same lot than a distance equal to half the sum of the heights of both buildings (measured from the lowest visible elevation under each building), nor shall any structure be located closer to a site lot line than a distance equal to 70 percent of the building height (measured from the lowest visible elevation under the building). In addition, the front or rear of any building may be no closer to the front or rear of any other building than 40 feet. The side of any building should be no closer to the side, front or rear of any other building than 30 feet.

As to Subsections (K)(1) and (2), "visible elevation" shall not include elevator shafts, stairwells and other mechanical equipment areas, so long as such areas do not exceed ten percent of the area under the building. (158.102(L)(2))

- (3) *Maximum length.* No portion of any individual building shall extend beyond a line drawn from the front lot line 30 degrees either side of a line through the midpoint of the front face of the building and perpendicular to the front lot line. (158.102(L)(3))



- (4) *Distance between buildings and driveways.* No driveway or parking lot should be closer than 25 feet to the front of any building or ten feet to the side or rear of any building except where parking under or within the building is proposed or in the case of a front entrance to a building. (158.102(L)(4))
- (L) All docks and boat facilities shall comply with Section 158.099, of the Town Zoning Code and Comprehensive Plan. (158.102(M))

- (M) Proposed residential development shall comply with school concurrency proportionate-share mitigation program in accordance with Article 9, School Concurrency Proportionate-Share Mitigation Program . (158.102(N))
- (N) *Other performance standards.* Other performance standards used by the Town in reviewing any site or development plan shall include such other standards as may be imposed by this Zoning Code on the particular use or activity involved. (158.102(O))

**158.031 – Grant or denial of applications for Site Development Plan approval; findings of fact and conclusions.**

The granting or denial of approval of applications for Site Development Plan approval by written Development Order shall include not only conclusions but also findings of fact related to the specific proposal and shall set forth the reasons for the grant, with or without changes or special conditions, or for the disapproval. The Development Order shall set forth findings of fact and conclusions on the following: (158.103)

- (A) In what respects the plan is or is not consistent with the Comprehensive Plan and the purpose and intent of the zoning district in which it is located. (158.103(A))
- (B) In what respects the plan is or is not in conformance with all applicable regulations of the zoning district in which it is located. (158.103(B))
- (C) In what respects the plan is or is not in conformance with the Town's Subdivision Regulations, Chapter 157, and all other applicable Town requirements, including the design, adequacy and construction of streets, drainage, utility facilities and other essential services. (158.103(C))
- (D) In what respects the plan is or is not consistent with good design standards in respect to all external relationships, including, but not limited to, relationship to adjoining properties; internal circulation, both vehicular and pedestrian; disposition and use of open space, provision of screening and buffering, and preservation of existing natural features, including trees; size and apparent bulk of structures; and building arrangements both between buildings in the proposed development and those adjoining the site. (158.103(D))
- (E) In what respects the plan is or is not in conformance with Town policy in respect to sufficiency of ownership, guarantees for completion of all required improvements, and, if private, the guarantees for continued maintenance. (158.103(E))

**158.032 – Consultants may be retained by Town.**

The Town may retain consultants to assist in the review of an application for Site Development Plan review. The cost of retaining the consultants shall be borne by the Applicant. The Applicant shall be responsible for making timely payment of all said consultant fees charged. Failure to do so will result in the Town being relieved of its obligation to continue processing the application until the required payment(s) is/are made. The payment of all outstanding consultant fees shall be a condition of Site Development Plan approval and payment is a condition precedent to the Town's obligation to issue a Building Permit. (158.096)

**DIVISION 6. – STATEMENT OF ZONING COMPLIANCE**

**158.033 – Statement of Zoning Compliance.**

Where an addition, alteration or reconstruction of a building or the construction or erection of a fence, wall, parking area, or other structure is undertaken after the issuance of a Building Permit and upon completion is in accordance with all provisions of this Chapter; and where a Certificate of Occupancy is not applicable, a Statement of Zoning Compliance shall be issued in the same manner as a Certificate of Occupancy at a fee to be established by resolution of the Town Commission. (158.007(C))

## DIVISION 7. – PLANNED UNIT DEVELOPMENTS (PUD’S)

### 158.034 – Overview of Planned Unit Developments (PUD).

(A) *Intent.* Planned unit developments are intended: to encourage flexibility in the design and development of land; facilitate the adequate and economical provision of streets, utilities, and public spaces; and preserve the natural and scenic qualities of open areas. The PUD application, review and approval procedure is intended to permit diversification in the location of structures and improve circulation facilities and other site qualities while ensuring adequate standards relating to public health, safety, comfort, order, appearance, convenience, morals and general welfare.

Planned unit development (PUD) regulations provide an optional review and approval process for Applicants who seek to develop or redevelop parcels in and are limited to parcels that are: 1) located in Mixed Use Community (MUC) zoning districts; or 2) conforming for density, if developed with residential or tourism uses and not zoned R-1IP, R-1SF, R-2SF, R-3SF, R-4SF, or R-6SF; or 3) zoned INS, OI, C-1, C-2, C-3 or M-1.

In the MUC zoning districts, the PUD process establishes development rights on specific parcels, thus the PUD process is the only process that landowners in those zoning districts can use to request changes to the development plans for those parcels. The PUD process allows approval of a conceptual Site Development Plan, known as a binding concept plan, prior to preparation and submission of a final Site Development Plan. The PUD process also allows landowners to seek Departures from certain provisions of this Code at the conceptual design stage. Landowners must conform to the approved binding concept plan when they submit final Site Development Plans in accordance with Subsection 158.036(F). (158.065(A))

(B) *Effect on zoning district.* The PUD process requires the submission of an Outline Development Plan (ODP), which becomes an integral part of a PUD approval. Planned unit development approval does not change the underlying zoning district, nor does it add permitted uses to those specified for each zoning district in the Use Regulations tables accompanying Article IV. (158.065(B))

(C) *Where permissible.* PUD approval shall be limited to any of the following zoning district(s), provided that parcels developed with residential or tourism uses are conforming for density, are not already zoned CORD, and the minimum area requirements in Section 158.037 are met for the following zoning districts: (158.065(C))

- (1) INS; (158.065(C)(1))
- (2) R-3MX, R-4MX, and R-6MX; (158.065(C)(3))
- (3) MUC-1, MUC-2, and MUC-3; (158.065(C)(4))
- (4) OI, C-1, C-2, C-3, and M-1; and (158.065(C)(5))
- (5) T-3 and T-6. (158.065(C)(6))

(D) *Density.* Planned unit developments (PUD) approvals are limited to parcels that are developed with conforming density for residential or tourism uses and shall comply with the special density provisions found in Section 158.070. (158.065(D))

(E) *Site plans.* A PUD is approved through the adoption of an Outline Development Plan (ODP). Binding concept plans are required as part of Outline Development Plans, except where this Code explicitly allows a Final Site Development Plan to replace a binding concept plan (see, for instance, Subsections 158.036(B)(1) and 158.106(F)). Binding concept plans become an integral part of ODP and PUD approvals. Binding concept plans (and Final Site Development Plans) may be subsequently amended in accordance with the standards and procedures in Section 158.036. (158.065(F))

### 158.035 – Preapplication Conference.

In order to expedite the review of a proposed Planned Unit Development, coordinate its local review in respect to the provisions of this Chapter with the necessary county, state, and federal agency reviews, and to inform the Town of a Planned Unit Development in preparation, one or more preapplication conferences between the Applicant and the Planning and Zoning Official is required. The preapplication conference, while informal, will serve several purposes and focus on the following items: (158.066)

- (A) To inform the Town of any Planned Unit Development plans in progress together with the scale and character of the plan so that the Town may recognize the proposed development in any of its physical or facility planning for the entire Town. (158.066(A))
- (B) To inform the Applicant of the Town's informal response as to the scale and character of the proposed development and to alert the Applicant to any specific areas of concern that the Town may have for that specific site or proposed plan. (158.066(B))
- (C) To clarify and inform the Applicant in respect to the Outline Development Plan approval procedure and submission requirements, including an anticipated application time and review period as specifically set forth in Section 158.036. (158.066(C))
- (D) To enable the Applicant to inform the Town of the requirements, procedure, and status of the various county, state and federal agency reviews. (158.066(D))

**158.036 – Review and approval of Planned Unit Developments.**

- (A) *Approving authority.* Planned unit developments are subject to the approval of the Town Commission after review and recommendation by the Planning and Zoning Board and after public hearings are held by the Town Commission in accordance with law. (158.067(A))
- (B) *Applications.* In order to provide an expeditious method for processing an Outline Development Plan application for a Planned Unit Development, under the terms of this Chapter, it is hereby declared to be in the public interest that all procedures with respect to the review, approval or disapproval of a plan for a Planned Unit Development, and the continuing administration thereof, shall be consistent with the following provisions: (158.067(B))
  - (1) *Application requirements.* An application for an Outline Development Plan for a Planned Unit Development, including full payment of an application fee as set forth by resolution of the Town Commission, shall be signed and filed by the Applicant, with the Planning and Zoning Official. The purpose of the Outline Development Plan is to provide the Town with information with respect to the type, character, scale, and intensity of development as well as the time phasing of the proposed Planned Unit Development in order for the Town to evaluate the impact of the development to the Town. Any application for outline development approval shall be submitted on a form provided by the Town and in addition shall include at a minimum the following information, unless the Planning and Zoning Official determines in writing that one or more of the following elements do not apply to the particular application: (158.067(B)(1))
    - (a) A scaled drawing delineating the relationship of the site to existing development in the area, including streets, utilities, residential and commercial development, and important physical features in and adjoining the project, including ecological features. (158.067(B)(1)(a))
    - (b) A scaled drawing delineating the approximate location and dimensions of all boundary lines of the development, and of any contiguous lands, including those separated only by a street, canal or similar feature, in which the developer or property owner presently has any legal interest. (158.067(B)(1)(b))
    - (c) A verified statement, including a certificate of ownership, showing each and every individual person having a legal ownership interest in the subject property except publicly held corporations whose stock is traded on a nationally recognized stock exchange, in which case the name and address of the corporation and principal executive officers will be sufficient. (158.067(B)(1)(c))
    - (d) A scaled drawing delineating the approximate location, nature and extent of all existing easements, streets, buildings, land uses, zoning, tree groupings, watercourses, uplands, wetlands, and topographic contours (i.e., at six-inch intervals with reference to mean sea level), on the site; the existing zoning and land use for all contiguous property; and flood protection elevation data and flood zones. (158.067(B)(1)(d))
    - (e) Tabulations by acreage and percentage as to the amount of the site that is uplands and wetlands, indicating those wetlands landward and seaward of the mean high-water line

(MHWL), including the extent and type of wetlands in accordance with the Town's Comprehensive Plan. (158.067(B)(1)(e))

- (f) A scaled drawing delineating the approximate locations, intensity and acreages of general land uses (proposed), including dwelling types and units and general types of nonresidential uses, open spaces, recreational facilities and other proposed uses. (158.067(B)(1)(f))
- (g) A traffic impact analysis shall be provided, except for voluntary reconstruction without additional dwelling or tourism units, to ensure that the adopted level of service standards are not exceeded before capacity-related improvements are implemented; and a scaled drawing delineating a circulation facilities plan indicating approximate locations and types of proposed streets, bicycle paths, pedestrian walks, and emergency vehicle access points, including all curb cuts, driveways, off-street parking and loading areas and off-street surfaces available for maneuvering vehicles. (158.067(B)(1)(g))
- (h) Tabulations of total project acreage and proposed densities for each tourism and dwelling unit type and total number of tourism and dwelling units by type. (158.067(B)(1)(h))
- (i) Tabulations of all land uses and approximate square footage of gross area for all nonresidential buildings by general type (e.g., offices, limited commercial, etc.). (158.067(B)(1)(i))
- (j) A proposed development schedule indicating approximate starting and completion dates for the entire project and any phases thereof, together with appropriate identification and description of such phases. (158.067(B)(1)(j))
- (k) Such additional data and information as the Applicant may believe is pertinent to the plan of development. (158.067(B)(1)(k))
- (l) Such additional relevant data and information the Town may reasonably require. (158.067(B)(1)(l))
- (m) A written statement by the landowner or any other entity having a cognizable interest in the land, describing fully the character and intended use of the Planned Unit Development and setting forth the reasons why, in their opinion, a Planned Unit Development would be in the public interest and would be consistent with the Town's statement of purposes of a Planned Unit Development. (158.067(B)(1)(m))
- (n) A statement specifically indicating any requested Departures from Article IV of this Chapter and Section 158.030, and a statement of any existing hardship and/or clear and specific statement of how the code Departures are necessary or desirable to accomplish a Planned Unit Development under Article III, Division 7. The statement shall include the Applicant's position as to why each requested Departure either meets or has no material adverse effect on each of the Departure criteria in Subsection 158.036(D). (158.067(B)(1)(n))
- (o) A binding concept plan, which is a conceptual Site Development Plan that depicts the proposed development and is intended to become an integral part of a Planned Unit Development approval. The binding concept plan shall show the existing and proposed uses and structures, lots, streets, and other physical aspects of the proposed development as enumerated in Sections 158.036 and 158.030. At an Applicant's discretion, a final Site Development Plan may be submitted for approval concurrently with the Outline Development Plan, thus eliminating this requirement for a binding concept plan. (158.067(B)(1)(o))
- (p) Additional requirements for applications for reconstruction of nonconformities:
  - 1. A statement specifically indicating modifications and adjustments from the requirements of this Code of Ordinances which would otherwise be applicable to the project if reconstruction of a nonconformity were not granted by the Town. (158.067(B)(1)(p)1.)



2. A clear and specific statement of any hardship that exists making the modifications and adjustments from the Code necessary. (158.067(B)(1)(p)2.)
  3. A clear and specific statement of how the modifications and adjustments are necessary or desirable to accomplish one or more of the stated purposes of the reconstruction provisions in Section 158.132. (158.067(B)(1)(p)3.)
- (2) *Application procedures.* The application for an Outline Development Plan of a Planned Unit Development shall be signed and filed by the Applicant with the Planning and Zoning Official. As an alternative to submitting a binding concept plan, the Applicant may concurrently file an application for Site Development Plan approval. If filed, the application for Site Development Plan approval shall be processed in accordance with Article III, Division 5, herein. Upon receipt of the application the Planning and Zoning Official shall review the application to determine its appropriateness and completeness and accept or reject it in writing. Upon acceptance of the application, the Town's administrative Staff shall refer the application, together with all supporting documentation and a Staff report, to the Planning and Zoning Board for its review and recommendations. The Planning and Zoning Board and Town Commission shall not receive, review, make recommendations or act on applications for Outline Development Plan approval except during the Town's annual Site Development Plan season. During the review process, the Town may retain consultants to assist in the review. The cost of retaining the consultants shall be borne by the Applicant. For purposes of this Chapter, the annual Site Development Plan season shall include the months of September, October, November, December, January, February, March, April, May and June of each year. For purposes of calculating the required processing times set forth in this Section for the Planning and Zoning Board and the Town Commission, the period of time from July 1 through August 31 shall not be counted in said computation. (158.067(B)(2))
- (3) *Planning and Zoning Board public hearing.* Upon receipt of the application from the Planning and Zoning Official, the Planning and Zoning Board shall review the Outline Development Plan and make recommendations to the Town Commission that are based on competent, substantial evidence of record. The Planning and Zoning Board may also formulate findings of fact as to the consistency of the application with this Code and with the Comprehensive Plan. The Planning and Zoning Board shall recommend approval of the application as submitted, approval of the application with changes or special conditions, or disapproval of the application. The determination and recommendations of the Planning and Zoning Board shall be advisory only and shall not be binding upon the Town Commission. For purposes of this Section the Planning and Zoning Board shall receive an Outline Development Plan application from the Planning and Zoning Official at the Planning and Zoning Board's next regular meeting where a quorum is present following the Planning and Zoning Official's submittal of the application to the Planning and Zoning Board. The Planning and Zoning Board is specifically authorized to continue its deliberations, reasonably request additional relevant materials, and elicit expert testimony to aid in its deliberations. (158.067(B)(3))
- (4) *Town Commission public hearing.* A public hearing on the Planned Unit Development application shall be held by the Town Commission upon the Commission's receipt of the application from the Planning and Zoning Board, public notice of which shall be given in accordance with the provisions of the Charter and this Chapter. For purposes of this Section, the Town Commission shall receive an Outline Development Plan application from the Planning and Zoning Board at the Commission's next regular meeting where a quorum is present, following the submittal of the Planning and Zoning Board's action on the application to the Commission. A transcript of the hearing may be caused to be made by the Town Commission at the cost of the Applicant, copies of which shall be made available at cost to any party to the proceedings; and all exhibits accepted in evidence shall be identified and duly preserved, or, if not accepted in evidence, shall be properly identified and the reason for the exclusion clearly noted in the record. The Town Commission is specifically authorized to continue its deliberations, request additional materials and elicit expert testimony to aid in its deliberations, and may, at its sole discretion, remand the application to the Planning and Zoning Board for additional hearing and consideration. If changes are made to the application, accompanying plans or conditions of approval after review by the Planning and Zoning Board, the Commission may, at its sole

discretion, remand the application back to the Planning and Zoning Board, but is not required to do so. (158.067(B)(4))

- (5) *Town Commission decision procedures.* At the conclusion of the public hearing, the Town Commission shall review the Outline Development Plan application and either approve it as submitted, approve it with changes or special conditions, or disapprove it. The action taken by the Town Commission shall be by ordinance. The Town Commission may unilaterally extend the time for final action where the Commission determines additional time is necessary to properly and completely review the Outline Development Plan application. (158.067(B)(5))
  - (a) In the event approval is granted, the Town Commission shall, as part of its ordinance, specify the drawings, plan sheets, renderings, specifications, and form of performance and maintenance bonds that shall be considered part of the final approval. (158.067(B)(5)(a))
  - (b) In the event approval is granted subject to changes or special conditions, the Applicant shall, within 30 calendar days after receiving a copy of the ordinance of the Town Commission, notify the Town Commission in writing of the Applicant's acceptance or refusal of all the conditions. In the event the Applicant refuses to accept all the conditions or fails to reply within 30 calendar days, the Applicant shall be deemed to have withdrawn the plan. Nothing contained herein shall prevent the Town Commission and the Applicant from mutually agreeing to a change in the conditions, or an extension of the time during which the Applicant shall notify the Town Commission of acceptance or refusal of the conditions. (158.067(B)(5)(b))
  - (c) In the event an Outline Development Plan is granted approval, the Town Commission shall set forth in the ordinance the time within which an application for final Site Development Plan approval, or applications in the case of a phased development, shall be filed. However, if a final Site Development Plan was approved concurrently with the Outline Development Plan, the ordinance does not need to specify a time period. (158.067(B)(5)(c))
- (C) *Standards for approval or disapproval of application.* The Town Commission shall base its decision on each Outline Development Plan application on competent, substantial evidence of record and shall include conclusions but may also include written findings of fact related to the specific proposal and shall set forth the reasons for the grant of approval, with or without changes or special conditions, or for the disapproval of an Outline Development Plan application. The Commission's approval, approval with changes or special conditions, or disapproval of an Outline Development Plan application, shall be based on the application, evidence and testimony presented in the public hearing, and the following standards: (158.067(C))
  - (1) In what respects the Outline Development Plan is or is not consistent with the intent of a Planned Unit Development as provided in Section 158.034. (158.067(C)(1))
  - (2) Whether the plan is consistent with the Town's Comprehensive Plan. (158.067(C)(2))
  - (3) The extent to which the plan meets the zoning and Subdivision Regulations otherwise applicable to the subject property without Departures, Waivers, or Variances. (158.067(C)(3))
  - (4) The purpose, location and amount of common open space in the plan, the adequacy or inadequacy of the proposals for maintenance and conservation of the common open space, and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of development. (158.067(C)(4))
  - (5) The physical design of the plan and the manner in which the design makes adequate provision for public services, provides adequate control over vehicular traffic and parking, and enhances the amenities of light and air, recreation and visual enjoyment. (158.067(C)(5))
  - (6) The relationship, beneficial or adverse, of the proposed plan to the neighborhood in which it is proposed to be established. (158.067(C)(6))
  - (7) In the case of a plan that proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the public interest and of the residents and owners of the Planned Unit Development in the faithful completion of the plan. (158.067(C)(7))

- (8) The extent to which the plan provides for an effective and unified development on the project site making appropriate provision for the preservation of scenic features and amenities of the site and the surrounding areas. (158.067(C)(8))
  - (9) For the MUC-1 and MUC-2 zoning districts only, all permitted uses as listed in Article IV, Division 4 for each district are considered generally to be compatible uses in the MUC districts based on the intent to encourage mixed use and clustering at varying scales and intensity. Compatibility shall be achieved at specific locations by implementing compatibility techniques, such as those listed in this Section as appropriate to the context: (158.067(C)(9))
    - (a) Tourism uses and restaurants shall be designed to minimize noise from outdoor activities, such as outdoor music; (158.067(C)(9)(a))
    - (b) Loading areas and parking at grade shall be screened and landscaped to minimize impacts to residential uses and adjacent rights-of-way/private roads; (158.067(C)(9)(b))
    - (c) Anti-glare glass shall be utilized in all windows that could potentially reflect toward another residential use; and (158.067(C)(9)(c))
    - (d) Lighting shall be designed to minimize impacts to residential units and adjacent public rights-of-way/private roads. (158.067(C)(9)(d))
    - (e) Additional compatibility techniques shall be employed wherever a proposed structure exceeding 50 feet is located within 500 feet of another structure that is substantially lower in height. "Substantially lower" means there is a difference of 50 feet or more between the proposed structure and the structure within 500 feet. For the purpose of this provision, acceptable compatibility techniques include, but are not limited to, perimeter berms, landscaping buffers, building orientation, building design and architectural treatments. (158.067(C)(9)(e))
    - (f) This Section does not apply to the compatibility of uses within a proposed PUD development site, as permitted uses are deemed internally compatible. (158.067(C)(9)(f))
  - (10) The additional criteria listed below apply to requests for buildings taller than 50 feet in the MUC-2 zoning district: (158.067(C)(10))
    - (a) Yard sizes (building setbacks) are greater than required by Article IV; and (158.067(C)(10)(a))
    - (b) The taller buildings are consistent with the intent of the district and compatible with similar existing uses within the overall district. (158.067(C)(10)(b))
- (D) *Standards for approval or disapproval of Departures.* Planned unit development applications may be accompanied by requests for Departures from specific standards of Article IV of this Chapter and from the standards of Section 158.030, whether the application for final Site Development Plan approval is concurrently filed or not. However, Departures may not be granted to add uses that are not listed in the Use Regulations tables in Article IV for the zoning district underlying the Planned Unit Development. Before approving a Departure, the Town Commission shall determine by competent, substantial evidence of record that each Departure is consistent with the Longboat Key Comprehensive Plan and shall decide whether each Departure either meets or has no material adverse effect on the following criteria, except where clearly inapplicable to the requested Departure: (158.067(D))
- (1) The Departure is no less consistent with the health, safety, and welfare of abutting landowners and the general public than the standard from which the Departure is being requested, and the Departure adequately protects against adverse impacts to adjacent parcels and the surrounding area. (158.067(D)(1))
  - (2) The Departure preserves or enhances natural or scenic qualities or preserves a larger percentage of open space than required by the Zoning Code or preserves higher quality natural areas or more attractive and useful public spaces. (158.067(D)(2))
  - (3) The Departure facilitates desirable infrastructure, stormwater retention, or parking facilities. (158.067(D)(3))

- (4) The Departure reduces traffic impacts or improves traffic circulation. (158.067(D)(4))
  - (5) The Departure enhances the project's character and compatibility within the development and with adjacent developments. (158.067(D)(5))
  - (6) The Departure allows the project to add or improve on-site amenities and recreational opportunities serving the development and the community. (158.067(D)(6))
  - (7) The Departure helps the project promote walkability, offers multimodal transportation options, improves access to existing commercial or other amenities, or improves connections to beach or bay accesses. (158.067(D)(7))
- (E) *Modified standards for Planned Unit Developments.* Lot coverage and building standards in Article IV of this Code are modified for Planned Unit Developments as follows: (158.067(E))
- (1) If the plan is for land within the T-3, T-6, MUC-1, MUC-2, INS, OI, C-1, C-2, C-3, or M-1 district, lot coverage may exceed the standard lot coverage provided by Article IV by up to ten percent to encourage flexibility in design and development without the requirement for a Departure pursuant to Subsection (D) above. The density/intensity table in the Comprehensive Plan authorizes these increases for PUDs only. The increases are reflected in the table accompanying Article IV of this Code; further increases are not allowed by the Comprehensive Plan. (158.067(E)(1))
  - (2) If the plan is for property within the MUC-1 district, building height may exceed the standard height provided by section 158.145 by a maximum of 15 feet. If the plan is for property within the MUC-2 district, the height for buildings with tourism units may be a maximum of 130 feet, and the height of other uses may be a maximum of 87 feet, provided the standards in Subsection 158.036(C) are met. The density/intensity table in the Comprehensive Plan authorizes these increases for PUDs only. The increases are reflected in the table accompanying Article IV of this Code; increases beyond those heights are not allowed by the Comprehensive Plan. (158.067(E)(2))
- (F) *Actions after decision.* Within seven days after the adoption of the ordinance provided for in Subsection (B) above, it shall be certified by the Town clerk and shall be filed in their office, and a certified copy shall be mailed to the Applicant. An Outline Development Plan upon approval and acceptance, as provided herein, is defined as running with the land; however, an Applicant may apply for a revision to the Outline Development Plan in accordance with the procedures for an original submission, review and approval. Approval of an Outline Development Plan shall not qualify a plat of the Planned Unit Development for recording purposes or authorize development or the issuance of any Building Permits. Upon approval and acceptance, if applicable, the Town clerk shall file with the clerk of the court the Outline Development Plan to record it in the official records of the county in which the property is located. (158.067(F))
- (G) *Final Site Development Plan required.* An application for Final Site Development Plan approval may be for all the land included in an Outline Development Plan, or to the extent set forth in the Outline Development Plan approval, for a section thereof. (158.067(G)(1))
- (1) The Final Site Development Plan application shall include any drawings, plan sheets, renderings, specifications, covenants, easements, conditions, and form of performance and maintenance bonds as were set forth by the Town Commission in the ordinance approving the Outline Development Plan and required by Subsection 157.31(B). (158.067(G)(1))
  - (2) The submission, review and approval of an application for Final Site Development Plan approval shall be subject to the procedures and provisions of a Site Development Plan review as set forth within Article III, Division 5. (158.067(G)(2))
  - (3) Planned Unit Development applications may include a request for Final Site Development Plan approval at the same time as Outline Development Plan approval; see Subsection 158.036(B)(1). (158.067(G)(3))
  - (4) An application for approval of a Final Site Development Plan for a portion of or all of an Outline Development Plan shall be in compliance with the approved Outline Development Plan with respect to open space and lot, yard and bulk regulations. (158.067(G)(4))

- (5) If the Final Site Development Plan is not in compliance, the Applicant shall revise the final Site Development Plan, apply for a Site Development Plan exemption, or amend the Outline Development Plan through the outline development process provided herein, in order to achieve compliance. (158.067(G)(5))
- (H) *Length of approval.*
- (1) Notwithstanding the 24-month period specified in Subsection 158.029(F), Final Site Development Plan approval for a Planned Unit Development runs with the land for a period not to exceed four calendar years from the date of the ordinance adopting the final Site Development Plan. (158.067(H)(1))
  - (2) For Planned Unit Developments in the MUC-1 and MUC-2 zoning districts, this period shall be increased to ten calendar years, or for an approved period longer than ten years for a specific future phase delineated on the Final Site Development Plan, provided the Applicant meets at least two of the following criteria: (158.067(H)(2))
    - (a) Commenced site preparation work and maintained substantial progress during the initial four-year period affecting 33 percent or more of the acreage of the PUD development parcel, or if the PUD approval includes phases, affecting 66 percent of the acreage of the initial phase; (158.067(H)(2)(a))
    - (b) Commenced site preparation work and completed at least one critical element of the required infrastructure to serve the PUD development parcel; (158.067(H)(2)(b))
    - (c) Commenced site preparation work and constructed at least one principal building (not including a temporary building) within the PUD development parcel; or (158.067(H)(2)(c))
    - (d) Paid all impact fees for development authorized by the Site Development Plan. (158.067(H)(2)(d))
  - (3) The Town reserves the right to change or reformat the provisions of this Code and adopted PUD ordinances or resolutions; such changes will not alter any rights granted by unexpired Site Development Plan approvals. (158.067(H)(3))
- (I) *Conformance with Subdivision Regulations.* The design, construction, and guarantee of completion and maintenance of all physical improvements—including, but not limited to, streets, drainage, potable water, and sewage collection required by a PUD—shall conform with Chapter 157 of this Code and all other applicable ordinances. (158.067(I))

**158.037 – Minimum area.**

A Planned Unit Development shall include not less than two acres of contiguous land in any residential zoning district, and not less than one-half acre for all other zoning districts. (158.068)

**158.038 – Open space.**

All residential Planned Unit Developments shall preserve a minimum of 50 percent of the gross land area as open space. Of the required 50 percent open space, only a maximum of 60 percent of the total required open space acreage may be comprised of a golf course. Relative to nonresidential Planned Unit Developments, all such developments consisting of tourist accommodations including motels, hotels and tourist resort/ facilities shall provide a minimum of 50 percent of the gross land area as open space. Wetland and landlocked waterbodies may be used in calculating open space, as long as a minimum of 40 percent of the upland property is comprised of open space. In other types of nonresidential Planned Unit Developments a minimum of 20 percent of the gross land area shall be preserved as open space. Wetlands and landlocked waterbodies may be used in calculating open space, as long as a minimum of 15 percent of the upland property is comprised of open space. For all mixed use Planned Unit Developments, a minimum of 50 percent of the gross land area shall be preserved as open space. In all of the above cases, parking areas and vehicle access facilities shall not be considered in calculating open space. (158.069)

**158.039 – Tourism and residential density.**

(A) Planned unit developments shall have densities no greater than that permitted for a PUD within the zoning district in which it is located as shown below: (158.070(A))

Districts	Maximum PUD Density <sup>1</sup>
R-3MX	2.25 dwelling units/acre
R-4MX	3.00 dwelling units/acre
R-6MX	4.50 dwelling units/acre
MUC-1	3.26 dwelling units/acre overall density
MUC-2	5.05 units/acre overall density
MUC-3	11.26 dwelling units/acre overall density
T-3	2.25 tourism or dwelling units/acre
T-6	4.50 tourism or dwelling units/acre

Notes:

<sup>1</sup> Dwelling units per acre refers to residential units; tourism units per acre refers to tourism units; units per acre refers to total allowed residential units and tourism units.

(B) In any event a Planned Unit Development shall be consistent with the Comprehensive Plan for the Town and the zoning district in which it is located in respect to design compatibility, use and height regulations. (158.070(B))

**158.040 – Proposed land uses.**

(A) (1) Proposed land uses shall not adversely affect surrounding development and shall be consistent with the Town's Comprehensive Plan. (158.071(A)(1))

(2) Recreational uses, as defined in Section 158.144, shall not be included in the computation of permitted nonresidential areas of a Planned Unit Development. (158.071(A)(2))

(B) In cases where land proposed for a Planned Unit Development is zoned for both residential and nonresidential uses, a mix of residential and nonresidential land uses may be approved by the Town Commission through the Outline Development Plan review process in order to achieve the purposes of the Planned Unit Development as set forth herein. (158.071(B))

(C) In cases where land is proposed for Planned Unit Development and where the existing zoning district(s) comprising the entire land area of the Planned Unit Development is nonresidential, a nonresidential Planned Unit Development may be approved by the Town Commission through the Outline Development Plan review process in order to achieve the purposes of the Planned Unit Development as set forth herein. (158.071(C))

(D) Once development rights, whether residential or nonresidential, have been assigned to a parcel within a Planned Unit Development, any subsequent request for new or additional residential or tourism density shall be considered a transfer of density under the governing resolutions and ordinances of the Planned Unit Development which shall require amendment of the Outline Development Plan for the Planned Unit Development in accordance with the procedures of Section 158.036.

In no event shall the overall density of a Planned Unit Development exceed the maximum overall density set forth in this Code or the Comprehensive Plan for the Planned Unit Development. (158.071(D))

**158.041 – Reserved.**

**158.042 – Reserved.**

**DIVISION 8. – COMMERCIAL REVITALIZATION**

**158.043 – Commercial Revitalization – Intent and purpose.**

This Division, Commercial Revitalization, recognizes that within the Town there exist commercially zoned and developed parcels with structures, which were lawful when established, but as of October 1, 2002 are nonconforming under the terms of the Town's land development code. It is the intent of the Commercial Revitalization Sections to provide reasonable flexibility for these nonconforming commercial, office and marina establishments located within the C-1, C-2, C-3, O-I and M-1 zoning districts, that are developed with conforming uses as of October 1, 2002, by providing a process for existing business establishments to make small alterations in order to meet state or federal mandates; or to improve their businesses to maintain viability.

The Commercial Revitalization is optional. Property owners may avail themselves of these provisions contingent on the requirements and standards identified in this Section. Waiver approvals shall apply during the life of the building or improvement only and shall not run with the land. Waiver approvals shall terminate at the time of building demolition or destruction whether by voluntary or involuntary means. (158.175)

**158.044 – Permitted Uses.**

(A) Without Site Development Plan review and approval.

(1) Essential services.

(B) With Site Development Plan review and approval.

(1) Permitted uses in C-1, C-2, C-3, O-I and M-1 districts.

All uses are subject to the provisions of Subsection 158.131(A), the status of nonconformities. (158.176)

**158.045 – Development Standards.**

Commercial revitalization shall be subject to the development standards of this Section.

(A) Height.

Zoning District	Max. Height (Feet)
C-1	30
C-2	40
C-3	40
O-I	30
M-1	30

(158.177)

(B) Accessory uses.

(1) Permitted accessory uses in the C-1, C-2, C-3, O-I and M-1 districts.

(C) Special exceptions.

(1) Special exception uses in the C-1, C-2, C-3, O-I and M-1 districts.

(D) Minimum zoning lot requirements, maximum coverage and yards.

Zoning District	Max. Building Coverage (Percent) <sup>c d</sup>	Min. Area (Sq. Ft.)	Lot (Net)	Min. Width (Feet)	Lot Depth (Feet)	Street Yard GMD/All Other Streets (Feet) <sup>a</sup>	Side/Rear Yard (both/one) (Feet) <sup>a</sup>	Min. Floor Area (Sq. Ft.)
C-1	30 <sup>e</sup>							
C-2	30 <sup>e</sup>	Existing lot size at time of Site Development Plan submission	Lot	Existing lot width at time of Site Development Plan submission	Existing lot depth at time of Site Development Plan submission	20/15	Existing side/rear yards at time of Site Development Plan submission	N.A.
C-3	40							
O-I	30 <sup>e</sup>							
M-1	40							

<sup>a</sup> See Subsection 158.094(C), Required waterfront yard requirements.

<sup>b</sup> If the alteration is required to solely meet state or federal mandates (such as ADA), an additional five percent of the existing building coverage for individual buildings over the percentage otherwise permitted in the district shall be permitted by the Planning and Zoning Official as an Administrative Waiver. See Subsection 158.046(A)(2), Building Coverage Waiver.

<sup>c</sup> Awnings and eave overhangs of up to two feet are exempt from building coverage calculation. See Subsection 158.046(A)(3).

<sup>d</sup> Proposed alterations may exceed the existing building coverage by an additional ten percent with a Waiver meeting the standards of this Section and with a Site Development Plan reviewed and approved by the Planning and Zoning Board. See Subsection 158.046(B)(2), Building Coverage Waiver. This Waiver shall not be used in conjunction with the Administrative Waiver in Subsection 158.046(A)(2).

(158.177(D))



## 158.046 – Waivers.

- (A) *Administrative Waivers.* Applicants may apply for one or more Administrative Waivers, which may be submitted and processed concurrently or individually. The Planning and Zoning Official, or designee, may approve, by administrative action, Waivers for: parking; parking agreements; awnings projecting less than three feet from structure; and, additional building coverage described within this Section. Alteration proposals, utilizing this process, shall include the submittal of a Site Development Plan meeting the criteria established in this Section. The provisions of Section 158.026, Site Development Plan Exemptions shall apply, if applicable.

Applicants seeking an appeal from an Administrative Waiver denial shall follow the procedures and criteria set forth in the Zoning Code. (158.178(A))

- (1) *Administrative Parking Waiver.* This Subsection shall waive certain standards in Section 158.100, off-street parking, as appropriate.

- (a) Permitted uses exempt from parking requirements:

1. Necessary alterations to meet ADA or other federal or state mandates.
2. Normal and customary functional alterations to existing businesses, such as lobbies, waiting areas, office reception; porte-cocheres; storage; kitchen updating; offices inside restaurants; areas restricted to employees (break room, locker room, offices), new or expanded restrooms.
3. Cumulative alterations that are less than 500 square feet (for any purpose). (158.178(A)(1)(a)(iii))

- (b) Parking requirements:

1. Parking standards located in Section 158.100, off-street parking, except as listed in this Section.
2. Parking required for ADA compliance.
3. Parking for alterations that are greater than 500 square feet shall be based on approved alterations only.
4. Restaurant: One space per 100 net square feet (restrooms, waiting areas, food preparation and staging areas, hallways and other nonpatron areas exempt). (158.178(A)(1)(b)(iv))

- (c) Parking flexibility:

1. Credit for one required parking space may be given for an on-site bicycle rack that holds a minimum of three bicycles. Bicycle credits shall not exceed ten percent of overall required parking.
2. If the parking deficit on an existing site is within 15 percent of the required parking, and proposed alterations generate additional parking requirements, those spaces may be provided in unimproved areas. Provided, however, that no more than 25 percent of the required parking is located in unimproved areas.
3. Applicants may submit documentation for alternative parking methods (e.g. number of spaces, angles or driveway width, boat slips in lieu of vehicle spaces) utilizing one of the following: industry standards for a particular business; and, generally acknowledged parking industry standards or other technically accepted basis, including shared or off-site parking arrangements.
4. Up to 50 percent of the overall required parking can be met in off-site parking areas. Off-site parking is permitted in all of the commercial, office and marina zones. The off-site parking area must be located within 600 feet walking distance of the structures nearest public entrance, and a pedestrian connection providing a suitable walking environment must be provided. Public sidewalks may be used for the connection. Off-site parking shall not be located west of GMD under any circumstances.
5. Valet parking on-site or on private off-site lots is permitted. Off-site locations require a recorded parking agreement, meeting the requirements of this Section. Motor vehicles may be stacked for valet operations. (158.178(A)(1)(c)(v))

- (d) Parking agreements. Shared parking is permitted in all of the commercial, office and marina zones, subject to an agreement that addresses the following: Right of enforcement by the Town of Longboat Key; the agreement is valid only as long as the conditions described in the application for the shared parking exist; and, the agreement must be in the form of a reciprocal easement acceptable to the Town Attorney and shall be recorded with the clerk of the circuit court. A copy of the recorded agreement shall be submitted to the Town Attorney and the Planning and Zoning Official within ten days of recording. (158.178(A)(1)(d))
- (2) *Administrative Building Coverage Waiver.* Up to five percent maximum of additional building coverage (over and above the allowable building coverage) may be granted if a proposed alteration is to solely meet state or federal mandates (such as ADA or FEMA). The building coverage on the effective date of the adopting ordinance shall be the baseline building coverage and the five percent shall be a cumulative total. (158.178(A)(2))
- (3) *Administrative Awning Waiver.* If proposed alteration includes awnings in yards, the Planning and Zoning Official may approve a yard Waiver up to three feet. (158.178(A)(3))
- (B) *Planning and Zoning Board Waivers.* Applicants may apply for one or more Planning and Zoning Board Waivers, which may be submitted and processed concurrently or individually. The Planning and Zoning Board may approve, after a public hearing, Waivers for: Landscaping; building coverage; and, yards and awnings, described within this Section. Proposals utilizing this process shall include the submittal of a Site Development Plan meeting the criteria established in this Section. Each Waiver application shall address all of the applicable standards contained in this Section. The provisions of Section 158.026, Site Development Plan exemptions shall apply, if applicable.

Applicants seeking an appeal of a Planning and Zoning Board Waiver decision may seek judicial review as provided by the Zoning Code. (158.178(B))

- (1) *Landscaping in Parking Area Waiver.* Alterations shall meet the requirements of Subsection 158.100(J), Off-street Parking, to the greatest extent possible. Waivers shall address all of the following standards for review:
  - (a) The proposed Waiver contributes to the park-like atmosphere of the Town by providing enhanced landscaping, open space, and natural buffering.
  - (b) The proposed Waiver offers alternative(s) to the strict interpretation of the existing regulations and meets the intent of Chapter 98, (trees). Examples of flexibility include: Relocation of significant vegetation or trees, larger plant material or wider buffers (if possible) to other areas of the site.
  - (c) The proposed Waiver preserves existing, mature vegetation as defined by Chapter 98 (Trees) and the Zoning Code.
  - (d) Where the addition of required landscaping to parking areas reduces the number of required parking spaces by more than five percent, or is impractical, landscaping enhancements within the adjacent public ROW may be approved as an alternative. (158.178(B)(1)(d))
- (2) *Building Coverage Waiver for C-1, C-2 and O-I zone districts.* Alterations shall meet the building coverage requirements of Article IV to greatest extent possible. Applicants may not apply for the administrative approval building coverage Waiver and this Waiver simultaneously.

Up to ten percent maximum of additional building coverage (over and above the allowable building coverage) may be granted. The building coverage as of October 1, 2002, shall be the baseline building coverage and additional coverage granted shall be a cumulative total.

Waivers shall address all of the following standards for review: (158.178(B)(2))

- (a) The proposed Waiver is due to existing site or building conditions that make it impossible or impractical to meet the existing regulations.
- (b) The proposed Waiver offers up to ten percent of additional building coverage for any type of permitted alterations, but must include state and federal mandates, if required.
- (c) The proposed Waiver does not negatively impact adjacent properties.
- (d) Additional mitigation may be required when alterations are proposed adjacent to residential zone districts or residential use.
- (e) The proposed Waiver is in combination with additional site alterations that improve vehicular traffic and pedestrian circulation; landscaping; or state/federal mandates. (158.178(B)(2)(e))

- (3) *Yard and awning Waiver.* Alteration(s) shall meet the yard requirements of Article IV to greatest extent possible. Yard Waivers adjacent to residential zone districts or residential uses shall not be permitted. Waivers shall address all of the following standards for review: (158.178(B)(3))
  - (a) The proposed Waiver is due to existing site or building condition(s) that make it impossible or impractical to meet the existing regulations.
  - (b) The proposed Waiver does not negatively impact adjacent properties.
  - (c) The proposed Waiver is in combination with additional site alterations that improve vehicular traffic and pedestrian circulation; landscaping; or state/federal mandates.
  - (d) Awning standards (if applicable):
    - 1. The awning meets the definition of Section 158.144 (Definitions).
    - 2. The awning is for an existing building or an approved addition.
    - 3. The awning extends greater than three feet and up to ten feet into the required yard. A minimum of five feet side yard shall be maintained under all circumstances.
    - 4. If the awning is proposed over a pedestrian walkway, the minimum awning width must be the same width as the pedestrian walkway, but no greater than ten feet total width.
    - 5. The proposed awning is the most appropriate style for the building, is compatible with buildings on the same site or development. (158.178(B)(3)(d)(v))

### **158.047 – Site Development Plan Requirements.**

- (A) *Exemptions to Section 158.028, Application for Site Development Plan Approval.*
  - (1) Applicants submitting alteration plans under this Section are exempt from the following submittal requirements: (158.179(A)(1))
    - (a) Subsection 158.028(F), Uplands and wetlands tabulations.
    - (b) Subsection 158.028(L), Location and character of recreation areas.
    - (c) Subsection 158.028(N), Traffic impact analysis.
    - (d) Subsection 158.028(Q), Soil erosion and sedimentation plan (unless the Planning and Zoning Official determines a plan is required owing to the nature of the requested Waiver).
    - (e) Subsection 158.028(V), List of Code Departures. (158.179(A)(1)(e))
  - (2) All other provisions of Section 158.028 shall apply, however, the Planning and Zoning Official may exempt additional criteria from Section 158.028, if the criteria clearly do not apply to the requested Waiver. (158.179(A)(2))
- (B) Status of requirements in Section 158.030 (Performance Standards for Site Development Plans).
  - (1) Applicants submitting alteration plans under these Sections and Section 158.028, application for Site Development Plan approval, shall be exempt from the following standards: (158.179(B)(1))
    - (a) Subsection (A), Site location and character of use.
    - (b) Subsection (O), Parking, internal circulation and access to public or private streets.
    - (c) Subsection (L), Residential open space requirement.
    - (d) Subsection (Q), Soil erosion and sedimentation control (unless the Planning and Zoning Official determines that a plan is required).
    - (e) Subsection (L), Supplemental controls for multifamily residential or tourism uses.
 All other provisions of Section 158.030 shall apply, however, the Planning and Zoning Official may exempt additional criteria from Section 158.030, if the criteria clearly do not apply to the requested Waiver. (158.179(B)(1)(f))

**158.048 – Reserved.**

**158.049 – Reserved.**

**158.050 – Reserved.**

**158.051 – Reserved.**

**158.052 – Reserved.**

**158.053 – Reserved.**

**158.054 – Reserved.**

**158.055 – Reserved.**

**158.056 – Reserved.**

**158.057 – Reserved.**

## Article IV. – Zoning Districts

### 158.058 – Establishment of zoning districts.

For the purpose of protecting, promoting, and improving the public health, safety, comfort, order, appearance, convenience, morals and general welfare of the community, the Town is hereby divided into the following zoning districts, with the stated densities, and intensities as regulated by Article IV and other provisions of this Zoning Code. (158.008)

<b>DISTRICT TYPE (MAXIMUM ALLOWABLE DENSITY)<sup>1</sup></b>	
DIVISION 1. – Residential districts	
R-1IP	Island Preserve Residential District (1 D.U./5A)
R-1SF	Single-Family Low-Density Estate Residential District (1 D.U./A.)
R-2SF	Single-Family Low-Density Residential District (2 D.U./A.)
R-3SF	Single-Family Low-Medium-Density Residential District (3 D.U./A.)
R-4SF	Single-Family Medium-Density Residential District (4 D.U./A.)
R-6SF	Single-Family High-Density Residential District (6 D.U./A.)
R-3MX	Low-Medium-Density Mixed Residential District (3 D.U./A.)
R-4MX	Medium-Density Mixed Residential District (4 D.U./A.)
R-6MX	High-Density Mixed Residential District (6 D.U./A.)
DIVISION 2. – Non-residential districts	
OI	Office-Institutional District (no density)
C-1	Limited Commercial District (no density)
C-2	General Commercial District (no density)
C-3	Highway-Oriented Commercial District (no density)
M-1	Marine Commercial Service District (1 accessory D.U. located on the same lot)
DIVISION 3. – Tourism resort districts	
T-3	Low-Medium-Density Tourist Resort Commercial District (3 U./A.)
T-6	High-Density Tourist Resort Commercial District (6 U./A.)
DIVISION 4. – Mixed use community districts	

MUC-1	Mixed Use Community - Bay Isles (3.26 D.U./A. overall density)
MUC-2	Mixed Use Community - Islandside (5.05 U./A. overall density)
MUC-3	Mixed Use Community - Promenade/Water Club (11.26 D.U./A. overall density)
DIVISION 5. – Special purpose districts	
OS-A	Open Space - Active District (no density)
OS-P	Open Space - Passive District (no density)
OS-C	Open Space - Conservation District (no density)
INS	Community Facility Institutional District (no density)

Notes: <sup>1</sup> Dwelling units per acre D.U./A refers to residential units; tourism units per acre T.U./A. refers to tourism units; units per acre (U./A) refers to total allowed residential units and tourism units. (158.008)

## DIVISION 1. – RESIDENTIAL DISTRICTS

### 158.059 – R-1IP (Island Preserve Residential District).

#### (A) Description of District and District Policies.

Established for islands surrounding the core of the barrier island. These areas shall not exceed a development intensity of one dwelling unit per five acres. This policy recognizes the inaccessibility of the area to the mainland, including the lack of any transportation linkage by land and therefore the total lack or any needed emergency services to the respective islands. Development shall be adequately supported by public services and facilities which shall be provided by the developer prior to construction of any habitable structures.

#### (B) Use Regulations

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Uses	Exception
The purpose of this district is to delineate Jewfish Key and Sister Keys for limited residential development of an estate character together with the associated accessory uses while recognizing environmental constraints, the inaccessibility of the area to the mainland, and requiring	1. Single-family dwellings. 2. Essential services.		1. Private swimming pools or cabanas and related structures. 2. Private docks. 3. Private garages. 4. Private non-commercial dish antennas. 5. Other accessory uses customarily incident to a permitted use, use permitted with a	1. Parks and recreation areas. (Ord. 93-13, passed 6-24-93, Amd. Ord. 95-14, passed 10-2-95) 2. Boat dock in excess of 500 square feet. 3. Enclosed elevator shaft and vestibule, enclosed stairwell and landing, and enclosed mechanical equipment area exceeding allowed height subject to the	

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Uses	Exception
developer provided public services and facilities prior to construction of any habitable structures.			Site Development Plan review or Special Exception use. 6. Home occupations.	standards contained in § 158.098(C)(2).	

**(C) Lot, Yard, and Bulk Regulations (Note: Also refer to Section 158.030 – Performance standards for Site Development Plans, for intensity standards, if applicable.)**

Max. Gross Density <sup>a</sup>	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Min. Waterfront Yard (ft.) <sup>b</sup>	Min. Floor Area (sq. ft.)	Max. Height (ft.)	Max. Bldg. Coverage <sup>c</sup>	Min. Open Space <sup>d</sup>
1 du/5 ac.	217,800	100	100	30	30 total 15 min.	30	Gulf/Pass: 150 Canal: 30 Bay: 50	None	30	20%	50%

- <sup>a</sup> Density expressed in terms of dwelling or tourism units per acre is fractional and dependent upon lot sizes.
- <sup>b</sup> Refer to Section 158.094(C) for waterfront yard standards.
- <sup>c</sup> Refer to Section 158.095(B)(2)(a) for calculation of maximum building coverage for swimming pools.
- <sup>d</sup> Refer to Section 158.030(E) for calculation of open space and landscaping.

**158.060 – R-1SF (Single-Family Low-Density Estate Residential District).**

**(A) Description of District and District Policies.**

Established for single-family low-density residential estate development, including community residential homes with six or fewer residents plus Staff per dwelling unit, at a density of one per acre and shall be restricted to development of single-family detached units with a density no greater than one dwelling unit per acre. This district is intended to protect and preserve opportunities for low-density single-family estates at a density of up to one unit per acre. This district is particularly adaptive to highly valued water-oriented sites along the bay, bayou or gulf. It provides for land area for accommodating a unique lifestyle which cannot be accommodated in the more dense residential areas. The district is designed to permit development compatible with the need for preserving an estate character and minimizing potential adverse impacts to fragile natural systems, including estuaries and the dune systems respectively. In areas where existing development is characterized by densities lower than one unit per acre, zoning policy shall be applied which assures that future development or redevelopment of such areas is consistent with prevailing densities. In this manner, opportunities for a range of relatively low estate densities shall be preserved, while minimizing potential disruption to open space and natural systems.

**(B) Use Regulations**

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
The purpose of this district is to delineate those areas suitable for residential development of a spacious character together with the associated accessory uses.	1. Single-family dwellings. 2. Essential services. 3. Community residential homes with six or fewer residents plus Staff.		1. Private swimming pools or cabanas and related structures. 2. Private docks. 3. Private garages. 4. Other accessory uses customarily incident to a permitted use, use permitted with a Site Development Plan review, or Special Exception use. 5. Private non-commercial antennas. 6. Home occupations.	1. Parks and recreation areas. (Ord. 93-13, passed 6-24-93, Amd. Ord. 95-14, passed 10-2-95 2. Boat dock in excess of 500 square feet. 3. Enclosed elevator shaft and vestibule, enclosed stairwell and landing, and enclosed mechanical equipment area exceeding allowed height subject to the standards contained in § 158.098(C)(2).

**(C) Lot, Yard, and Bulk Regulations (Note: Also refer to Section 158.030 – Performance standards for Site Development Plans, for intensity standards, if applicable.)<sup>a</sup>**

Max. Gross Density <sup>b</sup>	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Min. Waterfront Yard (ft.) <sup>c</sup>	Min. Floor Area (sq. ft.) <sup>d</sup>	Max. Height (ft.)	Max. Bldg. Coverage <sup>e</sup>	Min. Open Space <sup>f</sup>
1 du/ac.	30,000	100	100	20	25 total 10 min.	30	Gulf/ Pass: 150 Canal: 20 Bay: 20	2,000	30	20%	50%

<sup>a</sup> Refer to Section 158.064(A)(1) for Village study overlay standards.

<sup>b</sup> Density expressed in terms of dwelling or tourism units per acre is fractional and dependent upon lot sizes.

<sup>c</sup> Refer to Section 158.094 (C) for waterfront yard standards.

<sup>d</sup> Minimum floor area with respect to residential, hotel, motel or other tourism uses means minimum living area of the first habitable floor, not including garage.

<sup>e</sup> Refer to Section 158.095(B)(2)(a) for calculation of maximum building coverage for swimming pools.

<sup>f</sup> Refer to Section 158.030(E) for calculation of open space and landscaping.

**158.061 – R-2SF (Single-Family Low-Density Residential District).  
(A) Description of District and District Policies.**



Established for single-family low-density residential development, including community residential homes with six or fewer residents plus Staff per dwelling unit, at a density of two dwelling units per acre and shall be restricted to development of single-family detached structure types with a density of not to exceed two dwelling units per acre. This district is intended to protect and preserve single-family residential areas with a density up to two units per acre. This district is generally adaptive to larger lots located along Gulf of Mexico Drive adjacent to saltwater bodies. It provides for land area for accommodating a unique lifestyle which cannot be accommodated in the more dense residential areas and is designed to permit development compatible with the need for preserving the established density pattern and minimizing potential adverse impacts to fragile natural systems. In areas where existing development is characterized by densities lower than two units per acre, zoning policy shall be applied which assures that future development or redevelopment of such areas is consistent with prevailing densities. In this manner opportunities for a range of relatively low densities shall be preserved while minimizing potential disruption to open space and natural systems.

**(B) Use Regulations**

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
The purpose of this district is to delineate those areas suitable for residential development of a low-density character together with the associated accessory uses.	<ol style="list-style-type: none"> <li>1. Single-family dwellings.</li> <li>2. Essential services.</li> <li>3. Community residential homes with six or fewer residents plus Staff.</li> </ol>		<ol style="list-style-type: none"> <li>1. Private swimming pools or cabanas and related structures.</li> <li>2. Private docks.</li> <li>3. Private garages.</li> <li>4. Other accessory uses customarily incident to a permitted use, use permitted with Site Development Plan review or Special Exception use.</li> <li>5. Private non-commercial dish antennas.</li> <li>6. Home occupations.</li> </ol>	<ol style="list-style-type: none"> <li>1. Parks and recreation areas. (Ord. 93-13, passed 6-24-93; Amd. Ord. 95-14, passed 10-2-95)</li> <li>2. Boat dock in excess of 500 square feet.</li> <li>3. Enclosed elevator shaft and vestibule, enclosed stairwell and landing, and enclosed mechanical equipment area exceeding allowed height subject to the standards contained in § 158.098(C)(2).</li> </ol>

**(C) Lot, Yard, and Bulk Regulations (Note: Also refer to Section 158.030 – Performance standards for Site Development Plans, for intensity standards, if applicable.)**

Max. Gross Density <sup>a</sup>	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.) <sup>c</sup>	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Min. Waterfront Yard (ft.) <sup>b</sup>	Min. Floor Area (sq. ft.) <sup>c</sup>	Max. Height (ft.)	Max. Bldg. Coverage <sup>d</sup>	Min. Open Space <sup>e</sup>
2 du/ac.	16,500	100	100	20	25 total 10 min.	25	Gulf/ Pass: 150 Canal: 20	1,600	30	25%	50%

Max. Gross Density <sup>a</sup>	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Min. Waterfront Yard (ft.) <sup>b</sup>	Min. Floor Area (sq. ft.) <sup>c</sup>	Max. Height (ft.)	Max. Bldg. Coverage <sup>d</sup>	Min. Open Space <sup>e</sup>
							Bay: 20				

- <sup>a</sup> Density expressed in terms of dwelling or tourism units per acre is fractional and dependent upon lot sizes.
- <sup>b</sup> Refer to Section 158.094(C) for waterfront yard standards.
- <sup>c</sup> Minimum floor area with respect to residential, hotel, motel or other tourism uses means minimum living area of the first habitable floor, not including garage.
- <sup>d</sup> Refer to Section 158.095(B)(2)(a) for calculation of maximum building coverage for swimming pools.
- <sup>e</sup> Refer to Section 158.030(E) for calculation of open space and landscaping.

**158.062 – R-3SF (Single-Family Low-Medium-Density Residential District).**

**(A) Description of District and District Policies.**

Established for low-medium-density residential development, including community residential homes with six or fewer residents plus Staff per dwelling unit, for single-family detached dwelling units only and shall be developed, redeveloped and/or maintained as stable low-medium-density single-family detached residential neighborhoods with a density not to exceed three dwelling units per acre. It is the intent of this district to provide sufficient acreage for medium-density residential development which will be adequately supported by existing or anticipated future public services and facilities. Review of specific development densities shall be directed toward preserving stability of established residential areas. In addition, Site Development Plan review of specific development proposals shall provide for smooth transitions in residential densities. Generally, low-medium-density areas are located between the perimeter of low-density residential areas and areas designated for high-density residential concentrations or less restrictive nonresidential uses. Sufficient open space and landscaped screening and buffering systems shall be used to alleviate the potential adverse impacts of land use transition.

**(B) Use Regulations**

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
The purpose of this district is to delineate those areas suitable for residential development of a low-density character together with the associated accessory uses.	1. Single-family dwellings. 2. Essential services. 3. Community residential homes with six or fewer residents plus Staff.	).	1. Private swimming pools or cabanas and related structures. 2. Private docks. 3. Private garages. 4. Other accessory uses customarily incident to a permitted use, use permitted with Site Development Plan review or Special Exception use. 5. Private noncommercial dish antennas.	1. Parks and recreation areas. (Ord. 93-13, passed 6-24-93; Amd. Ord. 95-14, passed 10-2-95) 2. Enclosed elevator shaft and vestibule, enclosed stairwell and landing, and enclosed mechanical equipment area exceeding allowed height subject to the

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
			6. Home occupations.	standards contained in § 158.098(C)(2).

**(C) Lot, Yard, and Bulk Regulations (Note: Also refer to Section 158.030 – Performance standards for Site Development Plans, for intensity standards, if applicable.)**

Max. Gross Density <sup>a</sup>	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Min. Waterfront Yard (ft.) <sup>b</sup>	Min. Floor Area (sq. ft.) <sup>c</sup>	Max. Height (ft.)	Max. Bldg. Coverage <sup>d</sup>	Min. Open Space <sup>e</sup>
3 du/ac.	15,000	100	100	20	25 total 10 min.	25	Gulf/ Pass: 150 Canal: 20 Bay: 20	1,600	30	25%	50%

- <sup>a</sup> Density expressed in terms of dwelling or tourism units per acre is fractional and dependent upon lot sizes.
- <sup>b</sup> Refer to Section 158.094(C) for waterfront yard standards.
- <sup>c</sup> Minimum floor area with respect to residential, hotel, motel or other tourism uses means minimum living area of the first habitable floor, not including garage.
- <sup>d</sup> Refer to Section 158.095(B)(2)(a) for calculation of maximum building coverage for swimming pools.
- <sup>e</sup> Refer to Section 158.030(E) for calculation of open space and landscaping.

**158.063 – R-4SF (Single-Family Medium-Density Residential District).**

**(A) Description of District and District Policies.**

Established for medium-density residential development, including community residential homes with six or fewer residents plus Staff per dwelling unit, for single-family detached units only and shall be developed, redeveloped and/or maintained as stable medium-density single-family detached residential neighborhoods with a density not to exceed four dwelling units per acre. It is the intent of this district to provide sufficient acreage for medium-density residential development which will be adequately supported by existing or anticipated future public services and facilities, with the intention of preserving the stability of established residential areas. Other considerations shall include the need to preserve natural hydrologic cycles and floodplain areas to the greatest reasonable extent. In addition, Site Development Plan review of specific development proposals shall provide for smooth transitions in residential densities. Generally, medium-density areas should be located between the perimeter of low-density residential areas and areas designated for high-density residential concentrations or less restrictive nonresidential uses. Sufficient open space and landscaped screening and buffering systems shall be used to alleviate the potential adverse impacts of land use transition.

**(B) Use Regulations**

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
The purpose of this district is to delineate those areas suitable for single-family residential development of a medium density character together with the associated accessory uses.	<ol style="list-style-type: none"> <li>1. Single-family dwellings.</li> <li>2. Essential services.</li> <li>3. Community residential homes with six or fewer residents plus Staff.</li> </ol>		<ol style="list-style-type: none"> <li>1. Private swimming pools or cabanas and related structures.</li> <li>2. Private docks.</li> <li>3. Private garages.</li> <li>4. Other accessory uses customarily incident to a permitted use, use permitted with Site Development Plan review or Special Exception use.</li> <li>5. Private noncommercial dish antennas.</li> <li>6. Home occupations.</li> </ol>	<ol style="list-style-type: none"> <li>1. Parks and recreation areas. (Ord. 93-13, passed 6-24-93; Amd. Ord. 95-14, passed 10-2-95)</li> <li>2. Boat dock in excess of 500 square feet.</li> </ol>

**(C) Lot, Yard, and Bulk Regulations (Note: Also refer to Section 158.030 – Performance standards for Site Development Plans, for intensity standards, if applicable.)**

Max. Gross Density <sup>a</sup>	Min. Area (sq. ft.) <sup>b</sup>	Min. Width (ft.)	Min. Depth (ft.) <sup>c</sup>	Min. Street (ft.)	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Min. Waterfront Yard (ft.) <sup>d</sup>	Min. Floor Area (sq. ft.) <sup>e</sup>	Max. Height (ft.)	Max. Bldg. Coverage <sup>f</sup>	Min. Open Space <sup>g</sup>
4 du/ac.	10,000 sq. ft. *(c)	100'	100' *(h)	20	20 total 8 min.	20	Gulf/ Pass: 150 Canal: 20 Bay: 20	1,600	30	30%	50%

- <sup>a</sup> Density expressed in terms of dwelling or tourism units per acre is fractional and dependent upon lot sizes.
- <sup>b</sup> In R-4SF districts all lots which existed on October 15, 1969, shall contain a minimum of 9,500 square feet of area with an average width between front and rear lines to be at least 80 feet with at least 40 feet fronting on the street.
- <sup>c</sup> In the Special Canal Waterfront Yard District for all lots abutting privately owned manmade residential canals, credit shall be given for lot depth and area by measuring lot depth to the middle of the canal. Under these circumstances, the required lot depth shall be reduced to a minimum of 80 feet. For purposes of determining all other provisions of this Code, including, but not limited to, lot coverage and setbacks, the road right-of-way, mean high-water line, bulkhead and bulkhead line shall be used in accordance with this Chapter in making those determinations.
- <sup>d</sup> Refer to Section 158.094(C) for waterfront yard standards.
- <sup>e</sup> Minimum floor area with respect to residential, hotel, motel or other tourism uses means minimum living area of the first habitable floor, not including garage.

- f Refer to Section 158.095(B)(2)(a) for calculation of maximum building coverage for swimming pools.
- g Refer to Section 158.030(E) for calculation of open space and landscaping.

**158.064 – R-6SF (Single-Family High-Density Residential District).**

**(A) Description of District and District Policies.**

Established for high-density residential development, including community residential homes with six or fewer residents plus Staff per dwelling unit, for single-family detached dwelling units only, ranging up to a maximum of six units per acre. The high-density policy designation is intended to provide for high-density residential development which will be adequately supported by existing or anticipated public services and facilities and compatible with the surrounding area. The specific areas designated for high-density development should be developed to an intensity which is consistent with the carrying capacity of Gulf of Mexico Drive. Similarly, the site shall be provided with requisite urban services to support high density residential development. Development in the district should not be located along the narrow land corridor paralleling the dune system along the Gulf of Mexico, west of Gulf of Mexico Drive and within the highest velocity zone of hurricanes as represented in the federal flood insurance rate maps. Specific density of future development proposals within these areas shall provide for smooth transition in residential density, preserve stability of established residential areas, and shall include sufficient open space, parking and landscaping to reinforce goals and objectives for quality living areas.

**(B) Use Regulations**

<b>Purpose</b>	<b>Permitted Uses Without Site Development Plan Review</b>	<b>Permitted Uses With Site Development Plan Review</b>	<b>Accessory Uses</b>	<b>Special Exception Uses</b>
The purpose of this district is to delineate those areas suitable for single-family residential development of a high-density character together with the associated accessory uses.	1. Single-family dwellings. 2. Essential services. 3. Community residential homes with six or fewer residents plus Staff.		Private swimming pools or cabanas and related structures. 2. Private docks. 3. Private garages. 4. Other accessory uses customarily incident to a permitted use, use permitted with Site Development Plan review or Special Exception use. 5. Private noncommercial dish antennas. 6. Home occupations.	1. Nonprofit cultural centers. 2. Public/private preschools or elementary schools. 3. Child care services. 4. Government buildings and services. 5. Public parks and recreation areas. 6. Parks and recreation areas. (Ord. 93-13, passed 6-24-93; Amd. Ord. 95-14, passed 10-2-95) 7. Boat dock in excess of 500 square feet.

**(C) Lot, Yard, and Bulk Regulations (Note: Also refer to Section 158.102 – Performance standards for Site Development Plans, for intensity standards, if applicable.)<sup>a</sup>**

Max. Gross Density <sup>b</sup>	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Min. Water-front Yard (ft.) <sup>c</sup>	Min. Floor Area (sq. ft.) <sup>d</sup>	Max. Height (ft.)	Max. Bldg. Coverage <sup>e</sup>	Min. Open Space <sup>f</sup>
6 du/ac.	7,000	60	90	20	20 total 8 min.	15	Gulf/ Pass: 150 Canal: 20 Bay: 20	1,000	30	30%	50%

- <sup>a</sup> Refer to Section 158.094(A)(1) for Village study overlay standards.
- <sup>b</sup> Density expressed in terms of dwelling or tourism units per acre is fractional and dependent upon lot sizes.
- <sup>d</sup> Refer to Section 158.094(C) for waterfront yard standards.
- <sup>e</sup> Minimum floor area with respect to residential, hotel, motel or other tourism uses means minimum living area of the first habitable floor, not including garage.
- <sup>f</sup> Refer to Section 158.095(B)(2)(a) for calculation of maximum building coverage for swimming pools.
- <sup>g</sup> Refer to Section 158.030(E) for calculation of open space and landscaping.

**158.065 – R-3MX (Low-Medium-Density Mixed Residential District).**

**(A) Description of District and District Policies.**

Established for low-medium-density residential development, including community residential homes, with mixed structure types and may develop with a mixture of single-family detached dwelling units as well as multiple-family dwelling units with a density not to exceed three dwelling units per acre. It is the intent of this district to provide for sufficient acreage for medium-density residential development which will be adequately supported by existing or anticipated future public services and facilities. Review of specific development densities shall be directed toward preserving stability of established residential areas. In addition, Site Development Plan review of specific development proposals shall provide for smooth transitions in residential densities. Generally, low-medium-density areas are located between the perimeter of low-density residential areas and areas designated for high-density residential concentrations or less restrictive nonresidential uses. Sufficient open space and landscaped screening and buffering systems shall be used to alleviate the potential adverse impacts of land use transition.

**(B) Use Regulations**

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
The purpose of this district is to delineate those areas suitable for mixed residential development of a low-medium-density character together with the associated accessory uses.	<ol style="list-style-type: none"> <li>1. Single-family dwellings.</li> <li>2. Two-family dwellings.</li> <li>3. Multifamily developments with less than 10 dwelling units.</li> <li>4. Essential services.</li> <li>5. Community residential homes with</li> </ol>	<ol style="list-style-type: none"> <li>1. Planned units development overlays (see Article III, Division 7).</li> <li>2. Multifamily development with 10 or more dwelling units.</li> <li>3. Community residential homes.</li> <li>4. Personal wire-</li> </ol>	Private swimming pools or cabanas and related structures. 2. Private recreational facilities designed for the exclusive use of occupants of a permitted	<ol style="list-style-type: none"> <li>1. Home occupations, in single-family dwellings.</li> <li>2. Government buildings and services.</li> <li>3. Parks and recreation areas. (Ord. 93-13, passed 6-24-93; Amd. Ord. 95-14, passed 10-2-95)</li> </ol>

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
	six or fewer residents plus Staff.	less services rooftop antennas and building or structure mounted antennas.	use, use permitted with Site Development Plan review, or Special Exception use. 3. Private docks. 4. Off-street parking. 5. Other accessory uses customarily incident to a permitted use, use permitted with Site Development Plan review or Special Exception use. 6. Private noncommercial dish antennas.	4. Boat dock in excess of 500 square feet. 5. Enclosed elevator shaft and vestibule, enclosed stairwell and landing, and enclosed mechanical equipment area exceeding allowed height subject to the standards contained in § 158.098(C)(2).

**(C) Lot, Yard, and Bulk Regulations (Note: Also refer to Section 158.030 – Performance standards for Site Development Plans, for intensity standards, if applicable.)<sup>a</sup>**

Use	Max. Gross Density <sup>b</sup>	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Min. Water-front Yard (ft.) <sup>c</sup>	Min. Floor Area (sq. ft.) <sup>d</sup>	Max. Height (ft.)	Max. Bldg. Coverage <sup>e</sup>	Min. Open Space <sup>f</sup>
Single-Family	3 units/a c.	10,000	100	100	20	25 total 10 min.	25	Gulf/Pass: 150 Canal: 20 Bay: 20	1,600	30'	25%	50%
Two-Family	3 units/a c.	20,000	100	100	20	20 total 8 min.	20	Gulf/Pass: 150 Canal: 20 Bay: 20	1,000 sq. ft./unit	30'	25%	50%
Multi-Family <sup>g</sup>	3 units/a c.	25,000	100	125	30	35 total 15 min.	25	Gulf/Pass: 150	750 sq. ft./bed-room	30'	20%	50%

Use	Max. Gross Density <sup>b</sup>	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Min. Water-front Yard (ft.) <sup>c</sup>	Min. Floor Area (sq. ft.) <sup>d</sup>	Max. Height (ft.)	Max. Bldg. Coverage <sup>e</sup>	Min. Open Space <sup>f</sup>
								Canal: 20 Bay: 20	plus 250 sq. ft. each addl. bed- room			

- <sup>a</sup> Refer to Section 158.094(A)(1) for Village study overlay standards.
- <sup>b</sup> Density expressed in terms of dwelling or tourism units per acre is fractional and dependent upon lot sizes.
- <sup>c</sup> Refer to Section 158.094(C) for waterfront yard standards.
- <sup>d</sup> Minimum floor area with respect to residential, hotel, motel or other tourism uses means minimum living area of the first habitable floor, not including garage.
- <sup>e</sup> Refer to Section 158.095(B)(2)(a) for calculation of maximum building coverage for swimming pools.
- <sup>f</sup> Refer to Section 158.030(E) for calculation of open space and landscaping.
- <sup>g</sup> Refer to Section 158.030(K) Supplemental controls for multifamily residential and tourism uses.

**158.066 – R-4MX (Medium-Density Mixed Residential District).**

**(A) Description of District and District Policies.**

Established for medium-density residential development, including community residential homes, with mixed structure types and may develop with detached single-family units, multiple-family units, a mixture of single-family detached dwelling units as well as multiple-family dwelling units with a density not to exceed four dwelling units per acre. It is the density residential development which will be adequately supported by existing or anticipated future public services and facilities, with the intention of preserving the stability of established residential areas. Other considerations shall include the need to [preserve natural hydrologic cycles and floodplain areas to the] greatest reasonable extent. In addition, Site Development Plan review of specific development proposals shall provide for smooth transitions in residential densities. Generally, medium-density areas should be located between the perimeter of low-density residential areas and areas designated for high-density residential concentrations or less restrictive nonresidential uses. Sufficient open space and landscaped screening and buffering systems shall be used to alleviate the potential adverse impacts of land use transition.

**(B) Use Regulations**

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
The purpose of this district is to delineate those areas suitable for mixed residential development of a medium-density character together with the associated accessory uses.	1. Single-family dwellings. 2. Two-family dwellings. 3. Multifamily developments with less than 10 dwelling units. 4. Essential services.	1. Planned unit development overlays (see Article III, Division 7). 2. Multifamily developments with 10 or more dwelling units. 3. Community residential homes.	Private swimming pools or cabanas and related structures. 2. Private recreational facilities designed for the exclusive use of occupants of a permit-	1. Home occupations, in single-family dwellings. 2. Government buildings and services. 3. Public parks and recreation areas.



Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
	5. Community residential homes with six or fewer residents plus Staff.	4. Personal wireless services rooftop antennas and building or structure mounted antennas.	ted use, use permitted with Site Development Plan review or Special Exception use. 3. Off-street parking. 4. Other accessory uses customarily incident to a permitted use, use permitted with Site Development Plan review or Special Exception use. 5. Private non-commercial dish antennas.	4. Parks and recreation areas. (Ord. 93-13, passed 6-24-93; Amd. Ord. 95-14, passed 10-2-95) 5. Boat dock in excess of 500 square feet. 6. Enclosed elevator shaft and vestibule, enclosed stairwell and landing, and enclosed mechanical equipment area exceeding allowed height subject to the standards contained in § 158.098(C)(2).

**(C) Lot, Yard, and Bulk Regulations (Note: Also refer to Section 158.030 – Performance standards for Site Development Plans, for intensity standards, if applicable.)**

Use	Max. Gross Density <sup>a</sup>	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Min. Water-front Yard (ft.) <sup>b</sup>	Min. Floor Area (sq. ft.) <sup>c</sup>	Max. Height (ft.)	Max. Bldg. Coverage <sup>d</sup>	Min. Open Space <sup>e</sup>
Single-Family	4 units/ac.	10,000	100	100	20	20 total 8 min.	20	Gulf/Pass: 150 Canal: 20 Bay: 20	1,600	30	30%	50%
Two-Family	4 units/ac.	15,000	100	100	20	20 total 8 min.	20	Gulf/Pass: 150 Canal: 20 Bay: 20	1,000 sq. ft./unit	30	25%	50%
Multi-Family <sup>e</sup>	4 units/ac.	25,000	100	125	40	35 total 15 min.	25	Gulf/Pass: 150 Canal: 20 Bay: 20	750 sq. ft./bed-room plus 250 sq. ft.	35	30%	50%

Use	Max. Gross Density <sup>a</sup>	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Min. Water-front Yard (ft.) <sup>b</sup>	Min. Floor Area (sq. ft.) <sup>c</sup>	Max. Height (ft.)	Max. Bldg. Cover-age <sup>d</sup>	Min. Open Space <sup>e</sup>
									each addl. bed-room			

<sup>a</sup> Density expressed in terms of dwelling or tourism units per acre is fractional and dependent upon lot sizes.

<sup>b</sup> Refer to Section 158.094(C) for waterfront yard standards.

<sup>c</sup> Minimum floor area with respect to residential, hotel, motel or other tourism uses means minimum living area of the first habitable floor, not including garage.

<sup>d</sup> Refer to Section 158.095(B)(2)(a) for calculation of maximum building coverage for swimming pools.

<sup>e</sup> Refer to Section 158.030(E) for calculation of open space and landscaping.

<sup>f</sup> Refer to Section 158.030(K) Supplemental controls for multifamily residential and tourism uses.

### 158.067– R-6MX (High-Density Mixed Residential District).

#### (A) Description of District and District Policies.

Established for high-density residential development, including community residential homes, with mixed structure types and may develop with detached single-family units, multiple-family units, a mixture of single-family detached dwelling units as well as multiple-family dwelling units ranging up to a maximum of six units per acre. The high-density policy designation is intended to provide for high-density residential development which will be adequately supported by existing or anticipated public services and facilities, and compatible with the surrounding area. The specific areas designated for high-density development should be developed to an intensity which is consistent with the carrying capacity of Gulf of Mexico Drive. Similarly, the site shall be provided with requisite urban services to support high-density residential development. Development in the district shall not be located along the narrow land corridor paralleling the dune system along the Gulf of Mexico, west of Gulf of Mexico Drive and within the highest velocity zone of hurricanes as represented in the federal flood insurance rate maps, except as otherwise provided for in this Chapter. Specific density of future development proposals within these areas shall provide for smooth transition in residential density, preserve stability of established residential areas, and shall include sufficient open space, parking and landscaping to reinforce goals and objectives for quality living areas.

#### (B) Use Regulations

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
The purpose of this district is to delineate those areas suitable for mixed residential development of a high-density character together with the associated accessory uses.	1. Single-family dwellings. 2. Two-family dwellings. 3. Multifamily developments with less than 10 dwelling units. 4. Essential services. 5. Community residential homes with six or	1. Planned unit development overlays (see Article III, Division 7). 2. Multifamily developments with 10 or more dwelling units. 3. Community residential homes. 4. Personal wire-	1. Private swimming pools or cabanas and related structures. 2. Private recreational facilities designed for the exclusive use of occupants of a permitted use, use permitted with Site Development Plan	1. Home occupations. 2. Public/private preschools or elementary schools. 3. Government buildings and services. 4. Group home and foster care facilities. 5. Public parks

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
	fewer residents plus Staff.	less services, rooftop antennas, and building or structure mounted antennas.	review or Special Exception use. 3. Private non-commercial dish antennas.	and recreation areas. 6. Mobile home parks. 7. Parks and recreation areas. (Ord. 93-13, passed 6-24-93) 8. Boat dock in excess of 500 square feet. 9. Enclosed elevator shaft and vestibule, enclosed stairwell and landing, and enclosed mechanical equipment area exceeding allowed height subject to the standards contained in § 158.098(C)(2).

**(C) Lot, Yard, and Bulk Regulations (Note: Also refer to Section 158.102 – Performance standards for Site Development Plans, for intensity standards, if applicable.)**

Use	Max. Gross Density <sup>a</sup>	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Min. Water-front Yard (ft.) <sup>b</sup>	Min. Floor Area (sq. ft.) <sup>c</sup>	Max. Height (ft.)	Max. Bldg. Coverage <sup>d</sup>	Min. Open Space <sup>e</sup>
Single-Family	6 units/ac.	10,000	100	100	20	20 total 8 min.	20	Gulf/ Pass: 150 Canal: 20 Bay: 20	1,600	30	30%	50%
Two-Family	6 units/ac.	15,000	125	100	20	20 total 8 min.	20	Gulf/ Pass: 150 Canal: 20 Bay: 20	1,000 sq. ft./unit	30	25%	50%
Multi-Family <sup>e</sup>	6 units/ac.	30,000	150	150	50	80 total 30 min.	30	Gulf/ Pass: 150 Canal: 20	750 sq. ft./bed-room plus	50	30%	50%

Use	Max. Gross Density <sup>a</sup>	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Min. Water-front Yard (ft.) <sup>b</sup>	Min. Floor Area (sq. ft.) <sup>c</sup>	Max. Height (ft.)	Max. Bldg. Coverage <sup>d</sup>	Min. Open Space <sup>e</sup>
								Bay: 20	250 sq. ft. each addl. bedroom			

- <sup>a</sup> Density expressed in terms of dwelling or tourism units per acre is fractional and dependent upon lot sizes.
- <sup>b</sup> Refer to Section 158.094(C) for waterfront yard standards.
- <sup>c</sup> Minimum floor area with respect to residential, hotel, motel or other tourism uses means minimum living area of the first habitable floor, not including garage.
- <sup>d</sup> Refer to Section 158.095(B)(2)(a) for calculation of maximum building coverage for swimming pools.
- <sup>e</sup> Refer to Section 158.030(F) for calculation of open space and landscaping.
- <sup>f</sup> Refer to Section 158.030(L) Supplemental controls for multifamily residential and tourism uses.

**DIVISION 2. – NON-RESIDENTIAL DISTRICTS**

**158.068 – OI (Office-Institutional District).**

**(A) Description of District and District Policies.**

Established for mixed land uses to accommodate development of offices, and institutional uses, including, but not limited to, banks and financial institutions. This district is intended to provide additional land development options for office and institutional land uses. Due to their generally close proximity to residential uses, these facilities shall provide a solid masonry fence and/or a berm with landscaping in order to reduce adverse impacts on adjacent residential development. The design including the material, height and screening characteristics shall satisfy sign requirements of Chapter 156 and this Zoning Code.

**(B) Use Regulations**

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
The purpose of this district is to delineate those areas, which, by their location, are suitable to accommodate offices and institutional causes but must be in harmony with residential development in close proximity.	1. Essential services.	1. Business and professional offices. 2. Government buildings and services. 3. Public parks and recreation areas. 4. Banks and other financial institutions. 5. Personal wireless service facility, not including a	1. Off-street parking and loading. 2. Other accessory uses customarily incidental to use permitted with Site Development Plan review use or Special Exception use. 3. Private non-commercial dish antennas.	1. Worship centers. 2. Medical and dental clinics. 3. Boat dock in excess of 500 square feet. 4. Personal wireless service free-standing facility. 5. Enclosed elevator shaft and vestibule, enclosed stairwell and landing, and

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
		freestanding facility.		enclosed mechanical equipment area exceeding allowed height subject to the standards contained in § 158.098(C)(2).

**(C) Lot, Yard, and Bulk Regulations (Note: Also refer to Section 158.030 – Performance standards for Site Development Plans, for intensity standards, if applicable.)<sup>a</sup>**

Max. Gross Density	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Min. Waterfront Yard (ft.) <sup>b</sup>	Min. Floor Area (sq. ft.)	Max. Height (ft.)	Max. Bldg. Coverage <sup>c</sup>	Min. Open Space <sup>d</sup>
N.A.	20,000	100	150	45	40 total 15 min.	20	Gulf/ Pass: 150 Canal: 20 Bay: 20	N.A.	30	30% 40% with PUD- MUC	20%

<sup>a</sup> Refer to Section 158.036 for Planned Unit Development (PUD) standards.

<sup>b</sup> Refer to Section 158.094(C) for waterfront yard standards.

<sup>c</sup> Refer to Section 158.095(B)(2)(a) for calculation of maximum building coverage for swimming pools.

<sup>d</sup> Refer to Section 158.026(E) for calculation of open space and landscaping.

**158.069 – C-1 (Limited Commercial District).**

**(A) Description of District and District Policies.**

Established for commercial sites accessible to major thoroughfares near residential neighborhoods. Such development is intended to provide essential tourist or household services in locations highly accessible to residential areas. For instance, sites within this district are intended to accommodate neighborhood shops with limited inventory or goods as well as selected resort commercial uses. Such shops generally cater to the following markets: 1) neighborhood residential markets within the immediate vicinity as opposed to Town-wide or regional markets; 2) a specialized market with customized market demands; or 3) a tourist- or resort-oriented market in the immediate vicinity.

Areas designated for limited commercial development are not intended to accommodate large-scale retail sales, service and market. Such stores would usually differ from limited commercial shops since the former would usually require a large floor area, carry a relatively larger inventory and require a substantially greater parking area. Chapter

**(B) Use Regulations**

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
<p>The purpose of this district is to delineate those areas suitable for neighborhood-serving commercial and related uses.</p>	<p>1. Essential services.</p>	<p>1. Uses permitted with Site Development Plan review and Special Exception uses in OI districts.  2. Neighborhood convenience store.  3. Small limited-item shop and stores restricted to retail sales of convenience items and services including barber-beauty care and other personal services.  4. Small-scale drugstores and specialty shops as defined in Sec. 158.006 - Definitions.  5. Photography, art or music studios.  6. Youth recreation centers.  7. Florist shops.  8. Personal wireless service facility, not including a free-standing facility.  9. Laundry and dry cleaning pickup stations.  10. Small-scale tourist-oriented activities associated with safeguarding the stability and integrity of adjacent residential areas.</p>	<p>1. Off-street parking and loading.  2. Other accessory uses customarily incidental to use permitted with Site Development Plan review use or Special Exception use.  3. Private noncommercial dish antennas.</p>	<p>1. Restaurants (but no drive-in restaurants) including restaurants with lounges or outdoor dining (subject to the standards contained in § 158.110). (Ord. 95-19, passed 1-8-96)  2. Grocery stores.  3. Rental of bicycles, canoes, kayaks, paddle boards and other non-motorized recreational equipment.  4. Continuing education centers.  5. Laundry and dry cleaning pickup stations.  6. Private non-commercial dish antennas.  7. Boat dock in excess of 500 square feet.  8. Personal wireless service free-standing facility.  9. Enclosed elevator shaft and vestibule, enclosed stairwell and landing, and enclosed mechanical equipment area exceeding allowed height subject to the standards contained in § 158.098(C)(2).</p>

**(C) Lot, Yard, and Bulk Regulations (Note: Also refer to Section 158.030 – Performance standards for Site Development Plans, for intensity standards, if applicable.)<sup>a</sup>**

Max. Gross Density	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.) <sup>b</sup>	Min. Rear Yard (ft.)	Min. Waterfront Yard (ft.) <sup>c</sup>	Min. Floor Area (sq. ft.)	Max. Height (ft.)	Max. Bldg. Coverage <sup>d</sup>	Min. Open Space <sup>e</sup>
N.A.	10,000	75	125	45 or 20 if all parking is located behind the front face of the building	15 total 15 min. (a)	20	Gulf/Pass: 150 Canal: 20 Bay: 20	N.A.	30	30% 40% with PUD-MUC	20%

- <sup>a</sup> Refer to Section 158.036 for Planned Unit Development (PUD) standards.
- <sup>b</sup> If commercial use adjoins another commercial use or district, no side yard setback is required; however, if one is provided, it shall be 15 feet. If commercial use adjoins a residential use or district, the minimum side yard setback shall be 30 feet.
- <sup>c</sup> Refer to Section 158.094(C) for waterfront yard standards.
- <sup>d</sup> Refer to Section 158.095(B)(2)(a) for calculation of maximum building coverage for swimming pools.
- <sup>e</sup> Refer to Section 158.030(E) for calculation of open space and landscaping.

## 158.070 – C-2 (General Commercial District).

### (A) Description of District and District Policies.

Established for purposes of accommodating general retail sales and services, including lawn and garden centers.

These areas are located in highly accessible areas adjacent to major or minor arterials which possess necessary location and market requirements. Zoning policy shall stipulate provisions for distributing various levels of shopping facilities.

The areas designated for general commercial development are specifically not adaptive to permanent residential housing, and such residential uses shall be located in other areas designated for residential development.

### (B) Use Regulations

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
The purpose of this district is to delineate those areas suitable for general commercial and related uses.	1. Essential services.	1. Uses permitted with Site Development Plan review and Special Exception uses in OI and C-1 districts. 2. General retail sales and services such as grocery stores, restaurants, including restaurants with lounges, laundry and dry cleaning pickup	1. Off-street parking and loading. 2. Other accessory uses customarily incidental to use permitted with Site Development Plan review use or Special Exception use. 3. Private non-commercial dish antennas.	1. Government buildings and services. 2. Lounges. 3. Lawn and garden centers. 4. Landscaping and lawn services. 5. Electrical, plumbing, and air conditioning contractors. 6. Boat dock in excess of 500 square

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
		stations, and small-scale, tourist-oriented facilities as defined in Sec. 158.006 - Definitions. 3. Child-care services. 4. Personal wireless service facility, not including a freestanding facility.		feet. 7. Personal wireless service free-standing facility. 8. Enclosed elevator shaft and vestibule, enclosed stairwell and landing, and enclosed mechanical equipment area exceeding allowed height subject to the standards contained in § 158.098(C)(2).

**(C) Lot, Yard, and Bulk Regulations (Note: Also refer to Section 158.030 – Performance standards for Site Development Plans, for intensity standards, if applicable.)<sup>a</sup>**

Max. Gross Density	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.) <sup>b</sup>	Min. Rear Yard (ft.)	Min. Waterfront Yard (ft.) <sup>c</sup>	Min. Floor Area (sq. ft.)	Max. Height (ft.)	Max. Bldg. Coverage <sup>c</sup>	Min. Open Space <sup>d</sup>
N.A.	30,000	150	200	35 or 20 if all parking is located behind the front face of the building	50 total 20 min.	25	Gulf/Pass: 150 Canal: 20 Bay: 20	N.A.	40	30% 40% with PUD-MUC	20%

<sup>a</sup> Refer to Section 158.036 for Planned Unit Development (PUD) standards.

<sup>b</sup> If commercial use adjoins another commercial use or district, no side yard setback is required; however, if one is provided, it shall be 15 feet. If commercial use adjoins a residential use or district, the minimum side yard setback shall be 30 feet.

<sup>c</sup> Refer to Section 158.094(C) for waterfront yard standards.

<sup>d</sup> Refer to Section 158.095(B)(2)(a) for calculation of maximum building coverage for swimming pools.

<sup>e</sup> Refer to Section 158.030(E) for calculation of open space and landscaping.

**158.071 – C-3 (Highway-Oriented Commercial District).**

**(A) Description of District and District Policies.**

Established for strategically located sites adjacent to major arterials having sufficient size, including frontage and depth, to accommodate not only the intended use but also sufficient area



for implementing an efficient system of internal vehicular circulation, including consideration of space required for queuing of vehicles on-site, off-street parking and maneuvering, landscaping, screening and buffering from abutting residential development or less intensive commercial use, and efficient location and design of curb cuts.

Lands designated for highway-oriented commercial services should not be located adjacent to residential development.

**(B) Use Regulations**

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
The purpose of this district is to delineate those areas suitable for highway-oriented commercial and related uses.	1. Essential services.	1. Uses permitted with Site Development Plan review and Special Exception uses in OI, C-1 and C-2 districts. 2. Service stations and other minor retail sales, services and repairs oriented to the motoring public, excluding body repair and finishing. 3. Personal wireless service facility, not including a freestanding facility. 4. Hotel (motel and restaurants). 5. Lawn and garden centers.	1. Off-street parking and loading. 2. Other accessory uses customarily incidental to a permitted use, a use permitted with Site Development Plan review, or a Special Exception use. 3. Private non-commercial dish antennas.	1. Landscaping and lawn services. 2. Electrical, plumbing, and air conditioning contractors. 3. Boat dock in excess of 500 square feet. 4. Personal wireless service free-standing facility. 5. Enclosed elevator shaft and vestibule, enclosed stairwell and landing, and enclosed mechanical equipment area exceeding allowed height subject to the standards contained in § 158.098(C)(2).

**(C) Lot, Yard, and Bulk Regulations (Note: Also refer to Section 158.030 – Performance standards for Site Development Plans, for intensity standards, if applicable.)<sup>a</sup>**

Max. Gross Density	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.) <sup>b</sup>	Min. Rear Yard (ft.)	Min. Waterfront Yard (ft.) <sup>c</sup>	Min. Floor Area (sq. ft.)	Max. Height (ft.)	Max. Bldg. Coverage <sup>c</sup>	Min. Open Space <sup>d</sup>
N.A.	30,000	150	175	35 or 20 if all parking is located behind the front face of the building	50 total 20 min.	25	Gulf/Pass: 150 Canal: 20 Bay: 20	N.A.	40	40% 50% with PUD-MUC	20%

- a Refer to Section 158.036 for Planned Unit Development (PUD) standards.
- b If commercial use adjoins another commercial use or district, no side yard setback is required; however, if one is provided, it shall be 15 feet. If commercial use adjoins a residential use or district, the minimum side yard setback shall be 30 feet.
- c Refer to Section 158.094(C) for waterfront yard standards.
- d Refer to Section 158.095(B)(2)(a) for calculation of maximum building coverage for swimming pools.
- e Refer to Section 158.030(E) for calculation of open space and landscaping.

**158.072 – M-1 (Marine Commercial Services District).**

**(A) Description of District and District Policies.**

Established for the allocation of land resources for existing and anticipated future commercial service such as marine repair and services, employee services, storage and commercial support services. Marine and commercial service areas are not adaptive to residential use..

Industry requiring a broad-based labor market, convenient access to a regional transportation system, relatively high demand for water and wastewater services, and other uniquely characteristic needs of industry, shall not be located within the barrier islands of the Town of Longboat Key. Such activities conflict with goals, objectives and policies of the Comprehensive Plan for Longboat Key and are generally inconsistent with sound planning principles and practices for managing development, redevelopment and resource conservation activities on the narrow, environmentally fragile barrier islands with substantially limited access to industrial labor, resource and product markets.

**(B) Use Regulations**

<b>Purpose</b>	<b>Permitted Uses Without Site Development Plan Review</b>	<b>Permitted Uses With Site Development Plan Review</b>	<b>Accessory Uses</b>	<b>Special Exception Uses</b>
The purpose of this district is to delineate those areas suitable for marine commercial services and related uses. Commercial passenger operations are excluded.	1. Essential services.	1. Uses permitted with Site Development Plan review and Special Exception uses in C-3 districts. 2. Marina facilities, including rental of wet storage, sale of marine fuels, boat or motor rental or maintenance, sale of bait and fishing equipment, and storage or dry-docking of boats. Boat construction is not a permitted use. 3. Other marine commercial services such as waterfront or marine-related specialty	1. Off-street parking and loading. 2. One dwelling unit or use by owner/employee or lessee, which shall be located on the same lot. 3. Other accessory uses customarily incidental to a use permitted with Site Development Plan review or Special Exception use. 4. Private non-commercial dish antennas.	1. Boat dock in excess of 500 square feet. 2. Personal wireless service free-standing facility. 3. Enclosed elevator shaft and vestibule, enclosed stairwell and landing, and enclosed mechanical equipment area exceeding allowed height subject to the standards contained in § 158.098(C)(2).

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
		shops. 4. Charter fishing. 5. Personal wireless service facility, not including a freestanding facility.		

**(C) Lot, Yard, and Bulk Regulations (Note: Also refer to Section 158.030 – Performance standards for Site Development Plans, for intensity standards, if applicable.)<sup>a</sup>**

Max. Gross Density	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.) <sup>b</sup>	Min. Rear Yard (ft.)	Min. Waterfront Yard (ft.) <sup>c</sup>	Min. Floor Area (sq. ft.)	Max. Height (ft.)	Max. Bldg. Coverage <sup>c</sup>	Min. Open Space <sup>d</sup>
N.A.	30,000	150	175	45	50 total 20 min.	25	Gulf/ Pass: 150 Canal: 20 Bay: 20	N.A.	30	40% 50% with PUD- MUC	20%

- <sup>a</sup> Refer to Section 158.036 for Planned Unit Development (PUD) standards.
- <sup>b</sup> If commercial use adjoins another commercial use or district, no side yard setback is required; however, if one is provided, it shall be 15 feet. If commercial use adjoins a residential use or district, the minimum side yard setback shall be 30 feet.
- <sup>c</sup> Refer to Section 158.094(C) for waterfront yard standards.
- <sup>d</sup> Refer to Section 158.095(B)(2)(a) for calculation of maximum building coverage for swimming pools.
- <sup>e</sup> Refer to Section 158.030(E) for calculation of open space and landscaping.

**DIVISION 3. – TOURIST RESORT DISTRICTS**

**158.073 – T-3 (Low-Medium-Density Tourist Resort Commercial District).**

**(A) Description of District and District Policies.**

Established to accommodate the unique land needs for resort-oriented facilities. These facilities generally are marketed as vacation accommodations for tourists and other transients seeking an environment with a high level of amenities. The low-medium-density tourist resort commercial district is allocated to sites which shall accommodate densities not to exceed three tourist units per acre. Regulations shall be provided to minimize adverse impact on the transportation system, realizing that trip generation for transient residential facilities is generally higher than year-round accommodations. Similarly, the regulations shall provide for recreation and open space amenities on site, consistent with the purpose and intent of these districts. All commercially provided recreational activities requiring shoreline or near shore water utilization shall be concentrated at the commercial hotel facilities.

**(B) Use Regulations**

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
The purpose of this district is to implement the Comprehensive Plan through delineation of those areas suitable for low-medium-density tourist resort oriented facilities and multi-family residential uses.	<ol style="list-style-type: none"> <li>1. Multifamily developments with less than 10 dwelling units.</li> <li>2. Essential services.</li> <li>3. Community residential homes with six or fewer residents plus Staff.</li> </ol>	<ol style="list-style-type: none"> <li>1. Multifamily developments with 10 or more dwelling units.</li> <li>2. Hotels, motels, and time-share tourism units</li> <li>3. Community residential homes.</li> <li>4. Personal wireless service facility, not including a freestanding facility.</li> </ol>	<ol style="list-style-type: none"> <li>1. Private swimming pools or cabanas and related structures.</li> <li>2. Private recreational facilities designed for the exclusive use of occupants.</li> <li>3. Private docks, including the dockage and rental of boats and the sale of marine fuels limited to use of residents and guests only.</li> <li>4. Off-street parking.</li> <li>5. Other accessory uses customarily incidental to a permitted use, a use permitted with Site Development Plan review, or a Special Exception use.</li> <li>6. Private non-commercial dish antennas.</li> </ol>	<ol style="list-style-type: none"> <li>1. Boat dock in excess of 500 square feet.</li> <li>2. Personal wireless service free-standing facility.</li> <li>3. Enclosed elevator shaft and vestibule, enclosed stairwell and landing, and enclosed mechanical equipment area exceeding allowed height subject to the standards contained in § 158.098(C)(2).</li> </ol>

**(C) Lot, Yard, and Bulk Regulations (Note: Also refer to Section 158.030 – Performance standards for Site Development Plans, for intensity standards, if applicable.)<sup>a</sup>**

Use	Max. Gross Density <sup>b</sup>	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Min. Water-front Yard (ft.) <sup>c</sup>	Min. Floor Area (sq. ft.) <sup>d</sup>	Max. Height (ft.)	Max. Bldg. Coverage <sup>e</sup>	Min. Open Space <sup>f</sup>
Multi-Family <sup>g</sup>	3 units/a.c.	25,000	100	125	40	35 total 15 min.	25	Gulf/Pass: 150 Canal: 20 Bay: 20	750 sq. ft./unit plus 250 sq. ft. for each addl. bedroom above one	40	25% 35% with PUD	50%

Use	Max. Gross Density <sup>b</sup>	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Min. Water-front Yard (ft.) <sup>c</sup>	Min. Floor Area (sq. ft.) <sup>d</sup>	Max. Height (ft.)	Max. Bldg. Coverage <sup>e</sup>	Min. Open Space <sup>f</sup>
Tourism Units (Including time-share units) <sup>f</sup>	3 units/acre <sup>c</sup>	40,000	150	250	45	50 total 20 min.	25	Gulf/Pass: 150 Canal: 20 Bay: 20	300 sq. ft./unit plus 125 sq. ft. for each addl. bedroom above one	40	25% 35% with PUD	50%

- <sup>a</sup> Refer to Section 158.036 for Planned Unit Development (PUD) standards.
- <sup>b</sup> Density expressed in terms of dwelling or tourism units per acre is fractional and dependent upon lot sizes.
- <sup>c</sup> Refer to Section 158.094(C) for waterfront yard standards.
- <sup>d</sup> Minimum floor area with respect to residential, hotel, motel or other tourism uses means minimum living area of the first habitable floor, not including garage.
- <sup>e</sup> Refer to Section 158.095(B)(2)(a) for calculation of maximum building coverage for swimming pools.
- <sup>f</sup> Refer to Section 158.030(E) for calculation of open space and landscaping.
- <sup>g</sup> Refer to Section 158.030(K) Supplemental controls for multifamily residential and tourism uses.

**158.074 – T-6 (High-Density Tourist Resort Commercial District).**

**(A) Description of District and District Policies.**

Established to accommodate the unique land needs for resort-oriented facilities. These facilities generally are marketed as vacation accommodations for tourists and other transients seeking an environment with a high level of amenities. The high-density tourist resort commercial district is allocated to sites which shall accommodate densities not to exceed six tourist units per acre. Regulations shall be provided to minimize adverse impact on the transportation system, realizing that trip generation for transient residential facilities is generally higher than year-round accommodations. Similarly, the regulations shall provide for recreation and open space amenities on site, consistent with the purpose and intent of these districts. All commercially provided recreational activities requiring shoreline or near shore water utilization shall be concentrated at the commercial hotel facilities.

**(B) Use Regulations**

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
The purpose of this district is to implement the Comprehensive Plan through delineation of those areas suit-	1. Multifamily developments with less than 10 dwelling units. 2. Essential services.	1. Multifamily developments with 10 or more dwelling units. 2. Hotels, motels, and other tourism and time-share	1. Private swimming pools or cabanas and related structures. 2. Private recreational facilities de-	1. Boat dock in excess of 500 square feet. 2. Personal wireless service free-standing facility.

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
able for high-density tourist resort oriented facilities and multifamily residential uses.	3. Community residential homes with six or fewer residents plus Staff.	tourism units. 3. Community residential homes. 4. Personal wireless service facility, not including a freestanding facility.	signed for the exclusive use of occupants. 3. Private docks, including the dockage and rental of boats and the sale of marine fuels limited to use of residents and guests only. 4. Off-street parking. 5. Other accessory uses customarily incidental to a permitted use, a use permitted with Site Development Plan review, or a Special Exception use. 6. Private non-commercial dish antennas.	3. Enclosed elevator shaft and vestibule, enclosed stairwell and landing, and enclosed mechanical equipment area exceeding allowed height subject to the standards contained in § 158.098(C)(2).

**(C) Lot, Yard, and Bulk Regulations (Note: Also refer to Section 158.030 – Performance standards for Site Development Plans, for intensity standards, if applicable.)<sup>a</sup>**

Use	Max. Gross Density <sup>b</sup>	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Min. Water-front Yard (ft.) <sup>c</sup>	Min. Floor Area (sq. ft.) <sup>c</sup>	Max. Height (ft.)	Max. Bldg. Coverage <sup>d</sup>	Min. Open Space <sup>e</sup>
Multi-Family <sup>e</sup>	6 units/ac.	30,000	150	150	50	80 total 30 min.	30	Gulf/Pass: 150 Canal: 20 Bay: 20	750 sq. ft./unit plus 250 sq. ft. for each addl. bedroom above one	50	30% 40% with PUD	50%
Tourism Units (Including)	6 units/ac.	55,000	175	300	50	80 total 30 min.	30	Gulf/Pass: 150 Canal: 20	300 sq. ft./unit plus 125 sq. ft.	50	30% 40% with PUD	50%

Use	Max. Gross Density <sup>b</sup>	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Min. Water-front Yard (ft.) <sup>c</sup>	Min. Floor Area (sq. ft.) <sup>c</sup>	Max. Height (ft.)	Max. Bldg. Coverage <sup>d</sup>	Min. Open Space <sup>e</sup>
time-share units) <sup>f</sup>								Bay: 20	for each addl. bedroom above one			

- <sup>a</sup> Refer to Section 158.036 for Planned Unit Development (PUD) standards.
- <sup>b</sup> Density expressed in terms of dwelling or tourism units per acre is fractional and dependent upon lot sizes.
- <sup>c</sup> Refer to Section 158.094(C) for waterfront yard standards.
- <sup>d</sup> Minimum floor area with respect to residential, hotel, motel or other tourism uses means minimum living area of the first habitable floor, not including garage.
- <sup>e</sup> Refer to Section 158.095(B)(2)(a) for calculation of maximum building coverage for swimming pools.
- <sup>f</sup> Refer to Section 158.030(E) for calculation of open space and landscaping.
- <sup>g</sup> Refer to Section 158.030(K) Supplemental controls for multifamily residential and tourism uses.

**DIVISION 4. – MIXED USE COMMUNITY DISTRICTS**

**158.075 – MUC-1 (Mixed Use Community – Bay Isles District).**

**(A) Description of District and District Policies.**

MUC districts allow a mix of residential and nonresidential uses in planned communities developed through the Planned Unit Development procedures and standards contained in Article III, Division 7. Notwithstanding the terms of any other section of this Zoning Code related to the calculation of density for residential or tourism uses, density in each MUC district cannot exceed the overall density of tourism and dwelling units per acre established by Section 158.058 and cannot exceed any further limitations on the overall density that may be established by the Town Commission for an MUC district during the Planned Unit Development process. When computing overall density in an MUC district, all property is counted, including recreational areas, open space areas, road rights-of-way, wetland areas and other nonresidential lands. An updated land intensity schedule shall be approved with each amendment to a MUC district. Clustered development patterns are encouraged to maximize shared open spaces, thus a specific parcel or parcels within a given MUC district may be more dense than the overall density of the MUC district.

The approval of units on any parcel beyond the 892 units in MUC-2 and 1,267 units in MUC-1 authorized by resolution or ordinance prior to January 1, 2014, can be requested through the ODP/PUD process. Approval of additional units is not guaranteed, and in no case may the number of additional units cause the overall density for the entire MUC district to be exceeded.

No boundary of any existing MUC district may be expanded to include additional land.

The Town shall not use the ODP/PUD process to approve new tourism units in the MUC-2 zoning district without voter approval, unless voter approval is prohibited by applicable Florida law.

A minimum of 50 percent of the total property within each MUC district shall be maintained in open space. Acreage for recreational uses is not limited. Any changes to existing land-use patterns require approval through the ODP/PUD process and shall be in accordance with the

schedule of uses in Article IV and shall meet the approval standards in Subsection 158.036(C). The general mix of uses within the boundaries of each MUC district, as calculated prior to the application of the 50 percent open space requirement, is allocated as follows:

*Mixed Use Community - Bay Isles (MUC-1)*. This district encompasses the Bay Isles community approved by Resolution 75-27 as it has been and may be amended from time to time. Overall density within the boundaries of the MUC-1 district shall not exceed 3.26 dwelling units per acre.

Use	Maximum Percent of Total Property Within MUC-1
Residential	37%
Tourism (units and associated resort/tourism uses)	0%
Commercial/Office	4%
Institutional	2.5%

**(B) Use Regulations**

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
The purpose of this district is to recognize an area of the Town approved by the Town Commission for a development with a mix of uses encompassing the Bay Isles community approved by Resolution No. 75-27 as it has been and may be amended from time to time.	<ol style="list-style-type: none"> <li>1. Single-family dwellings.</li> <li>2. Multifamily developments with less than 10 dwelling units.</li> <li>3. Essential services.</li> <li>4. Community residential homes with six or fewer residents plus Staff.</li> </ol>	<ol style="list-style-type: none"> <li>1. Multifamily developments with 10 or more dwelling units.</li> <li>2. Worship Center.</li> <li>3. Golf course.</li> <li>4. Marina, including wet storage, sale of marine fuels, boat or motor rental or maintenance, ship's store, yacht brokerage, but not including boat construction or dry storage of boats.</li> <li>5. Parks and recreation areas.</li> <li>6. Restaurants (pre-existing legal use only, except where permitted through a PUD).</li> <li>7. Tennis courts and associated accessory uses.</li> <li>8. Uses permitted</li> </ol>	<ol style="list-style-type: none"> <li>1. Other accessory uses customarily incidental to a permitted use, a use permitted with Site Development Plan review, or a Special Exception use.</li> <li>2. Private non-commercial dish antennas.</li> <li>3. A columbarium is a permitted accessory use to a Worship center.</li> </ol>	<ol style="list-style-type: none"> <li>1. Boat dock in excess of 500 square feet.</li> <li>2. Personal wireless service free-standing facility.</li> <li>3. Enclosed elevator shaft and vestibule, enclosed stairwell and landing, and enclosed mechanical equipment area exceeding allowed height subject to the standards contained in § 158.098(C)(2).</li> </ol>



Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
		with Site Development Plan review and Special Exception uses in OI and C-1 districts. 9. Government buildings and services. 10. Community residential homes. 11. Personal wireless service facility, not including a freestanding facility. NOTE: See also §§ 158.075(A) and 158.036(C).		

**(C) Lot, Yard, and Bulk Regulations (Note: Also refer to Section 158.030 – Performance standards for Site Development Plans, for intensity standards, if applicable.)<sup>a</sup>**

Use	Max. Gross Density <sup>b</sup>	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Min. Waterfront Yard (ft.) <sup>c</sup>	Min. Floor Area (sq. ft.) <sup>d</sup>	Max. Height (ft.)	Max. Bldg. Coverage <sup>e</sup>
Single-Family	3.26 units/a c.	10,000	100	100	20	20 total 8 min.	20	Gulf/ Pass: 150 Canal: 20 Bay: 20	1,600	50	30% <sup>f</sup>
Two-Family	3.26 units/a c.	15,000	125	100	20	20 total 8 min.	20	Gulf/ Pass: 150 Canal: 20 Bay: 20	1,000 sq. ft./unit plus 750 sq. ft. for each addl. bedroom above one	50 65 with PUD	30% 40% with PUD
Multi-Family and other permitted	3.26 units/a c.	30,000	150	150	50	80 total 30 min.	30	Gulf/ Pass: 150 Canal: 20	1,000 sq. ft./unit plus 250 sq. ft. for	50 65 with PUD	30% 40% with PUD

Use	Max. Gross Density <sup>b</sup>	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Min. Waterfront Yard (ft.) <sup>c</sup>	Min. Floor Area (sq. ft.) <sup>d</sup>	Max. Height (ft.)	Max. Bldg. Coverage <sup>e</sup>
buildings <sup>g</sup>								Bay: 20	each addl. bed-room above one		

- <sup>a</sup> Refer to Section 158.036 for Planned Unit Development (PUD) standards.
- <sup>b</sup> Density expressed in terms of dwelling or tourism units per acre is fractional and dependent upon lot sizes.
- <sup>c</sup> Refer to Section 158.094(C) for waterfront yard standards.
- <sup>d</sup> Minimum floor area with respect to residential, hotel, motel or other tourism uses means minimum living area of the first habitable floor, not including garage.
- <sup>e</sup> Refer to Section 158.095(B)(2)(a) for calculation of maximum building coverage for swimming pools.
- <sup>f</sup> The maximum ground coverage by all buildings or structures (principal and accessory) shall be limited to 15 percent when one or more of the buildings or structures on the lot is 70 or more feet in height.
- <sup>g</sup> Refer to Section 158.030(K) Supplemental controls for multifamily residential and tourism uses.

**158.076 – MUC-2 (Mixed Used Community – Islandside District).**

**(A) Description of District and District Policies.**

MUC districts allow a mix of residential and nonresidential uses in planned communities developed through the Planned Unit Development procedures and standards contained in Article III, Division 7. Notwithstanding the terms of any other section of this Zoning Code related to the calculation of density for residential or tourism uses, density in each MUC district cannot exceed the overall density of tourism and dwelling units per acre established by Section 158.058 and cannot exceed any further limitations on the overall density that may be established by the Town Commission for an MUC district during the Planned Unit Development process. When computing overall density in an MUC district, all property is counted, including recreational areas, open space areas, road rights-of-way, wetland areas and other nonresidential lands. An updated land intensity schedule shall be approved with each amendment to a MUC district. Clustered development patterns are encouraged to maximize shared open spaces, thus a specific parcel or parcels within a given MUC district may be more dense than the overall density of the MUC district.

The approval of units on any parcel beyond the 892 units in MUC-2 and 1,267 units in MUC-1 authorized by resolution or ordinance prior to January 1, 2014, can be requested through the ODP/PUD process. Approval of additional units is not guaranteed, and in no case may the number of additional units cause the overall density for the entire MUC district to be exceeded.

No boundary of any existing MUC district may be expanded to include additional land.

The Town shall not use the ODP/PUD process to approve new tourism units in the MUC-2 zoning district without voter approval, unless voter approval is prohibited by applicable Florida law.

A minimum of 50 percent of the total property within each MUC district shall be maintained in open space. Acreage for recreational uses is not limited. Any changes to existing land-use patterns require approval through the ODP/PUD process and shall be in accordance with the schedule of uses in Article IV and shall meet the approval standards in Subsection 158.036(C). The general mix of uses within the boundaries of each MUC district, as calculated prior to the application of the 50 percent open space requirement, is allocated as follows:

- a. *Mixed Use Community - Islandside (MUC-2)*. This district encompasses the Islandside community approved by Resolution 76-7 as it has been and may be amended from time to time. Overall density within the boundaries of the MUC-2 district shall not exceed 5.05 units per acre, including tourism units.

Use	Maximum Percent of Total Property Within MUC-2
Residential	33%
Tourism (units and associated resort/tourism uses)	12%
Commercial/Office	1.5%
Institutional	0%

**(B) Use Regulations**

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
The purpose of this district is to recognize an area of the Town approved by the Town Commission for a development with a mix of uses encompassing the Islandside community approved by Resolution No. 76-7 as it has been and may be amended from time to time.	<ol style="list-style-type: none"> <li>1. Single-family dwellings.</li> <li>2. Multifamily developments with less than 10 dwelling units.</li> <li>3. Essential services.</li> <li>4. Community residential homes with six or fewer residents plus Staff.</li> </ol>	<ol style="list-style-type: none"> <li>1. Multifamily developments with 10 or more dwelling units.</li> <li>2. Golf course.</li> <li>3. Hotels, motels, and other tourism and time-share tourism units (pre-existing legal use only, except where additional tourism units may be permitted by the Town's Charter and Comprehensive Plan).</li> <li>4. Parks and recreation areas.</li> <li>5. Restaurants (pre-existing legal use only, except where permitted through a PUD).</li> <li>6. Tennis courts and associated accessory uses.</li> <li>7. Business and professional offices.</li> <li>8. Community residential homes.</li> </ol>	<ol style="list-style-type: none"> <li>1. Other accessory uses customarily incidental to a permitted use, a use permitted with Site Development Plan review, or a Special Exception use.</li> <li>2. Private noncommercial dish antennas.</li> </ol>	<ol style="list-style-type: none"> <li>1. Boat dock in excess of 500 square feet.</li> <li>2. Personal wireless service free-standing facility.</li> <li>3. Enclosed elevator shaft and vestibule, enclosed stairwell and landing, and enclosed mechanical equipment area exceeding allowed height subject to the standards contained in § 158.098(C)(2).</li> </ol>

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
		9. Personal wireless service facility, not including a freestanding facility. NOTE: See also §§ 158.076(A) and 158.036(C).		

**(C) Lot, Yard, and Bulk Regulations (Note: Also refer to Section 158.030 – Performance standards for Site Development Plans, for intensity standards, if applicable.)<sup>a</sup>**

Use	Max. Gross Density <sup>b</sup>	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Min. Waterfront Yard (ft.) <sup>c</sup>	Min. Floor Area (sq. ft.) <sup>d</sup>	Max. Height (ft.)	Max. Bldg. Coverage <sup>e</sup>
Single-Family	5.05 units/ac.	10,000	100	100	20	20 total 8 min.	20	Gulf/ Pass: 150 Canal: 20 Bay: 20	1,600	50	30% <sup>f</sup>
Two-Family	5.05 units/a c.	15,000	125	100	20	20 total 8 min.	20	Gulf/ Pass: 150 Canal: 20 Bay: 20	1,000 sq. ft./unit plus 750 sq. ft. for each addl. bedroom above one	50	30% 40% with PUD
Multi-Family and other permitted building <sup>g</sup>	5.05 units/a c.	30,000	150	150	50	80 total 30 min.		Gulf/ Pass: 150 Canal: 20 Bay: 20	1,000 sq. ft./unit plus 250 sq. ft. for each addl. bedroom above one	50 130 87 with PUD	30% 40% with PUD

<sup>a</sup> Refer to Section 158.036 for Planned Unit Development (PUD) standards.

<sup>b</sup> Density expressed in terms of dwelling or tourism units per acre is fractional and dependent upon lot sizes.

- c Refer to Section 158.094(C) for waterfront yard standards.
- d Minimum floor area with respect to residential, hotel, motel or other tourism uses means minimum living area of the first habitable floor, not including garage.
- e Refer to Section 158.095(B)(2)(a) for calculation of maximum building coverage for swimming pools.
- f The maximum ground coverage by all buildings or structures (principal and accessory) shall be limited to 15 percent when one or more of the buildings or structures on the lot is 70 or more feet in height.
- g Refer to Section 158.030(K) Supplemental controls for multifamily residential and tourism uses.

**158.077 – MUC-3 (Mixed Use Community – Promenade/Water Club District).**

**(A) Description of District and District Policies.**

MUC districts allow a mix of residential and nonresidential uses in planned communities developed through the Planned Unit Development procedures and standards contained in Article III, Division 7. Notwithstanding the terms of any other Section of this Zoning Code related to the calculation of density for residential or tourism uses, density in each MUC district cannot exceed the overall density of tourism and dwelling units per acre established by Section 158.058 and cannot exceed any further limitations on the overall density that may be established by the Town Commission for an MUC district during the Planned Unit Development process. When computing overall density in an MUC district, all property is counted, including recreational areas, open space areas, road rights-of-way, wetland areas and other nonresidential lands. An updated land intensity schedule shall be approved with each amendment to a MUC district. Clustered development patterns are encouraged to maximize shared open spaces, thus a specific parcel or parcels within a given MUC district may be more dense than the overall density of the MUC district.

The approval of units on any parcel beyond the 892 units in MUC-2 and 1,267 units in MUC-1 authorized by resolution or ordinance prior to January 1, 2014, can be requested through the ODP/PUD process. Approval of additional units is not guaranteed, and in no case may the number of additional units cause the overall density for the entire MUC district to be exceeded.

No boundary of any existing MUC district may be expanded to include additional land.

The Town shall not use the ODP/PUD process to approve new tourism units in the MUC-2 zoning district without voter approval, unless voter approval is prohibited by applicable Florida law.

A minimum of 50 percent of the total property within each MUC district shall be maintained in open space. Acreage for recreational uses is not limited. Any changes to existing land-use patterns require approval through the ODP/PUD process and shall be in accordance with the schedule of uses in Article IV and shall meet the approval standards in Subsection 158.036(C). The general mix of uses within the boundaries of each MUC district, as calculated prior to the application of the 50 percent open space requirement, is allocated as follows:

- a. *Mixed Use Community - Promenade/Water Club (MUC-3)*. This district encompasses the Promenade/Water Club communities approved by Resolution 81-8, as it has been and may be amended from time to time. Overall density within the boundaries of the MUC-3 district shall not exceed 11.26 dwelling units per acre.

Use	Maximum Percent of Total Property Within MUC-3
Residential	100%
Tourism	0%

Use	Maximum Percent of Total Property Within MUC-3
Commercial/Office	0%
Institutional	0%

**(B) Use Regulations**

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
The purpose of this district is to recognize an area of the Town approved by the Town Commission for a development with a mix of uses encompassing the Promenade/Water Club communities approved by Resolution No. 81-8, as it has been and may be amended from time to time.	<ol style="list-style-type: none"> <li>Essential services.</li> <li>Community residential homes with six or fewer residents plus Staff.</li> </ol>	<ol style="list-style-type: none"> <li>Multifamily developments with 10 or more dwelling units.</li> <li>Community residential homes.</li> <li>Personal wireless service facility, not including a freestanding facility.</li> </ol>	<ol style="list-style-type: none"> <li>Other accessory uses customarily incidental to a permitted use, a use permitted with Site Development Plan review; or a Special Exception use.</li> <li>Private non-commercial dish antennas.</li> </ol>	<ol style="list-style-type: none"> <li>Boat dock in excess of 500 square feet.</li> <li>Personal wireless service free-standing facility.</li> <li>Enclosed elevator shaft and vestibule, enclosed stairwell and landing, and enclosed mechanical equipment area exceeding allowed height subject to the standards contained in § 158.098(C)(2).</li> </ol>

**(C) Lot, Yard, and Bulk Regulations (Note: Also refer to Section 158.030 – Performance standards for Site Development Plans, for intensity standards, if applicable.)<sup>a</sup>**

Use	Max. Gross Density <sup>b</sup>	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Min. Waterfront Yard (ft.) <sup>c</sup>	Min. Floor Area (sq. ft.) <sup>d</sup>	Max. Height (ft.)	Max. Bldg. Coverage <sup>e</sup>
Multi-Family and other permitted buildings <sup>a</sup>	11.26 units/a c.	30,000	150	150	50	80 total 30 min.	30	Gulf/ Pass: 150 Canal: 20 Bay: 20	750 sq. ft./unit plus 250 sq. ft. for each addl. bedroom above one	50  120 with PUD-MUC	30% <sup>f</sup>

<sup>a</sup> Refer to Section 158.036 for Planned Unit Development (PUD) standards.

<sup>b</sup> Density expressed in terms of dwelling or tourism units per acre is fractional and dependent upon lot sizes.

- c Refer to Section 158.094(C) for waterfront yard standards.
- d Minimum floor area with respect to residential, hotel, motel or other tourism uses means minimum living area of the first habitable floor, not including garage.
- e Refer to Section 158.095(B)(2)(a) for calculation of maximum building coverage for swimming pools.
- f The maximum ground coverage by all buildings or structures (principal and accessory) shall be limited to 15 percent when one or more of the buildings or structures on the lot is 70 or more feet in height.
- g Refer to Section 158.030(K) Supplemental controls for multifamily residential and tourism uses.

**DIVISION 5. – SPECIAL PURPOSE DISTRICTS**

**158.078 – OS-A (Open Space – Active District).**

**(A) Description of District and District Policies.**

Open Space - Active is publicly-owned or controlled open space which is designed, used or intended to be used for recreational activities by residents and visitors with on-site improvements, structures or other active, player-oriented facilities. Impervious surface coverage is limited to 30 percent of the lot or parcel.

**(B) Use Regulations**

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
Publicly owned or controlled open space which is designed, used or intended to be used for recreational activities by residents and visitors. Impervious surface coverage is limited to 30% of the lot or parcel	1. Bird and wildlife sanctuaries and nature areas. 2. Public open areas for passive recreational activities. 3. Essential services.	1. On-site improvements, structures or other active, player-oriented facilities such as playgrounds, ball fields, tennis courts and associated accessory uses.	1. Associated accessory uses customarily incidental to a permitted use or permitted with a Site Development Plan review use.	1. Boat dock in excess of 500 square feet. 2. Personal wireless service free-standing facility.

**(C) Lot, Yard, and Bulk Regulations (Note: Also refer to Section 158.030 – Performance standards for Site Development Plans, for intensity standards, if applicable.)**

Max. Gross Density	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Min. Waterfront Yard (ft.) <sup>a</sup>	Min. Floor Area (sq. ft.)	Max. Height (ft.)	Max. impervious Surface Coverage
N.A.	N.A.	N.A.	N.A.	45	40 total 15 min.	20	Gulf/ Pass: 150 Canal: 20 Bay: 20	N.A.	30	30%

Max. Gross Density	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Min. Waterfront Yard (ft.) <sup>a</sup>	Min. Floor Area (sq. ft.)	Max. Height (ft.)	Max. Impervious Surface Coverage

<sup>a</sup> Refer to Section 158.094(C) for waterfront yard standards.

### 158.079 – OS-P (Open Space – Passive District).

#### (A) Description of District and District Policies.

Open Space – Passive is publicly-owned or controlled open space which is designed, used or intended to be used primarily for less-active leisure pursuits. Impervious surface coverage is limited to 15 percent of the lot or parcel.

#### (B) Use Regulations

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
Publicly owned or controlled open space which is designed, used or intended to be used for less-active leisure pursuits. Impervious surface coverage is limited to 15% of the lot or parcel	1. Beach and bay access  2. Essential services.	1. Trails, nature centers.	1. Associated accessory uses customarily incidental to a permitted use or permitted with a Site Development Plan review, uses such as restrooms, boardwalks, docks and parking surfaces.	1. Boat dock in excess of 500 square feet.

#### (C) Lot, Yard, and Bulk Regulations (Note: Also refer to Section 158.030 – Performance standards for Site Development Plans, for intensity standards, if applicable.)

Max. Gross Density	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Min. Waterfront Yard (ft.) <sup>a</sup>	Min. Floor Area (sq. ft.)	Max. Height (ft.)	Max. Impervious Surface Coverage
N.A.	N.A.	N.A.	N.A.	45	40 total 15 min.	20	Gulf/ Pass: 150 Canal: 20 Bay: 20	N.A.	15	15%

<sup>a</sup> Refer to Section 158.094(C) for waterfront yard standards.

### 158.080 – OS-C (Open Space – Conservation District).

#### (A) Description of District and District Policies.



Open Space – Conservation is publicly-owned or controlled open space which is designed, used or intended to be used for the protection and management of natural areas or archaeological sites. These areas shall remain in their natural state with little or no disturbance. Structures are limited to improvements such as boardwalks, permeable pathways and signage necessary for conservation management, limited public access and resource related educational activities.

**(B) Use Regulations**

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
Publicly owned or controlled open space which is designed, used or intended to be used for the protection and management of natural areas and archaeological sites.	<ol style="list-style-type: none"> <li>1. Areas to remain in natural state with little or no disturbance.</li> <li>2. Essential services.</li> </ol>	<ol style="list-style-type: none"> <li>1. Structures are limited to improvements such as boardwalks, permeable pathways and signage necessary for conservation management, limited public access and resource-related educational activities.</li> </ol>		<ol style="list-style-type: none"> <li>1. Boat dock in excess of 500 square feet.</li> </ol>

**(C) Lot, Yard, and Bulk Regulations (Note: Also refer to Section 158.030 – Performance standards for Site Development Plans, for intensity standards, if applicable.)**

Max. Gross Density	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Min. Floor Area (sq. ft.)	Max. Height (ft.)	Max. impervious Surface Coverage
N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	0

<sup>a</sup> Refer to Section 158.094(C) for waterfront yard standards.

**158.081 – INS (Community Facility Institutional District).**

**(A) Description of District and District Policies.**

Established for lands accommodating public and semipublic facilities. Public facilities and utilities will be located to best maximize the efficiency of services provided, minimize costs, and minimize impacts on the natural environment.

**(B) Use Regulations**

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
The purpose of this district is to delineate those areas suitable for public and semipublic facilities.	<ol style="list-style-type: none"> <li>1. Essential services.</li> </ol>	<ol style="list-style-type: none"> <li>1. Worship centers.</li> <li>2. Government buildings and services, such as fire stations, public works buildings,</li> </ol>	<ol style="list-style-type: none"> <li>1. Off-street parking and loading facilities.</li> <li>2. Other accessory uses customarily incident to a use permitted with Site</li> </ol>	<ol style="list-style-type: none"> <li>1. Continuing education centers.</li> <li>2. Civic centers.</li> <li>3. Nursing homes.</li> <li>4. Nonprofit cultural centers.</li> <li>5. Cemeteries.</li> </ol>

Purpose	Permitted Uses Without Site Development Plan Review	Permitted Uses With Site Development Plan Review	Accessory Uses	Special Exception Uses
		and emergency operation center facilities and libraries. 3. Public parks and recreation areas. 4. Town-owned or Town-operated marine facilities. 5. Personal wireless service facility, not including a free-standing facility.	Development Plan review or Special Exception use. 3. Private noncommercial dish antennas.	6. Worship centers. 7. Private clubs. 8. Personal wireless service free-standing facility. 9. Boat dock in excess of 500 square feet.

**(C) Lot, Yard, and Bulk Regulations (Note: Also refer to Section 158.030 – Performance standards for Site Development Plans, for intensity standards, if applicable.)<sup>a</sup>**

Max. Gross Density	Min. Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Min. Street (ft.)	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Min. Waterfront Yard (ft.) <sup>b</sup>	Min. Floor Area (sq. ft.)	Max. Height (ft.)	Max. Building Coverage <sup>c</sup>	Min. Open Space <sup>d</sup>
N.A.	20,000	100	150	45	40 total 15 min.	20	Gulf/ Pass: 150 Canal: 20 Bay: 20	N.A.	30	30% 40% with PUD	20%

<sup>a</sup> Refer to Section 158.036 for Planned Unit Development (PUD) standards.

<sup>b</sup> Refer to Section 158.094(C) for waterfront yard standards.

<sup>c</sup> Refer to Section 158.095(B)(2)(a) for calculation of maximum building coverage for swimming pools.

<sup>d</sup> Refer to Section 158.030(F) for calculation of open space and landscaping.

**DIVISION 6. – CONFORMANCE OVERLAY REDEVELOPMENT DISTRICTS (CORD)**

**158.082 – Overview of Conformance Overlay Redevelopment District (CORD)**

(A) *Intent.* The provisions of this zoning overlay district are intended to apply to existing residential, tourism, or mixed use projects that were legally established prior to March 12, 1984, which do not comply with the existing maximum density provisions of the Comprehensive Plan. The intent of the Conformance Overlay Redevelopment District (CORD) zoning district is to function as a zoning overlay district, which can modify or adjust underlying zone district standards to allow the redevelopment of these properties consistent with the standards of this Section. The overlay is intended to preserve the nonconforming density of these projects and enable such projects to rezone to become conforming, while providing for flexibility of design. The potential design flexibility is provided in order to achieve improved conformance with underlying zone district requirements and to encourage imaginative, functional, high-quality land planning developments compatible with adjacent

and nearby lands and activities, in keeping with the low density character of the Town. Additionally, the overlay provides for flexibility to apply creative and innovative approaches and design to address challenges related to changing markets, building trends, and environmental conditions, while remaining compatible with the overall character of the island. Overall these developments should reduce or eliminate nonconformities, especially gulf and pass waterfront yard setbacks, to the greatest extent possible. Redevelopment proposed under the overlay Zoning Map Amendment process shall not be subject to any conflicting Redevelopment Standards, however, the proposed development must demonstrate that the standards proposed will enable a development that is superior to a development that could be permitted under standard zoning or that represents a significant improvement over existing nonconforming conditions. Properties approved under the Outline Development Plan process of Article III, Division 7 of this Chapter are not superseded or considered nonconforming by the provisions of this Section.

### **158.083 – Uses Permitted**

The principal and accessory uses that are allowed are those that are permitted in the appropriate underlying zoning district as described in the Schedule of use regulations in Article IV.

In addition, the overlay permits the replacement of any legally established, by March 12, 1984, principal or accessory use that is not currently conforming to the applicable Future Land Use designation of the Comprehensive Plan without regard to the Redevelopment Standards of Section 158.132.

### **158.084 – Procedures for Approval**

- (A) *In General.* The steps to request a change in zoning to the CORD will follow the requirements for a Zoning Map Amendment. A CORD Zoning Map Amendment shall be accompanied by an associated Site Development Plan that is simultaneously approved by the Town Commission. Applications for a change in zoning to CORD shall be filed and reviewed concurrently with a requested Future Land Use Map Amendment. If a referendum is required to increase density pursuant to the Town Charter, a formal application for a CORD Zoning Map Amendment and Site Development Plan may not be submitted until such referendum for the increase has been approved. Approval of a referendum for increased density is merely permission for consideration of an application and does not guarantee approval of a density increase through the CORD Zoning Map Amendment process. A CORD Zoning Map Amendment may also be allowed to include additional property(ies) that are combined with legally nonconforming density properties, when developed as a unified Site Development Plan.
- (B) *Pre-Application Conference.* A pre-application conference with the Planning and Zoning Official, or designee, is required, at which time the request will be reviewed for eligibility to apply for the CORD zoning designation consistent with the standards of this Section and with the provisions of the Comprehensive Plan. For the pre-application conference, Applicants must specify in writing the existing and proposed uses and the existing and proposed density and intensity of the development, as well as any other necessary information as determined by the Planning and Zoning Official to determine eligibility to apply for a change in zoning to CORD. Applications will not be processed unless they are determined by the Planning and Zoning Official, or designee, to be eligible to apply for the CORD zoning designation.
- (C) *Neighborhood Information Meeting.* Prior to submittal of the application by the Planning and Zoning Board, the Applicant shall hold a neighborhood information meeting with property owners and interested community members within 200 feet of the proposed development. The meeting must be held within the Town at a location and time convenient to the surrounding property owners to maximize attendance, subject to the following requirements:

- (a) *Notification.* Two weeks prior to the meeting date, the Applicant shall mail notices of the meeting date, time, and place to all property owners within a radius of 200 feet from the boundary of the proposed development and shall post the property. The Applicant shall inform the Planning and Zoning Official of the proposed meeting date and time prior to sending out the notices. Documentation of the mailed notice shall be provided to the Planning and Zoning Official for verification.
  - (b) *Applicant's Presentation.* At the meeting, the Applicant shall explain the proposed use of the subject property and make a copy of the proposed concept plan available for review by attendees. The Applicant may also discuss the project's development objectives, design philosophy and proposed schedule for completion.
  - (c) *Question and Answer Period.* Upon completion of the presentation, time shall be reserved for a question and answer period. Questions should be limited to the proposal as presented, not to the question of whether the site should be developed or redeveloped. The Applicant shall identify how potential community concerns will be mitigated. Meeting notes, prepared by the Applicant or representative, shall be taken of items covered and questions raised and responses provided at the meeting. Meeting notes will be required to be included in the formal application submittal.
- (D) *Formal Application.* The application for a CORD shall be filed with the Planning and Zoning Official and follow the procedures for Zoning Map Amendments. An application for Site Development Plan approval for the CORD shall be filed and reviewed concurrently with the CORD application. The application for Site Development Plan approval shall be processed in accordance with Article III, Division 5 of this Chapter. Upon receipt of the application the Planning and Zoning Official shall review the application to determine its appropriateness and completeness in respect to the requirements of this Section, and accept or reject it in writing. Upon acceptance of the application, the Town's administrative Staff shall refer the application, together with all supporting documentation and a Staff report, including findings of fact as to the consistency of the application with the Land Development Code and the Comprehensive Plan, to the Planning and Zoning Board for its review and recommendations. The Planning and Zoning Board and Town Commission shall not receive, review, make recommendations or act on applications for CORD approval except during the Town's annual Site Development Plan season. During the review process, the Town may retain consultants to assist in the review. The cost of retaining the consultants shall be borne by the Applicant. For purposes of this Chapter, the annual Site Development Plan cycle shall be September through June of the following year. For purposes of calculating the required processing times set forth in this Section for the Planning and Zoning Board and the Town Commission, the period of time from July 1 through August 31 shall not be counted in said computation.
- (E) *Planning and Zoning Board Public Hearing.* Upon receipt of the application from the Planning and Zoning Official, the Planning and Zoning Board shall, in a quasi-judicial proceeding, review the CORD application and make recommendations to the Town Commission that are based on competent, substantial evidence of record. The Planning and Zoning Board may also formulate findings of fact as to the consistency of the application with the Land Development Code and with the Comprehensive Plan. The Planning and Zoning Board shall recommend approval of the application as submitted, approval of the application with changes or special conditions, or denial of the application. The determination and recommendations of the Planning and Zoning Board shall be advisory only and shall not be binding upon the Town Commission. For purposes of this Section, the Planning and Zoning Board shall receive the application from the Planning and Zoning Official at the board's next regular meeting where a quorum is present following the

Planning and Zoning Official's submittal of the application to the board. The Planning and Zoning Board is specifically authorized to continue its deliberations, reasonably request additional relevant materials, and elicit expert testimony to aid in its deliberations.

(F) *Town Commission Public Hearing.* A public hearing on the CORD application, conducted as a quasi-judicial proceeding, shall be held by the Town Commission upon the Commission's receipt of the application from the Planning and Zoning Board. Public notice of such hearing shall be given in accordance with the provisions of applicable Florida Statutes, the Town Charter and this Chapter. For purposes of this Section, the Town Commission shall receive an application from the Planning and Zoning Board at the Commission's next regular meeting where a quorum is present, following the submittal of the Planning and Zoning Board's action on the application to the Town Commission. A transcript of the hearing may be caused to be made by the Town Commission at the cost of the Applicant, copies of which shall be made available at cost to any party to the proceedings; and all exhibits accepted in evidence shall be identified and duly preserved, or, if not accepted in evidence, shall be properly identified and the reason for the exclusion clearly noted in the record. The Town Commission is specifically authorized to continue its deliberations, request additional materials, and elicit expert testimony to aid in its deliberations, and may, at its sole discretion, remand the application to the Planning and Zoning Board for additional hearing and consideration. If changes are made to the application, accompanying plans or conditions of approval after review by the Planning and Zoning Board, the Town Commission may, at its sole discretion, remand the application back to the Planning and Zoning Board, but is not required to do so.

(G) *Town Commission Decision Procedures.* At the conclusion of the public hearing, the Town Commission shall review the CORD application and either approve it as submitted, approve it with changes or special conditions, or deny it. The Applicant may request that the application be withdrawn or that the hearing be continued if the Applicant does not accept the changes or special conditions recommended by the Town Commission. The action taken by the Town Commission shall be by ordinance. The Town Commission may unilaterally extend the time for final action where the Town Commission determines additional time is necessary to properly and completely review the CORD overlay application.

(a) In the event approval is granted, the Town Commission shall, as part of its ordinance, specify the drawings, plan sheets, renderings, specifications, and form of performance and maintenance bonds that shall be considered part of the final approval.

(b) In the event a CORD is granted approval, the Town Commission shall set forth in the ordinance the time within which an application for Final Site Development Plan approval, or applications in the case of a phased development, shall be filed. However, if a Final Site Development Plan for the entire CORD overlay was approved concurrently with the CORD overlay, the ordinance does not need to specify a time period.

(H) *Filing with the Town Clerk.* Within seven days after the adoption of the ordinance provided for in Subsection (G) above, it shall be certified by the Town clerk and shall be filed in the clerk's office, and a certified copy shall be mailed to the Applicant. A CORD overlay upon approval and acceptance, as provided herein, shall be depicted on the Town Official Zoning Map and is defined as running with the land; however, an Applicant may apply for a revision to the Site Development Plan in accordance with the Site Development Plan procedures. Any changes or amendments to an approved Site Development Plan, not determined to be minor development proposals, shall require a resubmission in accordance with the provisions of this Section. Immediately following expiration of the 30-day appeal period and upon successful resolution of

any appeals, if applicable, the Town clerk shall file with the clerk of the court the concept plan to record it in the official records of the county in which the property is located at the cost of the Applicant.

### **158.085 – CORD Zoning Development Standards.**

(A) A CORD shall be permitted only upon an order of the Town Commission approving the CORD, with a Site Development Plan, and any site specific development standards, as may be modified or adjusted by the Town Commission due to an Applicant's demonstration of applicable site constraints or economic or market related demands below, in conformance with this Section. However, prior existing nonconformities shall be eliminated to the greatest extent possible. In considering such a request, the Town Commission shall also consider the nature and character of development in the surrounding area, and the impact thereon, in determining whether, or the extent to which, these development standards may be modified.

No CORD shall be approved unless it complies with the following standards listed below in order of importance, highest to lowest, such that the control with the highest importance is the control with the greatest need for reduction or elimination of any nonconformities (and least likely of relaxation or modification) and the control with lower importance has a lesser need for reduction or elimination (and more likely of relaxation or modification):

- (1) *Building Setbacks.* The proposed minimum side, rear, and waterfront building setbacks, as measured from the boundaries of the CORD request, shall to the greatest extent possible conform with the setbacks allowed by the underlying zone district from the existing non-conforming development condition. For any buildings that would exceed the underlying zone district height, each building must have a minimum street setback of at least 2.5 times the overall height of the building, with a vegetative street buffer with sufficient density and height to minimize the visibility of the buildings from the right-of-way. Waivers to this required street setback may be granted if the Town Commission determines that the Waiver is necessary to meet the intent of the Comprehensive Plan and this Chapter to enable redevelopment of properties that are nonconforming to density and is in the public interest.
- (2) *Open space.* The open space of the property proposed for Zoning Map Amendment shall conform to the greatest extent possible to the open space permitted in the underlying zoning district from the existing nonconforming development condition. However, open space shall not be less than 20 percent of the lot area.
- (3) *Lot Coverage.* The lot coverage of the property proposed for Zoning Map Amendment shall conform to the greatest extent possible to the lot coverage permitted in the underlying zoning district from the existing nonconforming development condition.
- (4) *Building Height.* The height of structure(s) on property proposed for Zoning Map Amendment to the CORD shall conform to the greatest extent possible to the height of the underlying zone district, in which the property is located, subject to the following:
  - (a) For properties with existing structures that are at or below the allowable height of the underlying zone district, the maximum height shall be the height allowed by the underlying zone district.
  - (b) For properties with existing structure(s) that exceed the allowable height of the underlying zone district, the Town Commission may approve Waivers allowing for height(s) above the maximum height of the underlying zone district, provided that proposed height(s) represent a decrease in nonconforming height. The Applicant shall demonstrate how reduction(s) in height on the property, to the

greatest extent possible, will be more in conformity with the zone district standards than the prior nonconforming height(s).

- (5) *Maximum building length, distance between buildings, and distance between buildings and driveways.* These development criteria may be modified to allow redevelopment of existing nonconforming structures, but shall not be reduced in a manner that jeopardizes public safety.
- (6) *Off-Street Parking.* Off-street parking shall meet the standards and requirements of the parking Section of the Land Development Code. The Town Commission may reduce the number of required parking spaces upon submittal by the Applicant of a parking study demonstrating a reduction in parking need. The parking study shall be based on competent, substantial evidence which may include, but is not limited to, utilization of professional standards, formulas or studies from sources such as the Urban Land Institute (ULI), the Institute of Transportation Engineers (ITE), or similar organizations.
- (7) *Beach and Bay Access.* For all proposed CORD overlays the number of existing beach and/or bay access points shall not be decreased below the number existing at the time of the CORD overlay application. All public beach and/or bay access points shall be recorded as easements in the public record and copies provided to the Town clerk.
- (8) *Natural Shoreline.* For proposed CORD overlays located west of Gulf of Mexico Drive, the same percentage of natural shoreline area as a percentage of the total shoreline as it exists at the time of CORD application shall be preserved or provided.
- (9) *Development of Amenities and Tourism Units.* Amenities such as parks, open space, playgrounds, pools, marinas, docks, beach and Bay accesses, and tennis/pickle-ball courts must be completed prior to issuance of Building Permits of more than 40 percent of the total number of authorized residential or tourism units. For mixed-use developments, all proposed tourism units must be completed prior to the issuance of any certificates of occupancy for any residential unit.
- (10) *Cubic Content.* Redevelopment utilizing the CORD does not restrict the cubic content of structures to the prior extent of previously existing structures.
- (11) *Density.* The proposed density shall not exceed the total density allowed by the underlying zoning district of the property proposed for Zoning Map Amendment to CORD, or the density of the existing nonconforming development that is proposed for redevelopment. Owners may elect to reduce the number of nonconforming units in order to achieve compliance with the CORD development standards. If a referendum is required to increase density pursuant to the Town Charter, a formal application for a CORD Zoning Map Amendment and Site Development Plan may not be submitted until such referendum for the increase has been approved. Approval of a referendum for increased density is merely permission for consideration of an application and does not guarantee approval of a density increase through the CORD Zoning Map Amendment process.

#### **158.086 – Application Contents and Submittal Requirements.**

An application for CORD shall be accompanied by a Site Development Plan as required in Article III, Division 5.

#### **158.087 – Review Criteria.**

- (A) *Review Criteria.* The Planning and Zoning Board in its recommendation, and the Town Commission in its decision shall base its decision on each CORD application on competent, substantial evidence of record and shall include conclusions but may also include written findings of fact related to the specific proposal and shall set forth the reasons for the grant of approval, with or without changes or special conditions, or for the denial of a CORD application. The Town

Commission's approval, approval with changes or special conditions, or denial of a CORD application, shall be based on the application, evidence and testimony presented in the public hearing, and all of the following standards for review:

- (1) In what respects the CORD is or is not consistent with the intent of a CORD zoning district as provided in this Section.
- (2) Whether the proposed request decreases existing nonconforming characteristics to the greatest extent possible.
- (3) The adequacy, location and amount of open space in the plan.
- (4) Whether the proposed request is compatible with surrounding properties and is consistent with the character of the surrounding area.
- (5) Whether the proposed placement of the building allows for improved scenic views from adjacent properties and/or opens scenic view corridors from the street.
- (6) Whether the proposed request will cause an increase or decrease in shadow effects on surrounding properties, the street, and the public beach, if applicable for building heights greater than underlying zone district standards.
- (7) Whether the existing or proposed vegetative street buffer is sufficient to minimize the mass and scale of the building from the right-of-way.
- (8) The physical design of the plan and the manner in which the design makes adequate provision for public services, provides adequate control over vehicular traffic and parking, and addresses the amenities of light and air, recreation and visual enjoyment.
- (9) For phased developments, the plan must provide sufficient safeguards to protect the public interest, and the residents and owners of the CORD through the completion of the project.
- (10) Whether the proposed development is not contrary to the interests of the Town and/or does not adversely impact or affect the public interest.

### **158.088 – Effect of Approval.**

(A) *Effect of Approval.* Approval of a CORD Zoning Map Amendment and Site Development Plan does not convey any rights for development. Development may only occur after approval of a Final Site Development Plan, subdivision, and/or other development approvals and permits, as applicable, consistent with the approved concept plan, the Land Development Code, and the Comprehensive Plan.

- (1) Notwithstanding the 24-month period specified in Subsection 158.029(E), Final Site Development Plan approval for a CORD runs with the land for a period not to exceed four calendar years from the date of the ordinance adopting the Final Site Development Plan.



**158.089 – Reserved.**

**158.090 – Reserved.**

**158.091 – Reserved.**

## Article V. – Supplemental Development Standards

### DIVISION 1. – LOT, YARD AND BULK REGULATIONS

#### 158.092 – Lot dimensions; reduction prohibited.

- (A) The minimum lot width of any lot is measured between the side lot lines along the minimum street setback (yard) line as required for the district in which it is located. This measurement is illustrated for rectangular and non-rectangular lots in the appendix to Chapter 157. (158.147(A))
- (B) The minimum lot depth of any lot is measured by a straight line from the midpoint of the front lot line to its intersection with the midpoint of the rear lot line. (158.147(B))
- (C) The area or dimensions of any lot, yard, parking area, or other space shall not be reduced to less than the minimum required by this Chapter except as provided in this Chapter; and, if already less than the minimum required by this Chapter, the area or dimension may be continued but shall not be further reduced. (158.147(C))
- (D) The land beneath or within any streets, roads, roadways, rights-of-way, alleys, or alleyways, whether built or unbuilt, platted or unplatted, created by deed, dedication, plat, easement, or otherwise, shall not be used for the determination of lot area, lot width, lot depth, setback, yards, density, bulk, open space or open space ratios, size of structure, or for any other such zoning purpose or calculation for lots or parcels which abut, underlie, are adjacent to, are contiguous with, or adjoin such streets, roads, roadways, rights-of-way, alleys or alleyways. This provision shall not apply to calculations in accordance with the approval process for Outline Development Plans as set forth elsewhere in this Code. (158.147(D))

#### 158.093 – Maximum coverage by building.

Land or lot coverage by principal and accessory buildings on each lot, excluding roof overhangs not to exceed two feet, shall not be greater than is permitted in the district, as set forth in Article IV, where the principal and accessory buildings are located. The calculation of land (lot) coverage shall be verified by a licensed design professional. (158.149)

#### 158.094 – Yard regulations.

- (A) *Generally.* Every part of a required yard must be open to the sky and unobstructed from the ground upward. Exceptions include: unroofed open and unenclosed steps; ordinary projections of sills, belt courses, cornices, and other ornamental features projecting not more than four inches from the building line; roof overhangs no greater than two feet wide measured from the exterior building line. This restriction shall include items offered for sale, display, rental or hire, including but not limited to boats, motors, vehicles, bicycles, carts, recreational items, sundries, vending machines, and items of a similar nature. (158.150(A))
  - (1) Village study overlay area, overhangs and porches. Appendix 9(A) of this Chapter defines the area of the Town known as "the village study overlay area". Appendix 9(B) illustrates that portion of the village study overlay area to which Subsection (a) below, overhangs and porches, may be applied. This area is zoned R-6SF and is characterized by small and narrow lots. (158.150(A)(1))
    - (a) *Porches.* A single story porch accessed from the first livable floor and measured from the exterior building wall shall be permitted for each principal building to encroach up to ten feet into the street yard setback. (158.150(A)(1)(b))
- (B) *Required side street yards.* Any corner lot shall have a required side street yard equal in width to the minimum required street yard setback of any adjoining lot fronting on the side street. (158.150(B))
- (C) *Waterfront yard requirements.*
  - (1) *Required gulf waterfront yard.* Every lot which abuts the Gulf of Mexico or an established erosion control line shall have, on the gulfside, a required gulf waterfront yard. The required gulf waterfront yard shall be a minimum of 150 feet in depth. The seaward edge of the yard

from which the depth shall be measured shall be the mean high-water line; except that, where an erosion control line has been established, the depth shall be measured from that line. (158.150(D)(1))

- (a) No structures, buildings, swimming pools (except as provided in Section 158.095), drives, vehicular parking, walls and fences may be built within the required gulfside waterfront yard except for beach shelters, beach access parking on land owned or controlled by the public, pool fences and windwalls, as defined in Section 158.144, and dune walkover structures, sand fences, accessory decks or marine structures as authorized in Chapter 151. (158.150(D)(1)(b))
  - (b) Pool fences located in required gulf waterfront yards shall only encircle the minimum area necessary to ensure child safety, and such area shall not exceed a distance of 20 feet around the perimeter of the pool, pool curb, diving boards, diving towers and slides. (158.150(D)(1)(c))
  - (c) No Variance shall be granted from the requirements of this Subsection (C), except that the Zoning Board of Adjustment may grant a Variance for a single-family dwelling so long as the legal requirements for a Variance are met, but the setback shall never be less than 50 feet from the mean high-water line or erosion control line, whichever is most landward. This provision shall not be construed to preclude decreases from the required gulf waterfront yard through the Planned Unit Development (PUD) process, if applicable, but the setback shall never be less than 50 feet from the mean high-water line or erosion control line, whichever is most landward. (158.150(D)(1)(e))
- (2) *Required pass waterfront yard.* Every lot which abuts New Pass or Longboat Pass shall have, on the pass side, a required pass waterfront yard. The required pass waterfront yard shall be a minimum of 150 feet in depth. The seaward edge of the required yard from which the depth shall be measured shall be the mean high-water line, except that, where an erosion control line has been established, the depth shall be measured from that line. The landward edge of the required yard shall be determined in the same manner as the required gulf waterfront yard, in accordance with Subsection (C)(1) of this section. No structures, buildings, swimming pools (except as provided in Section 158.095), drives, vehicular parking, walls and fences may be built within the required pass waterfront yard except for beach shelters as defined in Section 158.144, beach access parking on land owned or controlled by the public, dune walkover structures, accessory decks, outdoor dining areas as defined in Section 158.144 and in compliance with Section 158.110, a dock access ramp or stairs, a ladder or other device pursuant to Subsection 158.096(F)(2), or marine structures as authorized in Chapter 151. Subject to Site Development Plan review, the required pass waterfront yard may be used for other purposes if it lies within an M-1 district. No Variance shall be granted from these requirements; however, a Variance for a single-family dwelling may be permitted by the Zoning Board of Adjustment so long as the legal requirements for a Variance are met, but the setback shall never be less than 50 feet from the mean high-water line or erosion control line, whichever is most landward. (158.150(D)(2))
- (3) *Required bay waterfront yard.* Every lot which abuts Sarasota Bay shall have, on the bay side, a bayside waterfront yard. The waterfront yard is a required yard and shall not be utilized for any purpose other than docks, open area, landscaping, a dock access ramp or stairs, a ladder or other device pursuant to Subsection 158.096(F)(2), or outdoor dining area as defined in Section 158.144 and in compliance with Section 158.110, except within an M-1 District which shall be subject to Site Development Plan review. The required bay waterfront yard shall not be less than 50 feet measured from the bulkhead, bulkhead line, or mean high-water line, whichever is most landward except that a single-family residence not located in an Island Preserve Residential District may not be located closer than 20 feet to the bulkhead or bulkhead line or mean high-water line. (158.150(D)(3))
- (4) *Required canal yard.* Every lot which abuts a canal or waterway other than the Gulf of Mexico or Sarasota Bay or the passes thereto shall have, on the waterside, a required canal waterfront yard. The waterfront yard is a required yard and shall not be utilized for any purpose other than docks, open area, landscaping, a dock access ramp or stairs, a ladder or other device pursuant to Subsection 158.096(F)(2), or outdoor dining area as defined in Section

158.144 and in compliance with Section 158.110, except within an M-1 District which shall be subject to Site Development Plan review. (158.150(D)(4))

The required canal waterfront yard shall not be less than 30 feet measured from the mean high-water line, bulkhead, or bulkhead line, whichever is most landward except that: (158.150(D)(4))

(a) A single-family residence not located in an Island Preserve Residential District shall have a required canal waterfront yard not less than 20 feet; or (158.150(D)(4)(a))

(b) A single-family residence located entirely within the "special canal waterfront yard area" illustrated in the appendix: "land use charts and illustrations", Section 6, shall comply with the following provisions: (158.150(D)(4)(b))

1. Existing structures not elevated in compliance with the Town flood control code shall comply with the following minimum required canal waterfront yard standards: (158.150(D)(4)(b)1)

a. First or ground story improvements shall have a required minimum canal waterfront yard equal to ten feet measured from the mean high-water line and shall comply with the following standards: (158.150(D)(4)(b)1.a)

i. The maximum roof pitch shall be 4:12. (158.150(D)(4)(b)1.a.ii)

b. Second story improvements shall have a required minimum canal waterfront yard of 20 feet. (158.150(D)(4)(b)1.b)

2. New structures elevated in compliance with the Town flood control code shall have required minimum canal waterfront yard of 20 feet, except that first story improvements above base flood elevation shall have a required minimum canal waterfront yard of ten feet, provided that: (158.150(D)(4)(b)2)

a. The height of the first story, as defined in Section 158.144, shall not exceed ten feet above the finished floor of the principal structure or 15 feet above the required base flood elevation, whichever is less; and (158.150(D)(4)(b)2.a)

b. The maximum roof pitch shall be 4:12. (158.150(D)(4)(b)2.b)

(5) *Canal view preservation.* Properties located entirely within the "special canal view preservation area" as illustrated in the appendix: "land use charts and illustrations", Section 7, shall comply with the following provisions: (158.150(D)(5))

(a) There shall exist on all properties located within the special canal view preservation area a canal view preservation zone. The canal view preservation zone shall be a four-foot wide area immediately landward of the landward edge of the seawall cap, across the entire width of canal frontage. Except as provided below, the canal view preservation zone shall be open to the sky. (158.150(D)(5)(a))

(b) Except for mangroves and Town-approved shoreline stabilization plant material, no landscaping material other than sod or ground cover of a mature height of no more than 18 inches above grade shall be installed or allowed to project into the canal view preservation zone. (158.150(D)(5)(b))

(c) Vegetation existing prior to the effective date of the ordinance codified in this Chapter that is located in the canal view preservation zone or capable of extending into the canal view preservation zone shall be exempt from the canal view preservation standards. Any vegetation installed after the effective date of the ordinance codified in this Chapter shall comply with the canal view preservation standards contained in this Section. (158.150(D)(5)(c))

(d) All Building Permit applications for the construction of a new principal structure or the substantial improvement of an existing principal structure as defined in Chapter 154, shall submit a landscaping plan drawn to scale which demonstrates compliance with the provisions of this Section. (158.150(D)(5)(d))

## DIVISION 2. – ACCESSORY AND TEMPORARY USES AND STRUCTURES

### 158.095 – Accessory use or structure.

#### (A) *Generally.*

- (1) Accessory uses shall be clearly supplementary and incidental to the principal use of the lot and shall be located on the same lot as the principal use to which it is subordinate except as provided for in Subsections 158.096(G) (beach shelters), 158.100(F) (location of parking spaces), or Section 158.102 (walls, fences, hedges, berms, landscape logs and firewood).
- (2) In no instance shall an accessory use within a principal building exceed 33 percent of the floor area of the principal building, except that a residential accessory use in a commercial district shall be limited to no more than 49 percent of the floor area of the principal building and the dwelling unit shall be within or attached to the principal building. (158.006)
- (3) No permit shall be issued for any accessory use or building, excluding davits, docks, or boat lifts, until the principal use or building has been established or constructed. This provision shall not be applicable to seawalls or other duly authorized erosion control structures. No commercial accessory use will be permitted in a Residential District except in accordance with Section 158.109 (home occupations).
- (4) Where a principal use within a Tourism Resort is other than a tourism use, no commercial accessory use will be permitted. In addition, no permit shall be issued for any accessory use until a determination is made by the Planning and Zoning Official that such use is in accord with applicable Site Development Plan performance standards set out in Section 158.030. (158.127(A))

#### (B) *Swimming pools.*

- (1) Swimming pools, not to be enclosed by a structure other than fences or screening (Section 158.103) as required or permitted by the Town, may be constructed within the required yard areas, except the required street yard as prescribed by this Chapter. However, no part of the pool structure may protrude more than six inches above finished grade in the required yard (excluding gulf side or pass waterfront yards), and the pool walls shall be at least eight feet from the lot lines. No swimming pools shall be permitted within the required gulf or required pass waterfront yards unless: (158.127(B)(1))
  - (a) The swimming pool shall meet the requirements of the department of environmental protection; and (158.127(B)(1)(a))
  - (b) The swimming pool location must be a minimum of 100 feet from the mean high-water line or erosion control line, whichever is more landward.
  - (c) Swimming pools shall be subject to the following setbacks as measured from the mean high-water line: (158.127(B)(1)(b))
    1. Bay waterfront yards. 20 feet.
    2. Canal waterfront yards, except in the Special Canal Waterfront Yard Area as illustrated in Article XI, Appendices. 15 feet.
    3. Canal waterfront yards in Special Canal Water Front Yard Area as illustrated in Article XI, Appendices. 10 feet.
- (2) In determining the percentage of coverage of a lot by buildings, swimming pools and decks surrounding the pool shall not be counted in the computation if they are not more than six inches above finished grade. However, residential single-family buildings with a pool cage over a swimming pool and deck to surround the pool shall be permitted an additional five percent of allowable building coverage over the percentage otherwise permitted in the district. In addition, where a residential single-family building's swimming pool is more than six inches above finished grade and in conformance with Town regulations, an additional five percent of allowable building coverage over the percentage otherwise permitted in the district shall be permitted whether or not there is a swimming pool cage over the swimming pool and surrounding

deck. In any event, the non-pool cage area of the building may not exceed the building coverage otherwise permitted in the district. However, notwithstanding the above, existing single-family residential buildings with an existing legally nonconforming pool cage may apply for a Building Permit to replace the pool cage with a pool cage of the same dimensions or smaller. A larger pool cage may be permitted subject to conformance with other Town regulations, including total building coverage on the lot not exceeding five percent more than the percentage otherwise permitted in the district. (158.127(B)(2)(a))

- (C) *Accessory commercial uses to tourism uses.* Commercial services developed or used in connection with tourism uses, including cigar stands or newsstands, cocktail lounges where food or drink are served, and similar uses, may be permitted provided the following conditions are fulfilled: (158.127(C))
  - (1) At least 25 tourism units shall be contained within the building group; however, a tourism use with less than 25 units may provide up to 200 square feet for such accessory uses. (158.127(C)(1))
  - (2) Not more than ten percent of the total tourism unit floor area within the buildings shall be so used. (158.127(C)(2))
  - (3) All such commercial services shall be situated within the interior of the building so that no part thereof shall be directly accessible to the street or public way. Exceptions to this provision may be granted through Site Development Plan review. (158.127(C)(3))
  - (4) All required parking is provided as set forth in Section 158.100. (158.127(C)(4))
  - (5) Such accessory commercial uses are only permitted in connection with the principal use and may not be operated as an independent commercial use. (158.127(C)(5))
- (D) *Private recreational facilities.* Putting greens, shuffleboard courts, and similar uses of a recreational nature not to be covered by a structure may be constructed within required yard areas except the required street yard or required waterfront yard as prescribed by this Chapter. Any walls or fences shall conform with Section 158.102. In determining the percentage of coverage of a lot by buildings, tennis courts, putting greens, shuffleboard courts, swimming pools and similar uses of a recreational nature may be counted in the computation, as provided for in Subsection 158.030(E). Private recreational facilities within a structure shall conform with all pertinent yard requirements as set forth in Section 158.096. (158.127(D))
- (E) *Tennis courts.*
  - (1) Tennis courts shall not be permitted within the required yard area unless the Planning and Zoning Board grants a Special Exception, and in no event shall the tennis courts be located as follows:
    - (a) Within 20 feet of a street. (158.127(E)(1)(a))
    - (b) Within 20 feet of residential property. (158.127(E)(1)(b))
    - (c) Within ten feet of any commercial property, including hotel and motel uses. (158.127(E)(1)(c))
    - (d) Within any required gulf waterfront yard. (158.127(E)(1)(d))
  - (2) In required yards, only an open-wire-mesh fence shall be permitted not exceeding a height of 12 feet. No tennis court lights shall be permitted in an R-4SF or R-6SF district. In other districts, upon application, tennis court lighting may be permitted of such a type, intensity, frequency and design as will not interfere with the public safety or with neighboring uses. In determining the maximum coverage of a lot by a building, tennis courts shall be counted in the computation if they are not open space. (See Subsection 158.030(E).) (158.127(E)(2))
- (F) *Dish antennas.*
  - (1) *Location.* Private noncommercial dish antennas may be permitted in the Town of Longboat Key provided: (a) they are located in the rear yard; (b) they maintain a minimum rear setback that is at least equal to their height, but not less than five feet; and (c) they do not encroach on

any of the required side setbacks for the district in which they are located. In connection with multifamily buildings of 50 feet or more, rooftop installation shall be permitted as long as anchorage of same complies with the requirements of the standard building code relative to structures. Such rooftop installation shall not be considered in the calculation of the height of the building. (158.127(F)(1))

- (2) *Dimensions.* The height of private noncommercial dish antennas shall not exceed 20 feet; their diameter shall not exceed 16 feet. Dish antennas shall be considered as television antennas for purposes of applying the height regulations of Section 158.098. (158.127(F)(2))
  - (3) *Screening.* As much as possible, private noncommercial dish antennas shall be properly screened by landscaping so as to obscure their visibility from ground view. No landscaping shall be required in the front or rear of the dish that would create reception interference or prevent a shift in the position of the dish. (158.127(F)(3))
  - (4) *Number allowed.*
    - (a) Only one private, noncommercial antenna shall be allowed per single-family home, duplex, triplex or townhouse unit; (158.127(F)(4)(a))
    - (b) Multifamily apartment buildings and commercial or industrial buildings shall be allowed up to three dish antennas. (158.127(F)(4)(b))
  - (5) *Anchorage.* Dish antennas shall be anchored securely to the ground or to a building's roof in conformance with requirements of the standard building code relative to structures. When roof-mounted, the installation of a dish antenna must be inspected and approved for safety by a registered engineer or architect. (158.127(F)(5))
  - (6) *Processing permitting requirements.* An Applicant for a private, noncommercial dish antenna shall submit to the Planning and Zoning Official a plan showing location of the proposed dish, as well as type and amount of landscaping to be installed, where applicable. Actual installation of the dish antenna shall require application for and receipt of a Building Permit. (158.127(F)(6))
  - (7) *Advertising.* No form of advertising or identification is allowed on the dish antenna or framework other than manufacturers' small identification plates. (158.127(F)(7))
  - (8) *Color.* All dish antennas in all zoning districts must be neutral in color and, to the extent possible, be compatible with the surrounding neighborhood in appearance and character. (158.127(F)(8))
  - (9) *Maintenance.* Once installed, dish antennas and related appurtenances must be maintained in good and operable condition. Surrounding landscaping shall also be maintained. (158.127(F)(9))
- (G) *Single-family screened cages.* Residential single-family buildings are permitted an additional five percent of allowable building coverage over the percentage otherwise permitted in the district for a screened caged area. The noncage area of the building may not exceed the building coverage otherwise permitted in the district. In order to be afforded the additional five percent building coverage, the caged area shall meet the following criteria: (158.127(G))
- (1) The cage structure shall not have any building materials or cover on the roof or sides that prevent air or water penetration, except for the minimum structural supports necessary for the screened caged structure. (158.127(G)(1))
  - (2) The screened cage must meet all other structural setbacks for the district in which it is located. (158.127(G)(2))
  - (3) A property owner may utilize this Subsection or Subsection (B)(2) regarding an additional five percent building coverage in conjunction with swimming pools, but not both. (158.127(G)(3))

**158.096 – Minimum regulations for accessory structures.**

- (A) All accessory structures, either attached or unattached, in all districts shall conform to the regulations of this Section unless specifically excepted by other provisions of this Chapter. In addition,

necessary essential service facilities and other improvements related to the provision of basic services such as fire hydrants, outdoor lighting, mailboxes, or integral components of underground utilities are not intended to be restricted from required yard areas or defined as accessory structures. (158.151(A))

- (B) In no instance shall an accessory structure exceed 25 percent of the floor area of the principal use or building, or contain dwelling units. (158.006)
- (C) In Residential Districts, unattached accessory uses and structures shall not be located in any required street, required waterfront, or required side yards except for walls and fences as provided for in Section 158.102. On double-frontage lots, through lots or corner lots, accessory uses and structures in residential districts shall not be located in any of the required street yards, but may be located in one but not both required side yards. (158.151(B))
- (D) *Unattached accessory structures in Residential and Tourism Resort Districts.* Accessory structures without kitchen facilities which are located no closer than ten feet to a principal structure are defined as unattached and may be erected in accordance with the following requirements, except as provided for in this Section: (158.151(C))
  - (1) For all Residential Single-Family Districts, unattached accessory structures may not exceed ten feet above the finished grade. However, up to an additional five feet in height is allowed for a pitched roof, provided the overall height of the structure does not exceed 15 feet. Roof pitch shall not exceed 4:12. (158.151(C)(1))
  - (2) An unattached accessory building may occupy not more than ten percent of a rear yard subject to building and lot coverage requirements. (158.151(C)(2))
  - (3) Any unattached accessory structure located within a required side or required rear yard may not exceed eight feet in height and in no case be located closer than ten feet to the side or rear lot lines, except that unattached accessory structures to single-family dwellings may be located on the rear lot line. (158.151(C)(3))
  - (4) No unattached accessory structure shall be located closer to the street than the required street yard setback required for a principal structure in the district in which the accessory structure may be located. (158.151(C)(4))
  - (5) For corner lots, the setback from the side street shall be the same for unattached accessory buildings as for principal buildings. (158.151(C)(5))
  - (6) No accessory structure shall be located within a required waterfront yard except for davits as provided herein, windwalls as provided for in Subsection 158.094(C) and walls or fences as provided in Subsection 158.102(C). Davits located within a required waterfront yard shall not be located closer than 15 feet to a side lot line, nor exceed 10½ feet in height measured from finished grade. Davits located adjacent to boat basins that are landward of the prevailing seawall line along canals shall be exempt from the required minimum setback from a side lot line. Reference appendix: "land use charts and illustrations", Section 8, exhibit "A": "illustration of boat basins". (158.151(C)(6))
- (E) *Attached accessory structures, residential or tourism uses.* When an accessory structure is located within ten feet of a principal structure it is considered attached to the principal structure and shall comply in all respects with the yard requirements of this Chapter applicable to the principal building. (158.151(D))
- (F) *Accessory structures in other than Residential and Tourism Resort Districts.* Accessory structures shall comply with front yard requirements for the principal structure to which they are accessory and shall not be closer to any side or rear property line than ten feet; however, no accessory structures shall be located within a waterfront yard. (158.151(E))
- (G) *Accessory structures on waterfront and noncontiguous lots.*
  - (1) A beach shelter may be located on a waterfront or noncontiguous lot as an accessory use. The accessory beach shelter shall not exceed 300 square feet in area, exceed 12 feet in height, and shall have at least a 50-foot setback from the mean high-water line, and shall be a minimum of 100 feet from another beach shelter on the lot. The support of a beach shelter



roof and the roof itself must be of material that would present minimal damage to life or property in the event of a hurricane, tidal flood or similar disaster. (158.151(F)(1))

- (2) A ladder or other device which provides a reasonable means of egress from the water may be located in the required pass, bay or canal waterfront yards provided that it does not exceed a maximum height of 42 inches measured from the top of the seawall cap. (158.151(F)(2))

**158.097 – Temporary Use and Structures: Permit required.**

(A) Temporary uses and structures are permitted in any zoning district subject to full payment of an application fee as set forth by resolution of the Town Commission and to the standards hereinafter established, provided that a permit for such use is obtained from the Town. (158.142(A))

(B) Permitted temporary uses and structures included: (158.142(B))

- (1) Garage sales, provided that not more than two sales of three days each are conducted at any site during any one calendar year. (158.142(B)(1))
- (2) Indoor and outdoor art and craft shows, bazaars, carnivals, revivals, circuses, sports events and exhibits, in all zoning districts except R-1SF, R-2SF, R-3SF, R-4SF, R-6SF, R-3MX, R-4MX and R-6MX districts, where such events may be approved only where Special Exceptions for nonprofit cultural centers, public/private preschools or elementary schools or child care services has been approved. (158.142(B)(2))
- (3) Christmas tree sales in all zoning districts except R-1SF, R-2SF, R-3SF, R-4SF, R-6SF, R-3MX, R-4MX and R-6MX districts, where such events may be approved only where Special Exceptions for nonprofit cultural centers, public/private preschools or elementary schools or child care services have been approved and provided that such use shall not exceed 60 days. (158.142(B)(3))
- (4) Real estate development temporary uses for necessary commercial, promotional, storage and fabrication activities which occur during construction of the project and which terminate on completion of the project. The following activities may be permitted under a Temporary Use Permit on the real estate being developed for a period not in excess of six months, provided all setback requirements of the Zoning Code are met: (158.142(B)(4))
  - (a) Model homes or apartments provided that the off-street parking standards for the appropriate residential use and the associated landscaping standards of Section 158.091 are met; (158.142(B)(4)(a))
  - (b) Real estate sales offices limited to the sales of dwelling units on those premises; and (158.142(B)(4)(b))
  - (c) Construction material and equipment storage. (158.142(B)(4)(c))

Notwithstanding the forgoing, temporary real estate sales offices may be allowed prior to construction of the underlying project, for certain qualifying projects meeting all of the following criteria:

- (a) The property exceeds five (5) acres;
- (b) The underlying project has a minimum of 40 multi-family units; and
- (c) The underlying project has received approval, per a signed Development Order, Resolution, or Ordinance.

Temporary real estate offices that are permitted prior to construction of the underlying project shall terminate on the earlier to occur of:

- (a) The date that the certificate of occupancy of the underlying project has been issued;
- (b) The abandonment of the underlying project;
- (c) The expiration of one year from the date of issuance of the temporary use permit, unless extended by the Planning and Zoning Department (which extensions may be issued in increments not to exceed six months).

- (5) Other temporary uses and structures which are, in the opinion of the Planning and Zoning Official, consistent with the provisions of this Section. (158.142(B)(5))
- (C) The Applicant for a Temporary Use Permit shall present a written explanation and plans indicating the area in which the Temporary Use Permit is to apply, the nature of the activities which will occur, and the time for which the Temporary Use Permit is requested. The application shall be submitted to the Planning and Zoning Official or designee. The application shall be granted, granted with suitable conditions, stipulations and safeguards, or denied. Prior to granting a Temporary Use Permit, the Planning and Zoning Official or designee shall ensure that any nuisance or hazardous feature involved is suitably separated from adjacent uses and excessive vehicular parking problems will not be created. Each Temporary Use Permit shall be granted for a specific period of time, at the end of which, if the use permitted as a temporary use has not been discontinued, it shall be deemed a violation of this Code and subject to the penalties provided for in in the Zoning Code. (158.142(C))

### **DIVISION 3. – BUILDINGS AND STRUCTURES**

#### **158.098 – Height regulations.**

- (A) No building or structure shall have an aggregate height of a greater number of feet than is permitted in Section 158.145 of the Longboat Key Zoning Code for the zoning district in which the building or structure is located, except as noted in Subsection (C) below. (158.153(A))
- (B) No single-family residential construction on properties located within the R-4SF and R-6SF zoning districts shall exceed the maximum height limitations as provided in the Longboat Key Zoning Code.
- (C) No exceptions to the height regulations shall be permitted except as authorized by Article IV, and as specifically provided for below:
  - (1) One television or dish antenna per principal structure. (158.153(C)(1))
  - (2) Enclosed elevator shafts and vestibules, enclosed stairwells and landings, and enclosed mechanical equipment areas may be allowed by Special Exception, as follows:
    - (a) For structures other than single-family, enclosed elevator shafts and vestibules, enclosed stairwells and landings, and enclosed mechanical equipment areas may be allowed by Special Exception by the Planning and Zoning Board and shall cumulatively not exceed 15 percent of the roof area as measured from a horizontal plane and shall not exceed the height regulations by more than ten feet of the zoning district in which it is located; however, their location and visibility from adjoining streets or properties and those properties directly across a public right-of-way or public canal, shall be the subject of Special Exception review considerations. Parapet walls shall also be permitted as an exception to the height regulations where such wall is required pursuant to the Florida Building Code in conjunction with an enclosed stairwell.
    - (b) For single-family structures other than those located within R-4SF or R-6SF, an enclosed elevator shaft and vestibule or enclosed stairwell and landing, and enclosed mechanical equipment area may be allowed by Special Exception by the Planning and Zoning Board and shall not exceed a combined footprint of 120 square feet and shall be the minimum height necessary to accommodate the specified features, not to exceed the height regulations by more than ten feet of the zoning district in which it is located; however, their location and visibility from adjoining streets or properties and those properties directly across a public right-of-way, private street, or canal, shall be the subject of applicable Special Exception considerations. If an elevator is utilized, the required secondary egress must comply with the maximum height for the zoning district in which it is located and shall not be allowed additional height under this Section. The square footage footprint for an elevator shaft and vestibule, enclosed stairwell and landing, and enclosed mechanical area shall be the minimum area required to comply with Florida Building Code. Enclosed stairwells allowed additional height under this Section shall be located so as to utilize a single run of stairs, rather than a double run. A parapet wall required pursuant to the

Florida Building Code in conjunction with an enclosed stairwell shall also be permitted as an exception to the height regulations. Otherwise, parapet walls or protective fencing around rooftop decks shall not exceed the maximum height of the zoning district in which they are located.

- (3) A worship center spire or tower may exceed the height regulations of the district within which it is located. (158.153(C)(3))
  - (4) No sign, nameplate, display or advertising device of any kind shall be inscribed on or attached to any antenna, tower or other structure which extends above the roof of the principal structure or height regulations, except that religious symbols or identification emblems of religious orders shall be exempt from this restriction. (158.153(C)(4))
  - (5) A Planned Unit Development shall conform to the height regulations of the district within which it is located. (158.153(C)(5))
- (D) Single-family residences and any redevelopment of a nonconforming residential use in a single-family residential zoning district are also subject to daylight plane requirements as follows: (158.153(D))

(See Exhibit A below)

- (E) The daylight plane requirements of Subsection (C) above shall not apply to: (158.153(E))
  - (1) Chimneys; (158.153(E)(1))
  - (2) Roof overhangs up to two feet; (158.153(E)(2))
  - (3) Dormer(s) which do not exceed a combined 12 feet in length per side of the residence or 25 percent of the length of the side of the dwelling upon which the dormers are located, excluding roof overhang, whichever is less; (158.153(E)(3))
  - (4) One television antenna or dish antenna measuring less than three feet in diameter; (158.153(E)(4))
  - (5) Side lot lines on residential property which borders property which is zoned nonresidential; (158.153(E)(5))
  - (6) Single-family homes located within a Planned Unit Development; however, the daylight plane requirement shall apply to all remodeling, additions, renovations and alterations of the single-family home as well as to construction after voluntary demolition of all or part of the original single-family structure. (158.153(E)(6))

**Exhibit A. Buildings are subject to the Daylight Plane Angle as follows:**

Lot Width (feet)	Daylight Plane Angle (de-grees)	Lot Width (feet)	Daylight Plane Angle (de-grees)	Lot Width (feet)	Daylight Plane Angle (de-grees)	Lot Width (feet)	Daylight Plane Angle (de-grees)	Lot Width (feet)	Daylight Plane Angle (de-grees)
50 or less	65	60	62	70	59	80	56	90	53
51	65	61	62	71	59	81	56	91	53
52	64	62	61	72	58	82	55	92	52
53	64	63	61	73	58	83	55	93	52
54	64	64	61	74	58	84	55	94	52
55	64	65	61	75	58	85	55	95	52

Lot Width (feet)	Daylight Plane Angle (de-grees)	Lot Width (feet)	Daylight Plane Angle (de-grees)	Lot Width (feet)	Daylight Plane Angle (de-grees)	Lot Width (feet)	Daylight Plane Angle (de-grees)	Lot Width (feet)	Daylight Plane Angle (de-grees)
56	63	66	60	76	57	86	54	96	51
57	63	67	60	77	57	87	54	97	51
58	63	68	60	78	57	88	54	98	51
59	62	69	59	79	56	89	53	99	50
								100 or more	50

Note: Lot width as defined by the Zoning Code shall be rounded to the nearest whole number.

(158.153(D)(6))

**158.099 – Structures over water.**

(A) No structures other than boat docks, accessory dock structures including benches, guard rails, fish cleaning tables, a ladder or other device which provides a reasonable means of egress from the water to a boat dock, and equipment lockers, pilings, boat lifts or pile mounted davits shall be permitted to be constructed, reconstructed, or structurally altered beyond the mean high-water line. Structures over water on properties abutting the Gulf of Mexico are prohibited. Permitted structures over water shall comply with the following standards: (158.155(A))

- (1) The permitted structure over water shall not substantially interfere with the riparian rights of other property owners nor substantially obstruct a navigable channel or the navigation rights of other property owners. (158.155(A)(1))
- (2) Except as provided below, no building, equipment, facility or any other type of structure shall be erected, placed, located or maintained on a dock that extends above the walking surface of the dock: (158.155(A)(2))
  - (a) Pilings, subject to a maximum height limit of 8½ feet above the highest walking surface of the dock when a piling is attached to a boat dock, in all other cases the maximum height limit for a piling shall be 11½ feet above the mean high-water line. (158.155(A)(2)(a))
  - (b) Benches, guard rails, fish cleaning tables, and equipment lockers which do not exceed a height of four feet above the walking surface of the dock upon which such structures are placed or erected. (158.155(A)(2)(b))
  - (c) Boat lifts adjacent to a boat dock. No part of the boat lift structure, except boat guides, shall exceed a height of five feet, measured from the highest walking surface of the dock. (158.155(A)(2)(c))
  - (d) Pile-mounted davits which do not exceed a height of 8½ feet, measured from the highest walking surface of the dock. (158.155(A)(2)(d))
  - (e) Lighting which does not exceed a height of 8½ feet, measured from the highest walking surface of the dock, subject to compliance with Section 130.03. (158.155(A)(2)(e))

(3) *Minimum setback.*

- (a) For waterfront properties not abutting a manmade canal, a dock, boat lift, piling or pile-mounted davit shall be setback a minimum of 15 feet from the riparian line. The riparian line shall be determined in accordance with procedures established by law. A certified riparian rights survey by a professional land surveyor may be required by the Town Manager or designee. (158.155(A)(3)(a))
  - (b) For properties abutting a manmade canal a dock, boat lift, piling or pile-mounted davit shall be setback a minimum of 15 feet measured from a line perpendicular to a line tangent to the intersection of the side property line and the mean high-water line. Reference appendix: "land use charts and illustrations", Section 8, Exhibit "B": "illustration of minimum setbacks". (158.155(A)(3)(b))
  - (c) For properties abutting a manmade canal that are located at the head waters (land end) of a canal and have a canal front length of 75 feet or less, a dock, boat lift, piling or pile-mounted davit shall be setback from a line established by setting a point ten feet from the property boundary extending to the intersecting apex of the two lines established by extending a line tangent to the intersection of the side property lines and the mean high-water line and located outside the minimum setback area as illustrated in the appendix: "land use charts and illustrations", Section 8, Exhibit "C": "illustration of minimum setbacks". (158.155(A)(3)(c))
- (4) *Maximum projection into the water.*
- (a) For properties abutting a canal, lagoon, bayou or pass, a dock, boat lift, piling or pile-mounted davit shall project into the water no more than 30 feet, measured from the mean high-water line, or 30 percent of the width of the navigable waterway, whichever is less. (158.155(A)(4)(a))
  - (b) For properties abutting Sarasota Bay, a dock, boat lift, piling or pile-mounted davit shall project into the water no more than 50 feet, measured from the mean high-water line. (158.155(A)(4)(b))
- (5) *Survey requirement.* Permit applications for structures over water, within 25% of the maximum projection as described above, shall submit an as-built survey identifying compliance with this Section.
- (B) Boat lifts adjacent to a seawall shall not exceed a maximum height of five feet measured from the top of the seawall cap. An accessory catwalk for a boat lift is permitted subject to compliance with the minimum setback requirements contained in Subsection (A)(3), above. (158.155(B))
- (C) Maximum area. The maximum permitted area of a boat dock shall be 500 square feet. Any boat dock in excess of 500 square feet shall be a permitted Special Exception use, subject to compliance with Section 158.019. (158.155(C))
- (D) Maximum elevation of walking surface of a dock.
- (1) For properties with a seawall, the elevation of the walking surface of a dock shall not exceed the top of the seawall cap. (158.155(D)(1))
  - (2) For properties without a seawall, the elevation of the walking surface of a dock shall not exceed five feet above the mean high-water line. (158.155(D)(2))
- (E) Two or more adjacent waterfront property owners may join in an application for the construction of a dock. Said dock shall be no wider than 12 feet and shall not interfere with the navigational rights of adjoining property owners. All requirements within Section 158.099 shall be met except that the property owned by the joint Applicants shall be treated as one lot for purposes of determining setback for the dock and ancillary structures. As a condition of granting a permit, the Applicants shall prepare mutually reciprocal easements for the use of said dock and shall record the easements in the public records in the county where the property is located as a condition for the permit being granted.

When a joint or shared dock is constructed pursuant to this Subsection, no other docks shall be located on the subject properties. (158.155(E))

- (F) Structures over water for single-family properties shall not be used for the purpose of mooring more than two vessels. A structure over water for single-family properties permitted pursuant to Subsection (E) above, shall be limited to two vessels per property. The two-vessel restriction shall not include personal watercraft, canoes, kayaks, row boats or other similar vessels. (158.155(F))
- (G) Obtaining a permit pursuant to this Section does not exempt the upland property owner from obtaining required federal, state or county outside agency permits or other Town required permits. (158.155(G))
- (H) Manatee Protection Plan (MPP)—Boat facility siting.
  - (1) *Applicability.* Subsections (2) and (3) below, shall be applicable and enforceable throughout the Sarasota County portion of the Town. For boat facilities proposed for the Manatee County portion of the Town, the boat facility shall meet all other federal, state and local laws. Subsections (4), (5) and (6) shall be applicable throughout the Town. (158.155(H)(1))
  - (2) *Standards for development.*
    - (a) All docks and boat facilities shall comply with Sarasota County's Manatee Protection Plan (MPP), and related ordinances, as well as applicable Sections of Section 158.099, of the Town Zoning Code. (158.155(H)(2)(a))
    - (b) Written approval, from the jurisdictional county, prior to applying for a permit, Site Development Plan, or other development plan shall be provided at submittal of the applicable application. (158.155(H)(2)(b))
    - (c) All boat facility development proposals shall be consistent with the MPP and related ordinances. If a boat facility development proposal is found to be inconsistent with the MPP or related ordinances of Sarasota County, a formal consultation under Section 7 of the Endangered Species Act, shall be initiated with the state and federal wildlife agencies. Said development proposal shall not be authorized until approval is obtained from said agencies. (158.155(H)(2)(c))
    - (d) The applicable Town of Longboat Key permit shall be obtained for all boat facility development proposals prior to commencing construction activities. (158.155(H)(2)(d))
  - (3) *Review authority.*
    - (a) Sarasota County is herein authorized to review and provide a written conditioned determination on any project or application for a boat facility development proposal for consistency with the MPP. (158.155(H)(3)(a))
    - (b) The Town Manager or designee is herein authorized to impose conditions for any boat facility development proposal in order to assure consistency with the MPP and the Town of Longboat Key Zoning Code and Comprehensive Plan. (158.155(H)(3)(b))
    - (c) Sarasota County shall have the power and the authority to identify those proposals, in all aspects of development based on the MPP, with potential impact on the West Indian manatee, its success and survival. (158.155(H)(3)(c))
  - (4) *Unlawful to kill, molest or injure manatees.* It shall be unlawful for any person to kill, molest, harass, or cause direct or indirect injury to, or to collect or possess any part of, a West Indian manatee. (158.155(H)(4))
  - (5) *Civil and administrative enforcement powers.*
    - (a) The Town of Longboat Key shall have the power to enforce the provisions of this Section, or any permit and or approval issued hereunder, by equitable or legal judicial proceedings, including the power to enjoin violations by mandatory and prohibitory injunction, or other legal or administrative process, including code enforcement proceedings as set out in Town Code Section 33.14. Each day of any such violation shall constitute a separate and distinct offense. (158.155(H)(5)(a))
    - (b) The Town Manager or designee is hereby authorized to issue a stop work notice to a person where the administrator determines that work at the site:

1. Is proceeding in violation of this Section; or (158.155(H)(5)(b).1)
  2. Poses an imminent and significant hazard to the public health, safety or welfare, or to the environment. (158.155(H)(5)(b).2)
- (c) No development proposal for a boat facility shall be deemed consistent with provisions of the MPP or applicable manatee protection ordinance if there is an existing boat facility on the property that is in violation of the Town of Longboat Key Code. (158.155(H)(5)(c))
- (6) *Criminal enforcement powers.* In addition to the remedies provided herein, a violation of any of the provisions of this Section or of any regulations adopted or permit conditions approved pursuant to this Section may also be prosecuted and enforced as a misdemeanor and shall be punishable in the same manner as a misdemeanor as provided by law. Each day of any such violation shall constitute a separate and distinct offense. (158.155(H)(6))

**DIVISION 4. – OFF-STREET PARKING AND LOADING**

**158.100 – Off-street parking.**

(A) *Size and access.*

- (1) An off-street parking space shall consist of a parking space having minimum dimensions of ten feet in width by 20 feet in length for the parking of each automobile, exclusive of access drives or aisles thereto. (158.128(A)(1))
- (2) The minimum width of an access drive shall be ten feet. (158.128(A)(2))
- (3) The minimum width of an aisle designed and intended for the maneuvering of an automobile into a parking space shall be in conformance with Subsection (B) below and the illustrative chart as set forth in Section 2 of the appendix following this Chapter, which is a part of this Chapter. (158.128(A)(3))
- (4) The parking plan must be so arranged that each automobile may be placed and removed from any parking space without the necessity of moving any other automobile to complete the maneuver. (158.128(A)(4))
- (5) Street or sidewalk areas may not be used for off-street parking purposes as herein defined. (158.128(A)(5))
- (6) Individual ingress and egress drives extending across the public sidewalks and curbs and connecting the off-street parking spaces to street areas shall not exceed a maximum of 12 feet for a one-way drive and 24 feet for a two-way drive. The design, number, and placement of such drives are subject to the approval of the Town before being constructed. (158.128(A)(6))

(B) *Minimum size.* Each parking space shall be a minimum of ten feet by 20 feet in size, and the minimum aisle width shall be as follows: (158.128(B))

Aisle Width		
Angle of Parking (by degree)	One-Way (feet)	Two-Way (feet)
Parallel	12	20
30	12	22
45	12	22
60	18	24

90	24	24
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- (1) Adjusted minimum size requirements for compact cars or based on vehicle size are not permitted; (158.128(B)(1))
- (2) Emergency vehicle access. The fire chief or designee shall review all parking plans for emergency vehicle access, circulation and maneuvering, and other safety issues to insure compliance with all applicable life safety codes. (158.128(B)(2))
- (C) *Automatic parking.* Nothing in this Section is intended to prohibit the installation of a fully automatic parking facility in which the placement and removal of automobiles are accomplished wholly by machinery. (158.128(C))
- (D) *Number of spaces required.* An increase in the minimum number of required off-street parking spaces, with adequate provisions for ingress and egress, shall be provided before completion of the structure, or an increase in units or square footage, capacity, or seating, or before an approval for a change in use, in accordance with Subsections (A) and (B) of this Section and the schedule of off-street parking requirements, as prescribed below: (158.128(D))

**SCHEDULE OF OFF-STREET PARKING REQUIREMENTS**

USE	SPACES REQUIRED PER UNIT	REQUIRED BICYCLE PARKING PER REQUIRED AUTOMOBILE SPACE
Single-family and two-family dwelling and townhouse and community residential homes in single-family districts	2 per dwelling unit	N.A.
Multifamily dwellings	1.5 per dwelling unit plus 1 per each 5 units or portion thereof	0.1
Community residential homes, group homes, and nursing homes:		
Single-family districts	2 spaces plus 1 per each resident employee, plus 1 space per 2 non-resident employees	N.A.
Multifamily districts	2 spaces per first 6 non-employee residents, plus 1 space per each additional non-employee or resident employee resident, plus 1 space per 2 nonresident employees	0.1
Worship center	1 per 3 seats in the sanctuary or other building with the largest maximum seating capacity, whichever is greatest	N.A.
Schools:		
General	1 per faculty member plus 1 per 6 students	1



USE	SPACES REQUIRED PER UNIT	REQUIRED BICYCLE PARKING PER REQUIRED AUTOMOBILE SPACE
Preschools/elementary schools	2 spaces per classroom	5
Continuing education centers:		
In a multi-use center of less than 4 uses or stand alone	1 per 200 sq. ft.	0.2
In a multi-use center of at least 4 different uses	1 per 300 sq. ft.	0.2
Library or similar structures	1 per 300 sq. ft.	0.2
Museums and cultural centers	1 per 400 sq. ft.	0.2
Child care services	1 per 300 sq. ft. plus 3 for off-street loading and unloading of children	N.A.
Public and Private Recreational uses:		
General uses, including parks and other open recreational spaces	1 per 3 patrons plus 1 per employee on largest shift	N.A.
Tennis	2 per each court	0.1
Swimming pool or spa	1 per 200 sq. ft. of pool and pool deck area	0.1
Golf	6 per each hole of golf	N.A.
Commercial recreation	1 per 200 sq. ft.	0.1
Marina	1 per slip; 1 per 4 dry storage berths plus 1 per 200 sq. ft. of building	N.A.
General commercial uses:		
In single structure of at least 10,000 sq. ft. or in a multi-use center of less than 4 different uses	1 per 250 sq. ft.	0.1
In stand-alone structures of less than 10,000 sq. ft. or in a multi-use center of at least 4 different uses	1 per 400 sq. ft.	0.1
Offices	1 per 300 sq. ft.	0.1
Medical and dental clinics	1 per 200 sq. ft. of gross interior building area	N.A.

USE	SPACES REQUIRED PER UNIT	REQUIRED BICYCLE PARKING PER REQUIRED AUTOMOBILE SPACE
Restaurants and lounges (indoor or outdoor)	1 per 4 seats based on maximum allowable capacity. Existing restaurants utilizing the provisions of Division 8 Commercial Revitalization Subsection 158.046 may utilize the ratio of 1 space per 100 net sq. ft. consistent with the Subsection.	0.1
Theatre, auditorium, civic centers, or other places of spectator assembly	1 per 4 seats based on maximum allowable capacity	0.1
Gasoline stations	1 for each 250 square feet of floor area plus 1 space per fuel pump.	N.A.
Tourism units:		
Hotel, motel	<p>1 per unit plus 50 percent of the parking spaces required for additional uses associated with the hotel/motel, including restaurants, shops, recreational facilities, meeting centers, offices, spas, and fitness centers, whether or not said additional uses are principal or accessory uses or structures or are located on the same parcel or lot as the hotel/motel.</p> <p>Hotel ballrooms, convention centers, and meeting spaces of either 7,650 square feet or larger, or designed to accommodate 425 or more people shall provide 1 space per 250 square feet of such ballroom, convention center, or meeting space area.</p>	N.A.
Time share	1.5 per unit plus 75 percent of the parking spaces required for additional uses, including restaurants and shops	N.A.
Water Taxi Stop	Provide sufficient information to demonstrate that adequate parking can be accommodated on site.	N.A.

(158.128(D))

- (1) For the purposes of compliance with this Section, measurements of structures shall be based on the gross interior square footage. (158.128(D)(1))
- (2) When units or measurements determining the number of required off-street parking spaces, including bicycle parking, result in requirement of a fractional space, then such fraction equal to or greater than one-half shall require a full off-street parking space.
- (3) Required parking spaces for other nonresidential uses not listed. Off-street parking requirements for any permitted land use not specifically listed in Subsection (D) shall be the same as

the most similar use listed as determined by the Planning and Zoning Official. The official shall determine the number of parking spaces required, taking into account the similarity of the use to those specifically identified in Subsection (D) and the type and amount of parking likely to be required to serve the needs of expected employees, customers, clients, patrons, or other visitors. The official shall also consider all available evidence, qualified opinion, and documentation available relating to the number of parking spaces reasonably required for various land uses, interpreting and applying such information in light of the peculiarities of the Town, its traffic intensity and patterns, and the extent and type of commercial traffic in the Town. (158.128(D)(1))

(E) Parking spaces for persons who have disabilities.

Accessible parking spaces for disabled persons shall be provided in the following manner:

(1) *Number.*

(a) The number of accessible parking spaces for disabled persons shall be as follows:

Total Parking in Lot	Required Number of Accessible Spaces
Up to 25	2
25 to 50	3
51 to 75	4
76 to 100	5
101 to 150	6
151 to 200	7
201 to 300	8
301 to 400	9
401 to 500	10
501 to 1,000	2.1 percent of total
Over 1,000	21 plus 2 for each 100 over 1,000

(b) One in every eight accessible spaces, but not less than one, shall be served by an access aisle 96 inches wide minimum and shall be designated "van accessible."

(2) *Spaces at physical rehabilitation center.* A minimum of four spaces shall be provided at a physical rehabilitation center.

(3) *Size.* Diagonal or perpendicular spaces for the disabled shall be a minimum of 12 feet wide. Parking access aisles must be no less than five feet wide, except as provided in Subsection (1)(b). and must be part of an accessible route to the building or facility entrance. Access aisles must be placed adjacent to accessible parking spaces; however, two accessible parking spaces may share a common access aisle. The access aisle must be striped diagonally to designate it as a no-parking zone.

(4) *Access.* All spaces for the disabled shall be provided with a curb cut or curb ramp to a pathway, a minimum of 44 inches wide to provide access to the building served and shall be located so

that users will not be compelled to wheel behind parked vehicles. The grades will comply with Florida Statutes ch. 553 "Building Construction Standards," Part II, accessibility by handi-capped persons.

- (5) *Location.* Disabled parking spaces shall be located immediately adjacent to the building to be served.
- (6) *Marking.* Each such parking space must be prominently outlined with blue paint and must be repainted when necessary, to be clearly distinguishable as a parking space designated for persons who have disabilities and must be posted with a permanent above-grade sign of a color and design approved by the department of transportation, which is placed on and at a distance of 84 inches above the ground to the bottom of the sign and which bears the international symbol of accessibility and the caption "Parking by Disabled Permit Only." Signs erected after October 1, 1996 must indicate the penalty for illegal use of the space.

(F) *Location of parking spaces and parking garages.* Parking spaces and parking garages for all uses or structures shall be located on the same lot or parcel, or on another lot or parcel within 600 feet having the same zoning classification, in accordance with Subsection (G) as the principal, additional, or accessory use or structure they are intended to serve, unless otherwise allowed by the provisions of this Section. The connectivity of the off-site parking area shall be determined to be reasonable and safe prior to the approval of a Site Development Plan. Off-site parking shall not be located on the opposite side of Gulf of Mexico Drive from the facility served by the parking. (158.128(E))

(G) *Collective provision.*

- (1) Multiple uses in a single building or development that cannot meet the criteria of the schedule of off-street parking in this Section shall provide a minimum of 90 percent of the total off-street parking that would be required for each separate use. (158.128(F)(1))
- (2) Owners or operators of two or more contiguous commercial buildings or uses of the same type of zoning classification requiring off-street parking facilities may make collective provision for the facilities, provided that the total of the parking spaces when combined or used together shall not be less than the sum of the requirements computed separately and provided that the combined facility is compatible with the zoning uses being served. (158.128(F)(2))

For the purposes of this Subsection, the districts within each set below are defined as qualifying as the same type zoning classification:

Set 1:	C-1, Limited Commercial; C-2, General Commercial; C-3, Highway-Oriented Commercial; M-1, Marine Commercial Service; OI, Office/Institutional
Set 2:	INS, Community Facility Institutional
Set 3:	All Open Space Zoning Classifications
Set 4:	MUC-1 (Mixed Use Community - Bay Isles); MUC-2 (Mixed Use Community - Islandside); MUC-3 (Mixed Use Community - Promenade/Water Club)
Set 5:	T-3, Low-Medium Density Tourist Resort Commercial; and T-6, High Density Tourist Resort Commercial

(158.128(F)(2))

- (H) *Nonconforming uses.* Where major alterations are to be made in a building occupied by a nonconforming use, no such alterations shall be permitted until the off-street parking requirements for the existing use have been fully provided, and a Site Development Plan has been approved showing any additional required parking for the alteration. (158.128(G))
- (I) *Utilization of yards.*
- (1) Required parking spaces for single-family and two-family dwellings may be permitted in any setback areas or yards except a required waterfront yard. Within a required yard abutting a street yard all parking shall be located in a designated driveway or turnaround. (158.128(H)(1))
  - (2) Required street yards within Residential and Tourism Resort Districts may not be used for off-street parking for permitted uses or approved Special Exception uses, except as specifically provided in Subsection (I)(1). All other yards may be used for that purpose subject to the limitations herein. (158.128(H)(2))
    - (a) A maximum of 30 percent of a required or nonrequired street yard may be used for off-street parking except in the event of an approved Special Exception use for worship centers as defined in Section 158.144. Worship centers may use a maximum of 70 percent of a required or nonrequired street yard for off-street parking, provided that all other conditions are met. (158.128(H)(2)(a))
    - (b) A minimum front setback of 20 feet shall be maintained and the parking area shall be screened from the adjacent street with landscaping in accordance with Section 158.103. (158.128(H)(2)(b))
    - (c) Any off-street parking located within any other yards shall also be screened with walls or landscaping from the adjacent street or uses in accordance with Section 158.103. (158.128(H)(2)(c))
    - (d) Each parking space shall be located at least eight feet from any abutting side or rear property line. (158.128(H)(2)(d))
    - (e) Parking area surfaces shall not extend closer than six feet from any abutting side or rear property line. (158.128(H)(2)(e))
  - (3) For all permitted uses or approved Special Exception uses, within districts other than Residential and Tourism-Resort:
    - (a) A maximum of 70 percent of a required street yard may be used for off-street parking. (158.128(H)(3)(a))
    - (b) Each parking space shall be at least seven feet from any abutting front, side, or rear property line. (158.128(H)(3)(b))
    - (c) Parking area surfaces shall not extend closer than five feet from any abutting front, side, or rear property line or 20 feet from any street. (158.128(H)(3)(c))
- (J) *Landscaping.* The atmosphere within a parking area is intended to be parklike. Towards this objective the following standards shall be observed in the design and construction of parking areas:
- (1) At least 15 percent of the total interior parking area shall be suitably landscaped. A portion of the required landscaping for the interior parking area may be relocated to emphasize entrance corridors or special landscaped areas within the general parking area. For purposes of this Section, the interior parking area is that area used for the parking and maneuvering of automobiles, including that part of any aisle or drive necessary to enter a parking space. (158.128(I)(1))
  - (2) This landscaping shall include the placement of a mature replacement tree at intervals of approximately each five parking spaces. (158.128(I)(2))
  - (3) Interior portions of the parking area shall be broken up by the provision of landscaped islands. All landscaped islands shall be serviced by an adequate irrigation system. (158.128(I)(3))

- (4) A maximum of 12 parking spaces in a row will be permitted without an island. Each island shall be at a minimum the same size and dimensions as one approved parking space. (158.128(I)(4))
- (5) All trees, landscape islands, and other landscape areas shall be protected from vehicular encroachment. (158.128(I)(5))
- (K) *Parking access and circulation.* The plan for ingress and egress to and from the off-street parking area and landscaping shall be subject to the approval of the Town. No curbs or sidewalks may be cut or altered in any manner without a permit with the Town and all other applicable county and state agencies. (158.128(J))
- (L) *Utilization of parking structures.* When off-street parking facilities are located within a separate parking structure or are integrated into another building, the following conditions and restrictions shall apply:
  - (1) The parking structure shall conform to all lot, yard and bulk requirements of the district in which it is located; (158.128(K)(1))
  - (2) The parking facilities shall be designed to conform to all other provisions of this Chapter and all other ordinances of the Town; (158.128(K)(2))
  - (3) Parking facilities that are visible from a street or public waterway or that are enclosed by a solid wall without openings must contain architectural features such as windows, decorative grillwork, planter boxes, mosaics, vertical trellises, sculptures, or similar decorative treatments that together cover 90 percent of each visible facade. Other screening methods including berms, trees, hedges, and vines may be used to accomplish the same result. (158.128(K)(3))
- (M) *Delineation of parking spaces.* Each parking space, paved or unpaved, shall be clearly delineated meeting the following requirements: (158.128(L))
  - (1) *Wheel stops.* Required wheel stops shall be at least four inches high and thick and be installed to protect buildings from vehicular damage and walkways from intrusion. (158.128(L)(1))
    - (a) The stopping edge of the wheel stop shall be placed no closer than two feet from the edges of the required sidewalks, planter or landscaped areas and from any building. (158.128(L)(1)(a))
    - (b) The two feet beyond the wheel stop may be paved or landscaped with groundcover. (158.128(L)(1)(b))
    - (c) The wheel stop shall be secured to the ground or parking area surface. (158.128(L)(1)(c))
    - (d) The wheel stop shall be a color distinctive from the parking surface. (158.128(L)(1)(d))
  - (2) Striping shall mark each paved parking space. (158.128(L)(2))
- (N) *Parking reduction limits.* Reductions in required off-street parking granted by the Planning and Zoning Board under the parking flexibility provisions of Subsection (O) or as a Parking Waiver under Subsection (P) of the ordinance codified in this Chapter may not cumulatively reduce the otherwise required number of off-street parking spaces by more than 50 percent. (158.128(M))
  - (1) *Review, revision or revocation of parking reduction approval.* If a reduction in the required number of off-street parking spaces is granted by means of the parking flexibility allowed in Subsection (O) or the Parking Waivers allowed in Subsection (P), and thereafter competent substantial evidence is presented to the Planning and Zoning Board that the off-street parking provided for the land use is insufficient, the following corrective measures shall be taken: (158.128(M)(1))
    - (a) If the parking flexibility or Parking Waiver was granted in conjunction with the approval of outdoor dining, the Planning and Zoning Board may require that sufficient additional off-street parking be obtained through an allowable means outlined within this Chapter and may require that the outdoor dining seating be reduced to proportionately decrease parking demands. (158.128(M)(1)(a))

1. The additional off-street parking and reduction in outdoor dining seats shall be in effect within 90 days of the Planning and Zoning Board's determination. (158.128(M)(1)(a)(1))
  2. Failure to comply with the Planning and Zoning Board's determination within the 90-day period shall result in a review, revision, or revocation of the Site Development Plan approval for the land use by the Planning and Zoning Board. (158.128(M)(1)(a)(2))
- (b) If the parking flexibility or Parking Waiver was granted in conjunction with the construction or expansion of a building, the Planning and Zoning Board may require that sufficient additional off-street parking be obtained through an allowable means outlined within this Chapter to proportionately decrease parking demands. (158.128(M)(1)(b))
1. The additional off-street parking shall be in effect within 90 days of the Planning and Zoning Board's determination. (158.128(M)(1)(b)(1))
  2. Failure to comply with the Planning and Zoning Board's determination within the 90-day period shall result in a review, revision, or revocation of the Site Development Plan approval for the land use by the Planning and Zoning Board. (158.128(M)(1)(b)(2))
- (O) *Parking flexibility.* The parking flexibility provisions in this Subsection are limited to properties located in OI, Office/Institutional, C-1, Limited Commercial, C-2 General Commercial, C-3, Highway-Oriented Commercial, M-1, Marine Commercial Service. Off-street parking requirements may be met through additional and alternative measures provided in this Subsection. These measures shall be requested during Site Development Plan review, and if approved shall be made conditional in accordance with Subsection (N) (1). (158.128(N))
- (1) If the parking deficit on an existing site is within 15 percent of the required parking, and proposed alterations generate additional parking requirements, those spaces may be provided in unimproved parking areas. (158.128(N)(1))
  - (2) Applicants may submit documentation for alternative parking methods (e.g., number of spaces, angles or driveway width) utilizing the methodology established in the most recent edition of "Shared Parking Study and Analysis" of the Urban Land Institute, 2005, as it may be amended from time to time as an industry standard for an outdoor restaurant facility. (158.128(N)(2))
  - (3) Up to 50 percent of the overall required parking may be met in off-site parking areas. The off-site parking area must be located within 600 feet walking distance of the structures' nearest public entrance, and a pedestrian connection providing a suitable walking environment shall be provided. Public sidewalks may be used for all or a portion of the connection. Off-site parking shall not be located on the opposite side of Gulf of Mexico Drive from the facility served by the parking. (158.128(N)(3))
  - (4) Valet parking on-site or on private off-site lots is permitted. All off-site locations require a recorded parking agreement, meeting the requirements of this Section. Motor vehicles may be stacked for valet operations. (158.128(N)(4))
  - (5) Shared parking. Shared parking is subject to an agreement that addresses the following: Right of enforcement by the Town of Longboat Key; the agreement is valid only as long as the conditions described in the application for the shared parking exist; and, the agreement must be in a form acceptable to the Town Attorney and recorded with the clerk of the circuit court. A copy of the recorded agreement shall be submitted to the Town Attorney and the Planning and Zoning Official within ten days of recording. (158.128(N)(5))
- (P) *Parking Waivers.* Parking Waivers shall be requested during Site Development Plan review, and if approved shall be made conditional in accordance with Subsection (N)(1). (158.128(O))
- (1) The Planning and Zoning Board may grant a Parking Waiver not to exceed 20 percent of overall required parking for commercial uses located on a site within 500 feet of a residential or tourism development, if the board finds substantial competent evidence that: (158.128(O)(1))

- (a) The commercial use is patronized by pedestrian traffic proportionate to the requested reduction in parking spaces; (158.128(O)(1)(a))
  - (b) The existing density and approved future density of the surrounding residential or tourism development provides sufficient population within 2,000 feet of the commercial use; (158.128(O)(1)(b))
  - (c) The design of the pedestrian connectivity between the commercial use and the residential or tourism development is reasonable and safe; and (158.128(O)(1)(c))
  - (d) The type and character of the commercial use is such that pedestrian traffic would be expected. (158.128(O)(1)(d))
- (2) The Planning and Zoning Board may grant a Parking Waiver of one required parking space for every three bicycle spaces above the minimum requirement that are part of on-site bicycle rack system, not to exceed ten percent of overall required automobile parking, for commercial uses that have bicycle traffic if the board finds substantial competent evidence that: (158.128(O)(2))
- (a) The cycling connectivity between the commercial use and the residential or tourism development is reasonable and safe; (158.128(O)(2)(a))
  - (b) The commercial use is patronized by bicycle traffic proportionate to the requested reduction in parking spaces; and (158.128(O)(2)(b))
  - (c) The type and character of the commercial use is such that bicycle traffic would be expected. (158.128(O)(2)(c))
- (3) For commercial uses abutting the water, the Planning and Zoning Board may grant a Parking Waiver not to exceed 20 percent of the required parking as follows: (158.128(O)(3))
- (a) An approved boat slip on the property may be counted for a required parking space when the board finds substantial competent evidence that the commercial use is patronized by customers who travel to the business by boat and the reduction in parking spaces is proportionate to the number of on-site boat slips provided; or (158.128(O)(3)(a))
  - (b) Substantial competent evidence that the commercial use is patronized by a proportionate share of customers who travel to the business by means of water in a vessel that does not typically utilize a boat slip (e.g., kayak, canoe, etc.). (158.128(O)(3)(b))
- (4) The Planning and Zoning Board may grant a Parking Waiver for on-street parking spaces immediately adjacent to the site of the commercial use, not to exceed ten percent of the required parking spaces, where the board finds the following: (158.128(O)(4))
- (a) On-street parking is permitted on both sides of the right-of-way; (158.128(O)(4)(a))
  - (b) Sufficient improved right-of-way width is evidenced and maintained; (158.128(O)(4)(b))
  - (c) A linear length of at least 25 feet along the right-of-way for each alternative space; (158.128(O)(4)(c))
  - (d) On-street spaces shall not be located closer than 30 feet from an intersection or 15 feet from a driveway; and (158.128(O)(4)(d))
  - (e) Utilization of on-street parking shall not be in conflict with the Town Code, including, but not limited to, the Chapters included within title 7 Traffic Code. (158.128(O)(4)(e))
- (5) For all Parking Waivers, substantial competent evidence shall be provided that a reduction in required parking will not result in unauthorized on-street parking or in the use of parking provided by nearby businesses without a shared parking agreement. (158.128(O)(5))
- (6) For all Parking Waivers, substantial competent evidence may include, but is not limited to, utilization of professional standards, formulas or studies from sources such as the Urban Land Institute (ULI), the Institute of Transportation Engineers, or similar organizations. Documented patron surveys and other data gathering methodologies and sources may also be considered by the board. (158.128(O)(6))



- (7) If applicable, the maximum utilization of other off-street parking alternatives for the commercial site shall be implemented prior to the granting of Parking Waivers. (158.128(O)(7))
- (8) For all Parking Waivers, sworn testimony shall be provided regarding the requested Parking Waiver as it relates to the commercial use. (158.128(O)(8))

(Q) *Bicycle parking.*

The following applies to bicycle parking:

- (1) The rack or other facility shall:
  - (a) Be designed to allow each bicycle to be supported by its frame.
  - (b) Be designed to allow the frame and wheels of each bicycle to be secured against theft.
  - (c) Be designed to avoid damage to the bicycles.
  - (d) Be anchored to resist removal and solidly constructed to resist damage by rust, corrosion, and vandalism.
  - (e) Accommodate a range of bicycle shapes and sizes and to facilitate ease of locking without interfering with adjacent bicycles.
  - (f) Be located to prevent damage to bicycles by cars.
  - (g) Be compatible with the surroundings in color and design and be incorporated whenever possible into building or street furniture design.
  - (h) Be located in convenient, highly-visible, active, well-lighted areas.
  - (i) Be located so as not to interfere with pedestrian movements.
  - (j) Be located in proximity to the principal entrance of the building as practical.
  - (k) Provide safe access from the spaces to the right-of-way or bicycle lane.

(R) *Incentive for Pervious and Semi-Pervious Parking.* As an incentive for providing pervious or semi-pervious parking, Applicants may count all areas of proposed pervious or semi-pervious parking toward meeting the minimum open space requirements of Section 158.030(E) of this code. Qualifying methods shall include pervious concrete and asphalt, interlocking concrete pavers, and turf reinforcement material and structures. Use of grass, gravel, and shell for parking without reinforcement to provide containment and to prevent compaction shall not be permitted. The proposed reduction in open space for the use of pervious and semi-pervious parking shall be determined in accordance with the following requirements:

- (1) Required open space may not be reduced by more than 25 percent through this incentive.
- (2) The total number of parking spaces for the site shall not exceed the total number as calculated using the Schedule of Off-Street Parking Requirements of this Section.
- (3) The area of pervious or semi-pervious parking and driving aisles that may be counted toward a reduction in required open space shall be reduced by the percentage of impermeability of the proposed parking and driving surface as certified by a licensed civil engineer.
- (4) All areas of pervious or semi-pervious parking spaces and parking aisles must be stabilized or constructed in a manner to ensure long-term viability based the level of anticipated vehicular usage as certified by a licensed civil engineer.
- (5) As a part of the Site Development Plan review process, a licensed civil engineer shall establish a maintenance plan for the proposed pervious or semi-pervious parking in order for the level of permeability to be maintained over time. Examples of maintenance can include periodic sweeping, vacuuming, pressure washing, and replacement of soil media.

**158.101 – Off-street loading.**

(A) In any district, in connection with every building, or building group or part thereof thereafter erected and having a gross floor area of 4,000 square feet or more, which is to be occupied by commercial uses or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained, on the same lot with the building, off-street loading berths or unloading berths as follows: (158.129(A))

4,000—25,000 square feet	1 berth
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25,001—40,000 square feet	2 berths
40,001—60,000 square feet	3 berths
For each additional 50,000 square feet	1 berth

(158.129(A))

- (B) The loading berths required in each instance shall be not less than 12 feet in width, 30 feet in length, and 14 feet in height, and shall not occupy all or any part of any required yard. The loading berths shall be screened from the street or public way. Height of walls, fences, hedges, etc., used for screening shall be determined at the time of Site Development Plan review. (158.129(B))

## DIVISION 5. – LANDSCAPING AND SCREENING

### **158.102 – Walls, fences, hedge, berms, landscape logs and firewood.**

All walls, fences or hedges within the required yard areas shall conform to the following regulations except where special requirements are set forth for specific screening purposes elsewhere in this Chapter: (158.152)

- (A) *Street yard.* All walls and fences within the required street yard shall not exceed three feet in height, subject to the provisions of Section 158.117, intersection visibility. (158.152(A))
- (B) *Side and rear yards.* All walls or fences within the required side or required rear yards shall not exceed six feet in height. (158.152(B))
- (C) *Waterfront yard.* All walls, fences, or hedges within a required waterfront yard shall not exceed three feet in height. (158.152(C))
- (D) Ornamental features and lighting fixtures, not exceeding 18 inches in height above the maximum allowable fence/wall height, and not exceeding 12 inches in diameter, shall be allowed atop any fence or wall. The features shall be no closer than eight feet apart, when measured along the fence from the center of each feature or fixture. (158.152(D))
- (E) The heights of gates, within a required street yard, shall not exceed 72 inches in overall height, with a minimum transparency of 70 percent. Gates with less than 70 percent transparency shall not exceed the allowable height of the associated fence/wall, as stated in Subsections (A) through (C) of this Section, with an additional 18 inches in height permitted for ornamental features or lighting, meeting the requirements of Subsection (D) of this Section. The support columns for a gate shall not exceed the height of the proposed gate. (158.152(E))
- (F) Other structural features, associated with the fence/wall, shall not exceed the allowable height of the fence/wall. (158.152(F))
- (G) Fences erected within a required street or waterfront yard in order to comply with pool safety regulations, of the applicable building code, shall be the minimum height required to comply with the building code. (158.152(G))
- (H) *Nonrequired yards.* Walls and fences within nonrequired yards shall not exceed eight feet in height. (158.152(H))
- (I) *Restrictions.* The wall, fence or hedge shall conform with Section 158.117. (158.152(I))
- (J) For properties which are nonconforming with regard to lot coverage, a trellis, as defined in Section 158.144, may be attached to an existing building, subject to the following standards: (158.152(J))
  - (1) The trellis shall extend no more than six feet beyond the face of the exterior wall of the building. (158.152(J)(1))

- (2) Except for vertical support structures, no structure shall be constructed, nor shall construction material be installed below the overhead horizontal member of the trellis structure. (158.152(J)(2))
- (3) The minimum distance between vertical support structures of the trellis shall be five feet. (158.152(J)(3))
- (K) *Retaining wall.* A retaining wall is that wall which is required in order to maintain the required four-to-one slope. When a retaining wall is combined with a wall, fence, or other structure, the resultant height shall be the measurement producing the highest dimension. Height of retaining walls is not applicable in commercial districts. The height shall be determined during a Site Development Plan review. (158.152(K))
- (L) *Earth berms.* Earth berms may be located in yard areas. When a wall, fence or structure is located upon an earth berm the height of the wall or fence shall include the height of the earth berm. (158.152(L))
- (M) *Landscaping logs.* Landscaping logs may be located in yard areas. (158.152(M))
- (N) *Firewood.* Firewood may be stored only on improved lots with established principal uses. (158.152(N))
- (O) *Through lots on Gulf of Mexico Drive.* Notwithstanding the provisions of Subsection (A) above, all through lots located on, but without direct access to, Gulf of Mexico Drive shall be allowed to erect a fence or wall not to exceed six feet in height, subject to the following standards: (158.152(O))
  - (1) The fence or wall shall only be located in the street yard adjacent to Gulf of Mexico Drive. (158.152(O)(1))
  - (2) The fence or wall shall be setback three feet from the property line adjacent to Gulf of Mexico Drive to allow the planting and maintenance of vegetative screening. (158.152(O)(2))
  - (3) A screening of living vegetation shall be located on the private property between Gulf of Mexico Drive and the fence or wall such that the vegetation screens a minimum 60 percent along the entire length of the fence or wall from Gulf of Mexico Drive at the time the fence or wall is erected and with normal growth, completely screens the wall or fence within 24 months. The complete vegetation screening of the fence or wall shall be maintained thereafter by the property owner. (158.152(O)(3))
  - (4) A zoning exception, or Building Permit when applicable, shall be required for erection of the wall or fence. (158.152(O)(4))
  - (5) The fence or wall, and vegetative screening, shall conform with Section 158.117 intersection visibility. (158.152(O)(5))

**158.103 – Screening regulations.**

- (A) *Buffering and required landscaping.* Subject to the requirements of Section 158.117 "Intersection visibility", and Subsection (C) for waterfront yards in Section 158.102 "Walls, fences hedges, berms, landscape logs and firewood", where a nonresidential use abuts a residential district or where a multifamily residential use abuts a single-family residential district or use, the abutting nonresidential or multifamily use shall be visually screened from the adjoining residential property utilizing one of the following methods: (158.154(A))
  - (1) A fence or wall of at least 80 percent opacity that is the maximum height allowed under the Zoning Code. The fence or wall shall be located completely within the limits of the nonresidential or multifamily lot and shall have equal architectural treatment on both sides; or (158.154(A)(1))
  - (2) A buffer at least ten feet in width from the property line of the adjoining property, containing required landscaping which is selected and arranged to form a visual screen of at least 80 percent between the nonresidential or multifamily use and the residential use. The required landscape buffer shall be provided by mature plants having already attained a six-foot height or by a berm combined with landscaping of at least six feet in height. A permanent fence may be required to supplement the required landscaping. (158.154(A)(2))

- (3) However, if a property in a commercial zoning district changes its land use and zoning to residential or a multifamily zoned property changes its use and zoning to single-family residential, or a property in a residential district contains a legally nonconforming nonresidential use and that use is changed to a conforming residential use, then the required landscaping or other screening on the adjacent nonresidential or multifamily property shall not be required. (158.154(A)(3))
- (4) Town Commission Waivers. A Waiver to one or more of the required landscape or other screening methods of this Section may be granted if the Town Commission finds, after a public hearing, that the proposed plan meets the following criteria. Requests for a Waiver shall be reviewed as a Site Development Plan amendment and shall follow the same procedures as stipulated in the Zoning Code: (158.154(A)(4))
  - (a) The proposed screening provides, at a minimum, the same level of protection to the adjacent residential property as one of the required methods of screening; (158.154(A)(4)(a))
  - (b) The proposed screening does not adversely impact waterfront views of the adjacent residential property; and (158.154(A)(4)(b))
  - (c) The proposed Waiver contributes to the park-like atmosphere of the Town. (158.154(A)(4)(c))
- (5) Buffer exemptions. The Town Commission may also grant a Waiver to the buffer or screening requirements of this Section if it finds each of the following criteria: (158.154(A)(5))
  - (a) The proposed Waiver is in combination with additional site alterations that improve vehicular traffic, pedestrian circulation, landscaping, waterfront views from adjacent public or private property, and/or for the ability to meet state or federal mandates; and (158.154(A)(5)(a))
  - (b) The proposed Waiver does not negatively impact adjacent properties or adjacent properties waterfront views. (158.154(A)(5)(b))
- (B) All trash dumpsters, except those located on construction sites, not stored within a building in a trash room designed for such storage shall be stored within an enclosure designed to fully screen the dumpster from view. The trash dumpster enclosure: (158.154(B))
  - (1) Shall have a concrete slab floor not to exceed 15 feet by 15 feet. (158.154(B)(1))
  - (2) Shall be enclosed by a fence, wall or landscaping of sufficient height to fully screen the dumpster from view, but not to exceed six feet. (158.154(B)(2))
  - (3) May be located in a required yard, notwithstanding any other setback requirements in this Chapter, except that the requirements of Section 158.117 must be met. In any event, the dumpster enclosure shall be located a minimum of ten feet from a front property line and a minimum of five feet from a rear or side property line. (158.154(B)(3))
- (C) Any fence, wall or landscaping installed in accordance with this Section shall be maintained in good order to achieve the objectives of this Section. Failure to maintain fences, walls or landscaping shall constitute a violation of this Chapter. (158.154(C))

**DIVISION 6. – SPECIFIC USES REGULATIONS**

**158.104 – Tourism uses.**

(A) *Purpose.* The purpose of this Section is to:

- (1) Preserve and enhance the residential character of the Town of Longboat Key; (158.132(A)(1))

- (2) Preserve and protect the character and viability of the commercial districts of the Town of Longboat Key; (158.132(A)(2))
- (3) Promote the public health, safety and general welfare of the Town of Longboat Key; (158.132(A)(3))
- (4) Expressly prohibit tourism use of property for remuneration except where the property is: (158.132(A)(4))
  - (a) Located within the T-3 or T-6 zoning districts; (158.132(A)(4)(a))
  - (b) Explicitly approved by the Town Commission for tourism uses in the MUC-2 zoning district; or (158.132(A)(4)(b))
  - (c) Approved for additional tourism units pursuant to Subsection 158.106(B), Distribution of 250 tourism units. (158.132(A)(4)(c))
- (5) Prohibit unauthorized time-share uses in any district of the Town of Longboat Key. (158.132(A)(5))
- (B) Tourism uses that were legally conforming as of October 6, 1982, but were rendered legal nonconforming uses by virtue of Ordinance No. 82-10, shall maintain their legal nonconforming use status provided that the use has not been abandoned or terminated as provided in this Code. (158.132(B))
- (C) Any use of facilities and accommodations located within the Town of Longboat Key that constitutes a time-share plan or multi-site time-share plan regulated by F.S. ch. 721, shall be qualified under and comply with all requirements of that Chapter and all other requirements of this Code. (158.132(C))
- (D) *Violations.*
  - (1) Any person acting as agent, real estate broker, real estate sales agent, property Manager, reservation service or otherwise who arranges or negotiates for the use of property in violation of the provisions of this Section is guilty of an infraction for each date for which such property is used or allowed to be used in violation of this Section. (158.132(D)(1))
  - (2) Any person who uses or allows the use of property in violation of the provisions of this Section is guilty of an infraction for each day for which such property is used or allowed to be used in violation of this Section. (158.132(D)(2))
  - (3) The remedies and penalties provided in this Section are cumulative and not exclusive. (158.132(D)(3))

**158.105 – Conversion of time-share tourism use.**

- (A) Any conversions of existing residential or tourism units in tourism districts to timeshare tourism units not adding bedrooms to the existing unit shall be permitted to convert existing units to time-share tourism units on a one-for-one basis. (158.141(A))
- (B) Any conversion of existing residential or tourism units in tourism districts to timeshare tourism units which adds additional bedrooms to existing units shall conform to the density requirements for time-share tourism use for those units as set forth in the schedule of lot, yard and bulk regulations as set out in Article IV. (158.141(B))
- (C) Conversion of any existing nonconforming tourism use to time-share tourism use in any district other than a tourism district is an intensification of a nonconforming use and is prohibited. (158.141(C))

### **158.106 – Distribution of 250 tourism units.**

- (A) *Purpose.* It is the intent of this Section to govern the eligibility for and allocation of the 250 tourism units authorized by referendum election held on March 18, 2008. Approval, approval with conditions, or disapproval shall be by vote after public hearing before the Town Commission, pursuant to the provisions of this Section.

It is further the intention of this Section that the quality and location of such units shall benefit the public interest of Longboat Key, while being compatible with and not detrimental to the character of the area. The terms "tourism unit" and "tourism use" as used in this Section shall be defined by Section 158.144 Definitions, as amended, in this Zoning Code. (158.180(A))

- (B) *Eligible properties.* The following properties are eligible to apply for additional tourism units based upon applicable conditions as described under this Section: (158.180(B))

- (1) T-3 and T-6 zoned properties may be eligible for additional tourism units. Two or more contiguous T-3 or T-6 properties may be merged to create one larger development lot. (158.180(B)(1))
- (2) Residentially zoned properties with an existing legal tourism use may be eligible for additional tourism units. Two or more contiguous nonconforming tourism used properties may be merged to create one larger development lot. (158.180(B)(2))
- (3) OI, C-1, C-2, C-3, and M-1 zoned property with a conforming principal use may be eligible for additional tourism units. (158.180(B)(3))
  - (a) For commercial and office zoned property, the tourism use shall not exceed that allowed for an accessory use, as defined. (158.180(B)(3)(a))
  - (b) For M-1 zoned property, a marina shall be its principal use, and no more than 33 percent of the buildable land area shall be allowed for total floor area of the tourism use. The total allowable floor area shall include the square footage of common use areas and open terraces, but not garages and nonhabitable basement spaces. (158.180(B)(3)(b))
  - (c) Additional tourism units under this Section are not permitted in OS-A, OS-P, OS-C, MUC-1, and MUC-3 zoning districts. (158.180(B)(3)(4))
  - (d) Additional tourism units in the MUC-2 zoning districts are governed by the provisions of the Zoning Code. (158.180(B)(3)(5))
  - (e) Properties with existing PUD overlays may be eligible for additional tourism units based upon the underlying zoning district. All property owners within the PUD overlay shall join in an ODP amendment application in order for the application to be processed by the Town. (158.180(B)(3)(6))

- (C) *Alternate review processes.* Distribution of additional tourism units to T-6 zoned properties may be approved through the Site Development Plan approval process provided the proposal meets the requirements of Subsection (D) below. All other eligible applications for additional tourism units shall use the Outline Development Plan (ODP) process that includes a binding concept plan as defined by Section 158.144, a Site Development Plan as described in Section 158.025, or a conformance overlay redevelopment district (CORD) as described in Section 158.082; these proposals must meet the requirements of Subsection (E) below. (158.180(C))

- (D) *Standards for T-6 properties.* T-6-zoned properties may seek Site Development Plan approval that includes additional tourism units without filing an ODP application provided the Site Development Plan meets the requirements of this Code, as adjusted by the following standards: (158.180(D))

- (1) Must comply with the maximum building height and lot coverage for properties not filing an ODP application. (158.180(D)(1))
- (2) In meeting the 50 percent open space requirement in Section 158.038 and Section 158.030, up to 20 percent of the required open space may be permeable paving. (158.180(D)(2))
- (3) May not fall below 75 percent of the required distances set forth in Section 158.030 for side setbacks and for separation between buildings, except the latter distance may be reduced by 50 percent where at least one of the proposed buildings does not exceed 30 feet (the minimum

distances required by Section 158.030 can be multiplied by 0.75 or by 0.50 as applicable). (158.180(D)(3))

(4) **Parking:**

- (a) The parking flexibility provisions and the Parking Waivers allowable under Section 158.100 may be requested and approved as part of the Site Development Plan approval. (158.180(D)(6)(a))
  - (b) The minimum front setback for parking spaces in Section 158.100 may be cut in half provided the remaining setback is landscaped to visually screen parked automobiles. (158.180(D)(6)(b))
  - (c) Parking spaces that are limited to valet parking may be 8.5 feet wide and 18 feet long instead of the ten- by 20-foot spaces required for self-parking stalls (see Subsection 158.100(A)(1)). (158.180(D)(6)(c))
  - (d) Landscaped parking islands may be five feet wide by 18 feet long instead of the ten- by 20-foot islands required by Section 158.100. (158.180(D)(6)(d))
- (5) In order to grant Site Development Plan approval or approval with conditions, the Town Commission must find by competent substantial evidence that the project incorporating the additional tourism units: (158.180(D)(7))
- (a) Meets these and other applicable standards; (158.180(D)(7)(a))
  - (b) Is in the best interest of the Town and its citizens; and (158.180(D)(7)(b))
  - (c) Does not adversely impact or affect the public interest. (158.180(D)(7)(c))

(E) *Standards for all other eligible applications.* All other eligible applications for additional tourism units must be part of an ODP or CORD application that follows the procedures and meets the standards in this Code. In determining whether additional tourism units will be allocated, the Town Commission will evaluate the quality of each application using the following criteria. An ideal application would meet all eight "best" criteria: (158.180(E))

(1) *Building height:*

- (a) *Better:* Taller buildings are located away from the edges of parcels to minimize adverse impacts on adjoining land. (158.180(E)(1)(a))
- (b) *Best:* Buildings are similar in height to existing buildings that will remain on the site and to buildings on adjoining parcels. (158.180(E)(1)(b))

(2) *Off-street parking:*

- (a) *Better:* The impacts of off-street parking are minimized through the use of understructure parking or the construction of freestanding parking garages that are shielded from public view by liner buildings that contain habitable uses. (158.180(E)(2)(a))
- (b) *Best:* The impacts of off-street parking are minimized through valet parking, shared parking lots for peak parking loads, convenient public transit, and/or high-quality bicycle and pedestrian facilities. (158.180(E)(2)(b))

(3) *Open spaces:*

- (a) *Better:* Open spaces meet current requirements with minimal Departures. (158.180(E)(3)(a))
- (b) *Best:* Open spaces are sited and designed to provide maximum visual appeal to surrounding properties; landscaping blocks undesirable views of parking and service facilities. (158.180(E)(3)(b))

(4) *Recreation:*

- (a) *Better:* The development will provide generous on-site recreational opportunities, or proximity and connection to ample off-site recreational opportunities such as boat dockage, tennis courts, golf courses, or nature trails. (158.180(E)(4)(a))

- (b) *Best*: The development will provide guests with direct legal access to the beach or bay. (158.180(E)(4)(b))
- (5) *Stormwater*:
  - (a) *Better*: Stormwater runoff is appropriately detained and treated in above ground basins that serve additional active functions. (158.180(E)(5)(a))
  - (b) *Best*: Stormwater runoff is appropriately detained and treated in subsurface facilities. (158.180(E)(5)(b))
- (6) *Sufficiency of land area*:
  - (a) *Better*: The site accommodates the scale of the proposed project and minimizes adverse impacts to adjacent parcels and surrounding area through sensitive siting, building design, and landscaping. (158.180(E)(6)(a))
  - (b) *Best*: The site is of sufficient size to accommodate the scale of the proposed project while avoiding adverse impacts to adjacent parcels and surrounding area. (158.180(E)(6)(b))
- (7) *Water setbacks*:
  - (a) *Better*: The required gulf and pass waterfront yards are met without Departures. (158.180(E)(7)(a))
  - (b) *Best*: The required gulf and pass waterfront yards are exceeded. (158.180(E)(7)(b))
- (8) *Zoning compliance*:
  - (a) *Better*: Meets current zoning constraints with minimal Departures. (158.180(E)(8)(a))
  - (b) *Best*: Meets current zoning constraints without Departures. (158.180(E)(8)(b))
- (F) *Approval process*. The additional tourism units requested in the final Site Development Plan or binding concept plan shall be committed by the Town upon the plan's approval, subject to the conditions below: (158.180(F))
  - (1) When additional tourism units have been approved through approval of an ODP and binding concept plan, the Applicant shall have no more than six months for the Town to receive a complete application for final Site Development Plan approval. Failure to submit a complete application within six months, or submitting a complete Site Development Plan application within six months that is denied after all appeals are exhausted, shall result in the loss of the tourism units committed to the project, and the units shall become available for other proposed developments within the Town. (158.180(F)(1))
  - (2) Final Site Development Plan approval for the construction of additional tourism units shall expire 24 months after the date of approval if a complete application for Building Permit has not been submitted to the Town and a Building Permit issued for the construction of all buildings that include tourism units. Allocated tourism units associated with an expired Final Site Development Plan or an expired Building Permit shall become available for other proposed developments within the Town. (158.180(F)(2))
  - (3) Concurrent review and approval of an ODP and final Site Development Plan is allowed; the final Site Development Plan replaces the requirement for a binding concept plan. (158.180(F)(3))
  - (4) Concurrent review and approval of applications for reconstruction of nonconformities, in accordance with Section 158.125, and applications for up to 250 tourism units, under this Section, is allowed and shall be by CORD application in conjunction with a Site Development Plan. (158.180(F)(4))



**158.107 – Drive in facilities.**

Drive-in facilities, excluding restaurant drive-in facilities, may be permitted as an accessory use only when the following provisions are complied with and approved by the Town. Drive-in restaurant facilities are prohibited. (158.131)

- (A) No drive-in accessory use shall have an entrance or exit for vehicles which is located closer than 70 feet to any intersection. Individual ingress and egress drives extending across public sidewalks and curbs shall be subject to the same standards and approvals as for off-street parking access contained within Section 158.100. (158.131(A))
- (B) No drive-in accessory use shall project into any front yard or, if applicable, street side yard further than the principal building. A maximum of six drive-in stalls are permitted and shall be so located as to not restrict pedestrian access to any public entrance of the principal building; be it further provided that any portion of the drive-in facilities, including access drives, which are located between the principal building and the required off-street parking facilities shall have adequate pedestrian safeguards. (158.131(B))

**158.108 – Worship centers and private clubs.**

Worship centers and private clubs shall be subject to Site Development Plan review, have a minimum lot size of 30,000 square feet and minimum lot width of 150 feet. (158.134)

**158.109 – Home occupations.**

- (A) The purpose of this Section is to protect and maintain the character of residential neighborhoods while recognizing that particular professional and limited business activities are traditionally and inoffensively carried on in the home. (158.135(A))
- (B) Home occupations shall be a permitted accessory use in any residential dwelling unit, provided that the home occupation complies with the requirements of the zoning district in which it is located and further provided that: (158.135(B))
  - (1) No person other than members of the family residing on the premises shall be engaged in such occupation. (158.135(B)(1))
  - (2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and shall under no circumstances change the residential character thereof. (158.135(B)(2))
  - (3) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation. (158.135(B)(3))
  - (4) No home occupation shall occupy more than 25 percent of the first floor area of the residence, exclusive of the area of any open porch or attached garage or similar space not suited or intended for occupancy as living quarters. No rooms which have been constructed as an addition to the residence nor any attached porch or garage which has been converted into living quarters shall be considered as floor area for the purpose of this definition until two years after the date of completion thereof, as shown by the records of the Town building department. (158.135(B)(4))
  - (5) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard. Only one commercial vehicle with a sign on it may be openly kept on the premises or parked overnight. Any additional commercial vehicles kept or parked on the premises must be stored in an enclosed garage or otherwise stored so they are not visible from any road or adjacent property. (158.135(B)(5))
  - (6) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if con-

ducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises. (158.135(B)(6))

- (7) The following shall not be considered permitted accessory home occupations: Beauty shops, barbershops, band instrument or dance instructor, swimming instructor, studio or group instruction, public dining facility or tearoom, antique or gift shops, massage parlors, photographic studio, fortunetelling or similar activity, outdoor repair, food processing, retail sales, nursery school, medical or dental laboratories or kindergarten. (158.135(B)(7))
- (8) Fabrication of articles such as are commonly classified under the terms of arts and handicrafts may be deemed a home occupation, subject to the other terms and conditions of this definition, and providing no retail sales are made at the home. (158.135(B)(8))
- (9) A home occupation shall be subject to all applicable local business taxes and other business taxes. (158.135(B)(9))
- (10) More than one home occupation shall be permitted in a single dwelling unit providing that the home occupation complies with the requirements of the zoning district in which it is located. (158.135(B)(10))
- (11) No sale of any commodities or merchandise shall be made on the premises. (158.135(B)(11))

(C)

- (1) For purposes of this Section, advertising for, initiating or receiving telephone calls of a commercial nature to or from any telephone located upon the property shall not be deemed a regulated home occupation unless other activity associated with a home occupation is also conducted on the property. (158.135(C)(1))
- (2) It shall be presumed, subject to a clear showing to the contrary by a residential dweller, that for purposes of Subsection (C)(1) above, "other activity associated with a home occupation" is also conducted on the residential property, if the residential dweller holds himself out to the public by signs, printed matter, classified section, telephone directory, over the internet, or city directory or otherwise as being engaged in business or offering services or property to the public at a residential dwelling unit, unless the residential dweller has a separate business location at a place properly zoned for such activity and for which a local business tax has been paid. (158.135(C)(2))

### **158.110 – Outdoor dining for restaurants.**

- (A) The purpose of this Section is to provide standards to be specifically applied to Special Exception use applications for outdoor dining at a restaurant. An outdoor dining area at a restaurant shall not be permitted unless it complies with each of the following standards: (158.136(A))
  - (1) The principal use of the property shall be a restaurant that provides indoor dining, outdoor dining or both types of dining. (158.136(A)(1))
  - (2) The outdoor dining area shall be used only for food service, drink service, as a waiting area and for casual seating. (158.136(A)(2))
  - (3) All food and drink preparations shall take place within the confines of an enclosed restaurant building located on the same site as the outdoor dining area. (158.136(A)(3))
  - (4) An outdoor dining area shall be considered an expansion of a restaurant. Accordingly, an outdoor dining area shall be designed in such a manner that will maintain a free, unobstructed connection between the restaurant and outdoor dining areas. All regulations that pertain to restaurant dining areas shall apply to outdoor dining areas. (158.136(A)(4))
  - (5) An outdoor dining area may be located within the required street yard, the required canal, bay, or pass waterfront yard, and within a nonrequired yard. An outdoor dining area shall not be located in any required side or rear yard when that yard abuts residential property. (158.136(A)(5))

- (6) All outdoor dining areas shall meet the regulations for parking under Section 158.100 as may be modified by Subsection 158.046(A)(1). (158.136(A)(6))
- (7) The entire ground service area of the outdoor dining area shall have an improved walking surface. (158.136(A)(7))
- (8) The entire perimeter of the outdoor dining area shall be physically delineated by the improved walking surface, railing, fencing, a wall, landscaping, or similar device deemed by the Planning and Zoning Board to be consistent with the intent of this Subsection. (158.136(A)(8))
- (9) Hours of operation.
  - (a) The hours of operation for an outdoor dining area shall not be before or extend beyond the hours of operation for an associated indoor dining area, at which time, lights, other than safety and security lighting, shall be prohibited; (158.136(A)(9)(a))
  - (b) When an outdoor dining area is located within 250 feet of residential property, service in the outdoor dining area shall not begin before 8:00 a.m. and the outdoor dining area shall be vacated by 10:00 p.m., at which time, lights, other than safety and security lighting, shall be prohibited; (158.136(A)(9)(a))
  - (c) When a restaurant is not associated with an indoor dining facility and not within 250 feet of a residential property, service in the outdoor dining area shall not begin until 6:30 a.m. and the dining area shall be vacated by 11:00 p.m., at which time, lights, other than safety and security lighting, shall be prohibited. (158.136(A)(9)(a))
- (10) No music or amplified voices shall be allowed in the outdoor dining area. Noise shall not be audible more than 50 feet from the commercial property and shall otherwise be in accordance with Section 130.02, Loud and Unnecessary Noise, of the Town Code, as may be amended. (158.136(A)(10))
- (11) All lighting used in conjunction with an outdoor dining area shall be designed and installed in a manner to avoid glare being directed toward a public or private right-of-way, adjacent property, and the Gulf of Mexico pursuant to Chapter 100 of the Town Code, Sea Turtles, as may be amended. (158.136(A)(11))
- (12) An outdoor dining area shall be screened from all adjacent properties and rights-of-way. The required landscaped screening shall comply with the standards contained in Subsections 158.103(A)(1) and (2), except that the required screening in a street or waterfront yard shall have a height of three feet and the required screening in the side, rear or nonrequired yards shall have a maximum height of six feet. In addition, the required screen shall be at least 80 percent opaque. (158.136(A)(12))
- (13) All furniture within an outdoor dining area shall be portable, meaning that such furniture shall be easily removable from the outdoor dining area. Portable furniture may include tables, chairs, and umbrellas. The maximum diameter of an umbrella shall be eight feet and shall be fabric covered. In the event of a tropical storm, the furniture shall be physically secured or stored within the restaurant building or other on-site enclosed storage area. (158.136(A)(13))
- (14) Outdoor dining located in a bay or canal waterfront yard may be covered by a permanent roof structure or retractable or collapsible awning or canopy, so long as it meets all of the following criteria: (158.136(A)(14))
  - (a) One hundred percent of the approved outdoor dining area may be covered by the roof, awning or canopy; (158.136(A)(14)(a))
  - (b) A minimum bay or canal waterfront yard of 20 feet, as measured from the edge of the roof, awning or canopy shall be maintained; (158.136(A)(14)(b))
  - (c) A permanent roof structure shall be included in the site's overall building coverage and non-open space calculations, verified by a licensed design professional, and shall not exceed that permitted for the underlying zoning district or Outline Development Plan approval, whichever is applicable; (158.136(A)(14)(c))

- (d) A retractable or collapsible awning or canopy shall not be counted as building coverage; (158.136(A)(14)(d))
  - (e) A permanent roof structure shall meet all other applicable Zoning Code requirements; (158.136(A)(14)(e))
  - (f) The highest point of the roof, awning or canopy shall not be more than 19 feet from the finished floor elevation of the approved outdoor dining area; (158.136(A)(14)(f))
  - (g) The approved outdoor dining area shall not be enclosed by permanent walls; (158.136(A)(14)(g))
  - (h) The approved outdoor dining area shall not have permanent climate control equipment; (158.136(A)(14)(h))
  - (i) A permanent outdoor dining roof structure shall be reviewed and may be approved by the Planning and Zoning Board through the Site Development Plan amendment, Outline Development Plan amendment, or Special Exception process, whichever is applicable; (158.136(A)(14)(i))
  - (j) A retractable or collapsible awning or canopy outdoor dining shelter may be approved administratively by the Planning and Zoning Official. (158.136(A)(14)(j))
- (15) No signs, unless specifically exempted in the Town Sign Code, shall be permitted within the outdoor dining area. (158.136(A)(15))
- (16) Any increase in the total number of seats at the restaurant in conjunction with the establishment of an outdoor dining area, may subject the property owner to an assessment of a sewer/water connection fee in accordance with Town Code Chapter 51, Charges, Rates and Billing. (158.136(A)(16))

#### **158.111 – Service stations.**

- (A) Entrances and exits for vehicles to and from gasoline service stations shall not be closer than 70 feet to any intersection. (158.130(A))
- (B) Gasoline service stations shall be located on a lot not less than 15,000 square feet and have a minimum frontage of 100 feet. (158.130(B))
- (C) All oil drainage pits and hydraulic lifts shall be located within an enclosed structure and shall be located no closer than 50 feet to any abutting residential district lot line and no closer than 25 feet to any other lot line. (158.130(C))
- (D) All permitted mechanical repair work shall be conducted within an enclosed structure and shall be located no closer than 50 feet to any abutting residential district lot line and no closer than 25 feet to any other lot line. (158.130(D))
- (E) Gasoline service stations shall have their gasoline pumps, including other service facilities, set back at least 30 feet from any lot line. (158.130(E))
- (F) No storage of vehicles shall be permitted. (158.130(F))
- (G) When adjoining a residential district of use screening shall be provided in accordance with Section 158.103. (158.130(G))

#### **158.112 – Fences on vacant land.**

Fences may be erected on vacant land subject to review as a Special Exception and the standards for fences of Section 158.102.

#### **158.113 – Personal wireless service facilities.**

- (A) *Purpose and legislative intent.* Federal and state laws recognize the Town's authority to regulate the placement, construction, and modification of Personal Wireless Service Facilities. The Town recognizes that Personal Wireless Service Facilities play an important and complex role in the community. The intent of this Section is to ensure that the placement, construction or modification of Personal Wireless Service Facilities is consistent with the Town's land use policies and balances

the community needs. This Section strives to establish a fair and efficient application process, mitigate impacts of Personal Wireless Service Facilities, provide a high quality of service that is technically viable and meets the current industry standards of service, and protect the health, safety and welfare of the residents and visitors of the Town. (158.200(A))

(B) *Hierarchy of personal wireless service facility preferences.* The Town has established the hierarchy set forth below for Personal Wireless Service Facilities, with (1) being the most preferred and (4) being the least preferred. More preferred facilities require fewer approvals and are subject to fewer restrictions. (158.200(B))

(1) An antenna located on or in an existing building, whether or not a co-location (see Subsections 158.114(A)(2), (3) and (5)). (158.200(B)(1))

(2) The co-location of an antenna on an existing freestanding facility (see Subsection 158.114(A)(4)). (158.200(B)(2))

(3) Facilities primarily mounted on existing utility poles and/or light fixtures, such as DAS or similar applications (see Subsection 158.114(B)). (158.200(B)(3))

(4) Freestanding facilities (see Subsection 158.114(C)). (158.200(B)(4))

(C) *Prohibited Personal Wireless Service Facilities.* Self-supporting lattice towers, guyed towers, and all freestanding facilities not meeting the requirements of Subsection 158.114(C) are prohibited. (158.200(C))

(D) *Priority determination.* If the proposed personal wireless service facility is not one of the three highest priorities listed, a detailed explanation and technical justification shall be provided as to why each of the higher priority facilities was not selected. This must include documentation that any existing personal wireless service facility (whether owned by the Applicant or not) located within a two-mile radius of the proposed location is physically or technically unable to support collocation of additional personal wireless service equipment, that the existing facility is insufficient, or that the existing facility does not meet the engineering requirements of the Applicant. (158.200(D))

(E) *Generally applicable review procedures and timeframes.*

(1) The Planning and Zoning Official shall notify the Applicant for a personal wireless service facility within 20 days after the date the application is submitted as to whether the application is, for administrative purposes only, properly completed and has been properly submitted in accordance with the requirements of this Zoning Code. An application for personal wireless service facility is deemed properly completed and properly submitted when it is verified that the information contained within the application is true, accurate, and contains all applicable information needed to make a determination as to the merits of the request. Such notification shall indicate with specificity any deficiencies which, if cured, could make the application properly completed. Upon resubmission of information to cure the stated deficiencies, the Town shall again have 20 days to notify the Applicant, in writing, of any remaining deficiencies that must be cured. If the Applicant does not cure the deficiencies within 30 days, the application shall be considered withdrawn and closed. (158.200(E)(1))

(2) An application is deemed submitted or resubmitted on the date the application is received by the Town. If the Town does not notify the Applicant in writing that the application is not completed in compliance with this Zoning Code within 20 days after the date the application is initially submitted or resubmitted, the application is deemed, for administrative purposes only, to be properly completed and properly submitted. (158.200(E)(2))

(3) Applications for a co-location shall be processed within 45 days after an application has been properly completed and properly submitted. Applications for new Personal Wireless Service Facilities, including freestanding facilities, shall be processed within 90 days after an application has been properly completed and properly submitted. (158.200(E)(3))

(4) The timeframes stated in this Subsection may be extended or tolled by mutual agreement of the Town and Applicant. (158.200(E)(4))

- (5) The final decision approving or denying an application shall be in writing and supported by "substantial evidence" pursuant to the Telecommunications Act, 47 U.S.C. § 332(c)(7)(B)(iii). (158.200(E)(5))
- (6) Applications must demonstrate that no portion of any abutting, adjoining, or nearby residentially zoned property will be exposed to radio frequency (RF) emissions exceeding the federal safety limits for RF emissions. Once installation has been completed for any personal wireless service facility, a post-construction RF energy testing study must be conducted and submitted to the Town demonstrating that the personal wireless service facility complies with this provision and all federal safety standards for RF energy exposure. (158.200(E)(6))
- (F) *Variances, Waivers and Departures.* Variances, Waivers, Departures or other methods of relief from the provisions of the Code shall not be granted for Personal Wireless Service Facilities. (158.200(F))
- (G) During a declared emergency within the Town, the Town Manager is authorized to allow the placement and operation of temporary Personal Wireless Service Facilities within any zoning district for a period not to exceed 90 days. Placement and operation of temporary Personal Wireless Service Facilities beyond the 90-day limit may be granted by the Town Commission if deemed necessary for the health, safety, and welfare of the public due to extended disruption in services after a declared emergency. (158.200(G))

**158.114 – Personal wireless service facility development standards.**

(A) *Antennas.* (158.201)

- (1) An application for an antenna, whether or not a co-location, shall include the following information:
  - (a) The name of the Applicant; (158.201(A)(1)(a))
  - (b) Whether the Applicant is an individual, partnership, limited partnership, limited liability corporation, professional corporation, professional association, governmental entity, or some other type of legal group or association; (158.201(A)(1)(b))
  - (c) A complete, thorough and accurate description of the proposed antenna, including where necessary, an elevation drawing or model of the proposed antenna showing the view from north, east, west and south; (158.201(A)(1)(c))
  - (d) The type of existing building on which the antenna is proposed to be located; (158.201(A)(1)(d))
  - (e) Certification that the proposed antenna will comply with applicable Federal Aviation Administration requirements under 14 C.F.R. s. 77, as amended, and evidence of proper Federal Communications Commission licensure, or other evidence of Federal Communications Commission authorized spectrum use; (158.201(A)(1)(e))
  - (f) The proposed use of the antenna; (158.201(A)(1)(f))
  - (g) The proposed location of the antenna with a map in sufficient detail to indicate the location with precision; (158.201(A)(1)(g))
  - (h) The Applicant shall provide proof that the property owner, if different from Applicant, authorizes the installation of the facilities; (158.201(A)(1)(h))
  - (i) The zoning/land use designation of the site for the proposed antenna; (158.201(1)(i))
  - (j) The height of the proposed antenna; (158.201(A)(1)(j))
  - (k) Where applicable, a lighting plan, that is consistent with all federal, state and local requirements; (158.201(A)(1)(k))
  - (l) Documentation that the proposed antenna and any appurtenances will withstand wind speeds as set forth in the Florida Building Code; (158.201(A)(1)(l))

- (m) A plan detailing the steps to visually blend the proposed antenna with surrounding buildings, facilities and features; (158.201(A)(1)(m))
  - (n) The estimated completion date for constructing or locating the antenna, and any ancillary equipment. (158.201(A)(1)(n))
- (2) An antenna classified as an initial (rather than co-location) antenna, located on a rooftop, a rooftop antenna platform, or the exterior of a building shall meet the following minimum criteria: (158.201(A)(2))
- (a) It is located in the INS, R-3MX, R-4MX, R-6MX, MUC-1, MUC-2, MUC-3, OI, C-1, C-2, C-3, M-1, T-3, or T-6 zoning districts; (158.201(A)(2)(a))
  - (b) It is located on or in one of the following: (158.201(2)(b))
    1. A rooftop of an existing building in excess of 40 feet in height; (158.201(A)(2)(b)(1))
    2. A rooftop antenna platform located on a roof of an existing building in excess of 40 feet in height; or (158.201(A)(2)(b)(2))
    3. The exterior of an existing building in excess of 40 feet in height. (158.201(A)(2)(b)(3))
  - (c) The height of the antenna shall not exceed 15 feet above the highest point of the building; and (158.201(A)(2)(c))
  - (d) The antenna shall be camouflaged. An antenna shall be deemed to be camouflaged if the antenna and any ancillary equipment are concealed from view by way of enclosure or through a blending of the antenna and ancillary equipment with the architectural design and appearance, color and scale of the building to which it is attached. An example is provided below: (158.201(A)(2)(d))



**Graphic A.**

- (3) An antenna located inside a building is permitted provided it is not visible from any surrounding properties or roadways and no portion of the antennae is recognizable or discernible from the exterior of the building. Architectural features concealing the antennae must be consistent with the architecture of the building to which they are attached. The architectural features shall not exceed the height restrictions for the zoning district in which they are located, except as allowed by this Code. The setback for any architectural features concealing an antenna from any residentially zoned property must be at least one foot for every foot in height of the architectural features (dwellings located on the same parcel as the antenna are excluded). An example of an acceptable architectural feature concealing an antennae located inside a building is provided below: (158.201(A)(3))



**Graphic B**

- (4) An antenna classified as a co-location located on an existing freestanding facility shall meet the following minimum criteria: (158.201(A)(4))
  - (a) The antenna does not increase the height of the freestanding facility to which it is to be attached, except as allowed in Subsection 158.114(C), as measured to the highest point of any part of the freestanding facility or any existing antenna attached to the freestanding facility; (158.201(A)(4)(a))
  - (b) The ground space area, if any, previously approved for equipment enclosures and ancillary facilities is not increased; and (158.201(A)(4)(b))
  - (c) The antenna and its ancillary facilities meet all requirements as established in Subsection 158.114(C). (158.201(A)(4)(c))
- (5) An antenna classified as a co-location located on an existing building shall meet the following minimum criteria: (158.201(A)(5)(a))
  - (a) The height of the antenna does not exceed 15 feet above the highest point of the building; (158.201(A)(5)(a))
  - (b) The ground space area, otherwise known as the compound, if any, previously approved for equipment enclosures and ancillary facilities is not increased; (158.201(A)(5)(b))
  - (c) The antenna and its ancillary facilities are of a design and configuration consistent with any applicable structural or aesthetic design requirements and any requirements for location on the building for initial antennas; (158.201(A)(5)(c))
- (6) If only a portion of an application for a personal wireless service facility classified as a co-location does not meet the requirements of Subsections (4) or (5) above, the noncompliant portion of the co-location application shall be reviewed as an initial antenna, under Subsection (2) and the compliant remainder of the co-location application shall be reviewed in accordance with Subsections (4) or (5), as applicable. A co-location application that complies with Subsections (4) or (5), except that it is proposing to increase the equipment ground compound approved in the original Site Development Plan for equipment enclosure and ancillary facilities by no more than a cumulative amount of 400 square feet or 50 percent of the original ground equipment enclosure size, whichever is greater, may continue to be reviewed as a co-location. (158.201(A)(6))
- (7) Standards applicable to all antennas.
  - (a) All antennas must be at least 30 feet from ground level. (158.201(A)(7)(a))



- (b) An antenna and its ancillary facilities must meet all applicable requirements of the Florida Building Code. (158.201(A)(7)(b))
  - (c) The antenna equipment shelter/cabinet must have a sign in close proximity which is readable from a distance of at least five feet, in accordance with FCC regulations, which notes the owner of the equipment and the name and telephone number of the person to contact to report an emergency or situation when notification is warranted. (158.201(A)(7)(c))
  - (d) All additional requirements of state, federal and local law must be adhered to. (158.201(A)(7)(d))
- (8) The review and approval of an application for an antenna under this Section is by Site Development Plan exemption pursuant to Section 158.026 and Building Permit review, except as an initial installation where existing buildings are proposed to be architecturally modified to conceal an antennae. Existing buildings that are proposed to be architecturally modified to conceal antennae must follow the Site Development Plan approval process pursuant to Section 158.025. (158.201(A)(8))
- (B) *Personal wireless service facilities primarily mounted on existing utility poles and/or light fixtures.*
- (1) Personal wireless service facilities primarily mounted on existing utility poles and/or light fixtures, including but not limited to DAS or small cell applications, are permissible in all zoning districts provided the following criteria are met: (158.201(B)(1))
    - (a) The Applicant shall provide proof that the owner of the utility pole and/or light fixture authorizes the installation of the facilities. (158.201(B)(1)(a))
    - (b) The Applicant shall provide proof that the property owner, if different from Applicant, authorizes the installation of the facilities. (158.201(B)(1)(b))
    - (c) Any ancillary equipment located in a right-of-way: (158.201(B)(1)(c))
      - 1. Shall be attached to a utility pole and/or light fixture and painted the same color as the utility pole and/or light fixture; and (158.201(B)(1)(c).1)
      - 2. Shall not exceed three feet in height, two foot in width, and one foot in depth. (158.201(B)(1)(c).2)
    - (d) Any ancillary equipment not located in a right-of-way is permissible by Site Development Plan exemption and must meet the following criteria: (158.201(B)(1)(d))
      - 1. Shall be no wider than seven feet; (158.201(B)(1)(d).1)
      - 2. Shall be no longer than 13 feet; (158.201(B)(1)(d).2)
      - 3. Shall not exceed the height limitations for mechanical equipment as provided by this Zoning Code; (158.201(B)(1)(d).3)
      - 4. May be located within a required side or required rear yard, provided, that it shall be no closer than ten feet to any lot line; (158.201(B)(1)(d).4)
      - 5. Shall be included in lot coverage and non-open space calculations for the site, including the pad; (158.201(B)(1)(d).5)
      - 6. Shall be located on a concrete pad, unless required to be elevated due to FEMA requirements; (158.201(B)(1)(d).6)
      - 7. Shall be screened from view by landscaping, architectural features, or a combination of both, and designed in a manner which minimizes nuisance impacts, such as noise and odor. Screening shall be at least equal to the height of the ancillary equipment on all sides and shall be maintained in good order. Failure to maintain fences, walls or landscaping shall constitute a violation of this Chapter; (158.201(B)(1)(d).7)
      - 8. Shall meet the requirements of Section 158.117 "Intersection visibility"; and (158.201(B)(1)(d).8)

9. Shall be set back from any existing residential dwelling at least one foot for every foot in height of the facility (dwellings located on the same parcel as the structure are excluded). (158.201(B)(1)(d).9)

(e) The top of any associated equipment shall not exceed 50 feet in height. (158.201(B)(1)(e))

(2) The review and approval of an application for an antenna under this Section is by Site Development Plan exemption pursuant to Section 158.026 and Building Permit review. (158.201(B)(2))

(C) *Freestanding facilities.*

(1) Freestanding facilities and their ancillary equipment shall be permissible by Site Development Plan review and Special Exception granted by the Planning and Zoning Board in all zoning districts except in Island Preserve (R-1IP), Open Space - Passive (OS-P), Open Space - Conservation (OS-C), and Single-Family (R-1SF, R-2SF, R-3SF, R-4SF, R-6SF) districts, provided the following criteria are met: (158.201(C)(1))

(a) The freestanding facility shall be designed so as to mimic a structure or natural feature that could reasonably be found or blend with the surrounding area, such as a light fixture or tree. Examples of acceptable and unacceptable freestanding facilities are provided in the following graphics: (158.201(C)(1)(a))

1. *Examples of acceptable freestanding facilities:* (158.201(C)(1)(a).1)



**Graphic C.**



**Graphic D.**



**Graphic E.**

2. *Examples of unacceptable freestanding facilities: (158.201(C)(1)(a).2)*



**Graphic F.**



**Graphic G.**

- (b) Ancillary equipment must meet the following criteria: (158.201(C)(1)(b))
1. Shall be no wider than seven feet; (158.201(C)(1)(b).1)
  2. Shall be no longer than 13 feet; (158.201(C)(1)(b).2)
  3. Shall not exceed the height limitations for mechanical equipment as provided by this Zoning Code; (158.201(C)(1)(b).3)
  4. May be located within a required side or required rear yard, provided, that it shall be no closer than ten feet to any lot line; (158.201(C)(1)(b).4)
  5. Shall be included in lot coverage and non-open space calculations for the site, including the pad; (158.201(C)(1)(b).5)
  6. Shall be located on a concrete pad, unless required to be elevated due to FEMA regulations; (158.201(C)(1)(b).6)
  7. Shall be screened from view by landscaping, architectural features, or a combination of both, and designed in a manner which minimizes nuisance impacts, such as noise and odor. Screening shall be at least equal to the height of the ancillary equipment on all sides and shall be maintained in good order; (158.201(C)(1)(b).7)

8. Shall meet the requirements of Section 158.117 "Intersection visibility"; and (158.201(C)(1)(b).8)
  9. Shall be set back from any existing residential dwelling at least one foot for every foot in height of the facility (dwellings located on the same parcel as the structure are excluded). (158.201(C)(1)(b).9)
- (c) The top of any freestanding facility and ancillary equipment shall not exceed the maximum height established for the zoning district in which the facility is located, as measured from base flood elevation, but in no case shall the height exceed 50 feet. (158.201(C)(1)(c))
  - (d) For any freestanding facility that utilizes lighting, the lights must meet all applicable federal, state, and local regulations regarding shielding of lighting to protect sea turtles. (158.201(C)(1)(d))
  - (e) The freestanding facility, its components, ancillary equipment, and screening must be maintained in good order. Failure to maintain the freestanding facility, its components, ancillary equipment, and screening shall constitute a violation of this Chapter. (158.201(C)(1)(e))
- (2) The Special Exception application must be made in conjunction with the Site Development Plan review requirements set forth in this Zoning Code. An application shall include the following information: (158.201(C)(2))
    - (a) The name of the Applicant(s) and whether each Applicant is an individual, partnership, limited partnership, limited liability corporation, professional corporation, professional association, governmental entity, or some other type of legal group or association; (158.201(C)(2)(a))
    - (b) A complete and accurate description of the proposed freestanding facility, including where necessary, a scale drawing or model of the proposed freestanding facility; (158.201(C)(2)(b))
    - (c) If applicable, documentation of any contract, license, lease, letter of understanding, agreement in principle, or other type of agreement with a personal wireless service provider for use of the freestanding facility and a summary of the agreement or arrangement; (158.201(C)(2)(c))
    - (d) The proposed location of the freestanding facility together with both a legal description of the location, and a map in sufficient detail to indicate the location with precision; (158.201(C)(2)(d))
    - (e) Proof that the property owner, if different from Applicant, authorizes the installation of the facilities. (158.201(C)(2)(e))
    - (f) The zoning/land use designation for the proposed freestanding facility; (158.201(C)(2)(f))
    - (g) The height of the proposed freestanding facility; (158.201(C)(2)(g))
    - (h) The projected collapse zone certification that in the event of fall or collapse of the freestanding facility, said freestanding facility would not damage or negatively impact the real or personal property of the surrounding property owners; (158.201(C)(2)(h))
    - (i) Documentation demonstrating compliance with the provisions of Subsection 158.114(C)(1); (158.201(C)(2)(i))
    - (j) A detailed plan for landscaping any ancillary ground equipment, in such a manner that the landscaping will shield the equipment from the view of adjoining parcels and public rights-of-way, noting that the landscaping shall be native, xeriscape plants only; (158.201(C)(2)(j))
    - (k) A detailed preventive maintenance program that meets minimum maintenance program standards for which the Applicant is to remain solely responsible. The Town will not be responsible for monitoring the maintenance program; (158.201(C)(2)(k))

- (l) Certification that the proposed equipment will comply with applicable Federal Aviation Administration requirements under 14 C.F.R. § 77, as amended, and evidence of proper Federal Communications Commission licensure, or other evidence of Federal Communications Commission authorized spectrum use; (158.201(C)(2)(l))
  - (m) The estimated completion date for the location or construction or modification of each of the freestanding facilities and any ancillary equipment; (158.201(C)(2)(m))
  - (n) The identity and location of any land-line backhaul network to each freestanding facility location, if applicable; (158.201(C)(2)(n))
  - (o) Whether the Applicant, within a two-mile radius of the proposed location, has ever had any permit (or similar or equivalent authorization) revoked, rescinded, canceled or terminated which authorized the placement, construction, or modification of Personal Wireless Service Facilities, and, if so, what were the reasons surrounding such revocation; (158.201(C)(2)(o))
  - (p) The proposed equipment shall not interfere with or obstruct public safety telecommunications facilities in accordance with the applicable rules of the Federal Communications Commission; and (158.201(C)(2)(p))
  - (q) All applicable provisions of this Zoning Code and the Florida Building Code shall be met. (158.201(C)(2)(q))
- (3) In evaluating the application for a Special Exception for a freestanding facility, in addition to the findings of Subsection 158.019(A), the Planning and Zoning Board shall consider and evaluate the above application criteria and the following, with the intent of balancing the reasonable allowance of a freestanding facility to provide personal wireless service in the area with the protection of the aesthetics of the area from adverse visual impacts: (158.201(C)(3))
- (a) The proposed location of the freestanding facility, including the zoning/land use designation of the site and abutting properties; (158.201(C)(3)(a))
  - (b) The proposed height of the freestanding facility; (158.201(C)(3)(b))
  - (c) The number and location of freestanding facilities and structures over 40 feet in height already existing within a 500-foot radius of the proposed freestanding facility; (158.201(C)(3)(c))
  - (d) The distance of the proposed freestanding facility to the nearest single-family residence measured from the freestanding facility to the boundary of the nearest single-family residence; (158.201(C)(3)(d))
  - (e) The proposed aesthetics of the freestanding facility and whether it visually blends in with surrounding buildings, structures and existing vegetation; (158.201(C)(3)(e))
  - (f) The potential impacts on property values of nearby or surrounding single-family properties. (158.201(C)(3)(f))
- (4) Upon granting Site Development Plan approval and Special Exception permit for the construction of a freestanding facility, the Town reserves the right to inspect placement, construction and modification of such freestanding facility and ancillary equipment for the life of the facility. Any modification, relocation, rebuilding, repairing, in any way without the issuance of all applicable approvals and permits will be deemed a violation of the permit and result in the removal of the freestanding facility and ancillary equipment. (158.201(C)(4))
- (5) Removal of freestanding facility and ancillary equipment. The Town may require, upon notice with a reasonable opportunity to cure, the immediate removal of a freestanding facility and ancillary equipment if: (158.201(C)(5))
- (a) It has been abandoned for a period in excess of six months; (158.201(C)(5)(a))
  - (b) It falls into such a state of disrepair that it becomes an unsafe structure or becomes a public nuisance; (158.201(C)(5)(b))

- (c) It is modified, relocated, or rebuilt without the issuance of all applicable approvals and permits; (158.201(C)(5)(c))
- (d) The Special Exception has been revoked. (158.201(C)(5)(d))

(D) *Insurance and security requirements.*

- (1) *Insurance for freestanding facilities located on Town-owned property or public rights-of-way.* (158.201(D)(1))
  - (a) A freestanding facility owner or operator shall not commence construction or operation of the facility without obtaining all insurance required hereunder and approval of such insurance by the Town Manager, nor shall an owner or operator allow any contractor or subcontractor to commence work on its contract or subcontract until all such insurance has been obtained and approved. The required insurance must be obtained and maintained for the entire period the freestanding facility is in existence. If the owner or operator, its contractors or subcontractors do not have the required insurance, the Town may order such entities to stop operations until the insurance is obtained and approved. The following coverage, at a minimum, shall be maintained: (158.201(D)(1)(a))
    - 1. Public liability: \$1,000,000.00 per occurrence; (158.201(D)(1)(a).1)
    - 2. Property damage: \$1,000,000.00 per claim; and(158.201(D)(1)(a).2)
    - 3. Umbrella liability: \$2,000,000.00. (158.201(D)(1)(a).3)
  - (b) The policies shall be written on forms acceptable to the Town, placed with an insurance carrier approved and licensed by the State of Florida Office. Certificates of insurance, reflecting evidence of the required insurance, shall be filed with the Town prior to issuance of a Building Permit. (158.201(D)(1)(b))
  - (c) All policies of insurance required to be maintained shall name the Town of Longboat Key as an additional insured. All policies shall contain a provision that coverage afforded under the policy will not be canceled without at least 30 days prior written notice to the Town. (158.201(D)(1)(c))
- (2) *Security fund.* A bond, cash security fund or irrevocable letter of credit in a form acceptable to the Town, shall be provided to the Town by the owner or operator to secure the cost of removing any personal wireless service facility permitted under this Section should the owner or operator fail to remove the personal wireless service facility as required by this Zoning Code. The amount of the bond, cash security fund, or letter of credit to be provided shall be \$5,000.00 for each freestanding facility. (158.201(D)(2))

**DIVISION 7. – PARKS AND OPEN SPACE LAND ACQUISITION**

**158.115 – Parks and open space land acquisition.**

- (A) This Section is enacted to ensure that future land development within the Town preserves or provides land in its natural state for parks and open space in accordance with the policies as set forth in the Longboat Key Comprehensive Plan. Developers and landowners, including builders of residences on single-family lots, must provide for parks and open space. The scope of this Section is further to set forth certain regulations pertaining to land development and construction within the Town, providing for parks and open space, which regulations shall be in addition to all other applicable building, subdivision, zoning and other regulations established by the Town ordinances. This Section shall apply to and be enforced in all areas of the Town; and no persons shall develop land anywhere in the Town except in conformity with this Section and other applicable regulations of the Code of Ordinances and amendments thereto. (158.017(B))
- (B) The Town will use the following as criteria to guide open space land acquisition:
  - (1) Implementation of the policies that minimize risk seaward of the Coastal Construction Control Line; (158.017(C)(1))

- (2) Continuing to preserve natural landscape, native vegetation and significant wildlife species and their habitats as adopted in the Zoning Code; (158.017(C)(2))
  - (3) Consideration of the inventory of existing parks and open space property; (158.017(BC)(3))
  - (4) Located adjacent to existing publicly-owned or controlled lands; (158.017(C)(4))
  - (5) The provisions of the reserve account in trust as established pursuant to Town ordinances; and (158.017(C)(5))
  - (6) Properties that serve the public interest. (158.017(C)(6))
- (C) As a condition precedent to the grant of any permits following approval of final development plans, Site Development Plans, subdivision plats, or issuance of a Building Permit, the developer shall deed land to the Town, pay a money fee in lieu thereof, or provide a combination of the above, at the option of the Town Commission, to be used for parks and open space specified in this Section and according to the standards and formula set forth in this Section. (158.017(D))

(1) *General standard; formula.*

- (a) It is hereby found and determined that the public interest, convenience, health, welfare and safety require that 12 acres of land or equivalent money value be deeded or paid to the Town for each potential 1,000 persons residing in the Town to be devoted for the park and open space purposes of this Section as implemented by Subsection (b) below. (158.017(D)(1)(a))
- (b) In order to achieve the open space goals of the Town of Longboat Key for its projected maximum population, in recognition of the current inventory of open space lands held by the Town, and to require a developer to pay an amount roughly proportional to the demand the development places upon open space within the Town; five acres of land or equivalent money value will be deeded or paid to the Town for each potential 1,000 persons residing in the Town to be devoted for parks and open space purposes of this Section. (158.017(D)(1)(b))
- (c) To determine the amount of land for parks and open space to be conveyed in accordance with the general standard, the following shall be used: (158.017(D)(1)(c))

Average number of persons per dwelling or tourism unit divided by 1,000 population, multiplied by acres of land required, equals acreage requirement per dwelling or tourism unit. Example: For single dwelling or tourism unit:  $2.01 \div 1,000 \times 5 = .010$  per dwelling or tourism unit. (158.017(D)(1)(c))

- (a) The following basis is to be followed in determining the amount of land to be included: (158.017(D)(1)(d))

(b)

Unit Type	Acreage Requirement/D.U. or T.U.
Single-Family	.01
Duplex	.01
Multifamily	.01
Tourism	.01

(158.017(D)(1)(d))

- (e) For land zoned for multifamily or tourism uses, the land dedication basis shall be applied to the number of dwelling and tourism units included in the final development plan. (158.017(D)(1)(e))



(f) The land to be conveyed to the Town may be located either within or outside of the boundaries of the property proposed for development. (158.017(D)(1)(f))

(2) *Formula for fees in lieu of land conveyance.*

(a) If it is determined that the proposed development does not include any land that can be used as open space, to serve the immediate and future needs of the Town residents, and the developer is unwilling or unable to deed to the Town lands outside the proposed development that are so designated, then the developer shall, in lieu of conveying land, pay a fee to the Town equal to the value of the land acreage that would otherwise have been required to be conveyed as determined by the formula herein, and in an amount determined in accordance with the provisions set out below, the fee to be used by the Town for acquisition of land and parks and open space which is intended to exclusively serve the residents of the Town. (158.017(D)(2)(a))

(b) The provisions of this Subsection shall automatically apply to all developments of 25 dwelling or tourism units or less. (158.017(D)(2)(b))

(c) To determine the land acquisition fee, the following shall be used:

$$\frac{\text{Number of new units} \times (\text{current market value of the land} \times 435.6)}{\text{square footage of the land}}$$

(D) In any development of over 25 dwelling or tourism units, the developer may be required to convey land and pay a fee in accordance with the following formula: (158.017(E))

(1) When only a portion of the land which the developer is required to convey for parks and open space is to be conveyed, that portion shall be conveyed for parks or local open space and a fee computed pursuant to the provisions set out herein shall be paid to the Town for any additional land that the developer would otherwise have been required to convey hereunder. (158.017(E)(1))

(2) When most of the land designated as parks and open space in the vicinity of the proposed development has already been acquired by the Town and only a small remaining portion of the land in the proposed development is needed to complete the site, that remaining portion shall be conveyed by the developer and a fee shall be paid by the developer in lieu of conveying the additional land which would otherwise have been required to be conveyed. The fees shall be in an amount equal to the value of the additional land which the developer would otherwise be required to convey, and the fees shall be used for the improvement of other Town parks and open space land in the area serving the development. (158.017(E)(2))

(E) If the developer objects to the fair market value determination, the developer may submit an appraisal from a state certified appraiser showing the fair market value of the lands required to be donated; and final determination of the market value per acre of the land shall be made by the Town Commission based upon such information submitted by the developer. Should the developer's state certified appraisal not be acceptable to the Town, the Town shall appoint another state certified appraiser. The Town's state certified appraiser and the developer's state certified appraiser shall select a third state certified appraiser; and the fair market value of the lands required to be conveyed, as determined by the three appraisers, shall be binding upon the developer and the Town. The cost of an appraisal shall be a credit against any fees. (158.017F))

(F) The Town Commission shall determine whether to accept land or require payment of the fee in lieu thereof, after consideration of the following: (158.017(G))

(1) Topography, geology, access and location of land in the development available for dedication. (158.017(G)(1))

(2) Size and shape of the development and land available. (158.017(G)(2))

(3) The feasibility of conveyance. (158.017(G)(3))

(4) Availability of previously acquired parks and open space property. (158.017(G)(4))

(G) Where private or public open space is provided in a proposed or existing Planned Unit Development or district in excess of the then requirement of Section 158.038, or any amendment thereof, of the

Zoning Code, partial credit, not to exceed 50 percent of the amount of land required to be conveyed, may be given against the requirements of land to be conveyed or payment of fees in lieu thereof if the Town Commission finds it is in the required zoning and building ordinances. (158.017(H))

- (H) In the case of a subdivision for which a plat is required to be recorded, as a condition of preliminary plat approval, the developer shall agree in writing to convey land for parks and open space, pay a fee in lieu thereof, or both, at the option of the Town Commission at the time and according to the standards and formula in this Section after a recommendation from the Town Manager, or designee and approved by the Town Commission at the time of approval of the subdivision preliminary plat. At the time of approval of the final subdivision plat, the developer shall convey the land and pay the fees as previously determined by the Town Commission, but not later than issuance of a Building Permit. (158.017(I))
- (I) The fees collected under this Section shall be paid to the Town at Town Hall, 501 Bay Isles Road, Longboat Key, Florida. All such fees, including any fees collected pursuant to Ordinances 79-7, 80-1, 80-9 and 81-27, shall be placed in a reserve account in trust within the general fund and shall be known as the reserve for lands for parks and open space. Monies in the reserve account shall be used and expended solely for the acquisition, improvement and expansion of Town parks and open space land. (158.017(J))

## **DIVISION 8. – ADMINISTRATIVE EXEMPTIONS – ESSENTIAL SERVICES**

### **158.116 – Administrative exemptions – Essential services.**

- (A) Upon a determination by the Planning and Zoning Official that the proposed repair, replacement, relocation, addition, or alteration to an essential services facility is required by state or federal regulations, and is not contrary to the intent of the elements of the Town Comprehensive Plan or this Chapter, the official may determine that the improvement to the facility is exempt from the requirements of the Town Zoning Code. (158.033(A))
- (B) The Planning and Zoning Official may impose such conditions or limitations on projects reviewed pursuant to this Subsection in order to ensure compliance with the intent of this Chapter, the Town Comprehensive Plan, and with all applicable standards and policies of the Town. (158.033(A))

## **DIVISION 9. – INTERSECTION VISIBILITY**

### **158.117 – Intersection visibility.**

At all street intersections no obstruction to vision (other than an existing building, post, column or tree) exceeding 30 inches in height above the established grade of the street at the property line shall be erected or maintained on any lot within the triangle formed by the street lot lines of the lot and a line drawn between the points (along the street lot lines 30 feet distant from their point of intersection). (158.148)

At all driveways that cross a sidewalk, no obstruction to vision (other than an existing structure, post, fixed sign, column or tree) exceeding 30 inches in height above the established grade of the street at the property line shall be erected or maintained on any lot within the triangle formed by the street lot lines of the lot and a line drawn between the points (along the street lot line and the driveway for a distance of 15 feet from their point of intersection). In the event there is an existing permitted obstruction blocking visibility within this angle, a warning sign not to exceed two square feet shall be erected not less than ten feet from the sidewalk on the right side of the driveway. (158.148)

## DIVISION 10. – LOT EXCAVATION, GRADES AND FRONTAGE

### 158.118 – Lot excavation, grades and frontage.

- (A) No person shall strip, excavate, or otherwise remove soil, sand, shale or gravel for sale or use and thereby create a borrow pit except in connection with the construction or alteration of a Building Permitted by the issuance of a Building Permit on the premises and excavation or grading incidental thereto. (158.156(A))
- (B) No natural grades of the upland or gulf bottoms within 500 feet of the mean high-water line of the Gulf of Mexico shall be lowered. This provision is not to be considered a restriction against leveling minor irregularities in the surface of the ground. (158.156(B))
- (C) Every lot in every district shall have a minimum frontage of 40 feet on a public or approved private street. (158.156(C))
- (D) Lot grades between any property line and a structure shall not exceed a maximum slope of one vertical unit to four horizontal units at any point along the slope. A retaining wall may only be constructed for the purpose of achieving the required one-to-four slope over a minimum distance of four feet unless the wall meets the required setback. In any event, the retaining wall cannot exceed eight feet in height. (158.156(D))

## DIVISION 11. – MECHANICAL EQUIPMENT

### 158.119 – Mechanical equipment.

- (A) *General regulations.* All mechanical equipment located outside of a building shall conform to the regulations of this Section, unless specifically excepted by other provisions of this Chapter. In addition, necessary essential service facilities are not intended to be restricted by required yard areas. Mechanical equipment that is closer than ten feet to a principal structure is attached mechanical equipment. Mechanical equipment that is ten feet or further from a principal structure is unattached mechanical equipment. (158.157(A))
- (B) *Residential districts.*
  - (1) Mechanical equipment shall not be located in any required street yard. (158.157(B)(1))
  - (2) Mechanical equipment shall not be located in any required waterfront yard, except for mechanical equipment as provided for in Section 158.096 "Minimum regulations for accessory structures" and as provided for in Section 158.099 "Structures over water". (158.157(B)(2))
  - (3) Mechanical equipment may be located within a required side or required rear yard, provided that the equipment shall not be closer than ten feet to any side or rear lot line. (158.157(B)(3))
  - (4) Mechanical equipment may be located in one, but not both required side yards on double-frontage lots, through lots, or corner lots, as defined in Code Section 157.03. (158.157(B)(4))
  - (5) Unattached mechanical equipment located in a required yard may not exceed six feet above finished grade. (158.157(B)(5))
  - (6) Unattached mechanical equipment not located in a required yard may not exceed eight feet above finished grade. (158.157(B)(6))
- (C) *Tourism districts.*
  - (1) Mechanical equipment shall not be located in any required street yard. (158.157(C)(1))
  - (2) Mechanical equipment shall not be located in any required waterfront yard, except mechanical equipment as provided for in Section 158.096 "Minimum regulations for accessory structures" and as provided for in Section 158.099 "Structures over water". (158.157(C)(2))
  - (3) Mechanical equipment may be located within a required side or required rear yard, provided that the equipment shall not be closer than ten feet to any side or rear lot line. (158.157(C)(3))

- (4) Unattached mechanical equipment located in a required yard may not exceed six feet above finished grade. (158.157(C)(4))
  - (5) Unattached mechanical equipment not located in a required yard may not exceed eight feet above finished grade. (158.157(C)(5))
- (D) *Districts other than residential or tourism.*
- (1) Mechanical equipment may be located within a required street yard, except for Gulf of Mexico Drive, provided that the equipment shall not be closer than ten feet to the street right-of-way if the equipment is more than 50 feet from the nearest residential property. If the equipment is 50 feet or less from the nearest residential property, the equipment shall not be closer than 20 feet to the right-of-way. (158.157(D)(1))
  - (2) Mechanical equipment shall not be located in any required waterfront yard, except for mechanical equipment, as provided for in Section 158.096 "Minimum regulations for accessory structures", and as provided for in Section 158.099 "Structures over water". (158.157(D)(2))
  - (3) Mechanical equipment may be located within a required side or required rear yard, provided that the equipment shall not be closer than ten feet to any side or rear lot line. (158.157(D)(3))
  - (4) Unattached mechanical equipment located in a required yard may not exceed six feet above finished grade. (158.157(D)(4))
  - (5) Unattached mechanical equipment not located in a required yard may not exceed eight feet above finished grade. (158.157(D)(5))
- (E) *Screening.* Any installation, replacement or modification of external mechanical equipment, including, but not limited to, air conditioning systems and pool equipment, shall screen the equipment for both view and noise. Any fence, wall or landscaping installed in accordance with this Section shall be at least equal to the height of the equipment on all sides and shall be maintained in good order to achieve the objectives of this Section. Failure to maintain fences, walls or landscaping shall constitute a violation of this Chapter. Mechanical equipment and screening must meet the requirements of Section 158.117 "Intersection visibility". (158.157(E))

**158.120 – Reserved.**

**158.121 – Reserved.**

**158.122 – Reserved.**

**158.123 – Reserved.**

**158.124 – Reserved.**

**158.125 – Reserved.**

**158.126 – Reserved.**

**158.127 – Reserved.**

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## Article VI. – Nonconformities and Lawfully Existing Uses

### DIVISION 1. – STATUS OF NONCONFORMITIES

#### 158.131 – Status of Nonconformities.

- (A) Within the districts established by these zoning regulations or amendments that may be later adopted, there may exist lots, buildings, structures, or uses which are lawful at the effective date of this Chapter but which would be prohibited, regulated, or restricted under the terms of this Chapter. It is the intent of this Section to permit those nonconformities to continue until they are removed either voluntarily or as required by Subsection (B)(5), unsafe structures, or Subsection (B)(8)(a), abandonment. It is further the intent that nonconformities shall not be expanded, enlarged upon, intensified, or extended, except as provided hereafter in this Section. Furthermore, no expansion, enlargement, intensification extension of a nonconforming structure, building, lot of record, use, or Waiver thereof, shall be permitted which increases its nonconformance with present Site Development Plan performance standards or district regulations, unless provided for in this Section or Section 158.132. (158.138(A))
- (B) The following policies shall determine the management of nonconformities:
- (1) *Nonconforming lots of record.* A permitted or permissible building or structure may be erected, expanded or altered on any lot of record at the effective date of the ordinance from which this Chapter derives or any legally created amendment thereto. The maximum density to the greatest extent possible, maximum lot coverage, building height and floor area shall conform to the district in which the lot is located, and shall be subject to the requirements below: (158.138(B)(1))
    - (a) All nonconforming lots shall:
      1. Have a minimum required side yard setback of ten feet for each side yard or meet the minimum requirements within its respective district, whichever is less. (158.138(B)(1)(a).1)
      2. Meet the required yards conforming to the minimums required for the district in which the lot is located. (158.138(B)(1)(a).2)
    - (b) Two or more nonconforming lots or combinations of lots shall be considered an undivided lot for the purposes of this Chapter if:
      1. As of July 21, 1976, the lots were in continuous frontage in single ownership, of record in the appropriate county where located; and (158.138(B)(1)(b).1)
      2. The lots are deficient in the requirements established for lot width or area. (158.138(B)(1)(b).2)
    - (c) Lot reduction.
      1. No lot or interest therein shall be transferred, conveyed, or sold as subdivided so as to create a new nonconforming lot, which avoids, circumvents or subverts any provision of this Chapter or leaves remaining any lot in violation of the requirements of this Chapter. No lot or portion of a lot required as a building site under this Chapter shall be used as a portion of a lot required as a building site for another structure. (158.138(B)(1)(c).1)
      2. No Building Permit shall be issued for any lot or parcel of land which has been conveyed, sold, or subdivided in violation of this Section. Any transferee who acquires a lot in violation of this Section, without knowledge of such violation, or any subsequent transferee, shall have the right to rescind and receive damages from the transferor who violates the provisions of this Section. (158.138(B)(1)(c).2)
  - (2) *Nonconforming buildings or structures.* Where a building or structure exists lawfully that could not be built under this Chapter or as it may be amended by reason of restrictions on lot area,

lot coverage, height, yards, location on the lot, or requirements (other than use) concerning the structure, then the building or structure may be continued so long as it remains otherwise lawful; provided further, that: (158.138(B)(2))

- (a) The building or structure may not be altered or enlarged in any way which creates a new nonconformity or increases or enlarges an existing nonconformity; and (158.138(B)(2)(a))
  - (b) The building or structure may be altered or enlarged in any way which decreases an existing nonconformity or in any way which is otherwise conforming. (158.138(B)(2)(b))
- (3) *Nonconforming use.* Where at the effective date of the ordinance codified in this Chapter or any amendments thereto, lawful use of buildings or structures exists, the use may be continued subject to the provisions of this Chapter. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such a use at the effective date of the ordinance codified in this Chapter or any amendments thereto. Any nonconforming use which occupied a portion of a building not originally designed or intended for such a use shall not be extended to any other part of the building. (158.138(B)(3))
- (4) *Repairs.* Normal maintenance, repair and incidental alteration of a structure containing a nonconforming use is permitted, provided it does not extend the area or volume of space occupied by the nonconforming use. A building or other structure containing residential nonconforming uses may be altered in any way to improve interior livability; however, no structural alterations shall be made which would increase the number of dwelling units. (158.138(B)(4))
- (5) *Unsafe structures.* If a nonconforming structure or portion of structure or any structure containing a nonconforming use becomes unsafe or unlawful due to lack of repairs or maintenance and is declared by the Planning and Zoning Official to be unsafe or unlawful by reason of its condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the provisions of this Chapter; and its removal shall be deemed voluntary. (158.138(B)(5))
- (6) *Off-street parking.* Additional off-street parking may be permitted on other property in the immediate vicinity, subject to the provisions of Section 158.100. (158.138(B)(6))
- (7) *Change in nonconforming uses without structural alteration.* If no structural alterations are made, a nonconforming use of a building or structure may be changed to another nonconforming use of a similar or higher (more restrictive) classification under the following conditions:
- (a) The change in use shall not intensify or enlarge the basic use of the building or premises by increasing the need for more parking facilities, by increasing vehicular or pedestrian traffic, by creating more noise, vibration, fire hazard, smoke, dust or fumes, by increasing hours of operation or number of employees, by increasing ground coverage or adversely impacting drainage, or otherwise result in a more intensive use of the building or premises, or change the basic character of the building or premises except to more nearly conform to the character of the zoning of the district in which the building or structure is located. (158.138(B)(7)(a))
  - (b) When a nonconforming use of all or any part of a building, structure or premises is changed to another nonconforming use of a more restricted character, the new use may not thereafter be changed to any nonconforming use. (158.138(B)(7)(b))
  - (c) When a nonconforming use of all or any part of a building, structure or premises has been changed to a conforming use, the conforming use shall not thereafter be changed to any nonconforming use. (158.138(B)(7)(c))
  - (d) No structural alterations shall be made to any building or structure occupied by a nonconforming use except as permitted in this Code. (158.138(B)(7)(d))
  - (e) The parking and landscape provisions of this Chapter shall be met. (158.138(B)(7)(e))
- (8) *Termination of nonconforming uses and structures.*
- (a) *Abandonment.* Except as set forth in Subsections 158.132(A) and 158.082(A), providing for the reconstruction of legally nonconforming structures, buildings or uses, a nonconforming use not used for a period of one year or the change of use to a more restricted



or conforming use for any period of time shall be considered an abandonment thereof and the nonconforming use shall not thereafter be revived. (158.138(B)(8)(a))

(b) *Removal of nonconformance; extension of time to comply.* A nonconforming building or structure not used or occupied in a lawful manner or vacant for a period of one year or more shall be considered an abandonment and the nonconforming building or structure shall be removed or made conforming. However, should the period of nonuse or vacancy be caused by legal restraints upon the owner, the owner may set forth such grounds in a petition to the Town Commission and serve such petition on the Planning and Zoning Official. The time may be extended by the Town Commission for good cause shown. The Town Commission may require the Applicant to decrease the nonconformity of the building or structure in one or more aspects of its nonconformity. The Town Commission may require the Applicant to secure the buildings, structures, and/or property in a manner acceptable to the Town to ensure the health, safety and welfare of the public. (158.138(B)(8)(b))

(c) *Special extension for continuance.* The Town Commission, by resolution, may grant a special extension for the continuance of an abandoned nonconforming building or structure for a period of time to be determined at a public hearing to provide for the removal of the nonconforming building or structure, or the making of the building or structure conforming, on or before the end of the period approved. (158.138(B)(8)(c))

1. The property owner shall have furnished the Town with a good and sufficient surety bond or other security in an amount to be approved by the Town Commission, to require compliance with this Code and/or state building codes. (158.138(B)(8)(c).1)

2. The amount of the surety bond or security shall be established by the Town Commission at a quasi-judicial public hearing up to an amount of no more than 100 percent of the total value of the property, including structures and land. The value of the property, including structures and land, shall be determined based on the full assessed value prior to any exemptions assigned to said property, including structures and land, according to the most recent tax assessment records for the property. (158.138(B)(8)(c).2)

3. The purpose of such bond or security shall be for the Town to utilize and draw on such amounts in circumstances where the property owner has failed to provide adequate building, structure, or site maintenance to ensure the health, safety and welfare of the public. In such circumstances, the Town may elect to utilize such bond or security to bring said property into compliance with Town or state building codes, which may include, but is not limited to, conditions related to structural demolition, debris removal, site stabilization, utility stabilization, environmental remediation, building maintenance, pest and rodent control, site security, pool maintenance, landscape maintenance, potential storm damage, fire, vagrancy and vandalism. (158.138(B)(8)(c).3)

4. Nothing within this Section shall prohibit the Town from any actions deemed necessary by the building official relating to unsafe buildings or structures. (158.138(B)(8)(c).4)

(9) *Pre-existing legal uses.* Certain uses of land, designated as Mixed Use Communities on the Zoning Map, that cannot be added under current regulations are legal because they lawfully existed on January 1, 2014, and are authorized as "pre-existing legal uses". "Pre-existing legal uses" may also be classified as nonconforming uses, but by virtue of their listing in Article IV shall be afforded the privileges of permitted uses and may be reconstructed up to their pre-existing density in accordance with all applicable current regulations, but only on the specific parcels on which they are located. The abandonment and termination provisions in Subsection (B)(8) do not apply to uses that qualify as "pre-existing legal uses." (158.138(B)(9))

## DIVISION 2. – RECONSTRUCTION OF NONCONFORMITIES

### 158.132 – Reconstruction of nonconformities.

- (A) *Intent.* It is the intent of this Section, subject to an Applicant meeting all the criteria set forth below, to allow existing, legally nonconforming residential or tourism properties that exceed the current allowable density, to be rebuilt for the existing use and density in accordance with all existing Zoning and Building requirements. Existing developments that are legally nonconforming due to the current number of dwelling or tourism units, may be reconstructed to the same number of units, and the same type of principal use(s) in existence prior to the reconstruction. It is also the intent of this Section that noncompliant structures may be rebuilt to the same density and building cubic volume, allowing an increase of height of the structure to correspond with the increase in height required by the flood ordinance(s). In any redevelopment scenario, the overarching intent is to reduce or eliminate nonconformities with a preference that properties develop according to their zone district, especially gulf and pass waterfront yard setbacks, to the greatest extent possible, as set forth below. Three individual, and mutually exclusive, legal nonconforming density redevelopment options are provided below. These options may not be combined.
- (B) *Option 1- Redevelopment of Non-Compliant Structures.* Legally nonconforming structures, buildings and uses may be reconstructed. Such reconstruction shall be limited to the same building cubic content, location, and number of units in existence prior to their removal, subject to compliance with the following conditions:
- (1) *Compliance with Town ordinances.* To the greatest extent possible, such reconstruction shall comply with all codes and regulations of the Town.
  - (2) *Prohibition on increase in extent of nonconformities.* All such reconstruction shall not increase the extent of the prior existing nonconformities, except for height as addressed below or as a result of modifications approved by the Planning and Zoning Board, and prior existing nonconformities shall be eliminated to the greatest extent possible.
  - (3) *Building cubic content.* Owners of legally nonconforming structures shall be permitted to rebuild non-compliant structure(s) to the same building cubic content that existed prior to removal. Additional building volume created as a result of compliance with flood control laws shall not be included in determining building cubic content. Additional areas and volume created for elevators, stairs, landings, mechanical areas and walkways, which were not included in the former structure(s), shall not be included in building cubic content, provided that the addition of any of these elements does not create a greater nonconformity as to open space or required setback.
  - (4) *Unit area increase.* So long as there is no increase in overall building cubic content, as determined by Subsection (3) above, units within the structure(s) may be increased in cubic content only as a result of decreasing the number of units within the structure or diminishing the previously existing common areas within the non-compliant structure(s).
  - (5) *Time frame for obtaining site plan approval.* To qualify for rights under this provision, any such reconstruction shall obtain Site Development Plan approval prior to or within two years of the removal or abandonment of use. The Planning and Zoning Board may, upon application received prior to the expiration of the two-year period, extend such time for demonstrated cause pursuant to the Town's Code. A Building Permit shall be obtained within the timeframe conditioned at the time of Site Development Plan approval. Notwithstanding the foregoing, the Planning and Zoning Board may in its sole discretion unilaterally extend the date for Site Development Plan approval up to an additional two years if, owing to circumstances such as a natural disaster, such extension is in the best interests of the Town.
  - (6) *Demonstration of Legal Nonconformity.* It is the burden of the Applicant, with the assistance of all available Town records, to establish, to the satisfaction of the Town Manager or designee, by clear and convincing evidence, through documentation, as applicable to the nonconformity proposing to be maintained, including, but not limited to, certification, photographs, diagrams, plans, affidavits, and permits, the actual uses, building cubic content, densities, and intensities

legally existing prior to the disaster event or redevelopment, prior to seeking Site Development Plan approval.

- (7) *Nonconformities and the relaxation of certain controls.* To minimize the need for individual Variances or Departure applications, prior to the approval of reconstruction Site Development Plans, the Planning and Zoning Board may, as part of the Site Development Plan review process, relax or modify one or several of the controls listed in Sections 158.038, 158.030, 158.095, 158.100, Lot, Yard and Bulk Regulations in Article IV, 158.094 and 158.098 in conformance with this Section. However, prior existing nonconformities shall be eliminated to the greatest extent possible. In considering such request, the Planning and Zoning Board shall also consider the nature and character of development in the surrounding area, and the impact thereon, in determining whether, or the extent to which, these controls may be modified. Those controls which may be modified are listed below in order of importance, highest to lowest, such that the control with the highest importance is the control with the greatest need for reduction or elimination of any nonconformities (and least likely of relaxation or modification) and the control with lower importance has a lesser need for reduction or elimination (and more likely of relaxation or modification).

(a) Required yards:

- (i) Properties which were previously permitted to build within a gulf or pass waterfront yard, closer to the water than currently permitted, may continue to enjoy these lawfully existing rights without subsequent Planning and Zoning Board approval, however those properties shall not be able to avail themselves of this Code Section regarding reconstruction of nonconformities and shall comply in all respects with the codes in effect at the time of reconstruction. These properties may, alternatively, waive these previously granted rights and seek approval of the Planning and Zoning Board for encroachments into the required gulf or pass waterfront yard, thus availing themselves of the provisions of this Code Section. In accordance with the policies and procedures in this Code Section, the Planning and Zoning Board may approve encroachments into a waterfront yard up to the amount of the previously existing encroachment.
- (ii) The approval of a modification to the required gulf or pass waterfront yards shall never be less than 50 feet from the mean high-water line or erosion control line, whichever is most landward, unless the previous legal encroachment was less than 50 feet, in which case the modification may never be less than the previous encroachment. The burden to provide sufficient evidence as to why the modification is necessary and essential to the redevelopment of the site shall be upon the Applicant.
- (iii) Street, rear, side, or waterfront yards, other than the gulf waterfront yard, may be modified to:
  - (1) Permit the reconstruction of existing structures that are nonconforming, with minor modifications to the required yards, in order to accommodate an increase in building cubic content, as permitted in Subsection (B)(3) of this Section;
  - (2) Permit the reconstruction of existing structures that are nonconforming with regard to a specific setback so long as the reconstruction will not further reduce the setback;
  - (3) Permit the construction of a handicapped access appurtenance to any reconstruction; or
  - (4) Allow for the placement of stairs or stair landing that provides access into a reconstructed dwelling unit.
  - (5) Buildings or structures that are non-compliant with the current street, rear, side or waterfront yards regulations, other than the gulf or pass waterfront yards, and can be proven to have been permitted prior to the adoption of such regulations shall be considered legally nonconforming. The street, rear, side or waterfront yards, other than the gulf or pass waterfront yards, may be modified to be reconstructed as it existed prior to the disaster event.

- (b) *Open space:*
  - (i) Modifications which reduce the open space requirement of the Zoning Code may be allowed when it:
    - (1) Accommodates modifications to the off-street parking requirements, and utilizes the Subsection locating off-street parking at the ground floor level of a structure pursuant to Subsections (e)(iii) and (iv) below ; or
    - (2) Accommodates other approved changes to the site as a result of the reconstruction.
  - (ii) Reductions from the open space that existed prior to reconstruction shall be minimized to the greatest extent possible to allow for compliance with the Town's flood control ordinance, but open space shall not be less than 20 percent of the lot area.
- (c) *Building height:*
  - (i) The overall height of a building, at the time of reconstruction, shall be measured from the minimum habitable floor elevation in accordance with the local flood control ordinance, or state mandated height, whichever is applicable. This shall not preclude the utilization of the ceiling of the ground floor parking garage from being utilized as the base measuring point for building height for a multifamily structure, as defined in Section 158.144 (definition of "Building, Height of").
  - (ii) The overall height of a building may be increased by a maximum of the additional elevation required to comply with Subsection (c)(i) above.
- (d) *Maximum building length, distance between buildings, and distance between buildings and driveways.* These development criteria may be modified to allow reconstruction of existing non-conforming structures, but shall not be reduced in a manner that jeopardizes public safety.
- (e) *Off-street parking spaces.*
  - (i) In no instance shall the parking requirements be modified where the reconstruction involves the increase of density or intensity of use.
  - (ii) Shelters for parking spaces that were previously unsheltered shall not be permitted unless the shelters meet the setback and land coverage requirements for the site.
  - (iii) Where to the greatest extent possible, the ground floor area of the reconstructed building shall be utilized for off-street parking.
  - (iv) Off-street parking modifications may include the number of spaces provided, minimum dimensions of the stalls, minimum aisle widths, and location of spaces within required yards, and be made to:
    - (1) Improve ingress and egress to the site;
    - (2) Eliminate or reduce the instances where conditions require that parked vehicles back out onto public/private streets; or
    - (3) Allow for the provision of handicapped-accessible parking spaces.
- (8) Site plan approval.
  - (a) All applications for the rebuilding of nonconforming structures, buildings or uses shall be submitted for Site Development Plan review in accordance with Article III of this Chapter.
  - (b) Permitted uses without Site Development Plan review, as listed in Article IV, are not required to be processed under the Site Development Plan review provisions of Article III, but can instead be processed in accordance with Section 150.31.

(c) Permitted uses with Site Development Plan review, which meet the provisions of Section 158.026, may be exempted from Site Development Plan submission requirements, in accordance with said Section, and the administrative Staff is hereby authorized to modify the controls as set forth herein.

(9) The Town Commission, by emergency ordinance, may develop additional or alternative procedures for the swift processing of applications in cases where a state of emergency is declared; and, in addition, may expand the authority of the administrative Staff to relax certain controls by the emergency ordinance. A status report, delineating activities undertaken by the administrative Staff under the provisions of this Section, shall be provided to the Planning and Zoning Board on a monthly basis.

(10) Decisions of the administrative Staff, made relative to the provisions of this Section, may be appealed by any person to the Zoning Board of Adjustment, in accordance with the appeal procedures set forth in Section 158.013. No provision herein, shall be construed to deny the reconstruction, continuance or improvement of legally nonconforming structures, buildings and uses, so long as the reconstruction, continuance or improvement is in accordance with this Section.

(11) The provisions relating to Option 1 shall not be construed to prevent a mobile home owner or park owner from reconstructing such structures pursuant to an applicable statutory pre-emption.

(C) Option 2- Nonconforming Redevelopment in Conformance with Zone District Requirements

Existing multifamily or tourism zoned properties that are legally nonconforming due to the current number of dwelling or tourism units exceeding the current allowable density, may be rebuilt for the existing use and density, provided the proposed redevelopment is in accordance with all of the criteria associated with the subject site's zoning and requirements of this code. Such developments may be redeveloped to the same number of units, same type of principal use(s) in existence prior to the redevelopment, and may add additional cubic content, subject to compliance with the following conditions:

(1) *Intent.* The purpose of Option 2 is to accommodate redevelopment of existing legal nonconforming properties that could retain their existing nonconforming densities and uses but, through redevelopment of their properties, would achieve conformity with all applicable building heights and all other Town codes, regulations and ordinances.

(2) *Building cubic content.* Structures can be rebuilt to the same total building cubic content as before, which volume can also be increased to an extent consistent with Subsection (C)(1). Owners may elect to reduce the number of nonconforming units in order to achieve compliance with Option 2.

(3) *Time frame for obtaining Site Development Plan approval.* To qualify for rights under this provision, any such redevelopment shall obtain Site Development Plan approval prior to or within two years of the removal or abandonment of use. The Planning and Zoning Board may, upon application received prior to the expiration of the two-year period, extend such time for demonstrated cause pursuant to the Town's Code. A Building Permit shall be obtained within the timeframe conditioned at the time of Site Development Plan approval. Notwithstanding the foregoing, the Planning and Zoning Board may in its sole discretion unilaterally extend the date for Site Development Plan approval up to an additional two years if, owing to circumstances such as a natural disaster, such extension is in the best interests of the Town.

(4) *Demonstration of Legal Nonconformity.* It is the burden of the Applicant to establish, with the assistance of all available Town records, to the satisfaction of the Town Manager or designee, by clear and convincing evidence, the density proposed to be maintained, prior to seeking Site Development Plan approval.

(5) *Site plan approval.* All applications shall be submitted for Site Development Plan review in accordance with Article III of this Chapter.

(D) Option 3- Nonconforming Redevelopment Seeking Modifications from Zone District Requirements

Existing properties that are legally nonconforming due to the current number of dwelling or tourism units exceeding the current allowable density, may also seek a Zoning Map Amendment to the Conformance Overlay Redevelopment District (CORD) in accordance with Article IV, Division 6 of this Code. Such rezoning, if approved, allows for properties to be made conforming and provides for relaxation or modification of one or several of the controls as identified in the CORD.

- (1) *Time frame for obtaining Conformance Overlay Redevelopment District (CORD) approval.* To qualify for rights under this provision, any such redevelopment shall obtain CORD approval prior to or within two years of the removal or abandonment of use. The Planning and Zoning Board may, upon application received prior to the expiration of the two-year period, extend such time for demonstrated cause pursuant to the Town's Code. A Building Permit shall be obtained within the timeframe conditioned at the time of CORD approval. Notwithstanding the foregoing, the Planning and Zoning Board may in its sole discretion unilaterally extend the date for CORD approval up to an additional two years if, owing to circumstances such as a natural disaster, such extension is in the best interests of the Town.
- (2) *Demonstration of Legal Nonconformity.* It is the burden of the Applicant to establish, with the assistance of all available Town records, to the satisfaction of the Town Manager or designee, by clear and convincing evidence, through documentation, as applicable to the nonconformity proposing to be maintained, including, but not limited to, certification, photographs, diagrams, plans, affidavits, and permits, the actual uses, densities, and intensities legally existing prior to the disaster event or redevelopment, prior to seeking Site Development Plan approval.

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## **Article VII. – Violations, Enforcement and Penalties**

### **158.135 – Penalty**

Any person violating the provisions of this Chapter or any part hereof, upon conviction in the applicable court for the Town, shall be fined not more than \$500.00 or imprisoned for a period not to exceed 60 days; and each day that the violation continues shall constitute a separate offense. (158.049)

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## Article VIII. – Transportation Proportionate Fair-Share Program

### 158.138 – Transportation proportionate fair-share program.

- (A) Purpose and Intent. The purpose of the Town of Longboat Key Transportation Proportionate Fair-Share Program is to establish a method whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors, to be known as the proportionate fair-share program, as required by and in a manner consistent with F.S. § 163.3180(16), as may be amended. The Town finds and determines that transportation capacity is a commodity that has a value to both the public and private sectors and that the Town of Longboat Key Proportionate Fair-Share Program:
- (1) Provides a method by which the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors;
  - (2) Allows developers to proceed with Site Development Plan or development plan approval under certain conditions, notwithstanding the failure of transportation concurrency, by contributing their proportionate fair-share of the cost of a transportation facility;
  - (3) Contributes to the provision of adequate public facilities for future growth and promotes a strong commitment to comprehensive facilities planning, thereby, reducing the potential for moratoria or unacceptable levels of traffic congestion;
  - (4) Maximizes the use of public funds for adequate transportation facilities to serve future growth, and may, in certain circumstances, allow the Town of Longboat Key to expedite transportation improvements by supplementing funds currently allocated for transportation improvements in the Town's Comprehensive Plan capital improvement element (CIE); and
  - (5) Is consistent with F.S. § 163.3180(16), as may be amended, and supports the policies in the Town of Longboat Key Comprehensive Plan.
- (B) Applicability. The proportionate fair-share program shall apply to all proposed developments in the Town of Longboat Key that are determined to lack the capacity to satisfy transportation concurrency on a transportation facility in the Town of Longboat Key transportation network, including transportation facilities maintained by another jurisdiction or Florida Department of Transportation (FDOT) that are relied upon for concurrency determinations, pursuant to the requirements of Subsection (C) The proportionate fair-share program does not apply to developments exempted from concurrency as provided in F.S. § 163.3180, as may be amended, and Section 158.030 of the Town of Longboat Key Zoning Code.
- (C) Transportation Concurrency Determination. All developments requiring Site Development Plan or Outline Development Plan approval and that are not exempted from transportation concurrency, as determined under Subsection (B) of this Section, shall submit a traffic impact analysis to ensure that the adopted LOS standards are not exceeded. The traffic impact analysis shall determine if a transportation impact study is required under Section 158.030 of the Town Zoning Code. The Town shall determine the transportation capacity requirements before an application for Site Development Plan will be accepted by the Town.
- (D) Transportation Impact Study. Upon a determination by the Town that a transportation impact study is required in accordance with Section 158.030, the study shall state what improvements are necessary to satisfy the transportation impacts under Section 158.030 and to bring the transportation network into compliance with the designated LOS. The Town shall have the opportunity to review the transportation impact study findings to determine whether the necessary improvements are sufficient and are funded in full before an Applicant will be allowed to schedule the initial pre-application meeting required under Section 158.027. The Town may require verification that the findings of the traffic impact study continue to be valid throughout the Site Development Plan approval process, which may require an adjustment to the improvements necessary to maintain the designated LOS.
- (E) Application Process for a Proportionate Fair-Share Agreement.

- (1) Upon determination under Subsection (D) of a lack of capacity to satisfy transportation concurrency and of a lack of funding for the necessary improvements to maintain, at a minimum, the required LOS, the Applicant shall be notified in writing of the opportunity to satisfy transportation concurrency through the proportionate fair-share program.
  - (2) Prior to submitting an application for a proportionate fair-share agreement (agreement), a pre-application meeting shall be held to discuss eligibility, application submittal requirements, potential mitigation options, and related issues. If the impacted facility is on the strategic intermodal system (SIS), or if impacted facilities are anticipated to be located within the jurisdiction of another local government, then the FDOT or appropriate local government will be notified and invited to participate in the pre-application meeting.
  - (3) Eligible Applicants shall submit an application to the Town of Longboat Key that includes an application fee as established by resolution and the following:
    - (a) Name, address and phone number of owner(s), developer and agent;
    - (b) Property location (physical address), including parcel identification numbers;
    - (c) Legal description and survey of property;
    - (d) Project description, including type, intensity and amount of development;
    - (e) Phasing schedule, if applicable; and
    - (f) Description of requested proportionate fair-share mitigation method(s).
  - (4) The Town Manager or designee shall review the application for completeness and notify the Applicant in writing of the completeness determination. If an application is determined to be incomplete with the general requirements of the proportionate fair-share program as indicated in Subsection (E)(3), the Applicant will be notified of the reasons for such deficiencies.
  - (5) Pursuant to F.S. § 163.3180(16)(e), as may be amended, proposed proportionate fair-share mitigation for development impacts to facilities on the SIS requires the concurrence of the FDOT. The Applicant shall submit evidence of a written agreement between the Applicant and the FDOT for inclusion in the proportionate fair-share agreement.
  - (6) When an application is deemed complete and eligible, a proposed proportionate fair-share obligation and binding agreement will be prepared by the Town of Longboat Key, or by the Applicant with direction from the Town of Longboat Key, and delivered to the appropriate parties for review, including a copy to FDOT for any proposed proportionate fair-share mitigation on a SIS facility.
  - (7) The Town of Longboat Key shall notify the Applicant regarding the dates of the Longboat Key Town Commission meetings when the agreement will be considered for final approval. No proportionate fair-share agreement will be effective until approved by the Longboat Key Town Commission.
- (F) General Requirements.
- (1) An Applicant may choose to satisfy the transportation concurrency requirements of the Town of Longboat Key by making a proportionate fair share contribution, pursuant to the following:
    - (a) Transportation facilities identified as mitigation for the traffic impact of the proposed development are specifically identified in the five-year schedule of capital improvements contained in the CIE; and, the completion of such facilities will enable the adopted level of service to be achieved; or
    - (b) The transportation facilities identified as mitigation for the traffic impacts of the proposed development are not specifically identified in the five-year schedule of capital improvements contained in the CIE of the Town of Longboat Key Comprehensive Plan.
  - (2) The Town of Longboat Key may choose to allow an Applicant to satisfy transportation concurrency through the proportionate fair-share program by contributing to an improvement that,

upon completion, will satisfy the concurrency requirements of the Town of Longboat Key transportation network, but is not contained in the five-year schedule of capital improvements in the CIE, where the following apply:

- (a) The Town of Longboat Key, at its sole discretion, adopts, by resolution or ordinance, a commitment to add the improvement to the five-year schedule of capital improvements in the CIE no later than the next regularly scheduled update. To qualify for consideration under this Section, the proposed improvement must be reviewed by the Town of Longboat Key, and determined to be financially feasible pursuant to F.S. § 163.3180(16)(b)(1), as may be amended, consistent with the Comprehensive Plan, and in compliance with the provisions of this Section. Financial feasibility for this Section means that additional contributions, payments, or other funding sources are reasonably anticipated during a period not to exceed ten years to fully mitigate impacts on the transportation facilities.
  - (b) If the funds allocated for the five-year schedule of capital improvements in the Town of Longboat Key CIE are insufficient to fully fund construction of a transportation improvement required to achieve concurrency, the Town of Longboat Key may still enter into a binding proportionate fair-share agreement with the Applicant authorizing construction of that amount of development on which the proportionate fair share is calculated if the proportionate fair-share amount in such agreement is sufficient to pay for one or more improvements which will, in the opinion of the governmental entity or entities maintaining the transportation facilities, significantly benefit the impacted transportation system. The improvement or improvements funded by the proportionate fair share component must be adopted into the five-year capital improvements schedule of the Comprehensive Plan or the long-term schedule of capital improvements for an adopted long-term concurrency management system at the next annual capital improvements element update.
- (3) In addition to meeting the requirements of either Subsections (F)(2)(a) or (F)(2)(b), above, Applicants must also meet the following requirement:
- (a) The proposed development is consistent with the Comprehensive Plan and applicable land development regulations;
  - (b) The proportionate fair-share development must be accepted and executed by the Town and all other necessary parties before the proposed Site Development Plan will be approved;
  - (c) Any improvement project proposed to meet the developer's fair-share obligation must meet design standards of the Town of Longboat Key for locally maintained roadways and those of the FDOT for the state highway system.
- (G) Intergovernmental Coordination. Sometimes development occurring within the Town limits will impact transportation facilities maintained by another government entity, such as FDOT, Sarasota County, City of Sarasota, City of Bradenton, Manatee County, and the jurisdictional governments of Anna Maria Island. Such facilities may be located inside or outside of the Town limits. Therefore, the Town will continue to coordinate with other affected jurisdictions regarding mitigation to impacted facilities not under the jurisdiction of the local government receiving the application for proportionate fair-share mitigation. Pursuant to this, a mutually acceptable interlocal agreement may be established with other affected jurisdictions to address the cross-jurisdictional impacts of developments on transportation and roadway facilities.
- (H) Determination of Proportionate Fair-Share Obligation.
- (1) Proportionate fair-share mitigation for concurrency impacts may include, without limitation, separately or collectively, private funds, contributions of land and construction and contribution of facilities.
  - (2) A development shall not be required to pay more than its proportionate fair-share. The fair market value of the proportionate fair-share mitigation for the impacted facilities shall not differ regardless of the method of mitigation.
  - (3) The methodology used to calculate an Applicant's proportionate fair-share obligation shall be as provided for in F.S. § 163.3180(12), as follows:

*The cumulative number of trips from the proposed development expected to reach roadways during peak hours from the complete build out of a stage or phase being approved, divided by the change in the peak hour maximum service volume (MSV) of roadways resulting from construction of an improvement necessary to maintain the adopted LOS, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted LOS.*

This formula may be stated alternatively as:

$$\text{Proportionate Fair Share} = \frac{\text{Development Trips}}{\text{SV Increase}} \times \text{Cost}$$

Where:

*Development Trips*; = Those trips from the stage or phase of development under review that are assigned to roadway segment "i" and have triggered a deficiency per concurrency requirements;

*SV Increase*; = Service volume increase provided by the eligible improvement to roadway segment "i" per Subsection (D);

*Cost*; = Adjusted cost of the improvement to segment "i." Cost shall include all improvements and associated costs, such as design, right-of-way acquisition, planning, engineering, inspection, and physical development costs directly associated with construction at the anticipated cost in the year it will be incurred.

- (4) For the purposes of determining proportionate fair-share obligations, the Town of Longboat Key shall determine improvement costs based upon the actual cost of the improvement as obtained from the CIE, the Metropolitan Planning Organization (MPO)/Transportation Improvement Program (TIP) or the FDOT Work Program. Where such information is not available, improvement cost shall be determined using one of the following methods:
  - (a) An analysis by the Town of Longboat Key of costs by cross-section type that incorporates data from recent projects and is updated annually and approved by the Longboat Key Town Commission. In order to accommodate increases in construction material costs, project costs shall be adjusted by the Engineering News Record (ENR) Construction Index; or
  - (b) The most recent issue of FDOT transportation costs, as adjusted based upon the type of cross-section (urban or rural); locally available data from recent projects on acquisition, drainage and utility costs; and, significant changes in the cost of materials due to unforeseeable events. Cost estimates for state road improvements not included in the adopted FDOT work program shall be determined using this method in coordination with the FDOT district.
- (5) If the Town of Longboat Key has accepted an improvement project proposed by the Applicant, then the value of the improvement shall be determined using one of the methods provided in this Section.
- (6) If the Town of Longboat Key has accepted right-of-way dedication for the proportionate fair-share payment, credit for the dedication of the non-site related right-of-way shall be valued on the date of the dedication at the most recent assessed value by the Manatee or Sarasota County Property Appraiser or, at the option of the Applicant, by fair market value established by an independent appraisal approved by the Town of Longboat Key and at no expense to the Town of Longboat Key. The Applicant shall supply a sketch and legal description of the land and a certificate of title or title search of the land to the Town of Longboat Key at no expense to the Town of Longboat Key. If the estimated value of the right-of-way dedication proposed by the Applicant is less than the Town of Longboat Key estimated total proportionate fair-share obligation for that development, then the Applicant must also pay the difference. Prior to purchase or acquisition of any real estate or acceptance of donations of real estate intended to be

used for proportionate fair-share, public or private partners shall contact the FDOT for essential information about compliance with federal law and regulations.

- (I) Impact Fee Credit for Proportionate Fair Share Mitigation. Proportionate fair-share payments, dedication of rights-of-way accepted as proportionate fair-share payment, and developer-constructed improvements accepted as proportionate fair-share payment shall be eligible for road impact fee credits to the extent consistent with the provisions of the applicable interlocal agreement between the Town of Longboat Key and the impacted adjacent governmental entities. The terms of the impact fee credit may be established in the proportionate fair-share agreement.

(J) Proportionate Fair-Share Agreements.

- (1) Upon execution of a proportionate fair-share Development Agreement, the Applicant shall receive a Town of Longboat Key certificate of concurrency approval. Should the Applicant fail to apply for a development permit within 12 months of the execution of the agreement, then the agreement shall be considered null and void and the Applicant shall be required to reapply.
- (2) Payment of the proportionate fair-share contribution is due in full before application for Building Permits will be allowed and shall be nonrefundable. If the payment is submitted more than 12 months after the date of execution of the agreement, then the proportionate fair-share cost shall be recalculated at the time of payment based on the best estimate of the construction cost of the required improvement at the time of payment, pursuant to Subsection (H) and adjusted accordingly.
- (3) All developer improvements authorized under this Section must be completed prior to the approval of a Site Development Plan order or Outline Development Plan, or as otherwise secured in a binding agreement that is accompanied by the appropriate bond instrument(s) that is sufficient to insure the completion of all required improvements.
- (4) Dedication of necessary rights-of-way for facility improvements pursuant to a proportionate fair-share agreement must be completed prior to issuance of the final Development Order or recording of the final plat.
- (5) Any requested change to a development project subsequent to a Development Order may be subject to additional proportionate fair-share contributions to the extent the change would generate additional traffic that would require mitigation.
- (6) Applicants may submit a letter to withdraw from the proportionate fair-share agreement at any time prior to the execution of the agreement. The application fee and any associated advertising costs to the Town of Longboat Key will be nonrefundable.
- (7) The Town of Longboat Key may enter into proportionate fair-share agreements for selected corridor improvements to facilitate collaboration among multiple Applicants on improvements to a shared transportation facility.

(K) Appropriation of fair-Share Revenues.

- (1) Proportionate fair-share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the Town of Longboat Key CIE, or as otherwise established in the terms of the proportionate fair-share agreement. At the discretion of the local government, proportionate fair-share revenues may be used for operational improvements prior to construction of the capacity project for which the proportionate fair-share revenues were derived. Proportionate fair-share revenues may also be used as the 50 percent local match for funding under the FDOT Transportation Regional Incentive Program (TRIP).
- (2) In the event a scheduled facility improvement is removed from the CIE, then the revenues collected for its construction may be applied toward the construction of another improvement within that same corridor or sector that would mitigate the impacts of development pursuant to the requirements of Subsection (H).
- (3) Where an Applicant constructs a transportation facility that exceeds the Applicant's proportionate fair-share obligation calculated under Subsection (H), the Town of Longboat Key shall reimburse the Applicant for the excess contribution using one or more of the following methods:

- (a) An impact fee credit account may be established for the Applicant in the amount of the excess contribution, a portion or all of which may be assigned and reassigned under the terms and conditions acceptable to the Town of Longboat Key.
- (b) An account may be established for the Applicant for the purpose of reimbursing the Applicant for the excess contribution with proportionate fair-share payments from future Applicants on the facility.
- (c) The Town of Longboat Key may compensate the Applicant for the excess contribution through payment or some combination of means acceptable to the Town of Longboat Key and the Applicant.

(L) Cross Jurisdictional Impacts.

- (1) A development application submitted to the Town of Longboat Key that has been determined to use 75 p.m. peak hour trips or more on Gulf of Mexico Drive shall be subject to this Section.
- (2) Where an impacted regional facility has been designated as a regionally significant transportation facility in an adopted regional transportation plan as provided in F.S. § 339.155, as may be amended, the Town of Longboat Key may coordinate with other impacted jurisdictions and agencies to apply proportionate fair-share contributions and public contributions to seek funding for improving the impacted regional facility under the FDOT TRIP. Such coordination shall be ratified by the Town of Longboat Key through an interlocal agreement that establishes a procedure for earmarking of the developer contributions for this purpose.
- (3) In the interest of intergovernmental coordination and to reflect the shared responsibilities for managing development and concurrency, the Town of Longboat Key may enter an agreement with one or more adjacent local governments to address cross jurisdictional impacts of development on regional transportation facilities. The agreement shall provide for application of the methodology in this Section to address the cross jurisdictional transportation impacts of development.
- (4) Upon identification of an impacted regional facility pursuant to Subsection (L)(2), the Town of Longboat Key shall notify the Applicant and the affected adjacent local government in writing of the opportunity to derive an additional proportionate fair-share contribution, based on the projected impacts of the proposed development on the impacted adjacent facility.
  - (a) The adjacent local government shall have up to 90 days from the date of the notice in which to notify the Town of Longboat Key of a proposed specific proportionate fair-share obligation, and the intended use of the funds when received. The adjacent local government must provide reasonable justification that both the amount of the payment and its intended use comply with the requirements of F.S. § 163.3180(16), as may be amended. Should the adjacent local government decline proportionate fair-share mitigation under this Section, then the provisions of this Section would not apply and the Applicant would be subject only to the proportionate fair-share requirements of the Town of Longboat Key.
  - (b) If the subject application is subsequently approved by the Town of Longboat Key, the approval shall include a condition that the Applicant provides, prior to the issuance of any Building Permit covered by that application, evidence that the proportionate fair-share obligation to the adjacent local government has been satisfied. The Town of Longboat Key may require the adjacent local government to declare, in a resolution, ordinance, or equivalent document, its intent for the use of the concurrency funds to be paid by the Applicant.

(Appendix, Section 10)

**158.139 – Reserved.**

**158.140 – Reserved.**

## Article IX. – School Concurrency Proportionate-Share Mitigation Program

### 158.141 – School concurrency proportionate-share mitigation program.

- (A) *Purpose and intent.* The purpose of the Town of Longboat Key School Concurrency Proportionate-Share Mitigation Program is to establish a method whereby the impacts of residential development on public school facilities of Manatee or Sarasota County can be mitigated by the cooperative efforts of the public and private sectors, to be known as the proportionate-share program, as required by and in a manner consistent with F.S. § 163.3180(13), as amended. The Town shall find and determine that adequate school capacity has a value to both the public and private sectors. The Town's proportionate-share program:
- (1) Allows developers to proceed with final plat or Site Development Plan approval under certain conditions, notwithstanding the lack of public school capacity, by contributing their proportionate-share to resolve deficiencies in school capacity;
  - (2) Contributes to the provision of adequate public school facilities for future growth and promotes a strong commitment to comprehensive facilities planning, thereby, reducing the potential for moratoria or unacceptable levels of student capacity;
  - (3) Maximizes the use of public funds for adequate public school facilities to serve future growth; and
  - (4) Is consistent with F.S. § 163.3180(13), as amended, and supports the policies in the Town of Longboat Key Comprehensive Plan.
- (B) *Applicability.* The proportionate-share mitigation program shall apply to all proposed residential developments in the Town that are determined to lack the necessary public school capacity in the applicable service area or the adjacent service area. The proportionate-share mitigation program does not apply to developments exempted from concurrency as provided in F.S. § 163.3180, as amended, or exempted under the interlocal agreement for public school facility planning (ILA) for the applicable county.
- (C) *Public school facility concurrency determination.* All residential developments requiring final subdivision or Site Development Plan approval and that are not exempted from school facility planning concurrency, as determined under Subsection (B) of this Section, shall submit a school facility planning concurrency analysis from the applicable county school district to ensure that adequate public school capacity is available for the proposed residential development. The applicable county school district shall provide the Applicant with a written determination of available capacity. The Town shall receive the school district's written determination as part of the application for final subdivision or Site Development Plan approval.
- (D) *Application process for a proportionate-share mitigation program.*
- (1) Pursuant to F.S. § 163.3180(13), as amended, proposed proportionate-share mitigation for residential development impacts to public school facilities on the school district's capital improvement plan requires the concurrence of the school district.
  - (2) General requirements. Upon a written determination under Subsection (C) of a lack of capacity to satisfy school concurrency and of a lack of funding for the necessary improvements to maintain, at a minimum, the required level of service (LOS), the school district shall notify the Applicant in writing of the opportunity to satisfy school concurrency through the proportionate-share mitigation program.
  - (3) An Applicant may choose to satisfy the school concurrency requirements of the Town through proportionate-share mitigation to the affected school district by entering into a Development Agreement with the school district, the Town, and all other affected parties, pursuant to the provisions of the ILA for school facility planning of the county in which the proposed development is located.



- (4) The Town Manager or designee shall review the Development Agreement for completeness in accordance with Section 158.023, (Development Agreements). If an agreement is determined to be incomplete the Town will notify the Applicant in writing of the reasons for such deficiencies.
  - (5) When an application for approval of a Development Agreement is deemed complete the Town shall notify the Applicant and school district regarding the dates of the public hearings when the agreement will be considered for final approval. No proportionate-share developer agreement will be effective until approved by the Town Commission.
- (E) *Proportionate-share obligation.*
- (1) Proportionate-share mitigation for concurrency impacts may include, without limitation, separately or collectively, private funds, contributions of land, and construction and contribution of facilities as stipulated in the ILA for the applicable county.
  - (2) A development shall not be required to pay more than its proportionate-share. The fair market value of the proportionate-share mitigation for the impacted facilities shall not differ regardless of the method of mitigation.
- (F) *Impact fee credit for proportionate-share mitigation.* Proportionate-share payments, dedication of rights-of-way accepted as proportionate-share payment, developer-constructed improvements, and other forms of mitigation accepted as a proportionate-share mitigation payment authorized under F.S. ch. 163, as amended, shall be eligible for school impact fee credits to the extent consistent with the provisions of the applicable ILA between the Town, the school district, and impacted adjacent governmental entities. The terms of the impact fee credit may be established in the proportionate-share mitigation agreement.
- (G) *Proportionate-share mitigation agreements.*
- (1) Upon execution of a proportionate-share Development Agreement, should the Applicant fail to apply for a final subdivision or Site Development Plan approval as specified in the applicable interlocal agreement, then the Development Agreement shall be considered null and void, and the Applicant shall be required to reapply.
  - (2) Payment of a proportionate-share contribution is due as provided for in the applicable ILA.
  - (3) All developer improvements authorized under this Section must be completed prior to the approval of a Site Development Plan order or Outline Development Plan, or as otherwise secured in a binding agreement that is accompanied by the appropriate bond instrument(s) that is sufficient to insure the completion of all required improvements.
  - (4) Any requested change to a residential development project subsequent to a Development Order may be subject to additional proportionate-share contributions to the extent the change would generate the need for additional student stations or school facility improvements that would require mitigation.
  - (5) Applicants may submit a letter to withdraw from the proportionate-share agreement at any time prior to the execution of the agreement. The application fee and any associated advertising costs to the Town will be nonrefundable.
  - (6) The Town and applicable school district may enter into proportionate-share mitigation agreements for selected public school facilities to facilitate collaboration among multiple Applicants on improvements to a shared school facility.
- (H) *Intergovernmental coordination.* Residential development occurring within the Town limits may impact public school facilities or ancillary improvements related to public school facilities maintained by another government entity. Such facilities may be located inside or outside of the Town limits. Therefore, the Town will continue to coordinate with other affected jurisdictions regarding mitigation to impacted public school facilities not under the jurisdiction of the local government receiving the application for proportionate-share mitigation.

(Appendix, Section 11)

**158.142 – Reserved.**

**158.143 – Reserved.**

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## Article X. – Definitions

### 158.144 – Definitions

For the purpose of this Chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning:

*"Access drive."* Same as "driveway".

*"Accessory use or structure."*

(A) *Accessory use.* A use customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use or building.

(B) *Accessory structure.* A structure detached from a principal building located on the same lot and customarily incidental and subordinate to the principal building or use.

*"ADA."* The Americans With Disabilities Act of 1990 and the Florida Accessibility Code for Building Construction.

*"Additional use."* The use of land, water, or buildings and structures or a portion thereof, independent of but directly related to another permitted use. An additional use is not an accessory use.

*"Adjoining."* Having a common border, line or wall.

*"Aisle."* The traveled way by which vehicles enter and depart parking spaces.

*"Alley."* A facility which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

*"Alteration."* Any change, addition or modification in construction or type of occupancy, any change in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed".

*"Ancillary equipment."* Components subordinate to, but necessary for the operation of, personal wireless service facility. Such components include, but are not limited to, cabinets and electrical. This term shall not be interpreted to include structures designed and constructed to support antennas.

*"Annual Site Development Plan Season."* The months during which the Planning and Zoning Board and Town Commission receives, reviews, makes recommendations, or acts on applications for development, which include the months of January, February, March, April, May, June, September, October, November, and December.

*"Antenna."* Any device used to transmit or receive electromagnetic waves or frequency signals. The term "antenna" includes frequency signals for radio, television, paging, personal communications services, cellular communications services, analog communications services, digital communications services, and microwave communications. The term "antenna" does not include a television antenna, satellite dish, or other type of satellite or video receiving device that is mounted on a single-family residence for use exclusively of the occupants of that single-family home, or that is in compliance with Section 158.095 and Section 158.098 of this Zoning Code.

*"Applicant."* A person or an entity with a fee simple ownership interest in property located in the Town or any person or entity acting as an agent for a fee simple owner, requesting approval of any land-use, development, improvement or similar application, regulated by the Zoning Code. Where a property has been submitted to condominium ownership pursuant to Chapter 718, Florida Statutes, the owners association may be the Applicant provided the application includes a copy of the association board minutes and authorization verifying that an agent has the authority to act as Applicant on behalf of the association; provided, however, a fee simple owner of a condominium unit shall not be an Applicant unless the owners association is also a co-Applicant. Where the Applicant or agent is an entity other than a condominium association, the application shall include a resolution or document signed by an authorized officer or member of the entity evidencing the entity's consent to the filing of the application and designation of the agent.

*"Arts and crafts."* The making of artifacts in a single-family dwelling as a home occupation and in compliance with Section 158.109.

*"Auto rental lot."* A lot or parcel of land on which passenger automobiles for active rental purposes only are stored or parked.

*"Awning."* An accessory structure, typically projecting from the exterior wall of a building, either retractable or portable in nature, which is supported by an open framework and is covered by fabric or other nonrigid material except for the supporting framework.

*"Backhaul network."* The technology and infrastructure responsible for transporting voice and data communications from end users or nodes to the central network or infrastructure.

*"Banks and other financial institutions."* An institution that is engaged in retail banking, and other similarly related functions such as making loans, investments and fiduciary activities.

*"Bar."* A building or portion of a building wherein alcoholic beverage is sold by the drink or bottle and consumed on the premises.

*"Barber-beauty salon."* An establishment where cosmetology services including hair care, nail care and skin care are provided on a regular basis.

*"Beach shelter."* An accessory structure, temporary or permanent, consisting of one or more columns and a roof and not including walls or a floor or facilities of any type.

*"Best management practices."* Professionally accepted methods or combination of methods to be incorporated into design, construction activities and maintenance which have been determined to be the most effective.

*"Binding concept plan."* A general graphic delineation and informational description of a proposed conceptual program of development or a development phase that is submitted with an Outline Development Plan. The binding concept plan shall in its entirety indicate the existing and proposed uses and structures, lots, streets, and other physical aspects of the proposed development and as enumerated in Sections 158.036 and 158.030. Binding concept plans are required as part of Outline Development Plans (ODP) that are submitted for Planned Unit Development (PUD) approval, except where this Code explicitly allows a Final Site Development Plan to replace a binding concept plan (see, for instance, Subsections 158.036(B)(1) and 158.106(F)). Binding concept plans become an integral part of ODP/PUD approvals.

*"Bird and wildlife sanctuaries and nature areas."* Areas that contain significant food, water or cover for native terrestrial and aquatic species of animals, birds and plants.

*"Board of adjustment."* The Zoning Board of Adjustment of the Town as provided for in this Chapter.

*"Boat facility"* means a public or private structure or operation where boats are moored or launched, including commercial, recreational and residential marinas, and public boat ramps. A dry storage facility is considered part of a boat facility if the dry storage facility has the capability of launching vessels into adjacent waters. For the purpose of this Code, single-family docks with less than five wet slips are not considered boat facilities.

*"Boat lift."* A structure over water designed to lift a boat out of the water.

*"Building."* See "structure." Any structure having a roof including a screened pool cage, supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind or nature. Any other structural appendage to a building, including a deck which protrudes more than six inches above finished grade, shall be considered a building, except that permeable planters shall not be considered a building.

*"Building coverage."* Building coverage has the same meaning as lot coverage and land coverage.

*"Building, height of."*

- (1) For the purpose of Article IV, bulk, maximum height, for structures other than single-family residences, the vertical distance shall be measured from the minimum habitable floor elevation, as established by the Town. For structures that have a one-level parking garage, occupying at least 75 percent of the area under the building, the building height shall be measured

from the floor of the first habitable level. The vertical clearance of the parking garage shall not exceed ten feet, unless the clearance is a result of additional height required by the state. Additional vertical clearance otherwise proposed shall result in a reduction in the height of the structure. Building height shall be measured to the highest point of any portion of the building.

- (2) For the purpose of Article IV, bulk, maximum height, for single-family residences, the vertical distance shall be measured from the minimum habitable floor elevation as established by law to the highest point of any portion of the building.

*"Building line."* The line, established by law, beyond which any part of a building shall not extend, except as specifically provided by law.

*"Bulk."* Height and percentage of land or lot coverage of a building.

*"Business and professional offices."* Any room, studio, suite or building in which a person transacts business or carries on an occupation. An office shall not involve manufacturing, fabrication, production, processing, assembling, cleaning, testing, repair or storage of materials, goods and products, or the sale or delivery of any materials, goods or products that are physically located on the property. This definition does not include medical or dental clinics, but does include business offices that are accessory to a principal business.

*"Canopy."* An accessory structure either collapsible or portable in nature, other than an awning, covered by fabric or other nonrigid material carried by an open framework supported by the ground or building (see awning).

*"Capital Improvements Element" or "CIE."* The current adopted Capital Improvements Element of the Town of Longboat Key Comprehensive Plan. (Appendix, Section 10.01)

*"Capital Improvements Program" or "CIP."* The five-year schedule of capital improvements, including roads, adopted annually by the Town as part of the Town budget process and Comprehensive Plan. (Appendix, Section 10.01)

*"Cemetery."* Land used for the burial of the dead, and dedicated for cemetery purposes, including columbariums, mausoleums and mortuaries.

*"Charter fishing."* To hire, rent or lease for a fee, a vessel from which a person may fish for food or recreation.

*"Child care services."* A child care center or child care arrangement that provides child care for more than five children unrelated to the operator and that receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit, as defined by state law.

*"Civic center."* An area developed or to be developed, including, but not limited to, public buildings or uses, public offices, libraries, playgrounds, parks, assembly halls and police and fire stations.

*"Club, private."* Buildings or facilities, not open to the general public, owned and operated by an individual, corporation, or association of persons for social or recreational purposes for members and their bona fide guests, not operated or maintained primarily for the purpose of gaining a profit and not including casinos, nightclubs, bottle clubs or other establishments operated or maintained primarily for the purpose of gaining a profit.

*"Collapse zone."* The area surrounding a freestanding facility, which, in the event of a structural failure of all, or part, of the freestanding facility, would result in the freestanding facility falling or collapsing within the boundaries of the property on which the freestanding facility is placed. The collapse zone must equal at least 100 percent of the freestanding facility height.

*"Co-location."* The situation when a second or subsequent wireless provider uses an existing structure to locate a second or subsequent antennas. The term includes the ground, platform, or roof installation of equipment enclosures, cabinets, or buildings, and cables, brackets, and other equipment associated with the location and operation of the antennas.

*"Columbarium."* A final resting place for containers of cremated remains.

*"Commercial use."* An activity involving the purchase and sale or exchange of goods, commodities or services carried out primarily for the purpose of gaining a profit.

*"Community residential home."* A dwelling unit licensed to serve clients of the department of health and rehabilitative services, which provides a living environment for seven to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive Staff as may be necessary to meet the physical, emotional and social needs of the residents.

*"Completed" (application).* Determination by the Planning and Zoning Official or designee that an Applicant has submitted all requirements necessary for Staff to adequately review a request for a specific development review procedure, including (1) all applicable application forms; (2) all required supporting documentation; and (3) all required fees.

*"Comprehensive plan."* A Comprehensive Plan, which may consist of several maps, data and other descriptive matter, for the physical development of the Town or any portion thereof, including any amendments, extensions or additions thereto indicating the general location for major streets, parks, or other public utilities, zoning districts, or other similar information. The Comprehensive Plan shall be based on and include appropriate studies of the location and extent of present and anticipated population, social and economic resources and problems, and other useful data regarding the future development of the Town.

*"Concurrency."* A determination of adequate level of service based on adopted standards that measure whether the infrastructure and service needs of a new development exceed existing capacity or new capacity created by any scheduled improvements in the capital improvements element of the local government Comprehensive Plan. Concurrency is also defined through F.S. § 163.3180, as may be amended. (Appendix, Section 10.01)

*"Contiguous."* To physically touch or border upon; or to share a common property line.

*"Continuing education centers."* A public or private institution that provides educational instruction, in addition to standard primary, secondary or higher education.

*"Cubic content."* The gross internal volume of a building.

*"Cultural centers, nonprofit."* A not-for-profit use providing for the display, performance, or enjoyment of heritage, history or the arts. The use of the center can include, but is not limited to, museums, art performance, or interpretive sites, but does not include commercially operated theatres.

*"Davit."* A structure designated to hoist watercraft from a dock, seawall, or from the water.

*"Daylight plane."* The angle in degrees for single-family homes measured from side lot line boundaries projecting upward toward the center of the parcel beginning at minimum habitable floor elevation as established by law.

*"De Minimis Impact".* As it relates to the transportation proportionate fair-share program, an impact that would not generate more than 100 trips per day. (Appendix, Section 10.01)

*"Density, maximum gross."* The maximum allowable number of dwelling or tourism units per acre of gross land area, as determined by this Zoning Code. (See "Gross land area.")

*"Density, overall."* The maximum allowable number of tourism and dwelling units divided by the acreage of all property included respectively in the MUC-1, MUC-2, or MUC-3 zoning districts, including associated recreational areas, open space areas, road rights-of-way, wetland areas, and other nonresidential lands in each respective district. (See Article IV, Division 4.)

*"Departure."* A Departure is a type of formal modification of a standard or constraint of this Code that may be approved by the Town Commission when considering an application for a Planned Unit Development. A Departure is not a Variance and thus need not be predicated on conditions peculiar to the property or require a showing of unnecessary and undue hardship. See Section 158.036.

*"Developer."* Any person undertaking any development as defined in this section. (158.017(A)(1))

*"Development."* The carrying out of any building activities or mining operation or the making of any material change in the use or appearance of any structure or land or the dividing of land into two or more lots. Development shall include redevelopment of land or structures. For purposes of the parks and

open space acquisition requirements of this Chapter, "development" shall include any subdivision, whether or not the recording of a plat is required; any land on which a multiple-family dwelling unit, residential building, or grouping of the buildings or villas is to be built, including, but not limited to, rental cooperative or condominium units and including land to be used for commercial condominiums, tourism uses, or individual dwellings, the latter including the construction of a single-family lot or lots. (158.017(A)(2))

*"Development, major."* Any development requiring Outline Development Plan, Site Development Plan or Special Exception review by the Planning and Zoning Board or Town Commission.

*"Development, minor."* Any development not requiring Site Development Plan review by the Planning and Zoning Board or Town Commission including developments processed pursuant to Section 158.026.

*"Development order."* Any order granting, denying, or granting with conditions an application for a development permit (see Section 163.3164(15), Florida Statutes).

*"Development permit."* Any Building Permit, zoning permit, subdivision approval, rezoning, certification, Special Exception, Variance, or any other official action of local government having the effect of permitting the development of land.

*"Development proposal."* Includes, but is not limited to, Site Development Plans, rezone and Special Exception petitions, Building Permit applications, applications for Outline Development Plans proposals reviewed under the Town's codes.

*"Direct-to-home satellite services."* The only programming transmitted or broadcasted by satellite directly to the subscribers' premises without the use of ground receiving equipment, except at the subscribers' premises or in the uplink process to the satellite.

*"Dish antenna (earth station)."* A dish antenna intended for the purpose of receiving communication from, orbiting satellites and other extraterrestrial sources, a low-noise amplifier (L.N.A.) which is situated at the focal point of the receiving component for the purpose of magnifying and transferring signals, a coaxial cable for the purpose of carrying signals to the interior of a building, or a combination of any of these elements. It does not include a coaxial cable connected to any cable television system franchised by the Town.

*"Dish antenna height."* The distance measured vertically from the bottom of the base which supports the dish antenna to its highest point when positioned for operation.

*"Distributed antenna system (DAS)."* A network of spatially separated antenna nodes connected to a common source via a transport medium that provides personal wireless service within a geographic area or structure.

*"Dock."* A structure located beyond the mean high-water line built on piling, flotation devices, or projected over the water which is designed or used to provide mooring for and access to one or more boats. Necessary service such as water and other utilities are considered a part of a dock; however, no cooking, sleeping, or unrelated business activity shall be permitted or conducted on a dock.

*"Dock access ramp or stairs."* A ramp or stairs located landward of the mean high-water line which provides access to a boat dock which is no greater than five feet in width which extends a minimum length into the upland area to provide either access to grade that does not exceed a slope of 1:4 or reasonable clearance over shoreline wetland.

*"Driveway."* A private drive connecting a dwelling unit or other building and its adjacent parking area with the street.

*"Dwelling."* A building or portion thereof designed or used exclusively for residential occupancy.

- (1) *"Mobile home dwelling."* A vehicle or movable dwelling structure which is designed to be used as a dwelling unit for one family and which stands on wheels, on rigid supports, or on a foundation, but excluding prefabricated homes or sections thereof and travel trailers as defined herein.
- (2) *"Multiple or multifamily dwelling(s)."* A dwelling or group of dwellings on one lot, designed for residential occupancy for periods of not less than one month, containing separate living units



for three or more families living independently of each other. Multifamily dwellings may include apartments, cooperatives, and condominiums.

- (3) *"Single-family dwelling."* A detached dwelling designed for residential occupancy by one family on a single lot.
- (4) *"Two-family dwelling."* A dwelling designed for residential occupancy by two families living independently of each other within individual dwelling units on a single lot.
- (5) *"Townhouse dwelling."* A dwelling designed for residential occupancy by one family for periods of not less than one month that is attached to two or more single-family dwellings by a common wall or walls, with each dwelling unit located on its own parcel of land. The attached dwellings, as defined, constitute a building group.

*"Dwelling units (DU)."* A dwelling, room, or group of rooms including a kitchen and sanitary facilities designed and used exclusively for residential use as separate living quarters by not more than one family.

*"Erodable slope".* All slopes with inclines in excess of four percent unless modified by the public works director based on consideration of specific soil conditions. (158.102(K)(2)(c))

*"Essential services."* Public utility facilities related to the water, wastewater, sewer, storm drainage, solid waste, telephone, gas and electric collection, or distribution systems serving the Town; but not including cable television, personal wireless services, building housing employees or public safety facilities such as fire or police stations.

*"Family."* An individual, or two or more persons related by legal adoption, blood, or a licit marriage, or a group of not more than four persons who need not be related by blood or marriage, any of whom are living together as a single housekeeping unit in a dwelling, or a group of not more than 14 unrelated residents plus Staff who operate as the functional equivalent of a family in a community residential home.

*"FDOT".* The Florida Department of Transportation. (Appendix, Section 10.01)

*"FDOT TRIP".* The transportation regional incentive plan, as developed by the Florida Department of Transportation in order to provide matching funds for regionally significant projects to serve travel that transcends county or MPO boundaries. (Appendix, Section 10.01)

*"Fence."* A vertical structure, solid or otherwise, including walls, of any material or combination of materials, placed on a property to serve as an enclosure, barrier, boundary, screen or ornamental feature. The fence structure includes gates, ornamental features and lighting.

*"Financial Feasibility".* As it relates to the transportation proportionate fair-share program, sufficient revenues are currently available or will be available from committed funding sources for the first three years, or will be available from committed or planned funding sources for years four and five, of a five-year capital improvement schedule for financing capital improvements, such as ad valorem taxes, bonds, state and federal funds, tax revenues, impact fees, and developer contributions, which are adequate to fund the projected costs of the capital improvements identified in the Town of Longboat Key Comprehensive Plan necessary to ensure that adopted level of service standards are achieved and maintained within the period covered by the five-year schedule of capital improvements. The requirement that level of service standards be achieved and maintained shall not apply if the proportionate fair-share process set forth in F.S. §§ 163.3180(12) and (16) is used. (Appendix, Section 10.01)

*"Floor area."*

- (1) *"Minimum floor area."* Minimum floor area relative to residential use means minimum living area of the habitable floors, not including garage.
- (2) *"Total floor area."* The sum of the gross enclosed horizontal area of all of the floors of a building except a basement as defined, measured from the exterior faces of exterior walls or supporting columns.

*"Florist shop."* A small retail shop which sells cut flowers and other small decorative plants.

*"Freestanding facility."* A structure designed and constructed to support or house small cell technology or one or more antennae.

*"Frontage."* All the property on one side of a street between intersecting streets measured along the line of a street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.

*"Garage."*

- (1) *"Private garage."* A building or space used as an accessory to or part of a principal Building Permitted in any residence district and providing for the storage of motor vehicles and in which no business, occupation, or service for profit is in any way conducted.
- (2) *"Garage, public."* Any building or premises, other than a private garage, used exclusively for the temporary parking or storage of motor vehicles.

*"Golf course."* A tract of land improved with tees, greens, fairways, and hazards and maintained for playing the game of golf. Golf courses with at least eighteen holes may contain accessory uses such as clubhouses, restaurants, shelters, and spas.

*"Government buildings and services."* A municipal office, fire and police stations, public works buildings, post office, or other government uses for purpose of local or other government administration.

*"Grade."*

- (1) *"Finished grade."* The final elevation of the ground surface after development.
- (2) *"Natural grade."* The elevation of the ground surface prior to its preparation for development.

*"Grocery stores."* A retail establishment that primarily sells food and beverages, but also may sell other household goods, and which occupies at least 5,000 square feet.

*"Gross land area."* Those contiguous land areas under common ownership with the following provisions and exceptions:

- (1) In cases where land abuts the tidal waters of the Gulf of Mexico, Sarasota Bay, and all bayous, estuaries, tributaries and manmade canals thereof, the boundary of the land shall be delineated as established by F.S. ch. 177, pt. II, Coastal Mapping, or as may be amended.
- (2) No submerged land or aquatic areas waterward of the boundary above-described, shall be included as land under this definition. Submerged land or aquatic areas shall include both tidal waters as well as nontidal rivers, streams, lakes, and lands beneath the same. The upper limit of these waterbodies is the mean high tide line in tidal areas and the ordinary high-water line in nontidal areas.
- (3) No land areas proposed to be allocated to nonresidential uses shall be included as residential land area under this definition. Such nonresidential land shall not be calculated in density calculations, excepting contiguous areas under unity of title which are stipulated for use as:
  - (a) Infrastructure required to support the proposed residential development; or
  - (b) Recreational lands for the primary use of on-site residents.

*"Hedge."* A fence, boundary or barrier formed by a dense line of shrubs, bushes and trees or any combination of vegetation.

*"Height."* In relation to a personal wireless service facility, shall be measured from the ground or base level of the personal wireless facility to the highest point of the personal wireless service facility, including, but not limited, the highest point of the antenna or other telecommunications attachment.

*"Home occupation."* Any activity carried out for gain by a resident conducted as an accessory use in the resident's dwelling unit, and complying with the provisions of Section 158.109.

*"Hotel" or "motel."* A building or structure under a common or multiple ownership interest and single management that is designed, used, or held out to the public to be a place where sleeping accommodations are supplied for pay to transient guests or tenants. A hotel or motel, with or without individual kitchen or cooking facilities, may have accessory uses including meeting rooms, conference facilities, and one or more dining rooms, restaurants, cafes, or cocktail lounges where food and drink are served.

*"Impact Fee."* As it relates to the transportation proportionate fair-share program, the monetary exaction imposed at the time of issuance of Certificate of Occupancy on a pro rata basis in accordance with the average demand for road facilities created by the development of a principal use to provide funds for road facilities needed to address the demand generated by new development. As it relates to school concurrency, any fee levied for new development in order to fund school facilities needed to serve such development. (Appendix, Section 10.01)

*"Impermeable surface."* Any surface which prevents gases and liquids from penetrating into the ground, including, but not limited to, structures, pools, driveways, walks and parking areas; and excluding trellises, permeable wood decks, walls less than 12 inches in width, fences, and Har-Tru, clay and grass tennis courts.

*"Improved walking surface."* A paved area consisting of wood, plastic, carpet, pavers, tile, concrete or other similar materials.

*"Infrastructure."* Facilities and services needed to sustain industry, residential and commercial activities.

*"Landscaping."* Landscaping shall consist of those plantings required by this Chapter, including beautification strips, hedges, trees, planted groundcover, sodded and grassed areas, and planted floral installations, all of which must be composed of natural plantings only, as distinguished from artificially manufactured planting reproductions. In the event of involuntary damage or destruction, not caused by the actions or inactions of the property owner or the owner's agent, to any landscape required by this Code or Development Order, the property owner shall have six months from the date of any noncompliance caused by the involuntary damage or destruction to comply with the applicable landscape requirements.

*"Large flat surface area (unpaved)."* An area which is flat or whose slope is less than four percent and which consists of more than 1,000 square feet of exposed soil. (158.102(K)(2)(b))

*"Laundry and dry cleaning pickup stations."* An establishment or business maintained for the pickup and delivery of dry cleaning or laundry, without the maintenance, operation, or storage of any laundry or dry cleaning equipment, machinery, or supplies on the premises, with the exception of self-service laundromat equipment. A laundry plant, wherein the actual professional process of dry cleaning is performed, is strictly prohibited.

*"Lawn and garden center."* A retail center for the sale of trees, larger indoor and outdoor plants, seeds, fertilizers and other related supplies.

*"Legal conforming lots of record."* Shall be defined as those single-family lots, excluding lot remnants, as defined herein, which comply with the size and dimension regulations of the current Zoning Code, as may hereafter be amended.

*"Legal nonconforming lots of record."* Shall be defined as those lots, excluding lot remnants, as defined herein, existing at the effective date of the 1984 Comprehensive Plan Amendment, which were previously permitted pursuant to then existing Town ordinances and, because of changes in said Town ordinances, no longer conform.

*"Level of Service" or "LOS."* An indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of the facility. Level of service shall indicate the capacity per unit of demand for each public facility. (Appendix, Section 10.01)

*"Licensed design professional."* A design professional registered, licensed, and in good standing with the State of Florida and governing professional association board. For the purposes of verifying lot coverage and non-open space calculations, a licensed design professional shall be limited to architects, landscape architects, engineers and surveyors.

*"Light fixture"* shall mean any above ground pole, bollard, ground-mounted pathway light, and other similar structure utilized primarily for lighting or signalization, but which may also include Wi-Fi node facilities. This definition does not include wiring for street lighting which is required to be underground.

*"Liner building."* A building or portion of a building constructed in front of a parking garage, cinema, supermarket, or similar building to conceal large expanses of blank wall area with a facade that has doors and windows.

*"Lot."* A parcel of land of at least sufficient size to meet minimum zoning requirements, occupied or intended for occupancy by a building together with its accessory buildings, including the open space required under this Chapter. For the purpose of this Chapter the word "lot" shall be taken to mean any number of contiguous lots or portions thereof not separated by a street, public way or waterbody upon which one or more main structures for a single use are erected or are to be erected. Includes "plot" or "tract".

- (1) *"Corner lot."* A lot abutting upon two or more streets at their intersection (see Section 1 of the appendix following this Chapter).
- (2) *"Interior lot."* A lot other than a corner lot having frontage on one street (see Section 1 of the appendix following this Chapter).
- (3) *"Through lot."* An interior lot having frontage on two streets, other than a corner lot (see Section 1 of the appendix following this Chapter).

*"Lot coverage."* That percentage of the lot area covered or occupied by principal and accessory buildings, excluding roof overhangs not to exceed two feet, as verified by a licensed design professional. Lot coverage has the same meaning as building coverage and land coverage.

*"Lot depth."* The depth of a lot is the distance measured by a straight line from the midpoint of the front lot line to its intersection with the midpoint of the rear lot line.

*"Lot lines."* For the purpose of calculating density, lot, yard and bulk requirements, the lines bounding a lot, as herein defined, as established by ownership, except that:

- (1) Where a lot line lies within a public or private street, the edge of the street or the right-of-way shall be considered the lot line.
- (2) Where a lot line lies within a public or private waterway, the mean high-water line, waterway right-of-way, erosion control line (ECL), bulkhead or bulkhead line, whichever is most landward, shall be considered the lot line.

*"Lot remnants."* Shall be defined as a lot or parcel which is too small to accommodate a building complying with the setback and building area requirements of the current Zoning Code, as hereafter may be amended.

*"Lot width."* The width of a lot is the distance between the side lot lines measured along the minimum street setback (yard) line as required for the district in which it is located. This measurement is illustrated for rectangular and non-rectangular lots in the appendix to Chapter 157.

*"Lounge."* See Bar.

*"Manatee Protection Plan (MPP)."* A state-approved summary of manatee data, strategies, and management actions aimed at protecting manatees in a specific area or county.

*"Marina facilities."* A commercial establishment, containing docking facilities or mooring facilities, where boats or boat accessories are berthed, stored (wet and dry storage), serviced, repaired, or kept for rent, and where facilities for the sale of marine fuels or lubricants, accessory retail sales, including bait and fishing equipment, and a taxi may be provided. Wastewater pumping facilities may also be provided.

*"Mature replacement tree."* A tree as defined in Subsection 98.06(B), but having as a minimum, the following dimensions:

- (1) A diameter of two inches or more measured 4½ feet above ground level.
- (2) At least ten feet in height when planted and reach a height of at least 25 feet from ground level and a canopy spread of at least 20 feet at maturity. Three palm trees grouped to create a canopy of not less than 15 feet may be used to replace a shade tree.

*"Mean high-water line."* The intersection of the tidal plane of mean high-water with the shore (source: F.S. § 177.27(15)).

*"Mean low-water."* The average height of the low-waters over a 19-year period. For shorter periods of observation, it is the average height of the low-waters after corrections are applied to eliminate known variables and to reduce the results to the equivalent of a mean 19-year value (source: F.S. § 177.27(16)).

*"Medical clinic."* A building designed or used to house the offices of one or more practitioners of the healing arts where patients are treated on an outpatient basis.

*"Minimum habitable floor elevation."* For structures other than single-family residences, the minimum habitable floor elevation will be the minimum height necessary to comply with federal, state and Town flood regulations and to allow for the use of at least 75 percent of the understructure area for one story of parking in order to encourage open space.

*"Mitigation."* To lessen or eliminate the negative impact of development.

*"Mobile home park."* Any parcel of land which is designed for or contains two or more mobile home dwellings.

*"MPO."* The Sarasota/Manatee Metropolitan Planning Organization. (Appendix, Section 10.01)

*"Multifamily."* A classification of higher density residential use. See "dwelling, multiple or multifamily dwelling".

*"Neighborhood convenience store."* A retail store intended for the convenience of the neighborhood, with a floor area of less than 2,500 square feet that sells food and may also sell other household goods. Does not include gasoline sale.

*"Nonconforming building or structure."* A building or structure which does not conform to the yard or bulk regulations of this Chapter pertaining to the district in which it is situated.

*"Nonconforming lot."* A lot which does not conform to the schedule of lot regulations of this Chapter pertaining to the district in which it is located.

*"Nonconforming use."* A use that does not conform to the regulations of the district in which it is situated.

*Non-open space."* The area that is not Open Space.

*"Nonresidential use."* The use of land, water, or buildings and structures or a portion thereof, for anything other than a residential use, including, but not limited to, tourism, commercial, office, recreational, and institutional uses, together with facilities to support the uses including parking lots, parking garages and utility, storage and maintenance buildings.

*"Nursing home."* As defined by state law, a facility that provides nursing services, personal care, or custodial care for three or more persons not related to the owner or Manager by blood or marriage, requiring such services, but does not include any place providing care and treatment primarily for the acutely ill.

*"Off-street parking and loading."*

1. *Off-street parking.* An area for the purpose of parking motorized vehicles off of the street, to be utilized as an accessory use to the principal use on the property unless otherwise permitted in Section 158.100.
2. *Loading.* An unobstructed area provided and maintained off-street for the temporary parking of trucks and other motorized vehicles for the purpose of loading and unloading goods, wares, materials, and merchandise, in compliance with Section 158.101 of this Chapter.

*"One dwelling unit for use by owner, employee, or lessee."* A single residential unit limited in size by Section 158.072, accessory use, for the exclusive use of the connected commercial business owner, employee of the business, or lessee of the building.

*"Open space."* Area comprised of permeable open surfaces excluding principal structures and impermeable surfaces. For the purpose of calculating residential, nonresidential and mixed use open space requirements of this Chapter, "open space" shall not include impermeable surface as defined in Section 158.144; parking lots and driveways, whether paved or unpaved; swimming pool shells and decks; or any at-grade impermeable feature. Active recreation areas may be counted as open space.

Other active recreation areas which are not defined as impermeable surface as defined in Section 158.144 and not covered by an impermeable structure shall be included as open space. (158.030(E)) Pervious and semi-pervious parking may be counted toward meeting open space standards subject to the requirements of Section 158.100(R), Incentives for Pervious and Semi-Pervious Parking.

*"Open space, common."* Land or water, within or related to a development, landward of the established mean high-water line, bulkhead or bulkhead line, whichever is most landward; and comprised of areas not defined as impermeable surface and which are designed and intended for the common use or enjoyment of the residents of the development.

*"Open space district."* A zoning district as described in Article IV of the Town Code.

*"Outdoor dining area."* An area abutting an enclosed space, located in either a nonrequired yard, a required street yard, or a required pass, bay or canal waterfront yard, where patrons of a restaurant can enjoy food and drink service.

*"Outline development plan."* The documents submitted for Planned Unit Development (PUD) approval are known as an Outline Development Plan (ODP). Outline development plans include a proposed Site Development Plan, generally a binding concept plan but under some circumstances a Final Site Development Plan. See Sections 158.036 and 158.106.

*"Park."* An area designated and used by the public for active or passive recreation.

*"Parking agreement."* An agreement for shared use of parking facilities, that includes provisions for: right of enforcement by the Town of Longboat Key; and, the agreement is valid only as long as the conditions described in the application for the shared parking exist; the agreement must be in the form of a reciprocal agreement acceptable to the Town Attorney and shall be recorded with the clerk of the circuit court. A copy of the recorded easement shall be submitted to the Planning and Zoning Official within ten days of recording.

*"Parking lot."* An open area or plot of land used exclusively for the parking of motor vehicles including aisles, either for profit or gratis, for commercial or residential uses.

*"Parks and recreation areas."* Land designed, used, or intended to be used for recreational activities by residents and visitors with on-site improvements, structures, or other active, player-oriented facilities such as playgrounds, ball fields, tennis courts, and associated accessory facilities.

*"Person."* An individual, a group of individuals, or an association, firm, partnership, corporation or other entity, public or private, whether singular or plural.

*"Personal services."* An establishment that offers specialized services and accessory retail sales of specialized goods purchased frequently by the consumer. Included are garment repair, tailoring, shoe repair, jewelry sales and repairs and other similar services.

*"Personal wireless service."* Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access facilities and those defined by the Federal Telecommunications Act of 1996.

*"Personal wireless service facility" or "Personal Wireless Service Facilities."* Facilities used for the provision of personal wireless service including any freestanding facility, antennae, distributed antennae system, or small cell technology.

*"Personal wireless service provider."* A company licensed by the Federal Communications Commission (FCC) that provides personal wireless service. A builder or owner of a personal wireless service facility is not a personal wireless service provider unless licensed to provide personal wireless services.

*"Photography, art or music studios."*

1. *Photography studio.* A building or part of a building used primarily for the taking of photos, developing of film, and print processing, includes portrait and commercial photography, as well as the sale of film and other photographic equipment, and the repair of photographic equipment.

2. *Art studio.* A building or part of a building used primarily as a workspace for artists or artisans. Includes the application, teaching, or performance of fine arts such as drawing, painting, sculpture, and writing. Works of art may be exhibited or sold. Also includes the sale of art supplies.
3. *Music studio.* An acoustically engineered/designed building or part of a building used primarily as a workspace for individuals practicing or performing vocal or instrumental music.

*"Petitioning party."* An individual, a group of individuals, or an association, firm, partnership, corporation or other entity, public or private, whether singular or plural seeking a review of any decision or determination of a Board, Official, or Commission of the Town.

*"Planned unit development (PUD)."* A development review and approval process that allows approval of a conceptual Site Development Plan, known as a binding concept plan, prior to preparation and submission of a detailed site plan known as a final Site Development Plan. The PUD process also allows landowners to seek Departures from certain provisions of this Code at the conceptual design stage. The documents submitted for PUD approval are known as an Outline Development Plan. PUD approval does not change a property's zoning district, but most density limits are reduced by Section 158.039 and the terms of the Outline Development Plan become binding on the property after PUD approval. (158.006)

*"Planning and Zoning Board."* The Longboat Key Planning and Zoning Board, the legally constituted membership of the Planning and Zoning Board of Longboat Key, Florida, as referenced in this Chapter and appointed by the Town Commission in accordance with Chapter 33 of the Town's Code of Ordinances. The Longboat Key Planning and Zoning Board is the local planning agency.

*"Planning and Zoning Official."* The official designated by the Town Manager as the individual responsible for the administration and enforcement of these regulations.

*"Plant nursery."* Any lot, structure or premises used as a commercial enterprise for the purpose of growing or keeping of plants for sale or resale.

*"Pool."* Same as "swimming pool".

*"Pool safety fence."* An artificially constructed barrier, the minimum height required to comply with the applicable building code for child safety, and is erected for the sole purpose of encircling a swimming pool, wading pool or spa.

*"Porch."* A roofed extension of a building that is attached or part of and has direct access to the building. A porch may be screened but not air conditioned or heated. Each wall of a porch may not be enclosed by more than 50 percent.

*"Porte-cochere."* A porch roof projecting over a driveway at the entrance to a building.

*"Pre-existing legal use"* A use of land, designated as Mixed Use Communities on the Zoning Map, that lawfully existed on January 1, 2014. A use that qualifies as a "pre-existing legal use" may also be classified as a nonconforming use, but by virtue of its listing in Article IV, it shall be afforded the privileges of a permitted use and may be reconstructed up to its pre-existing density in accordance with all applicable current regulations, but only on the specific parcel on which it is located.

*"Principal use or building."* A use or building in which is conducted the predominant or primary function or activity of the lot on which it is located.

*"Private docks."* Docks and dock facilities for the exclusive use of residents and residents' guests.

*"Private noncommercial dish antennas."* A dish-shaped antenna intended for private enjoyment of personal communications.

*"Private recreational facilities."* Recreation facilities, of an approved development, for the exclusive use of the residents, members, occupants and guests.

*"Private swimming pools or cabanas and related structures."* Swimming facilities, including cabanas, and related structures for the exclusive use of members and their guests. Members may in some instances include residents of a specific residential development.

*"Proportionate-Share Mitigation."* A method to allow a developer to resolve deficiencies in school capacity. (Appendix, Section 11.01)

*"Public beach."* Land, either in private or public ownership, abutting the Gulf of Mexico or Sarasota Bay, designed, used, or held out as a place for one or more persons to participate, actively or passively, in sunning, swimming, camping, picnicking, or other similar activities either for a fee or at no charge; provided however, that such use by an owner or owners and their guests or tenants shall not constitute a public beach.

*"Rear yard."* See "Yard".

*"Recreation, active."* Leisure time activities, usually of a more formal nature and performed with others, often requiring equipment and taking place at prescribed places, sites or fields.

*"Recreation, passive."* Any leisure time activity not considered active.

*"Recreational use."* The use of land, water, or buildings and structures or a portion thereof, for active or passive recreational purposes either public or private. Recreational uses may also include structures and improvements designed to support recreational activities such as clubhouses, netting, screens, parking lots, parking garages, and utility, storage, and maintenance buildings. A recreational use may be an accessory or additional use to residential or nonresidential uses depending on the manner in which it is primarily used and approved.

*"Redevelopment."* See Development.

*"Remuneration."* Compensation, money, rent, reward, bonus, prize or other consideration given by a person or someone on that person's behalf in return for occupancy, possession or use of real property.

*"Rendition" (of a decision or order).* A written issuance of an order, requirement, decision or determination by the Planning and Zoning Official, including any Board, Department or Commission of the Town.

*"Residential use" or "residential occupancy."* The use of a building, or portion thereof, designed for and used for occupancy periods of not less than 30 days. "Residential use" may allow for occupancy periods of less than 30 days by one family, and only that same family, and shall not preclude visitation by guests, provided that such property is not used as a tourism use for remuneration.

*"Restaurant."* A business establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in nondisposable containers, and where the customer consumes these foods while seated at tables or counters located within the building.

*"Revitalization."* The process of giving new vitality to aging commercial or housing stock.

*"Riparian line."* The line which defines the limits of the riparian rights of a property which abuts the mean high-water line.

*"Roof overhang."* The part of a roof that extends beyond the facade of a lower wall. Roof overhangs are often used for ornamental effect and to protect against weather.

*"Rooftop antenna platform."* A raised structure that is either horizontal or perpendicular to a rooftop and that is capable of placing one or more antennas on the structure.

*"Search area."* The geographic area in which a personal wireless service provider's antenna is intended to be located to provide the personal wireless service provider's designed service.

*"Sedimentation."* The settling out of the soil particles which are transported by water or wind. Sedimentation occurs when the velocity of water or wind in which soil particles are suspended is slowed to a sufficient degree and for a sufficient period of time to allow the particles to settle out of suspension or when the degree of slope is lessened to achieve the same result. (158.102(K)(2)(b))

*"Service Area."* The geographic area where students who reside within such area must attend a designated public school as provided for under F.S. § 163.3180(13), as amended. (Appendix, Section 11.01)

*"Service station."* A building or lot where gasoline, oil, and greases are supplied and dispensed to the motor vehicle trade, or where battery, tires, or other repair services except body work or painting are rendered.



*"Service stations and other minor retail sales, services and repairs oriented to the motoring public, excluding body repair and finishing."* An establishment where gasoline and other petroleum or alternative fuel products for motorized vehicles are sold as the principal use of the property. Light maintenance activities such as engine tune-ups, lubrication, and minor repairs may also be provided if incidental to such principal use. Shall not include body repair and finishing.

*"Shared parking."* The use of the same off-street parking spaces for two or more distinguishable uses where peak parking demand of the different uses occurs at different times of the day, or where various uses are visited without moving the automobile, and where the provision of parking spaces is a net decrease from the combined total of each use individual off-street parking requirements, if provided separately. Shared parking shall be approved through a parking agreement.

*"Side yard."* See "Yard".

*"SIS."* The strategic intermodal system as established by the Florida Department of Transportation. SIS is a state-wide network of high-priority transportation facilities, including the state's largest and most significant commercial service airports, spaceport, deepwater seaports, freight rail terminals, passenger rail and inter-city bus terminals, rail corridors, waterways and highways. (Appendix, Section 10.01)

*"Site Development Plan."* A detailed plan that must be approved in accordance with the standards and procedures of Article III, Division 5 before Building Permits can be obtained for land uses listed as "Permitted uses with Site Development Plan review" in Article IV. A Site Development Plan is also referred to in this code as a site plan.

*"Small cell."* Low power radio access node that operates in both the licensed and unlicensed spectrum and typically has a range of 30 feet to hundreds of yards, which can provide either indoor or outdoor wireless coverage. This term may include femtocells, microcells, picocells, and other similar technology.

*"Small limited-item shop and stores restricted to retail sales of convenience items and services."* A specialty shop, personal service business, neighborhood convenience store, or combination thereof, not to exceed 10,000 gross square feet.

*"Small-scale drugstores."* A retail store, not to exceed 10,000 gross square feet, where medicines and miscellaneous articles are sold.

*"Small-scale specialty shop."* A retail store, not to exceed 10,000 gross square feet, which specializes in a specific range of merchandise and related items. Excludes department stores and supermarkets, which carry a wide range of merchandise.

*"Small-scale tourist-oriented facilities."* A store, not to exceed 10,000 gross square feet, where the primary business is the selling of retail goods and providing of services targeted toward the tourist.

*"Soil erosion."* Any removal or loss of soil by the action of water, gravity or wind. Erosion includes both the detachment and transport of soil particles. (158.102(K)(2)(a))

*"Special exception."* A use that would not be appropriate generally or without restriction throughout a particular zoning district but would, if controlled as to number, area, location or relation to the neighborhood, would not adversely affect the public health, safety, comfort, good order, appearance, convenience, morals and general welfare.

*"Staff Working Group."* As it relates to school concurrency, a group consisting of planning and other Staff designated by the Town, county, school board, and other cities, with the primary responsibility for implementing the interlocal agreement for public school facility planning. (Appendix, Section 11.01)

*"Statement of zoning compliance."* A statement issued by the Planning and Zoning Official setting forth that the permitted construction has been completed in compliance with the approved plans and specifications and conforms with all provisions of this Chapter.

*"Story."* That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

*"Street."* A facility, either public or private and either deeded or by easement, which affords the primary access to abutting property and is intended for general traffic circulation. A street includes the entire area between street lines (right-of-way lines).

"*Street line.*" The line between the street and abutting property; also referred to as right-of-way line.

"*Street yard.*" See "Yard".

"*Structural alterations.*" Any change, except the repair or replacement, in the supporting members of a building, such as walls, columns, beams, or girders or the rearrangement of any interior partitions affecting more than five percent of the floor area of the building.

"*Structure.*" A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water. Includes "building". See "Building".

"*Structure, height of.*" Any structure other than buildings shall be measured from finished grade, except as provided in Subsection 158.102(F).

"*Supporting facilities for public passive recreational activities.*" Facilities such as nature trails, nature centers, and associated accessory structures such as restrooms, boardwalks, docks, and parking areas.

"*Swimming pool.*" A water-filled enclosure, permanently constructed or portable, having a depth of more than 18 inches below the level of the surrounding land, or an above-surface pool, having a depth of more than 30 inches, designed, used and maintained for swimming or bathing.

"*Temporary personal wireless service facility.*" A portable personal wireless service facility that is designed for use during a declared emergency by the Town and can typically be mounted on or towed by a vehicle or trailer.

"*Time-sharing.*" The use of any dwelling or tourism unit under which the exclusive right of use or occupancy of the unit circulates among various occupants in accordance with a fixed time schedule on a periodically recurring basis for a period of time established by the schedule. "Time-sharing" may take the form of a residential use or a tourist use, as defined in this Section, depending on the period of occupancy, and will be regulated accordingly.

"*TIP.*" The most recently adopted Florida Department of Transportation Improvements Program. (Appendix, Section 10.01)

"*Tourism unit (TU).*" A building, or portion thereof, including a room or rooms, designed or used for tourism use. Any room or rooms capable of being separated as a self-contained entity by permanent or movable walls or doors with individual access to a public corridor, public access area, or exterior, shall each be counted as one "tourism unit".

"*Tourism use.*" Use, or occupancy, or the design for such use or occupancy, by any person, of any property for transient lodging purposes where the term of occupancy, possession or tenancy of the property by the person entitled to such occupancy, possession or tenancy is less than 30 consecutive calendar days or one entire calendar month, whichever is less.

"*Town Commission.*" The Commission, as legally constituted, of the Town of Longboat Key.

"*Town-owned or Town-operated marine facilities.*" Publicly owned marine facilities.

"*Transportation Network.*" As it relates to the transportation proportionate fair-share program, all existing roadways serving the Town of Longboat Key for which level of service standards have been adopted, and any proposed public roadways for which standards may be adopted. (Appendix, Section 10.01)

"*Travel trailer*" or "*recreational vehicle.*" A vehicle used for temporary or recreational living or sleeping purposes, and standing on wheels, whether self-propelled or requiring a separate vehicle for power.

"*Trellis.*" A frame structure with frangible latticework with a maximum opacity of 60 percent on all surfaces.

"*Unlicensed wireless service.*" The offering of personal wireless service using authorized devices which do not require individual licenses, such as Wi-Fi, but does not mean the provision of direct-to-home satellite service.

"*Used for.*" Includes "designed for".

*"Utility pole."* A structure owned or operated by a public utility, municipality, electric membership corporation, or rural electric cooperative that is designed specifically for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

*"Vacant land."* Any lot or parcel of land which is completely open, has no use associated with or upon it and is not utilized as the required yard area for any adjoining uses.

*"Variance."* A Variance is a type of formal modification of the dimensional or numerical requirements of the Zoning Code not contrary to the public interest. A Variance is authorized only for height, area, and size of structure or size of yards and open spaces, due to conditions peculiar to the property and not the result of the actions of the Applicant, where a literal enforcement of the Chapter would result in unnecessary and undue hardship, to the extent that such Variance is consistent with the Comprehensive Plan.

*"Waiver."* A grant of permission that authorizes an Applicant to deviate from specific standards or provisions of these regulations. Under the following circumstances, Waivers may be granted in accordance with the cited code provisions:

- (1) For dredging, granted by the Town Manager or designee (Section 152.06).
- (2) For daylight plane regulations, granted by the Planning and Zoning Board pursuant to Sections 158.010 and 158.098.
- (3) For supplemental controls on multifamily residential or tourism uses, granted by the Town Commission (Subsection 158.030(K)).
- (4) For parking, granted by the Planning and Zoning Board (Subsection 158.100(P)).
- (5) For landscaping and screening, granted by the Planning and Zoning Board, (Section 158.103).
- (6) For Commercial Revitalization, granted by the Planning and Zoning Board or by the Planning and Zoning Official (Section 158.046).

*"Waterfront yard."* See "Yard".

*"Wetland areas."* Generally defined as nonforested, forested, and mixed forested saltwater areas, and nonforested, forested, and mixed forested freshwater areas. For purposes of these regulations, wetland areas must have one or more of the following three attributes: 1.) at least periodically it supports predominantly hydrophytes; 2.) the substrate is predominantly undrained hydric soil; and 3.) the substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year.

*"Wi-Fi."* A term used to certify the interoperability of wireless computer networking devices.

*"Windwall."* A wall built as a minor structure, not to exceed three feet in height, with minimum penetration into the ground necessary to support the wall.

*"Worship center."* A building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith.

*"Yard."* An open space on the same lot with a building unoccupied and unobstructed from the ground upward, except by trees or shrubbery, or improvements and usages as specifically provided herein.

- (1) *"Required street yard."* A yard across the full width of the lot, extended from the front building line, including open porches, to the front street line of the lot (see Section 1 of the appendix following this Chapter).
- (2) *"Required rear yard."* A yard extending across the full width of the lot and measured between the rear line of the lot and the rear building line of the main building. In the case of corner lots, the rear yard shall be the yard opposite the yard designated as the front yard (see Section 1 of the appendix following this Chapter).
- (3) *"Required side yard."* A yard on the same lot with a building between the building line and the side line of the lot extending through from the front building line to the rear yard or to the rear

line of the lot, where no rear yard is required (see Section 1 of the appendix following this Chapter).

- (4) *"Required waterfront yard."* A yard on lots abutting a waterfront measured from the waterway right-of-way, mean high-water line, bulkhead, bulkhead line, erosion control line, whichever is most landward, or as otherwise provided in Section 158.094 and the closest building line.

*"Youth recreation centers."* Buildings and land used for youth-oriented recreational activities.

*"Zoning Board of Adjustment."* A board appointed by the Town Commission; see Section 158.010.

(158.006)

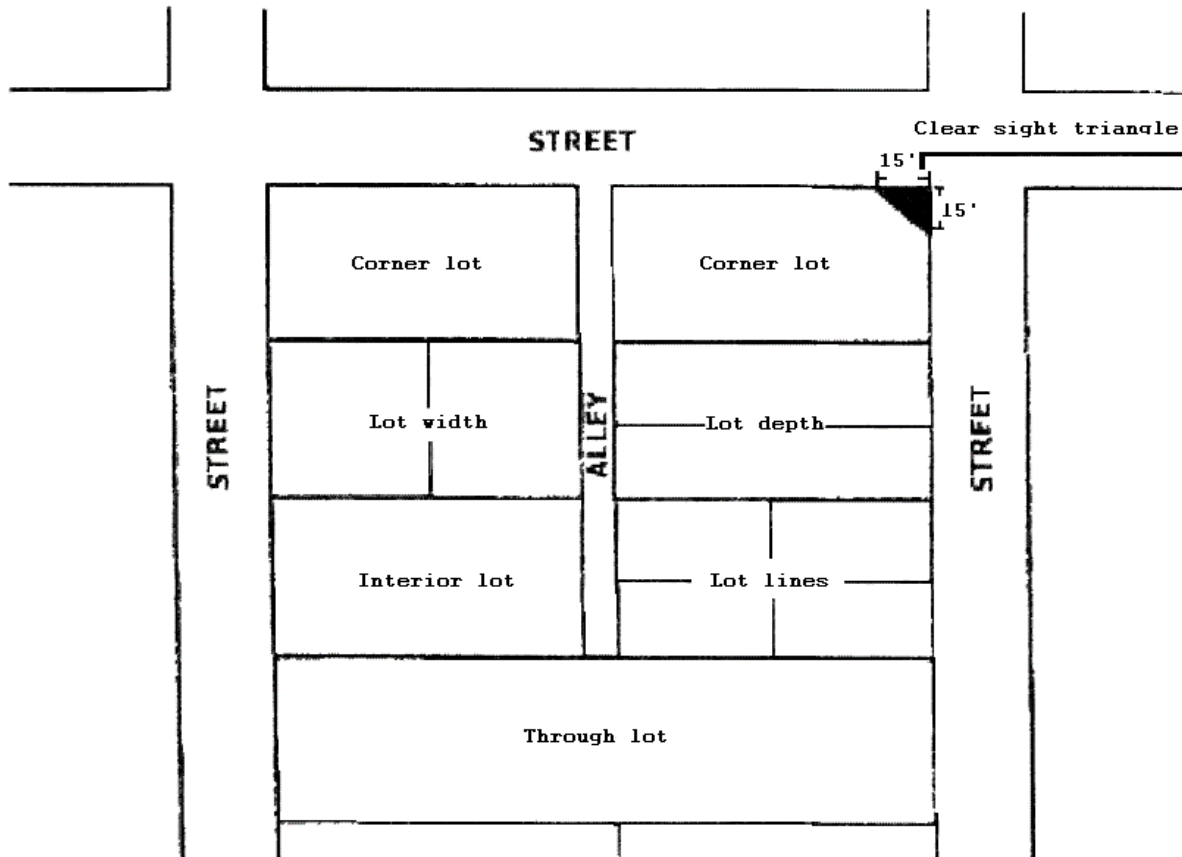
**158.145 – Reserved.**

**158.146 – Reserved.**

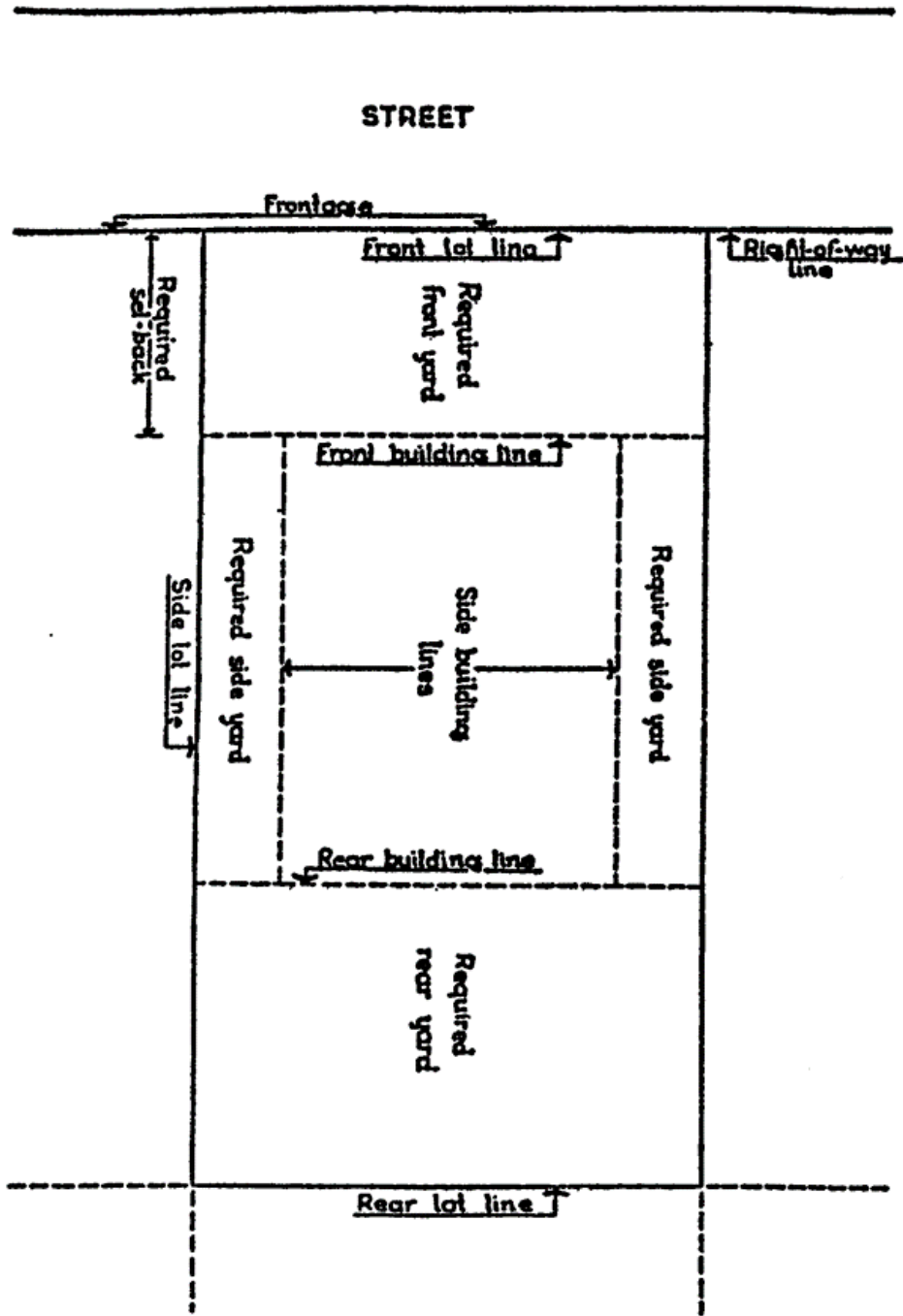
# Article XI. – Appendices

## FIGURE 1 – LOT ILLUSTRATIONS

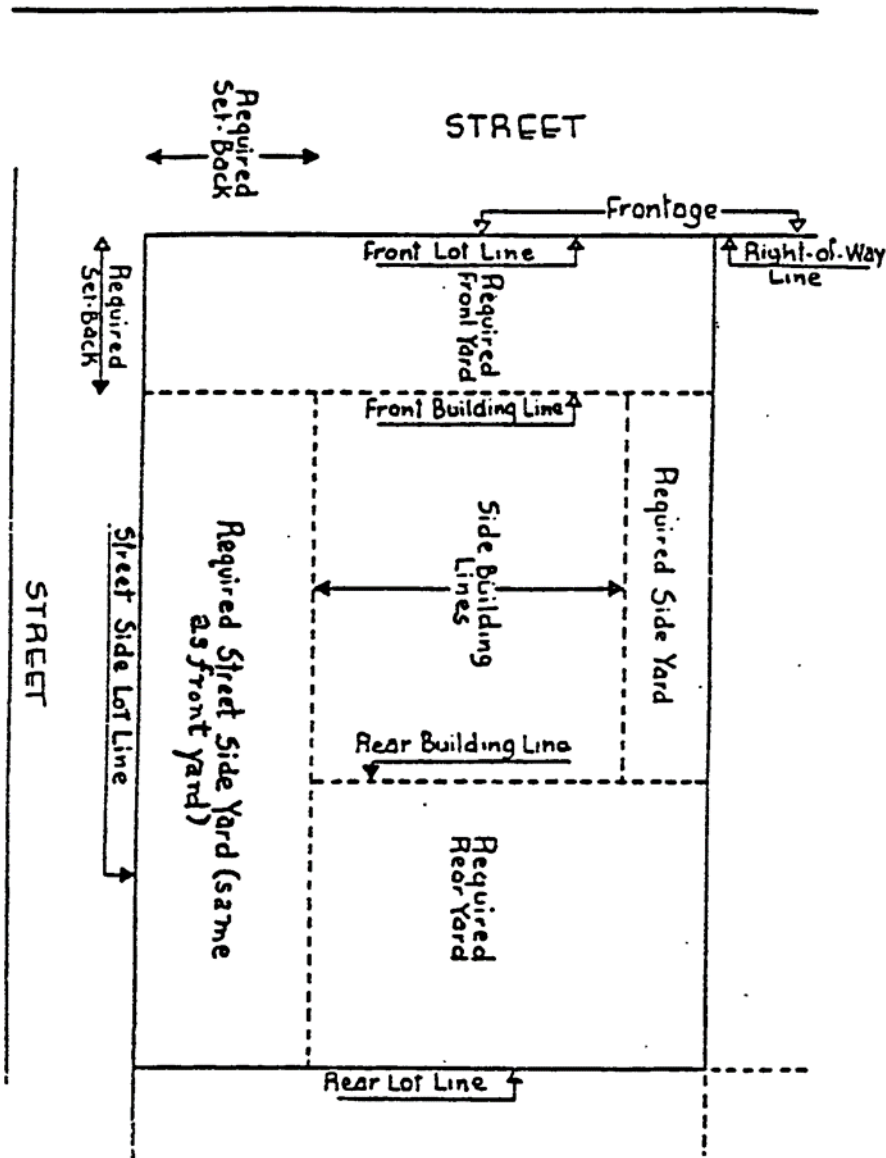
(A) Lot definitions, general.



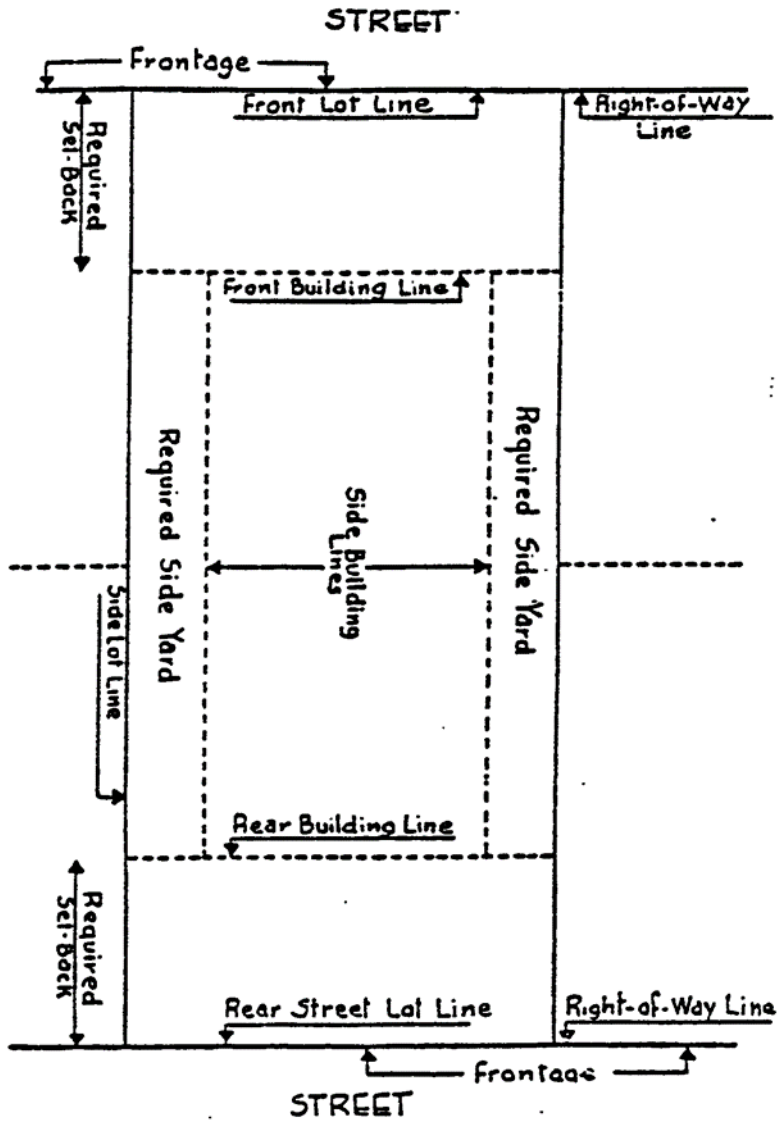
(B) Yard definitions, interior lot.



(C) Yard definitions, corner lot.



(D) Yard definitions, through lot.

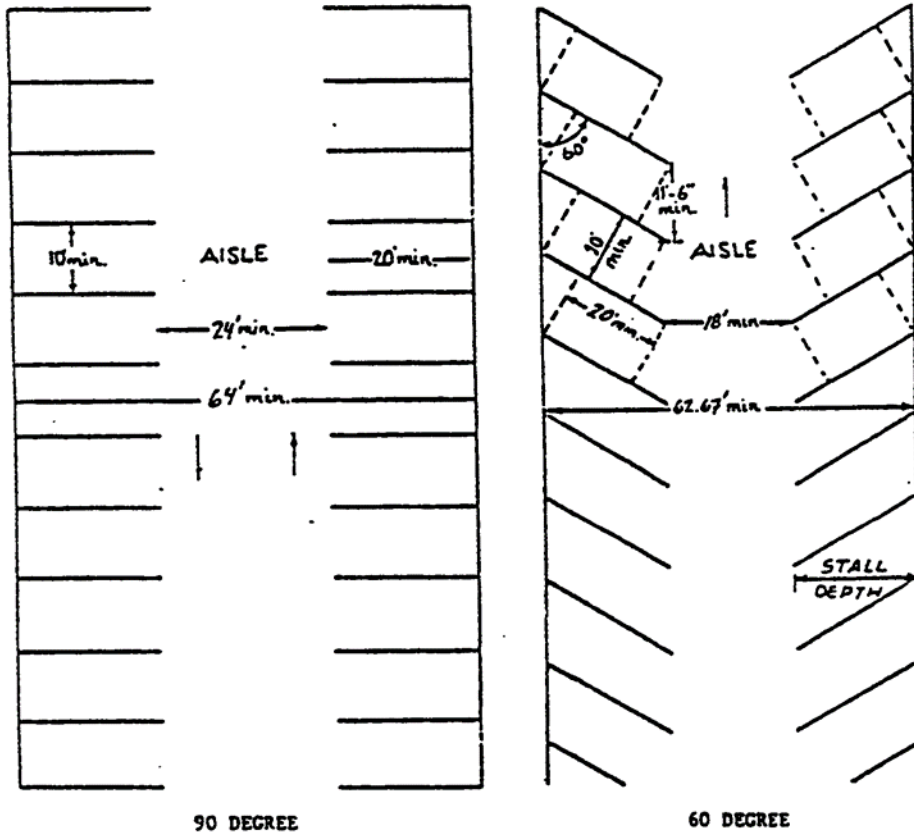


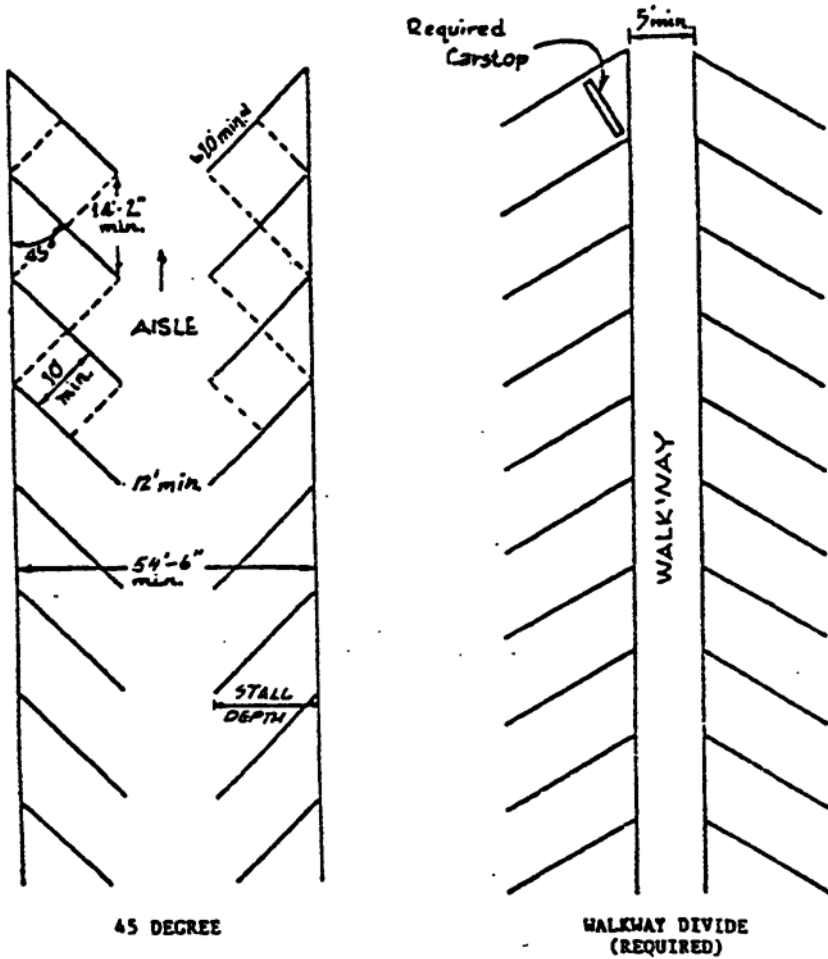


# FIGURE 2 – PARKING AREA ILLUSTRATIONS

The following illustrations are designed to illustrate the requirements of Section 158.100.

(A) Off-Street Parking Area Standards.

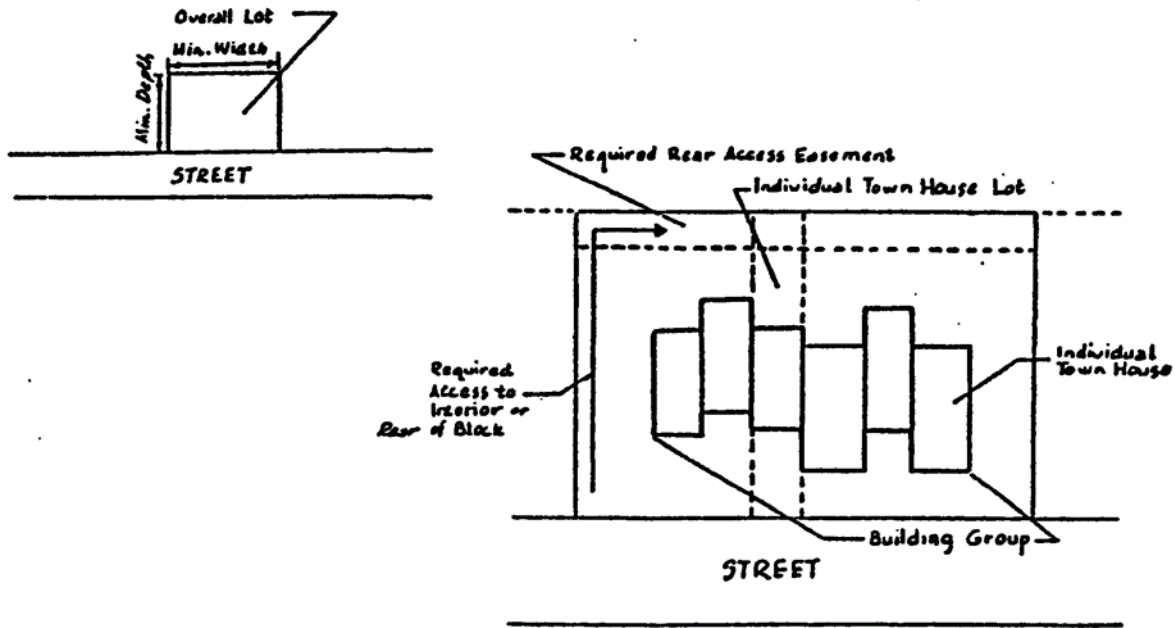




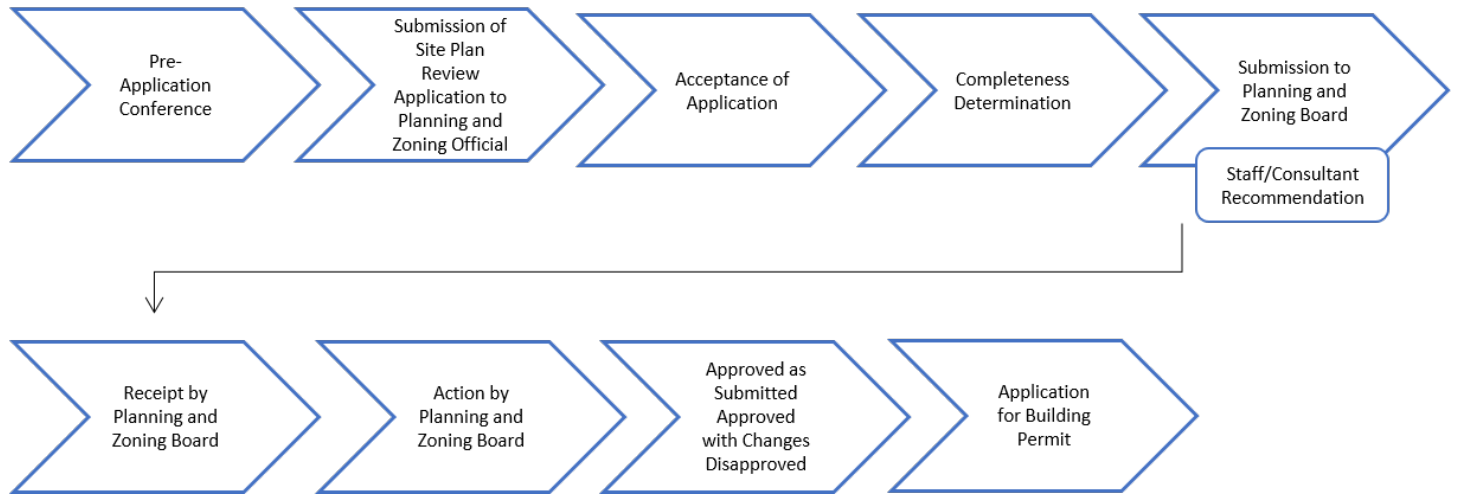
(B) Schedule of Parking Area Key Dimensions.

Degrees From Curb	Stall Width (feet)	Curb Length per Car (feet)	Stall Depth (feet)	Minimum Drive (feet)	Lot Width One Row Plus Drive (feet)	Lot Width Two Rows Plus Drive (feet)	Lot Width Four Rows Two Drives Plus Walkway (feet)
0	10	24.00	10.00	12	22.00	32.00	73
45	10	14.17	21.25	12	33.25	54.5	114
60	10	11.50	22.33	18	40.35	62.67	130.5
90	10	10.00	20.00	24	44.00	64.00	133

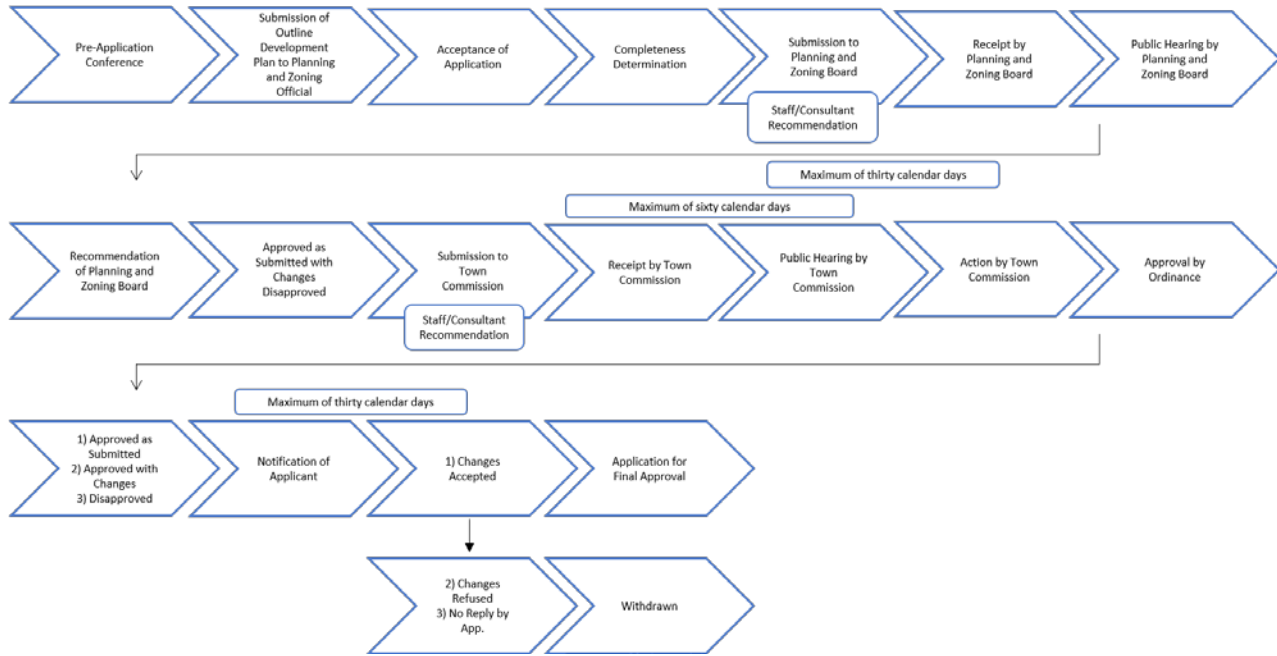
FIGURE 3 – TOWNHOUSE ILLUSTRATIONS



**FIGURE 4 – SITE DEVELOPMENT PLAN REVIEW PROCEDURE CHART**

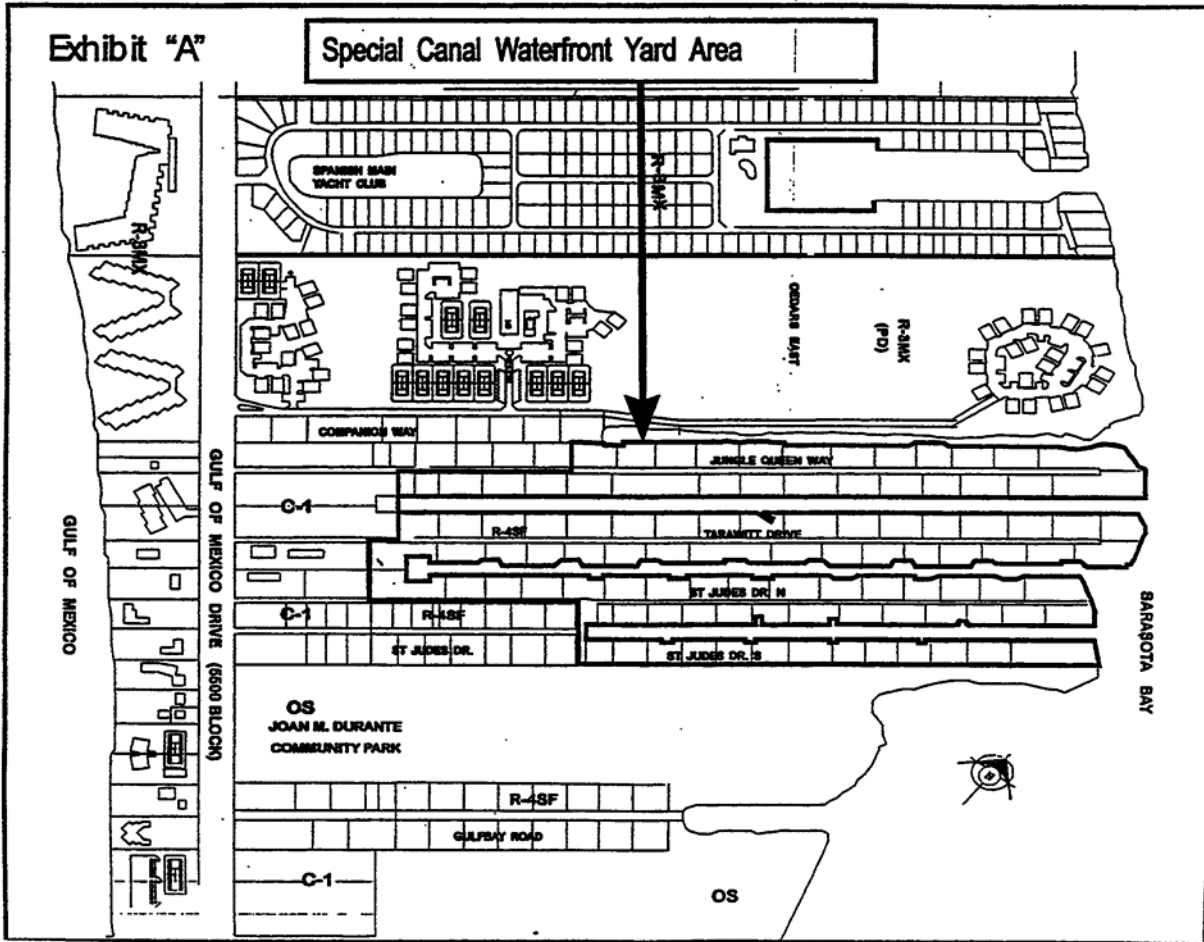


**FIGURE 5 – PLANNED UNIT DEVELOPMENT PROCEDURE CHART**



**FIGURE 6 – SPECIAL CANAL WATERFRONT YARD AREA ILLUSTRATIONS**

(A) Special Canal Waterfront Yard Area.



(B) Illustration of Minimum Canal Waterfront Yard Requirements in the Special Canal Waterfront Yard Area.

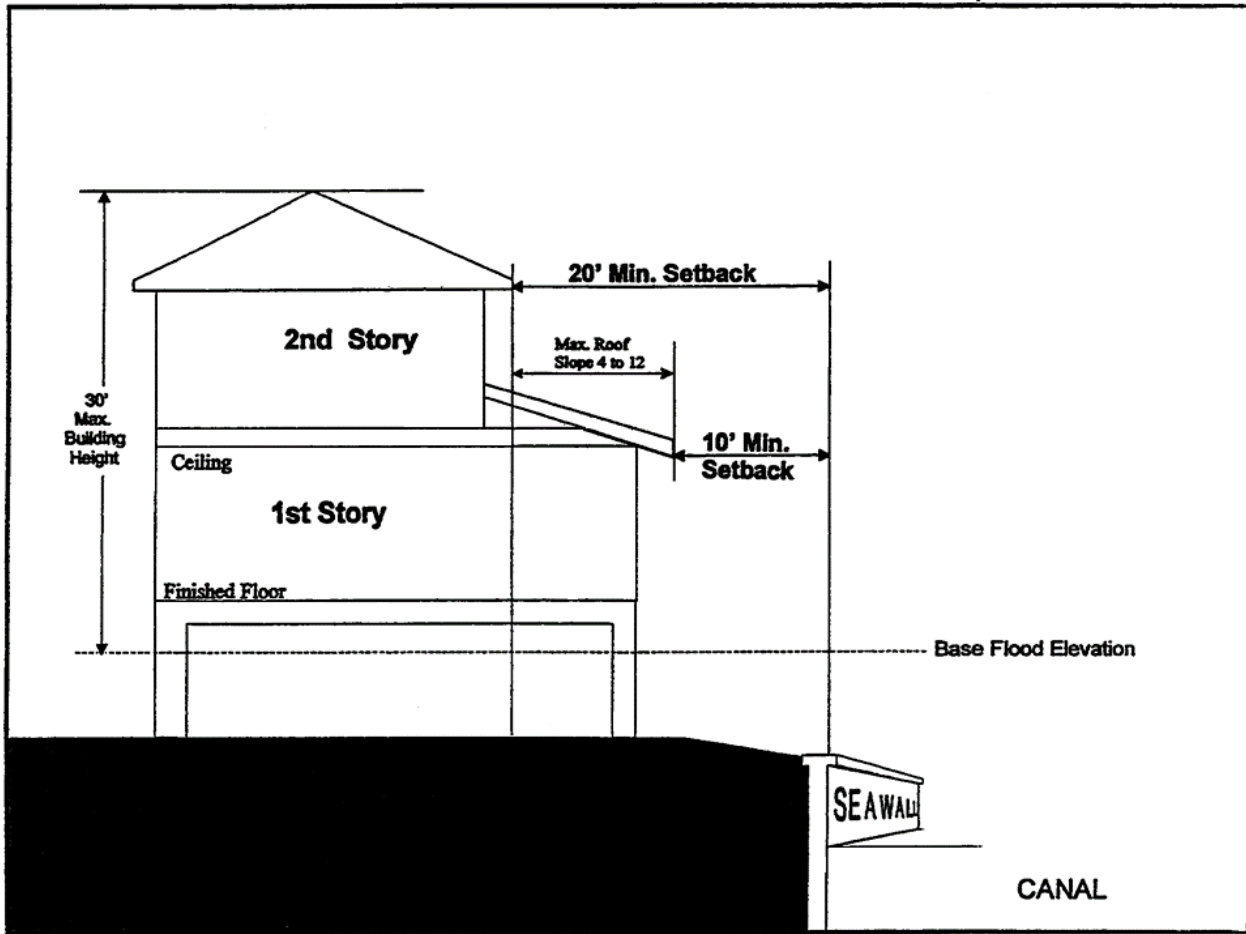
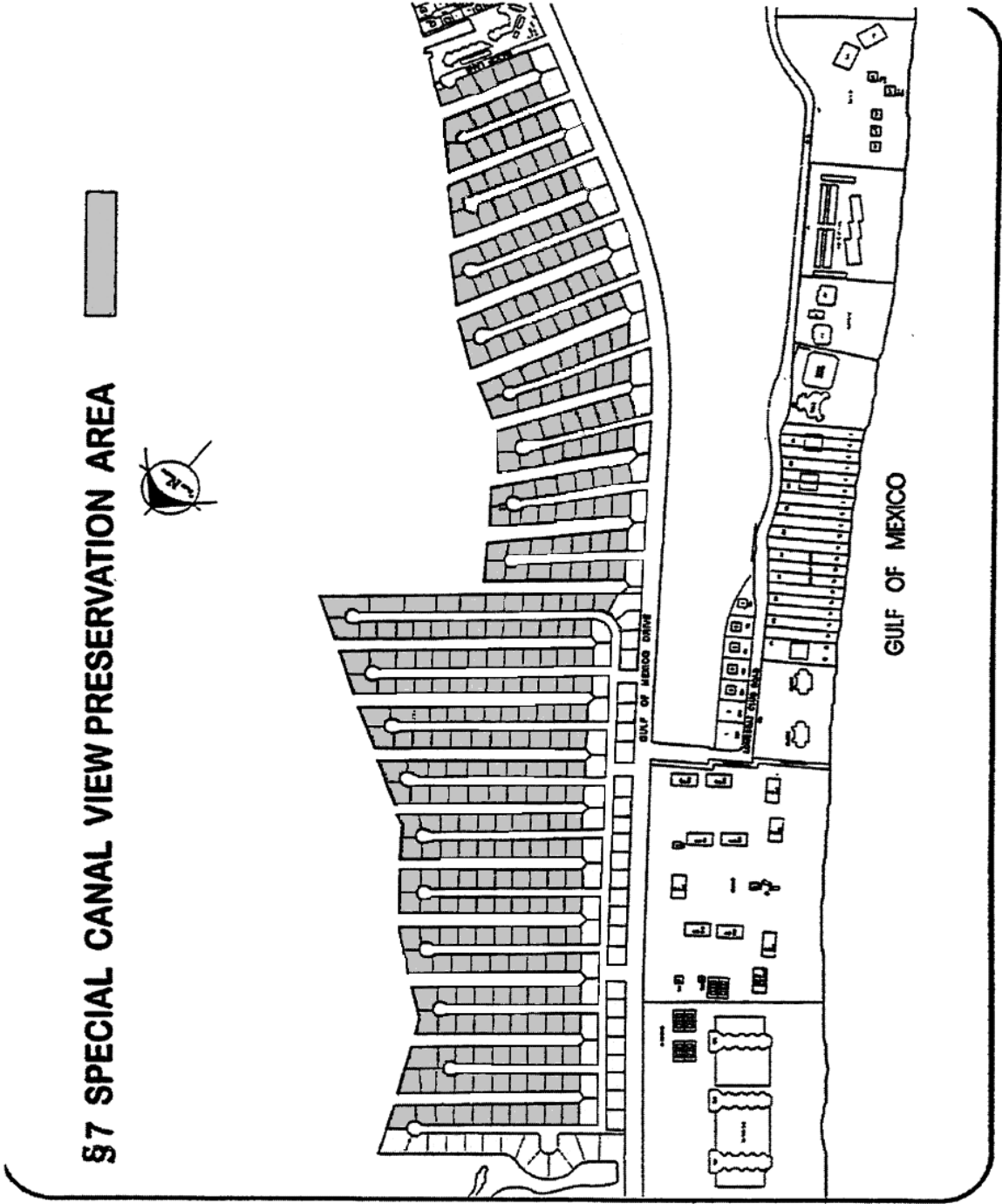
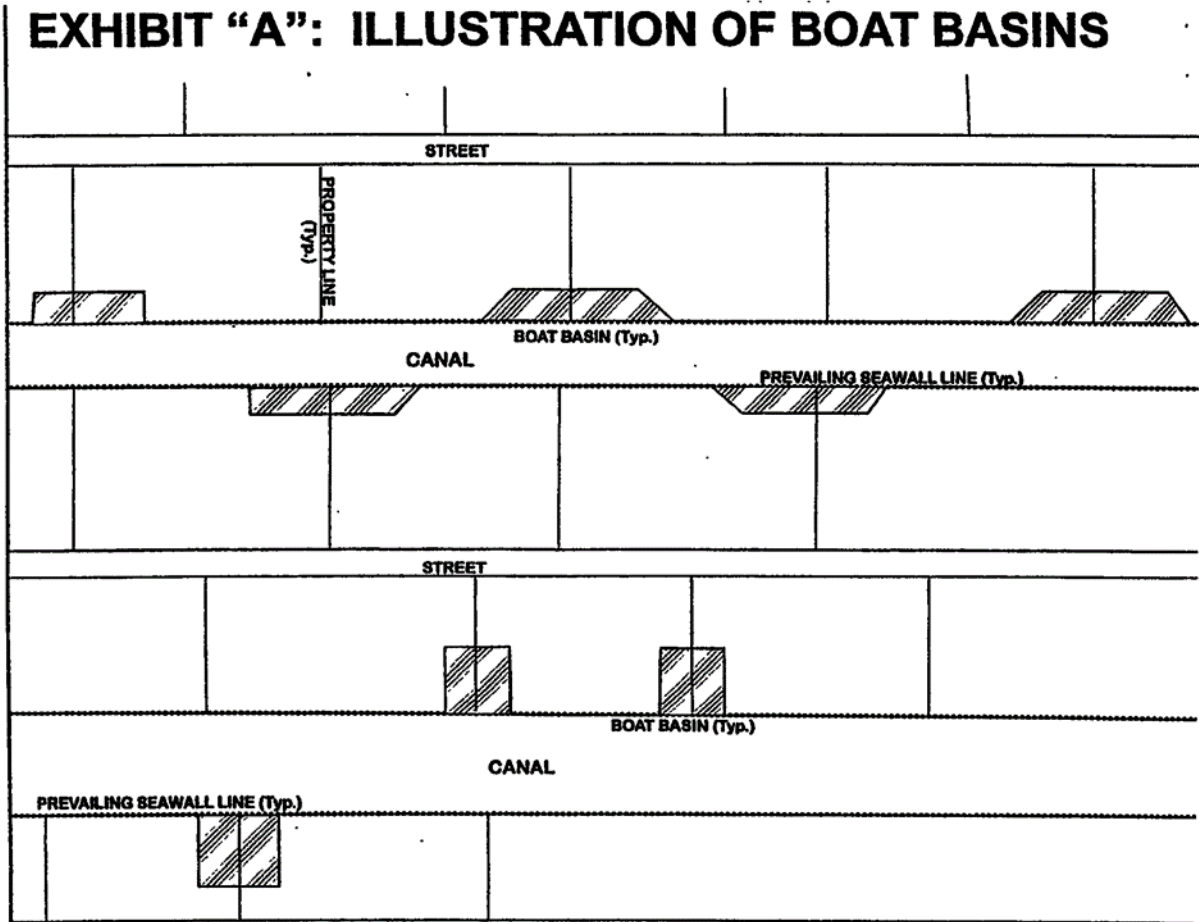


FIGURE 7 – SPECIAL CANAL VIEW PRESERVATION AREA

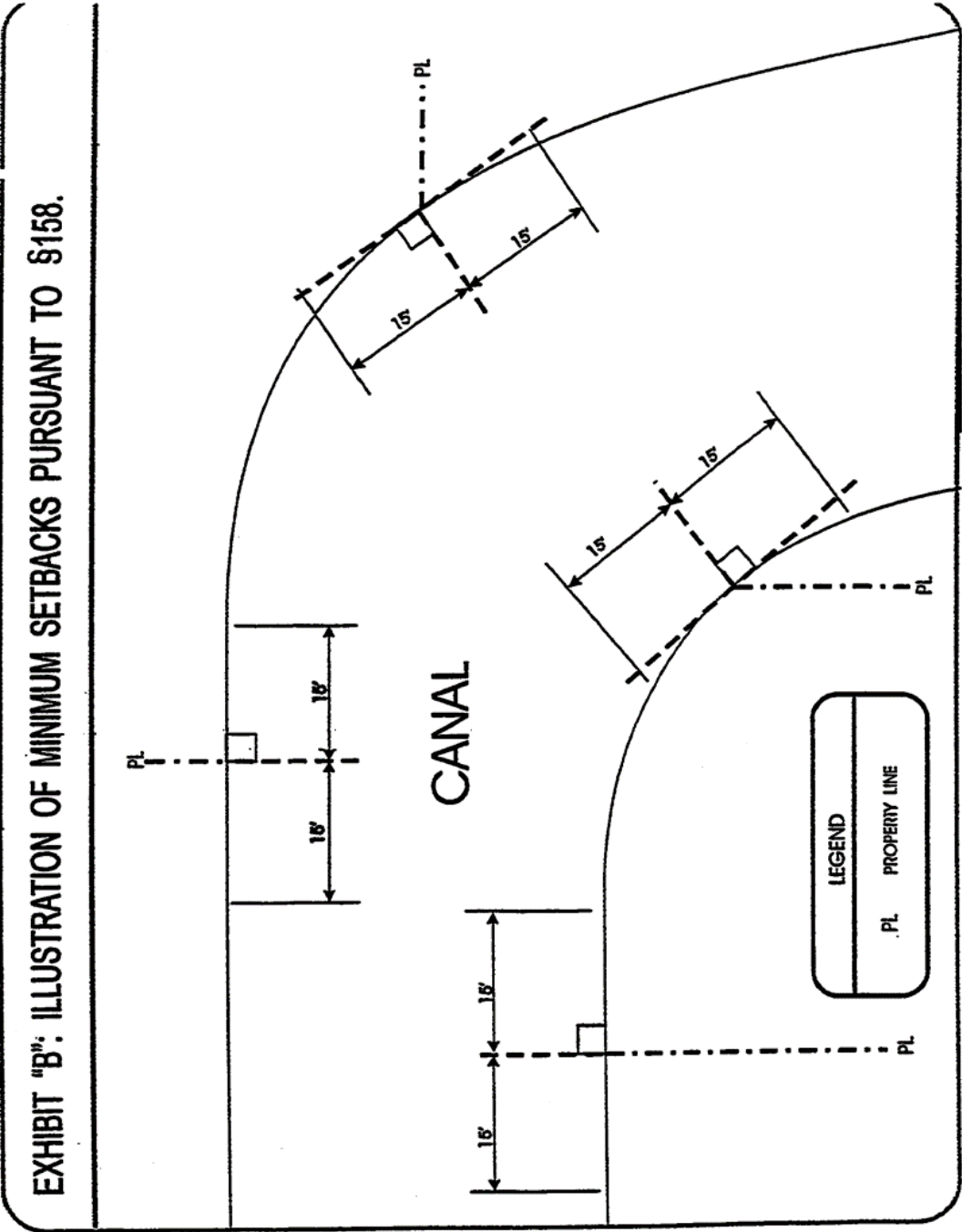




**FIGURE 8 – ILLUSTRATIONS FOR SECTION 158.099, STRUCTURES OVER WATER**  
(A) Illustration of Boat Basins.



(B) Illustration of Minimum Setbacks Pursuant to Section 158.099(A)(3)(b).



(C) Illustration of Minimum Setbacks Pursuant to Section 158.099(A)(3)(c).

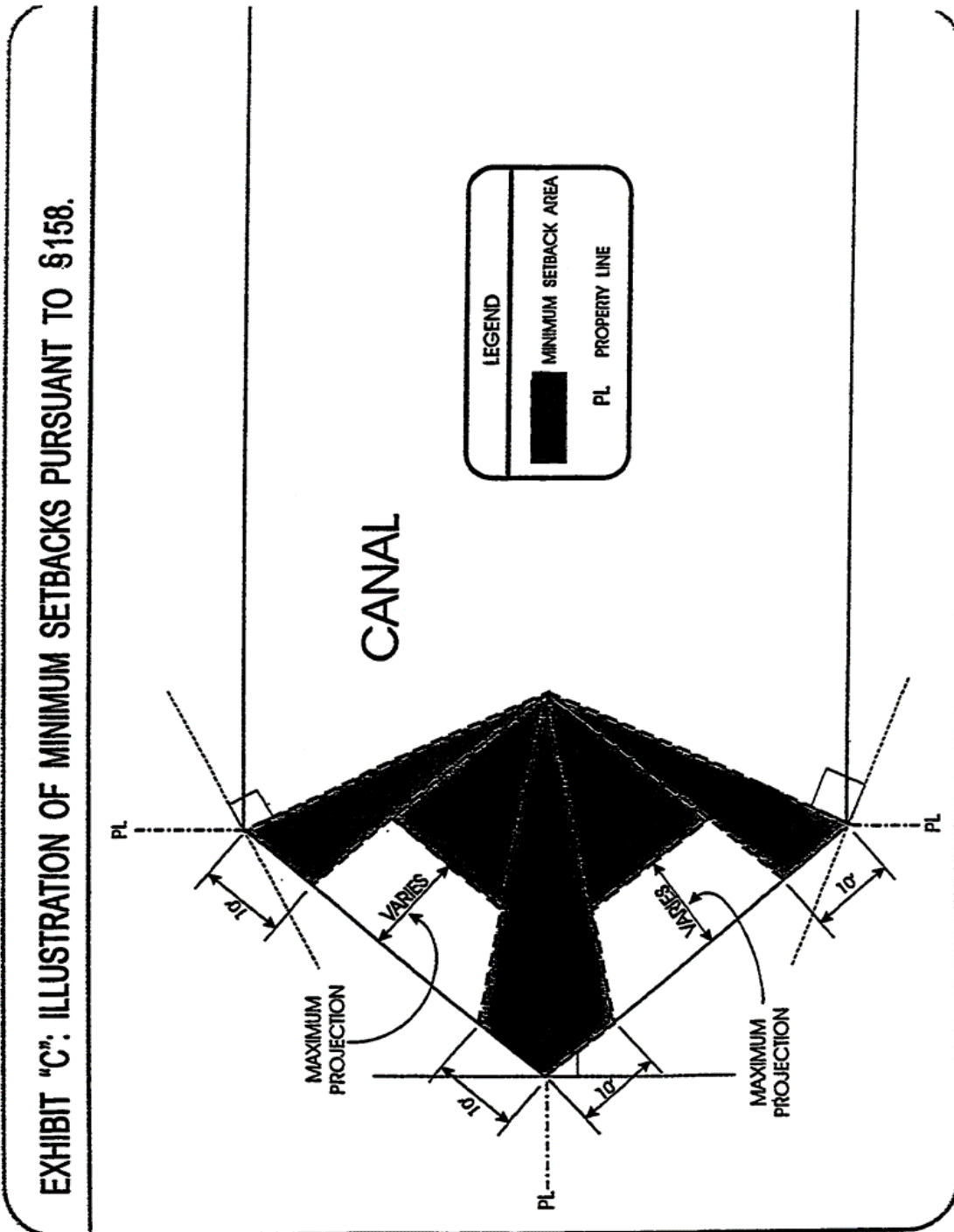


FIGURE 9(A) – VILLAGE STUDY OVERLAY AREA MAP







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Reply to: Lakewood Ranch

## MEMORANDUM

TO: Tom Harmer, Town Manager  
Allen Parsons, Planning and Zoning Official

FROM: Maggie D. Mooney, Town Attorney

DATE: March 22, 2018

RE: Recommended Edits to Ordinance 2018-24

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As we discussed, I am recommending the following changes to several subsections of Ordinance 2018-24 to eliminate confusion regarding the jurisdiction of the Florida courts and the Town's collegial boards. I would request that these suggested edits listed below be presented to the Town Commission for inclusion in Ordinance 2018-24 which will be heard by the Town Commission on April 1, 2019:

### **1. Revisions to currently proposed section 158.013 (A) –Appeals.**

As proposed, this section relates to the Zoning Board of Adjustment's ("ZBA") authority to hear appeals of the Planning and Zoning Official's decisions. In subsection (A) the provision discusses an automatic stay of all work that will occur in the even of an appeal to the ZBA. However, the provision allows for an exception to such a stay when the continuation of a stay will cause imminent permit to life or property as determined by the Planning and Zoning Official. In such instances, the current code provides that the automatic stay can be overcome by a determination from either the ZBA or Court. While this scenario has not arisen the past 6+ years, if it did, then conceivably the ZBA would be placed in a position to evaluate potential "harm" caused by lifting the stay (and continuing the work) without any specified criteria for the ZBA to make such

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Lakewood Ranch  
6853 Energy Court  
Lakewood Ranch, Florida 34240

Venice  
236 Pedro Street  
Venice, Florida 34285

a determination. By contrast, there is a body of Florida caselaw, for individuals to utilize to obtain injunctive relief by a Court following an evidentiary hearing where a judge evaluates the potential harm to the parties and the public. To prevail on an injunctive relief request in Court, Florida law requires a finding of: a) irreparable harm, b) no adequate remedy at law, c) a substantial likelihood of success on the merits, and d) a determination that the injunction will serve the public interest. Courts are familiar with evaluating the injunction standards. Accordingly, the Town Commission may want to consider directing parties seeking such relief to discontinue work from the court system, rather than the ZBA.

## **2. Revisions to currently proposed references to “Appellant” in sections 158.013 and 158.144 – Definitions.**

The term “Appellant” is defined within the Florida Rules of Appellate Procedure as a “party who seeks to invoke the appeal jurisdiction of a court.” Fla. R. App. P. Rule 9.020 (g). Further, “court” is defined as the Florida Supreme Court, the district courts of appeal and the circuit courts. R. 9.020 (c). The intention behind the use of the word “appellant” as currently proposed Code appears to reference the right of any party to obtain a review of a collegial body or individual’s determination both within the Town’s administrative process (i.e., from a reviewing board) and through the court system. Because “appellant” has a clearly distinct meaning under Florida law that is limited to a review within the judicial system, the Town Commission may want to reconsider using this particular term. The term “petitioning party” may be a more appropriate term to define the concept of a party seeking review both internally (through the Town’s applicable review process) and externally (through the court system).

## **3. Revisions to currently proposed section 158.014–Right to Judicial Review.**

As mentioned above, the right to seek appellate review and by an appropriate Florida court is governed by the Florida Rules of Appellate Procedure. These Rules (and the applicable caselaw) are what provides circuit courts with jurisdiction to hear challenges from aggrieved parties to quasi-judicial, administrative, and legislative challenges. The existing and proposed Code continues to follow the Florida Rules of Appellate Procedure that requires that challenges brought within the judicial system be filed within 30 days of the rendition of the decision. Further, rendition of the decision is now defined as the “written” decision in accordance with applicable Florida Rules of Appellate Procedure. As the requirement to initiate an appeal within 30 days of the rendition of the decision is the standard for all judicial review of boards with final decision making authority [including the Town Commission, Planning and Zoning Board, Code Enforcement Board, the Special Magistrate (when this goes into effect), and the Zoning Board of Adjustment], the Town Commission may want to consider striking the reference which limits the applicability to just the “board of adjustment.”

The above suggestions are being submitted for consideration and incorporation into Ordinance 2018-24 in advance of the April 1, 2019 Town Commission meeting and public hearing. Suggested text revisions that incorporate these recommendations are attached to this Memorandum. As we discussed, the suggested recommended text is highlighted in yellow. Should

you have any questions or concerns regarding the suggested text or this Memorandum, please do not hesitate to contact me.





# Zoning Code Rewrite

Town Commission Regular Meeting  
2<sup>nd</sup> Reading & Public Hearing  
April 1, 2019



# History

- Zoning Code Analysis and Rewrite project (RFP #16-015) was initiated by the Town in 2016.
- Significant amount of the efforts focused on Code revisions for existing nonconforming sites
- Ordinances addressing redevelopment and nonconformities approved separately from the overall Zoning Code rewrite



## Town Commission Actions

- **January 22, 2019:** Clarifications, scrivener's updates and additional future policy issues identified.
- **February 19, 2019:** Revised Mixed-Use Open Space Standards (to 50% requirement) & provided capitalization of titles, application types & other related terminology throughout the Zoning Code (Ch. 158).
- **March 4, 2019:** Recommended approval at 1<sup>st</sup> Reading and Public Hearing (7-0). Direction provided to prioritize identified future policy issues.
- **March 19, 2019:** Provided direction on prioritization and grouping of overlapping phases of future policy issues as Zoning Text Amendments for consideration.



## Following March 4, 2019 Town Commission Public Hearing

- Throughout the **Code cross-section references have been updated.**
- Sec. 158.013(A) (*Appeals of Planning and Zoning Official*): **Added clarification regarding the appeal process to the Zoning Board of Adjustment** and the allowance for a stay of work and situations that would allow for the continuance of work (where a stay would cause imminent peril to life or property).



## Following March 4, 2019 Town Commission Public Hearing continued...

- Sec. 158.013 (*Appeals of Planning and Zoning Official*): **Replaced the terms “petitioner” and “applicant” with the term “petitioning party”** to recognize that appeals of the Planning and Zoning Official may be filed by members of the public, not just by an applicant. The term petitioning party replaces use of the previously substituted term “Appellant.” The term petitioning party has also been added to the Definitions section of the Zoning Code (Sec. 158.144) utilizing the definition previously applied to the term appellant.



## Following February 19, 2019 Town Commission Workshop

- Sec. 158.014 (Right to Judicial Review): **Revised to more clearly convey that appeal process identified by this section applies to appeals of quasi-judicial decisions.**
- 158.021(C) (**Zoning Code Text Amendments, Town Commission Action on Planning and Zoning Board Recommendation**) and 158.022 (**Zoning Map Amendments, Town Commission Action on Planning and Zoning Board Recommendation**): **Updated the language** addressing the Town Commission vote required when the P&Z Board recommends denial of a proposed claim **to mirror the language found in the Town Charter** (Article II, Sec. 16) requiring the affirmative vote of “not less than” four Commission members.



## Following February 19, 2019 Town Commission Workshop continued...

- **158.038 (Open Space for Planned Unit Developments, PUD's): Amended the text to add to the description of tourist resort facilities to be consistent with and exactly mirror the language describing tourist resort facilities found in Sec. 158.030(E)(2) (Site Development Plan, Open Space and Landscape, Nonresidential Open Space Requirement).**



# Zoning Code: Update Overview

- Improved organization- Like Topics Grouped Together
- Consistent Use of Terms
  - “Applicant” has been used in place of “petitioner,” and owner in instances where appropriate
  - “Site development plan” is used consistently throughout the document in place of “Site plan” and “Final site plan.”





## Overview continued...

- All definitions placed in one section and moved to the end of the Code
- New Article IV: Zoning Districts
  - Combined “Schedule of use regulations” and “Schedule of lot, yard and bulk regulations”
  - Each Zoning District separated into its own section with all regulations in one place



## Town Commission Future Policy Items

1. **Parking Standards- Multi Use Projects** *(Priority 1)*
2. **Parking Standards-** Options for alternatives such as Valet or Shuttle Service *(Priority 1)*
3. **Swimming Pool Related Code Standards:** Setback, Slope, Finished Grade *(Priority 2)*
4. **Side Yard Setbacks-** Potential Additional Dimensional Standards for Structures Built on Residentially Zoned Properties Comprised of Two or More Lots *(Priority 3)*
5. **Pickleball Court Accessory Use Standards-** Consider adding separate location and setback requirements for Pickleball Courts *(Priority 4)*
6. **Parks and Open Space Land Acquisition-** Consider eliminating the option to dedicate land for parks and open space and provide only the Fee option. *(Priority 4)*
7. **Docks/Structures Over Water-** consider the addition of provisions addressing docks within canals that may encroach into the maximum 30% width of the navigable waterway. Potential provisions include: requiring docks to be staggered in location, where possible, when built directly across from a neighboring dock; prohibiting mooring of vessels at the end of a dock that extends to the maximum 30% width. *(Priority 5)*
8. **Gulfbeach Setback Variances-** consider providing additional guidance and/or criteria or minimums in considering Variance applications. *(Priority 6)*
9. **Appeals of Planning and Zoning Official** - consider adding process requirements for the Planning and Zoning Official to notify affected residents of administrative approvals in order for affected parties to be able to timely appeal determinations or decisions *(Priority 7)*
10. **Accessory Internal Commercial Percentage Standards for Hotels & Mixed-Use Projects** *(Priority 8)*
11. **Site Plan Exemptions Thresholds** *(Priority 8)*
12. **Land Uses** (Permitted, Unpermitted, Special Exception) Assessment to Ensure Use Matrix is Comprehensive & Up-to-Date for the Town *(Priority 9)*
13. **Commercial Revitalization Standards & Criteria** *(Priority 10)*
14. **Landscaping Code Provisions** (New) *(Priority 11)*
15. **Site Lighting Code Provisions** (New) *(Priority 11)*



## Next Steps

- Town Commission/Public input on additional issues
- Adoption of final draft
- Follow-up on identified issues as Future Policy/Longer Term