



# Triennial Report 2018

Triennial Affordable Housing Incentives Review and Recommendations Report

Commission on Affordable Housing

November 2018



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## **Introduction**

On May 18, 1993, the Palm Beach County Board of County Commissioners (BCC) adopted an Affordable Housing Ordinance (No. 93-8) pursuant to F.S. 420.9072 and in order for the County to receive State Housing Initiatives Partnership (SHIP) Program funding from the Florida Housing Finance Corporation. The Ordinance established the Commission on Affordable Housing (CAH) as the local affordable housing advisory committee. On May 16, 2017, the BCC adopted a new Affordable Housing Ordinance (No. 2017-017) which revised the responsibilities of the CAH to focus on statutory duties under F.S. 420.9076, primary among which is a triennial review of local affordable housing incentives.

F.S. 420.9076(4) requires that the advisory committee review the County's established policies and procedures, ordinances, land development regulations, and adopted comprehensive plan, and recommend specific actions or initiatives to encourage or facilitate affordable housing while protecting the ability of property to appreciate in value. The recommendations may include modification or repeal of existing policies, procedures, ordinances, regulations or plan provisions, including recommendations to amend the comprehensive plan and corresponding regulations, ordinances, and other policies. The triennial review must, at a minimum, evaluate affordable housing incentives in the following eleven (11) areas:

- 1) The processing of approvals of development orders or permits for affordable housing projects is expedited to a greater degree than other projects, as provided in s. 163.3177(6)(f)3.
- 2) The modification of impact-fee requirements, including reduction or waiver of fees and alternative methods of fee payment for affordable housing.
- 3) The allowance of flexibility in densities for affordable housing.
- 4) The reservation of infrastructure capacity for housing for very-low-income persons, low-income persons, and moderate-income persons.
- 5) The allowance of affordable accessory residential units in residential zoning districts.
- 6) The reduction of parking and setback requirements for affordable housing.
- 7) The allowance of flexible lot configurations, including zero-lot-line configurations for affordable housing.
- 8) The modification of street requirements for affordable housing.
- 9) The establishment of a process by which a local government considers, before adoption, policies, procedures, ordinances, regulations, or plan provisions that increase the cost of housing.
- 10) The preparation of a printed inventory of locally owned public lands suitable for affordable housing.
- 11) The support of development near transportation hubs and major employment centers and mixed-use developments.

The County's strategies associated with these incentives are found in the Unified Land Development Code (ULDC), a collection of zoning, subdivision, and other regulations that implement the policies of the Palm Beach County Comprehensive Plan. Other incentive strategies are manifested in affordable housing assistance programs established by the BCC. The majority of identified incentives are offered through the County's Affordable and Workforce Housing Programs, local initiatives that provide incentives to spur the development of affordable (0-60% AMI) and workforce (60-140% AMI) housing in the unincorporated areas of the County.

For each affordable housing incentive identified in statute, this Triennial Report provides: 1) an evaluation of the current status of implementation; and 2) recommendations for modifications to improve efficacy.

### **Evaluation and Recommendations**

#### **1) The processing of approvals of development orders or permits for affordable housing projects is expedited to a greater degree than other projects, as provided in s. 163.3177(6)(f)3.**

The Unified Land Development Code (ULDC) provides opportunities for expedited review of certain development approval processes through the Workforce Housing Program (ULDC Article 5.G.1.E.3.) and the Affordable Housing Program (ULDC Article 5.G.2.D.3). The processes for expedited design and platting review are described in the ULDC as follow:

#### **Design Review**

- Review of multifamily or townhouse structures by the Building Division and Fire Rescue shall be allowed concurrent with final DRO review, prior to permit application. [Ord. 2009-040]

#### **Platting**

- If only a boundary plat is required for an existing single lot, building permits may be issued after submittal of the final plat for recordation. [Ord. 2009-040]
- If a subdivision plat is required, permits will be concurrently reviewed, but only issued at recording of the plat. [Ord. 2009-040]
- Pursuant to Article 3.E.1.G.1.a, Permits, Building permits for sales offices, sales models, gate houses, entry features, and utilities may be issued prior to the recording of a final plat. [Ord. 2009-040]

*Recommendations: The County should employ a staff position charged with the task of shepherding applications for affordable housing developments through all stages of the development review process. The position should work to expedite application progression through the review process and to advocate for necessary development approvals.*

**2) The modification of impact-fee requirements, including reduction or wavier of fees and alternative methods of fee payment for affordable housing.**

On November 17, 2009, the Board of County Commissioners (BCC) authorized (R2009-2013) the utilization of impact fee investment earnings on roads, parks, and public buildings to support affordable housing within Palm Beach County. During each annual budget cycle, the BCC designates 50% of the investment earnings realized during the prior year, but not exceeding \$3 million, for the Impact Fee Affordable Housing Assistance Program (IFAHAP). More recently, on April 10, 2018, the BCC adopted Resolution R2018-0605 to repeal and replace R2009-2013 and revise IFAHAP guidelines.

The IFAHAP provides assistance to offset the impact fees due on new residential construction affordable to households with incomes not exceeding 140% AMI. For each IFAHAP funding cycle, DHES publishes a NOFA offering impact fee assistance in certain amounts for various impact fee type(s) and benefit zone(s). Applications are funded on a first-come / first-served basis until all funds are allocated or until the funding cycle allocation deadline transpires two (2) years from the date of the initial Board designation of the funds. Projects must utilize the IFAHAP assistance within one (1) year from the date award by the BCC. Flexibility in program guidelines is constrained by limitations emanating from State statutes which restrict the use of IFAHAP funds to within the same zones and for the same purposes as for which the original impact fees were initially collected. Further constraints result from County budgetary processes which limit the form of IFAHAP funds to assistance towards impact fees due but not yet paid.

To date the IFAHAP has resulted in awards to 14 projects, resulting the completion of 563 newly constructed affordable housing units, and another 316 units under development at the time of this report.

**PBC Impact Fee Affordable Housing Assistance Program (IFAHAP) Projects**

Project Name	Funding Cycle	BCC Approval Date	IFAHAP Assistance	Housing Units
Dakota Apartments	2011	4/3/2012	\$ 445,512	132
Dunbar Senior Complex	2014	7/7/2015	\$ 229,533	99
La Joya Villages	2014	8/18/2015	\$ 192,851	55
Silver Palm Place	2014	9/22/2015	\$ 261,760	120
Davis Landings West	2015	5/3/2016	\$ 121,669	24
Royal Palm Place	2015	1/10/2017	\$ 219,358	125
Neighborhood Renaissance	2016	9/12/2017	\$ 13,891	8
Completed Subtotal			\$ 1,484,574	563
Habitat for Humanity South	2016	9/12/2017	\$ 52,799	7
Banyan Court	2016	12/5/2017	\$ 14,496	85
Davis Landings West	2016	12/19/2017	\$ 53,063	20
Georgian Gardens	2016	12/5/2017	\$ 235,291	87
ME-ST Veterans Project	2017	9/18/2018	\$ 69,754	14

Village of Valor	2017	9/18/2018	\$ 272,306	101
Development Underway Subtotal			\$ 697,709	314
Total IFAHAP			\$ 2,182,287	877

*Recommendations: The County should utilize earnings generated by investment of school impact fee collections to increase funding to the Impact Fee Affordable Housing Assistance Program (IFAHAP), and should also seek other sources of funding for IFAHAP.*

**3) The allowance of flexibility in densities for affordable housing.**

The County's Workforce Housing Program (WHP) and Affordable Housing Program (AHP) provide similar opportunities to developers to increase density from 30 up to 100 percent in accordance with the ULDC Article 5.G.1.H.1. (WHP, adopted 2006) and Article 5.G.2.E.1. (AHP, adopted 2010). Projects requiring a density bonus of greater than 30% are required to conduct a sector analysis as described in Article 5.G.1.H. of the ULDC [Ord. 2006-055]

- WHP projects, including relocated WHP units, shall be equitably distributed so that there is no undue concentration of very-low and low income households.
- Table 5.G.1.H, WHP Density Bonus Guide indicates the maximum density bonus permitted and the concentration of very-low and low income housing within a sector will be one factor taken into consideration when determining the maximum density bonus permitted.

**Table 5.G.1.H - WHP Density Bonus Guide**

% of Very Low & Low Income Households in Sector	> 50%	40-50%	20-40%	0-20%
Maximum Density Bonus (1)	up to 40%	up to 60%	up to 80%	up to 100%
[Ord. 2009-01] [Ord. 2010-005]				
Notes:				
1. The Planning Director may recommend a density bonus in excess of the Maximum Density Bonus where the project serves to mitigate existing very low and low income concentrations by including a mix of higher income market rate units or Medium 1, Medium 2 and Middle Income WHP units. [Ord. 2006-055]				

- Other factors to be considered include:
  - if the location of the proposed development and its relationship to the study area; the housing type(s) proposed;
  - if the development site is located within 1/4 mile radius of a public park (neighborhood or regional park, not a golf course); civic uses (schools/libraries); a mass transit facility/route; child care facilities; medical facilities; a super market; a community commercial facility; employment opportunities; and

- if the development site is located within 1/2 mile radius of social services; a regional commercial facility; an industrial facility; additional civic uses and employment opportunities.
- Prior to submittal of a WHP pre-application, the applicant shall meet with the Planning Director or designee to establish the sector within which the distribution analysis shall be conducted. The boundaries of the sector shall be approved by the Planning Director or designee.
- The maximum density bonus permitted or a bonus in excess of the maximum shall be recommended by the Planning Director or designee. [Ord. 2010-005]

The County's Transfer of Development Rights Program (TDR) is a voluntary program administered by the Zoning Division that allows a property owner to achieve a density bonus for new residential development within the Urban/Suburban Tier in unincorporated Palm Beach County. The owner purchases the increase in density from the Palm Beach County TDR Bank, or from a property owner with land in a designated area, without going through the land use amendment process. TDR provides for increased density of up to five (5) units per acre based on geographic location, and requires that thirty-five percent (35%) of all TDR units be WHP Units.

The list of approved developments with a component of WHP units is attached. Some of these developments also include any TDR units when appropriate.

*Recommendations: Maintain in current form.*

**4) The reservation of infrastructure capacity for housing for very-low-income persons, low-income persons, and moderate-income persons.**

The County's Comprehensive Plan Transportation Element acknowledges that under certain limited circumstances dealing with transportation facilities, countervailing planning and public policy goals may come in to conflict with the requirement that adequate public facilities be available concurrent with the impacts of such development, and that in certain circumstances, lower LOS standards for specific roadway segments and intersections are appropriate. In furtherance of the public policy goal of Affordable and Workforce Housing, the Transportation Element Policy 1.2-d.4 provides:

- For the public purpose of allowing developments that include Workforce and Affordable Housing units (as defined in Housing Element Policies 1.5-g and 1.5-i) to be constructed, the level of service standard permitted for all housing units beyond the standard density (as defined in Future Land Use Element Table III.C.1) on affected segments and intersections shall be up to 30% above the LOS D volume on those segments and intersections.

The County's Workforce Housing Program (WHP) and Affordable Housing Program (AHP) provide identical "traffic performance standards mitigation" opportunities to developers in accordance with the Unified Land Development Code (ULDC) Article 5.G.1.E.2. (WHP, adopted 2006) and



Article 5.G.2.D.2. (AHP, adopted 2010). This allows developments with WHP/AHP units to exceed Level of Service D by 30%, increasing the available concurrency for traffic and reserving that traffic for those WHP/AHP developments that need it. Level of Service (LOS) is a measure of the operation of a roadway based upon traffic volumes in relation to roadway capacity. LOS is represented by the letters A through F, with A representing the condition with the least driver delay and F representing the condition with the most driver delay. In general, LOS D describes high-density areas where speed and freedom to maneuver in the roadway are stable but severely restricted. Traffic Performance Standards (TPS) mitigation for WHP is described in Article 5.G.1.E. of the ULDC and provides for the following:

- WHP Special Methodologies: TPS mitigation shall be permitted for WHP projects in accordance with County Comprehensive Plan Transportation Element Policy 1.2-d (4). [Ord. 2006-055] [Ord. 2011-016]
- WHP Traffic Concurrency Hall Pass: TPS mitigation shall also include the option of applying for a WHP Traffic Concurrency Hall Pass separate from a development order application. The WHP Traffic Concurrency Hall Pass serves as a provisional traffic concurrency approval for a period of not more than 90 days, during which it must be merged into an application submitted for a Concurrency Reservation approval. The WHP Traffic Concurrency Hall Pass is described further in Art. 2.F. [Ord. 2006-055]

Recommendations: *Maintain in current form.*

## 5) The allowance of affordable accessory residential units in residential zoning districts.

The ULDC allows for accessory residential units in certain residential zoning designations. An accessory dwelling is a complete independent living facility equipped with a kitchen and provisions for sanitation and sleeping. Policies that allow accessory dwellings increase the residential development potential of single family property. Accessory units are often offered for rent, providing an affordable rental opportunity to the tenant, and providing income to the homeowner increasing financial stability of the household.

ULDC Article 4.B.1.A.1. (adopted 2005) provides for standards for accessory dwelling units:

- A maximum of one accessory dwelling may be permitted as an accessory use to a principal single family dwelling unit which is owner occupied. The accessory dwelling may be attached to the principal dwelling or freestanding.
- Maximum Floor Area
  - On less than one acre: 800 square feet.
  - On one acre or more: 1000 square feet.
  - The floor area calculation shall include only the living area of the accessory dwelling under a solid roof. [Ord. 2005-041]
- Additional Floor Area
  - Floor area under a solid roof that is utilized as a porch, patio, porte cohere, carport, or garage shall not exceed 500 square feet.
- Maximum Number of Bedrooms/Baths
  - One bedroom and one bathroom.

- Compatibility
  - The accessory dwelling shall be architecturally compatible in character and materials with the principal dwelling.
- Property Development Regulations (PDRs)
  - The accessory dwelling shall comply with the PDRs applicable to the principal dwelling.
- No Separate Ownership
  - The accessory dwelling shall remain accessory to and under the same ownership as the principal dwelling and shall not be subdivided or sold as a condominium.
- Kitchen Removal
  - An agreement to remove all kitchen equipment shall be executed for the dwelling unit prior to the issuance of a Building Permit. The agreement shall require the kitchen to be removed if the principal dwelling is no longer owner occupied.
- No Separate Electrical Service
  - Both the principal single family dwelling and the accessory dwelling shall be connected to the same meter. Separate electric service shall be prohibited. [Ord. 2005-041]

*Recommendations: The County should modify its land development regulations to be less restrictive in order to allow for greater opportunity for the development of accessory dwelling units. Specifically, the County should ease regulations to offer flexibility in setback requirements, eliminate requirements for kitchen removal, and eliminate the prohibition on separate electrical service.*

## **6) The reduction of parking and setback requirements for affordable housing.**

The County's Workforce Housing Program (WHP) and Affordable Housing Program (AHP) provide identical "setback reduction" opportunities to developers in accordance with the Unified Land Development Code (ULDC) Article 5.G.1.E.4.h. (WHP, adopted 2006) and Article 5.G.2.D.4.h. (AHP, adopted 2010).

Flexible regulations are described in ULDC Article 5.G.2.D.4., and are applicable to projects with Medium Residential, 5 units per acre (MR-5), High Residential 8 units per acre (HR-8), High Residential 12 units per acre (HR-12), or High Residential 18 units per acre (HR-18) Future Land Use designations, or if approved as a Planned Development District or Traditional Development District.

Projects with these designations may deviate from the residential requirements of Table 3.D.1.A, Property Development Regulations, or Table 3.D.2.B, ZLL Property Development Regulations, as follows: [Ord. 2009-040]

- Single Family Dwelling units may be permitted up to a maximum ten percent deviation for the following Property Development Regulations: lot size; width and frontage; building coverage; and, side, and rear setbacks. [Ord. 2009-040]

- SFD units limited to one floor with no loft or other similar feature, may be permitted up to a maximum 20 percent deviation for the following PDR's: building coverage; and front and side street setbacks. [Ord. 2009-040]
- Zero Lot Line lots may be permitted up to a maximum lot width reduction of five feet, and ten percent deviation from the minimum lot size, building coverage, and front setback for units with front loading garages. [Ord. 2009-040]

*Recommendation: The County should reduce current setback requirements for all housing types and/or offer increased deviation from setback requirements for Affordable and Workforce Housing development. The County should consider adoption of parking standards for elderly housing and other affordable housing that accurately reflect parking demand for these uses.*

**7) The allowance of flexible lot configurations, including zero-lot-line configurations for affordable housing.**

The ULDC Article 5.G.1.E.4.h. (WHP, adopted 2006) and Article 5.G.2.D.4.h. (AHP, adopted 2010) provide for flexible lot configurations, including zero-lot-line configurations, as described above in #6.

*Recommendations: Maintain in current form.*

**8) The modification of street requirements for affordable housing.**

As discussed at #4 above, the County's Comprehensive Plan Transportation Element Policy 1.2-d.4 permits Workforce and Affordable Housing developments to generate vehicular traffic on streets beyond the level otherwise allowable. Opportunities for "traffic performance standards mitigation" are codified in ULDC Article 5.G.1.E.2. (WHP, adopted 2006) and Article 5.G.2.D.2. (AHP, adopted 2010).

*Recommendations: Maintain in current form.*

**9) The establishment of a process by which a local government considers, before adoption, policies, procedures, ordinances, regulations, or plan provisions that increase the cost of housing.**

The processes for adoption of new or modified Comprehensive Plan policies, County ordinances, and Unified Land Development Code (ULDC) regulations involve consideration by various groups and offer the opportunities for input by affordable housing advocates and the general public. These processes regularly involve public notices of proposed actions, public meetings, and multiple stages of approval by various public bodies, such as the Land Development Review Advisory Board, the Planning Commission, the Zoning Commission, and the Board of County Commissioners. County PPM CW-O-057 requires that an economic impact analysis be prepared

for proposed County ordinances that may have an economic impact on commerce, employment, or incomes.

Further, the Comprehensive Plan Housing Element Policy 1.1-h calls for the County to review and streamline existing ordinances, codes, and regulations related to the permitting process in order to reduce excessive requirements that increase the cost of housing, and to add other provisions that increase private sector production of affordable housing. The Planning, Zoning, and Building Department (PZB) is designated to lead these efforts, with assistance from the Department of Housing and Economic Sustainability (DHES) and other departments. When considering changes to the Comprehensive Plan or Unified Land Development Code (ULDC) that might increase the cost of housing, PZB regularly solicits review and comment from the DHES.

*Recommendations: The County should prepare an economic impact estimate when considering new regulations, policies, or procedures that may increase the cost of housing.*

**10) The preparation of a printed inventory of locally owned public lands suitable for affordable housing.**

The Palm Beach County Comprehensive Plan Housing Element, Policy 1.1-i, requires an inventory of all surplus County owned land and foreclosed properties that may be suitable for affordable housing. The County's Property and Real Estate Management Division (PREM) is responsible for identification of such properties, and for coordinating with the Palm Beach County School Board, the South Florida Water Management District, and other public landowners to produce a list of viable sites for affordable housing developments and special needs housing, including rural and farmworker households. DHES is responsible for review of the inventory in order to advise on suitability of properties for affordable housing purposes. The County may make direct land grants to private not-for-profit agencies, and may also make land for affordable housing available to developers in exchange for other land that will serve a public purpose. Countywide Policy and Procedure Memorandum *CW-L-023 Requirements for the Acquisition, Disposition, Lease, and Exchange of Real Property* establishes procedure requirements for disposition of County-owned real estate, including donation to not-for-profit entities. Recipients for disposition of County owned property must be selected through a competitive process, except for not-for-profit recipients whom may be selected on a non-competitive basis, however, all dispositions must be approved by the Board of County Commissioners.

The majority of surplus County-owned lands are undevelopable or face significant development constraints due to property size, shape, access limitations, easements, adjacent uses, and/or remote location. A smaller subset of these surplus lands has the potential for affordable housing development. Mainly, these are small vacant lots within established neighborhoods that have the potential to be developed with a single-family home or a small multi-family structure (duplex, triplex, etc.). Additionally, existing homes occasionally come into County ownership through foreclosure, and may be suitable for affordable housing purposes.

In the past three (3) years, the County has made the following grants of surplus County-owned land to local not-for-profit developers for purposes of affordable housing:

Recipient	Property	Type
Community Land Trust of PBC	702 Latona Ave., Lake Worth	Existing SF home
Community Land Trust of PBC	8276 Blue Cypress Dr., Lake Worth	Existing SF home
Community Land Trust of PBC	5030 Elmhurst Rd., Unit E, West Palm Beach	Existing SF home
Community Land Trust of PBC	769 Imperial Lake Rd., Greenacres	Existing SF home
Habitat for Humanity	18507 Limestone Creek Rd., Jupiter	Vacant SF lots (2)

*Recommendations: The County should expand the inventory of County-owned properties suitable for housing to include those properties deemed undevelopable. The County should be bolder in its disposition of County-owned land to developers of affordable housing.*

**11) The support of development near transportation hubs and major employment centers and mixed-use developments.**

The County's Workforce Housing Program (WHP) and Affordable Housing Program (AHP) provide similar opportunities to developers to increase density from 30 up to 100 percent in accordance with the ULDC Article 5.G.1.H.2. (WHP, adopted 2006) and Article 5.G.2.E.1. (AHP, adopted 2010). When determining the density bonus proximity of the proposed site to mass transit and employment opportunities are among the items considered, thereby providing an incentive for affordable development in closer proximity to the same.

Specific instruction regarding the Density Determination is provided in Article 5.G.1.H.2. of the ULDC as follows:

- The Planning Director shall provide a written density determination letter within ten days of determining the pre-application is sufficient.
- The determination shall be based on the sector analysis, size, location and development characteristics of the project with consideration given towards affordability, accessibility, proximity to mass transit or employment centers, compatibility, quality of design, pedestrian and vehicular circulation, open space, and resource protection.
- The Planning Director shall prepare a report for the applicant, Development Review Office, Zoning Commission, or Board of County Commissioners, whichever is appropriate, making a determination of compliance with this chapter, consistency with the Plan and recommend approval, approval with conditions, or denial of the request. (Ord. 2006-055)

Transit Oriented Development (TOD) is a type of development that includes a mixture of housing, office, retail, and other amenities integrated into a walkable neighborhood and located within a half-mile of quality public transportation. It should be noted that there are limited opportunities for TOD in the unincorporated area over which Palm Beach County has jurisdiction, and that opportunities for TOD along passenger rail lines are present exclusively within local

municipalities. Nevertheless, in 2012 the County entered into an agreement for the sale of County owned property to create a TOD within the City of West Palm Beach. The project, Transit Village, will include 400,000 s.f. of office space, a 375-room hotel, 75,000sf of retail space, a 12,500 s.f. civic learning center, and 450 residential units, including workforce units. The project site is a hub for intermodal transit services including Tri-Rail, Amtrak, Greyhound, Palm Tran, and City Trolley, in addition to being pedestrian friendly and in walkable distance to CityPlace, the Convention Center, and the core of downtown West Palm Beach. Transit Village received approval from the City of West Palm Beach in December 2017, and is scheduled to break ground during 2018.

*Recommendations: The County should support the inclusion of affordable housing units within the TOD.*

**12) The maintenance of the existing supply of affordable housing in Palm Beach County, both owner-occupied and rental housing, is a critical to serve local affordable housing demand.**

*Recommendation: The County should direct resources to support the preservation and upgrading of the existing affordable housing stock in order to increase its long-term sustainability.*

**Report Development and Adoption**

The Triennial Report was developed by the CAH with support from staff of the Department of Housing and Economic Sustainability (DHES). Its preparation included discussion at three (3) public meetings of the CAH. On November 1, 2018, a public notice providing a summary of the evaluation and recommendations was published in the Palm Beach Post, posted on the DHES website, and sent directly to interested parties. The advertisement included notice of the November 14, 2018, meeting at which the Report was adopted by the CAH. Within ninety (90) days thereafter, the BCC will consider the recommendations of the CAH and amend the Palm Beach County Local Housing Assistance Plan (LHAP) to incorporate the incentive strategies which the County elects to implement.

**Attachment 1**

**Palm Beach County Unified Land Development Code**

**Article 5, Supplementary Standards**

# ARTICLE 5

## SUPPLEMENTARY STANDARDS

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# ARTICLE 5

## SUPPLEMENTARY STANDARDS

### CHAPTER A GENERAL

#### Section 1 Purpose and Intent

The purpose and intent of this Article is to establish minimum standards for accessory and temporary uses, design standards, parks and recreation, performance standards, legal documents, and density bonus programs.

#### Section 2 Definitions

See Art. 1.1, DEFINITIONS & ACRONYMS

#### Section 3 Deviations

Deviation(s) from the provisions of this Article may be permitted for the following: **[Ord. 2007-013]** **[Ord. 2010-022]**

##### A. PO Zoning District

Development supporting government facilities within the PO Zoning District, subject to an application established by the Executive Director of PZB and approval by the BCC utilizing the following standards: **[Ord. 2007-013]** **[Ord. 2010-022]**

1. the proposed deviation(s) maintains compatibility with the uses and character of land surrounding and in the vicinity of the land proposed for development; **[Ord. 2007-013]**
2. adverse effects on adjacent uses and lands, including but not limited to visual impact, are determined to be minimal or otherwise negligible upon review and consideration of surrounding lands, uses, zoning, Future Land Use (FLU), character, or other preexisting conditions; **[Ord. 2007-013]**
3. special or unique circumstances or factors exist that are applicable to the proposed use, structure, feature, or land proposed for development; **[Ord. 2007-013]**
4. the proposed deviation(s) allows for reasonable or practical use of the land proposed for development; **[Ord. 2007-013]**
5. approval of the deviation(s) is consistent with the purpose, goals, policies, and objectives of the Plan and this Code; and, **[Ord.2007-013]**
6. approval of the deviation(s) is not injurious to the surrounding area or otherwise detrimental to public health, safety, and general welfare. **[Ord. 2007-013]**

### CHAPTER B ACCESSORY USES AND STRUCTURES

#### Section 1 Supplementary Regulations

##### A. Accessory Uses and Structures

###### 1. General

The following provisions in this Section shall apply to all development in Standard, PDD or TDD Zoning Districts, unless otherwise stated. **[2007-001]** **[2017-007]**

###### a. Standards

Uses indicated in the Use Matrix as blank in a zoning district shall not be allowed as accessory use unless stated otherwise in Art. 4, Use Regulations. An accessory use or structure shall be subject to the same regulations that apply to the principal use or structure, except as otherwise stated. **[Ord. 2017-007]**

###### b. Location

All accessory uses and structures except for approved off-site parking, shall be located on the same lot as the principal use. No accessory structure shall be located in the front or side street yard except for dumpsters, or unless stated otherwise herein. **[Ord. 2017-007]** **[Ord. 2017-025]** **[Ord. 2018-002]**



**1) General Exceptions**

Structures such as: fences and walls; entry features for access ways internal to a PUD; bike racks; outdoor recreation amenities and support structures such as cabanas, located within a Neighborhood Recreation Facility or Recreation Pod; or, structures, projects and improvements listed in Art. 3.D.1.D.5, Setback Exceptions, excluding mechanical equipment accessory to a building, may be allowed within front or side street yards. **[Ord. 2017-025]**

**2) Exceptions for Buildings Accessory to Residential**

A detached garage, cabana, Accessory Quarters, or Guest Cottage, may be allowed within the front or side street yard, subject to the following: **[Ord. 2017-025]**

- a) The building is consistent with the architecture characteristics of the principal building, including roofing materials, fenestration, and paint color, where applicable; **[Ord. 2017-025]**
- b) When accessory to a principal residential use, such as a Single Family Home, accessory structures shall be connected to the principal building by common shared driveways, sidewalks, or pathways; and, **[Ord. 2017-025]**
- c) An application for a DO or Building Permit for any building proposing to utilize this provision shall include an affidavit from a licensed architect or general contractor, delineating how the proposed building will be in compliance with the requirements above. **[Ord. 2017-025]**

**3) Accessory Solar**

Accessory solar in the form of mechanical equipment attached to other permitted structures, or Solar Trees, in accordance with the standards of Art. 5.B.1.A.27, Accessory Solar. **[Ord. 2017-025]**

**c. Floor Area**

**1) Nonresidential Zoning Districts**

Where allowed, accessory uses and structures shall not exceed 30 percent of the GFA or business receipts of the principal use or uses, whichever is more restrictive. Minor Utility Use is not subject to this provision. **[Ord. 2017-007]**

**2) Residential Zoning Districts**

Accessory uses and structures in the U/S Tier shall not exceed the square footage of the principal use.

**d. Setbacks, Accessory Structure**

**1) Residential Districts (Except AR)**

Accessory structures may be setback a distance of five feet from the side and rear property lines provided it is not located in an established easement or required landscape buffer.

**a) Townhouse**

Accessory structures shall meet the setback and separation requirements in Table 3.D.2.A, Townhouse Regulations. No detached accessory building or structure other than permitted fences or walls shall be permitted on any lot less than 30 feet in width.

**b) ZLL**

Accessory structures shall meet the setback requirements of Table 3.D.2.B – ZLL Property Development Regulations. **[Ord. 2008-037]**

**c) Exceptions**

- (1) All structures used as dwellings, such as guest cottages, grooms quarters, and accessory dwellings, shall meet the minimum setback in Table 3.D.1.A, Property Development Regulations, or Art. 1.F.2.C, Minimum Residential Setback Requirements, if applicable. **[Ord. 2016-042]**
- (2) All structures over ten feet in height shall meet the minimum setbacks in Table 3.D.1.A, Property Development Regulations, or Art. 1.F.2.C, Minimum Residential Setback Requirements, if applicable. **[Ord. 2016-042]**
- (3) Encroachment into easements shall be in accordance with Art. 5.F.2.A, Easement Encroachment.

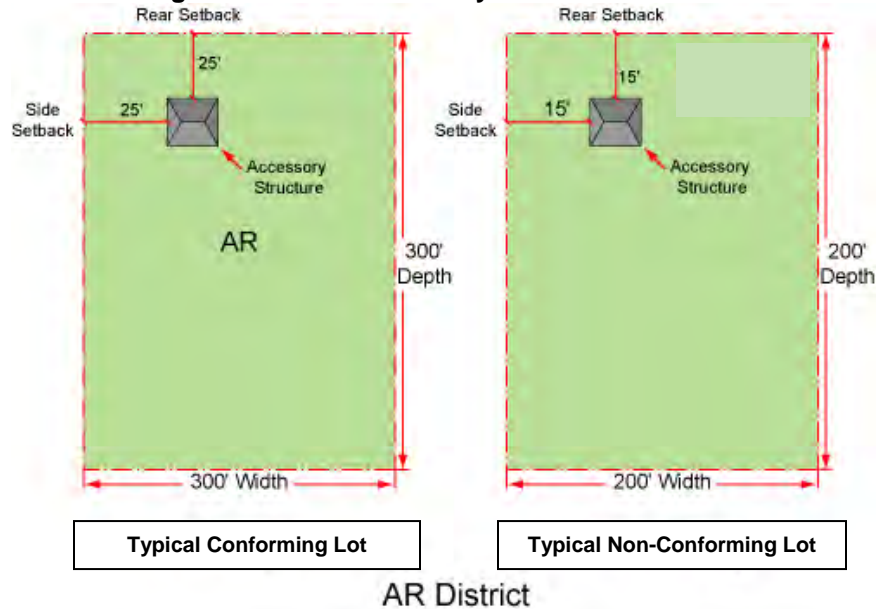
**2) AR District**

**a) Conforming Lot Dimensions**

Accessory structures may be setback a distance of 25 feet from the side and rear property lines on lots with conforming width and depth lot dimensions.

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**Figure 5.B.1.A – Accessory Structure Setbacks**



[Ord. 2016-042]

**b) Nonconforming Lot Dimensions**

The setbacks for accessory structures on lots with nonconforming width or depth may be reduced for either non-conforming dimension, as follows: [Ord. 2016-042]

**(1) General**

A minimum setback distance of 15 feet from the side or rear property lines; or [Ord. 2016-042]

**(2) U/S Tier**

The minimum setback may be reduced in accordance with the following: [Ord. 2016-042]

(a) The reduced setback permitted under Art. 1.F.2.C, Residential Development Regulations; or, [Ord. 2016-042]

(b) Parcels that are less than or equal to 13,999 square feet may apply the accessory structure setbacks of Art. 5.B.1.A.1.d.1), Residential Setbacks. [Ord. 2016-042]

**c) Minimum Setback from Easements**

Must be five feet from all established easements, except where use of Art. 5.B.1.A.1.d.1), Residential Districts (Except AR) is permitted. [Ord. 2016-042]

**3) Prohibition in Landscape Buffers**

Accessory structures shall not be located within a required landscape buffer. [Ord. 2016-042]

**4) Nonresidential Districts**

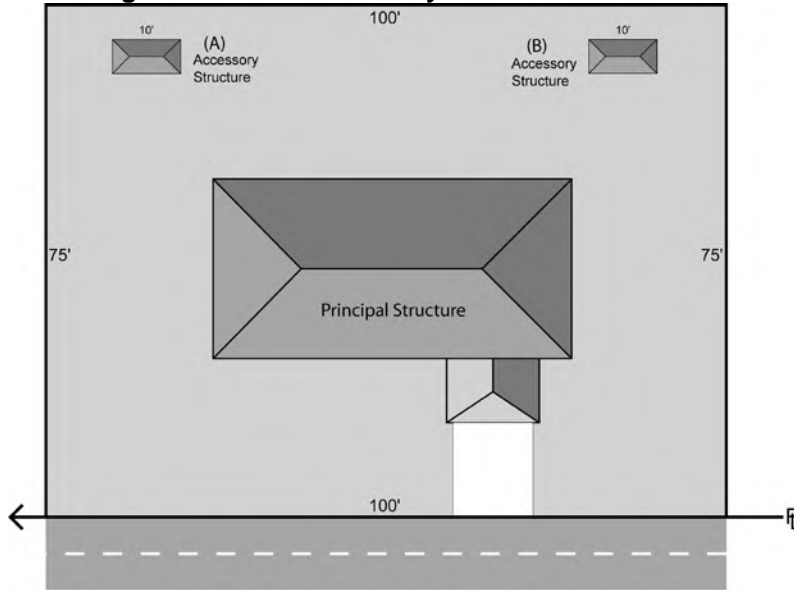
Accessory structures shall meet the setback requirements in Table 3.D.1.A, Property Development Regulations.

**5) U/S Tier – Maximum Accessory Structure Dimensions**

In the U/S Tier, all accessory structures located on a parcel in a residential district shall not occupy more than 25 percent of the distance between property lines. [Ord. 2008-037] [Ord. 2016-042]

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**Figure 5.B.1.A – Accessory Structure Dimensions**



In the U/S Tier, all accessory structures located on a parcel in a residential district shall not occupy more than 25 percent of the distance between property lines.

This Example:

Distance between property lines 100'  
 Total of A+B accessory structures 10'+10'=20'  
 100' X 25% = 25' maximum allowed by Code

**e. Specific Accessory Uses**

**1) Office**

- a) Areas of a building dedicated to the administrative operation and incidental to a principal use or uses listed in the Use Matrix may be Permitted by Right. **[Ord. 2017-007]**
- b) One parking space shall be provided for every 200 square feet of accessory office. **[Ord. 2017-007]**

**2) Incidental Sales**

Sales of products incidental to a principal use may be Permitted by Right in Commercial, Industrial, or Institutional, Public and Civic use classifications subject to the following, unless stated otherwise: **[Ord. 2017-007]**

- a) Maximum ten percent of the GFA; **[Ord. 2017-007]**
- b) One parking space for every 200 square feet of accessory sales; **[Ord. 2017-007]**
- c) Merchandise is not stored outside or visible from any street; and, **[Ord. 2017-007]**
- d) Commercial signage is only to advertise the principal use. **[Ord. 2017-007]**

**2. Fences and Walls**

**a. Height Measurement**

The height shall be measured adjacent to the fence or wall from the lowest grade on either side of the fence or wall, unless stated otherwise below: **[Ord. 2015-006] [Ord. 2016-016]**

**1) Located on Berm**

Height shall be measured from the elevation of the berm where the fence or wall is constructed, unless in conflict with standards for Grade Change below. **[Ord. 2015-006]**

**2) Grade Change**

**a. Residential**

Height may be increased when the fence or wall is located on a retaining wall, subject to the requirements of Art. 5.B.1.A.2.b.5), Residential District Grade Changes. **[Ord. 2016-016]**

**b) PDD or Non-residential Perimeter Buffers**

Height may be increased when the fence or wall is located on a retaining wall, subject to the requirements of Art. 7.D.5, Landscape Buffers with Grade Changes. [Ord. 2016-016]

**b. Height and Related Standards**

**1) Residential Districts**

The maximum height for a fence or wall on or adjacent to a residential lot line or in a landscape buffer shall be as follows: [Ord. 2015-006]

a) Within required front setback:

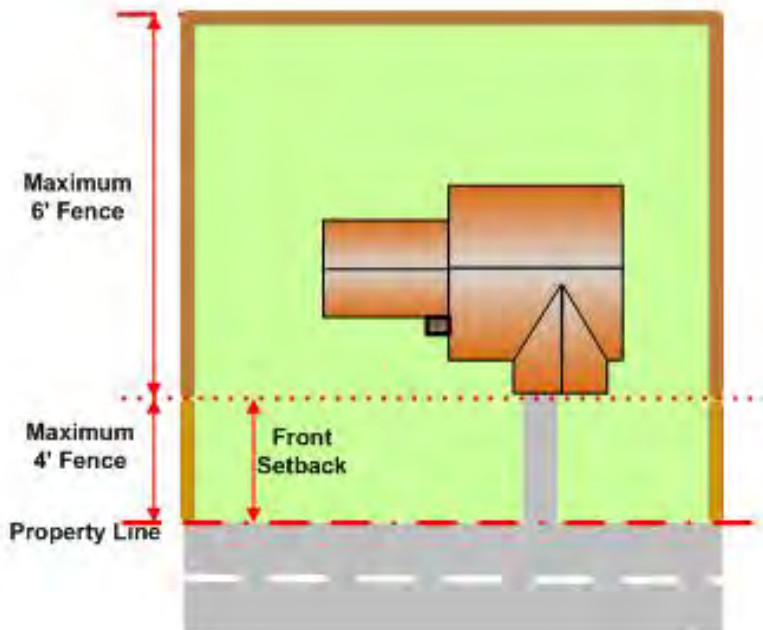
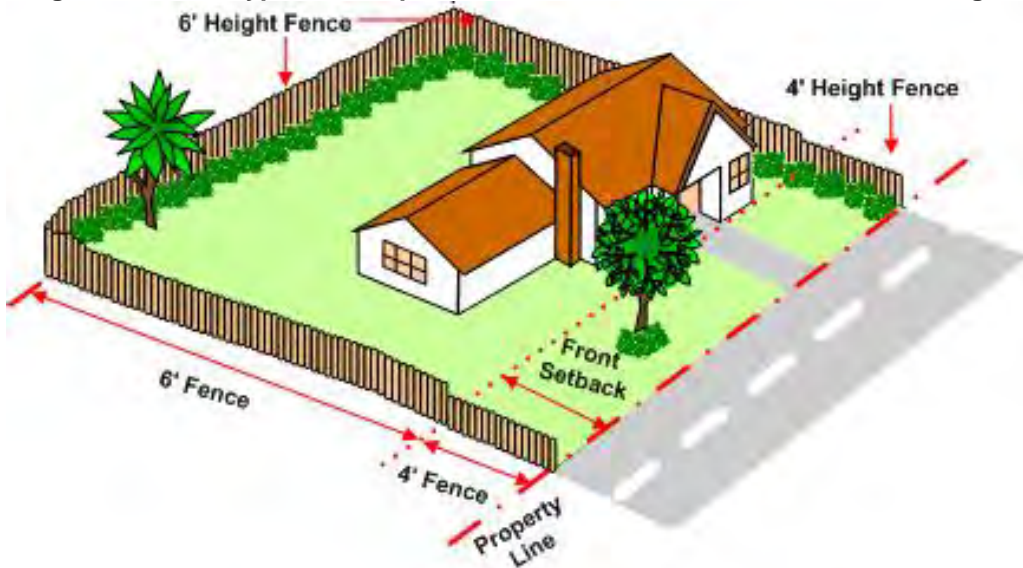
(1) four feet, or [Ord. 2005-041] [Ord. 2015-006]

(2) six feet for property owned by PBC for preservation or conservation purposes. [Ord. 2005-041] [Ord. 2015-006]

b) Within required side, side street, and rear setback: six feet. [Ord. 2015-006]

c) Within a landscape buffer: six feet. [Ord. 2015-006]

**Figure 5.B.1.A - Typical Example of Residential District Fence and Wall Height**



[Ord. 2005-041] [Ord. 2015-006]

**2) Nonresidential Districts**

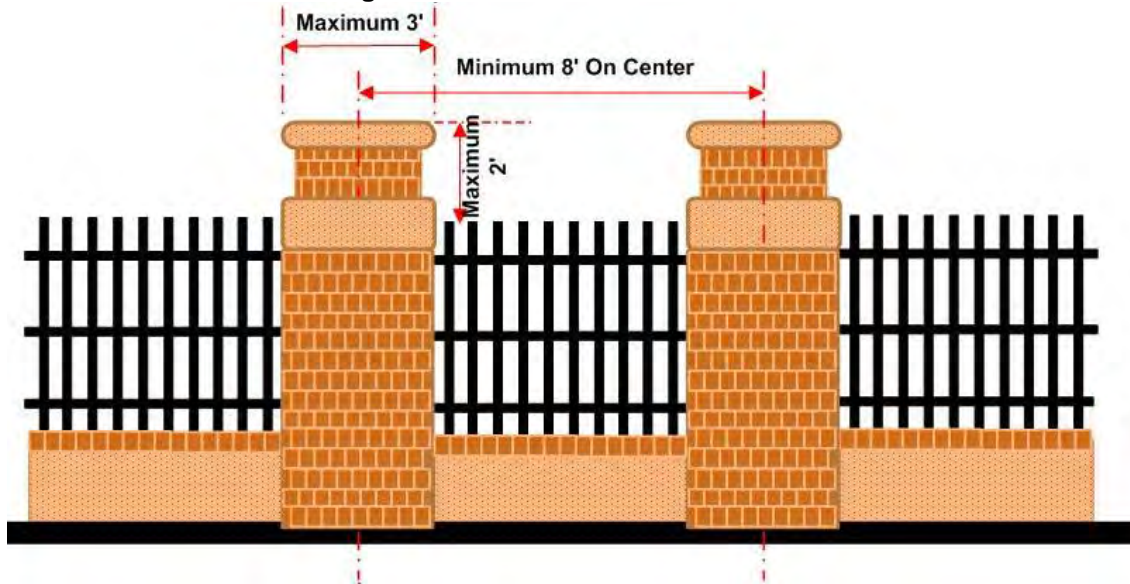
The maximum height for a fence or wall on or adjacent to a lot line or in a landscape buffer shall be as follows: **[Ord. 2015-006]**

- a) Within the required front setback: six feet. **[Ord. 2015-006]**
- b) Within the required side, side street, and rear setback: eight feet. **[Ord. 2015-006]**

**3) Attachments**

Gates, gateposts, decorative features, and lights attached to a fence or wall in a setback or perimeter buffer shall not exceed three feet in any horizontal distance or two feet in height above the fence or wall. Decorative features and lights shall be spaced a minimum of eight feet apart, measured on center. **[Ord. 2015-006]**

**Figure 5.B.1.A - Attachments to Walls**



**[Ord. 2015-006]**

**4) General Exceptions**

- a) Fences and walls up to eight feet in height shall be permitted within a street buffer adjacent to a golf course. **[Ord. 2015-006]**
- b) Fences around tennis courts may exceed six feet in height, subject to the setback requirements in Table 5.B.1.A, Tennis Court Setbacks. **[Ord. 2015-006]**
- c) The ZC and BCC may require increased heights to ensure adequate screening and buffering between incompatible uses. **[Ord. 2015-006]** **[Ord. 2016-016]**
- d) DRO may approve increased fence heights and modify allowable locations for fences with and without barbed wire for minor utilities, water and wastewater treatment plants. **[Ord. 2007-013]** **[Ord. 2015-006]**
- e) Schools may increase the fence height to eight feet along the perimeter of the site. **[Ord. 2017-007]**
- f) Walls subject to noise mitigation shall comply with Art. 7.D.4.B.2, Noise Mitigation Walls. **[Ord. 2018-002]**

**5) Residential District Grade Changes**

The height of a fence or wall located within the front, side or rear setback of a lot supporting a single family dwelling unit, may be increased when located adjacent to a lot having a different elevation where a retaining wall is installed along the property line, in accordance with the following: **[Ord. 2015-006]** **[Ord. 2016-016]**

**a) Grade Measurement**

The difference in grade shall be determined by measuring the elevation where the fence or wall is constructed and the elevation of the abutting lot at the property line. **[Ord. 2015-006]**

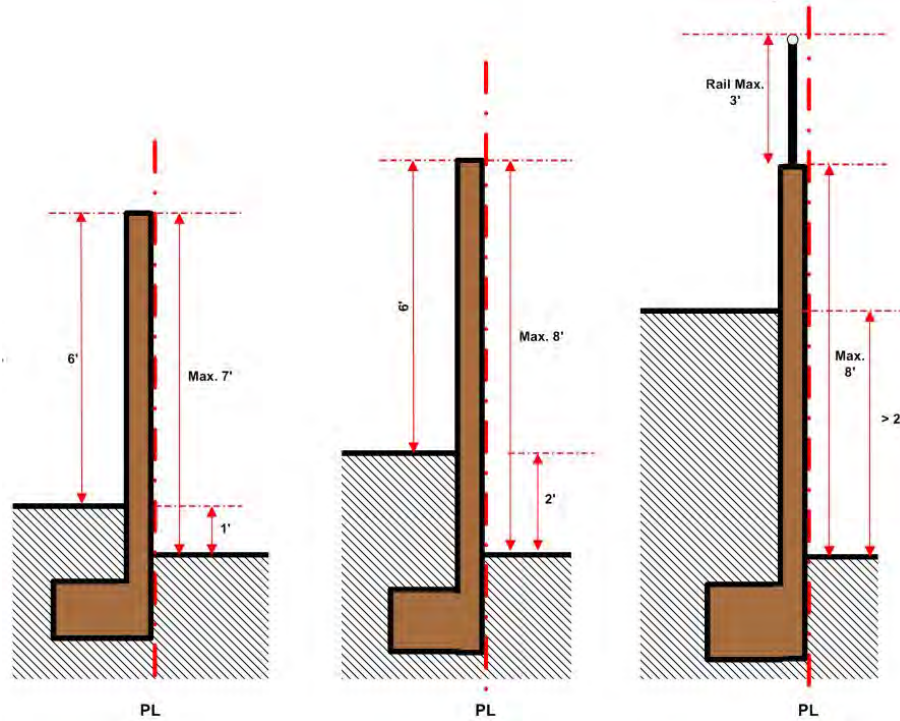
**b) Maximum Height Increase**

The height of the fence or wall may be increased by the difference in grade up to a maximum of two feet, whichever is less, as follows: **[Ord. 2015-006]**



- (1) Within the required front setback: Up to a maximum of six feet. **[Ord. 2015-006]**
- (2) Within a side or rear setback: Up to a maximum of eight feet. **[Ord. 2015-006]**
- (3) A guard railing not to exceed three feet in height may be permitted where the grade difference is greater than two feet, provided the mass of the railing does not exceed the mass necessary to meet the opening limitations and strength requirements of the Florida Building Code, Residential. **[Ord. 2015-006]**

**Figure 5.B.1.A - Residential District Grade Changes  
Examples of Wall in the Side or Rear Setbacks**



PL  
Typical Example of  
1' Grade Difference

**[Ord. 2015-006]**

PL  
Typical Example of  
2' Grade Difference

PL  
Typical Example of Grade  
Difference Greater than 2'

**c. Walls - Appearance**

The exterior surface of a wall shall be finished with paint, stucco, or other commonly accepted material, and continuously maintained in its original appearance.

**d. Sight Distance**

Walls and fences shall comply with Art. 11.E.9.C, Minimum Safe Sight Distance and Corner Clips at Intersection.

**e. Dangerous Materials**

Fences or walls in any zoning district, shall not be electrified or contain any substance such as broken glass, spikes, nails, barbed wire, razors, or any other dangerous material designed to inflict discomfort, pain or injury to a person or animal, except as allowed below. **[Ord. 2010-005]**  
**[Ord. 2011-001]**

**1) Barbed Wire Exceptions and Regulations**

The use of barbed wire is prohibited except in instances as detailed below. The County recognizes that barbed wire may be necessary to secure certain non-residential uses or structures. Therefore, the County allows the installation of barbed wire on top of the fence or wall, subject to the following: **[Ord. 2005-002]** **[Ord. 2010-005]** **[Ord. 2011-001]** **[Ord. 2017-007]**

**a) Allowable Uses for Barbed Wire**

- (1) Commercial Communication Towers **[Ord. 2017-007]**
- (2) Electric Power Facilities; **[Ord. 2017-007]**
- (3) Electric Transmission Facility; **[Ord. 2017-007]**
- (4) Minor Utility; **[Ord. 2017-007]**
- (5) Prisons; **[Ord. 2017-007]**

- (6) Solid Waste Transfer Stations; [Ord. 2017-007]
- (7) Water or Wastewater Treatment Plant; and, [Ord. 2017-007]
- (8) Zoo. [Ord. 2017-007]
- (9) Except when located adjacent to a parcel having a Residential FLU designation, Residential zoning district or residential use, barbed wire that is not visible from any public street, may be installed with the following uses: [Ord. 2017-007]
  - (a) Contractor Storage Yard; [Ord. 2017-007]
  - (b) Salvage or Junk Yard; [Ord. 2017-007]
  - (c) Self Service Storage; [Ord. 2017-007]
  - (d) Sugar Mill or Refinery; and, [Ord. 2017-007]
  - (e) Towing Service Storage. [Ord. 2017-007]
- (10) Bona Fide Agriculture use located in AGR, AP, and AR Zoning Districts; and AGR-PDD Preserve Parcels. When Bona Fide Agriculture is located in the AR Zoning District other than nurseries, barbed wire shall be setback a minimum of 25 feet from any property line. [Ord. 2017-007]
- (11) Properties with a Conservation FLU designation, for the purposes of protecting publicly owned natural areas; [Ord. 2005-002] [Ord. 2010-005] [Ord. 2011-001]
- (12) Properties where the owner can document a valid Development Permit for the use of barbed wire; and, [Ord. 2010-005] [Ord. 2011-001] [Ord. 2017-007]
- (13) The Zoning Director shall have the authority to allow the installation of barbed wire for any uses pursuant to Art. 4.B, Use Classification, when the applicant demonstrates a need to comply with Federal, State or Local Government regulations. In support of the barbed wire installation, the Zoning Director may require the applicant to perform mitigation in order to address compatibility with adjacent properties or visibility from adjacent street right-of-way. [Ord. 2010-005] [Ord. 2011-001] [Ord. 2017-007]
- (14) A removal agreement shall be executed to remove the barbed wire, prior to issuance of a Building Permit. This agreement shall require the removal of the barbed wire in the event the use changes to another use not allowed in the list above. [Ord. 2017-007]

**b) Standards**

**(1) Height**

The barbed wire shall not exceed 20 percent of the overall permitted height of the fence or wall or two feet whichever is less. [Ord. 2017-007]

**(2) Height Exemption**

Bona Fide Agriculture, Prisons, and other uses as authorized by the Zoning Director pursuant to provisions in Art. 5.B.1.A.2.e.1).a).13), shall be permitted to exceed the 20 percent provision. The calculation of the overall height of a fence or wall is inclusive of any barbed wire. [Ord. 2005-002] [Ord. 2010-005] [Ord. 2011-001] [Ord. 2017-007]

**2) Electrified Fences - Exceptions and Regulations**

The use of electrified fences is prohibited except in instances as detailed below. The County recognizes that electrified fences may be necessary to secure certain non-residential uses or structures. Therefore, the County allows the installation of electrified fencing, subject to the following: [Ord. 2013-018]

**a) Allowable Uses for Electrified Fences**

Electrified fences shall only be allowed for the following uses: [Ord. 2013-018]

- (1) Commercial uses, as follows: [Ord. 2013-018]
  - (a) Auction, Outdoor; [Ord. 2013-018]
  - (b) Contractor Storage Yard; [Ord. 2013-018]
  - (c) Flea Market, Outdoor; [Ord. 2013-018] [Ord. 2017-007]
  - (d) Landscape Service; [Ord. 2013-018]
  - (e) Laundry Services; [Ord. 2013-018]
  - (f) Marina; [Ord. 2017-007]
  - (g) Parking, Commercial; [Ord. 2013-018] [Ord. 2017-007]
  - (h) Repair and Maintenance, Heavy; [Ord. 2013-018] [Ord. 2017-007]
  - (i) Self-Service Storage Limited Access; [Ord. 2013-018] [Ord. 2017-007]
  - (j) Self Service Storage Multi Access; [Ord. 2017-007]
  - (k) Towing Service and Storage; [Ord. 2013-018] [Ord. 2017-007]
  - (l) Vehicle Sales and Rental, Light; and, [Ord. 2013-018] [Ord. 2017-007]

- (m) Vehicle or Equipment Sales and Rental, Heavy. [Ord. 2017-007]
- (2) Institutional, Public and Civic uses, as follows: [Ord. 2013-018] [Ord. 2017-007]
  - (a) Airport; and, [Ord. 2013-018]
  - (b) Government Services. [Ord. 2013-018]
- (3) Recreation uses, as follows: [Ord. 2013-018]
  - (a) Zoo [Ord. 2013-018] [Ord. 2017-007]
- (4) All uses listed as Agricultural Uses in Art. 4.B.6.A, Agricultural Use Matrix. [Ord. 2013-018] [Ord. 2017-007]
- (5) All uses listed under the Utilities Use Classification in Art. 4.B.7.A, Utilities Use Matrix. [Ord. 2013-018] [Ord. 2017-007]
- (6) All uses listed under the Excavation Use Classification in Art. 4.B.10.A, Excavation Use Matrix. [Ord. 2017-007]
- (7) All uses listed as Industrial Uses in Table 4.A.3.A, Use Matrix. [Ord. 2013-018]
- (8) Accessory Outdoor Storage in accordance with Art. 5.B.1.A.3, Outdoor Storage. [Ord. 2013-018]
- (9) Properties with a Conservation FLU designation, for the purposes of protecting publicly owned natural areas. [Ord. 2013-018]
- (10) To secure permanent mechanical equipment except on individual residential lots. [Ord. 2013-018]
- (11) The Zoning Director shall have the authority to allow the installation of electrified fences for any uses pursuant to Art. 4.B, Use Classification, when the applicant demonstrates a need to comply with Federal, State or Local Government regulations. The Zoning Director may require the applicant to perform mitigation in order to address compatibility with adjacent properties or visibility from adjacent street right-of-way. [Ord. 2013-018]
- (12) An agreement to remove an electrified fence shall be executed prior to issuance of a Building Permit. The agreement shall require removal of the electrified fence if the use changes to other than an allowable use listed above. [Ord. 2013-018]

**b) Standards**

Electrified fences shall be installed, operated or maintained in compliance with the following: [Ord. 2013-018]

**(1) Technical Standards**

All electrified fences are subject to permitting and review by the Building Division and shall be designed, installed, operated and maintained in a manner not to be injurious to individuals. [Ord. 2013-018]

**(2) Exterior Non Electrified Fence or Wall**

Electrified fences and gates shall be attached to the interior of, or completely surrounded on the side facing the property exterior, by a non-electrified fence or wall that meets the following requirements: [Ord. 2013-018]

- (a) Minimum of six feet in height; [Ord. 2013-018]
- (b) The separation between the exterior, non-electrified fence or wall and the electrified fence shall be a minimum of four inches and a maximum of eight inches; [Ord. 2013-018]
- (c) When adjacent to or within 50 feet of a parcel of land with a residential FLU designation or use, the non-electrified fence shall include a solid material that will screen the electric fence from view and prevent a person from being able to penetrate the non-electrified fence; and [Ord. 2013-018]
- (d) Exterior fences such as chain link shall have openings no larger than two and three-eighths inches. [Ord. 2013-018]

**(3) Public Warning Signage**

Provide and maintain signage, subject to prior review by the Building Division, which satisfies the intent of the requirements contained in ISO-3864 or a current equivalent internationally accepted standard, and that such signage be placed within ten feet of all corners, not more than 45 feet apart, so as to be plainly visible. Exceptions to screening or landscaping requirements may be permitted where necessary to ensure visibility of signage. [Ord. 2013-018]

**(4) Height**

The maximum height of an electrified fence and any attachments shall not exceed the height of any required exterior non-electrified fence or wall, or other required



screening, by more than a maximum of two feet in height. Any portion of an electrified fence that exceeds the height of the non-electrified fence shall be limited to a maximum of two horizontally placed strands per vertical foot, a maximum of 12.5 gauge in diameter, with attachments spaced not less than 20 feet on center, excluding gates. [Ord. 2013-018]

**(5) Location, Landscaping or Screening**

**(a) Within Required Setbacks**

Electrified fences shall not be permitted within any required setback or within 50 feet from property lines, whichever is greater, unless the perimeter landscape buffer is in compliance with Art. 7, Landscaping, unless stated otherwise herein. [Ord. 2013-018]

**(b) Within 50 Feet of Any Property Line**

Any electrified fence located within 50 feet of any property line (excluding within a required perimeter buffer) and abutting a non-conforming landscape buffer, shall be screened from view by landscaping, fences, walls or buildings, excluding the top two feet. [Ord. 2013-018]

**(c) Outdoor Storage**

The use of electrified fences in outdoor storage areas shall only be permitted when in compliance with the following screening requirements, excluding the top two feet: [Ord. 2013-018]

(1) When located in non-residential districts, the screening requirements of Art. 5.B.1.A.3, Outdoor Storage; and, [Ord. 2013-018]

(2) When located in residential districts or for uses which allow outdoor storage by definition or in another section, shall be screened from view by landscaping, fences, walls or buildings. [Ord. 2013-018]

**(d) Mechanical Equipment**

The use of electrified fences with mechanical equipment shall only be permitted when in compliance with the screening requirements of Art. 5.B.1.A.20, Mechanical Equipment, excluding the top two feet. [Ord. 2013-018]

**6) Non-Conforming Dangerous Materials**

If a property has non-conforming dangerous materials in areas that will be secured by the installation of electrified fences, the dangerous materials shall be removed prior to electrification or the issuance of a certificate of completion by the PBC Building Division for the electrified fence. [Ord. 2013-018]

**(7) URAO, IRO, WCRAO and TDD Limitations**

(a) Electrified fences shall not be permitted in any URAO, IRO, or TDD developments constructed with a required build to line or any other area unless located behind buildings and in areas not accessible by the public. [Ord. 2013-018] [Ord. 2017-025]

(b) Electrified Fences within the WCRAO shall be prohibited in all Sub-areas except for the UI Sub-area. [Ord. 2013-018]

**3. Outdoor Storage and Activities**

Outdoor storage of merchandise, inventory, equipment, refuse, or similar materials, and outdoor activities associated with a use operation in all zoning districts shall be subject to the following standards, unless stated otherwise: [Ord. 2017-007]

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**Figure 5.B.1.A - Outdoor Storage**  
Outdoor Storage



**a. General**

Outdoor Storage and Activities may only be allowed when incidental to the use located on the premises. [Ord. 2017-007]

**b. Location**

Outdoor Storage and Activity areas shall not be located in any of the required setbacks. Bollards or other acceptable barricade to the Zoning Division shall be provided to delineate pile locations. [Ord. 2017-007]

**c. Height**

Outdoor Storage material shall not exceed 15 feet in height or the height of the screening, whichever is less. The height could be less if required by the F.A.C 62-709, as amended. [Ord. 2017-007]

**d. Screening**

Outdoor Storage and Activity areas shall be completely screened from all property lines by landscaping, fences, walls, or buildings. [Ord. 2017-007]

**e. Industrial FLU Designation, Zoning Districts or Uses**

- 1) Outdoor Storage and Activity areas adjacent to parcels of land with Industrial FLU designation or use and not visible from any street shall be exempted from the screening requirements. [Ord. 2017-007]
- 2) Outdoor Activity areas in industrial uses shall have a Type 3 incompatibility buffer along property lines adjacent to parcels with a Civic, Conservation, Commercial, Recreational or residential FLU designation, or use, or where visible from a public R-O-W. The incompatibility buffer shall be a minimum of 25 feet in width. [Ord. 2017-007]
- 3) Outdoor Activities such as chipping, crushing, grinding, manufacturing or processing shall be restricted to uses in the IG Zoning District and Industrial General pod of PIPD unless approved as a Class A Conditional Use. [Ord. 2017-007]

**f. Exceptions**

The following uses or material are exempt from this Section:

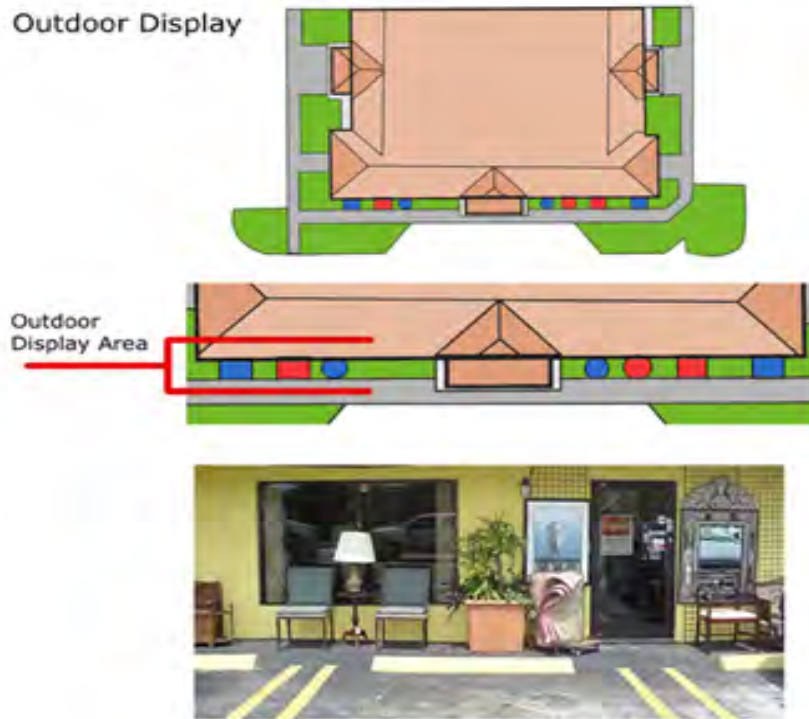
- 1) Storage and sales of landscape plant material.
- 2) Temporary storage of material used for road construction on a lot directly adjacent to the roadway under construction. [Ord. 2017-007]

**4. Outdoor Display**

- a. Merchandise must be mobile and stored indoors overnight daily.
- b. Merchandise must be accessory to a principal use located on the same property.

- c. Merchandise shall not be located in any required setback, parking space, loading space, loading area, vehicular use area, fire lane, landscape buffer, or required sidewalk, ADA accessibility route, or drainage easements.

**Figure 5.B.1.A - Outdoor Display**



**5. Docks**

**a. Accessory Docks**

Applicants shall comply with the Boat Facility Siting Plan of the Palm Beach County Manatee Protection Plan. This requirement does not apply to single family docks and only applies to expansion of existing marine facilities or development of new marine facilities with five or more slips. Accessory docks located on the same lot as a residence shall meet a five foot setback from the side property lines. Accessory docks not located on the same lot as a residence shall comply with the following setbacks: **[Ord. 2009-040]**

**1) Dock in Publicly Owned Waterway**

A minimum five-foot side setback measured from the extension of the property lines into the waterway. The property lines shall be extended into the waterway in the same direction and bearing as the side lot lines.

**2) Dock in Privately Owned Waterway**

The setback shall be determined by the Person asserting ownership in interest or jurisdiction over the waterway. Signed consent by this Person must be in place prior to permit being issued. Owner sign off and consent shall be required. The dock shall be located directly adjacent to, and abutting, the lot on which the residence is located.

**6. Entry Features**

Unless exempt in Art. 3.D.1.D.5, Setback Exceptions, entry features shall comply with Table 5.B.1.A, Entry Feature Setbacks. Setbacks may be taken from the edge of the pavement for access ways internal to a PDD. **[Ord. 2005-002]**

**Table 5.B.1.A - Entry Feature Setbacks**

<b>Front</b>	25 feet
<b>Side, Street and Rear</b>	15 feet

**7. Fuel, Gas, or Chemical Storage Tanks**

Above ground accessory fuel, gas, or chemical storage tanks, shall be setback a minimum of 20 feet and shall be completely screened from view by a continuous solid opaque hedge a minimum of four feet in height around the perimeter of the tank enclosure.

**8. Dumpsters**

Each use shall provide a method for the removal of refuse when individual collection, from a licensed solid waste hauler is not provided. All outdoor receptacles for the storage and disposal of refuse, vegetation, and recyclable material, such as dumpsters, trash compactors, and recycling containers, shall meet the following standards:

**a. Storage Area**

A minimum of one refuse container and one recycling container shall be provided for each nonresidential project and per multi-family project with 16 units or more. All refuse containers shall be stored in a storage area. Storage areas shall have a minimum dimension of ten feet by ten feet. [Ord. 2018-002]

**b. Location**

Containers shall be located to minimize turning and back up movements by pick-up and removal vehicles. Dumpster shall not encroach into easements or landscape buffers. [Ord. 2018-002]

**c. Setback**

- 1) Dumpsters located in a Commercial pod of a PUD shall comply with Art. 3.E.2.E.2.b, Design. [Ord. 2018-002]
- 2) In all other zoning districts, dumpsters shall be setback a minimum of 25 feet from all property lines. [Ord. 2018-002]

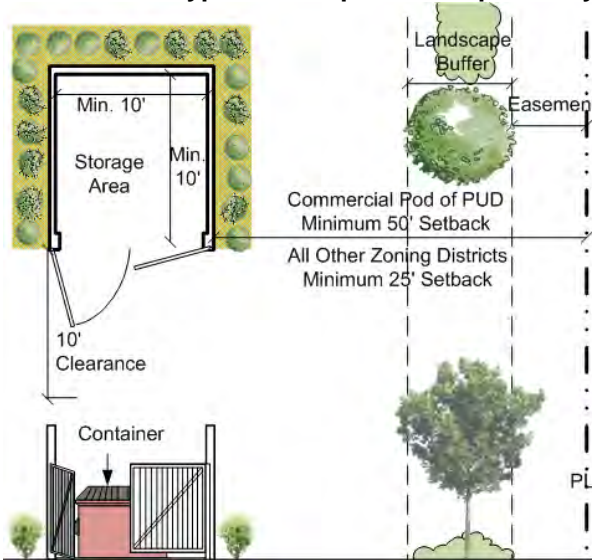
**d. Screening**

Containers shall be screened from view by a solid opaque enclosure. The open end of the enclosure shall have an opaque gate which provides a minimum of ten feet of clearance when open for service. All exposed exterior sides of the enclosure, other than the open end, shall be landscaped with one 36-inch high shrub planted 24 inches on center. If improvements are proposed for previously approved containers, screening shall be provided to the greatest extent possible. [Ord. 2018-002]

**e. Retrofitting of Existing Developments**

The retrofitting of existing developments to comply with the standards of this Section is permitted at a ratio of deletion of one parking space for each outdoor receptacle, not to exceed ten percent of the total required parking spaces.

**Figure 5.B.1.A – Typical Example of Dumpster Layout**



[Ord. 2018-002]

**9. Neighborhood Recreation Facility**

A non-profit facility designed and intended for recreational use by occupants of a residential development or subdivision owned and operated by a POA or equivalent. Recreation facilities shall be subject to the following standards: [Ord. 2011-001] [Ord. 2013-001]

**a. Property Development Regulations (PDRs)**

- 1) PDRs shall be in accordance with the standards for a recreation pod in Table 3.E.2.D, PUD Property Development Regulations. **[Ord. 2011-001]**
- 2) PDRs for outdoor recreation amenities shall be in accordance with Art. 5.B.1.A.10, Outdoor Recreation Amenities. **[Ord. 2013-001]**

**b. Parking**

Parking shall be in accordance with Art. 6, Parking, and the following: **[Ord. 2011-001]**

- 1) Clubhouses in a standard district shall apply the requirements for a recreation pod clubhouse. **[Ord. 2011-001]**
- 2) Parking shall not be required for recreation pods or facilities on less than one acre; however, a minimum of two spaces shall be required to accommodate maintenance services for pools or clubhouses. **[Ord. 2011-001]**
- 3) The POA or its equivalent shall be responsible for ensuring adequate off street parking is provided during special events. **[Ord. 2011-001]**

**c. Landscaping**

Landscaping shall be in accordance with Art. 7, Landscaping, except that perimeter buffers shall not be required for golf course greens (excluding driving ranges or other recreational amenities) abutting internal streets or residential lots if approved by the BCC on a Preliminary Master Plan or Subdivision Plan. **[Ord. 2011-001]**

**d. Additional Requirements for Standard Zoning Districts**

In addition to the above, recreation facilities in a standard zoning district shall also comply with the following: **[Ord. 2011-001]**

- 1) Shall be subject to a Class A Conditional Use approval. **[Ord. 2011-001]**
- 2) Shall be located within the residential subdivision it serves; **[Ord. 2011-001]**
- 3) Shall not front on an arterial or collector street; and, **[Ord. 2011-001]**
- 4) The applicant shall provide documentation of ownership and management by the POA or an equivalent. **[Ord. 2011-001]**

**Figure 5.B.1.A - Typical Recreational Facilities**





**10. Outdoor Recreation Amenities**

An open-air amenity designed and intended to support recreation activities including but not limited to: basketball courts, tennis courts, playgrounds and tot lots, excluding those uses regulated elsewhere such as Outdoor Entertainment. [Ord. 2013-001]

**a. Principal and Accessory Use**

**1) Principal Use**

Any outdoor recreation amenities owned and operated as a commercial enterprise or in combination with other commercial recreation uses on the same property shall be considered a principal use subject to the PDRs of the applicable district. [Ord. 2011-001] [Ord. 2013-001]

**2) Accessory Use**

Any outdoor recreation amenities operated by a non-profit assembly, social, civic organization, Property Owners Association (POA), or resident of a dwelling unit shall be considered an accessory use. The accessory use shall be located on the same lot as the principal use except if operated by a residential POA. If operated by a POA, the accessory use shall be located within the boundaries of the development, or a Neighborhood Recreation Facility. [Ord. 2011-001] [Ord. 2013-001]

**b. Setbacks - General**

The following setbacks shall apply to outdoor recreation amenities and equipment, excluding swimming pools and spas, and shall be measured to the edge of the court surface or fence, whichever is more restrictive: [Ord. 2006-004] [Ord. 2011-001] [2013-001] [Ord. 2014-001]

**1) Common Recreation Amenities**

Outdoor recreation amenities operated by a non-profit assembly, social, civic organization, or Property Owners Association (POA) on a community recreation POD, tract, or designated area, shall be setback a minimum of 50 feet from any residential property line, unless stated otherwise herein. [Ord. 2011-001] [Ord. 2013-001] [Ord. 2014-001]

**2) Residential Lot Recreation Equipment**

Recreation equipment located on a residential lot, which require issuance of a building permit shall comply with the setbacks in Table 5.B.1.A – Setbacks – General. [Ord. 2014-001]

**Table 5.B.1.A – Setbacks – General**

Zoning	Setbacks			
	Front	Side	Side Street	Rear
Residential Lot	25 feet	7.5 feet (3)	15 feet	7.5 feet (3)
Other (1)(2)	50 foot setback or separation to the nearest residential lot line			
[Ord. 2011-001] [2013-001] [Ord. 2014-001]				
<b>Note:</b>				
1. Tennis courts with a valid Development Order approved prior to the adoption of setbacks for tennis courts permitted on other than residential lots shall be considered legally-conforming. [Ord. 2011-001]				
2. Golf course greens, excluding driving ranges, shall be exempt from these setbacks.				
3. Setbacks for recreational amenities and equipment may be reduced to five feet on a residential lot, excluding the AR district. [Ord. 2014-001]				

**c. Standards for Swimming Pools and Spas**

**1) Setbacks**

a) The following setbacks shall apply to pool and spas, and shall be measured to the water's edge:

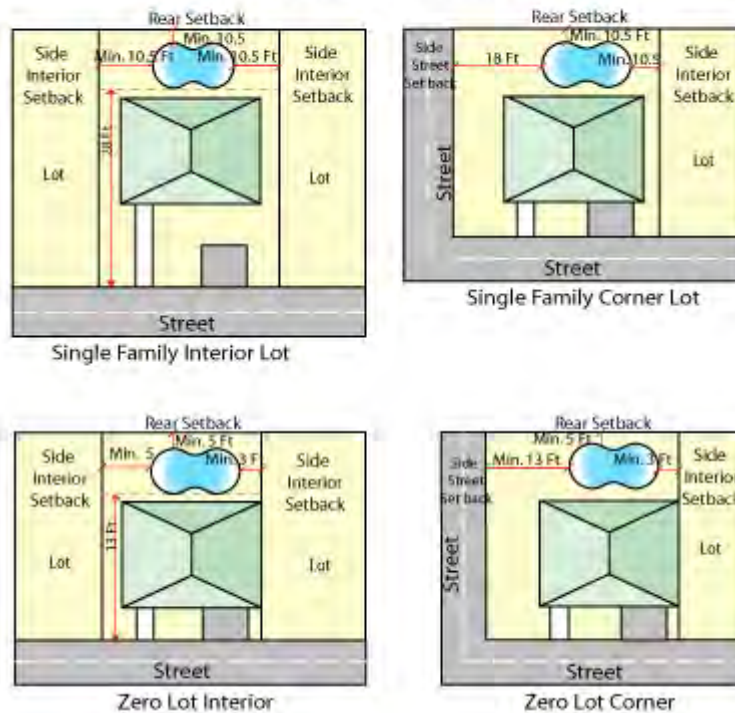
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**Table 5.B.1.A - Pool/Spa Setbacks**

Setbacks	Front	Side	Side Street	Rear
Single Family	28 feet	10.5 feet	18 feet	10.5 feet
Cottage Home	20 feet	5 feet	12 feet	5 feet
ZLL	13 feet	ZLL: 3 feet Non-ZLL: 5 feet	13 feet	5 feet
Townhouse	Parking Tract: 13 feet Street: 28 feet	3 feet	18 feet	5 feet
Multi-Family	28 feet	18 feet	28 feet	15 feet
Neighborhood Recreation Facility less than 1 acre	25 foot setback or separation to the nearest residential lot line			
Neighborhood Recreation Facility 1 acre or more	50 foot setback or separation to the nearest residential lot line			
[Ord. 2013-001] [Ord. 2018-018]				

**Figure 5.B.1.A - Pool Setbacks**

Examples of Pool Setbacks



**b) Exceptions**

**(1) Single Family Design Clusters**

Single family design clusters are a type of single-family dwellings no longer permitted. Swimming pools and spas for projects with previously approved single-family design clusters shall comply with the setbacks indicated on the PBC site plan. If setbacks are not indicated on site plan, setbacks for ZLL homes shall be applied.

**(2) Single Family and ZLL Homes Adjacent to Open Space**

Swimming pools or spas may be constructed with a three-foot rear or side interior setback if adjacent to dedicated open space 50 feet in width or greater. [Ord. 2013-001]

**(3) Neighborhood Recreation Facility**

Swimming pools or spas may be constructed with a ten-foot rear or side interior setback if adjacent to dedicated open space 50 feet in width or greater. [Ord. 2008-037] [Ord. 2013-001]

**2) Building Coverage**

Swimming pools and spas shall not be included in the building coverage calculation unless enclosed within a building or a screen enclosure with a solid roof.

**3) Fencing, Screening, and Access**

Swimming pools and spas shall be enclosed by a safety barrier, wall, fence, or other structure in accordance with the 2001 Florida Building Code, as amended. **[Ord. 2005 – 002]**

**4) Common Area**

The construction of private swimming pools and spas for individual dwelling units within a common area is prohibited, unless the swimming pools and spas were legally constructed prior to April 21, 1995. If 30 percent of the existing dwelling units in a pod or subdivision have existing legally constructed swimming pools or spas in the common area, the remaining dwelling units within the same pod or subdivision may construct a swimming pool or spa as shown on the final subdivision plan or final site plan. If the final subdivision plan or final site plan does not graphically depict the placement of swimming pools or spas in common area, application shall be made to DRO to amend the final subdivision plan or final site plan to depict the placement of the swimming pool or spa if in compliance with the following criteria:

**a) Legally Permitted**

The applicant demonstrates that existing swimming pools and spas were legally permitted and constructed in common areas;

**b) Joint Applicant**

The POA or equivalent must be included as part of a joint applicant on the building permit application; **[Ord. 2011-001]**

**c) Setbacks**

The swimming pool or spa must comply with all setback requirements measured from the outer boundary of the common area or have a 15-foot separation from primary structures, whichever is greater;

**d) Perimeter Landscape Area**

Accessory structures and improvements shall not be permitted in a required perimeter landscape area;

**e) Open Space**

The entire development must continue to meet open space requirements;

**f) Documents**

The homeowners' documents shall be amended to include provisions that allow private use of the common area upon association approval; and

**g) Prohibitions**

Swimming pools or spas shall not be permitted in a common area that is designed as a water management tract.

**11. Screen Enclosures**

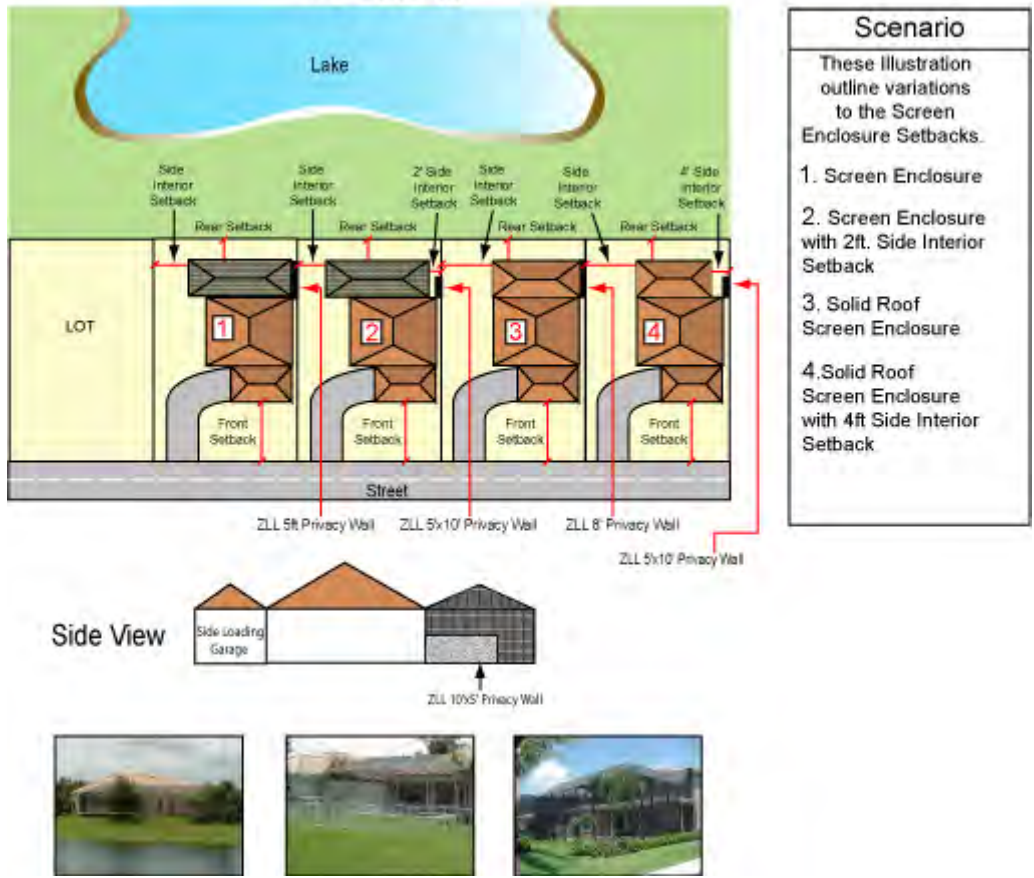
**a. General**

Screen enclosures may be covered with a screened or solid roof, as follows:

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**Figure 5.B.1.A - Typical Screen Enclosure Setbacks**  
**PLAN VIEW**



Scenario
These illustration outline variations to the Screen Enclosure Setbacks.
1. Screen Enclosure
2. Screen Enclosure with 2ft. Side Interior Setback
3. Solid Roof Screen Enclosure
4. Solid Roof Screen Enclosure with 4ft Side Interior Setback

**b. Setbacks for Screen Enclosures with Screened Roofs**

Setbacks for screen enclosures with screen roofs shall be measured as specified in the table below:

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**Table 5.B.1.A - Screen Enclosure Setbacks**

<b>Setback</b>	<b>Front</b>	<b>Side Interior</b>	<b>Side Street</b>	<b>Rear</b>
Single family	25 feet	7.5 feet	15 feet	7.5 feet
Cottage Home	20 feet	2 feet	10 feet	2 feet
Multi-family	25 feet	15 feet	25 feet	12 feet
<b>ZLL</b>				
Interior lot	Parking Tract: 10 feet	Non-ZLL: 2 feet ZLL: 0 feet	N/A	2 feet
Corner lot		0 feet	10 feet	
Side street home	R-O-W: 25 feet	2 feet	10 feet	
<b>Townhouse</b>	<b>Front (Setback)</b>	<b>Side (Setback/ Separation)</b>	<b>Side Street (Setback)</b>	<b>Rear (Setback/Separation)</b>
Property line	Parking Tract: 10 feet	0 feet	Property line: 3 feet Street - 15 feet	0 feet
From Inside edge of landscape buffer or PUD-or tract boundary		R-O-W: 25 feet	15 feet	15 feet
Separation between groups	25 feet	15 feet	N/A	15 feet
<b>Recreation Parcels</b>	<b>Front</b>	<b>Side</b>	<b>Side Street</b>	<b>Rear</b>
Property Line	25 feet	20 feet	20 feet	20 feet
<b>[Ord. 2013-001] [Ord. 2018-018]</b>				

**1) Exceptions**

**a) Single Family Design Clusters**

Single-family design clusters are a type of single-family dwelling no longer permitted. Screen enclosures with screen roofs for projects with previously approved single-family design clusters shall comply with the setback indicated on the approved site plan. If setbacks are not indicated on an approved plan, setbacks for ZLL homes shall be applied.

**b) Single Family and ZLL Homes Adjacent to Open Space**

Screen enclosures with a screen roof may be constructed with zero foot rear or side interior setbacks in accordance with Art. 3.D.1.D.4.a, Open Space. **[Ord. 2008-037]**

**c) Recreation Facilities**

Screen enclosures may be constructed with a minimum of seven foot rear or side setback if adjacent to dedicated open space 50 feet in width or greater.

**2) Townhouses**

- a) Setbacks are required to be in compliance with the townhouse standards of Art. 3.D.2.A, Townhouse;
- b) Screen enclosure shall maintain a minimum separation between other screen enclosures or the principal structure of townhouse groups, as specified in Table 5.B.1.A, Screen Enclosure Setbacks;
- c) Separations between two townhouse groups shall be measured by drawing a centerline between the two adjacent groups and measuring a minimum distance of equal to one-half of the required separation from the centerline between structures to ensure an equidistant separation; and
- d) Screen enclosures for townhouses may cover 100 percent of the total lot area provided minimum separations between townhouse groups are met.

**3) ZLL Developments**

A minimum five-foot high opaque privacy fence or wall shall be provided on the zero side of ZLL extending from the rear of the structure to the rear corner of the screen enclosure. The screen enclosure may be attached to the fence or wall. The wall shall be constructed of materials consistent with Art. 3.D.2.C.9.e, Privacy Walls or Fences. A screen enclosure which is not attached to the privacy wall shall be setback a minimum of two feet from the ZLL side.

- 4) **Building Coverage**  
Screen enclosures with screen roofs shall not be included in the building coverage calculation.
- 5) **Maximum Allowable Size**  
Screen enclosures shall be permitted to cover a maximum of 30 percent of the total lot area, except for townhouses.
- 6) **Height**  
The height of the screen enclosure shall not exceed the height of the home to which it is attached.
- 7) **Screen Enclosures Within Common Areas of a Residential Development**  
See procedures under Art. 5.B.1.A.10.c.4.
- c. **Screen Enclosures with Solid Roofs**
  - 1) **Setbacks**  
Screen enclosures with a solid roof shall meet the minimum setbacks of the principal use of the lot.
  - 2) **Special Townhouse Provisions**  
If the roof of the enclosure is solid, there shall be a minimum eight-foot high wall on the shared lot line extending from the dwelling to the rear corner of the portion of the enclosure that is roofed. The wall shall be fire-rated in accordance with applicable Building Codes. The screen enclosure may be attached to the masonry wall.
  - 3) **Height**  
The height of the screen enclosure with a solid roof shall not exceed the height of the dwelling unit to which it is attached.
  - 4) **Screen Enclosures with Solid Roofs Within Common Areas of Residential Developments**  
See procedures under Art. 5.B.1.A.10.c.4.
  - 5) **ZLL Setback**  
A screen enclosure which is not attached to the privacy wall shall be setback a minimum of four feet from the ZLL side.

**12. Communication Antennas**

A transmitting and/or receiving device used for AM/FM radio, television, microwave, telephone, cellular, personal wireless services, and related forms of electronic communications. This excludes amateur radio antennas and satellite dish antennas. **[Ord. 2017-007]**

**a. Applicability**

Unless an Eligible Facilities Request for Modification is approved pursuant to Art. 4.B.9.E, these standards below shall apply to antennas mounted on roofs, or attached to buildings or legal billboards (collocations). **[Ord. 2006-004] [Ord. 2017-007]**

**b. Review Process**

- 1) Antennas, excluding whip antennas not exceeding eight feet in height and six inches in diameter, may be permitted and shall be reviewed as follows: **[Ord. 2017-007]**

**Table 5.B.1.A- Antenna Review Process**

Zoning District or Use				
Structure Height	Single Family Residential	Multi-Family Residential	IG, IL, PO Zoning Districts	All Other Non-Residential Zoning Districts
< 25'	Not Permitted	Not Permitted	Building Permit Review	Not Permitted
25' to 45'	Development Review Officer	Development Review Officer	Building Permit Review	Development Review Officer
>45'	Class B Conditional Use	Building Permit Review	Building Permit Review	Building Permit Review

**[Ord. 2017-007]**

**2) Building Permit**

A building permit shall be required for the installation of all antennas in addition to any other review process. **[Ord. 2017-007]**

**c. Architectural Compatibility**

Demonstrate architectural compatibility (color and/or texture) with the structure on which it is located. **[Ord. 2017-007]**

**d. Screening**

If the antenna is attached to a pole support structure, the pole shall be concealed by an opaque screen. [Ord. 2017-007]

**e. Size Limitations for Panel Antenna**

Each panel shall not exceed a maximum height of eight feet; maximum depth of four feet; and maximum width of four feet. [Ord. 2017-007]

**f. Supplemental Application Requirements**

In addition to the requirements indicated above, plans depicting cross sections or elevations of the panel attached to the structure shall be provided at the time of submittal of the application package. [Ord. 2017-007]

**g. Setbacks**

**1) Accessory Structures**

Roof mounted accessory structures shall meet a minimum 25-foot setback from the edge of the roof or comply with the architectural compatibility standards pursuant to Art. 5.B.1.A.12.c, Architectural Compatibility. [Ord. 2017-007]

2) There shall be no minimum setback required for antennas. [Ord. 2017-007]

**h. Whip Antennas**

Whip antennas not exceeding eight feet in height and six inches in diameter shall be permitted in any zoning district. Whip antennas may be attached to residential structures, utility poles, etc. Whip antennas, unless attached to a residential structure, shall be installed at least 50 feet from any existing residential structure. [Ord. 2017-007]

**13. Accessory Radio Tower**

A radio tower for noncommercial electronic communication purposes may be permitted as an accessory structure to civic, institutional, recreational, and agricultural uses subject to the following standards:

**a. Height**

The radio tower shall not exceed 100 feet in height from ground level; and

**b. Setbacks**

An accessory radio tower shall be setback a distance equal to the height of the tower. The radio tower shall be located in such a manner that it will not fall on any power line.

**c. Exceptions for SFWMD Telemetry Towers in the Glades Tier**

SFWMD Telemetry towers may be considered an accessory use within the Glades Tier, subject to the following: [Ord. 2014-025]

1) DRO approval of a FSP; [Ord. 2014-025]

2) Located on parcels owned by the SFWMD or leased from the Board of Trustees of the Internal Improvement Trust Fund (TIITF) of the State of Florida; [Ord. 2014-025]

3) Height may exceed 80 feet; [Ord. 2014-025]

4) The DRO may approve setback reductions for property lines or lease tracts within parcels owned by the SFWMD or TIITF, when it is demonstrated to DRO that the tower will collapse within the property or the adjoining parcels owned by the SFWMD or TIITF. [Ord. 2014-025]

5) If located within the USA of the Glades Tier, rezoning for consistency with the parcel's FLU designation shall not be required. [Ord. 2014-025]

**14. Government Owned Towers**

The following regulations shall be applicable to government owned towers providing governmental services, including but not limited to emergency services. [Ord. 2018-002]

a. New or modification of towers 100' or less in height, may be permitted by right in any zoning district, provided the setbacks, separation and distance between towers is at least 100 percent of the tower height, unless stated otherwise. All government towers in excess of 100' in height shall be subject to the standards in Tables 5.B.1.A. [Ord. 2018-002]

b. Government owned towers that do or will support commercial antennas shall be subject to the approval and supplementary use standards pursuant to Art. 4.B.9 Commercial Communication Towers. [Ord. 2018-002]

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**Table 5.B.1.A – New, Modified or Relocated Government Towers Related to an Emergency(1)**

Improvement	Tower Height	Approval Process (2)	Regulations
New Tower	Towers 100' or less in height that do not comply with Art. 5.B.1.A.14.a, above.	BCC Hearing (3)	(5)
	Towers greater than 100'	Subject to approval in the Use Matrix of Art. 4.B.9, Commercial Communication Towers (4)	<ul style="list-style-type: none"> <li>• Setbacks, separation and distance between towers are at least 100 percent of the tower height. (5)</li> </ul>
Modification	Towers greater than 100'	Permitted by Right	<ul style="list-style-type: none"> <li>• Tower height, base station and location are the same as in the original approval; or</li> <li>• Subject to the limitations in Art. 4.B.9.E, Eligible Facilities Request for Modification; or,</li> <li>• Stealth or Monopole towers shall comply with the limitations in Art. 4.B.9.D.1.e.1), Stealth; or,</li> <li>• Modifications of the tower requires relocation of the tower on the same parcel and the setbacks, separation and distance between towers are at least 100 percent of the tower height.</li> </ul>
		BCC Hearing (3)	Modification of towers, not subject to Eligible Facilities Request for Modification, resulting in setbacks, separation and distance between towers less than 100 percent of the tower height. (5)
<b>[Ord. 2018-002]</b>			
<b>Notes:</b>			
(1) As defined in Art. 1.1.2.E, Emergency <b>[Ord. 2018-002]</b>			
(2) Applications subject to public hearing shall comply with and be limited to only the notification requirements in Art. 2.B.5.B, Newspaper Publication and Art. 2.B.5.D, Signs. <b>[Ord. 2018-002]</b>			
(3) For government entities other than Palm Beach County, coordination shall be undertaken with the County's Facilities Development and Operation Department (FDO) for placement on the next available BCC meeting or hearing following receipt of a sufficient written request and fulfillment of required public notification. <b>[Ord. 2018-002]</b>			
(4) A government agency looking to locate a tower in a prohibited zoning district per Table 4.B.9.A, Commercial Communication Towers, may request BCC approval of the tower as an emergency conditional approval provided that: <b>[Ord. 2018-002]</b> <ul style="list-style-type: none"> <li>• There are no properties owned by that government agency that are available within the defined service area in the zoning districts where towers are allowed; <b>[Ord. 2018-002]</b></li> <li>• The tower is the minimum necessary to protect the public health, safety, or welfare of PBC residents; and, <b>[Ord. 2018-002]</b></li> <li>• The applicant makes a presentation to the BCC at a scheduled meeting or hearing on the merits of the request. <b>[Ord. 2018-002]</b></li> </ul>			
(5) Setbacks, separation or distance between towers may be reduced or exempted by the BCC based on findings of fact, including but not limited to: <b>[Ord. 2018-002]</b> <ul style="list-style-type: none"> <li>• Demonstrate that the tower is the minimum necessary to maintain the level of service to <i>protect the public health, safety, or welfare</i> of PBC residents <b>[Ord. 2018-002]</b></li> <li>• Setbacks, separation and distance between towers are the minimum necessary to protect adjacent uses and structures. <b>[Ord. 2018-002]</b></li> <li>• All setbacks less than 100 percent of the tower height shall be substantiated by a registered engineer in the State of Florida certifying breakpoint calculations. The breakpoint calculations shall confirm that should tower failure occur, the failed portion of the tower shall fall within the property where the tower is located on. <b>[Ord. 2018-002]</b></li> </ul>			

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**Table 5.B.1.A – New, Modified or Relocated Government Towers Not Subject to an Emergency**

Improvement	Height or Base Station Area	Approval Process	Regulations
New Tower	101' or more of any tower type	Subject to the provisions in Art. 4.B.9, Commercial Communication Towers(1)	
Modification	Tower height, base station area and location are the same as in the original approval	Permitted by Right	Consistent with the original approval
			Replacement of towers, subject to Art. 4.B.9.G.2, Replacement
	Modification to tower location	Permitted by Right	Setbacks, separation and distance between towers are at least 100 percent of the tower height.
	Modifications to the tower height, base station area and/or location other than above	Subject to the limitations in Art. 4.B.9.E, Eligible Facilities Request for Modification	
Stealth or Monopole Tower comply with the limitations in Art. 4.B.9.D.1.e.1), Stealth			
All other towers subject to Art. 4.B.9.G.3, Tower Height Increases			
	BCC Hearing	All other dimensions not noted above shall comply with Art. 4.B.9.H.5, Type 2 Waiver from Required Dimensional Criteria.	
<b>[Ord. 2018-002]</b>			
(1)	A government agency proposing to locate a tower in a prohibited zoning district per Table 4.B.9.A, Commercial Communication Towers, may request approval of the tower as a Class A Conditional Use. <b>[Ord. 2018-002]</b>		

**15. Amateur Radio and Television Antennas**

**a. Purpose and Intent**

The purpose and intent of this Section is to provide for the safe and effective installation and operation of amateur radio, citizens band radio, and television antenna support structures, and the beam, satellite, or other antennas installed on those support structures. It is also the purpose and intent of this Section to provide for a reasonable accommodation of amateur radio communications, in accordance with Parts 95 and 97 of Chapter 1 of Title 47 of the Code of Federal Regulations, while reflecting PBC's legitimate interest of protecting and promoting the health, safety, welfare, neighborhood aesthetics, and morals of its citizens.

**b. Applicability**

All amateur and citizens band radio and television transmission and receiving antennas, including satellite dish antennas, shall be governed by the standards of this Section.

**c. Antennas and Antenna Support Structures**

All antenna support structures and the beam, satellite, or other antenna installed on those antenna support structures, shall be considered accessory uses, allowed only in conjunction with a single family dwelling, and shall comply with this Section and Art. 16, Airport Regulations.

**d. Use Approval**

**1) Existing Uses**

All antenna support structures and the beam, satellite, or other antennas installed on these support structures which have been constructed, installed, and are operational as of February 1, 1990, shall be considered legal, nonconforming uses which are vested.

**2) New Uses**

Antenna support structures and their antennas shall be permitted as accessory uses to residential uses and be reviewed and approved as provided below:

**a) All Lots**

A maximum of two antenna support structures and their antennas, 40 feet or less in height, shall be permitted on any lot. Two additional antenna support structures and their antennas shall be allowed, one to a maximum of 75 feet in height, and the second to a maximum of 100 feet in height. Additional support structures or structures that exceed these height limitations shall require a Class B conditional use approval.

**b) Permits**

All applicable permits shall be obtained.

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**e. Standards**

**1) Base Size**

The base dimension for each antenna support structure shall be limited to a maximum five feet in overall width at grade. The foundation for each antenna support structure shall be no more than one foot above grade.

**2) Setbacks**

**a) Antenna Support Structure**

**(1) Location**

Antenna support structures shall not be located in the front setback.

**(2) Lots Less than One Acre**

Antenna support structures shall be located to comply with the district setback standards or a minimum of 25 feet, as measured from the center of the support structure, whichever is greater.

**(3) Lots on One Acre or More**

Antenna support structures shall be located to comply with the greater of the following:

- (a) The minimum district setback standards as measured from the center of the support structure;
- (b) 25 foot setback for support structures and their antennas less than 75 feet in height; or
- (c) A setback of 50 percent of the height of the support structure and its antenna equal to or greater than 75 feet in height.

**(4) All Lots**

Antenna support structures shall be located on the property so as to provide adequate setbacks from above-ground utility power lines other than applicant's service lines as follows:

- (a) Setback a minimum distance equal to 50 percent of the height as calculated from grade to the highest point of the antenna support structure and its antenna; or
- (b) The owner shall submit a break point calculation certified by a professional engineer, or the owner shall submit the manufacturer's specifications that demonstrate a clear fall radius.

**f. Antennas**

In addition to complying with the setback standards, beam array, satellite, or other antennas shall be mounted so as to provide for removal at approach of hurricanes, if necessary, or provide for the lowering of such beam. The antenna or any element thereof shall be set back a minimum of ten feet from all R-O-Ws, easements, or property under different ownership.

**g. Anchors**

All peripheral anchors shall be located entirely within the boundaries of the property. If said supports and anchors are closer than five feet to property under different ownership, and if such support or anchor extends greater than three feet above the ground, it shall be effectively screened against direct view from abutting properties and shall extend no greater than six feet above ground.

**16. Satellite Dish Antennas**

**a. Applicability**

All satellite dish antennas shall be governed by the standards of this Section unless exempted below or regulated as part of an amateur radio antenna.

**1) Exemptions**

**a) Residential Uses**

Satellite dish antennas 40 inches or less in diameter shall be exempt from these requirements.

**b) Non-Residential Uses**

Satellite dish antennas under 80 inches in diameter shall be exempt from these requirements.

**b. Standards**

**1) Residential Uses**

**a) Number**

A maximum of one satellite dish antenna over 40 inches in diameter shall be allowed on a residential lot.



**b) Location and Setbacks**

Satellite dish antennas shall be mounted on the wall, ground, or a support structure in the side or rear yard and shall not be located on a wall facing the front property line or within an easement.

**(1) Setbacks**

Satellite dish antennas shall meet setback requirements of the district as measured from the outermost point of the dish on the side closest to the applicable setback or property line.

**c) Screening**

Satellite dish antennas, if located in the side or rear yard, shall be screened by an opaque fence or hedge.

**d) Height**

Satellite dish antennas shall not exceed the height limitations of the district.

**2) Non-residential Uses**

**a) Number**

No limitation.

**b) Location and Setbacks**

Satellite dish antennas shall be wall, roof, or ground mounted, and shall not be located in the front or side corner yard.

**(1) Setbacks**

Satellite dish antennas shall meet setback requirements of the district as measured from the outermost point of the dish on the side closest to the applicable setback or property line.

**c) Screening**

Satellite dish antennas shall be completely screened from adjacent residential districts by an opaque wall (including parapet walls), fence, or hedge, or combination thereof, pursuant to Art. 5.B.1.A.2, Fences, Walls and Hedges.

**17. Neighborhood Commercial Development (NCD)**

**a. General**

It is the purpose of this Section to allow a limited amount of commercial uses in certain residential developments which developed prior to the establishment of planned development regulations in Ordinance 1973-002 (1973). Residential developments which meet the criteria in this Section will be allowed a limited amount of commercial area within the project without rezoning to a planned development district. It is the purpose of this Section to allow limited neighborhood serving commercial uses in residential areas under the control of a HOA without a commercial FLU designation or rezoning to a commercial district.

**b. Procedure**

Residential developments which meet the criteria in this Section may create a Master Plan showing existing development and the proposed commercial area. The area shall be subject to approval as a Class A conditional use.

**c. Criteria**

**1) Property Owners Association (POA)**

The application for a NCD shall be submitted by an HOA under the control of the residents.

**2) Minimum Threshold**

The HOA must contain a minimum of 500 units.

**3) Location**

The NCD shall meet the location criteria for a commercial pod in a PUD Art. 3.E.2, Planned Unit Development (PUD).

**4) Number**

A maximum of one NCD shall be permitted for each HOA.

**5) Size**

A NCD shall not exceed three acres in area.

**6) Limitation**

Uses shall be limited to the regulations of the CN district, excluding real estate sales offices.

[Ord. 2005-041]

**18. Bike Racks**

**a. Number of Bikes**

Each bike rack shall accommodate a minimum of five bikes.

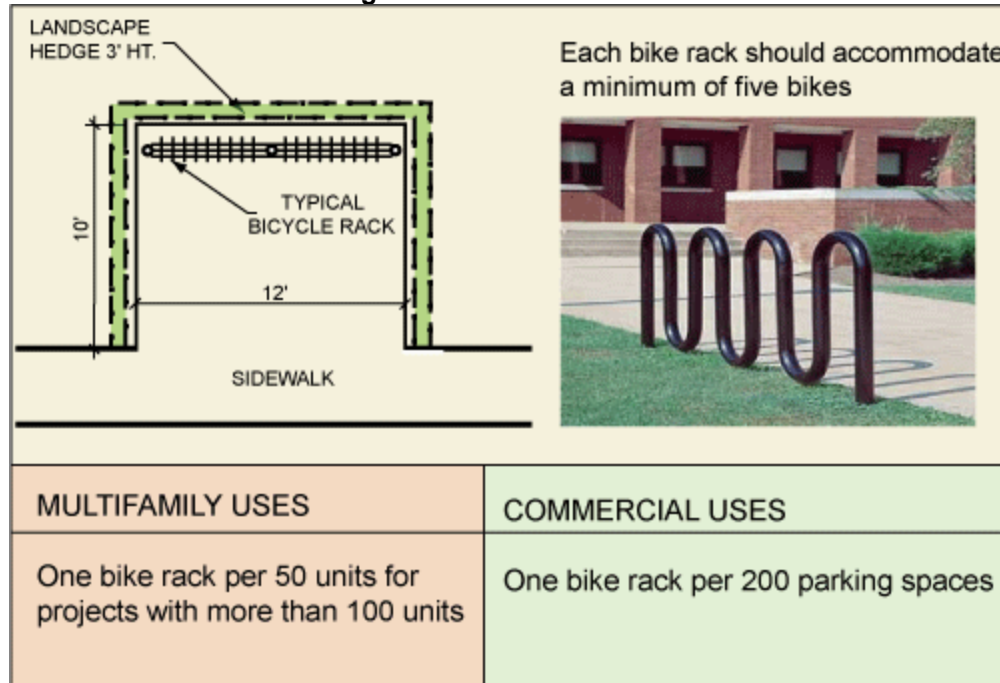
**b. Multifamily Uses**

Multifamily projects with more than 100 units shall provide one bike rack per 50 units.

**c. Commercial Uses**

All commercial projects subject to site plan approval by the DRO shall provide one bike rack per 200 parking spaces.

**Figure 5.B.1.A - Bike Racks**



**19. Permanent Generators**

**a. Applicability**

**1) Permitted Use**

Use of permanent generators shall be permitted during periods of electrical power outages in utility systems maintained by the utility service provider or when the BCC declares a state of emergency. **[Ord. 2006-004] [Ord. 2007-013]**

**2) Type 2 and 3 CLF, Club Houses and Nursing or Convalescent Facility**

A permanent emergency generator shall be required for all Type 2 and 3 CLFs, Nursing or Convalescent Facilities, and PDD or TDD clubhouses 20,000 square feet, or greater. **[Ord. 2006-004] [Ord. 2007-013]**

**a) Exemptions**

- (1) Developments that have a BCC or DRO approved plan that graphically indicates a clubhouse(s) shall be exempt from the generator requirement except for projects that exceed 75 percent or more of the Improvement Value as stated below. **[Ord. 2007-013] [Ord. 2013-001]**
- (2) Renovations or additions that do not exceed 75 percent or more of the Improvement Value may be exempt from these requirements. **[Ord. 2007-013] [Ord. 2011-016]**
- (3) A PDD or TDD clubhouse located in the Coastal High Hazard Area as defined by the Plan, shall be exempt from this requirement. **[Ord. 2007-013]**
- (4) A PDD or TDD that has one or more clubhouses with a generator meeting the requirements of this Section, shall be exempt for any other remaining clubhouses within the development. **[Ord. 2007-013]**

**b. Standards**

**1) General**

The following standards shall apply to all permanently installed generators. **[Ord. 2006-004]**

**a) Maximum Permissible Sound Level**

Refer to Art. 5.E.4.B.2, and Table 5.E.4.B Maximum Sound Levels. **[Ord. 2006-004]**

**b) Screening**

Generators that are not located within, or completely screened by a building, shall be screened from view when adjacent to or visible from a public R-O-W or parcels with a conservation or residential FLU or use. Screening may include the use of fences, walls or hedges, or a combination thereof. [Ord. 2006-004]

**c) Maintenance Cycle**

Generators may be operated for exercising purposes one time per week, excluding Sundays, for a period not exceeding 30 minutes between the hours of 10:00 a.m. to 5:00 p.m. [Ord. 2006-004]

**d) Location and Setbacks**

Generators shall meet the district setback requirements for principal structures, but shall not be located between the front or side street façade of a building and a R-O-W or in an easement, unless: [Ord. 2006-004] [Ord. 2007-001]

- (1) Encroachment is limited to ten percent of setback; [Ord. 2007-001]
- (2) Where applicable, the applicant indicates that a HOA has been notified of the application for building permit; [Ord. 2007-001]
- (3) The generator shall be screened from view from any public rights-of-way or adjacent property lines by an opaque fence/wall; and [Ord. 2007-001]
- (4) If this criteria cannot be met, the applicant may apply for a Type 1 Variance, pursuant to Art. 2.C.5.D. [Ord. 2007-001]

**2) Residential**

The following shall be applicable to SFD, ZLL, TH, and MF units. [Ord. 2006-004]

**a) Number**

A maximum of one generator shall be allowed on a SFD, ZLL or TH lot. A maximum of one generator per structure shall be permitted for multi-family developments, with exception to condominiums, which shall be permitted one generator per unit. [Ord. 2006-004]

**b) Setback Exceptions**

Generators less than four feet in height from finished grade may be allowed within the required side and rear setbacks in accordance with Table 5.B.1.A, Setbacks for Generators less than Four Feet in Height. [Ord. 2006-004]

**Table 5.B.1.A - Setbacks for Generators less than Four Feet in Height (1)**

	Side	Rear
SFD	3 feet	5 feet
ZLL	5 feet	5 feet
TH	NA	5 feet
Ord. 2006-004		
Note:		
1. Refer to FBC for additional location criteria.		

**3) Type 2 and 3 CLF, PUD Club Houses and Nursing Homes**

Required generators shall have a minimum operating capacity to provide service for the following: [Ord. 2006-004]

**a) Essential Functions**

Essential electrical systems within the building, including but not limited to, exit lighting, emergency lighting, elevators, fire alarm system, bathroom exhaust fans, and, bathroom hot water heaters. [Ord. 2006-004]

**b) General Lighting**

Lighting for a minimum of 30 percent of the building's GFA, including but not limited to, main meeting or gathering area, hallways, and bathrooms. [Ord. 2006-004]

**c) Multipurpose Room**

Air conditioning for 30 percent of the building's GFA including the largest meeting or gathering room. [Ord. 2006-004]

**d) Fuel Storage**

Sufficient to operate the generator for the minimum of 72 hours at the full load capacity. [Ord. 2006-004]

**4) Non-Residential**

There is no limitation to the number of generators. [Ord. 2006-004]

## 20. Mechanical Equipment

### a. Applicability

This section shall apply to the installation of improvements associated with mechanical equipment. [Ord. 2008-037]

#### 1) Location and Setbacks

##### a) Setback Exceptions

Setback exceptions shall be applied pursuant to Art. 3.D.1.D.5, Setback Exceptions. [Ord. 2008-037]

##### b) Height Exceptions

Height exceptions shall be applied pursuant to Art. 3.D.1.E.4, Height Exceptions. [Ord. 2008-037]

#### 2) Screening Requirements

a) New and replacement equipment, shall be screened on all sides by an opaque barrier constructed of materials, and color compatible with the building or structure, or equivalent landscaping for ground mounted equipment, to a minimum height equal to the highest point of the equipment. [Ord. 2006-004] [Ord. 2008-037] [Ord. 2011-016]

##### b) Type 1 Waiver - Roof Mounted Mechanical Equipment

(1) Screening shall not be required: [Ord. 2006-004] [Ord. 2011-016]

(a) if the equipment is less than one foot in height, measured from the roof deck, and is painted to match the color of the structure it is attached to or servicing; [Ord. 2006-004] [Ord. 2008-037] [Ord. 2011-016]

(b) for any industrial use with industrial FLU designation if adjacent to a parcel with an industrial use and industrial FLU designation; [Ord. 2011-016]

(c) if an existing roof cannot structurally support additional weight associated with required screening materials. A certified letter, from a structural engineer or architect registered in the State of Florida, shall be submitted with the applicable permit substantiating that the roof cannot support the additional weight. [Ord. 2008-037] [Ord. 2011-016]

(2) Subject to approval of a Type 1 Waiver, the screening may not be required for any industrial use with industrial FLU designation if the equipment cannot be viewed from adjacent R-O-W. In addition to the standards applicable to Type 1 Waiver, a line of sight drawing may be required by the DRO to ensure compliance with screening of equipment. [Ord. 2011-016] [Ord. 2012-027]

##### c) Screening Exemptions

###### (1) Solar Energy Systems

Solar Energy Systems, including Solar Trees, are exempt from the screening requirements. [Ord. 2014-001] [Ord. 2017-025]

###### (2) Existing Multifamily Condominium

Replacement of roof mounted mechanical equipment located on a multi-family condominium may be exempt from new screening requirements, subject to the following: [Ord. 2015-006] [Ord. 2017-025]

(a) Shall not be relocated closer to the edge of a roof, with exception to the minimum necessary to accommodate current technology requiring larger equipment, such as a heat pump or high efficiency air compressor; and, [Ord. 2015-006]

(b) Increase in height shall only be permitted to accommodate elevated stands required to comply with the Building Code or upon demonstration that replacement equipment is larger due to current technology. [Ord. 2015-006]

## 21. Livestock

### a. Standards of Approval

Domesticated livestock shall be allowed accessory to a single family residential use subject to the following standards: [Ord. 2012-027]

#### 1) Tier

Shall only be located in the Rural and Exurban Tiers and when not within a PUD. [Ord. 2012-027]

## 22. Pot Bellied Pigs

Pot bellied pigs may be kept as pets in a Single Family or Zero Lot Line Home, subject to the following: [Ord. 2013-001]

### a. Maximum Number

No more than two pot bellied pigs per household are allowed. [Ord. 2013-001]

- b. Residence**  
Pot bellied pigs shall reside within the residence (Single Family or ZLL Home) of its owner. [Ord. 2013-001]
- c. Limitations**  
The commercial care, boarding or grooming, and the breeding of domesticated miniature or pot-bellied pigs is prohibited. [Ord. 2013-001]

**23. Mobile Home**

The use of a mobile home shall be prohibited unless stated otherwise in Art. 4, Use Regulations and Art. 5, Supplementary Standards. [Ord. 2017-007]

**Table 5.B.1.A – Mobile Home (1) Applicability**

Dwelling Unit	Structure
MHPD or Existing Approved Mobile Home Park (2)	Accessory to Bona Fide Agriculture (2)
	Farm Workers Quarters (2)
	Caretaker Quarters (2)
	Watchman Trailer (3)
	While Constructing a SF Dwelling (3)
[Ord. 2017-007]	
<b>Notes:</b>	
1.	Mobile Home shall not be used for storage or display.
2.	Supplementary use standards are indicated in Art. 4, Use Regulations.
3.	Specific regulations are stated in Art. 5, Supplementary Standards.

**24. Air Curtain Incinerator**

A combustion device used to burn trees and brush. [Ord. 2017-007]

**a. Standards**

**1) Exemptions**

The following temporary air curtain incinerators are exempt from the requirements of this Section: Incinerators operating under written approval from the PBC Health Department in accordance with the PBC Open Burning Ord. 2005-020; and incinerators used for the emergency burning of storm generated debris by a local government. [Ord. 2006-004] [Ord. 2017-007]

**2) Storage**

Except in the AP Zoning District, on site outdoor storage of unprocessed material shall be limited to 45 days. Pile height shall be limited to 15 feet. Outdoor storage shall be setback a minimum of 25 feet from any property line or 50 feet from any property line adjacent to a residential district or use. Storage areas shall be screened from view pursuant to Art. 5.B, Accessory and Temporary Uses. [Ord. 2006-004] [Ord. 2017-007]

**3) Hours of Operation**

Hours of operation are limited to 8:00 a.m. to 5:00 p.m., Monday through Friday. The incinerator shall not be charged before 9:00 a.m. and shall be completely extinguished one hour before sunset. [Ord. 2006-004] [Ord. 2017-007]

**4) No Burn Days**

The incinerator shall not operate on “no burn days” as designated by the PBC Fire-Rescue Department. [Ord. 2006-004] [Ord. 2017-007]

**5) Setback**

The incinerator shall be set back a minimum of 1,200 feet from any property line abutting a residential district or use. [Ord. 2006-004] [Ord. 2017-007]

**b. Supplemental Application Requirements**

**1) Site Plan**

A site plan illustrating how the operation functions, circulation routes, square footage, height and location of buildings, incinerator and storage piles. [Ord. 2017-007]

**2) Waste**

An explanation of the quantity of waste to be received expressed in cubic yards per day or tons per day. [Ord. 2017-007]

**3) Dust Control**

A plan which addresses dust control in traffic, storage and processing areas. Dust control measures may include: additional setbacks, full or partial enclosure of air curtain incinerator and watering or enclosing storage piles. If facility with an air curtain incinerator also includes

chipping, mulching or composting, adherence to the supplementary use standards applicable to such use shall also be required. [Ord. 2017-007]

**25. Air Stripper**

A remedial system which treats contaminated groundwater. [Ord. 2017-007]

**a. Duration**

The length of time a remedial system may remain on a site shall be determined by ERM. [Ord. 2017-007]

**b. Setback**

If the applicant is unable to meet the property development regulations, in lieu of a variance, the Zoning Division shall be authorized to determine the location of the structure and set necessary conditions for landscaping and screening. [Ord. 2017-007]

**26. Kennels and Runs**

Runs applicable to any Kennel use shall be subject to the following:

**a. Fences**

Safety fences around the outdoor runs shall not exceed six feet in height. [Ord. 2017-007]

**b. Hedge**

If the safety fence is not opaque, a continuous solid opaque hedge, a minimum of four feet at installation, shall be provided around the outdoor run. [Ord. 2017-007]

**c. Setbacks**

**1) General**

a) Enclosed structures or enclosed runs shall comply with the minimum setbacks applicable to the principal dwelling unit. [Ord. 2006-036] [Ord. 2017-007]

b) Outdoor runs or non-enclosed structures shall not be located within 25 feet of any property line. [Ord. 2006-036] [Ord. 2017-007]

**2) Hobby Breeders**

Outdoor runs or non-enclosed structures used by hobby breeders shall not be located within 50 feet of any property line adjacent to a residential district or 25 feet of any property line adjacent to a non-residential district. [Ord. 2006-036] [Ord. 2017-007]

**d. Guard Dog Shelter Exemption**

Adequate shelter required by ACC for any guard dog registered in accordance with ACC Ord. 98-022 may be allowed in any zoning district. A shelter for a permanent on-site guard dog, associated with guard duty, shall be exempt from the setback requirements of this section when adjacent to non-residential zoning districts or uses. [Ord. 2008-036] [Ord. 2017-007]

**27. Accessory Solar Energy Systems**

Accessory Solar Energy Systems may be allowed as an accessory use, subject to the following: [Ord. 2017-025]

**a) Incidental and Subordinate**

Applications for the installation of an accessory Solar Energy System shall include documentation from the manufacturer, architect, engineer, or contractor performing installation, verifying the system is the maximum necessary to meet onsite energy usage. This limitation does not prohibit the use of net metering where permitted. [Ord. 2017-025]

**b) Collocation with Buildings**

Solar Energy Systems are classified as mechanical equipment, and may be placed on principal or accessory buildings, including those permitted within a front or side-street yard. [Ord. 2017-025]

**c) Standards for Other Structures**

Solar Energy Systems installed on other structures shall be limited to the side or rear yard in accordance with the Standards of this Chapter, except as follows: [Ord. 2017-025]

**1) Exception**

Where the conditions of the side or rear yard prohibit installation, a Solar Energy System may be installed in the front or side street yard, subject to the following" [Ord. 2017-025]

(a) Structures greater than six feet in height shall meet the minimum setbacks for the district. Structures less than six feet in height may be permitted within required setbacks, but in no case shall the system be located within 25 feet of the property line; and, [Ord. 2017-025]

(b) The system is completely screened from view from any other parcel or R-O-W through use of landscaping, fences or walls. [Ord. 2017-025]

**(2) Solar Trees**

A Solar Energy System installed on a structure intended to provide shade, provide for public art, or other similar function, may be allowed provided that the structure complies with

setbacks, does not adversely impact any required or preserved landscaping, be placed so as to conflict with any vehicular or pedestrian circulation system, nor shade more than ten percent of any Open Space area. [Ord. 2017-025]

**(3) Associated Solar – with Mechanical Structures**

Where used to power electric gates, environmental monitoring stations, street lights, or other similar, provided the solar panel does not exceed a maximum of four square feet, and all electrical cables or equipment are hidden within the structure. [Ord. 2017-025]

**d) Incorporation of Solar in Vehicular and Pedestrian Surfaces**

The incorporation of Solar Energy Systems into any parking lot, sidewalk, bike path, or similar surface, shall be exempt from any setback or front or side-street yard limitation. [Ord. 2017-025]

**B. Emergency or Temporary Government or Utility Structures**

This Section is intended to facilitate the placement or construction of structures or facilities that are temporary. These structures or facilities are utilized to ensure the health, safety and welfare of the public from natural or pending disasters; or construction staging activities for infrastructure improvements. Typical uses may include: fire stations, hurricane shelters, utility facilities; or construction staging areas.

[Ord. 2011-001] [Ord. 2018-002]

**1. Review and Approval Process**

Emergency or temporary structures shall be subject to the approval by the DRO through a ZAR process. The ZAR process may be waived by the Executive Director of PZB as stated below: [Ord. 2018-002]

**a. Emergency Structures**

The Executive Director of PZB may waive the ZAR process, and authorize the issuance of a building permit for a temporary structure upon determination that a public emergency, pending natural disaster, or actual natural disaster, exists. [Ord. 2011-001] [Ord. 2018-002]

**b. Temporary Structures**

The Zoning Director may require a PAC with the DRO in order to seek input from the various County Agencies on the temporary structure, or may seek direction from the BCC through an AI. The Zoning Director shall consider documentation from the Applicant and any other input from County Agencies before issuance of a DO. [Ord. 2011-001] [Ord. 2011-016] [Ord. 2017-007] [Ord. 2018-002]

**1) Duration**

The DO shall be valid for up to a period of six months from date of issuance, with one three month extension by the Zoning Director. The BCC may extend the timeframe through an AI by the Zoning Director. [Ord. 2011-001] [Ord. 2018-002]

**2) Construction Staging Areas for Right of Ways (R-O-W)**

In addition to the requirements listed above, the following shall apply to those construction staging areas located on or adjacent to residentially zoned parcels. [Ord. 2008-003] [Ord. 2018-002]

**a) Hours of Operation**

Activity on the site shall not commence prior to 7:00 a.m. and must be completed prior to 10:00 p.m. A Type 1 Variance may be applied for to request modification from this provision. [Ord. 2008-003] [Ord. 2018-002]

**b) Setbacks or Separations**

Stored materials shall not be located within the required minimum district setback. [Ord. 2008-003] [Ord. 2018-002]

**c) Screening**

Temporary screening material, a minimum of five feet in height and 85 percent opacity shall be provided around the perimeter of the staging area, adjacent to residential uses, to mitigate visual impact. [Ord. 2008-003] [Ord. 2018-002]

**d) Dust Control**

Appropriate measures shall be taken, pursuant to Health Department requirements, to control dust or other airborne particulate matter. [Ord. 2008-003] [Ord. 2018-002]

**e) Exceptions**

Projects with a duration of 30 days or less shall be exempt from the requirements of this section. [Ord. 2008-003] [Ord. 2018-002]

**2. Tents**

A tent may be used as a temporary structure subject to approval as a special permit and the standards of this Section. Tents used for retail purposes are also subject to Art. 4.B.11.C.8, Temporary Retail Sales.

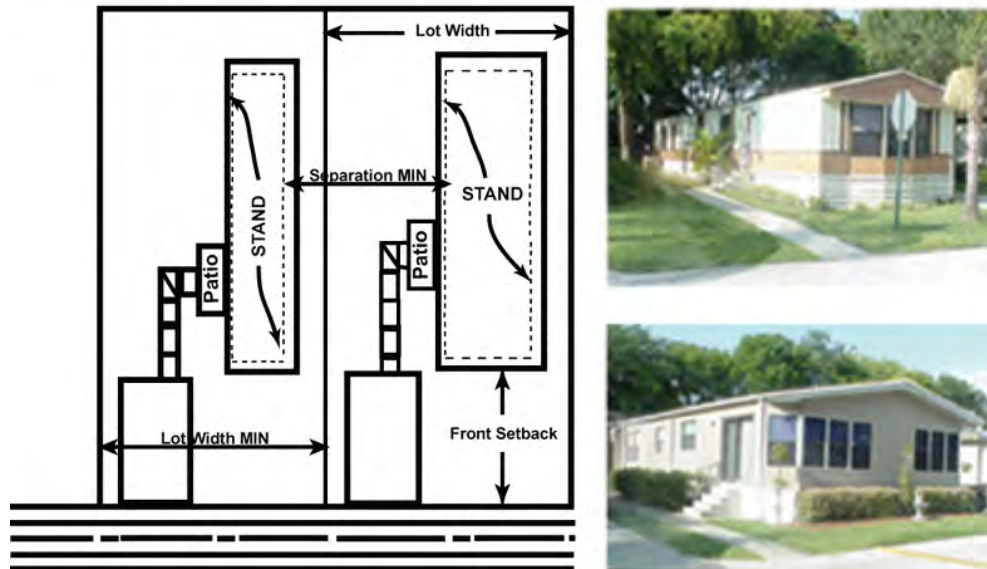
- a. **Frequency**  
Three times per lot per year.
  - b. **Maximum Duration**  
The tent may be used for a maximum period of 90 days, provided that an additional 30-day administrative extension may be approved subject to a finding by the Zoning Division that the tent and use continue to meet all the applicable requirements of this Code and the Building Code.
  - c. **Setbacks**  
All principal use setback requirements of the underlying district shall be met.
  - d. **Location**  
The tent shall be located on the lot so as not to adversely interfere with on-site circulation and shall not be located in any required parking space.
  - e. **Access**  
Access shall be from an arterial street.
  - f. **Lighting**  
Lighting shall be extinguished no later than 12:00 midnight.
  - g. **Parking**  
Parking shall be provided in accordance with Art. 6, Parking.
3. **Temporary Structures and Uses During Development Activity**  
Temporary structures and uses may be allowed as follows: **[Ord. 2008-003]**
- a. **Construction Trailer**
    - 1) **Use**  
A construction trailer shall be limited to an office used by the businesses of professions actively involved in the construction of a building or structure authorized by a valid building permit issued for the site on which the trailers are located. Use of the office shall be limited to on site activities only. A construction trailer shall not be used as a dwelling.
    - 2) **Number**  
A maximum of one trailer per construction business or profession shall be allowed.
    - 3) **Duration**  
The construction trailer shall remain on site only for the length of time necessary to construct a building or structure which has been issued a building permit.
    - 4) **Location**  
The construction trailer and related parking shall be located on site so as not to interfere with access to developed areas or areas under construction.
    - 5) **Removal**  
A construction trailer shall be removed from the site no later than 30 days after the final CO has been issued. The trailer shall be removed if construction ceases for more than 180 consecutive days. An abandoned trailer shall be considered an unsafe structure and abated pursuant to the Building Code Enforcement Administrative Code of PBC.
  - b. **Watchman Trailer**
    - 1) **Use**  
A watchman trailer may be allowed on the site of an active construction project which has been authorized by a building permit. Use of the trailer shall be limited to on site security purposes only. A watchman trailer may be used as a dwelling.
    - 2) **Number**  
A maximum of one watchman trailer per construction project shall be allowed.
    - 3) **Location**  
A watchman trailer, and required parking, shall be located in areas under construction only.
    - 4) **Parking**  
A minimum of two parking spaces shall be provided.
    - 5) **Duration**  
A watchman trailer shall remain on site only for the length of time necessary to construct a building or structure which has been issued a building permit.
    - 6) **Removal**  
A watchman trailer shall be removed from the site no later than 30 days after the final CO has been issued. The trailer shall be removed if construction ceases for more than 180 consecutive days. An abandoned trailer shall be considered an unsafe structure and abated pursuant to the Building Code Enforcement Administrative Code of PBC.



7) **Mobile Home**

A mobile home used as a watchman quarters shall be subject to the following additional requirements:

**Figure 5.B.1.B - Typical Mobile Home Lot Layout**



a) **Special Permit**

A special permit shall be required. The special permit shall be renewed annually, for a maximum of two years; and

b) **Removal Agreement**

A notarized removal agreement shall be executed and submitted with the application for a special permit.

c. **Real Estate Sales And Management Office**

1) **Use**

A temporary structure for real estate sales and sales management offices may be allowed on the site of an active construction project which has been authorized by a building permit. Use of the structure shall be limited to on site real estate sales and related activities only. A temporary structure used for real estate sales may not be used as a dwelling, as defined in Art. 3.E.1.G, Sales Office and Models.

2) **PDD**

Real estate sales offices in PDDs shall be in accordance with Art. 3.E.1.G, Sales Office and Models.

3) **Number**

A maximum of one sales office per construction project shall be allowed.

4) **Location**

The sales office, and required parking, shall be shown on the master plan, site plan, or subdivision plan approved by the DRO. A sales office shall comply with the setback requirements in Table 3.D.1.A, Property Development Regulations, and shall be located so as not to interfere with on site construction operations and access.

5) **Parking**

A minimum of six parking spaces, plus one for each employee on the shift of greatest employment, shall be provided. All parking areas, with the exception of handicap spaces and access, shall be provided on a hard surface of pavement, asphalt, shell rock, or mulch, provided the sub-grade is compacted. Handicap spaces and access shall be provided in accordance with F.S. §316.1955, F.S. §316.1956, and F.S. §553.48.

6) **Banners, Streamers, and Pennants**

A maximum of two of any one of the following: banners, streamers or pennants may be permitted for every 200 feet of frontage along a public R-O-W. They shall be setback a minimum of five feet from the property line, not to exceed eight feet in height and 20 square feet in size, and may be clustered or dispersed along the R-O-W. **[Ord. 2008-037]**

- 7) **Duration**  
A sales office shall remain on site only for the length of time necessary to construct a building or structure which has been issued a permit.
- 8) **Removal**  
A sales office, and all accessory signs, banners, streamers and pennants shall be removed from the site no later than 30 days after the final CO has been issued for the last residential unit. The office shall be removed if construction ceases for more than 180 days. An abandoned office shall be considered an unsafe structure and abated pursuant to the Building Code Enforcement Administrative Code of PBC. **[Ord. 2008-037]**
- 9) **Mobile Home**  
A mobile home used as a sales office shall be subject to the following additional requirements:
  - a) **Special Permit**  
A special permit shall be required. The special permit shall be renewed annually, for a maximum of two years; and
  - b) **Removal Agreement**  
A notarized removal agreement shall be executed and submitted with the application for a special permit.
- d. **Mobile Home While Constructing Single Family Dwelling**
  - 1) **Definition**  
A mobile home used as a temporary residence during the construction of a Single Family structure. **[Ord. 2017-007]**
  - 2) **Zoning District – AR (RSA)**  
A temporary mobile home may be allowed only in the AR Zoning District of the - Rural Service Area (RSA). **[Ord. 2017-007]**
  - 3) **Agency Approval**  
Sanitary sewage facilities and potable water well shall be approved by all governmental agencies having appropriate jurisdiction, permits, and inspections for the installation which must be obtained from the PZB Department and Health Department; **[Ord. 2017-007]**
  - 4) **Building Permit**
    - a) A valid building permit for a Single Family dwelling unit on the land shall have been issued by the Building Division prior or concurrent to issuance of the tie down permit for the mobile home; **[Ord. 2017-007]**
    - b) The approval for the mobile home shall be valid for two years or up to 30 days after the issuance of the Certificate of Occupancy for the Single Family dwelling, whichever occurs first. A removal agreement shall be notarized and executed between the Building Division and property owner and recorded on the property in the official records of the PBC Clerk prior to issuance of any building permit. No time extensions shall be granted. No more than one MH approval shall be granted per Property Control Number. **[Ord. 2007-001] [Ord. 2017-007]**
  - 5) **Additions**  
No additions shall be allowed to the mobile home, except awnings and demountable screen panels, stairs, decks and trellises. **[Ord. 2017-007]**
  - 6) **Proof of Ownership**  
A current recorded warranty deed for the subject property shall be submitted.
- e. **Modular and Manufactured Structures**
  - 1) **Use**  
A modular or manufactured structure may be temporarily utilized for non-residential uses with an approved DRO site plan during the construction of the permanent facility. **[Ord. 2008-003]**
  - 2) **Approval Process**  
The approved site plan shall be administratively amended to indicate the location and square footage of the structure. The tie down permit shall be applied for in conjunction with the building permit for the permanent structure. The structure shall comply with all applicable sections of the ULDC and existing conditions of approval. **[Ord. 2008-003]**
  - 3) **Time Limitations**  
The temporary structure shall be removed prior to issuance of the CO for the permanent facility if it is located in required parking spaces or impacts the circulation or function of the site as originally approved. If the temporary structure is not located in required parking

spaces and does not impact the circulation or function of the site the temporary structure shall be removed within fourteen working days of the issuance of the CO. [Ord. 2008-003]

#### **4. Portable Storage Container**

Portable storage containers are weather resistant receptacles used for the temporary storage of goods for residential uses which may be Permitted by Right as follows: [Ord. 2017-025]

- a) A maximum of one container 16 feet in length, 8 feet in width and 8 feet in height may be allowed, for no more than 2 times a year for a maximum of 15 days each time. [Ord. 2017-025]
- b) Shall be located on driveways not to overlap easements, sidewalks or R-O-W. [Ord. 2017-025]
- c) Shall be setback a minimum of 7.5 feet from the side property lines, except where no other driveway areas are available, the setback may be reduced subject to the dimensions in Art. 6.C.1.A.1.a, Local or Residential Access Streets. [Ord. 2017-025]
- d) Container location shall not result of required parking to be placed on areas not designed to park vehicles. [Ord. 2017-025]

#### **5. Shipping Containers**

- a) Shipping containers used as temporary storage on a construction site shall be permitted by right subject to the Building Division requirements. [Ord. 2017-025]
- b) A repurposed Shipping Container that complies with the Florida Building Code shall not be considered a Shipping Container. [Ord. 2017-025]

### **C. Flex Space**

A type of use that allows a flexible amount of retail, office and industrial space in one structure located on parcels with an Industrial (IND), Economic Development Center (EDC), or Commercial High (CH) Future Land Use Designation (FLU), that are directly related to the principal use. [Ord. 2010-005]

#### **1. Review Process**

Applications for flex space shall be reviewed pursuant to Art. 2, Application Processes and Procedures, in addition to one of the following options: [Ord. 2010-005]

- a. Option 1 – Uses requiring BCC approval shall be subject to the applicable review process pursuant to Art. 2.B.7, Types of Applications. The applicant shall identify the portion of the building designated for flex space on the site plan. All other uses subject to an administrative review process shall be permitted in the BCC approved building. [Ord. 2010-005] [Ord. 2017-007]
- b. Option 2 – Uses requiring DRO approval shall be subject to the review process pursuant to Art. 2.C, Administrative Processes. The applicant shall identify the portion of the building designated for flex space on the site plan. All other uses subject to the Building Permit review process shall be permitted in the DRO approved building. [Ord. 2010-005]
- c. Option 3 – Uses subject to the Building Permit review process may occupy a bay or the entire building as long as they comply with the applicable Supplementary Use Standards and additional ULDC requirements (parking, signage, etc.). The applicant shall identify the portion of the building designated for flex space on the site plan. The applicant has the option of applying flex space provisions to a specific bay in the building or having the entire building (single use tenant) dedicated to flex space. The applicant shall submit the Building approved site plan to the Zoning Division for informational purposes indicating the area designated as flex space and demonstrating that the overall site is in compliance with the applicable ULDC regulations. [Ord. 2010-005]

#### **2. Development Standards**

##### **a. CH FLU**

Flex Space located on parcels with a CH FLU shall be permitted to have the following mix of uses: a minimum of 50% industrial, not to exceed 75%; with the balance consisting of office or retail. [Ord. 2010-005]

##### **b. IND OR EDC FLU**

Flex space located on parcels with an IND FLU shall be permitted to have the following mix of uses: a maximum of 30% retail, with the balance consisting of industrial. [Ord. 2010-005] [Ord. 2017-007]

##### **c. Parking and Loading Requirements**

###### **1) CH-FLU**

Parking shall be calculated at the rate of 3 spaces per 1000 square feet of floor area. [Ord. 2010-005]

###### **2) IND-FLU**

Parking shall be calculated at the rate of 2.5 spaces per 1000 square feet of floor area. [Ord. 2010-005]

**3) Reserve Parking or Parking Covenant**

- a) Additional parking shall be reserved on site in the event that the flex space is converted back to regular commercial or industrial use, the minimum requirements based upon the proposed use as indicated in Table 6.A.1.B – Minimum Off-Street Parking and Loading Requirements; or, **[Ord. 2010-005]**
- b) A restrictive parking covenant informing current and future owners of the required parking requirements for the uses. If the flex space is converted at a future date the site must comply with the minimum parking requirements based upon the use as indicated in Table 6.A.1.B – Minimum Off-Street Parking and Loading Requirements prior to final DRO or Building Permit approval, whichever is applicable. In the event the onsite parking is not sufficient for the proposed use or parking spaces cannot be accommodated on the site, the owner shall be limited to uses that generate parking consistent with existing parking. The covenant shall be submitted to the Zoning Division for County Attorney review and approval at the time of final DRO or building permit application. The approved covenant shall be recorded in the Clerk of Circuit Courts of PBC, and a copy of the approved and recorded covenant shall be submitted to the Zoning Division prior to issuance of a building permit. **[Ord. 2010-005]**

**d. Thresholds**

Proposed flex space uses shall comply with the established review thresholds pursuant to Table 4.A.3.A – Thresholds for Projects Requiring DRO Approval, and Table 4.A.3.A – Thresholds for Projects Requiring Board of County Commissioner Approval. **[Ord. 2010-005]**

**3. Uses Allowed**

The uses indicated in the table below, may utilize flex space provisions pursuant to the applicable approval process indicated in Review Process above. **[Ord. 2017-007]**

**Table 5.B.1.C - Uses Allowed as Flex Space Component**

Commercial Use	Industrial Uses
Retail Sales (1)	Contractor Storage Yard (2) Manufacturing and Processing (2) Warehouse (2) Wholesaling (2)
<b>[Ord. 2017-007]</b>	
(1) Flex space use to be allowed in IND or EDC FLU designation subject to DRO Approval.	
(2) Flex space use to be allowed in CH FLU designation subject to Class A Conditional Use approval.	

**CHAPTER C DESIGN STANDARDS**

**Section 1 Architectural Guidelines**

**A. Purpose and Intent**

The purpose of these guidelines is to encourage development to contribute to PBC as a unique place by enhancing the built environment. These guidelines are intended to ensure that new development and redevelopment will be compatible with the surrounding area and enhance the appearance of the local community.

**B. Threshold**

This Chapter shall apply to the following projects, buildings and related signs:

**1. General**

- a. All nonresidential projects or buildings requiring approval by the BCC or ZC; **[Ord. 2006-036]**
- b. All nonresidential projects or buildings requiring approval by the DRO in accordance with the use matrices in Art. 4, Use Regulations, and Table 3.D.1.A, Property Development Regulations, or those exceeding the thresholds in Table 4.A.9.A, Thresholds for Projects Requiring DRO Approval; **[Ord. 2006-036] [Ord. 2017-007]**
- c. Multi-family buildings with more than 16 units or three or more stories; **[Ord. 2006-036] [Ord. 2009-040] [Ord. 2010-005]**
- d. Substantial renovations of existing built projects or buildings meeting the threshold of this Chapter; and **[Ord. 2006-036]**
- e. The following uses, regardless of building size: **[Ord. 2006-036]**
  - 1) Heavy or Light Repair and Maintenance; **[Ord. 2006-036] [Ord. 2012-027] [Ord. 2017-007]**

- 2) Retail Sales for automotive parts and accessories; [Ord. 2006-036] [Ord. 2012-027] [Ord. 2017-007]
  - 3) Type 1 restaurants with drive through requesting location criteria exception pursuant to Art.4.B.2.C.33, Restaurant, Type 1; and, [Ord. 2012-027] [Ord. 2017-007]
  - 4) Type 3 CLF. [Ord. 2017-007]
- 2. Mixed Use**  
Mixed use development that includes a combination of residential and one or more non-residential uses that do not trip the thresholds listed above, shall comply with the following guidelines to ensure the project is vertically or functionally integrated: [Ord. 2006-036]
- a. Art. 5.C.1.H.1.a, General; [Ord. 2006-036]
  - b. Art. 5.C.1.H.1.d, Entries [Ord. 2006-036]
  - c. Art. 5.C.1.I.3.d, Pedestrian Amenities; and, [Ord. 2006-036]
  - d. Art. 5.C.1.I.3.b.4), Covered Walkways. [Ord. 2006-036]
3. Any mixed use project in the WCRAO. [Ord. 2006-004]
- C. Exemptions**
1. Agricultural or industrial buildings not visible from a public street or residential zoning district.
  2. Buildings which are exempt from local building permits or government review pursuant to State of Florida or Federal Statutes.
  3. Recreational buildings and accessory structures within a PUD or a standard zoning district. [Ord. 2009-040].
  4. Primary and secondary building frontages within a TMD, and buildings in the NRM, NG and NC Sub-areas of the WCRAO that have a side setback of less than 15 feet, shall be exempt from the requirements of Art. 5.C.1.H.1.c.1).a), Recesses/Projections. [Ord. 2005-041] [Ord. 2006-004]
  5. Palm Beach County Water Utility Facilities which are not visible from a public street or residential zoning district or are limited access, high security facilities not open to the general public. [Ord. 2007-013]
  6. All of the uses/features (except for parapet screening of mechanical equipment noted in the height exceptions in Art.3.D.1.E.4.a, are also exempt from architectural requirements. These uses/features include: [Ord. 2007-013]
    - a. Tanks; [Ord. 2007-013]
    - b. Water towers; [Ord. 2007-013]
    - c. Cooling towers; [Ord. 2007-013]
    - d. Miscellaneous, unoccupied utility support structures of 1,000 SF or less (proposed addition to list). [Ord. 2007-013]
- D. Effect**
1. **Effect on Prior BCC and ZC Approvals**  
These guidelines shall apply to all previously approved projects as a BCC or ZC condition of approval as part of a DOA or Status Report. Previously approved architectural conditions of approval shall remain in full effect unless amended by the BCC or ZC. Non-residential projects previously approved by the BCC or ZC shall comply with Art. 5.C.1.H.1.a, General. [Ord.2006-004]
  2. **Effect on Prior DRO Approvals**  
These guidelines shall not apply to projects or buildings which have a previously approved site plan by the DRO, unless within a PDD or for any use specifically identified within Art. 4.B, Use Classification. Non-residential projects previously approved by the DRO or ZC shall comply with Art. 5.C.1.H.1.a, General. [Ord. 2006-004]
  3. **Effect on Other Regulations**  
These guidelines shall supplement architectural requirements of an Overlay District, Neighborhood Plan, or other applicable regulations. In case of a conflict, the more strict regulation shall apply.
- E. Review Process**  
PZB shall review all applicable buildings for compliance with this Chapter during the building permit or zoning review process, and provide a written determination of compliance with the requirements of this Chapter. An application submitted for any type of review process listed below may apply for Type 2 Waiver for a Unique Structure designation or Type 2 Variance, pursuant to Art. 2.B.7., Types of Applications: [Ord. 2009-040] [Ord. 2017-007]
1. **Methods**  
An applicant or PBC may request review for compliance with this Chapter in accordance with any one of the following methods: [Ord. 2005 – 002]

**a. Type 1 - Projects Requiring BCC Approval**

A request for a determination of compliance with the requirements of this Chapter may be submitted with the application. A written determination of compliance with this Chapter shall be made in the staff report containing the recommendation for the development order. The request for a determination shall be submitted no less than 30 days prior to the public hearing. [Ord. 2005-002] [Ord. 2009-040]

**b. Type 2 - Projects Requiring ZC Approval**

A request for a determination of compliance with the requirements of this Chapter may be submitted with the ZC application. A written determination of compliance with this Chapter shall be made in the staff report containing the recommendation for the development order. The request for a determination shall be submitted no less than 30 days prior to the ZC public hearing. [Ord. 2009-040]

**c. Type 3 - Projects Requiring DRO or Site Plan Approval**

A request for a determination of compliance with the requirements of this Chapter may be submitted with the original DRO or site plan approval application. A written determination of compliance with this Chapter shall be made in the comment letter regarding the development order for the project. The request for a determination shall be included in the initial DRO application. [Ord. 2009-040]

**d. Type 4 - Projects Requiring Building Permit Approval**

Buildings requiring a building permit only shall be reviewed for compliance through the standard building permit review process. The request for a determination shall be submitted prior to or concurrent with the building permit application. [Ord. 2009-040]

**2. Unique Structure**

**a. Purpose and Intent**

To recognize structures that comply with the definition in Art. 1.1.2.A, Unique Structure, that by the nature of their: scale, massing, proportion, rhythm, style, harmony, order, balance, etc, warrant a special designation. PBC has diverse architectural styles in the various Tiers that are reflective of the historical evolution of the community. The architecture guidelines were established to preserve and enhance those communities through common building design elements. The allowance for unique structures will continue to foster preservation of key design elements while recognizing new and creative design and materials. An applicant may apply for Unique Structure designation pursuant to Art. 2.B.7.D, Type 2 Waiver, for any of the types of review outlined in Art. 5.C.1.E, Review Process. A Unique Structure designation will require the applicant to clearly demonstrate that by complying with the standard architectural guidelines in Art. 5.C.1.H, Guidelines, the overall design would be compromised. A structure classified as unique does not have to apply for variances, but shall comply with the standards in Art. 2.B.7.D.4, Standards for a Unique Structure. The Unique Structure process shall not be requested if the applicant can seek variances in Art. 2.B.7.E, Type 2 Variance. [Ord. 2009-040] [Ord. 2011-001]

**b. Applicability**

An applicant seeking a Unique Structure designation shall submit the request on forms specified by the PBC official responsible for reviewing the application, pursuant to Art. 5.C.1.F, Application Requirements. [Ord. 2009-040]

**c. Review Process**

The Unique Structure shall be reviewed pursuant to Section 5.C.1.E, Review Process and Art. 2.B.7.D.4, Standards for a Unique Structure. Staff shall review the request and prepare a Staff Report for approval, approval with conditions or denial to the Zoning Commission. The Zoning Commission will make a finding and recommendation to the BCC that the request is consistent with the required Standards. The BCC shall make the final decision to approve, approve with conditions or deny the designation of Unique Structure. [Ord. 2009-040]

**3. Type 1 Waiver - Green Architecture**

**a. Purpose and Intent**

To encourage and promote the design and construction of green architecture. This Section provides for Type 1 Waivers from the architecture design guidelines, provided the applicant can achieve the minimum points necessary to be classified as Green Architecture. In order to design sustainable architecture, certain allowances for Type 1 Waivers in Art. 5.C.1.H, Guidelines, need to be recognized and allowed if minimum standards are met. The provisions in Table 5.C.1.E, Green Architecture Designation Rating Program, provide alternative design solutions to achieve green architecture while still complying with the general intent of the architecture guidelines. [Ord. 2009-040] [Ord. 2012-027]

**b. Applicability**

An applicant proposing to utilize the Green Building Architecture waiver provisions for the construction of new or structurally renovated buildings shall be required to comply with the following: **[Ord. 2009-040]**

- 1) Submit an application as required in Art. 5.C.1.F, Application Requirements, **[Ord. 2009-040]**
- 2) Comply with the review process outlined below in Art. 5.C.1.E.3.c, **[Ord. 2009-040]**
- 3) Comply with the requirements outlined in Table 5.C.1.E, Green Architecture Designation Rating Program. **[Ord. 2009-040]**

**c. Review Process**

The Green Architecture designation application shall be reviewed and approved, approved with conditions, or denied in conjunction with one of the review processes outlined in Art. 5.C.1.E, Review Process. The registered architect shall complete the required Zoning application, which will require compliance with the Green Architecture Designation Rating Program, Table 5.C.1.E. **[Ord. 2009-040] [Ord. 2011-016]**

**1) Calculating Points**

The registered architect shall be responsible for calculating the total points obtained for requirements listed in Table 5.C.1.E. Any requirement that does not have specific qualitative and or quantitative measurements the registered architect shall refer to the USGBC Green Building Council rating system to determine acceptable national measurements. In order for the Zoning Director to grant the Green Architecture designation, the applicant shall obtain a minimum of 30 out of a total of 50 points from Table 5.C.1.E. The applicant may choose one or any combination of these categories to achieve the minimum 30 point requirement. If a minimum of 30 points cannot be achieved, then the architecture shall comply with Art. 5.C.1.H. The registered architect of the building shall be required to monitor the building construction until final Certificate of Occupancy to ensure compliance with the Green Architecture approval. **[Ord. 2009-040]**

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**Table 5.C.1.E - Green Architecture Designation Rating Program**

Requirements	Allocated Points	Total Points
<b>Roof Configuration</b>		<b>12</b>
* Flat planted green roof for cooling and storm water management on a minimum of 50 percent of the roof area	2	
* 30 percent of the gross area of the roof surface is planted with vegetative plants	2	
* Roof that incorporates clear story glazing, solar tubes and or light wells	1	
* Roof that incorporates energy strategies (photovoltaic solar panels, solar thermal panels for hot water) and specific slopes related to the sun's solar path thru the sky	1	
* Roof that incorporates thermal chimneys as passive cooling devices	1	
* Roof that is designed to harvest rain water for non potable uses	1	
* Roof materials that are highly reflective (light colored standing seam metal; white single membrane for flat roofs and green planted roofs)	2	
* Roof materials that have a Solar Reflectance Index of 78 for low-sloped roof and 29 for steep-sloped roof for a minimum of 75 percent of the roof surface (refer to the USGBC for roof type, slope and reflectance/emittance information)	2	
<b>Facade, Exterior Treatment, Fenestration Details, Entries and Color</b>		<b>33</b>
<b>Facade</b>		
* The building exterior design treatments vary based on the orientation related to the sun (south facade might have an expanse of glazing and shading devices and light shelves; east and west facade have a limited surface area with a small amount of glazing area; north facade opens to allow the cool north daylight to enter the facility)	5	
* Building form takes on natural shapes that relate to the solar system	5	
<b>Exterior Treatment</b>		
* The building shape, form and orientation take advantage of the sun's path across the sky (innovative building forms inspired by nature, building forms are shaped to harvest daylight, building forms are shaped to harvest solar energy from photovoltaic panels for the generation of electric and heat energy for solar water systems)	5	
* The following typical architectural features or details such as: windows, awnings, covered arcades, sills, shutters, relief's trims, columns, pilasters, quoins, reveals, cornices, horizontal banding, arches, decorative vents, and/or accent tile, shall be integrated into the facade to avoid blank walls.	N/A	
<b>Fenestration Details</b>		
* Achieve a minimum glazing factor of 2 percent in a minimum of 75 percent of all regularly occupied areas	4	
* The building has an expanse of glazing and permanent shading devices and light shelves to harvest daylight	4	
* The use of high performance glazing and/or automatic photocell-based controls	4	
<b>Entries</b>		
* All public entries are easily identifiable and integrated into the building architecture	N/A	
* Each freestanding principal structure does have a minimum of one clearly defined primary public entrance feature and does incorporate a minimum of one primary entry feature design element such as: canopies, porte-cochere, or porticos; wall recess or projection a minimum of 12 inches in depth; covered arcades, a minimum of eight feet clear in width; peaked roof forms; arches, columns or pilasters	N/A	
* A minimum of one secondary decorative treatment has been provided such as: overhangs, cornices, and eaves; decorative moldings or trims around windows and doors; covered public outdoor patio or plaza incorporated with entry area which are not part of a tenant space; special pavers, bricks, decorative concrete, or other similar pavement treatment; architectural details, such as tile work or moldings.	N/A	
<b>Color</b>		
* Specialty coatings such as: radiation control and anti-corrosive paint	3	
* The use of light colored reflective paint	3	
<b>Recycled Materials</b>		<b>5</b>
* Minimum of 50 percent of non-hazardous building construction materials, components and demolition debris is reused, recycled or salvaged	2.5	
* Minimum of 5 percent of the sum, based on cost of the total value of building materials, with recycled content are used and permanently installed. Mechanical, electrical and plumbing components and specialty items	2.5	
<b>Note:</b>		
N/A No points are allocated for these requirements. If the registered architect can demonstrate these Code requirements, if applied would conflict with Green Architecture, waivers may be granted. <b>[Ord. 2009-040]</b>		

**d. Appeals**

If the application is denied, the applicant may appeal the decision to the Zoning Commission in compliance with the standards of Art. 2.C.5.E, Type 1 Waiver. **[Ord. 2011-016] [Ord. 2012-027]**



**4. Administrative Amendments by DRO**

Minor amendments to BCC or ZC approved architectural elevations pursuant to Review Types 1 and 2 may be approved by the Zoning Director provided the changes do not reduce compatibility with surrounding properties. Changes shall be limited to the following: **[Ord. 2009-040]**

- a. A maximum increase of 25 percent or ten feet in overall building height, from finished grade to highest point, whichever is less;
- b. Modifications to the architectural composition which are equal to or enhance the approved elevation; and,
- c. Modifications to ensure consistency with this Chapter.

**F. Application Requirements**

The application form and requirements for Architecture Review, including Unique Structure and Green Architecture shall be submitted on forms specified by the PBC official responsible for reviewing the application. All application documents shall be consistent with the Technical Manual. **[Ord. 2009-040]**

**G. Visual Impact Analysis**

A visual impact analysis shall be submitted with the chosen method of review only for projects or buildings which are contiguous to a public street or to a residentially zoned property. The visual impact analysis shall be prepared and certified by a design professional and include:

**1. Environmental Assessment**

An assessment of the natural and man-made environments surrounding the proposed building utilizing a minimum of four views taken from the subject property of all contiguous public streets and/or residentially zoned properties and one aerial photograph with the proposed building superimposed on the site.

**2. Line of Sight Analysis**

A line of sight analysis of the proposed building in relation to the surrounding area. This may be accomplished by submitting a two-dimensional cross section(s) of the site showing the proposed building elevations in relation to contiguous public R-O-W's and residentially zoned properties.

**3. Prevalent Theme**

A written description by the design professional of the prevalent architectural character of the surrounding area, or desirable architectural character, if no prevalent architectural character exists. If a prevalent architectural character does not exist, the use of architectural styles such as Spanish Eclectic, Mediterranean Revival, Florida Vernacular, or Bermuda/Island is encouraged.

**4. Architectural Compliance Statement**

A written description by the qualified design professional that the visual impact analysis indicates that the architectural composition of the proposed project or building creates focal points in scale with the pedestrian environment, and complements or enhances existing structures in the surrounding area.

**H. Guidelines**

**1. Nonresidential Design Elements**

The following guidelines shall apply to all nonresidential projects or buildings that meet the threshold in Art. 5.C.1.B, and are not exempt in Art. 5.C.1.C,: **[Ord. 2005 – 002]**

**a. General**

An overall unified architectural character and image shall be created by the use of common elements such as consistent forms, colors, materials, and details. Similar, but not identical, architectural treatment between pods within a multi-pod project may be permitted to allow diversity within the project.

- 1) Similar architectural composition and treatment shall be provided on all sides of each building contiguous to or visible from a public street or residential zoning district. **[Ord. 2009-040]**
- 2) Out parcels and accessory buildings within a project shall be constructed of compatible materials, color, and character as the principal building.

**b. Roofline**

The roofline along each elevation shall incorporate a minimum of one design feature each from Table 5.C.1.H, Primary Roof Design Element, and Table 5.C.1.H, Secondary Roof Treatment, below. The same features are not required on each elevation:

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**Table 5.C.1.H - Primary Roof Design Element**

a.	Articulated parapet along 30 percent of the roof line for each elevation (1), (2)
b.	Pitched roof with minimum 12 inch overhanging eaves
c.	Two or more plane breaks or slopes per facade elevation
d.	Any combination of the above
<b>Notes:</b>	
1.	Parapet length used as part of wall signage shall not be counted as articulation.
2.	Maximum spacing between articulation = 100 feet. Spacing may vary for recognized architectural styles such as Art Deco, which cannot comply with this requirement.

**Table 5.C.1.H - Secondary Roof Treatment**

a.	Decorative roof details, such as dormers, cupolas, rafter tails, balconies, terraces, or exposed beams
b.	Cornices with decorative moldings
c.	Pediments, porticos, architectural features at entryways, or decorative towers

**c. Facade**

The front, side, and rear facades, if contiguous to a public street or residential zoning district of every building, shall incorporate recesses, projections, and architectural elements such as columns, arches, etc., as provided below:

**1) Required Design Elements**

All applicable facades, unless exempted above, shall meet the following standards:

**a) Recesses/Projections**

Facades greater than 50 feet in length shall incorporate recesses and projections a minimum of 12 inches in depth along a minimum of 20 percent of the total length of the facade. The recesses or projections shall be distributed along the facade with a maximum spacing of 100 feet between each recess or projection. Facades with four or more bay doors may exclude the combined length of the bay doors from the total facade length.

**b) Walls**

Blank walls shall not exceed ten feet in height or 20 feet in length. Control and expansion joints shall constitute a blank wall, unless used in a decorative pattern with varied materials or textures and spaced a maximum of ten feet on center. Relief and reveal depth shall be a minimum of three quarters of an inch.

**c) Storefronts**

Individual ground-level retail uses with exterior public access that are part of a larger freestanding building, other than regional commercial facilities, shall have display windows along a minimum of 20 percent of the facade length. Windows shall be defined with details such as frames, sills, shutters, planters, relief trims, or lintels. Storefront design, relief features, and decorative treatments shall complement contiguous storefronts.

**2) Additional Design Elements**

In addition to Art. 5.C.1.H.1.c.1, Required Design Elements, the front and side facades shall include a minimum of one of the following design elements:

**a) Exterior Treatment**

The exterior treatment of the front elevation shall consist of a minimum of two different building materials, textures, or finishes at a ratio of a maximum of 80 percent for the primary treatment and a minimum of 20 percent for the secondary treatment. Exterior finishes such as stucco, brick, wood, coquina, or cut stone are encouraged. The surfaces of multiple exterior storefronts within a building, except regional commercial facilities, shall compliment contiguous storefronts.

**b) Fenestration Details**

Architectural features or details such as, windows, awnings, covered arcades, sills, shutters, reliefs, trims, columns, pilasters, quoins, reveals, cornices, horizontal banding, arches, decorative vents, and/or accent tile, shall be integrated into the facade to avoid the appearance of a blank wall and shall be provided along a minimum of 60 percent of the facade length of the front, side and rear facades if contiguous to a public street or residential zoning district.

**d. Entries**

All public entries shall be easily identifiable and integrated into the building architecture. Each freestanding principal structure shall have a minimum of one clearly defined primary public entrance feature. The primary entrance shall incorporate a minimum of one design element each from Table 5.C.1.H, Primary Entry Feature Design Element, and Table 5.C.1.H, Secondary Decorative Treatment, below:

**Table 5.C.1.H - Primary Entry Feature Design Element**

a.	Canopies, porte-cochere, or porticos
b.	Wall recess or projection a minimum of 12 inches in depth
c.	Covered arcades, a minimum of eight feet clear in width
d.	Peaked roof forms
e.	Arches, columns or pilasters

**Table 5.C.1.H - Secondary Decorative Treatment**

a.	Overhangs, cornices, and eaves
b.	Decorative moldings or trims around windows and doors
c.	Covered public outdoor patio or plaza incorporated with entry area which are not part of a tenant space
d.	Special pavers, bricks, decorative concrete, or other similar pavement treatment
e.	Architectural details, such as tile work or moldings

**e. Color**

Color shall be considered to achieve architectural compatibility with architecture in the surrounding area and to complement structures within a development. **[Ord. 2009-040]**

**f. Design Elements Subject to ZC or BCC Approval**

The following elements are prohibited, unless approved by the ZC or BCC pursuant to the review process of this Chapter:

- 1) structures which are of symbolic design for the purpose of advertising;
- 2) high intensity, metallic, neon, or fluorescent colors;
- 3) neon tubing, fiber optics or similar lighting, excluding those used for signage;
- 4) high gloss vinyl and plastic awnings;
- 5) awnings with horizontal ribbing, flowered or similarly patterned designs;
- 6) unpainted or plain/unfinished exterior facades, excluding galvalume and galvanized steel roof; and
- 7) smooth-faced, painted, concrete masonry block.

**g. Rural Design Elements**

The following standards shall also apply to nonresidential projects, buildings, and signs in the Rural and Exurban Tiers.

**1) Roof**

The roofline along each elevation shall incorporate a minimum of one design feature each from Table 5.C.1.H, Roof Design Element, and Table 5.C.1.H, Decorative Roof Treatment below. The same features are not required on each elevation. **[Ord. 2018-002]**

**Table 5.C.1.H – Rural Roof Design Element**

1.	Articulated roofline for each 200 linear feet with pitched roof (e.g. hip-on-deck, hip, gable, gambrel, or a combination of them) along a minimum of 70% of the length of the façade, and, a minimum 12 inch overhanging eave; or,
2.	Full pitched roof (e.g. hip, gable, gambrel, etc.) with two or more plane breaks or slopes; or
3.	Combination of items 1 and 2 above.
<b>[Ord. 2018-002]</b>	

**Table 5.C.1.H – Rural Decorative Roof Treatment**

1.	Decorative roof details such as dormers, cupolas, rafter tails, balconies, terraces, or exposed beams;
2.	Cornices with decorative moldings; or
3.	Pediments, porticos, or architectural features at entryways, or decorative towers.
<b>[Ord. 2018-002]</b>	

**a) Material**

Roof materials shall be limited to standing seam metal, corrugated, or 5V crimp made of copper, terne-coated stainless steel, galvalume or galvanized steel, slate, dimensional or architectural wood shingles, or metal shingles.

**2) Exterior Building Finishes**

Exterior building and sign finishes shall be limited to:

- a) vinyl, lap cedar or hard textured concrete siding with rough or smooth horizontal planks, six inch lap siding, shingles or vertical board and batten;
- b) brick or brick veneer;
- c) stone;
- d) textured stucco; and
- e) split face, pre-formed, or textured masonry block.

**3) Facades**

**a) Single Story Buildings**

A minimum of three of the following architectural details or other similar treatment shall be integrated into all applicable single story building facades to avoid the appearance of a blank wall:

- (1) columns or pilasters;
- (2) decorative cornices;
- (3) horizontal banding;
- (4) arches;
- (5) decorative vents or louvers;
- (6) moldings and trims;
- (7) decorative shutters; and
- (8) bay windows.

**b) Multi-Story Buildings**

In addition to the required architectural details above, multi-story buildings shall also have breaks such as a canopy, balcony, overhang, or other horizontal projections.

**4) Porches and Entryways**

All buildings shall have prominent entryways with well-defined porches and railings. Porches shall be provided along the entire front facades, and 50 percent of the side or rear facades if contiguous to a public street or residential zoning district. The design of a porch may be interrupted by required exits, paved pedestrian entrances, loading areas, and shall include the following: **[Ord. 2018-002]**

**a) Width**

Porches shall have a minimum clear, unobstructed width of eight feet.

**b) Railings and Posts**

Porches shall incorporate decorative railings with posts at a maximum of 12 feet on center along the entire length, excluding pedestrian access points.

**5) Windows and Doors**

All windows and doors shall have architectural details such as panels, transoms, crossbucks, shutters, decorative trims, or moldings. All glass areas shall appear to be multi-paned.

**2. Multi-Family Design Elements**

In addition to the guidelines for non-residential projects, multi-family projects shall adhere to the following guidelines: **[Ord. 2010-005]**

**a. Master Elevations**

Master elevation approvals may be reused within a project, provided the master elevation complies with Art. 5.C.1.G, Visual Impact Analysis, for each location in which that elevation is used.

**b. Balconies and Patios**

Individual balconies and/or patios shall be provided for a minimum of 20 percent of the total number of units within each building.

**I. Large Scale Commercial Development**

Large Scale Commercial Development shall be defined as any large single tenant retail use, with or without accessory tenants, in a single building, between 65,000 and 200,000 gross square feet. These regulations shall apply to all new developments and developments meeting the requirements of Art. 5.C.1.D, Effect. **[Ord. 2005 – 002]**

## 1. Single Tenant Limit

Variances from these requirements shall be prohibited. [Ord. 2005 – 002] [Ord. 2011-001]

### a. CL FLU

The maximum building size for a single tenant shall be less than 65,000 gross square feet except as follows: [Ord. 2005-002] [Ord. 2013-001] [Ord. 2017-025]

- 1) The commercial development of the parcel located at the northwest corner of Southern Boulevard and Seminole Pratt Whitney Road and identified in the legal description in Ordinance 2010-030 (LGA 2010-012); and, [Ord. 2005-002] [Ord. 2013-001] [Ord. 2017-025]
- 2) Sites approved under Ordinances 2008-048 and 2009-028 as an LCC in the Urban/Suburban Tier are allowed to have up to a maximum of 100,000 square feet. [Ord. 2017-025]

### b. CH FLU

The maximum building size for a single tenant shall be 200,000 gross square feet. [Ord. 2005 – 002]

#### 1) Exception

An additional 10,000 square feet shall be permitted, for a total of 210,000 gross square feet, subject to Class A Conditional Use approval and the following requirements: [Ord. 2005 – 002] [Ord. 2018-002]

- a) Perimeter landscaping buffer widths and plant material required by Art. 7.C, Landscape Buffer and Interior Landscaping, shall be increased by twenty percent. [Ord. 2005 – 002]
- b) One additional pedestrian amenity shall be required in addition to the requirements of Art. 5.C.1.I.3.d, Pedestrian Amenities. [Ord. 2005 – 002]
- c) A minimum of 50 percent of the walkways required by Art. 5.C.1.I.3.d.2), shall be covered, providing overhead shelter from the elements. Covered areas shall be evenly distributed between the furthest parking stalls and public entrances. [Ord. 2005 – 002]
- d) A maximum of two out-parcels shall be permitted, subject to the following: [Ord. 2005 – 002]
  - (1) Walkways consistent with those required by Art. 5.C.1.I.3.d.2, shall be provided to both outparcels from a public entrance for any single tenant having greater than 200,000 gross square feet. [Ord. 2005 – 002]
  - (2) Building square footage for convenience stores with gas sales and/or auto service stations shall be deducted from the additional 10,000 square feet permitted under this exception. [Ord. 2005 – 002]

If the project is to be phased, all of the above improvements shall be installed in the first phase. [Ord. 2005 – 002]

## 2. Facade Orientation

For the purposes of this section, facade orientation shall be defined as follows: [Ord. 2005 – 002]

- a. Front facade: The wall of a building containing the principal public entrance. The front façade is generally located parallel with and facing the principal parking area for the building. [Ord. 2005 – 002]
- b. Side A facade: The wall of a building containing a secondary public entrance. The Side A façade is generally located parallel with and facing secondary parking area for the building. [Ord. 2005 – 002]
- c. Side B facade: Any side building façade not having a secondary public entrance. [Ord. 2005 – 002]
- d. Rear facade: The rear wall of a building generally opposite the front facade. [Ord. 2005 – 002]

## 3. Single Tenants 65,000 Gross Square Feet or More

Developments with single tenants occupying 65,000 gross square feet or more shall be subject to the requirements of Table 5.C.1.I-13, Large Scale Commercial Development. [Ord. 2005 – 002]

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**Table 5.C.1.I - Large Scale Commercial Development**

Facade Requirements	Front	Side A (1)	Side B	Rear
Roofline - Parapet Articulation	5 feet	5 feet	2.5 feet (2)	2.5 feet (2)
Facade - Recesses and Projections (3)	Option 1: 15 foot depth for 20%; or Option 2: 15 foot depth for 15%, and 5 foot depth for 15%	10 foot depth for 20% (2)	5 foot depth for 20% (2)	5 foot depth for 20%
Fenestration Details - Windows (3)	1.6 sf per lf of facade	0.8 sf per lf of facade	Not Required	Not Required
Exterior Treatment - Use of Building Materials	Minimum of 2 types – 70%/30% ratio			
Covered Walkways/Arcades	70%	30%	Not Required	Not Required
Location of Required Parking	75% maximum	25% minimum side and/or rear (6)		
Foundation Planting % of Facade Length (4)	Min. 50%	Min. 50%	Min. 50%	Min. 20%
Width of Foundation Plantings (5)	50% of facade height	50% of facade height	12 feet	12 feet
Perimeter Buffers	Perimeter buffers shall be in accordance with Art. 7.C.7, Large Scale Commercial Development			

**[Ord. 2005 – 002]**

**Notes:**

1. Any side or rear facade with a secondary public entrance shall meet the requirements of Side A above.
2. Front facade requirements shall be used for any façade that is oriented towards a street.
3. Percentage as a total length of façade.
4. The percentage length shall be in accordance with Table 5.C.1.I-12, Large Scale Commercial Development, or Table 7.C.3-1, Minimum Tier Requirements, whichever is greater.
5. Minimum width: 12 feet.
6. A minimum of 15 percent of the parking shall be located immediately fronting a Side A entrance. **[Ord. 2005 – 002]**

**a. Roofline**

**1) Parapet Articulation**

- a) Articulation in parapet shall be required with a minimum of five feet for front and side A facades, and any façade oriented towards a street; and, two and one half feet for side B and rear facades. **[Ord. 2005 – 002]**
- b) A Parapet return is required with a length equal to or exceeding the required parapet articulation. **[Ord. 2005 – 002]**

**b. Facade**

**1) Recesses/Projections**

Facades greater than 100 feet in length shall incorporate recesses and projections along the total length of the façade, in accordance with Table 5.C.1.I-13, Large Scale Commercial Development. Required recesses and projections shall be distributed along the façade with a maximum spacing of 150 feet. Recesses and projections shall be from finished grade to roofline. **[Ord. 2005 - 002]**

**2) Fenestration Details**

a) Windows

Windows shall be provided in accordance with Table 5.C.1.I-13, Large Scale Commercial Development. **[Ord. 2005 – 002]**

- (1) A minimum of 70 percent of windows on front and side A façades shall be transparent, or window box displaying only merchandise. The remaining 30 percent may be non-transparent. **[Ord. 2005 – 002]**
- (2) Windows shall be at pedestrian scale. **[Ord. 2005 – 002]**

**3) Exterior Treatment**

- a) A minimum of two different types of building materials shall be used, with a 70 percent-30 percent ratio. A change in stucco or use of windows will not count toward meeting this requirement. **[Ord. 2005 – 002]**
- b) Exposed gutters or rain leaders are permitted if decorative in nature. **[Ord. 2005 – 002]**

**4) Covered Walkways**

- a) Facades with a public entrance shall provide covered walkways along a minimum of 70 percent of the overall length of the front façade, and 30 percent of the overall length of side A facades. **[Ord. 2005 - 002]**
- b) Covered walkways shall be a minimum of 10 feet in width, unobstructed, with appropriately spaced columns and pitched roofs. **[Ord. 2005 - 002]**

**c. Public Entrances**

- 1) A minimum of one public entrance shall be provided along the front façade. [Ord. 2005 – 002]
- 2) One additional secondary public entrance shall be provided on a side façade, subject to the following: [Ord. 2005 – 002]
  - a) The secondary entrance shall be accessible to the public during the same business hours as the primary entrance, or from 10 a.m. to 6 p.m., whichever is less. [Ord. 2005 – 002]
  - b) Secondary public entrances shall be located a minimum distance of 25 percent of the length of the side A façade, from the corner of the front facade. [Ord. 2005 – 002]

**d. Pedestrian Amenities**

- 1) One public amenity shall be provided for every 50,000 square feet, or fraction thereof, including but not limited to public art; (not depicting any advertising); fountains (of at least eight feet in height, 16 feet diameter; pergolas; bell or clock tower; and public seating areas (not in conjunction with a restaurant). Required pedestrian amenities shall be a minimum of 800 square feet and 25 feet in width. [Ord. 2005 – 002]
- 2) A minimum of two pedestrian pathways a minimum of ten feet in width leading from the furthest parking spaces to public entrances shall be required. These pathways shall incorporate the use of decorative pavement, trellises, seating, pergolas, arbors, gazebos and landscaping. [Ord. 2005 – 002]

**J. Appeal**

**1. Non-Judicial Remedies**

Any applicant aggrieved by an administrative interpretation or decision regarding this Chapter who wishes to appeal the interpretation or decision shall file an appeal to the ZC and follow the appeal procedures established in Art.2.C.5.E, Type 1 Waiver. [Ord. 2005 – 002] [Ord. 2011-016] [Ord. 2012-027]

**2. Exhaustion of Non-Judicial Remedies**

Any applicant, the Executive Director of PZB, the BCC member representing the district in which the project or building is to be located, aggrieved by a decision of the ZC regarding an interpretation or decision regarding this shall, within 30 calendar days from the date a decision by the ZC is rendered, file an appeal to the BCC. [Ord. 2005-002] [Ord. 2011-016]

**CHAPTER D PARKS & RECREATION – RULES AND RECREATION STANDARDS**

**Section 1 General**

The Director of Parks and Recreations shall be responsible for implementing, applying, interpreting, and modifying the standards of Art. 5.D, Parks and Recreation - Rules and Recreation Standards.

**A. Purpose and Intent**

The purpose and intent of this Chapter is to ensure the provision of parks, on-site recreation areas, and facilities in proportion to the demand created by development. By requiring such facilities, it is the intent of this Section to ensure the provision of functionally adequate, aesthetically pleasing and safe park and recreation areas. The specific objectives of this Chapter are as follows:

1. Establish recreational standards for the development of land within unincorporated PBC;
2. Aid in the coordination of land development in PBC in accordance with orderly physical patterns;
3. Provide public and private park and recreation areas in accordance with the objectives of the Recreation Open Space Element of the Plan; and
4. Ensure that necessary recreational improvements will be provided for residents concurrent with residential development.

**B. Applicability**

The standards of this Chapter shall apply to all development in unincorporated PBC, or existing development that is modified to the extent that it includes residential uses or site design changes or features that were not specifically shown on the previously approved plans. All recreation areas established by this Chapter shall be continuously maintained according to the standards of this Chapter.

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## Section 2 Types of Parks

### A. Countywide Parks and Preservation/Conservation Areas

#### 1. Countywide Parks

The PBC Parks and Recreation Department supplies a countywide system of public park and recreational facilities for which Level of Service (LOS) standards are established in the Recreation and Open Space Element of the Plan. For purposes of park concurrency, Regional, Beach and District Park LOS are established and Park Impact Fees assessed on new residential development to maintain the countywide park systems LOS concurrent with growth. The CIE is updated annually to include projects needed to meet countywide Comprehensive Plan LOS that will be funded through the Parks and Recreational Department's ongoing Capital Improvement Program. **[Ord. 2006-004]**

#### 2. Countywide Park Impact Fees

Park impact fees shall be assessed according to the provisions of Art. 13.B, County District, Regional, and Beach Parks Impact Fee, as amended, to meet Countywide LOS needs for public regional beach, and district parks.

#### 3. Reservations

Where a planned countywide Beach, Regional, District park, or Preservation/Conservation area is shown in the Plan, and a proposed development application is located in whole or part within the planned beach, regional, district park, or preservation/conservation area, such area shall be reserved for a period not to exceed two years during which time PBC shall either acquire the land or release the reservation. The time period initiating the reservation shall commence with the filing of an application for development order.

### B. Community and Neighborhood Park Recreation Standards

#### 1. Required Recreational Areas

All proposed residential development shall make adequate provisions for recreation areas to accommodate the neighborhood and community park level recreational needs of the residents of the development. The recreation areas shall consist of a developed parcel of land that includes recreational facilities of a type consistent with the needs of the residents. The recreation parcel shall be located so as to provide convenient and safe pedestrian access for the residents of the development. The recreation area shall be reserved by the developer for the perpetual use of the residents of the development. The owner of the land or a property owner's association and their successors in interest shall be responsible for the perpetual maintenance of the recreation area.

#### 2. Calculation of Required Recreation

The required recreation area shall be the equivalent of two and one-half acres of developed land per 1,000 people population, based on the 2010 Census average Person Per Household (PPH) rate of 2.39 people per unit. Development of recreational facilities shall be of a type suitable for general neighborhood or community park use. The dollar amount to be spent on recreational improvements per acre shall be no less than 75 percent of PBC's average cost per acre for developing community and neighborhood park type facilities as calculated by the Park and Recreation Department based on the current PBC cost per acre to develop Community or Neighborhood park facilities. The minimum dollar amount to be spent on recreation facilities shall be determined by the Parks and Recreation Department at the time of final site plan submission. **[Ord. 2016-042]**

##### a. WCRAO

The required recreation area shall be the equivalent of one and one quarter acres of developed land per 1,000 people population, based on 2.39 people per unit. **[Ord. 2008-037]**

#### 3. Approval

Prior to DRO certification, projects proceeding to the public hearing process shall indicate the character and location of the proposed recreation in the application for review and approval by the Park and Recreation Department. For projects requiring final site plan approval, the proposed location and configuration of the recreation area(s) and the recreational improvements shall be indicated on the plan for review and approval by the Parks and Recreation Department.

#### 4. Reduction in Recreation Area Land Requirement

The Parks and Recreation Department may allow reduction of the recreation land area requirement by not more than 25 percent when other open space tracts are platted and made available to residents for recreational purpose and the combined value of the recreation facilities to be constructed and the resulting reduced land area exceeds the total value of the recreation land area and facilities requirement of Art. 5.D.2.B.2, Calculation of Required Recreation, by a minimum of 25 percent. **[Ord. 2006-004]**



**5. Cash-Out Option**

At the option of the Parks and Recreation Department, the developer may, in lieu of or in combination with Art. 5.D.2.B.2, Calculation of Required Recreation, contribute the dollar value of the total recreational area requirement of this Chapter including land and improvements of this Chapter for the entire development at the time the first plat is submitted for recording. Land value shall be based on PBC's cost to acquire land for community or neighborhood parks at the time the first plat is submitted for recording, or on a PBC approved certified MSA appraisal of the average value of the land in the development at the time of first plat. All such funds collected shall be held in a non-lapsing Park and Recreation Trust Fund for the acquisition and improvement of community or neighborhood parks according to the provisions of Art. 5.D.2.B.6, Park and Recreation Trust Fund.

**a. WCRAO**

At the option of the Parks and Recreation Department, with a positive recommendation from the WCRA, the developer may, in lieu of or in combination with Art. 5.D.2.B.2, Calculation of Required Recreation, contribute the dollar value of the total recreational area requirement, or convey land of equal value within the WCRA targeted area to the County, as identified by the Parks and Recreation Department or the WCRA Plan, including land and improvements for the entire development, or a portion thereof, at the time the first plat is submitted for recording or issuance of the first residential or mixed use building permit. Land value shall be based on PBC's cost to acquire land for community or neighborhood parks at the time the first plat is submitted for recording, issuance of the first residential or mixed use building permit or on a PBC approved certified MSA appraisal of the average value of the land in the development at the time of first plat or issuance of the first residential or mixed use building permit. All such funds collected shall be held in a non-lapsing Park and Recreation Trust Fund for the acquisition and improvement of the WCRA community or neighborhood parks according to the provisions of Art. 5.D.2.B.6, Park and Recreation Trust Fund. **[Ord. 2008-037]**

**6. Park and Recreation Trust Fund**

Monies deposited by a developer pursuant to this Chapter shall be expended within a reasonable period of time for the purpose of acquiring and/or developing land necessary to meet the need for neighborhood or community type recreational facilities created by the development in order to provide a system of parks which will be available to and sufficiently benefit the residents of the development. Monies deposited by a developer pursuant to this Chapter shall be expended to acquire and/or develop land for park purposes not farther than five miles from the perimeter of the development.

**7. Other**

The BCC shall establish an effective program for the acquisition of lands for the development of public parks in order to meet, within a reasonable period of time, the existing need for public parks. The annual budget and capital improvement program of PBC shall provide for appropriation of funds as may be necessary to carry out PBC's program for the acquisition and/or development of land for public parks. The funds necessary to acquire lands to meet the existing need for PBC parks must be provided from a source of revenue other than from the amount deposited in the Trust Fund.

**8. Open Space Credit**

Where developed recreational facilities are provided within lands required or credited for other open space purposes pursuant to this Code, (i.e., buffer areas, natural preserves, utility easements, R-O-W, drainage, or water management tracts), only credit for the cost of approved facilities may be applied towards the recreation area requirement of Art. 5.D.2.B.2, Calculation of Required Recreation, and only if the facilities are reserved for the use of the residents of the development.

**9. Other Credits**

Any parcel used to satisfy Parks and Recreation Standards shall meet the following requirements: **[Ord. 2006-004]**

**a. Minimum Parcel Size**

Minimum parcel size shall be 7,500 square feet exclusive of above ground easements and landscape buffers. **[Ord. 2006-004] [Ord. 2016-042]**

**b. Minimum Parcel Width**

Minimum parcel width shall average 75 feet with no dimension less than 50 feet. **[Ord. 2006-004]**

**c. Minimum Parcel Depth**

Minimum parcel depth shall average 100 feet with no dimension less than 75 feet. **[Ord. 2006-004]**

**d. Waiver of Minimum Parcel Dimensions**

The Parks and Recreation Department may reduce the minimum recreation parcel dimensions by not more than ten percent when considering location, abutting land uses, accessibility, recreation

facilities to be offered and the parcels function in the overall recreation and open space network of the development. [Ord. 2006-004]

**e. Underground Easements**

Underground easements are permitted in the recreation parcel with prior approval by the Director of the Parks and Recreation Department, and as long as the utility of the recreation parcel is not adversely impacted. [Ord. 2016-042]

**f. Exceptions**

1. CLFs may be exempt from the minimum parcel size and minimum dimensions, with prior approval by the Director of the Parks & Recreation Department. [Ord. 2016-042]
2. CLF recreational requirements may be satisfied using a combination of interior and exterior recreation areas, with prior approval by the Director of the Parks and Recreation Department. [Ord. 2016-042]

**C. Passive Park**

See Art. 4.B.3.C.8, Park, Passive

**D. Public Park**

See Art. 4.B.3.C.9, Park, Public

**E. Infill Neighborhood Park**

See Art. 4.B.3.C.7, Park, Neighborhood Infill

**F. Phasing**

Any development required to provide recreation shall follow one of the following phasing plans:

**1. Single Phasing**

When the development is to be constructed in a single phase, or where each phase will provide recreational facilities specifically for the residents of that phase, then the recreational site(s) for that phase shall be site planned, or platted, concurrent with that phase of construction. No more than 40 percent of the building permits for residential units shall be issued for the phase until the recreational improvements have been completed in their entirety and open for use and accessible to the residents, or unless a phasing plan for completion of the required recreation area is agreed to and approved by the Parks and Recreation Department. [Ord. 2006-004]

**2. Multiple Phasing**

When the development is to be constructed in multiple phases or plats and one or more required recreational site(s) is/are intended to serve the residents of two or more phases of the development, then the following sequence shall be adhered to:

- a. The recreation site(s) shall be site planned concurrent with the site plan for the first phase of residential development for which the recreational site will serve.
- b. The recreation site(s) shall be platted concurrent with the plat for the residential development phase they will serve. No more than 40 percent of the building permits for residential units shall be issued for any phase until the recreational improvements have been completed in their entirety and open for use and accessible to the residents, or unless a phasing plan for completion of the required recreation area is agreed to and approved by the Parks and Recreation Department. [Ord. 2006-004] [Ord. 2016-042]

**3. Multifamily and Congregate Living Facilities**

No more than 20 percent of the Certificates of Occupancy for the residential units shall be issued for the phase until the recreational improvements have been completed in their entirety and open for use and accessible to the residents, or unless a phasing plan for completion of the required recreation area is agreed to and approved by the Parks and Recreation Department. [Ord. 2016-042]

**G. Public Park Landscape Standards**

This section recognizes that public parks require flexibility in landscape design to address unique natural and manmade resources that serve the public. Public park landscape standards are applicable in all development Tiers and promote open views and vistas into natural landscapes, lakes, greenways, blueways, and open spaces for appreciation and benefit of the public. Deviations for publicly owned and operated public parks from the landscaping requirements of Art. 7, Landscaping, are as follows: [Ord. 2006-004] [Ord. 2008-003] [Ord. 2011-001]

**1. General Standards**

**a. Minimum Tree Quantities**

A minimum of one tree is required per 1,200 sq. ft. overall area, excluding lakes, natural areas and recreation areas. [Ord. 2006-004] [Ord. 2008-003]

**b. Minimum Shrub Quantities**

A minimum of one shrub is required per 1,250 sq. ft. of impervious area, excluding lakes and wetlands. [Ord. 2006-004] [Ord. 2008-003]

- c. **Interior and Perimeter Buffer Trees**  
A minimum of 75 percent of required trees shall be canopy trees. Palms or pines may be counted as one canopy tree, not to exceed 25 percent of the total number of required trees. [Ord. 2006-004]
  - d. **Foundation Planting [Ord. 2006-004]**
    - 1) **Exemption**  
Open air pavilions, bathrooms, scoreboxes, mechanical vaults, and similar park structures less than 2,000 sq. ft. are exempt from foundation planting requirements. [Ord. 2006-004]
    - 2) **Dimensions**  
Foundation planting shall be provided along a minimum of 50 percent of front and side facades, and the rear facade if oriented towards any public use area. Width shall be a minimum of five feet along front and rear facades, where required, and eight feet along side facades. [Ord. 2006-004]
- 2. Perimeter Buffer Landscape Requirements**
- a. **R-O-W Buffers**
    - 1) **Applicability**  
R-O-W buffers pursuant to Art. 7, Landscaping for public parks, open space, and golf courses, shall be exempt from the planting requirements of Table 7.C.2.A ROW Buffer Landscape Requirements. Required R-O-W buffer trees may be planted in a natural pattern within and adjacent to the designated landscape buffer. [Ord. 2006-004] [Ord. 2008-037]
    - 2) **Required Plantings**  
Where parking lots, maintenance buildings and/or loading areas are located immediately adjacent to R-O-W buffers, the standards in Art. 5.D.2.G.2.a.1, shall not apply. Where shrubs plantings are required, the minimum number of layers of shrubs indicated in Table 7.C.2.A, R-O-W Buffer Landscape Requirements may be reduced to two in all Tiers. [Ord. 2008-037]
  - b. **Compatibility Buffer**  
Compatibility buffers shall be a minimum of five feet in width. Public park uses adjacent to other public park open space and civic uses or pods shall be exempt from compatibility buffer requirements. Required compatibility buffers shall be exempt from the shrub planting requirements of Table 7.C.2.B, Compatibility Buffer Landscape Requirements. Required trees may be planted in a natural pattern within or adjacent to the designated landscape buffer. [Ord. 2006-004] [Ord. 2008-037]
  - c. **Incompatibility Buffer**  
Incompatibility buffers shall be a minimum of 15 feet in width. The minimum number of layers of shrubs indicated in Table 7.C.2.C, Incompatibility Buffer Landscape Requirements may be reduced to two in all Tiers. [Ord. 2006-004] [Ord. 2008-037]
  - d. **Pathways in Buffers**  
Pedestrian pathways, exercise trails and other related recreational trails may be allowed to meander in required R-O-W and compatibility buffers. [Ord. 2006-004]
  - e. **Berms**  
Berms shall be permitted in any perimeter buffer in all Tiers. [Ord. 2006-004]
  - f. **Fences and Walls**  
Walls and fences may be located along the property line, and may be exempt from the tree, shrub and hedge requirements of Art. 7.D.4.B, Walls and Art. 7.D.4.C, Fences. Vinyl coated chain link fences are permitted in any perimeter buffer in any Tier, and may be exempt from the requirements of Art. 7.D.4.C.1, Chain Link Fences. [Ord. 2006-004]
  - g. **WCRAO**  
Landscape buffers shall not be required if the proposed park and recreation areas are internally integrated within the development. [Ord. 2008-037]
- 3. Off Street Parking Requirements**
- a. **Landscape Islands**  
One landscape island a minimum of ten feet in width shall be required per ten spaces, in all Tiers (maximum 100 feet apart), excluding spaces that are designated for vehicles with trailers. [Ord. 2006-004] [Ord. 2018-002] [Ord. 2018-018]

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## CHAPTER E PERFORMANCE STANDARDS

### Section 1 Major Intersection Criteria

As specified in this Code, certain specific uses shall be located at major intersections or internal to a PDD that is located at a major intersection. For the purpose of this Chapter, to be considered a major intersection each roadway at the intersection, shall meet at least one of the following standards:

#### A. Four Lanes

The roadway currently exists at four lanes or more, link to link, and is shown on the Thoroughfare R-O-W Protection Map. Dedication of R-O-W or construction of additional lanes solely in front of a property shall not satisfy this standard;

#### B. Five Year Road Plan

The roadway appears in the Five Year Road Plan to be constructed as a major arterial of at least four lanes;

#### C. Traffic Volume

The current average traffic volume on the roadway is greater than ten thousand trips per day as shown on the Peak Season Traffic Volume Table published by the Palm Beach County Traffic Division; **[Ord. 2009-040]**

#### D. R-O-W

The roadway is shown on the Thoroughfare Plan as 120-foot R-O-W or greater; or

#### E. Upgrade Agreement

The applicant agrees to improve the roadway system to meet the standards in this Chapter as a condition of approval.

### Section 2 Location Criteria

#### A. Purpose and Intent

To mitigate the adverse impacts created by excessive concentrations of specific uses at intersections and along roadways that adversely impact traffic flow, pedestrian circulation and visual impacts related to site layout. **[Ord. 2006-004]**

#### B. Intersection Criteria

Applicable uses shall be limited within 1,000 feet of any intersection, measured from the intersection of the centerlines of each street to the nearest exterior wall or outdoor dining area of the use. **[Ord. 2006-004]**

#### C. Separation Criteria

Any use within 1,000 feet of an intersection pursuant to the location criteria above shall be exempt from this requirement. A use shall meet the following separation criteria of any other same and existing or approved use, measured by drawing a straight line between the nearest point of the exterior wall or outdoor dining area of the proposed use to the same for an existing or approved use: **[Ord. 2006-004]**

1. 1000-feet; or
2. 500-feet.

#### D. Existing Uses

The locational and separation criteria in this Section shall have no effect on any existing uses that are conforming uses as of the effective date of this Code. Where applicable, any DOA to an existing use shall comply with Art. 4.B.2.C.33.f.3), Exception, to the greatest extent feasible. **[Ord. 2006-004]**

### Section 3 Drainage

For all development in all districts, drainage shall be designed and constructed in accordance with the drainage and storm water management standards of Art. 11, Subdivisions, Platting and Required Improvements, except that the requirements for legal positive outfall, pursuant to Art. 11.E.1.A.3, Stormwater Management System, shall not apply to:

#### A. Development That Meets Both of the Following Criteria

1. The primary use is a parking lot, open storage, open sided structure with no utilities, or similar use as determined by the County Engineer.
2. The property is not located adjacent or contiguous to a drainage facility which provides access to a point of legal positive outfall

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## **B. Industrial Designations**

Individual lots designated as Industrial on the FLUA which have a zoning designation of IL, IG, MUPD, PIPD, or SWPD are limited to industrial uses, are located 300 hundred feet or more away from connecting to legal positive outfall, and which provide either:

1. Adequate on-site lake area to store the 100 year, three day rainfall event within the limits of the lake; or
2. Store a 100 year, three day rainfall event on this site in a combination of lake and surface storage conditioned upon providing a hydrological study showing that inundation of the parking lot areas and driveways does not persist for more than 72 hours following cessation of the 100 year, three day rainfall event.

## **C. Security Trailers or Caretakers' Quarters Allowed In Conjunction with an Exempted Use**

Any parcel meeting the above listed exemptions from the provisions of legal positive outfall shall connect to a central sewer system and shall not utilize a septic tank system.

## **D. Lands with Paola or St. Lucie Soil Types**

Projects that are planned on lands located approximately along the I-95 corridor that consist of Paola or St. Lucie soil types which are excessively drained and have a depth to water table in excess of 8 feet, as measured from the average natural elevation of the property. In lieu of providing legal positive outfall for projects meeting the above criteria, projects shall be developed utilizing a water management system that contains the 100 year three-day storm event entirely within a designated retention area, after accounting for soil storage. Calculations showing total on-site retention shall be provided utilizing the rainfall distribution as detailed in SFWMD's Vol. IV Manual, latest edition. **[Ord. 2005 – 002]**

# **Section 4 Nuisances**

## **A. General**

### **1. Purpose and Intent**

The purpose and intent of this Chapter is to regulate possible nuisances, such as excessive noise, vibration, odors, and outdoor lighting which could interfere with the peaceful enjoyment of land.

### **2. Applicability**

This Chapter shall apply to all land in the unincorporated area of PBC, unless exempt pursuant to Art. 5.E.1.E, Upgrade Agreement.

### **3. Conflicts**

Any conflict between this Chapter and any other provision in this Code or any other Ordinance adopted by the BCC, or provision, regulation, standard, or law adopted by Statute, the more stringent shall apply.

### **4. Definitions**

See Art. 1.1, Definitions and Acronyms

### **5. Exemptions**

The following are exempt from this Chapter:

#### **a. Transportation**

Sound generated from motor vehicles legally operating on any public R-O-W regulated by F.S. Chapter 316 (Uniform Traffic Control Law). Sound generated by interstate rail carriers operating on any railroad R-O-W. Sound generated by an airport, including all airport related operations. All other uses of land preempted by applicable State of Florida or Federal laws or regulations.

#### **b. Sanctioned Activities**

Sound generated by a government sanctioned activity conducted on public land or in a public R-O-W (e.g. parades).

#### **c. Crowd Noise**

Non-amplified sound generated by a crowd noises at sporting events.

#### **d. Research and Technology Overlay (RTO)**

Sound generated from a source located within the RTO.

#### **e. Farm Operation**

Bona fide agricultural operations conforming to generally accepted agricultural and best management practices.

#### **f. AGR District**

Noise, vibration, smoke, emissions, particulate matter, and odors by farm operations conforming to generally accepted agricultural and management practices in the AGR district. **[Ord. 2005-041]**

**g. Temporary, Portable Power Generators**

Sound generated by temporary, portable power generators used only during periods of electrical power outages in utility distribution systems maintained by the utility service provider. [Ord. 2005-041]

**B. Noise Limitations and Prohibitions**

In addition to the maximum sound levels set forth in Table 5.E.4.B, Maximum Sound Levels, the following activities shall be limited or prohibited as follows:

**1. Prohibitions**

**a. Horns**

Sounding a horn or other audible signal device, except as required by law or as a warning of imminent danger. The sounding of any device for an unnecessary reason or unreasonable period of time is prohibited.

**b. Parks**

Operating or playing any radio, television, phonograph, musical instrument, or similar device on public land or in a public R-O-W at a distance of 100 feet from the source which generates excessive noise.

**c. Amplified Sound**

Operating, playing or using any loud speaker, loud speaker system, sound amplifier, radio, television, phonograph, musical instrument, or similar device which generates excessive noise at the property line of inhabited residential land. This provision shall not apply to special events but shall apply to lounges, restaurants, or nightclubs.

**d. Advertising**

Operating, playing, or using any device which generates excessive noise at the property line that is cast or emitted upon the public streets and sidewalks for the purpose of commercial advertising or for attracting the attention of the public.

**e. Machinery and Construction Work**

The operation of any machinery, demolition equipment, construction equipment, excavating equipment, power tool, equipment of semi-mechanical device, or undertaking construction work which generates excessive noise at the property line of inhabited residential land between the hours of 10:00 PM and 7:00 AM. Construction work other than minor repairs by a homeowner and work permitted to an owner builder shall be prohibited on Sunday. This restriction shall not prohibit the use of pumps or machinery which, because of their nature and purpose, are required to be in operation 24 hours a day.

**f. Lawn Equipment**

The operation of lawn or garden maintenance equipment or machinery which generates Excessive Noise at the property line of inhabited residential land between the hours of 10:00 PM and 7:00 AM.

**2. Maximum Sound Levels**

a. No person shall operate or cause to be operated any source of sound from any location in such a manner as to create a sound level which exceeds the limits set forth below in Table 5.E.4.B, Maximum Sound Levels, for more than ten percent of any measurement period, which period shall not be less than ten minutes. Sound Level Measurement Compliance shall be determined with a Type 2 or equivalent sound level meter using the A Weighting Scale in accordance with the standards of the American National Standards Institute (ANSI). All measurements shall be made with a sound meter at or within the boundary of the complaining landowner within the property lines of the receiving land.

**Table 5.E.4.B - Maximum Sound Levels**

Receiving Land Use Type	Sound Source	Time of Day	Maximum Sound Level	
			USA	RSA
Residential	Fixed mechanical equipment	Any time	60 dB	60 dB
Residential	Permanent Generator	See Art. 5.B.1.A.18	75 dB	75 dB
Residential	All other sources	7 AM to 8 PM	60 dB	55 dB
		8 PM to 10 PM	55 dB	50 dB
		10 PM to 7 AM	50 dB	50 dB
Commercial Nonresidential	All sources	Any time	70 dB	70 dB
Non-Residential	Permanent Generator	See Art. 5.B.1.A.18	75 dB	75 dB

[Ord. 2006-004]

**3. Public Nuisance**

**a. Injunctive Relief**

Any emission of noise the generation of sound from any source in excess of the limitations established in, or pursuant to, this Chapter shall be deemed and is hereby declared to be a public nuisance. Upon receipt of written complaint of violation of this Chapter, the Code Enforcement Officer may investigate and request the County Attorney to file injunctive proceedings to abate the nuisance. Such proceedings shall be cumulative and in addition to the penalties provided herein.

**b. Civil Action**

The generation of sound from any source not limited by this Code shall be considered a civil issue and addressed accordingly by law.

**C. Vibration**

**1. Non-Industrial Districts**

In all districts, except with an Industrial (IND) FLU designation, no use shall operate so as to produce ground vibration noticeable by a person of reasonable sensitivity at the property line.

**D. Smoke, Emissions and Particulate Matter**

**1. General Requirements**

No use or activity shall be operated except in full compliance with the standards controlling air pollution as provided in the laws of the State of Florida and the ordinances. **[Ord. 2006-004]**

**2. Smoke**

In all districts, unless otherwise covered by a specific visible emission limiting standard by a FDEP Rule or County Ordinance, every use shall be operated so as to prevent the emission of smoke from any source whatever, the density of which is equal to or greater than that designated as Number 1 on the Ringlemann Chart, or the opacity of which is equal to or greater than twenty percent. For the purpose of grading the density of smoke, the Ringlemann Chart, as published and used by the United States Bureau of Mines, or Method 9, as published in Rule 62-296 F.A.C., is incorporated herein by reference. All measurements shall be at the point of emission. **[Ord. 2006-004]**

**3. Dust and Particulate**

Every use shall be operated to prevent the emission into the air of dust or other solid particulate matter which may cause danger to land and the health of persons or animals at or beyond the lot line of the premises on which the use is located, in accordance with Rule 62-296 F.A.C. **[Ord. 2006-004]**

**4. Objectionable Odors**

No person shall cause, suffer, allow or commit the discharge of air pollutants which contribute to an objectionable odor in accordance with Rule 62-296 .320 (2) F.A.C. **[Ord. 2006-004]**

**5. Toxic or Noxious Matter**

No use shall for any period of time, discharge across the boundaries of a lot on which it is located, toxic or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety, comfort, or general welfare, or cause injury or damage to persons, land, or the use of land, or render unclean the waters of the state to the extent of being harmful or inimical to the public health, or to animal or aquatic life, or to the use of such waters for domestic water supply, industrial purposes, recreation, or other legitimate and necessary uses. **[Ord. 2006-004]**

**E. Outdoor Lighting**

**1. Purpose and Intent**

It is the intent of this Section to preserve, protect, and enhance the lawful nighttime use and enjoyment of any and all property through the use of appropriate lighting practices and systems. Such individual fixtures, luminaries and lighting systems are designed, constructed, and installed to: control glare and light trespass, minimize obtrusive light, eliminate the increase of lighting levels on competing sites, provide safe roadways for motorist, cyclists and pedestrians, conserve energy and resources while maintaining safety, security and productivity, and curtail the degradation of the nighttime visual environment. **[Ord. 2005-041]**

**2. Applicability**

All outdoor lighting shall be subject to the requirements of Table 5.E.4.D - 15, Illumination Levels, and Table 5.E.4.D - 16, Maximum Permitted Luminaire Height, unless exempted or permitted to deviate as described herein. Lighting not specifically listed may be classified by the Executive Director of PZB pursuant to Art. 1.B, Interpretation of the Code. In Addition to the standards in this Section, outdoor lighting shall be consistent with Art. 14, Environmental Standards. **[Ord. 2005-041] [Ord. 2011-016]**



**a. Conflict**

In the case of a conflict between this Section other provisions of this Code, or other applicable codes, the more strict regulation shall apply. [Ord. 2005-041]

**b. Non-conforming Lighting**

All luminaries that do not comply with the standards of this Section shall be subject to the limitations on expansion, maintenance, relocation, damage repair and renovations pursuant to Art. 1.F, Non-conformities. [Ord. 2005-041]

**c. Exemptions**

The following uses shall be exempt to the extent listed below: [Ord. 2005-041]

**1) Residential**

Single-family, townhouses, multi-family dwellings up to two units shall not be subject to the requirements of this Section. [Ord. 2005-041]

**2) Street Lights**

Street lights in any public ROW that meet the requirements of the appropriate public utility. [Ord. 2005-041]

**3) Temporary Lighting**

The temporary use of low wattage or low voltage lighting for public festivals, celebrations, and the observance of holidays are exempt from regulation except where they create a hazard or nuisance from glare. [Ord. 2005-041]

**4) Landscape and Accent Lighting**

Landscape and Accent Lighting fixtures that comply with the Florida Building Code, Chapter 13 Section 13-415.1ABC.2.1 efficacy requirements shall be exempt. All exempt Landscape and Accent Lighting fixtures must have a locking mechanism and a glare shield so that light is aimed, and remains aimed at the surface intended. [Ord. 2008-037]

**5) Public Park and Recreation Facilities**

Government owned or operated public parks and recreation facilities that are only open between dawn and dusk, shall not be subject to the requirements of this Section. [Ord. 2018-018]

**d. Prohibited Outdoor Lighting**

The following types of outdoor lighting are prohibited in unincorporated PBC: [Ord. 2005-041]

1) Any light that creates glare observable within the normal range of vision onto a street or creates a safety hazard; [Ord. 2005-041]

2) Any light that resembles an authorized traffic sign, signal, or device, or that interferes with, misleads, or confuses vehicular traffic as determined by the Zoning Director or Traffic Director; [Ord. 2005-041]

3) Beacon or searchlights, except for temporary grand openings and special events, as limited by State of Florida or Federal law; [Ord. 2005-041]

4) Any drop lens fixture or fixture that does not meet the IESNA Full-Cutoff classification of 0% of lumens above 90 degrees from nadir. This includes, but is not limited to, parking lot fixtures, building façade fixtures, and other non-landscape lighting fixtures. [Ord. 2008-037]

5) Animated lighting, unless authorized under Art.8, Signage. [Ord. 2005-041]

**e. Deviations**

Lighting may vary from this Section to the extent necessary to comply with the following: [Ord. 2005-041]

1) F.S. 655.962, related to ATM lighting; [Ord. 2005-041]

2) F.S.812.173, related to Parking lots for Convenience Businesses; [Ord. 2005-041]

3) Lighting on Public Schools required by FBC Chapter 423, and the SDPBC Electrical Design Criteria; [Ord. 2005-041] [Ord. 2012-027]

4) Airport Lighting regulated by State or Federal law; [Ord. 2005-041]

5) Lighting for obstructions to air navigation as provide U.S. Department of Transportation, Federal Aviation Administration Advisory Circular 70/7460-1K; [Ord. 2005-041]

6) Lights required on vehicles under state uniform traffic control statutes or for vessels under vessel safety statutes under F.S. 316 and 327; [Ord. 2005-041]

7) Lighting for public health required by F.S. 381; [Ord. 2005-041]

8) Electrical code statute requirements under state building code; [Ord. 2005-041]

9) F.S. 553.963 and F.S. 553.904, Efficiency and Energy Conservation Statutes under Building Code Standards; [Ord. 2005-041]

10) Lighting for outdoor theaters under F.S. 555.07; [Ord. 2005-041]

- 11) Lighting for Commercial Communication Towers under Art. 4.B.9.B.10 of the ULDC; and **[Ord. 2005-041] [Ord. 2017-007]**
- 12) Other federal, state and local laws and regulations that may apply. **[Ord. 2005-041]**

### **3. Submittal Requirements**

#### **a. Photometric Plan**

All building permit applications that include the use of external luminaries, or luminaries visible from the exterior of a structure shall include an outdoor lighting plan and an outdoor security lighting plan showing location, type, and height of all luminaries, and photometrics in foot-candle output of all proposed and existing luminaries on-site. On-site lighting to be included in the calculations shall include, but is not limited to, lighting for parking lot, canopies, recessed lighting along the building and/or overhang. Each plan shall include any calculations or modifications required to comply with items listed in Art. 5.E.4.E.2.e, Deviations. The photometric plans shall include the following: **[Ord. 2005-041]**

- 1) A table showing the average, minimum, and maximum foot-candles, average to minimum ratio, and maximum to minimum ratio on the site, and maximum luminaire heights. Maximum photometric calculation grid shall not exceed ten feet. **[Ord. 2005-041]**
- 2) Manufacturer's catalog cuts that provide a description of the luminaries, including wattage, lumen output, glare reduction/control devices, lamps, on-off cycle control devices and mounting devices. **[Ord. 2005-041]**
- 3) All photometric plans must be signed and sealed by a licensed engineer, architect or Landscape Architect. **[Ord. 2005-041] [Ord. 2008-037]**
- 4) A Certificate of Compliance signed and sealed by a licensed engineer, architect or Landscape Architect, must be submitted prior to the issuance of a Certificate of Occupancy. **[Ord. 2005-041] [Ord. 2008-037]**
- 5) The photometric plan shall not include time averaging or other alternative methods of measurement. A Light Loss Factor (LLF) shall be used for the calculations in a photometric plan. The values of the LLF shall be a maximum value of 0.72 for Metal Halide, 0.81 for High Pressure Sodium and 0.95 for LED, based on manufacturers' initial lamp lumens. **[Ord. 2005-041] [Ord. 2008-037]**

### **4. Standards**

#### **a. Confinement**

All outdoor lighting shall utilize full cutoff luminaries per the Illuminating Engineering Society of North America (IESNA) definition of full cutoff which allows for 0% of lumens above 90 degrees from nadir. No luminaries other than landscape lighting exempted per Art. 5.E.4.E.2.c.4, shall be directed upwards to avoid urban sky glow. In the U/S Tier, accent and landscape luminaries not exceeding 100 watts. **[Ord. 2005-041] [Ord. 2008-037]**

#### **b. Light Trespass**

The maximum illumination at the property line of an adjoining residential parcel or public ROW is 0.33 horizontal and vertical foot-candles measured at six feet above grade level. Said illumination likewise measured at the property line of an adjoining non-residential parcel, shall not exceed 3.0 horizontal and vertical foot-candles measured at six feet above grade level. **[Ord. 2005-041]**

#### **c. Security Lighting and Time Restrictions**

- 1) Full cutoff luminaires shall be used for all security lighting and dusk-to-dawn area lighting. **[Ord. 2005-041]**
- 2) Outdoor illumination, including but not limited to, areas used for outdoor sales and display, eating, parking, assembly, service, storage of equipment and freight, loading and unloading, repair, maintenance, commercial activities, and industrial activities shall not continue after 11:00 P.M., or no more than one hour after active use of the area ceases, whichever is later, except for security lighting. **[Ord. 2005-041]**
- 3) Security lighting shall be required for all active entrances to buildings, parking lots and access to buildings or parking lots. All security lighting shall maintain an average of 0.75fc, a minimum of 0.3fc and a maximum of 3fc from dusk until dawn. **[Ord. 2005-041] [Ord. 2008-037]**
- 4) No outdoor recreational facility shall be illuminated after 11:00 P.M. except to conclude a scheduled and sanctioned recreational or sporting event by PBC or other authorized agency in progress prior to 11:00 P.M. The luminaries shall be extinguished after outdoor recreational events are completed and the site has been vacated. **[Ord. 2005-041]**

**a) Exceptions**

Public recreational facilities such as boat ramps, fishing piers, or other similar facilities that operate or are open to the public on a 24 hour basis. [Ord. 2005-041]

- 5) Automatic timing devices with a photosensor or an astronomical timeclock, which control the hours of illumination shall be required for all parking lots, car dealerships/outdoor display lots and parking garages. These devices may remain on Eastern Standard Time throughout the year. [Ord. 2005-041] [Ord. 2008-037]

**d. Illumination Levels**

Table 5.E.4.E, Illumination Levels, indicates the minimum and maximum illumination levels for specific site elements, as well as the maximum to minimum, and average to minimum ratios. [Ord. 2005-041]

**Table 5.E.4.E - Illumination Levels**

Outdoor Lighting	Maximum Illumination (1)	Minimum Illumination (1)	Max to Min Ratio	Average to Min Ratio
<b>Buildings and Accessory Structures</b>				
a. Pathway Lighting (2)	5.0 (5)	-	-	-
b. Canopies, Drive-thru and Overhangs	30.0	3.0	10:1	2.5:1
<b>Parking Lots</b>				
a. Multi-family Residential	3.0	0.3	10:1	-
b. All Others	12.0	1.0	12:1	3:1
<b>Parking Structures</b>				
a. Parking Area	10.0	1.0	10:1	4:1
b. Ramps – Day	20.0	2.0	10:1	-
c. Ramps – Night	10.0	1.0	10:1	-
d. Entrance Area – Day	50.0	5.0	10:1	-
e. Entrance Area – Night	10.0	1.0	10:1	-
f. Stairways	-	10.0	-	-
<b>Property Boundary</b>	<b>Refer to Light Trespass</b>			
<b>Specialty Lighting (4)</b>				
a. Golf Courses	<b>Per IESNA Lighting Handbook</b>			
b. Outdoor Entertainment				
c. Parks				
<b>Other Lighting Types</b>				
a. Outdoor Display and Storage for vehicle sales and rental.	15 (3)	1.0	15:1	4:1
b. Other Outdoor Display and Storage Areas.	20	1.0	15:1	4:1
c. Outdoor Work Areas	20	1.0	15:1	4:1
<b>[Ord. 2005-041] [Ord. 2008-037] [Ord. 2010-005]</b>				
<b>Notes:</b>				
1. Measured in foot-candles.				
2. Building or accessory mounted luminaires used to light parking lots shall comply with Parking Lot illumination levels.				
3. May be increased to 20 foot-candles for the first row of display parking located adjacent, but not more than 100' from a ROW.				
4. Applicable to outdoor recreation areas only, excluding areas such as parking lots, drive isles, pathways, building and landscape lighting.				
5. Fully shielded bollards not greater than 42 inches in height may be permitted up to 20 foot-candles.				

**e. Luminaire Heights**

Table 5.E.4.E, Maximum Permitted Luminaire Height, identifies the maximum height for any freestanding or structure mounted luminaires.

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**Table 5.E.4.E - Maximum Permitted Luminaire Height**

Location	Maximum Height	
	U/S Tier	Rural, Exurban and AGR Tiers
<b>Buildings and Accessory Structures</b>		
a. Buildings	25 feet or eave overhang, whichever is lower (unless required by the Florida Building Code)	
b. Accessory Structures	10 feet	8 feet
<b>Parking Lot</b>		
a. Residential	20 feet	15 feet
b. Industrial	40 feet	-
c. Commercial, Civic and Institutional	30 feet, or equal to the height of the building up to a maximum of 40 feet	25 feet
<b>Parking Structures</b>		
a. Luminaires on top parking level.	20 feet or 25 feet (4)	15 feet
<b>Property Boundary</b>		
a. Luminaires within 100 feet of residential (2)	20 feet	15 feet
<b>Specialty Lighting (3)</b>		
a. Golf Courses	Per IESNA Lighting Handbook	
b. Outdoor Entertainment		
c. Parks		
<b>[Ord. 2005-041]</b>		
<b>Notes:</b>		
1.	For the purposes of this table, residential parcel shall include any residential use, or any vacant parcel with a residential FLU designation.	
2.	The height of any lighting luminaire within 100 feet of a parcel with a residential use or FLU designation shall be limited in accordance with the height limitations for Property Boundary, Residential.	
3.	Applicable to outdoor recreation areas only, excluding areas such as parking lots, drive isles, pathways, building and landscape lighting.	
4.	Minimum setback shall be 45 feet from exterior edge of wall for all luminaries, except luminaries mounted to interior face of perimeter wall, which do not exceed the height of the perimeter wall.	

**f. Measurement**

- 1) Illumination levels shall be measured in foot-candles with a direct-reading, calibrated, portable light meter. The light meter shall be placed not more than six inches above grade level. **[Ord. 2005-041]**
- 2) For the purpose of measuring light trespass, the light meter shall be placed at the property line of the subject parcel six feet above the grade level. **[Ord. 2005-041]**

**Section 5 Hours of Operation**

Hours of operation relate to the time during which the use is open to the public for business. For uses not open to the public, hours of operation shall be the time in which the use has employees working. **[Ord. 2017-007]**

**A. Proximity to Residential**

Any non-residential use shall be subject to the hours of operations indicated in Table 5.E.5.A, Hours of Operation, when located within 250 feet of a parcel of land with a Residential FLU designation or use, unless stated otherwise. Mixed uses located in the following zoning districts shall not be considered residential uses for the purposes of hours of operation: Neighborhood General (NG), Neighborhood Commercial (NC) and Urban General (UG) Sub-areas of the WCRAO and UC, UI, MXP, and TMD. **[Ord. 2017-007] [Ord. 2017-025] [Ord. 2018-018]**

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**Table 5.E.5.A - Hours of Operation**

<b>Nonresidential Use Classification</b>	<b>Hours (1)</b>
Commercial	6:00 a.m. to 11:00 p.m.
Recreation	6:00 a.m. to 11:00 p.m.
Institutional, Public and Civic	6:00 a.m. to 11:00 p.m.
Industrial with outdoor activities	7:00 a.m. to 7:00 p.m. (Monday – Saturday)
Industrial without outdoor activities	6:00 a.m. to 11:00 p.m. (Monday – Saturday)
Transportation	7:00 a.m. to 11:00 p.m.
Temporary	6:00 a.m. to 11:00 p.m.
Accessory Nonresidential Uses to Residential Uses	7:00 a.m. to 7:00 p.m.
<b>[Ord. 2017-007] [Ord. 2018-018]</b>	
<b>Notes:</b>	
1	Stocking activities or deliveries for nonresidential uses are subject to the hours listed above when located within 250 feet of a parcel of land with a residential use or FLU designation. <b>Ord. 2018-018]</b>

**B. Measurement**

Measurement shall be taken by drawing a straight line from the property line of the residential use or FLU designation to the closest point of the loading area, the exterior wall, structure, or bay housing the non-residential use. **[Ord. 2009-040] [Ord. 2017-007] [Ord. 2018-018]**

**C. Existing Uses**

Uses existing prior to this amendment may comply with the requirements existing at the time the use was established, unless modified by a subsequent Development Order. **[Ord. 2009-040] [Ord. 2017-007]**

**D. Exemptions**

Uses owned or operated by a governmental entity that provide essential services for the public, as determined by the Zoning Director, shall be exempt from these standards. **[Ord. 2009-040] [Ord. 2017-007]**

**E. Type 2 Waiver**

Hours of Operation may be altered pursuant to Art. 2.B.7.D, Type 2 Waiver. **[Ord. 2018-018]**

**CHAPTER F LEGAL DOCUMENTS**

Any legal documents requiring PBC approval shall be reviewed prior to submission by a licensed attorney. This shall include documents required by Code or as a condition of any land use approval. For the purposes of the provisions, “legal documents” shall include, but not be limited to, the following types of documents: restrictive covenants, easements, agreements, access agreements, removal agreements, unity of control, and unity of title. Any document that follows exactly the language of a PBC-approved form is exempt from this requirement.

**Section 1 Maintenance and Use Documents**

**A. Purpose and Intent**

This Chapter is established to ensure that adequate ownership and maintenance measures will be provided in residential and other developments to protect and perpetually maintain all common areas or other required areas (including improvements located upon or within the common areas) required pursuant to this Code or other applicable PBC ordinances or regulations. This Chapter is also established to ensure the continued availability and utility of the common areas for the residents or occupants of the development and to prevent such facilities or the need for such facilities from becoming an unnecessary burden or nuisance to the PBC or surrounding property. Nothing in this Chapter shall be construed as creating any obligation upon the PBC to maintain such common areas or their improvements or to otherwise ensure their availability and condition.

**B. Applicability**

This Chapter shall apply to all developments subject to review by the DRO as delineated elsewhere in this Code. Developments for which waivers of platting are administratively obtained shall also comply with the requirements of this Chapter. **[Ord. 2010-022]**

**C. Exception**

Generally, the maintenance and use documents requirement shall not apply to lands or improvements to be owned and maintained under a condominium or cooperative. The developer of any lands to be owned and maintained under a condominium or cooperative shall establish and regulate those in accordance with the requirements set forth by The State of Florida. If the condominium or cooperative is located within a PUD, though, additional PBC document requirements may apply.

**D. General Requirements**

A developer shall submit documents establishing maintenance and use of the common areas of a proposed development and other required areas at the point in the development process set forth in Art. 11.D, Platting, or as required as a condition of approval by any decision making or administrative body of PBC. All documents shall be reviewed and approved by the County Attorney's office prior to recording in the public records. The recording of the documents and all associated fees shall be the responsibility of the developer. All documents shall be recorded as approved by the County Attorney's office, and copies of the recorded documents shall be submitted to the PBC when requested.

**E. Documents Establishing Maintenance and Use**

The type of document required to establish use rights and responsibility for maintenance of the common areas and private preserve areas of a development depends upon the nature of the development.

**1. Developments Including a Subdivision of Five or More Lots**

A POA shall be required. Developer shall submit a Declaration of Covenants and Restrictions, Articles of Incorporation, and By-Laws. If there are to be party walls within the development, the Declaration of Covenants and Restrictions shall include a Declaration of Party Wall. This requirement applies to both residential and non-residential developments.

**2. Subdivisions of a Maximum of Four lots**

A POA may or may not be required depending upon the individual subdivision. The determination shall be made by the County Attorney's Office. If a POA is required, then the submittal requirement shall be as listed above. If a POA is not required, then the developer shall submit a Unity of Control. If there are to be party walls within the development, a Declaration of Party Wall shall be included in the submission.

**3. Rental Projects**

A Unity of Title shall be submitted for a development that will be owned and maintained by a landlord for the benefit of lessees residing on or occupying leaseholds on a Lot or Parcel.

**F. Content Requirement for Documents**

The following shall be the minimal content requirements for documents. Provisions which do not conflict with any PBC requirements may also be included.

**1. Property Owner's Association (POA) Documents**

**a. Declaration of Covenants and Restrictions**

**1) Legal Description**

**a) For Master Property Owner's Associations**

Where applicable, all property included within the Master Plan for a Development Order, regardless of how many phases, shall be subjected to the terms of the declaration at the time the first plat of the development is recorded. Property shall not be withdrawn from the terms of the declaration unless it is also withdrawn from the Master Plan. This shall also apply to any affected portion of an AGE Allocation Plan with a Development Order for a Rezoning, Conditional Use, or related Development Order Amendment subject to the requirements of the AGEO. [Ord. 2010-022] [Ord. 2017-007]

**b) For Sub-Associations**

All property included within a plat in which a sub-association is named in a dedication/reservation shall be subjected to the terms of the declaration for that sub-association at the time the plat is recorded.

**2) Definition**

There shall be a declaration in which, minimally, the following terms (or similar terms) are defined: association, common areas, member, properties, declarant/developer, unit/lot/parcel. The definition of association shall include the name of the POA responsible for maintaining the common areas of the development. The association named here must be the same association that accepts the dedications/reservations on any plat of the development. The association shall be a State of Florida corporation not for profit. The definition of common areas shall include the phrase "any area dedicated to or reserved for the association on any recorded plat or replat of the Properties".

The definition of member shall reflect the requirement that all persons or entities holding title to any portion of the properties shall be voting members of the association. In the case of a master association, this may be accomplished either by direct membership by all owners or by the owners' sub-association membership with the sub-association(s) being the voting member(s) of the master association. The definition must specifically allow direct membership for any owner who is not a member of a represented sub-association.

The definition of properties shall include all the property subject to the terms of the declaration including any added by amendment to the declaration. The definition of declarant/developer shall include successors and assigns. The definition of unit/lot/parcel shall identify the division of property by which membership in the association is defined and shall be consistent with the terms used to define member in the declaration.

**3) Association Structure and Responsibilities**

There shall be provisions for the following:

- a) All persons or entities owning any portion of the development shall automatically become members of the association;
- b) All members of the association shall be entitled to vote on association matters;
- c) The association shall have the authority to assess all members for association expenses including, but not limited to, the cost of maintaining the common areas;
- d) All members of the association, except any governmental entity, which may own property in the development, shall be subject to assessments by the association. The developer shall either pay assessments or fund the deficit in the association's operating budget until he has turned over control of the association. After he has turned over control of the association, he shall pay assessments for any lot(s) he may still own;
- e) The association shall have the authority to place a lien on a member's property for any unpaid assessment;
- f) The developer may control the association while development is ongoing. He must, however, establish in the declaration a definite time by which he will turn over control of the association to the owners; and
- g) The declaration shall provide that the association shall be responsible for the maintenance of the common areas and private preserve areas. Maintenance responsibility may be delegated to a sub-association or to an individual lot owner (in the case of certain limited use areas), but the delegating association shall be responsible in the event the sub-association or the lot owner fails to maintain any portion of the common area or other required areas.

**4) Common Areas**

The common areas shall be defined to include any area dedicated to or reserved for the association on any recorded plat of the properties. The developer shall state at what point he will deed the common areas to the association.

**5) Easements**

The following easements shall be granted or confirmed if already established by recorded plat or grant of easement:

- a) Ingress/egress easements for members, their guests, and licensees;
- b) Utility easements for installation, maintenance, and repair by any utility company, including cable, servicing the development;
- c) Drainage easements;
- d) Maintenance easements for maintenance of the common areas. If the association will need access to an owner's property to fulfill its maintenance obligation, the easement should be granted here;
- e) Encroachment easements for accidental encroachment onto the common area;
- f) Common area easement for use by all members of the association and their guests;
- g) Developer's easement to allow developer access as needed to complete construction of development;
- h) Public service for police protection, fire protection, emergency services, postal service, and meter reading;
- i) Zero-lot line (ZLL) easement, if applicable. An easement with a minimum of two feet in width, and contiguous to the ZLL boundary shall be established for the purpose of incidental encroachment, access and maintenance; or **[Ord. 2013-001]**
- j) All easements, with the exception of the developer's easement, shall be perpetual.

**6) Architectural Control**

Any provisions included in the declaration regarding architectural control should be consistent with PBC regulations. It should be noted in the declaration that nothing in the declaration should be interpreted as an exemption from compliance with PBC regulations.

**7) General Provisions**

There shall be provisions for the following:

**a) Duration**

The declaration shall run with the land for a minimum of 20 years with provision for automatic renewal;

**b) Enforcement**

The association, the individual members, and the developer shall all have the ability to enforce the terms of the declaration;

**c) Amendment**

The method by which the declaration may be amended shall be established. If the developer is given a separate right for amending the declaration, his right shall not survive the turnover of control. No amendment that withdraws property from the terms of the declaration shall be recorded unless approved in writing by the County Attorney's office. No amendment inconsistent with the requirements of this Chapter shall be recorded unless approved in writing by the County Attorney's office. Nothing contained herein shall create an obligation on the part of the County Attorney's office to approve any amendment.

**d) Dissolution**

Any owner may petition the Circuit Court for the appointment of a receiver to manage the affairs of the association in the event of dissolution of the association.

**b. Articles of Incorporation**

- 1) All terms shall be consistent with the terms of the Declaration and By-Laws.
- 2) The POA shall be a State of Florida corporation not-for-profit with, minimally, the authority to maintain common areas or other required areas, assess members for operating costs, place liens on members' property for failure to pay assessments, and enter into agreements with governmental entities.

**c. By-Laws**

All terms shall be consistent with the terms of the declaration and articles of incorporation.

**2. Declaration of Party Wall**

A declaration of party wall shall be recorded whenever there are shared walls in a development. The declaration may be a part of a declaration of covenants and restrictions or it may be recorded as a separate instrument. It should address the following:

- a. Repair of the wall is a joint obligation and expense unless damage is caused by the negligence of one party. In that case the cost of repair is the obligation of that party alone;
- b. Repair or replacement of the wall shall be to its original construction;
- c. Each party shall have the right to file a lien for the cost of repairs;
- d. The mortgagee shall have the same rights as the mortgagor;
- e. Structural changes in the wall are prohibited;
- f. If there is a common roof, the same provisions shall apply;
- g. If access and/or parking are to be shared, there should be an easement granted to accommodate that; and
- h. This shall be a covenant running with the land.

**3. Unity of Control**

A unity of control shall be recorded against a subdivision of a maximum of four lots if the County Attorney's Office has exempted the subdivision from the requirements for a POA. The unity of control shall contain the following:

- a. Legal description of the property subject to the terms of the unity of control. This shall include all property included in the master plan for the development;
- b. Creation of perpetual cross-access, parking, drainage, and utility easements for the benefit of all owners of the development;
- c. Maintenance responsibilities for all common areas of the development and method by which maintenance costs shall be shared; and
- d. Establishment of these provisions as covenants running with the land.

**4. Unity of Title**

The owner of a rental project shall record against his property a unity of title. The unity of title, which shall be a covenant running with the land, shall provide that the property shall be considered one plot and parcel and that no portion of the property may be conveyed to another owner. The County Attorney's office, after consulting with the Zoning and Land Development Divisions, may agree to release the unity of title provided that covenants establishing maintenance and use are recorded in its place. The cost of recording the unity of title and/or a release shall be the responsibility of the owner.



## Section 2 Easements

### A. Easement Encroachment

#### 1. Minor Encroachments

Minor encroachments of buildings and structures may be allowed within an easement in accordance with this Chapter.

#### 2. Major Encroachments

Buildings or structures designed for human occupancy, screen enclosures, pools, or spas shall not be permitted within any easement unless otherwise provided for in this Section. **[Ord. 2010-005]**

#### 3. Incompatible Uses

No construction shall be permitted within any easement where such construction is incompatible with the use for which the easement was established. If the terms of the easement, statute, law, ordinance, rule, regulation, or approval pursuant to which the easement was established prohibits or excludes the use, such use shall be considered incompatible. The burden shall be on the applicant to demonstrate that the proposed construction is or will not become incompatible with the purpose for which the easement was established, or impair the rights of the easement holders and beneficiaries. The determination of whether a use is incompatible with the purpose for which an easement was established shall be made by the appropriate regulating agency(s) in accordance with this Chapter.

#### 4. Application Process

Buildings and structures, which are not prohibited pursuant to Art. 5.F.2.A.2, Major Encroachments, shall be subject to the following:

- a. If an application for a building permit includes construction in an easement, the application shall include consent from all easement holders and beneficiaries. The consent shall be specific to the proposed construction and in a form acceptable to PZB; and
- b. Prior to the issuance of the building permit, the applicant shall record an executed removal and indemnification declaration. The removal and indemnification declaration shall inure to the benefit of the easement holders and beneficiaries.

#### 5. All Other Approvals Required

- a. All other government permits, approvals, or consents necessary for the construction shall be obtained prior to commencement of the construction.
- b. Compliance with this Chapter shall not be construed to relieve the applicant from obtaining any required approvals, if applicable, for encroaching into the affected easement.
- c. Nothing herein shall be construed as affecting any right to construct except to the limited and strict extent of any approval granted hereunder. An approval granted in accordance with this Chapter is for the limited purpose of complying with this Chapter only.

#### 6. Accountability

The applicant is responsible for providing and representing true, accurate and correct information. Except as specifically set forth herein, no PBC official, employee, or agent shall have the duty of

- a. searching the Official Records of the Clerk of the Circuit Court, or
- b. conducting any other investigation to determine whether a permit application or request for PBC approval is inconsistent with the use for which an easement was established; whether an easement exists in the area within which a permit for construction/development is sought; or **[Ord. 2005 – 002]**
- c. whether any other government or private approvals are required for construction or development for which the permit is sought. However, PZB, DEPW or any other department, official employee, or agent may undertake an investigation, search, or inquiry to determine the aforesaid. **[Ord. 2005 – 002]**

#### 7. Modifications

- a. If, upon inspection, the construction is found to be materially different than that which was approved by PBC, then the approval shall be of no force and effect and the construction shall be removed immediately, unless the modification is approved by the department having jurisdiction pursuant to this Chapter.

### B. Drainage Easement Encroachments

1. All construction in a drainage easement shall be subject to approval by the beneficiary of said easement. Further, the Land Development Division (LDD) shall approve all encroachments into easements which drain County roads. **[Ord. 2010-005] [Ord. 2010-022]**
2. If a building permit is required, the applicant shall obtain approval from the LDD or appropriate entity prior to submitting the building permit application to PZB. **[Ord. 2010-005] [Ord. 2010-022]**

3. When approval is required from LDD, the applicant shall submit a request to encroach a drainage easement in or on a form established by the LDD and include a copy of the recorded deed to the parcel on which the easement is located; the document creating the easement; a certified sketch of survey of the easement; a sketch or plans showing the proposed construction in relation to the location of existing drainage improvements in the easement; and such other documentation as the LDD reasonably deems appropriate **[Ord. 2010-005] [Ord. 2010-022]**
4. When encroachments are proposed in easements which drain County roads, the LDD may deny, approve, or approve with conditions the construction. **[Ord. 2010-005] [Ord. 2010-022]**
5. When approval is required from LDD, no approval shall be given before the LDD has received specific written consent from all easement holders, easement beneficiaries, and governmental entities or agencies having jurisdiction of the drainage easement. The LDD is hereby authorized to effect consent on behalf of PBC when PBC is the easement holder or beneficiary of a drainage easement. The LDD may require that consent be in or on a form established by the LDD. **[Ord. 2010-005] [Ord. 2010-022]**
6. For easements which drain County Roads, the LDD shall also have executed in proper form, and shall cause to be recorded against the applicant's land involved, a removal and indemnification declaration (with the necessary consents) on a form approved by County Attorney's Office. Said declaration shall provide that all direct and indirect costs related to removal shall be borne by the property owner, its heirs, successors, assignees, and grantees; that the aforesated person(s) shall indemnify and hold PBC, its officers, employees, contractors, and agents harmless against any and all claims and liabilities of whatever nature (including personal injury and wrongful death) arising from any approval granted hereunder or the construction or installation approved hereunder. The removal declaration shall inure to the benefit of the easement holders and beneficiaries. It shall contain such other terms and covenants as the LDD or the County Attorney deems appropriate. Proof of the recording of the document shall be furnished to PZB with the application for a building permit. **[Ord. 2010-005] [Ord. 2010-022]**
7. Construction in or overlapping a drainage easement approved by the LDD shall comply with the provisions of Sections: 2.A.5, 2.A.6, and 2.A.7 of this Chapter. **[Ord. 2010-005]**

## **CHAPTER G DENSITY BONUS PROGRAMS**

The WHP, AHP or the TDR Program are the required methods for increasing density above the maximum density permitted by a property's FLUA designation within unincorporated PBC, unless an applicant can both justify and demonstrate a need for a Site Specific FLUA Amendment and demonstrate that the current FLUA designation is inappropriate, as outlined in Art. 2.H, FLU Plan Amendments. **[Ord. 2008-003] [Ord. 2010-005]**

### **Section 1 Workforce Housing Program (WHP)**

#### **A. Purpose and Intent**

The WHP implements HE Policies 1.1-o and 1.5-g of the Plan, among others, by establishing an Inclusionary WHP. The program mandates or encourages the development and equitable geographic distribution of workforce housing units for low, moderate 1 and Moderate 2, and middle-income households, ensures a minimum affordability period, and provides for a density bonus and other incentives. The program is intended to increase the supply of housing opportunities for persons employed in PBC in jobs that residents rely upon to make the community viable. **[Ord. 2006-055]**

#### **B. Applicability**

In cases of conflict between this Chapter and other Articles of this Code, the provisions of this Chapter shall apply. The WHP shall apply to all new developments with a residential component of 10 or more dwelling units. For existing projects proposing 10 or more dwelling units, the program shall apply to those units being added. Requirements and limitations are further defined in Table 5.G.1.B, Workforce Housing Program. **[Ord. 2006-055] [Ord. 2010-005]**

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**Table 5.G.1.B - Workforce Housing Program**

<b>Applicability</b>		
Location:	Threshold	Required > or = to 10 residential dwelling units
	Tier or Overlay	U/S
	FLU (1)	LR-1, LR-2, LR-3, MR-5, HR-8, HR-12, HR-18, UC and UI
<b>Density Bonus Incentive</b>		
LR-1 thru LR-3		up to 30%
MR-5 thru HR-18 (2)		up to 100% (Pre-App required for > 30%)
UC or UI		N/A
<b>Required % of WHP Units (3)</b>		
Standard Density		5%
Maximum Density		16%
WHP Density Bonus		34%
UC or UI		15%
<b>Required WHP Ranges (4)(6)</b>		
Low (60-80%)		25%
Moderate 1 (> 80-100%)		25%
Moderate 2 (> 100-120%)		25%
Middle (> 120 or ≤ 140%)		25%
<b>Provision of Units</b>		
Option 1	Construct units off site. (Art. 5.G.1.G.1)	
Option 2	Purchase existing market rate units and deed to the County or sell to eligible households and deed restrict. (Art. 5.G.1.G.2)	
Option 3	Donate build-able land acceptable to the County in an amount = or > than the buyout cost. (Art. 5.G.1.G.3)	
Option 4	In-lieu Payment. (Art. 5.G.1.G.4)	
<b>[Ord. 2006-055] [Ord. 2007-013] [Ord. 2010-005] [Ord. 2010-022]</b>		
<b>Notes:</b>		
<p>1. Shall also apply to mixed use projects with applicable underlying FLU designations for Commercial and Industrial Mixed Use Development. <b>[Ord. 2006-055]</b></p> <p>2. A density bonus of &gt; 30% shall be permitted subject to meeting the additional standards of Art. 5.G.1.H, Additional Requirements for &gt; 30% Density Bonus. <b>[Ord. 2006-055]</b></p> <p>3. Percentages shall be rounded up to the nearest whole number. <b>[Ord. 2006-055]</b></p> <p>4. Based on County Median Income. Where assigning units to a category, priority may be given to middle income first, proceeding downward to low income (i.e. where 3 units are required, the first shall be middle [&gt; 120 or ≤ 140%]; the 2<sup>nd</sup> Moderate 2 [&gt; 100-120%]; and, the 3<sup>rd</sup> Moderate 1 [&gt; 80-100%]). This does not prohibit allowing higher numbers of lower income units. <b>[Ord. 2006-055] [Ord. 2007-013] [Ord. 2010-005]</b></p> <p>5. All units not located on site shall comply with requirements of onsite units. <b>[Ord. 2006-055] [Ord. 2010-005]</b></p> <p>6. UC or UI applications: Consideration may be given to additional affordable housing household incomes in developments requesting all or a portion of the 15% unit requirement within their proposal be based on the programmatic requirements imposed by a governmental agency providing affordable housing funding or by an entity with programmatic requirements (e.g., Habitat for Humanity or a Community Land Trust). The final determination is to be made by the Planning Director or designee. <b>[Ord. 2010-022]</b></p>		

**1. Exemptions**

- a. Projects utilizing the AHP shall not be subject to the requirements of the WHP. **[Ord. 2010-005]**
- b. All congregate living facilities (CLFs); and, nursing or convalescent facilities. **[Ord. 2006-055]**

**2. Limitations**

WHP units shall not be subject to restrictions beyond income qualifications. **[Ord. 2010-005]**

**3. Income Ranges**

There are four targeted income range categories in the WHP pursuant to Table 5.G.1.B, Workforce Housing Program. Applicants shall not be required to provide units in a category when the category price is greater than the median sales price for the County. These units would be eligible for the In-Lieu payment pursuant to Art. 5.G.1.G.4, Option 4 – In Lieu Payment, or distributed equally among the remaining targeted income ranges. **[Ord. 2010-005]**

**4. When WHP and AHP Units are Proposed**

The Planning Director shall make a determination as to which program shall be followed when projects include units targeting both income groups. **[Ord. 2010-005]**

**C. Development Options**

**1. No Incentives**

A proposal requesting no additional WHP density bonus; TDR units; WHP - TPS special methodology mitigation; WHP expedited review; WHP site plan regulation options; or any additional WHP incentive shall comply with the following: **[Ord. 2010-005]**

- a. All dwelling units proposed shall be required to target households with incomes from 60 percent to 140 percent of AMI. **[Ord. 2010-005]**

- b. To be eligible no more than 90 percent of the total project units can be built within any one of the four targeted income categories; all other units must be built in any one, or any combination thereof, of the remaining three income categories. **[Ord. 2010-005]**
- c. All for sale units which includes attached and detached housing types shall be required to be income restricted for a period of 7 years (non-recurring) **[Ord. 2010-005]**
- d. All units within a rental development utilizing this development option will be required to be income restricted for a period of 30 years (non-recurring). **[Ord. 2010-005]**
- e. Projects developed under this option shall not be permitted to utilize the payment in lieu of construction provisions as outlined in Art. 5.G.1.B.3, Income Ranges or Art. 5.G.1.I.5, Release of Obligation to Construct WHP For Sale Units. **[Ord. 2010-005]**

**2. Limited Incentive**

An applicant may receive no more than 50 percent of the potential density bonus as provided in this Chapter. **[Ord. 2011-001]**

- a. The required percentage of WHP units will also be limited to: 2.5 percent of Standard Density; 8 percent of PUD Density and 17 percent of the WHP density bonus. **[Ord. 2010-005]**
- b. 50% of the required WHP units shall be set aside for low income households (households that earn between 60 percent and 80 percent of the County's median income) and 50 percent of the required WHP units shall be set aside for moderate 1 income households (households that earn between 80 percent and 100 percent of the County's median income). **[Ord. 2010-005]**
- c. The WHP - TPS special methodology mitigation, the WHP expedited review, the WHP site plan regulation options and any additional WHP incentives will be available if requested. **[Ord. 2010-005]**
- d. All for sale units shall be income restricted for a period of 15 years (recurring). Each WHP unit shall be sold, resold, or rented only to Low or Moderate 1 income qualified households and the WHP restrictions remain in effect for 15 years from the date each unit is first purchased or rented, In the event a unit is resold before the 15 year period concludes, a new 15 year period shall take effect on the date of resale. **[Ord. 2010-005]**
- e. All units within a rental development utilizing this development option will be required to be income restricted for a period of 30 years (non-recurring). **[Ord. 2010-005]**

**3. Full Incentive**

A proposal requesting consideration for all available WHP incentives, as indicated in the following Table 5.G.1.B, Workforce Housing Program, and following text. **[Ord. 2010-005]**

**D. Design Requirements**

**1. Design**

WHP units shall be designed to be compatible with the overall project, as follows: **[Ord. 2006-055]**

- a. All WHP units shall be constructed on site, unless approved otherwise in accordance with Art. 5.G.1.G, WHP Off Site Options; **[Ord. 2006-055]** **[Ord. 2010-055]**
- b. All affordable units shall be designed to a compatible exterior standard as other units within the development or pod/phase and shall be comparable with the surrounding land uses; and **[Ord. 2006-055]** **[Ord. 2010-005]**
- c. Required WHP units may be clustered or dispersed throughout the project. **[Ord. 2006-055]**

**E. WHP Incentives**

All projects with 10 or more residential units shall be eligible for WHP Incentives. **[Ord. 2006-055]**

**1. Density Bonus**

Table 5.G.1.B, Workforce Housing Program, delineates the ranges of density bonus allowed for the WHP. For the purposes of this Section, permitted density shall be the number of units allowed by the standard density allowed by the Plan; or, the maximum density allowed by the Plan, where developed as a PDD, TDD or other density provision of the Plan. TDR units or any other density bonus shall not be included as part of the permitted density for purposes of calculating the WHP density bonus. To ensure compliance with the compatibility requirement of HE Objective 1.5 of the Plan, projects requesting a density bonus greater than 30 percent shall be subject to the requirements of Table 5.G.1.E, Review Process, and Art. 5.G.1.H, Additional Requirements for > 30% Density Bonus. **[Ord. 2006-055]**

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**Table 5.G.1.E - Review Process**

Density Bonus	DRO Approval	Class A Conditional Use
Standard District > 30% - 50%	X	
Standard District > 50% - 100%		X
PDD or TDD > 30% - 100%		X
[Ord. 2006-055] [Ord. 2017-007]		

**2. Traffic Performance Standards Mitigation**

**a. WHP Special Methodologies**

TPS mitigation shall be permitted for WHP projects in accordance with County Comprehensive Plan Transportation Element Policy 1.2-d (4). [Ord. 2006-055] [Ord. 2011-016]

**b. WHP Traffic Concurrency Hall Pass**

TPS mitigation shall also include the option of applying for a WHP Traffic Concurrency Hall Pass separate from a development order application. The WHP Traffic Concurrency Hall Pass serves as a provisional traffic concurrency approval for a period of not more than 90 days, during which it must be merged into an application submitted for a Concurrency Reservation approval. The WHP Traffic Concurrency Hall Pass is described further in Art. 2.F, Concurrency (Adequate Public Facility Standards). [Ord. 2006-055]

**3. Expedited Review**

The following expedited review processes may apply to a proposed WHP development: [Ord. 2006-055]

**a. Design Review**

Review of multifamily or townhouse structures by the Building Division and Fire Rescue shall be allowed concurrent with final DRO review, prior to permit application. [Ord. 2006-055]

**b. Platting**

- 1) If only a boundary plat is required for an existing single lot, building permits may be issued after submittal of the final plat for recordation. [Ord. 2006-055]
- 2) If a subdivision plat is required, permits will be concurrently reviewed, but only issued at recording of the plat. [Ord. 2006-055]
- 3) Pursuant to Art. 3.E.1.G.1.a, Permits, Building permits may be issued for sales offices, sales models, gate houses, entry features, and utilities may be issued prior to the recording of a final plat. [Ord. 2006-055]

**4. Density Bonus Development Options**

**a. Purpose and Intent**

To provide flexibility from property development and other related regulations in order to provide greater opportunity for cost effective development of WHP units. These provisions are not intended to supersede deviations that are normally addressed through the variance process. These options shall only be granted at the time of approval for the entire project, and shall not be granted on a lot-by-lot basis. [Ord. 2006-055]

**b. Applicability**

Projects with ten or more units that utilize a density bonus incentive and are subject to the requirements of the WHP may utilize the Development Options listed herein. [Ord. 2006-055]

**c. Justification Report**

Use of Density Bonus Development Options shall not be granted by right, and shall require submittal of a justification report that demonstrates that deviations are the minimum needed to allow for the use of density bonus incentives. The report shall include the following: [Ord. 2006-055]

- 1) The regulations that are proposed to be modified. [Ord. 2006-055]
- 2) The amounts and specifics of the requested deviation(s). [Ord. 2006-055]
- 3) The areas within the development that the deviation(s) will be applied to. [Ord. 2006-055]
- 4) Graphic representations such as, but not limited to, site plans, elevations, perspectives, and typical examples, showing how the deviations will meet the intent of the district and WHP with emphasis on open space, privacy, maintenance, and public health, safety and welfare. [Ord. 2006-055]

**d. Site Plan Approval**

All projects requesting Density Bonus Development Options, shall submit an application and site plan to the DRO for certification where applicable, and for final site plan approval for all others. The site plan shall indicate in the tabular data all Development Options requested and where

feasible, a regulating plan shall be included to provide typical examples. Approval shall be granted only for the minimum deviations needed to allow for the use of density bonus incentives and where the requirements of all applicable reviewing agencies have been met. **[Ord. 2006-055]**

**e. Drainage**

Any reduction in lot size or open space area, or increase in building coverage shall be subject to approval of a drainage study demonstrating that reduced pervious surface area will not create adverse drainage issues. **[Ord. 2006-055]**

**f. Option 1 - RT District**

The zoning for parcels electing to use this option must be in compliance with Table 3.A.3.B, Future Land Use (FLU) Designation and Corresponding Standard Zoning Districts. **[Ord. 2008-037]**

**1) RT PDR Deviations**

Deviations from the minimum PDRs for the RT district with a LR-2 or LR-3 FLU designation may be in accordance with Table 5.G.1.E, RT Deviations for WHP, only for those projects that qualify for maximum density in accordance with Table 2.1-1, Residential Categories and Allowed Densities, of the FLU Element of the Plan, and utilize a minimum density bonus of 20 percent. **[Ord. 2006-055]**

**Table 5.G.1.E - RT Deviations for WHP (1)**

Zoning District	Applicability	FLU	Lot Dimensions				Setbacks	
			Size	Width and Frontage	Building Coverage	Depth	Side	Rear
RT	Infill, TDR	LR-1	14,000 sf	ND	ND	ND	ND	ND
RT	Infill, TDR, WHP	LR-2	12,000 sf	85'	35%	100'	ND	ND
RT	Infill, TDR, WHP	LR-3	9,000 sf	65'	40%	80'	1st Floor 10'	1st floor – 15'
<b>[Ord. 2006-055]</b>								
<b>Notes:</b>								
ND No deviation.								
1. Eligible projects must qualify for maximum density in accordance with FLUE Table III.C.1, Residential Categories and Allowed Densities, of the FLU Element of the Plan, and use. <b>[Ord. 2006-055]</b>								

**g. Option 2 - TND Regulations**

Projects eligible for this option shall be permitted to utilize the PDRs of Table 3.F.3.D, TND Residential Lot Size and Setback Regulations, subject to meeting the requirements of Art. 3.F.3.D.5, Residential Uses and the following limitations: **[Ord. 2006-055]**

- 1) U/S Tier Only; **[Ord. 2006-055]**
- 2) Project does not qualify to be a TND or use Option 1 or 3; **[Ord. 2006-055]**
- 3) If the subject site has a LR-1, LR-2, LR-3 or MR-5 FLU designation, the project shall meet all requirements for and be approved as a PDD; **[Ord. 2006-055]**

**h. Option 3 - Flexible Regulations**

Projects with MR-5, HR-8, HR-12, HR-18 FLU designations, or if approved as a PDD or TDD, may deviate from the residential requirements of Table 3.D.1.A, Property Development Regulations, or Table 3.D.2.B, ZLL Property Development Regulations, as follows: **[Ord. 2006-055]**

- 1) SFD units may be permitted up to a maximum ten percent deviation for the following PDRs: lot size; width and frontage; building coverage; and, side, and rear setbacks. **[Ord. 2006-055]**
- 2) SFD units limited to one floor with no loft or other similar feature, may be permitted up to a maximum 20 percent deviation for the following PDR's: building coverage; and front and side street setbacks. **[Ord. 2006-055]**
- 3) ZLL lots may be permitted up to a maximum lot width reduction of five feet, and ten percent deviation from the minimum lot size, building coverage, and front setback for units with front loading garages. **[Ord. 2006-055]**

**i. Option 4 - PDD Open Space Reduction**

Projects which elect to utilize a density bonus of not less than 15 percent, may reduce the 40 percent open space requirement of Table 3.E.2.C, PUD Land Use Mix, to not less than 30 percent open space, provided the project incorporates common usable open space areas as defined in Art. 1.1.2.U.18, Usable Open Space for WHP. **[Ord. 2006-055]**

**j. Option 5 – Internal Incompatibility Buffers**

Required incompatibility buffers between SFD and MF units within a WHP development shall not be required. [Ord. 2006-055]

**k. Option 6 – Relocation of Units to Civic Tracts**

Residential units may be permitted in a civic pod subject to PREM approval. This may include collocating residential units with civic uses. The DRO shall have the following authority where PREM approval is obtained after BCC approval of the overall project: [Ord. 2006-055]

- 1) In the case of a civic site cash out, the deletion of the civic pod and increase in residential pod area; or, [Ord. 2006-055] [Ord. 2010-005]
- 2) The relocation of residential units to a civic pod, or the relocation of residential units where the civic pod is deleted. [Ord. 2006-055]

**F. WHP On-site Construction**

WHP units may be located on-site in accordance with the provisions of Art. 5.G.1.C, Workforce Development Alternatives; however, under no circumstances shall any site be permitted to develop at a density greater than that permitted by the Plan. Prior to final DRO approval, the applicant shall identify on the plan the total number of WHP units proposed for development within each pod or phase, as applicable. The plan shall also indicate the number of units in each applicable WHP income category. All of the WHP units shall not be constructed in the last phase of a multi-phased development except for a Development Order Amendment to a Development Order approved prior to WHP requirements. [Ord. 2010-005] [Ord. 2012-003]

**G. WHP Off-site Options**

WHP units may be located off-site using the options listed below and in accordance with the provisions of Table 5.G.1.B, Workforce Housing Program; however, under no circumstances shall any site be permitted to develop at a density greater than that permitted by the Plan. Prior to issuance of a building permit, or final DRO approval if applicable, all contracts or related agreements for any off-site option evidencing site control and necessary approvals shall be approved by the County Administrator, or designee. Prior to final DRO approval, the applicant shall identify the total number of WHP units proposed for development off-site including the number in each applicable WHP income category. Off-site options may be accommodated in municipalities located within Palm Beach County. [Ord. 2006-055] [Ord. 2010-005]

**1. Option 1 – Off-site Construction**

Building permits shall be issued for a minimum of 25-percent of the required WHP units to be constructed off-site prior to the issuance of no more than 25-percent of the building permits in the subject development. All off-site WHP units must receive CO prior to issuance of no more than 85-percent of the CO's in the subject development. [Ord. 2006-0455] [Ord. 2010-005]

a. **WCRAO** – Off-site construction of the required WHP units within the low income range shall be limited to ten percent. [Ord. 2008-037]

**2. Option 2 – Purchase Market Rate Units**

Purchase of an equivalent number of existing market rate units to be deeded to the County or sold to eligible households and deed restricted. The developer may retain the title to off site units subject to recordation of a deed restriction that meets the intent of this provision. A minimum of 50-percent of the units must be purchased and deeded to the County or deed restricted prior to the issuance of no more than 25-percent of the building permits in the subject development. All market rate units shall be purchased and deeded to the County or deed restricted prior to issuance of no more than 85-percent of the CO's in the subject development. [Ord. 2006-055] [Ord. 2010-005]

**3. Option 3 – Donate Buildable Land**

Donation of developable land acceptable to the County in an amount equal to the buyout costs of the affected units. Donated land must be deeded to the County prior to issuance of the first building permit in the subject development. [Ord. 2006-055]

**4. Option 4 – In-lieu Payment (Prior to Issuance of First Residential Unit Building Permit)**

The in-lieu payment for all WHP units shall be \$81,500 per for sale unit and \$50,000 per rental unit. The payment shall be deposited in the WHP Trust Fund maintained by the PBC Department of HCD at the time of issuance of the first residential unit building permit for the subject development. [Ord. 2006-055] [Ord. 2010-005]

**H. Additional Requirements for >30% Density Bonus**

Projects requesting a density bonus greater than 30 percent shall comply with the following: [Ord. 2006-055]

**1. Sector Analysis**

WHP projects, including relocated WHP units, shall be equitably distributed so that there is no undue concentration of very-low and low income households. Table 5.G.1.H, WHP Density Bonus Guide

indicates the maximum density bonus permitted and the concentration of very-low and low income housing within a sector will be one factor taken into consideration when determining the maximum density bonus permitted. Other factors to be considered include: the location of the proposed development and its relationship to the study area; the housing type(s) proposed; if the development site is located within 1/4 mile radius of a public park (neighborhood or regional park, not a golf course); civic uses (schools/libraries); a mass transit facility/route; child care facilities; medical facilities; a super market; a community commercial facility; employment opportunities; and within 1/2 mile radius of social services; a regional commercial facility; an industrial facility; additional civic uses and employment opportunities. Prior to submittal of a WHP pre-application, the applicant shall meet with the Planning Director or designee to establish the sector within which the distribution analysis shall be conducted. The boundaries of the sector shall be approved by the Planning Director or designee. The maximum density bonus permitted or a bonus in excess of the maximum shall be recommended by the Planning Director or designee. **[Ord. 2010-005]**

**Table 5.G.1.H - WHP Density Bonus Guide**

% of Very Low & Low Income Households in Sector	> 50%	40-50%	20-40%	0-20%
<b>Maximum Density Bonus (1)</b>	up to 40%	up to 60%	up to 80%	up to 100%
<b>[Ord. 2009-01] [Ord. 2010-005]</b>				
<b>Notes:</b>				
1. The Planning Director may recommend a density bonus in excess of the Maximum Density Bonus where the project serves to mitigate existing very low and low income concentrations by including a mix of higher income market rate units or Medium 1, Medium 2 and Middle Income WHP units. <b>[Ord. 2006-055]</b>				

- a. The sector shall be proportional to the size and character of the proposed development. At a minimum, the sector shall consist of one or more neighborhoods that include features such as schools, shopping areas, an integrated network of residential and collector streets bounded by arterial roads, civic uses, localized shopping, and employment opportunities. For data and analysis purposes, the sector shall be adjusted to accommodate census tracts or census block groups but shall not extend beyond important physical boundaries that may include a major arterial roadway or a wildlife refuge. **[Ord. 2006-055]**
  - b. Household income characteristics for the sector shall be derived from the most current available census data. The income level of a “family of four” shall be used for the determination of households within the low, moderate and middle income household categories. The analysis of housing and demographic data within the sector shall be in a manner and form approved by the Planning Director. **[Ord. 2006-055]**
- 2. Pre-Application**
- An application for density bonus greater than 30 percent shall require the submittal of a pre-application prior to submittal of a Zoning or Building permit application for purposes of establishing a density bonus determination. **[Ord. 2006-055]**
- a. Contents**  
The pre-application shall be in a form established by the Planning Director, and made available to the public. **[Ord. 2006-055]**
  - b. Sufficiency Review**  
The pre-application shall be subject to the provisions of Art. 2.B.2 or Art. 2.C.2, Sufficiency Review. **[Ord. 2006-055]**
  - c. Compliance**  
The density bonus shall not be granted until the project is found in compliance with HE 1.5.h. in the Plan. **[Ord. 2006-055]**
  - d. Density Determination**  
The Planning Director shall provide a written density determination letter within ten days of determining the pre-application is sufficient. The determination shall be based on the sector analysis, size, location and development characteristics of the project with consideration given towards affordability, accessibility, proximity to mass transit or employment centers, compatibility, quality of design, pedestrian and vehicular circulation, open space, and resource protection. The Planning Director shall prepare a report for the applicant, DRO, ZC, or BCC, whichever is appropriate, making a determination of compliance with this chapter, consistency with the Plan and recommend approval, approval with conditions, or denial of the request. **[Ord. 2006-055]**



## **I. Affordability Requirements**

Where applicable, the required percentage, affordability ranges and provision of units, shall be in accordance with Table 5.G.1.B, Workforce Housing Program. **[Ord. 2006-055]**

### **1. Sales and Rental Prices of WHP Units**

All required WHP units shall be offered for sale or rent at an attainable housing cost for each of the targeted income ranges. The sale and rent prices shall be updated annually by the Planning Director, or designee, with the sale prices based on the Area Median Income (AMI), and the household income limits for PBC (West Palm Beach/Boca Raton metropolitan statistical area) for a family of four, which pricing shall not be adjusted based on the number of occupants, as published annually by HUD (sale price: household income figure multiplied by three and priced at the middle of each of the four WHP income categories), and rental prices based on the annual Florida Housing Finance Corporation Multi-Family Rental Figures as adjusted for number of bedrooms in WHP rental units. The minimum WHP price initially established at the time of approval for each for sale unit within each WHP category range will be the sales floor. This sales floor shall serve as the minimum sales price point required throughout the applicable deed restriction time frame. The minimum WHP price initially established at the time of approval for each rental unit within each WHP income category range will be the rental floor. This rental floor shall serve as the minimum rental price point required throughout the thirty (30) year term of this Covenant. Any utility allowances applied against gross maximum WHP unit rents shall also be adjusted based on a number of bedrooms in WHP rental units. A chart with the sales and rent prices will be maintained and updated annually by the County. **[Ord. 2006-055] [Ord. 2010-005] [Ord. 2012-003] [Ord. 2012-027]**

#### **a. Utility Allowance**

Utilities shall include, but not be limited to, water, sewer, gas and electric. When one or more utility cost(s) are included within the WHP unit rent price, and reasonable, reliable and verifiable documentation is provided that indicates the total utility cost included within the WHP unit rent price meets or exceeds the stated utility allowance cost, then the utility allowance requirement would be waived. If the information provided constitutes an amount less than the prescribed utility allowance, the value may be applied against the utility allowance and the remaining balance shall be credited to the WHP resident's rent cost. **[Ord. 2012-003]**

### **2. Master Covenant**

Prior to issuance of the first building permit, the applicant shall record in the public records of Palm Beach County a Covenant binding the entire project, in a form provided for by the County, which identifies each required WHP unit. **[Ord. 2006-055] [Ord. 2010-005]**

#### **a. For Sale Units**

The Covenant shall include but not be limited to restrictions requiring: that all identified WHP units shall be sold, resold or rented only to low, moderate 1, moderate 2, or middle-income qualified households at an attainable housing cost for each of the targeted income ranges; that these restrictions remain in effect for 15 years recurring from the date of the certificate of occupancy for each unit; and that in the event a unit is resold before the 15 year period concludes, a new 15 year period shall take effect on the date of resale. The Covenant shall further provide monitoring and compliance requirements including but not limited those set forth below to ensure compliance with the WHP. Every deed for sale of a WHP housing unit shall incorporate by reference the controlling Covenant. **[Ord. 2006-055] [Ord. 2010-005]**

#### **b. Rental Units**

The Covenant shall include but not be limited to restrictions requiring: that all identified WHP units shall be rented only to low, moderate 1, moderate 2, or middle-income qualified households at an attainable housing cost for each of the targeted income ranges; that these restrictions remain in effect for a period of 30 years (non-recurring) from the date of occupancy of the first WHP unit; and that in the event a rental complex is resold before the 30 year period concludes, the new owner assumes the requirement for the number of remaining years; and the number of years remaining shall be determined by the Planning Director or his designee; and shall take effect on the date of resale. The Covenant shall further provide monitoring and compliance requirements including but not limited to those set forth below to ensure compliance with the WHP. Every deed for a rental development with WHP housing units and every rental agreement for each WHP unit shall incorporate by reference the controlling Covenant. **[Ord. 2010-005]**

### **3. Monitoring and Compliance**

Prior to the sale, resale, or at the time of the rental of any WHP unit established pursuant to this program, the seller of a for-sale unit or the owner of a rental development shall provide the Planning Director, or designee, documentation sufficient to demonstrate compliance with the WHP. Such

documentation shall include but not be limited to information regarding the identity and income of all occupants of the WHP unit. The owner of the WHP unit shall submit to the Planning Director, or designee, on a form provided by the County, an annual report containing information and documentation to demonstrate continued compliance with the WHP and a copy of any monitoring information provided to and received from the appropriate funding agency/source. The County may conduct site visits at reasonable times, or perform other independent investigation to verify continued compliance with the WHP. [Ord. 2006-055] [Ord. 2010-005]

**4. Enforcement**

The County may enforce the requirements of the WHP through any cause of action available at law or equity, including but not limited to seeking specific performance, injunctive relief, rescission of any unauthorized sale or lease, reclassification of a lesser unit to another income category, and tolling of the 15-year recurring term of for sale units or the 30 year non-recurring term for rental units of the WHP. [Ord. 2006-055] [Ord. 2010-005]

**5. Release of Obligation to Construct WHP For-Sale Units**

It is not the intent of the WHP provisions to require a developer to commence construction on any WHP for sale unit for which a valid and binding contract for purchase between developer and buyer has not been executed. It is intended that all WHP units will be marketed in the same manner as the market-rate units within a development. In the event a WHP unit eligible for contract: (i) has been available for purchase for a period not less than 180 days and no contract to purchase that unit has been executed during the 180 day period; and, (ii) is located within a development pod/phase in which not less than 80 percent of the for sale market rate units (i.e. non WHP units) have binding purchase contracts; then that specific WHP unit is eligible to be released from the WHP obligations indicated in the Covenant. [Ord. 2006-055] [Ord. 2010-005] [Ord. 2012-027]

**a. For Sale Units**

When a WHP unit is not purchased in accordance with the provisions above, an In-Lieu cash payment shall be permitted as follows: [Ord. 2010-005]

Upon payment of the required In-Lieu cash payment, the WHP unit/lot shall thereafter be released from any and all obligations of the WHP requirements of the ULDC and the County shall provide written confirmation that the unit/lot has been released, inclusive of release from the Covenant. The County shall utilize cash payments for the express purpose of providing down payment assistance to eligible households seeking to purchase WHP units. To the greatest extent possible, the down payment assistance provided by the County shall be utilized for the purchase of WHP units from the project from which the cash payment was provided. The payment shall be deposited in a WHP Trust Fund maintained by the PBC Department of HCD, and designated for the above referenced purpose. [Ord. 2010-005] [Ord. 2012-027]

- 1) if the price differential between the required WHP unit and the contract price for the market rate unit is less than or equal to \$20,000, then the In-Lieu cash payment shall be \$10,000; [Ord. 2010-005]
- 2) if the price differential between the required WHP unit and the contract price for the market rate unit is greater than \$20,000 and less than \$81,250, then the In-Lieu cash payment shall be one half (50 percent) of the difference; and, [Ord. 2010-005]
- 3) if the price differential between the required WHP unit and the contract price for the market rate unit is greater than or equal to \$81,250, then the In-Lieu cash payment shall be \$40,750. [Ord. 2010-005]

The contract price of any for sale market rate unit shall be the base price of the unit and shall not include any lot premium and/or buyer purchased upgrades that are in addition to the base price of the unit. The Developer shall provide written notice to the Department of Planning, Zoning and Building requesting confirmation of the In-Lieu cash payment amount, which request shall include: a copy of the executed purchase contract between seller and purchaser denoting the purchase price of the unit, but shall not be required to submit any information relative to any lot premium and upgrades that are in addition to the base price of the unit; the project name, zoning control number, PCN, and address of the lot; and, the calculation as to the amount of the In-Lieu cash payment amount being requested. [Ord. 2010-005]

The County shall provide written confirmation to the Developer, within ten 10 business days of receipt, as to the County's agreement/disagreement with the In-Lieu cash payment amount requested by the Developer. [Ord. 2010-005]

Upon payment of the required In-Lieu cash payment, the WHP unit/lot shall thereafter be released from any and all obligations of the WHP requirements of the ULDC and the County shall provide written confirmation that the unit/lot has been released, inclusive of release from the Covenant. Units

which are not required to be constructed pursuant to Art. 5.G.1.B.3, Income Ranges are not eligible for this reduced in-lieu payment. These units must provide in-lieu payment consistent with Art. 5.G.1.G.4, Option 4 – In Lieu Cash Payment. The County shall utilize cash payments for the express purpose of providing down payment assistance to eligible households seeking to purchase WHP units. To the greatest extent possible, the down payment assistance provided by the County shall be utilized for the purchase of WHP units from the project from which the cash payment was provided. The payment shall be deposited in a WHP Trust Fund maintained by the PBC Department of HCD, and designated for the above referenced purpose. **[Ord. 2010-005]**

**b. “Available for purchase” shall be defined as:**

- 1) written notice is provided to the Planning Director and the Department of Housing and Community Development and to a list of interested parties provided to the developer by the County that developer has a project approved which requires the construction of WHP units and the developer is ready to commence sales of the required WHP unit within the development. The written notice shall include the location of the subject property, the location of the sales office, the hours of the sales office, the floor plan and construction specifications for the WHP unit available for contract; and the pricing of the WHP unit available for contract; **[Ord. 2010-005]**
- 2) developer shall include in the sales office displays and WHP unit promotional brochures produced as of and during the entire duration of the effective period as defined in Art. 5.G.1.I.5 Release of Obligation to Construct WHP For Sale Units, (i) and (ii) above, that certain units within the project are subject to the WHP provisions of Palm Beach County and are available for purchase for qualified households; **[Ord. 2010-005]**
- 3) the inclusion of informational packets in the sales center for those interested in purchasing a WHP unit which provides the qualification standards, terms of the Covenant, where to go to get qualified, and other relevant information regarding the WHP units (note this packet to be provided by or approved by Palm Beach County prior to placement on the sales floor); **[Ord. 2010-005]**
- 4) at the time WHP units become available for purchase the developer shall provide to the Palm Beach County Department of Planning, Zoning and Building proof of out-reach to local housing advocacy groups and others on the interested parties list. **[Ord. 2010-005]**
- 5) the developer acts in good faith to market and sell the unit during the effective period as defined in Art. 5.G.1.I.5 Release of Obligation to Construct WHP For Sale Units, above. **[Ord. 2010-005]**

**6. Event of Default of for sale WHP unit following execution of binding contract:**

In the event of default by the purchaser of a for sale WHP unit after execution of a binding contract and prior to closing, the developer shall be permitted to provide the In-Lieu cash payment (in the amount as determined using for formula outlined in Section 5.G.1.I.6. above) and shall be permitted to be released from the WHP obligations for the defaulted unit, inclusive of the release from the Covenant, upon the later of either of the two events having occurred: **[Ord. 2010-005]**

- a. the first inspection of the WHP unit subject to the default occurred not less than one hundred and eighty (180) days prior to the request to provide the In-Lieu cash payment; or **[Ord. 2010-005]**
- b. the WHP unit subject to the default is located within a development pod/phase in which not less than 80% of the for sale market rate units (i.e. non WHP units) have binding purchase contracts. The Developer shall provide written notice upon the event of default on a required WHP unit to the Palm Beach County Department of Planning, Zoning and Building, the Department of Housing and Community Development and to the list of interested parties indicating that: **[Ord. 2010-005]**
  - 1) a default occurred on a required WHP unit; **[Ord. 2010-005]**
  - 2) the specifics of the defaulted lot (WHP income category, location of the project, PCN for the WHP unit, WHP price of the unit, square footage of the unit, and floor plan of the unit); and, **[Ord. 2010-005]**
  - 3) that the unit remains available for purchase to an eligible WHP household until such time as an In-Lieu cash payment is made pursuant to the later of the two timing mechanism having been met. **[Ord. 2010-005]**

**7. Compatibility**

The resulting development shall be compatible with surrounding residential land uses, as described herein. **[Ord. 2005 – 002]**

**J. Annual Report**

The Executive Director of PZB shall submit an annual report to the BCC indicating the status of the WHP. **[Ord. 2006-055]**

**Section 2 Affordable Housing Program (AHP)**

**A. Purpose and Intent**

The AHP implements HE Policies 1.1-o and 1.5-g of the Plan, among others, by establishing an AHP. The AHP is a voluntary program used by an applicant seeking additional density for an affordable housing development. An AHP applicant elects to provide at a minimum 65 percent of the total number of dwelling units targeted to households at incomes of 60 percent of Area Median Income (AMI) and below. In any proposal a maximum of 20 percent of all units will target incomes of 30 percent and below AMI. The program ensures a minimum affordability period, and provides for a density bonus and other incentives. The program is intended to increase the supply of housing opportunities for persons employed in PBC in jobs that residents rely upon to make the community viable. Consideration may be given to developments requesting income percentage targets that are different from those previously indicated, based on programmatic requirements imposed by a governmental agency providing affordable housing funding or another entity with different programmatic requirements, with the final determination made by the Executive Director of Planning, Zoning and Building or designee. **[Ord. 2009-040] [Ord. 2012-003]**

**B. Applicability**

In cases of conflict between this Chapter and other Articles of this Code, the provisions of this Chapter shall apply. The AHP shall apply to developments with a residential component of 10 or more dwelling units with all units being built on site. This shall include the expansion of existing projects that add 10 or more dwelling units, where the program shall apply to those units being added. Requirements and limitations are further defined in Table 5.G.2.B, Affordable Housing Program. **[Ord. 2009-040]**

**1. Exemptions**

Congregate living facilities (CLFs); and, nursing or convalescent facilities. **[Ord. 2009-040]**

**2. Limitation on Restrictions**

AHP units shall not be subject to restrictions beyond income qualifications except those restrictions imposed by a governmental agency providing affordable housing financing. **[Ord. 2009-040]**

**Table 5.G.2.B - Affordable Housing Program**

<b>Applicability</b>		
Location:	Tier or Overlay	U/S
	FLU (1)	LR-1, LR-2, LR-3, MR-5, HR-8, HR-12, HR-18
<b>Density Bonus Incentive</b>		
LR-1 thru LR-3		0 – 30% (3)
MR-5 thru HR-18 (2)		0 – 100% (3)
<b>[Ord. 2009-040]</b>		
<b>Notes:</b>		
1. Shall also apply to mixed use projects with applicable underlying FLU designations for Commercial and Industrial Mixed Use Development. <b>[Ord. 2009-040]</b>		
2. A density bonus of >30% shall be permitted subject to meeting the additional standards of Art. 5.G.1.H, Additional Requirements for >30% Density Bonus. <b>[Ord. 2009-040]</b>		
3. Percentages shall be rounded up to the nearest whole number. <b>[Ord. 2009-040]</b>		
<b>Affordability:</b> A minimum of 65% of all units at 60% of AMI or below and a 20% maximum of all units at 30% and below AMI. <b>[Ord. 2009-040]</b>		

**C. Design Requirements**

AHP units shall be designed to be compatible with the overall project, as follows: **[Ord. 2009-040]**

1. All AHP units shall be constructed on site; **[Ord. 2009-040]**
2. All units shall be designed to a compatible exterior standard as other units within the development or pod; and **[Ord. 2009-040]**
3. AHP units may be clustered or dispersed throughout the project. **[Ord. 2009-040]**

**D. AHP Incentives**

All projects with 10 or more residential units shall be eligible for AHP Incentives. **[Ord. 2009-040]**

**1. Density Bonus**

Table 5.G.2.B, Affordable Housing Program, delineates the ranges of density bonus allowed for the AHP by land use category. For the purposes of this Section, permitted density shall be the number of units allowed by the standard density allowed by the Plan; or, the maximum density allowed by the Plan, where developed as a PDD, TDD or other density provision of the Plan. TDR units or any other density bonus shall not be included as part of the permitted density for purposes of calculating the AHP density bonus. To ensure compliance with the compatibility requirement of HE Objective 1.5 of

the Plan, projects requesting a density bonus shall be subject to the requirements of Table 5.G.2.D, Review Process, and Art. 5.G.2.E, Additional Requirements for Density Bonus. **[Ord. 2009-040]**

**Table 5.G.2.D – Review Process**

Density Bonus	DRO Approval	Class A Conditional Use
Standard District >30% - 50%	X	
Standard District >50% - 100%		X
PDD or TDD >30% - 100%		X
<b>[Ord. 2009-040] [Ord. 2017-025]</b>		

**2. Traffic Performance Standards Mitigation**

**a. AHP Special Methodologies**

TPS mitigation shall be permitted for AHP projects in accordance with County Comprehensive Plan Transportation Element Policy 1.2-d (4). **[Ord. 2009-040] [Ord. 2011-016]**

**b. AHP Traffic Concurrency Hall Pass**

TPS mitigation shall also include the option of applying for an AHP Traffic Concurrency Hall Pass separate from a development order application. The AHP Traffic Concurrency Hall Pass serves as a provisional traffic concurrency approval for a period of not more than 90 days, during which it must be merged into an application submitted for a Concurrency Reservation approval. The AHP Traffic Concurrency Hall Pass is described further in Art. 2.F, Concurrency. **[Ord. 2009-040]**

**3. Expedited Review**

The following expedited review processes may apply to a proposed AHP development: **[Ord. 2009-040]**

**a. Design Review**

Review of multifamily or townhouse structures by the Building Division and Fire Rescue shall be allowed concurrent with final DRO review, prior to permit application. **[Ord. 2009-040]**

**b. Platting**

- 1) If only a boundary plat is required for an existing single lot, building permits may be issued after submittal of the final plat for recordation. **[Ord. 2009-040]**
- 2) If a subdivision plat is required, permits will be concurrently reviewed, but only issued at recording of the plat. **[Ord. 2009-040]**
- 3) Pursuant to Art. 3.E.1.G.1.a, Permits, Building permits for sales offices, sales models, gate houses, entry features, and utilities may be issued prior to the recording of a final plat. **[Ord. 2009-040]**

**4. Density Bonus Development Options**

**a. Purpose and Intent**

To provide flexibility from property development and other related regulations in order to provide greater opportunity for cost effective development of AHP units. These provisions are not intended to supersede deviations that are normally addressed through the variance process. These options shall only be granted at the time of approval for the entire project, and shall not be granted on a lot-by-lot basis. **[Ord. 2009-040]**

**b. Applicability**

Projects with ten or more units that utilize a density bonus incentive and are subject to the requirements of the AHP may utilize the Development Options listed herein. **[Ord. 2009-040]**

**c. Justification Report**

Use of Density Bonus Development Options shall not be granted by right, and shall require submittal of a justification report that demonstrates that deviations are the minimum needed to allow for the use of density bonus incentives. The report shall include the following: **[Ord. 2009-040]**

- 1) The regulations that are proposed to be modified. **[Ord. 2009-040]**
- 2) The amounts and specifics of the requested deviation(s). **[Ord. 2009-040]**
- 3) The areas within the development that the deviation(s) will be applied to. **[Ord. 2009-040]**
- 4) Graphic representations such as, but not limited to, site plans, elevations, perspectives, and typical examples, showing how the deviations will meet the intent of the district and AHP with emphasis on open space, privacy, maintenance, and public health, safety and welfare. **[Ord. 2009-040]**

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**d. Site Plan Approval**

All projects requesting Density Bonus Development Options shall submit an application and site plan to the DRO for certification where applicable, and for final site plan approval for all others. The site plan shall indicate in the tabular data all Development Options requested and where feasible, a regulating plan shall be included to provide typical examples. Approval shall be granted only for the minimum deviations needed to allow for the use of density bonus incentives and where the requirements of all applicable reviewing agencies have been met. **[Ord. 2009-040]**

**e. Drainage**

Any reduction in lot size or open space area, or increase in building coverage shall be subject to approval of a drainage study demonstrating that reduced pervious surface area will not create adverse drainage issues. **[Ord. 2009-040]**

**f. Option 1 - AR, and RT Districts**

The zoning for parcels electing to use this option must be in compliance with Table 3.A.3.B, Future Land Use (FLU) Designation and Corresponding Standard Zoning Districts. **[Ord. 2009-040]**

**1) AR FAR Calculations**

New SFD lots in the AR district shall be permitted to calculate FAR based on the acreage of the FLU designation. **[Ord. 2009-040]**

**2) RT PDR Deviations**

Deviations from the minimum PDRs for the RT district with a LR-2 or LR-3 FLU designation may be in accordance with Table 5.G.1.D, RT Deviations for WHP, only for those projects that qualify for maximum density in accordance with Table 2.1-1, Residential Categories and Allowed Densities, of the FLU Element of the Plan, and utilize a minimum density bonus of 20 percent. **[Ord. 2009-040]**

**Table 5.G.2.D - RT Deviations for AHP (1)**

Zoning District	Applicability	FLU	Lot Dimensions				Setbacks	
			Size	Width and Frontage	Building Coverage	Depth	Side	Rear
RT	Infill, TDR	LR-1	14,000 sf	ND	ND	ND	ND	ND
RT	Infill, TDR, WHP AHP	LR 2	12,000 sf	85'	35%	100'	ND	ND
RT	Infill, TDR, WHP AHP	LR 3	9,000 sf	65'	40%	80'	1st Floor 10'	1st' floor – 15'
<b>[Ord. 2009-040]</b>								
<b>Notes:</b>								
ND No deviation.								
1. Eligible projects must qualify for maximum density in accordance with FLUE Table III.C.1, Residential Categories and Allowed Densities, of the FLU Element of the Plan, and use.								

**g. Option 2 - TND Regulations**

Projects eligible for this option shall be permitted to utilize the PDRs of Table 3.F.3.E, TND Residential Lot Size and Setback Regulations, subject to meeting the requirements of Art. 3.F.3.D.5, Residential Uses and the following limitations: **[Ord. 2009-040]**

1) U/S Tier Only; **[Ord. 2009-040]**

2) Project does not qualify to be a TND or use Option 1 or 3; **[Ord. 2009-040]**

3) If the subject site has a LR-1, LR-2, LR-3 or MR-5 FLU designation, the project shall meet all requirements for and be approved as a PDD; **[Ord. 2009-040]**

**h. Option 3 - Flexible Regulations**

Projects with MR-5, HR-8, HR-12, HR-18 FLU designations, or if approved as a PDD or TDD, may deviate from the residential requirements of Table 3.D.1.A, Property Development Regulations, or Table 3.D.2.B, ZLL Property Development Regulations, as follows: **[Ord. 2009-040]**

1) SFD units may be permitted up to a maximum ten percent deviation for the following PDRs: lot size; width and frontage; building coverage; and, side, and rear setbacks. **[Ord. 2009-040]**

2) SFD units limited to one floor with no loft or other similar feature, may be permitted up to a maximum 20 percent deviation for the following PDR's: building coverage; and front and side street setbacks. **[Ord. 2009-040]**

3) ZLL lots may be permitted up to a maximum lot width reduction of five feet, and ten percent deviation from the minimum lot size, building coverage, and front setback for units with front loading garages. **[Ord. 2009-040]**

**i. Option 4 - PDD Open Space Reduction**

Projects which elect to utilize a density bonus of not less than 15 percent, may reduce the 40 percent open space requirement of Table 3.E.2.C, PUD Land Use Mix, to not less than 30 percent open space, provided the project incorporates common usable open space areas as defined in Art. 1.I.2.U, Usable Open Space for AHP. **[Ord. 2009-040]**

**j. Option 5 - Internal Incompatibility Buffers**

Required incompatibility buffers between SFD and MF units within an AHP development shall not be required. **[Ord. 2009-040]**

**k. Option 6 - Relocation of Units to Civic Tracts**

Residential units may be permitted in a civic pod subject to PREM approval. This may include collocating residential units with civic uses. The DRO shall have the following authority where PREM approval is obtained after BCC approval of the overall project: **[Ord. 2009-040]**

- 1) In the case of a civic site cash out, the deletion of the civic pod and increase in residential pod area; or, **[Ord. 2009-040]**
- 2) The relocation of residential units to a civic pod, or the relocation of residential units where the civic pod is deleted. **[Ord. 2009-040]**

**E. Additional Requirements for Density Bonus**

Projects requesting a density bonus shall comply with the following: **[Ord. 2009-040]**

**1. Sector Analysis**

AHP projects shall be equitably distributed so that there is no undue concentration of very-low and low income housing throughout the County. Table 5.G.2.E, AHP Density Bonus Guide indicates the Step 1 density bonus permitted. The concentration of very-low and low income housing within a sector will be taken into consideration when determining the Step 1 density bonus permitted. Additional density may be added in accordance with Table 5.G.2.E, AHP Density Bonus Multipliers (Step 2). This Step 2 analysis considers the proposed development and its location to neighborhood amenities; a public transit option; employment and shopping opportunities; grocery store (excluding convenience store); public school; medical facilities; social services; and, public recreation facilities. Prior to submittal of an AHP pre-application, the applicant shall meet with the Planning Director or designee to establish the sector within which the distribution analysis shall be conducted. The boundaries of the sector shall be approved by the Planning Director or designee. The maximum AHP density bonus, total Step 1 plus Step 2, not to exceed a 100% bonus as recommended by the Planning Director or designee. **[Ord. 2009-040]**

**Table 5.G.2.E - AHP Density Bonus Guide (Step 1)**

<b>% of Very Low &amp; Low Income Housing (60% of AMI &amp; below) in Sector</b>	> 40%	40-30%	30-20%	20-0%
<b>Step 1 Density Bonus</b>	up to 30%	up to 50%	up to 80%	up to 100%
<b>[Ord. 2009-040]</b>				

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**Table 5.G.2.E - AHP Density Bonus Multipliers (Step 2)**

Proximity to Proposed Development	Public Transit Option	Employment & Shopping Opportunities 150,000 sf, guide  (Office, Industrial, Business, Govt., Community/ Regional Commercial, Retail Center)	Grocery Store  (excluding Convenience Store)	Public School  (Elementary, Middle, High School or Community College)	Medical Facilities  (Hospital, Health Care, Urgent Care, Medical Offices)	Social Services  (Daycare, Full-Service Community Centers, Public Library)	Public Recreation Facilities Off-Site  (Public Parks, Ballfields, etc.)	Maximum AHP Density Bonus
> 0 up to 1/4 Mile *	20%	20%	20%	20%	20%	10%	10%	100%
> 1/4 up to 1/2 Mile *	15%	15%	15%	15%	15%	5%	5%	
> 1/2 up to 1 Mile *	0	10%	10%	10%	10%	2.5%	2.5%	
> 1 up to 2 Miles *	0	5%	5%	5%	5%	0%	0%	
<b>[Ord. 2009-040]</b>								
<b>Notes:</b>								
* For each multiplier column, only one of the four options (the closest amenity) may apply.								

- a. The sector shall be proportional to the size and character of the proposed development. At a minimum, the sector shall consist of one or more neighborhoods that include features such as schools, shopping areas, an integrated network of residential and collector streets bounded by arterial roads, civic uses, localized shopping, and employment opportunities. For data and analysis purposes, the sector shall be adjusted to accommodate census tracts or census block groups but shall not extend beyond important physical boundaries that may include a major arterial roadway or a wildlife refuge. **[Ord. 2009-040]**
- b. Housing characteristics, (such as household family incomes and affordable housing stock data) for the sector shall be derived from the most current available census data. The analysis of housing and demographic data within the sector shall be in a manner and form approved by the Planning Director. **[Ord. 2009-040]**

**2. Pre-Application**

An application for density bonus shall require the submittal of a pre-application prior to submittal of a Zoning or Building permit application for purposes of establishing a density bonus determination. **[Ord. 2009-040]**

**a. Contents**

The pre-application shall be in a form established by the Planning Director, and made available to the public. **[Ord. 2009-040]**

**b. Sufficiency Review**

The pre-application shall be subject to the provisions of Art. 2.B.2, or Art. 2.C.2, Sufficiency Review. **[Ord. 2009-040]**

**c. Compliance**

The density bonus shall not be granted until the project is found in compliance with Policy HE 1.5.h. in the Plan. **[Ord. 2009-040]**

**d. Density Determination**

The Planning Director or designee shall provide a written density determination letter within ten working days of determining the pre-application is sufficient. The determination shall be based on the sector analysis, size, location and development characteristics of the project with consideration given towards affordability, accessibility, proximity to mass-transit or employment centers, compatibility, quality of design, pedestrian and vehicular circulation, open space, and resource protection. The Planning Director shall prepare a report for the applicant, DRO, ZC, or BCC, whichever is appropriate, making a determination of compliance with this chapter, consistency with the Plan and recommend approval, approval with conditions, or denial of the request. **[Ord. 2009-040]**



## **F. Affordability Requirements**

### **1. Sales and Rental Prices of AHP Units**

All AHP units shall be offered for sale or rent at an attainable housing cost for the targeted AHP income range (60% of AMI or below). The sale and rent prices will be based on the (AMI), and the household income limits for PBC (West Palm Beach/Boca Raton metropolitan statistical area) as published annually by HUD and based on the annual Florida Housing Finance Corporation Multi-Family Rental Figures. **[Ord. 2009-040]**

### **2. Master Covenant**

Prior to final DRO approval, the applicant shall record in the public records of Palm Beach County a Covenant binding the entire project, in a form provided for by the County, which identifies each AHP unit. An extension of up to 6 additional months to record the Covenant may be requested only in order to secure government funding for the proposed development. **[Ord. 2009-040]**

#### **a. For Sale Units**

The Covenant shall include but not be limited to restrictions requiring: that all identified AHP units shall be sold or resold only to an income qualified purchaser at an attainable housing cost for the targeted AHP income range (60 percent of Area Median Income (AMI) or below). The sale prices will be based on the AMI and the household income limits for PBC (West Palm Beach/Boca Raton metropolitan statistical area) as published annually by HUD; that these restrictions remain in effect for 15 years recurring from the date of the certificate of occupancy for each unit; and that in the event a unit is resold before the 15 year period concludes, a new 15 year period shall take effect on the date of resale. The Covenant shall further provide monitoring and compliance requirements including but not limited to those set forth below to ensure compliance with the AHP. Every deed for each AHP for sale housing unit shall incorporate by reference the controlling Covenant. **[Ord. 2009-040] [Ord. 2011-001]**

#### **b. Rental Units**

The Covenant shall include but not be limited to restrictions requiring: that all identified AHP units shall be rented only to an income qualified renter at an attainable housing cost for the targeted AHP income range (60 percent of AMI or below). The rental prices will be based on the AMI and the household income limits for PBC (West Palm Beach/Boca Raton metropolitan statistical area) as published annually by HUD and based on the annual Florida Housing Finance Corporation Multi-Family Rental Figures; that these restrictions remain in effect for a period of 30 years (non-recurring) from the date of occupancy of the first AHP unit; and that in the event a rental complex is resold before the 30 year period concludes, the new owner assumes the requirement for the number of remaining years; and the number of years remaining shall be determined by the Planning Director or his designee; and shall take effect on the date of resale. The Covenant shall further provide monitoring and compliance requirements including but not limited to those set forth below to ensure compliance with the AHP. Every deed for a rental development with AHP housing units and every rental agreement for each AHP unit shall incorporate by reference the controlling Covenant. **[Ord. 2009-040] [Ord. 2011-001]**

### **3. Monitoring and Compliance**

At the time of sale, resale, or rent of any AHP unit established pursuant to this program, the seller shall provide the County Administrator, or designee, documentation sufficient to demonstrate compliance with the AHP. Such documentation shall include but not be limited to information regarding the identity and income of all occupants of the AHP unit. The owner or lessee of the AHP unit shall submit to the County Administrator, or designee, on a form provided by the County, an annual report containing information and documentation to demonstrate continued compliance with the AHP and a copy of any monitoring information provided to and received from the appropriate funding agency/source. The County may conduct site visits at reasonable times, or perform other independent investigation to verify continued compliance with the AHP. **[Ord. 2009-040]**

### **4. Enforcement**

The County may enforce the requirements of the AHP through any cause of action available at law or equity, including but not limited to seeking specific performance, injunctive relief, rescission of any unauthorized sale or lease, and tolling of the 15-year term (for-sale units) or the 30-year term (rental units) of the AHP, or the term required by the funding agency/source if more restrictive. **[Ord. 2009-040]**

### **5. Compatibility**

The resulting development shall be compatible with surrounding residential land uses, as described herein. **[Ord. 2009-040]**

## **G. Annual Report**

The Executive Director of PZB shall submit an annual report to the BCC indicating the status of the AHP. [Ord. 2009-040]

## **Section 3 Transfer of Development of Rights (TDRs) – Special Density Program**

### **A. Purpose and Intent**

The purpose of this Chapter is to provide for a TDR Program, including the establishment of a TDR Bank, to facilitate both the protection of environmentally sensitive lands, the preservation of agriculture on lands designated as AGR on the FLUA, and to promote orderly growth in PBC. This is accomplished by allowing development rights to be severed from environmentally sensitive lands and lands designated as AGR and transferred to sites where additional development can be accommodated. The TDR program is designed to redistribute population densities, or development potential, to encourage the most appropriate and efficient use of resources, services and facilities.

Further, it is the purpose and intent of this Chapter to provide an alternative to the development of environmentally sensitive lands and lands designated as AGR on the FLUA by establishing a mechanism to seek economic relief from the limitation of development imposed on these lands. TDR can mitigate inequities in the valuation of land by providing a means of compensating landowners whose property is restricted, by permitting the sale of development rights, and making landowners in more intensively developed areas pay for the right to develop beyond the existing density, by purchasing development rights.

The TDR Program allows a property owner to achieve a density bonus by purchasing the increase in density from the PBC TDR Bank, or from a property owner with land in a designated sending area, without going through the land use amendment process. In order to increase density, the site must meet the requirements to become a designated receiving area and follow the procedures as described in this Chapter. After development rights have been transferred from the sending area to the receiving area, an appropriate conservation easement or an agricultural conservation easement shall be attached to the sending area and recorded in the public records of PBC, restricting future development potential. [Ord. 2005 – 002] [Ord. 2008-003]

### **B. Authority**

The BCC has the authority to adopt this pursuant to Art. VIII, Sec. 1, Fla. Const., the PBC Charter, F.S. §125.01, et seq. and F.S. §163.3161, et seq.

### **C. Applicability**

This Chapter shall apply to property in unincorporated PBC which is located within designated sending areas, as defined in Art. 5.G.3.F, Sending Areas. Development rights may be transferred from sending areas pursuant to the procedures contained in this Chapter, to property which meets the qualifications to receive such density according to Art. 5.G, Density Bonus Programs, and the standards contained herein. The use of TDR shall be allowed in all residential zoning districts within the U/S Tier and shall be approved pursuant to this Chapter. TDR units may be utilized for all housing types. Additionally, TDR units may be converted to CLF beds subject to the provisions of Art. 4.B.1.C.1, Congregate Living Facility, whereby the total approved density, including TDR units, is utilized when calculating permissible CLF occupants per Table 4.B.1.A-4, Maximum Permissible Occupancy in Type 3 Congregate Living Facilities.

### **D. Previous Approvals**

All previously approved transfers of development rights, as long as they remain in force, shall remain valid and shall not be affected nor changed by subsequent revisions to the TDR Program.

### **E. Administration**

#### **1. General**

Except as otherwise specified, the TDR Program shall be administered by the Executive Director of PZB or designee. [Ord. 2010-005]

#### **2. Responsibilities**

The Executive Director of PZB shall be responsible for:

- a. Establishing, administering and promoting PBCs TDR Program;
- b. Establishing and administering the TDR Bank;
- c. Ensuring the orderly and expeditious processing of TDR applications under this Chapter;
- d. Executing contracts for sale and purchase of TDR units being purchased from the County's TDR Bank, including related escrow or similar bonding agreements, and TDR deeds as part of the DRO approval process; [Ord. 2010-005]

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- e. Ensuring the contracts for sale and purchase of development rights are executed and all deeds and conservation easements are filed in the public records of PBC;
- f. Ensuring that the Property Appraisers Office is notified of all TDRs;
- g. Ensuring that the densities approved through the TDR Program are placed on the FLUA as notations following approval of the TDR receiving area; and, [Ord. 2008-003]
- h. Ensuring that the FLUA is amended by a staff initiated Site Specific Plan amendment to reflect an appropriate land use designation for land acquired by PBC whose units are placed in the TDR bank. [Ord. 2008-003]

## **F. Sending Areas**

### **1. General**

Sending areas represent those areas of PBC that are designated by the BCC to warrant protection. The owner of property in a designated sending area may transfer the development rights to a parcel of land in a designated receiving area, subject to the provisions of this Chapter.

### **2. Eligible Sending Areas**

- a. Lands designated RR-20 on the FLUA;
- b. Lands designated as priority acquisition sites by the Environmentally Sensitive Lands Acquisition Selection Committee (ESLASC) or the Conservation Land Acquisition Selection Committee (CLASC) that meet the criteria listed below:
  - 1) Rarity in PBC of native ecosystems present on the environmentally sensitive lands site;
  - 2) Diversity of the native ecosystems present on the environmentally sensitive lands site; or
  - 3) Presence of species listed as endangered, threatened, rare or of special concern by the U.S. Fish and Wildlife Service, the Florida Fish and Wildlife Conservation Commission, the Florida Committee on Rare and Endangered Plants and Animals, or the Florida Department of Agriculture.
- c. Lands designated AGR on the FLUA;
- d. Privately owned lands designated CON on the FLUA; and
- e. Other sites determined by the BCC to be worthy of protection, provided that the sites:
  - 1) Further the purpose of the TDR Program in keeping with the criteria listed above; or
  - 2) Further other PBC Goals, Objectives, and Policies. At such a time that the BCC determines that a parcel of land is environmentally sensitive, or preservation of the site is in the public interest, the parcel is eligible to become a sending area. The site shall be designated by resolution of the BCC.

### **3. Overlap in Sending Areas**

In such cases where a parcel of land is both a priority acquisition site and designated RR-20 or AGR on the FLUA, all provisions in this Chapter pertaining to the priority acquisition sites shall prevail.

### **4. Transfer Rate**

The owner of land which is designated as a sending area may elect to transfer development rights as provided in this Chapter. Development rights may be transferred from sending areas according to the following schedule. For the purposes of this Subsection, acres means gross acreage.

- a. Development rights may be transferred from property designated RR-20 on the FLUA at the rate of one development right per five acres. The minimum land area eligible for the TDR as a sending area shall be ten acres.
- b. Development rights may be transferred from property designated AGR on the FLUA at the rate of one development right per one acre. The minimum land area eligible for the transfer of development rights as a sending area shall be 20 acres unless the sending area parcel is located adjacent to other preserved properties, in which case the minimum land area shall be five acres.
- c. Development rights may be transferred from priority acquisitions sites (both residential and non-residential) located outside of the U/S Tier at a transfer rate of one development right per five acres. The minimum land area eligible for the TDR as a sending area shall be five acres.
- d. Development rights may be transferred from privately owned lands designated CON on the FLUA at a rate of one development right per ten acres. The minimum land area eligible for the transfer of development rights as a sending area shall be ten acres.
- e. Development rights may be transferred from all environmentally sensitive sites described in Art. 5.G.3.F.2, Eligible Sending Areas, at a rate which equals the maximum density permitted by the future land use designation for the property. The minimum land area eligible for the transfer of development rights as a sending area shall be determined by the BCC, upon a recommendation from PZB and ERM.

## **5. Computation of Development Rights**

The number of development rights assigned to a sending area parcel of land shall be determined by the Executive Director of PZB pursuant to Art. 5.G.3.F.2, Eligible Sending Areas, and Art. 5.G.2.I, TDR: Sending Area Procedure, as calculated below:

- a. All development rights shall be in whole numbers, no fractions shall be permitted. Any fractional residential unit that may occur during calculations shall be converted upward, if one-half or more of a whole unit, or downward, if less than one-half of a whole unit, to the nearest whole unit.
- b. The amount of development rights assigned to a sending area parcel shall be reduced by one dwelling unit for every conforming residential structure situated on the property at the time of approval.

## **6. Restriction on Future Use**

Upon BCC or DRO approval of the TDR transfer, a conservation easement or agricultural conservation easement shall be recorded in the public records of PBC. The BCC or DRO shall determine which easement is appropriate for the sending area as part of the approval of the TDR transfer. Prior to recordation of the easement, a legally enforceable maintenance plan providing for perpetual maintenance of the sending area shall be established by the property owner and approved by ERM. No further development permit or development order for the designated receiving area shall be issued by PBC until the applicable easement is recorded in the public records of PBC. The easement shall restrict the use of the sending area in perpetuity. In particular, a conservation easement shall require that the sending area be maintained in its natural state while an agricultural conservation easement shall restrict the use of the sending area to bona fide agriculture, fallow land, or uses permitted in the Conservation Water Resources Area (WRA) future land use category; all other development rights of the subject property shall be considered transferred in perpetuity.

## **7. Existing Uses**

Conforming residential dwelling units which existed prior to making application to transfer development rights shall be permitted to remain as legal conforming uses. All other existing uses on the sending area shall cease.

## **8. Remaining Land Area**

If all of the development rights assigned to a sending area are not transferred off the site, the remaining land, if proposed for development, shall be developed in accordance with this Code and in a manner which is compatible with the surrounding area. This provision shall not apply to sending areas designated AGR on the FLUA; these parcels are required to transfer all development rights off the site.

If the owner of land in a sending area only transfers a portion of the development rights available for the property, PBC, upon a recommendation from PZB and ERM, reserves the right to determine which portion of the land is subject to the applicable conservation easement. The intent is to link environmentally sensitive land, to link agricultural land, and to link open space areas, when feasible, and allow compatible development to occur on the remainder of such sites.

## **G. Transfer of Development Rights (TDRs) Bank**

### **1. General**

The purpose of this Chapter is to authorize the establishment of a TDR Bank. The TDR Bank is hereby created in order to, among other things, facilitate the purchase and transfer of development rights as hereinafter provided and maintain an inventory of those development rights purchased by PBC.

### **2. Establishment of Development Rights for the Bank**

Development rights for the TDR Bank shall be generated from environmentally sensitive lands purchased by PBC, including the priority acquisition sites meeting the criteria in Art. 5.G.3.F.2, Eligible Sending Areas, through August 30, 1999. Priority acquisition sites in the unincorporated area of PBC which are not purchased as part of the acquisition program shall maintain the opportunity to transfer development rights on the private market. The TDR Bank shall be maintained by the Executive Director of PZB and shall be reviewed in accordance with the FLUE of the Plan to determine the need for additional units.

Development rights in the TDR Bank generated under the TDR Program shall remain in the TDR Bank until sold by PBC, the TDR Bank is dissolved, or the units are otherwise disposed of.

### **3. Transfer Rate From the Purchase of Environmentally Sensitive Lands**

#### **a. Land Purchased Inside the U/S Tier**

The number of development rights within the bank shall equal the maximum density allowed by the FLU designation as established by the applicable PBC or municipal Comprehensive Plan.

**b. Land Purchased Outside the US Tier**

The number of development rights severed, or generated for the bank, shall equal the TDR transfer rate established in Art. 5.G.3.F, Sending Areas.

**4. The Application, Sale, and Value of Development Rights**

PBC may sell development rights to property owners who meet the receiving area criteria pursuant to this Chapter.

- a. A property owner seeking an increase in density must apply to become a receiving area and submit a draft Contract for Sale and Purchase of Development Rights. **[Ord. 2011-001]**
- b. The value and price of a development right shall be set annually by the BCC. No TDR price or price reduction other than those included in this Section shall be permitted. The County shall utilize the median sales price data established by the Realtors Association of the Palm Beaches, using data for the month of March to set the price each year: **[Ord. 2011-001]** **[Ord. 2012-027]**
  - 1) For single-family units (single family, zero-lot-line and townhouse) the price shall be ten percent of the median sales price of FRA single-family, existing homes data; **[Ord. 2011-001]**
  - 2) For multi-family units the price shall be ten percent of the median sales price of FRA existing condominiums data. **[Ord. 2011-001]**
- c. For proposals including a mix of single family and multi-family units the TDR units shall proportionally reflect the unit mix of the non TDR units. **[Ord. 2011-001]**
- d. Additional prices for TDR units shall be as follows: **[Ord. 2011-001]**
  - 1) For TDR units located within an area that has a BCC accepted Neighborhood Plan, and the proposed density increase is identified within or supported by the Neighborhood Plan, the TDR price shall be 75 percent of full TDR price as established in 4.b.1 and 2 above; **[Ord. 2011-001]** **[Ord. 2012-003]**
  - 2) For TDR units located within a CCRT area the TDR price shall be 25 percent of full TDR price as established in 4.b. 1 and 2 above; **[Ord. 2011-001]**
  - 3) Workforce Housing TDR units shall be five percent of full TDR price as established in 4.b. 1 and 2 above; and, **[Ord. 2011-001]**
  - 4) Affordable Housing TDR units shall be one percent of full TDR price as established in 4.b.1 and 2 above. The dollar difference between the TDR price and the Affordable Housing TDR price can be used as a price waiver to be counted as part of the local government contribution for housing funding application purposes. **[Ord. 2011-001]**
- e. Applicants may request Workforce Housing TDR units at greater than the required percentage (35 percent), however in order to receive the Workforce Housing TDR price, those additional Workforce Housing TDR units (>35 percent) must be priced for WHP low income (60-80 percent of AMI) households only. **[Ord. 2011-001]**

**5. Revenue from the Sale of TDRs**

The revenue generated from the sale of development rights from the TDR Bank shall be allocated to the Natural Areas Fund administered by ERM for acquisition and management of environmentally sensitive lands and wetlands.

**H. TDR Receiving Areas**

Development rights shall only be transferred to those parcels which meet the qualifications for designation as receiving areas.

**1. Eligible Receiving Areas**

- a. PDDs and TDDs. The total density of the project, including the TDR units, shall be utilized for calculating the minimum PDD or TDD acreage threshold; and
- b. Residential Subdivisions which are not within a PDD or TDD.

**2. Qualify as a Receiving Area**

- a. Be located within the U/S Tier; **[Ord. 2004-040]** **[Ord. 2008-003]**
- b. Be compatible with surrounding land uses and consistent with the Plan;
- c. Meet all concurrency requirements;
- d. Meet all requirements as outlined in this Code; and
- e. Be compatible with adjacent Environmentally Sensitive Lands.

**3. Compatibility with Adjacent Environmentally Sensitive Lands**

A receiving area shall not degrade adjacent environmentally sensitive lands. Receiving areas, therefore, shall reduce the intensity/density of that portion of the development which is contiguous to any regionally significant natural resource as defined by the Treasure Coast Regional Planning Council, environmentally sensitive land as defined by the ESLASC or CLASC, or sites designated as preserve areas according to Art. 14.C, Vegetation Preservation and Protection, so that the

development is compatible with, and does not negatively impact the environmentally sensitive area, by providing a buffer zone of native vegetation according to the following table.

**Table 5.G.3.H - Required Buffer Zone**

Density of Adjacent Pod/ Development Area	Required Buffer Zone of Native Vegetation
Net density less than or equal to three units per acre	50 foot buffer
Net density greater than three and less than or equal to five units per acre	100 foot buffer
Net density greater than five units per acre	200 foot buffer

**4. Applicability TDR Increased Buffer and Setbacks for LR-1, LR-2 and LR-3PDD**

The perimeter buffer and building setbacks for a TDR receiving area in a PDD with a LR-1, LR-2 or LR-3 FLU designation shall be upgraded where ZLL, TH, MFD or SFD using RS PDRs are located within 125 feet of any SFD with a lot size of 14,000 feet or greater, or any vacant parcels with a LR-1, LR-2 or LR-3 FLU designation. **[Ord. 2008-037]**

**a. Increased Buffer Widths**

Where applicable, the perimeter buffer shall be increased by 15 feet for projects having ZLL or SFD units, and 20 feet for TH and MFD units. **[Ord. 2008-037]**

**b. Upgraded Landscaping**

Where an increased buffer width is required, an additional native palm or tree shall be provided for each 30 linear feet, with a maximum spacing of 90 feet between clusters. **[Ord. 2005 – 002]**  
**[Ord. 2008-037]**

**c. Increased Setbacks**

Where applicable, when a development has a more intense housing classification, an additional ten-foot rear setback shall be required. For the purposes of this Section, housing classification shall be ordered from least intense to most intense, as indicated in Table 5.G.3.H, Housing Classification. **[Ord. 2005 – 002]** **[Ord. 2008-037]**

**Table 5.G.3.H - Housing Classification**

Intensity by Group	Housing Type
1 - Low	Single-family residential (RT PDRs); or Zero lot line homes.
2 - Medium	Single family residential (RS PDRs); Mobile homes; Townhouses; or Multi-family.
3 - High	Type 2 or 3 Congregate Living Facilities.
<b>[Ord. 2005-002]</b> <b>[Ord. 2008-037]</b>	

**5. Prohibitions**

Under no circumstances shall a receiving area contain a sending area as defined in Art. 5.G.3.F.2, Eligible Sending Areas. This shall not apply if the project is providing all of the units at prices attainable by persons making between 30%-120% of AMI. The County shall establish the actual prices for each unit and each unit shall be deed restricted consistent with Art. 5.G.2.F, Affordability Requirements. **[Ord. 2008-003]**

**I. TDR Density Bonus Limitations**

**1. WHP 35 Percent Requirement**

In accordance with FLUE Policy 2.6-a.5 of the Plan, 35 percent of all TDR density bonus units shall be provided as WHP units. These units shall be constructed on site; comply with the affordability range requirements of Table 5.G.1.B, Workforce Housing Program and Art. 5.G.2.F, Affordability Requirements; and, Art. 5.G.1.C, Development Options. The project shall only be eligible to apply for the following WHP incentives: Art. 5.G.1.E.2, Traffic Performance Standards Mitigation; Art. 5.G.1.E.3, Expedited Review; and, Art. 5.G.1.E.4, Density Bonus Development Options. **[Ord. 2008-003]** **[Ord. 2011-001]**

**2. AHP 100 Percent Requirement**

When using the voluntary AHP, all TDR density bonus units shall be provided as AHP units. These AHP units shall be constructed on site; comply with the affordability range requirements of Table 5.G.2.B, Affordable Housing Program and Art. 5.G.2.F, Affordability Requirements; and, Art. 5.G.2.C, Design Requirements. The project shall only be eligible to apply for the following AHP

incentives: Art. 5.G.2.D.2, TPS Mitigation; Art. 5.G.2.D.3, Expedited Review; and, Art. 5.G.2.D.4, Density Bonus Development Options. [Ord. 2009-040]

**3. WHP and AHP Units**

Consideration may be given to developments requesting both WHP and AHP units within the proposal. In this instance, the Planning Director or designee will determine which program's (WHP or AHP) density bonus criteria will be utilized based on the programmatic requirements imposed by a governmental agency providing affordable housing funding or another entity with programmatic requirements (e.g., Habitat for Humanity or a Community Land Trust). [Ord. 2009-040]

**4. Permitted Density Ranges**

The maximum number of development rights which may be transferred to the receiving parcel shall be determined in accordance with Art. 5.G.3.H, Receiving Areas, Art. 5.G.3.K, TDR: Receiving Area Procedure, and the following: [Ord. 2008-003]

**a. Standard Density Bonus**

Approved receiving areas may receive a bonus density as follows: [Ord. 2008-003] [Ord. 2008-037]

- 1) Receiving areas in the U/S Tier west of Florida's Turnpike: up to two du/acre; or, [Ord. 2008-003]
- 2) Receiving areas in the U/S Tier east of the Florida Turnpike, but not in a Revitalization and Redevelopment and Infill Overlay: up to three du/acre; or, [Ord. 2008-003] [Ord. 2009-040]
- 3) Receiving areas in a Revitalization Redevelopment and Infill Overlay: up to four du/acre. [Ord. 2008-003] [Ord. 2009-040]
- 4) The bonus density may be less than the total bonus density indicated in 1, 2 and 3 above when an additional WHP or AHP density bonus has also been utilized. (See item d. below). [Ord. 2009-040]

**b. Additional Density Bonus**

Receiving areas meeting one or both of the following criteria shall be eligible for an additional one du/acre density bonus above the aforementioned density bonus ranges. [Ord. 2008-003] [Ord. 2008-037]

- 1) Receiving areas within 1/4 mile radius of a public park, (excluding golf courses), community commercial facility or mass transit facility within the U/S Tier; and [Ord. 2008-003] [Ord. 2009-040]
- 2) Receiving areas within 1/4 mile radius of a regional commercial facility or a major industrial facility within the U/S Tier. [Ord. 2008-003]

In order to be eligible for the additional one du/acre density bonus, at least 25 percent of the receiving area must be located within the required radius. The density bonus shall apply to the entire receiving area. [Ord. 2008-003]

**c. LR-1, 2 and 3 FLU Density Limitation**

To mitigate any potential adverse impacts in low-density residential neighborhoods (as determined by residential FLU designation), the maximum TDR density bonus in the LR-1, LR-2 and LR-3 FLU designations shall not exceed 100 percent of the standard or maximum density, exclusive of any other density bonus allowed on the subject site. Exceptions shall be permitted for any project that is located in the URA or entirely surrounded by one or more of the following: [Ord. 2008-037]

- 1) Parcels with an MR-5 or higher FLU designation; or [Ord. 2008-037]
- 2) Parcels with a non-residential FLU designation or use; or [Ord. 2008-037]
- 3) Open space 100 feet in width or greater; or [Ord. 2008-037]
- 4) A major street. [Ord. 2008-037]

d. A development's WHP or AHP density bonus increase will be given consideration when assigning the number of TDR units recommended to the development. Other factors to be considered include: the location of the proposed development and its relationship to the study area; the housing type(s) proposed; if the development site is located within 1/4 mile radius of a public park (neighborhood or regional park, not a golf course); civic uses (schools/libraries); a mass transit facility; child care facilities; medical facilities; a super market; a community commercial facility; employment opportunities; and within 1/2 mile radius of social services; a regional commercial facility; an industrial facility; additional civic uses and employment opportunities. [Ord. 2009-040]

**J. TDR: Sending Area Procedure**

**1. Sending Parcel Application**

The property owner of lands which are designated sending areas as defined under Art. 5.G.2.F.2, Eligible Sending Areas, must make application to PZB for an administrative determination in order to



be formally designated as a sending area. The purpose of this administrative determination is to ascertain the exact number of development rights the property owner is entitled to. The application shall include, at a minimum:

- a. Proof of ownership;
- b. A legal description of the property; and,
- c. Contract, or option, for the purchase and sale of development rights (unless requesting a TDR Certificate, as outlined in Art. 5.G.3.J.6, Development Rights Certificates. The application shall be submitted to the Executive Director of PZB. Applications for a sending area designation may be accepted for review and processing at any time.

## **2. Review Process**

### **a. Environmentally Sensitive Lands and Lands Designated RR-20 or CON on the FLUA**

Prior to the first scheduled DRO meeting to consider the TDR application, the Executive Director of PZB shall review the sending area application and make a determination regarding the number of units associated with the parcel. As part of review of the application, the Executive Director of PZB shall notify ERM of the application and request that a site check be conducted.

ERM shall complete a site check to ensure that the site has not been altered and the site meets the criteria provided in Art. 5.G.3.F.2, Eligible Sending Areas, ERM shall complete a written recommendation to the Executive Director of PZB regarding the site.

### **b. Land Designated AGR on the FLUA**

Prior to the first scheduled DRO meeting to consider the TDR application, the Executive Director of PZB shall review the sending area application and make a determination regarding the number of units associated with the parcel. As part of review of the application, the Executive Director of PZB shall complete a site check to ensure that the site is suitable for bona fide agricultural or other open space purposes consistent with the AGR provisions in the Plan.

Sending area applications which are not submitted in conjunction with a receiving area application shall be reviewed and acted upon within 25 days.

## **3. Written Determination**

The property owner shall receive a written determination from the Executive Director of PZB indicating how many development rights can be transferred from the property. The number of development rights for the site shall be documented and be kept on file in the PZB Department.

The written document shall be valid for a period of 12 months. If any modifications or alterations are made to the property during the 12 month period, the property owner shall not be permitted to participate in the TDR Program.

## **4. Easement Agreement/Restriction**

Prior to site plan certification, the applicable conservation easement, in a form and content acceptable to the County Attorney shall be recorded in the public records of PBC. The easement shall restrict future use of the land consistent with the requirements in Art. 5.G.2.F.6, Restriction on Future Use. Prior to recordation of the easement, a legally enforceable Maintenance Plan providing for perpetual maintenance of the sending area shall be established by the property owner and approved by ERM.

## **5. Re-Submittal of Application**

The owner of a sending parcel may re-apply until all development rights have been severed from the property.

## **6. Development Rights Certificates**

Environmentally sensitive lands and lands designated as CON or RR-20 on the FLUA must be deeded to, and accepted by PBC, subject to the discretion of the BCC, before the Certificate can be issued. Environmentally sensitive lands and lands designated as CON or RR-20 on the FLUA deeded to, and accepted by PBC, shall be managed by PBC or its designee. AGR lands shall be managed by the property owner in perpetuity as provided in the Maintenance Plan.

### **a. Eligibility**

Development Rights Certificates shall only be issued to property owners of ESL or RR-20 land that deed without compensation environmentally sensitive land to PBC or property owners of AGR land that record an agricultural conservation easement, and follow the procedures in this Chapter. The development rights certificate shall require that restrictions be placed on the sending area prior to the sale of those development rights. A minimum transfer of five acres is required.

### **b. Issuance of the Certificate**

Upon completion of the application process, and recordation of the deed transferring ownership of the property to PBC, or recordation of the agricultural conservation easement and approval by

ERM of a legally enforceable maintenance plan providing for perpetual maintenance of the sending area, the property owner shall be issued a Development Rights Certificate. The Certificate shall indicate the exact number of development rights which can be sold, transferred, or traded, by the holder of such Certificate. The Certificate shall remain in effect until applied to a TDR receiving area in accordance with provisions of this Chapter.

**c. Unused Certificates**

A property owner of AGR land, with an agricultural conservation easement recorded, may reassociate development rights to the original sending parcel provided that no development rights have been sold. A written request to reassociate the development rights shall be submitted to the Executive Director of PZB along with proof of ownership and a legal description of the property. Prior to approval of a request to the reassociate development rights, the applicant must petition and receive BCC approval to release the easement recorded against the sending area parcel.

**7. Limitations**

The amount of development rights assigned to a sending area parcel, or indicated on a certificate, shall be reduced by one for every conforming residential structure situated on the property at the time of application.

**K. TDR: Receiving Area Procedure**

**1. General**

Receiving areas shall be approved concurrent with issuance of a Development Order for a PDD, TDD or a residential subdivision. The following procedures shall be followed in order to become a receiving area to obtain the density bonus. **[Ord. 2005-002] [Ord. 2010-005]**

**2. Pre-application Conference**

Prior to submittal of an application requesting a receiving area density bonus, the applicant must attend a pre-application conference with the appropriate PZB staff, pursuant to Art. 2.A.5, Pre-application Conference (PAC) or Pre-application Appointment (PAA), to review the proposed development, and the requirements and procedures of the TDR Program.

**3. Review Process**

The review process for TDR applications is based upon the density and type of residential development proposed.

- a. The transfer of two units per acre or less to a residential subdivision is reviewed by the DRO and shall be subject to the provisions of Art. 2.C, Administrative Processes, except as provided below. Parcels which meet the minimum acreage thresholds for a PDDs or TDD shall not utilize this Chapter option;
- b. The transfer of more than two units per acre to a residential subdivision is reviewed as a Class A conditional use and shall be subject to the provisions of Art. 2.B, Public Hearing Processes, except as provided below. Parcels which meet the minimum acreage thresholds for a PDDs or TDD are allowed to utilize the option contained in this paragraph, provided the parcel meets the PDDs PDRs contained in Art. 3.E, Planned Development Districts (PDDs), or contained in Art. 3.F, Traditional Development Districts (TDDs);
- c. The transfer of any density to a planned development is reviewed as a Conditional Use and shall be subject to the provisions of Art. 3.E, Planned Development Districts (PDDs). A general application by a property owner for receiving area status and a density bonus shall be accepted for review and processing. **[Ord. 2005-002] [Ord. 2010-005] [Ord. 2017-007]**
- d. BCC approval is required for any project that is requesting a combined density increase/transfer through the WHP and TDR programs that exceeds two units per acre. **[Ord. 2005-041]**

**4. Contents of Application**

In conjunction with the general application for a Rezoning, Development Order Amendment, or Development Review Officer approval, an applicant for receiving area status and a density bonus must submit a supplemental TDR Application. The application shall: **[Ord. 2011-001]**

- a. be submitted in a form established by the Zoning Director of PZB; **[Ord. 2011-001]**
- b. submit a Preliminary Plan; and **[Ord. 2011-001]**
- c. submit Preliminary Architectural Elevations for TDR applications that exceed DRO thresholds prior to certification of the application for public hearing pursuant to Art. 5.C.1.B, Threshold. Elevations shall not be required for single family dwellings or multi-family dwellings less than 16 units as they are exempt from the provisions of Art. 5.C, Design Standards. However, the applicant shall ensure these units are architecturally compatible with the other units in the development by using consistent colors, materials, layouts, etc. **[Ord. 2011-001]**

**5. Standards**

In addition to fulfilling the requirements of Art. 5.G.3.H, Receiving Areas, to qualify as a receiving area and be eligible for an increase in density, all applications requesting receiving area designation shall comply with these standards:

- a. The transfer of development rights is by deed, and the deed shall be recorded before final site plan approval;
- b. The transfer is to a parcel of land which meets all the requirements of this Code and within which the transferred densities have been included and amended;
- c. The proposed development meets all concurrency requirements at the level of impact calculated to include the TDR density;
- d. If the transfer is between two private parties, at the time the transfer is approved, the sending area from which the transfer will occur shall be subject to a conservation easement and shall be identified on the Zoning Map. Pending recording of the conservation easement, no Development Order approvals shall be issued for the sending area or receiving area; **[Ord. 2010-022]**
- e. If the transfer of rights is from the PBC TDR Bank, all rights have been accounted for and there are enough development rights in the bank to cover the project;
- f. The proposed development and density are compatible with the surrounding area and land use; and
- g. The proposed development and density do not negatively impact adjacent environmentally sensitive lands.

**6. Contract for Sale and Purchase of Development Rights**

A contract for sale and purchase of development rights is required. A deed of TDR shall also be required as part of the approval of a TDR transfer. The contract shall be executed prior to Final DRO approval of a TDR receiving area. One hundred percent of the funds must be received by PBC prior to subdivision approval or issuance of first building permit, whichever occurs first. The deed must be recorded before issuance of the first building permit for a project designated as a receiving area. This paragraph shall not apply to building permits for sales models or temporary real estate sales and management offices permitted pursuant to this code. **[Ord. 2009-040] [Ord. 2011-001]**

**L. Notification to Property Appraisers Office**

Upon recordation of the deed of transfer, the Executive Director of PZB shall notify, within 20 days, the Property Appraiser's Office in writing that development rights have been transferred from the sending area or TDR Bank to the receiving area in perpetuity.

**M. County Initiated Land Use Amendment**

Following recording of the deed, the Planning Division, upon direction from the BCC, shall initiate a Site Specific Plan Amendment to designate the property with a CON designation or place a notation which reflects the use of the property as an Agricultural Reserve Preservation Area (AGR/P). Densities obtained through the TDR Program shall be placed on the FLUA as notations following approval of the TDR receiving area.

**N. Overall Accounting System for TDR Density**

PZB shall maintain an overall accounting system for monitoring density availability and density transfers in the TDR Program. The accounting system shall include both private development rights and development rights in PBC's TDR Bank.

Density needed for the TDR Program may be derived from different sources including, but not limited to:

**1. Density Reduction**

Approved Site Specific Plan Amendments since 1990 which resulted in a density reduction; and,

**2. PUD Unused Density**

At such a time that the TDR Program, any subsequent density bonus programs, or amendments to the Plan requesting an increase in density, deplete the number of units available from previous amendments, PZB shall begin to monitor the PUD units which have been approved through the zoning process, but which have remained unused. The later units may at that time be considered as a source for density for the TDR Program.

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## CHAPTER H MASS TRANSIT STANDARDS

### Section 1 General

#### A. Authority

The Executive Director of Palm Tran shall be responsible for implementing, applying, interpreting, and modifying the standards of this Chapter. **[Ord. 2008-003]**

#### B. Purpose and Intent

The purpose and intent of this Chapter is to ensure adequate, and consistent mass transit infrastructure/facilities are available to accommodate development concurrent with their associated impacts. The specific objectives of this Chapter are as follows: **[Ord. 2008-003]**

1. Establish Mass Transit infrastructure/facilities standards for unincorporated PBC. **[Ord. 2008-003]**
2. Provide Mass Transit infrastructure/facilities in accordance with the objectives of the Mass Transit element of the Plan. **[Ord. 2008-003]**
3. Ensure that necessary Mass Transit infrastructure/facilities will be provided concurrently with development. **[Ord. 2008-003]**

### Section 2 Applicability and Standards

The standards of this Chapter shall apply to all residential and non-residential development or redevelopment in unincorporated PBC, as follows: **[Ord. 2008-003]**

#### A. Modifications to Previous Approvals

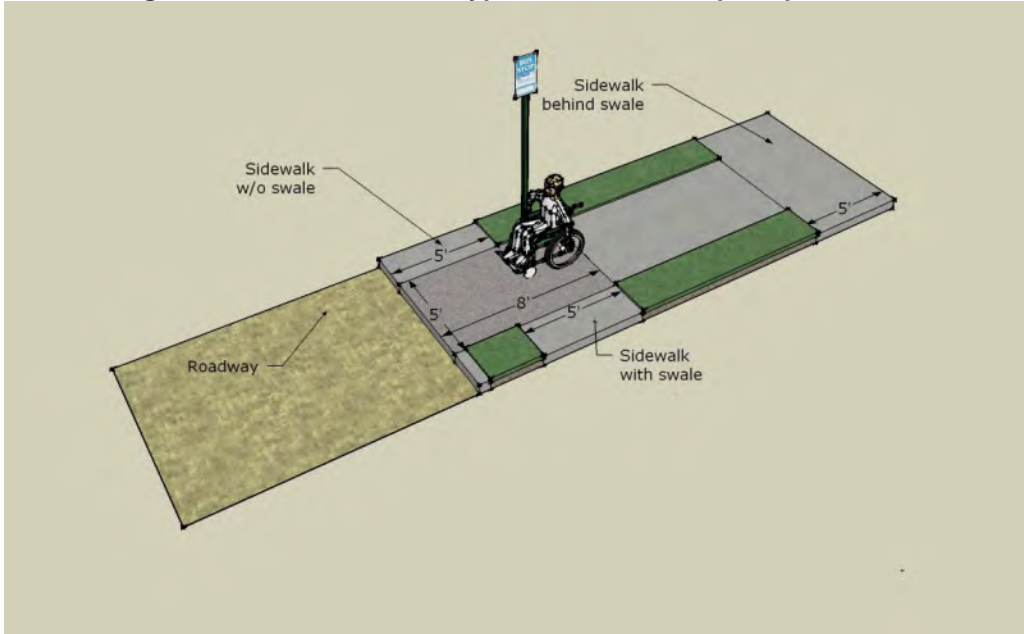
Modifications to previous approvals shall comply with this Chapter for un-built projects without an approved DRO plan, or to the greatest extent possible in the affected area without the loss of density, intensity or parking, for un-built projects with a DRO approved plan, built projects that have constructed less than eighty percent of approved density or intensity, structural renovations in excess of 75 percent or more of the current Improvement Value of the structure, and parking lot alternations or additions. **[Ord. 2008-003] [Ord. 2013-001]**

#### B. Thresholds and Standards

For the purposes of this Chapter, non-residential development shall be defined as all commercial, civic/public, recreation and industrial uses that are open to the public. Unmanned or minimal commuter generating facilities, such as Commercial Communication Towers or Electric Transmission Substation, or as determined by Palm Tran shall be excluded from this definition. Where applicable, the requirements of this Chapter shall be approved by Palm Tran and shown on all Preliminary Development Plans, Preliminary Subdivision Plans, Preliminary Site Plans, Final Master Plans, Final Subdivision Plans and Final Site Plans, prior to DRO certification or approval. Palm Tran Transit Design Manual provides an understanding of transit operating criteria and, access requirements ([www.pbcgov.com/palmtran/library](http://www.pbcgov.com/palmtran/library)). Section 810 of the ADA and ABA Accessibility Guidelines provides curbside ADA requirements for Transportation Facilities ([www.access-board.gov/ada-aba/final.htm](http://www.access-board.gov/ada-aba/final.htm)). FDOT Transit Facilities Guidelines provides more detail requirements for the location transit infrastructure ([www.dot.state.fl.us/transit/Pages/TRANSIT%20Facilities%20GUIDELINES.PDF](http://www.dot.state.fl.us/transit/Pages/TRANSIT%20Facilities%20GUIDELINES.PDF)). **[Ord. 2008-003] [Ord. 2017-007]**

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**Figure 5.H.2.B – Minimum Typical ADA Bus Stop Requirements**

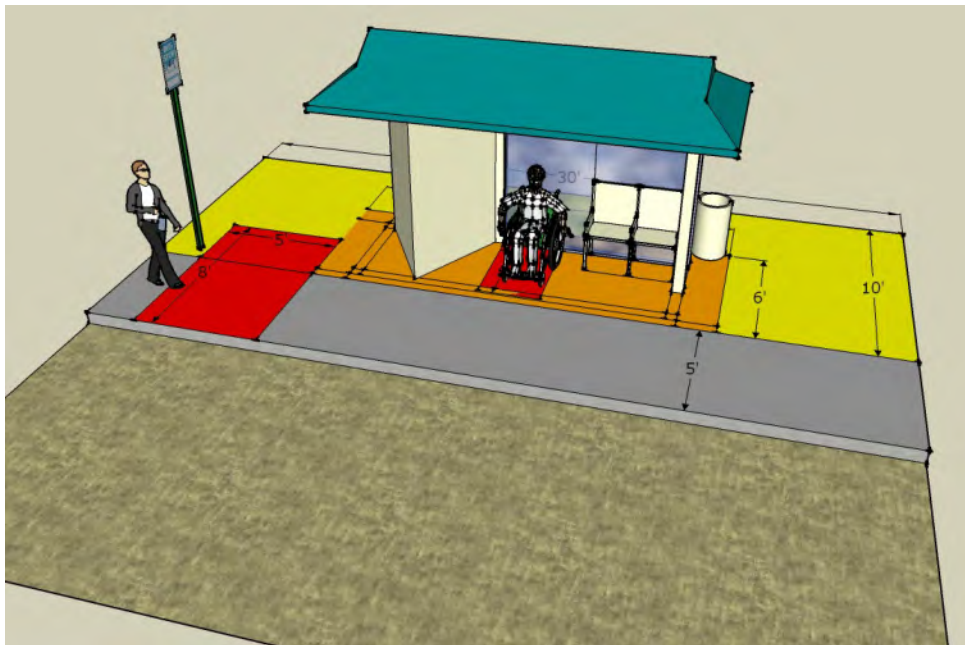


[Ord. 2008-003]

1. **All residential developments of at least 50-units and all non-residential of at least 5-acres or 50,000 square feet**

All development exceeding this threshold shall provide a minimum 10-foot by 30-foot easement for Bus Stop Boarding and Alighting Area(s) spaced no less than 0.1 miles along all public R-O-W, or at intersections or recognizable landmarks. Easements shall be dedicated by plat in accordance with Art. 5.H.2, Applicability and Standards [Ord. 2008-003]

**Figure 5.H.2.B – 10-foot by 30-foot Bus Stop Boarding and Alighting Area with Typical Bus Shelter Alignment**



[Ord. 2008-003]

**a. Standards**

The following types of bus stop and alighting areas may be used to meet the requirements of this section. **[Ord. 2008-003]**

**1) Near Side**

Near Side Bus Stops are located immediately before an intersection. Associated Bus Stop Boarding and Alighting Areas are located before the intersection, no closer than 5-feet from the corner clip. The bus stop zone requires a minimum 100-foot no parking zone. The length of the Bus Stop Zone shall be increased by 50-feet in length for each additional bus expected to stop simultaneously. **[Ord. 2008-003]**

**2) Far Side**

Far Side Bus Stops are located immediately after an intersection. Associated Bus Stop Boarding and Alighting Areas are located after the intersection, no closer than 15-feet from the corner clip. The bus stop zone requires a minimum 90-foot no parking zone for a single bus. This is also applicable to far side bus stops after a turn. The length of the Bus Stop Zone shall be increased by 50-feet in length for each additional bus expected to stop simultaneously. **[Ord. 2008-003]**

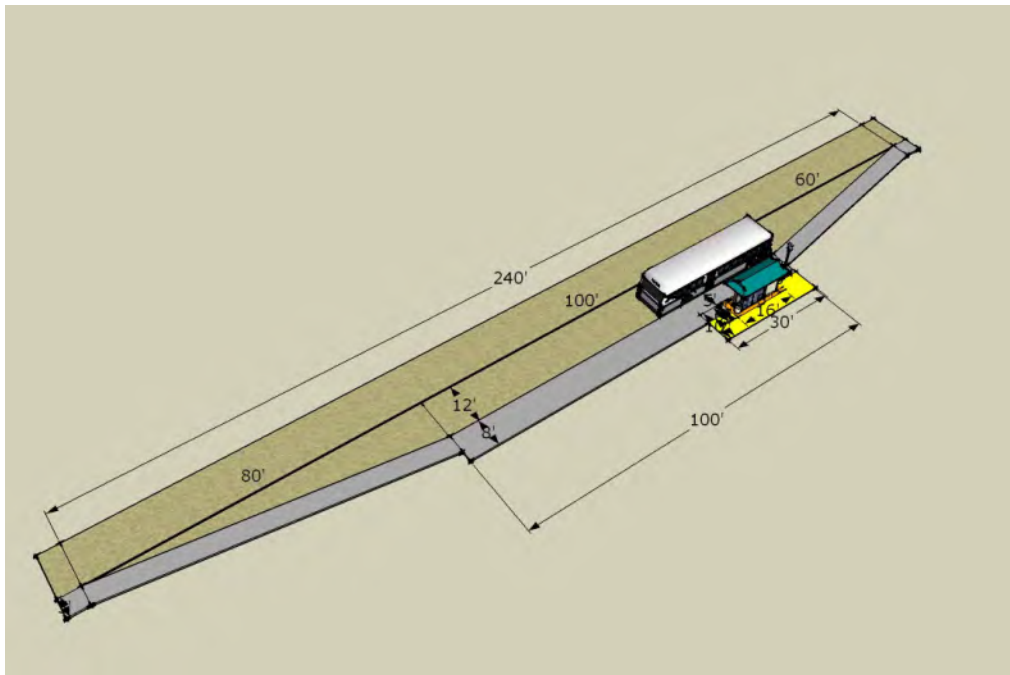
**3) Mid-Block/Landmark**

Mid-Block/Landmark Bus Stops are located between intersections where distance or other restrictions limit intersection placement. Associated Bus Stop Boarding and Alighting Areas are located at landmarks that take advantage of perpendicular Wheel Chair Accessible Routes into the development. The bus stop zone requires a minimum 150-foot no parking zone. The length of the Bus Stop Zone shall be increased by 50-feet in length for each additional bus expected to stop simultaneously. **[Ord. 2008-003]**

**b. Additional site specific requirements**

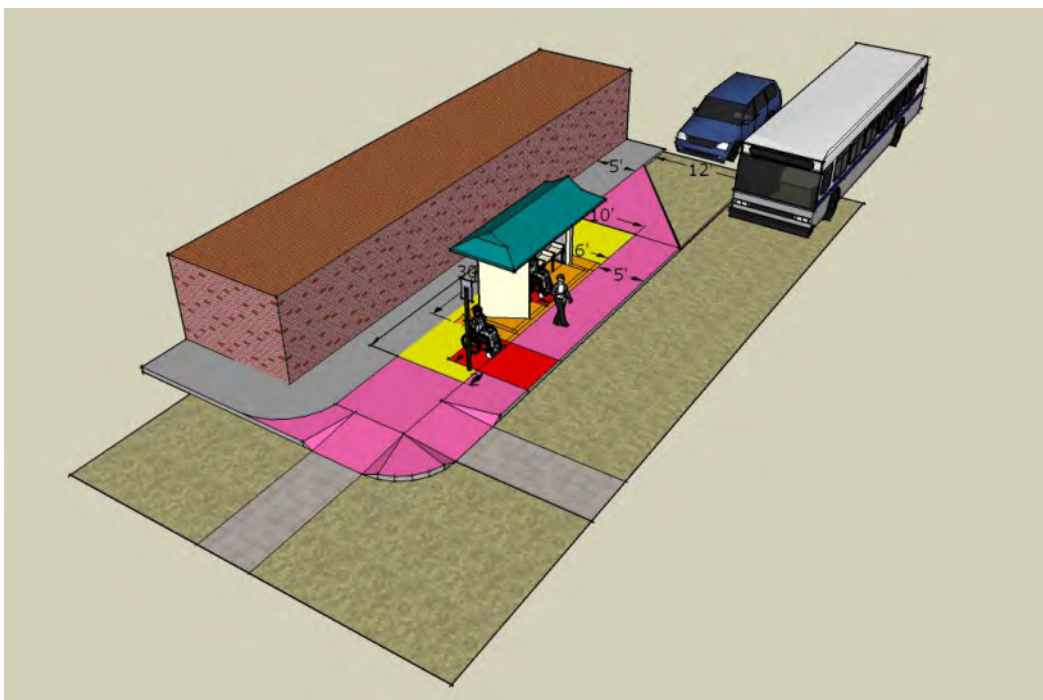
Where applicable additional street side infrastructure (bus bays, bulb outs, exclusive transit treatments) and curbside infrastructure (to meet ADA and other requirements) shall be specified by Palm Tran and shall be required at major intersections and mass transit traffic generators. **[Ord. 2008-003]**

**Figure 5.H.2.B. – Bus Bay with Typical Bus Shelter Alignment**



**[Ord. 2008-003]**

**Figure 5.H.2.B - Bulb Out with Typical Bus Shelter Alignment**



**[Ord. 2008-003]**

**2. Non-residential developments of 100,000 square feet or more**

In addition to the above requirements, all non-residential development of 100,000 square feet or more shall provide a Mass Transit Circulation Plan prior to final DRO approval. Mass Transit Circulation Plans apply to an area inside a development designated for internal Mass Transit circulation, bus stop(s), bus access, bus recovery and any or all of the above Mass Transit Infrastructure/Facilities on or adjacent to the development. Bus access or bus stops should include, at a minimum, provisions for a covered or sheltered bus boarding and alighting, continuous paved pedestrian and bicycle access from the bus stop to the use(s) it is intended to serve, and bicycle rack. Bus recovery area should accommodate all bus routes within a six to eight mile radius including a 25 percent growth ratio factor. **[Ord. 2008-003]**

**3. Development of Regional Impact (DRI)**

In addition to the above requirements, an Inter-modal Transfer Center requirement to promote public transportation shall be applicable to DRI projects. Prior to final DRO approval, the property owner shall consult with Palm Tran to ensure a suitable Inter-modal Transfer Center is provided on the Master Site Plan. In addition, provisions shall be made to fund any necessary improvements to accommodate Palm Tran specifications for the following: **[Ord. 2008-003]**

a. When Design Guidelines are provided, the property owner shall describe the optimal characteristics of a fixed route transit (Palm Tran) and community based (shuttle/trolley) circulator system to include: **[Ord. 2008-003]**

- 1) Bus stops with unrestricted pedestrian access within ¼ mile of all structures. **[Ord. 2008-003]**
- 2) Community circulator service for movement within the site and interconnected with the fixed-route service and the inter-modal transfer center. **[Ord. 2008-003]**
- 3) The location (spacing every 1/10 mile), timing, size, and appearance of bus stops and stations as well as details facilitating integration of bus stops with adjacent development. **[Ord. 2008-003]**

b. Construction of an inter-modal transfer center (typically 2-3 acres) shall commence with the first building permit and shall include, at a minimum, the following: **[Ord. 2008-003]**

- 1) Park-N-Ride (typically 100-car capacity, convenient and adjacent commuter parking). **[Ord. 2008-003]**



- 2) Accommodation for fixed route transit and community based circulator service for intermodal connections to include bus bays and access to major roadway(s) **[Ord. 2008-003]**
- 3) Convenient and adjacent public restrooms (in accordance with Florida Building Code-Plumbing paragraphs 403.1 and 403.6, and Table 403.1.A-3) **[Ord. 2008-003]**
- 4) Transit shelters (minimum 50 commuter accommodation). **[Ord. 2008-003]**
- 5) Kiosks for mass transit schedule information **[Ord. 2008-003]**
- 6) Trash receptacles **[Ord. 2008-003]**
- 7) Lighting **[Ord. 2008-003]**
- 8) Bicycle storage **[Ord. 2008-003]**
- 9) Other seating and related infrastructure **[Ord. 2008-003]**
- 10) Adjacent newspaper and other vending facilities that no not impede commuter movements and connections. **[Ord. 2008-003]**

### **Section 3 Site Plan and Plat Dedication Language**

#### **A. Site Plan Language:**

All site plans meeting or exceeding the minimum thresholds identified in Section 2.C. above shall include the following language: **[Ord. 2008-003]**

##### **1. Bus Stop Boarding and Alighting Area(s):**

“Proposed 10’x30’ Palm Tran Bus Stop Boarding & Alighting Area Easement” with arrow to designated area measuring 10-feet inside and perpendicular to the property line and 30-foot parallel and along the property line. **[Ord. 2008-003]**

##### **2. Mass Transit Circulation Plan:**

“Proposed Mass Transit Circulation Route” with arrow to the designated route identified by a dashed line “Palm Tran may exercise the right of Mass Transit Circulation, Bus Access, and or Bus Stops on or adjacent to major ingress/egress and building entrances” should also appear on the site plan. **[Ord. 2008-003]**

#### **B. Plat Dedication Language:**

Prior to Plat Recordation or issuance of the first Building Permit, whichever occurs first, the property owner shall convey and/or dedicate to Palm Beach County an easement for Bus Stop Boarding and Alighting Area(s) in a form with terms and conditions approved by Palm Tran. Supporting documentation, shall include but not be limited to, a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran. All recorded plats meeting or exceeding the minimum thresholds identified in Section 1.C. above shall include the following language: The Mass Transit Easement as shown hereon is dedicated in perpetuity, by Owner, to the Board of County Commissioners of Palm Beach County, its successors and assigns (hereafter "County"), for the construction, installation, maintenance and use of a public transit boarding and alighting area, which use includes but is not limited to a public transit bus shelter, transfer station, and advertising. The Owner, its successors and assigns (hereafter "Owner"), shall maintain the easement area until such time as the County constructs improvements in the easement area for its intended use and purposes, at which time the County will assume maintenance of the easement area so long as the improvements are located thereon and County uses the easement area for its intended purposes. The maintenance obligation shall automatically revert to the Owner upon County’s temporary or permanent cessation of use of the improvements or removal of the improvements. **[Ord. 2008-003]**

#### **C. Easement Language (if dedicating as a separate document):**

Standard Easement document language has been developed by PBC Attorney’s Office. Required supporting documentation includes an original signed and sealed legal description of the Bus Stop Boarding and Alighting Area consistent with the State of Florida Technical Standards for surveys and legal descriptions; an Opinion of Counsel letter from the Grantor’s legal counsel certifying title and authority; and an Affidavit of Managing Member of Limited Liability Company. Other supporting documentation may be required. **[Ord. 2008-003]**

#### **D. Property Owned by Palm Beach County**

All mass transit infrastructure/facilities shall be located, referenced and established in a form and manner that is mutually agreeable to Palm Tran and the applicable Palm Beach County department(s). **[Ord. 2008-037]**

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## **CHAPTER I MURALS**

### **Section 1 Purpose and Intent**

The purpose of this Chapter is to establish standards, and review and approval procedures for murals. Murals are intended to contribute to and advance: streetscape aesthetics; architectural features or character of a building; a unique identity; sense of place; civic pride; community interaction; or the preservation of local history or culture. **[Ord. 2013-021]**

### **Section 2 Restrictions on Placement**

#### **A. Non-residential Buildings and Structures**

Murals shall be limited to non-residential buildings or structures supporting commercial, industrial, civic, recreational, cultural, or utilities uses, as identified in the Use Matrices in Art. 4.B, Use Classification. **[Ord. 2013-021]**

#### **B. Adjacent to Interstate Highways**

Murals in the vicinity of any Interstate highways shall comply with the Federal Highway Beautification Act as implemented through Chapter 10-14, FAC, as amended. **[Ord. 2013-021]**

#### **C. Adjacent to Residential**

Murals shall not be located on a mural surface within 200 feet of any property line adjacent to a parcel with a residential use, district or FLU designation, unless: **[Ord. 2013-021]**

1. oriented so it cannot be seen from an adjacent residential parcel; **[Ord. 2013-021]**
2. the adjacent parcel supports nonresidential uses; **[Ord. 2013-021]**
3. separated by a collector or arterial street; or, **[Ord. 2013-021]**
4. separated from view by a building, structure, or incompatibility buffer. **[Ord. 2013-021]**

### **Section 3 Application Procedures**

#### **A. General**

No murals may be placed on any buildings or structures unless in compliance with this Chapter, and approved by the County Administrator. **[Ord. 2013-021]**

#### **B. Application Requirements**

An application form and requirements shall be specified by the County Administrator, and shall include, but not be limited to, the following: **[Ord. 2013-021]**

1. Scale drawing depicting the proposed mural, including color and materials. **[Ord. 2013-021]**
2. A scale drawing of the site depicting which building or structure elevation(s) will act as the mural surface(s). **[Ord. 2013-021]**
3. A detailed written and graphic description of the method which will be used to securely affix the mural to the mural surface, including any drawings or specifications deemed necessary by the Building Official, or designee. **[Ord. 2013-021]**
4. A notarized letter from the property owner: **[Ord. 2013-021]**
  - a. authorizing the placement of the mural on the building or structure; and, **[Ord. 2013-021]**
  - b. stating that the owner of the property will maintain, repair or remove the mural if deemed necessary, in the event the artist fails to complete the installation of the mural, or due to deterioration or damage to the mural. **[Ord. 2013-021]**
5. A proposed timeline for completion of the mural, upon approval of a mural application (not to exceed six months). **[Ord. 2013-021]**

#### **C. Review**

Mural applications shall be reviewed in accordance with procedures established in the Public Art Committee Resolution R-2010-2092, as amended, and the following: **[Ord. 2013-021]**

1. Unless determined to be insufficient, within ten days of accepting a mural application, the Building Division shall forward to FDO for review by the Public Art Committee. **[Ord. 2013-021]**
2. FDO shall schedule a meeting of the Public Art Committee. **[Ord. 2013-021]**
3. The Public Art Committee shall conduct a public meeting and make a recommendation to the County Administrator, to approve, approve with conditions, continue pending submittal of additional materials or clarification, or deny, in accordance with the following: **[Ord. 2013-021]**
  - a. Not less than ten or more than 60 days after submittal of a complete application, the Public Art Committee shall meet and review the application. Once the public meeting is scheduled, the following public notice requirements shall be satisfied: **[Ord. 2013-021]**

### 1) Public Notice Boards

The applicant shall provide public notice of the meeting by the posting of the property with signs in the following fashion; [Ord. 2013-021]

a) The subject property shall have notices posted by the applicant with information provided by FDO regarding the public hearing on one or more signs at least 15 days in advance of any public meeting. One sign shall be posted for each 250 feet of frontage along a street up to a maximum of ten signs. All signs shall be: [Ord. 2013-021]

(1) Evenly spaced along the street when more than one sign per property is required; [Ord. 2013-021]

(2) Setback no more than 25 feet from the property line; and, [Ord. 2013-021]

(3) Erected in full view of the public. [Ord. 2013-021]

Where the property does not have sufficient frontage on a street, signs shall be in a location acceptable to FDO. The applicant shall submit photographs confirming the signs have been posted. The failure of any such posted notice to remain in place after it has been posted shall not be deemed a failure to comply with this requirement or be grounds to challenge the validity of any decision made by the approving authority. The applicant shall also be required to ensure the signs have been removed no later than five days after the final meeting. [Ord. 2013-021]

b) Exceptions

Signs posted by a public agency or the BCC may be posted on the nearest street or at major intersections leading to and within the subject property. [Ord. 2013-021]

b. The Public Art Committee recommendation to the County Administrator shall be based upon the following findings: [Ord. 2013-021]

1) The mural will accomplish the stated Purpose and Intent of this Chapter; [Ord. 2013-021]

2) The artist is capable of completing the work in accordance with the plans and specification; [Ord. 2013-021]

3) The durability and expected maintenance requirements are appropriate; and, [Ord. 2013-021]

4) The materials to be used and the manner of application will not require excessive maintenance by its owner. [Ord. 2013-021]

c. In making its determination, the Public Art Committee may consider evidence and the opinions of the owners and occupants of affected properties. Absent favorable findings as required hereby, the Public Art Committee shall recommend that a mural permit not be issued by the County Administrator. [Ord. 2013-021]

4. Within 30 days of the Public Art Committee rendering a final recommendation, FDO shall forward the Committee's recommendation and application to the County Administrator for final action. The County Administrator shall approve, approve with conditions or deny the application based upon the completeness and accuracy of the application materials and the reasonableness of the Public Art Committee's findings. The Administrator shall have 30 days from receipt of Committee action to render a decision. The decision of the County Administrator shall be final. [Ord. 2013-021]

5. When a mural application is initiated by FDO, FDO staff shall forward the Public Art Committee's recommendation and application to the BCC on the Zoning Hearing agenda for final action. [Ord. 2013-021]

## Section 4 Design Criteria

### A. Placement

1. Murals may be located on any mural surface (except as limited in the following subsections) of a building or structure; and [Ord. 2013-021]

2. Murals may wrap around from one side of a building to the next. [Ord. 2013-021]

### B. Size

Murals may cover the entire plane of the side of a building or structure, but shall not extend beyond the edge of the façade surface or roofline. [Ord. 2013-021]

### C. Obstructions

No mural may obstruct: [Ord. 2013-021]

1. The proper function of any exterior mechanical or electrical equipment; or, [Ord. 2013-021]

2. Any emergency exits. [Ord. 2013-021]

**D. Restrictions**

Except as stipulated in provisions for Signs within Murals below, no mural shall contain the following: **[Ord. 2013-021]**

1. Any commercial content such as logos, icons, trademarks or brand name. **[Ord. 2013-021]**
2. Any moving, mechanical or electrical parts, or any material creating the illusion of movement or flashing. **[Ord. 2013-021]**
3. Any material projecting more than six inches from the vertical face of the mural surface. **[Ord. 2013-021]**
4. Any content that may be construed as a commercial message for the owner of the building or business, or the artist. The artist may sign the mural with their full name or initials, within an area limited to five percent of the area of the mural, excluding any imbedded signage, or up to four square feet in size, whichever is less. **[Ord. 2013-021]**
5. Anything that alters the intended purpose or function of an improvement (or element thereof) expressly required by the ULDC or the Florida Building Code. **[Ord. 2013-021]**

**E. Signs within Murals**

Murals may contain or encompass a sign. Signage shall be permitted separately in accordance with Art. 8, Signage. Signage shall be clearly delineated on all applicable Mural drawings as being separate and distinct from the mural. **[Ord. 2013-021]**

**F. Illumination**

Murals shall only be illuminated in accordance with Art. 8.F.5, Illumination. **[Ord. 2013-021]**

**G. Applicability of Art. 8, Signage**

Unless otherwise specified, Murals approved in accordance with this Chapter, shall be exempt from all other standards of Art. 8, Signage. **[Ord. 2013-021]**

**Section 5 Installation and Time for Completion of Mural**

**A. Installation**

Murals shall be installed in compliance with the drawings and specifications reviewed by the Public Art Committee and approved by the County Administrator. **[Ord. 2013-021]**

**B. Time for Completion**

An applicant shall adhere to the timeline approved by the County Administrator. Time for the completion and successful inspection of the mural shall not exceed six months from the issuance of the mural permit. After six months, the mural site improvement permit will expire, and the work may not continue, unless the applicant requests, and is granted a mural permit renewal by the Building Division. In no case shall a mural permit be renewed more than one time without reconsideration of the renewal by the County Administrator. In the event the time for completion has exceeded the approved timeline, and a request for a renewal has not been requested and granted, the County Administrator may declare the approval of the mural void, and the project to be abandoned. If declared abandoned the surface(s) of the building shall be restored to a condition consistent with the PBC Property Maintenance Code. **[Ord. 2013-021]**

**Section 6 Inspection**

Upon completion of the mural, the applicant shall contact FDO staff to arrange for an inspection for compliance with the drawings contained in the approved mural application. **[Ord. 2013-021]**

**Section 7 Enforcement**

In the event the County Administrator declares the project abandoned, or the mural as installed or maintained fails to materially comply with the drawings and specifications approved by the County Administrator, or with the permit or permit conditions, the owner of the property on which the mural is located shall be subject to enforcement proceedings before the PBC Code Enforcement Special Masters pursuant to Art. 10, ENFORCEMENT. Should the owner be found non-compliant, the Special Master may order the mural removed, or impose fines and penalties under Art. 10.B.3, Administrative Fines; Costs; Liens. The remedies contained in this section shall be in addition to any other remedy available at law. **[Ord. 2013-021]**

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## **CHAPTER J BEST MANAGEMENT PRACTICES FOR LIVESTOCK WASTE RECEIVED FROM OFFSITE SOURCES**

### **Section 1 Purpose and Intent**

The purpose and intent of these regulations is to mitigate potential adverse environmental impacts, pathogens and other nuisances associated with the inappropriate use or disposal of livestock waste received from off-site sources. Adverse impacts include but are not limited to: ground and surface water pollution due to excessive nutrient discharge, specifically nitrogen or phosphorus; odors or other nuisance from improperly stored, composted or spread livestock waste. **[Ord. 2013-021]**

### **Section 2 Applicability**

The standards shall apply to the storage or receiving of livestock waste that is received from offsite sources. **[Ord. 2013-021]**

#### **A. Exemptions**

1. Where pre-empted by State law, including but not limited to, the Right to Farm Act. Where applicable, documentation of implemented Best Management Practices or other method of pre-emption shall be required; **[Ord. 2013-021]**
2. A SWA Designated Disposal Facility; **[Ord. 2013-021]**
3. The commercial application of fertilizer on non-agricultural property when in compliance with the Palm Beach County Fertilizer Ordinance (Ord. 2012-039); **[Ord. 2013-021]**
4. Composted manure applied by a homeowner or tenant to residential lawns or gardens; and, **[Ord. 2013-021]**
5. Ten cubic yards per acre up to a maximum of 20 cubic yards in any 12 month period, with all requirements being met, as listed under Section 3 below. **[Ord. 2013-021]**

### **Section 3 Storage or Spreading of Livestock Waste**

The storage or spreading of livestock waste that is received from off-site sources is prohibited, unless in compliance with the following: **[Ord. 2013-021]**

#### **A. Storage**

Storage areas shall be covered or contained to prevent run-off or seepage of liquids or materials from the storage area. Storage of livestock waste shall comply with the following: **[Ord. 2013-021]**

1. Shall not be located within five feet of any structure, unless placed within a structure intended for the storage or composting of such waste; **[Ord. 2013-021]**
2. Shall not be located within 25 feet of any property line, with exception to internal lot lines of parcels owned by the same entity; and, **[Ord. 2013-021]**
3. Shall not be within 100 feet of a potable water supply well, a storm drainage system, wetland, pond, canal or other water body. **[Ord. 2013-021]**

#### **B. Spreading**

Livestock waste received from off-site sources shall be spread within 72 hours of delivery, except for less than 10 cubic yards that is actively being composted, or as otherwise approved in a Nutrient Management Plan. Storage shall comply with any applicable livestock waste Storage and Separation requirements. Spreading of livestock waste shall comply with the following: **[Ord. 2013-021]**

##### **1. Nutrient Management Plan**

Prior to receiving livestock waste, an application shall be submitted to the Cooperative Extension Service (CES) for review. Upon completion of the review, the CES shall develop a Nutrient Management Plan which indicates whether application of any livestock waste is appropriate for the soil condition, and if so, in what amount. **[Ord. 2013-021]**

##### **a. Application Form and Requirements**

The application form and requirements shall be in a manner established by the CES. **[Ord. 2013-021]**

##### **b. Validity of Nutrient Management Plan**

The Nutrient Management Plan shall remain current for three years after its issuance by the CES. A current Nutrient Management Plan must be in place prior to receiving of livestock waste at any time. It shall be a violation of the ULDC, if livestock waste is stored or spread in a manner inconsistent with the current Nutrient Management Plan. **[Ord. 2013-021]**

##### **2. Separation**

The spreading of livestock waste shall not occur: **[Ord. 2013-021]**

- a. Within 25 feet of any property line, with exception to internal lot lines of parcels owned by the same entity; and, **[Ord. 2013-021]**
- b. Within 100 feet of a potable water supply well, a storm drainage system, wetland, pond, canal or other water body. **[Ord. 2013-021]**

#### **Amendment History:**

**[Ord. 2005-002; February 2, 2005] [Ord 2005-041; September 1, 2005] [Ord. 2006-004; March 1, 2006] [Ord. 2006-036; August 29, 2006] [Ord. 2006-055; December 1, 2006] [Ord. 2007-001; January 31, 2007] [Ord. 2007-013; September 4, 2007] [Ord. 2008-003; January 30, 2008] [Ord. 2008-037, September 4, 2008] [Ord. 2009-040; October 28, 2009] [Ord. 2009-047; December 18, 2009] [Ord. 2010-005; February 2, 2010] [Ord. 2010-022] [Ord. 2011-001; February 4, 2011] [Ord. 2011-016; September 6, 2011] [Ord. 2012-003; February 1, 2012] [Ord. 2012-027; August 31, 2012] [Ord. 2013-001; January 31, 2013] [Ord. 2013-018; July 2, 2013] [Ord. 2013-021; August 30, 2013] [Ord. 2014-001; February 3, 2014] [Ord. 2014-025; September 3, 2014] [Ord. 2015-006; February 3, 2015] [Ord. 2014-031; July 7, 2015] [Ord. 2016-016; February 2, 2016] [Ord. 2016-042; September 27, 2016] [Ord. 2017-007; March 2, 2017] [Ord. 2017-025; August 28, 2017] [Ord. 2018-002; February 1, 2018] [Ord. 2018-018; August 29, 2018]**

**Attachment 2**  
**Palm Beach County Comprehensive Plan**  
**Housing Element**

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## HOUSING ELEMENT

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# HOUSING ELEMENT

## I. INTRODUCTION

### A. Purpose

The purpose of the Housing Element is to: 1) identify existing and projected deficits in the supply of housing to meet the needs of the County's population, particularly the very low and low income families; 2) analyze housing trends and the causes, scope and nature of any housing problems, 3) develop appropriate plans, programs and policies to bring about the accomplishment of the necessary housing, whether through private-sector efforts, non-profit, public/private partnerships or the public sector, and 4) to guide and coordinate all housing activities to eliminate duplications and increase efficiency of the housing delivery system.

The Housing Element of the Comprehensive Plan has several other characteristics that distinguish it from other Plan elements. First, housing is primarily provided by the private sector, and market demand largely dictates the type and location of housing projects. The County's development regulations (e.g., Zoning and Building Codes) only guide the private sector in the development and construction of housing. Second, because housing is an essential human need, the public sector has the responsibility to ensure adequate, safe housing, especially for low, and very low income families, elderly and other disadvantaged groups. Third, the primary criterion for those seeking housing is not local jurisdiction except for those families who can afford to choose a specific location. Factors determining housing selection include personal choice, financial limitation, value, safety and rent.

Much of the planning and coordination of affordable housing services delivery is done through other documents, required as part of State and federal funding programs. As a result the Housing Element does not establish separate targets and approaches, but primarily utilizes the housing needs targets and reflects the strategies identified in the Five-Year Consolidated Plan and supports its efforts to meet the need of very low, low and moderate income households, the homeless and non-homeless special needs populations.

Every five years Palm Beach County is required to submit a Five-Year Consolidated Plan to the US Department of Housing and Urban Development which describes how the County will pursue the overall goals of the community planning and development programs, as well as housing programs. The Consolidated Plan addresses both the unincorporated County and the jurisdiction of the 29 municipalities who possess inter-local agreements with the County for affordable housing and community development purposes. The Palm Beach County Five-Year Consolidated Plan, October 2015–September 2020 (July 2015) identifies affordable housing issues and certain housing program's expected resources and goals for the period of 2015-2020. In addition, the Consolidated Plan also includes data on substandard housing, special needs populations, homeless populations, and those at risk of homelessness.

Every three years, Palm Beach County is required to submit a Local Housing Assistance Plan (LHAP) to the Florid Housing Finance Corporation as a condition of receiving an annual funding allocation from the State Housing Initiatives Partnership (SHIP) Program. The LHAP establishes the program strategies through which the County will use SHIP funding to serve local housing needs during the three-year period for households with incomes up to 140% of Area median Income.



The affordable housing needs through the 2020 planning period, as well as data pertaining to rural and farmworker housing and substandard housing, are based on data provided by the Shimberg Center for Housing Studies (University of Florida).

Terms used in the Housing Element are defined in the definitions section of the Introduction and Administration Element of the Comprehensive Plan.

## **B. Assessment and Conclusions**

### **Housing Affordability**

Housing is typically considered to be affordable if monthly rents including utilities, or monthly mortgage payments including property taxes, insurance and utilities (“gross housing costs”), do not exceed thirty percent (30%) of the median adjusted gross annual income for very low, low and moderate income households. Households are considered “cost-burdened” when a household’s gross housing cost exceeds thirty percent (30%) of gross household income, resulting in less available income for other necessities such as food, clothing, and transportation. Severe cost burden is the situation wherein a household’s gross housing cost exceeds fifty percent (50%) of gross household income. In accordance with typical lending standards, debt-to-income ratios such as front end and back end ratios are also considered when determining affordability. Typical front end ratios allow up to 35% of household income to be committed for mortgage and related expenses, and typical back end ratios allow up to 42% of household income to be committed to the mortgage and all other credit related debt.

The focus of County efforts is on affordable housing options for households in the very low to low income range (0-80% AMI), and on moderate and middle income range workforce housing, which the County’s program defines as households from 60% up to 140% of AMI.

### **Housing Needs for Very Low and Low Income Households**

Based on data provided by the Shimberg Center for Housing Studies (University of Florida), approximately 104,245 renter and owner households with very low (0-50% of AMI) and low incomes (50%-80% of AMI) countywide were cost-burdened or severely cost burdened in 2015. Further, the Schimberg Center projects a countywide increase from 2015 through 2025 of 14,278 severely cost burdened households, including 8,288 owners and 5,990 renters.

### **Workforce Housing Needs**

Data provided by the Shimberg Center offer an assessment of housing cost burden estimates for Workforce Housing households with low (60%-80% of AMI), moderate (80%-120% of AMI) and middle incomes (120%-140% of AMI) located in the unincorporated portion of Palm Beach County in 2010, 2015 and 2020.

The 2010 analysis identified that 38,894 households in the unincorporated area experience a housing cost burden of exceeding 30%, or a severe housing cost burden exceeding 50% of their household income. For the period from 2010-2020, the Shimberg Center data identified that an additional 3,897 households located in the unincorporated area will experience a housing cost burden or a severe housing cost burden. From 2010 through 2020 nearly 16% of the households (42,563) within the unincorporated County with low, moderate and middle incomes (60%-140% of AMI) will experience a housing cost burden of exceeding 30%, or a severe housing cost burden exceeding 50% of their household income.

## **Housing Needs for Special Needs Populations**

Special needs populations can include the homeless, the elderly or frail elderly, the physically disabled, persons with mental illness, persons with developmental disabilities, alcohol or other drug addiction, persons with HIV/AIDS and their families, abused/neglected children, victims of domestic violence, veterans, youth aging out of foster care, and ex-offenders. The Community Services Department is the County's lead entity regarding special needs issues and assistance.

The County's 2017 Point in Time Count indicated 1,607 persons were homeless on the day of the county, of which 780 of those individuals were sheltered and 827 unsheltered.

The Shimberg Center estimates that as of 2015 countywide there are 31,866 cost burdened households with a disabled member and income less than 50% AMI.

### **Need Resulting from Overcrowded and Substandard Units**

In addition to addressing the identified demand, efforts are also directed toward maintaining existing housing units through policies to eliminate substandard housing and provide for relocation.

The Shimberg Center's 2015 estimates indicated that countywide:

- 15,344 (2.49%) of the units have more than one person per room (an indication of overcrowding)
- 10,108 (1.9%) of the occupied units in the unincorporated area use no home heating fuel source
- 8,576 (1.3%) of the units lack complete kitchen facilities
- 5,335 (0.8%) of the units lack complete plumbing facilities

### **Addressing Housing Needs**

The Five-Year Consolidated Plan is considered the best available data source to determine the housing needs and targets for Palm Beach County when considering the housing funding that is reasonably expected to be available to the County for the FY 2015-2016 through 2019-2020 time period. The Plan addresses households that will experience cost burden issues in its jurisdiction, both in the unincorporated County and within the 29 municipalities who possess inter-local agreements with the County for affordable housing and community development purposes.

The Department of Housing and Economic Sustainability (HES) administers the Five Year Consolidated Plan and the federal funds covered thereunder, including the Community Development Block Grant (CDBG), Home Investment Partnership (HOME), and the Neighborhood Stabilization Programs. These various programs are reflected within the Five-Year Consolidated Plan's estimates of available funding and the housing goals for the period from 2015-2020. Additionally, HES administers the County's Local Housing Assistance Plan which establishes housing strategies and funding allocations for the State Housing Initiatives partnership (SHIP) program.

The County's Planning, Zoning, and Building Department (PZB) administers the Affordable Housing Program (AHP) assisting primarily in serving some of these cost burdened very low and low income (60% of AMI and below) households. With the AHP, builders of residential developments receive certain development incentives in order to provide the housing units attainable to qualified income eligible households for at least 15 years (for-sale) and 30 years (rental).

In addition, Palm Beach County through PZB's Workforce Housing Program (WHP) assists in serving some of the households that will experience cost burden issues. The WHP is designed to serve low and moderate income households (60-120% of AMI) and also middle income (120-140% of AMI) by requiring a component of housing units in new development in certain unincorporated areas of the county be provided for these income groups at rents and sale prices that are to remain affordable for periods of at least 15 years (for-sale) and 30 years (rental).

In September 2008, the Board of County Commissioners adopted the Ten Year Plan to End Homelessness in Palm Beach County. The Plan outlines a strategy to design, fund and develop permanent housing solutions for the County's homeless population. The objective of the Ten Year Plan to End Homelessness in Palm Beach County is to create a local homeless response system that will completely eliminate homelessness in ten years. A key step toward that objective was the 2012 opening of the County's first Homeless Resource Center, located in the City of West Palm Beach, which is designed to provide initial services and short-term housing to homeless persons residing in the County.

There are various agencies and facilities serving special needs populations in Palm Beach County. Some of the providers deal only with a single, discrete population; others may serve multiple populations. Some of the agencies only address only housing and shelter needs, while others may provide a range of services, including advocacy, case management, and direct services.

Geographic dispersal must also be addressed in order to avoid the concentration of affordable housing in specific areas of the County, and at the same time consideration must also be given to the availability of public services and employment opportunities when locating affordable housing.

## II. GOAL, OBJECTIVES AND POLICIES

It is the **GOAL** of Palm Beach County to facilitate the provision of an adequate supply of safe, sanitary and affordable housing to meet the needs of the County's residents, with special attention to the needs of very low, and low income households in addition to special needs populations.

### **OBJECTIVE 1.1 Provision of Affordable Housing**

The County through the Department of Housing and Economic Sustainability, shall provide ongoing implementation and monitoring of programs, and shall pursue and secure additional funding sources. The Commission on Affordable Housing shall have responsibilities as defined in the Palm Beach County Affordable Housing Ordinance (Palm Beach County Code, Section 12-242 – Section 14-248).

**Policy 1.1-a:** For the period 2015-2020, Palm Beach County shall utilize the strategies identified in the Five-Year Consolidated Plan for Palm Beach County in its efforts to meet the need of very low and low income households.

**Policy 1.1-b:** The Commission on Affordable Housing shall have responsibility for reviewing progress and making recommendations on affordable housing policies in the County through an annual report and special reports in accordance with the Palm Beach County Affordable Housing Ordinance (Palm Beach County Code, Section 12-242 – Section 14-248).

The Department of Housing and Economic Sustainability shall continue to evaluate the County's progress in encouraging affordable housing for very low, low and moderate income persons.

**Policy 1.1-c:** The Department of Housing and Economic Sustainability shall continue to provide for the administration of local activities related to the State Housing Initiative Partnership (SHIP) program, and the Robert Pinchuck Memorial Affordable Housing Trust Fund (the "Affordable Housing Trust Fund").

**Policy 1.1-d:** The Department of Housing and Economic Sustainability shall continue to provide for the administration of formula grants for the Community Development Block Grant Program (CDBG), the HOME Investment Partnership, and the Neighborhood Stabilization Program. The Community Services Department shall provide administration of the Emergency Solutions Grant Program (ESG).

**Policy 1.1-e:** The Department of Housing and Economic Sustainability shall pursue additional funding and utilize all available federal state and local programs and resources to meet the housing needs of very low, low, and moderate income households, including rural and farmworker households.

**Policy 1.1-f:** The County shall continue to expand the housing stock through the utilization of the Affordable Housing Trust Fund and other efforts to identify and secure additional funding sources; including:

The Affordable Housing Trust Fund will continue to provide funding to programs as approved by the Board of County Commissioners and pursuant to the Local Housing Assistance Plan and F.S. 420.975.

**Policy 1.1-g:** The Department of Housing and Economic Sustainability in coordination with the Planning, Zoning, and Building Department shall provide the ongoing monitoring and tracking of affordable housing units being funded and built through County programs, and the evaluation of progress being made in meeting the current and projected affordable housing need.

**Policy 1.1-h:** The County shall continue the review and streamlining as needed, of those ordinances, codes and regulations related to the permitting process, in order to continue the reduction of excessive requirements and amend or add other provisions that increase private sector participation in adding to the supply of affordable housing. The County shall designate the Planning, Zoning, and Building Department as the lead agency, with assistance from the Department of Housing and Economic Sustainability, Engineering and other appropriate Departments.

**Policy 1.1-i:** The County shall inventory all surplus County-owned land and foreclosed properties that could be used to promote affordable housing provision and production. The Property and Real Estate Management Division shall coordinate identification of such lands with municipalities, the Palm Beach County School Board, the South Florida Water Management District and other public land owners in Palm Beach County, to produce a list of viable sites for affordable housing developments and special needs housing, including rural and farmworker households. The County's Property and Real Estate Management Division, in coordination with the Department of Housing and Economic Sustainability, shall be responsible for the review of the inventory. The County may also provide direct land grants to private not-for-profit agencies and may make land available for exchange with developers and property owners, securing land for public purposes while offering exchange sites for affordable housing.

**Policy 1.1-j:** Planning, Zoning and Building shall establish a Task Force to establish principals and criteria to guide the location and development of single room occupancy units, including accessory apartments, as alternatives for affordable housing in the unincorporated County.

**Policy 1.1-k:** The County shall increase its effectiveness addressing Housing needs by:

1. designating the Planning, Zoning and Building Department as the lead department for all data efforts for the Housing Element;
2. coordinating housing policy objectives with all County agencies, such as the Department of Planning, Zoning and Building; the Department of Housing and Economic Sustainability, the Housing Finance Authority, and other public and private entities.
3. The County shall also assist and encourage public/private partnerships with private community-based non-profit agencies and other private sector agencies that further County housing policy objectives, in order to improve cooperation among participants involved in housing production and to enhance the feasibility of producing and delivering affordable housing.

**Policy 1.1-l:** The Department of Housing and Economic Sustainability with the assistance of the Commission on Affordable Housing shall continue to coordinate with the municipalities in the provision of affordable housing within their city limits, to assist

the County with the provision of affordable housing. Among the strategies to be explored are:

1. Tax abatements;
2. Provision of infrastructure for affordable projects by practices such as tax increment financing;
3. Conveyance of public property;
4. Payment into the County's Affordable Housing Trust Fund; and
5. Incentives and interlocal agreements with municipalities that will assist the County with the provision of affordable housing affordable housing units within the Revitalization and Redevelopment Overlay and CDBG Target Areas.

The feasibility of these strategies shall be evaluated and recommendations will be made by the Department of Economic Sustainability in coordination with the Commission on Affordable Housing.

**Policy 1.1-m:** The Department of Housing and Economic Sustainability with the assistance of Planning, Zoning and Building shall provide for the coordination, outreach and information dissemination of all aspects of the housing delivery system including availability and location of affordable housing assisted with Federal, State, or County funds.

**Policy 1.1-n:** The County shall provide education-awareness programs, so that the public can gain a better understanding of the need for affordable housing. These programs should also address residents' aversion to the proximity of affordable housing and the general negative public perception regarding affordable housing.

**Policy 1.1-o:** The County shall preserve affordability of affordable housing units developed through the Workforce Housing Program and the Affordable Housing Program as follows:

1. The Workforce Housing Program will target households with incomes ranging from 60%-140% of area median income.
2. The Affordable Housing Program will target households at or below 60% of area median income.

The Workforce Housing Program and Affordable Housing Program units shall be made available at a rate affordable to the specified income groups, and only to income-eligible households for a period of time to be set forth in the Unified Land Development Code (ULDC). All Workforce Housing Program and Affordable Housing Program criteria shall be subject to the review and approval of the Board of County Commissioners.

**Policy 1.1-p:** Planning, Zoning and Building shall continue to ensure the Unified Land Development Code contains minimum standards and specifications for the construction of manufactured structures, mobile homes or buildings in residential zoning districts, and include supporting infrastructure and public facilities. To ensure the availability of adequate sites manufactured structures or buildings shall be permitted in all residential zoning districts, subject to the limitations set forth in the Future Land Use Element, and further restricted by the Palm Beach County Unified Land Development Code.

**Policy 1.1-q:** Planning, Zoning and Building, and the Engineering Department shall provide for the continuation of the Traffic Performance Standards Methodology for affordable housing pursuant to the Transportation Element.

**Policy 1.1-r:** Planning, Zoning and Building shall encourage through the development review process, affordable and public housing developments to include day care and adult care facilities, and basic accommodations for the provision of job training, empowerment training and entrepreneurial training programs.

**Policy 1.1-s:** The County shall develop a program to address the housing needs of the elderly and other special needs groups with very low, low, and moderate incomes.

**Policy 1.1-t:** *Deleted in Amendment Round 03-1*

**Policy 1.1-u:** *Deleted in Amendment Round 18-B*

**Policy 1.1-v:** *Deleted in Amendment Round 18-B*

**Policy 1.1-w:** The County shall identify sites (County owned properties) that are suitable for the Workforce Housing and/or Affordable Housing Programs.

## **OBJECTIVE 1.2      Substandard Housing**

The County shall provide for the elimination of substandard housing through code enforcement and shall establish principles to guide housing conservation, rehabilitation and demolition.

**Policy 1.2-a:** The County shall provide for increased code enforcement activities and designate the Code Enforcement Division responsible for the following:

1. Provide annual inspections of the housing stock in the County's most blighted unincorporated neighborhoods where code violations are most prevalent; and
2. Provide for continued special concentrated code enforcement activities such as "target area programs" and the utilization of the "Community Support Team", where warranted.

**Policy 1.2-b:** *Deleted in Amendment Round 18-B*

**Policy 1.2-c:** The County shall provide for the input and assistance of private, not-for-profit community-based organizations and other private interests to coordinate activities designed to eliminate or rehabilitate substandard housing stock, and shall encourage public/private partnerships to accomplish this objective. The County shall target these activities within its most blighted districts. The Department of Housing and Economic Sustainability shall participate in these activities.

**Policy 1.2-d:** The County shall continue to permit mixed-use and other innovative reuses, including single room occupancies (SRO's) of the existing housing stock that result in the removal of substandard housing units.

**Policy 1.2-e:** The County shall facilitate quality affordable housing, through stabilization of neighborhoods and identification and improvement of existing housing and

neighborhoods, including those of historical significance, through rehabilitation and adaptive reuse strategies, in order to increase affordable housing stock.

**Policy 1.2-f:** Planning, Zoning and Building, shall continue to locate, identify and evaluate additional historically significant housing properties associated with the archeological, architectural, historical, engineering and cultural development of the unincorporated portion of Palm Beach County through the update of its historic sites survey, and list the sites in the Florida Master Site File (FMSF).

**Policy 1.2-g:** The Department of Housing and Economic Sustainability shall continue to pursue federal and state funding, including CDBG funds, for the rehabilitation or demolition of substandard housing. Allocation of funds from the Affordable Housing Trust Fund should also be provided.

### **OBJECTIVE 1.3 Relocation Housing**

The County shall provide for relocation housing and minimize the displacement of very low and low-income households.

**Policy 1.3-a:** The County, within its Community Development Block Grant (CDBG) areas, and to the extent required by regulations of the funding sources being utilized (CDBG and/or HOME), and shall assist in the relocation of displaced persons as funds are available. The County shall pursue all available sources of funding to assist in the relocation of those persons of very low and low income.

**Policy 1.3-b:** The County shall require that developers, following development approval, facilitate the relocation of very low and low income families displaced by a proposed project, through, at a minimum, the provision of information on available, affordable units in the area, to the displaced very low and low income households and service agencies.

### **OBJECTIVE 1.4 Provision of Special Needs Housing**

The County shall provide for the creation and preservation of housing and programs to adequately address the needs of all households with “special needs”, including the homeless, the elderly or frail elderly, the physically disabled, persons with mental illness, alcohol or drug addiction, persons with HIV/AIDS and their families, abused/neglected children, victims of domestic violence, veterans, youth aging out of foster care, and ex-offenders, and including rural and farmworker populations. The County and shall ensure the provision of foster care, group homes and other special needs facilities in a range of land use categories. The efforts indicated in the following policies shall be directed toward the meeting the needs identified by the Palm Beach County Five-Year Consolidated Plan, 2015-2020, the “Ten Year Plan to End Homelessness in Palm Beach County,” and the farmworker housing deficit needs identified by the Shimberg Center in Policy 1.4-a.

**Policy 1.4-a:** Palm Beach County shall utilize the strategies identified below in its efforts to meet the need for special needs housing. The Shimberg Center (University of Florida) estimates a total of 31,866 cost-burdened households countywide which have a disabled member and income less than 50% AMI, including 16,232 owners and 15,564



renters. The Shimberg Center also estimates a need for 165 multi-family units countywide to meet farmworker housing needs.

1. The Department of Housing and Economic Sustainability ~~and~~ with recommendations from the Commission on Affordable Housing shall continue to help address the county's special needs housing deficiencies by establishing policies and procedures that will provide continued financial assistance to proposed eligible housing projects that will produce affordable rental and homeownership opportunities for households with special needs. Special Needs housing and services shall remain a priority in the Department of Housing and Economic Sustainability's Five Year Consolidated Plan. Also, the Department of Housing and Economic Sustainability shall market its housing assistance programs in order to facilitate participation by eligible special needs individuals and households.
2. The Department of Housing and Economic Sustainability and the Community Services Department shall provide technical and financial assistance to providers of special needs housing and services. Local funding sources shall continue to include the Community Development Block Grant (CDBG) program, the Home Investment Partnership Program, the Emergency Solutions Grant Program (ESG), and the State Housing Initiative Partnership (SHIP) program, and the Affordable Housing Trust Fund. The above mentioned county agencies shall also continue to directly apply for state and federal special needs housing funds when warranted.
3. The Department of Housing and Economic Sustainability and the Community Services Department shall provide coordination and outreach with agencies involved in the development of housing for all special needs populations, including rural and farmworker populations.
4. The Community Services Department shall continue to serve as the County's lead agency for implementation of the Ten Year Plan to End Homelessness in Palm Beach County adopted by the Board of County Commissioners in September 2008.

**Policy 1.4-b:** The County, through the Building Division and the Department of Housing and Economic Sustainability, where applicable, shall provide for the compliance of housing projects, including special needs housing projects, with the Americans with Disabilities Act (ADA).

**Policy 1.4-c:** The County shall provide for foster care, group homes and other special needs facilities to be permitted in residential neighborhoods. Farmworker housing is currently permitted in the Agriculture Reserve (AGR), Agriculture Production (AP) and Special Agriculture (SA) land use categories.

**Policy 1.4-d:** The location of special needs and farmworker housing shall be guided by the following principals and criteria. Special needs housing shall be located in proximity to the appropriate support infrastructure, services and facilities including Palm Tran and existing transportation disadvantaged programs. Special needs housing shall be permitted in all appropriate residential, commercial and institutional land use categories, through the use of group homes, Congregate Living Facilities (CLF's), accessory apartments and rental housing associated with places of worship. Farmworker housing

shall be located in proximity to areas of agriculture employment and shall require a minimum of twenty-five (25) acres. The Planning, Zoning, and Building Department and the Community Services Department, shall be responsible for establishing any additional principles and criteria as may be necessary.

**Policy 1.4-e:** The Department of Housing and Economic Sustainability, in coordination with the Planning, Zoning, and Building Department shall to the extent feasible provide the ongoing tracking of the number of units being funded and built through both County and private sector efforts, and the evaluation of progress being made in meeting the housing needs of special needs populations.

**Policy 1.4-f:** *Deleted in Amendment Round 18-B*

**Policy 1.4-g:** The County shall participate with non-profit agencies and other support groups to plan and coordinate arrangements for low-cost rental housing and non-housing support services such as information services, technical assistance and financial assistance for farmworkers and their families.

**Policy 1.4-h:** The County shall coordinate with, and use the resources of the State of Florida, United States Department of Agriculture Rural Development, and the Department of Housing and Urban Development to administer programs to improve housing opportunities for farmworkers.

**Policy 1.4-i:** The County shall continue to provide information and referral services to migrant workers for legal assistance to obtain adequate housing.

**Policy 1.4-j:** *Deleted in Amendment Round 18-B*

## **OBJECTIVE 1.5      Concentrations of Affordable Housing**

The County shall make adequate provisions to enable the public, private and not-for-profit sectors to provide affordable housing, and shall support the distribution of housing for very low, low, moderate and middle income households, to avoid undue concentrations of very low and low income housing throughout the County through the Workforce Housing Program and the Affordable Housing Program.

**Policy 1.5-a:** The County shall provide for a sufficient amount of land for residential use to meet future housing needs, including very low, low, and moderate income, and to accommodate the projected population. The Planning Division shall be responsible for analysis and recommendations to the BCC for this task.

**Policy 1.5-b:** *Deleted in Amendment Round 04-1.*

**Policy 1.5-c:** *Deleted in Amendment Round 04-1.*

**Policy 1.5-d:** *Deleted in Amendment Round 18-B*

**Policy 1.5-e:** The County may provide incentives to increase the presence of moderate, or higher income households within areas of high concentrations of affordable housing. These incentives may include subsidy programs to reduce the purchase cost of units, and/or to facilitate the rehabilitation of housing units.

**Policy 1.5-f:** The Planning, Zoning and Building Department shall revise the Unified Land Development Code (ULDC) to eliminate processing fees for residential Zoning petitions, which are for the purpose of providing affordable housing units in areas of low concentrations of very low, and low income households.

**Policy 1.5-g:** The County's mandatory Workforce Housing Program requires new residential developments to provide a percentage of housing units for households with incomes from 60% to 140% of area median income as a means to meet affordable housing needs and to disperse that needed housing in the unincorporated County.

For land use LR1, the PUD density does not apply. The Agricultural Reserve Tier is exempt from this program.

The Workforce Housing development evaluation shall address specific criteria, including but not limited to:

1. Eligible developments must have a minimum number of 10 permitted units;
2. Workforce units can be both rental units and for sale units;
3. Workforce units built on site will be designed to be compatible with the overall development;
4. Workforce units built on-site can be clustered or integrated within the development;
5. Rental unit and resale unit affordability controls shall be guaranteed for a period to be set forth in the Unified Land Development Code (ULDC);
6. Workforce units may be allowed based on location, and land use compatibility, in any of the following land use categories: Commercial (mixed use); Industrial (mixed use); Economic Development Center; Institutional and Public Facilities, Traditional Town Development (TTD); and Multiple Land Use (MLU).

Incentives shall include:

1. For LR-1, LR-2, and LR-3, a density bonus of up to 30%.
2. Traffic performance standards mitigation,
3. An expedited permit, zoning, and land use site plan approval process including engineering platting procedures.
4. A method to effectively offset impact fees and other development fees for the Workforce units only may be included.

Density Bonus Greater than 30%

For land uses MR-5, HR-8, HR-12, and HR-18 a density bonus greater than 30%, up to 100%, shall be permitted when all program criteria are met and the increased density creates no compatibility issues with adjacent properties.

When a density bonus of greater than 30% is sought, the Workforce Housing development evaluation shall address the specific criteria (#1 - 6.) listed above and in addition the following criteria:

1. Eligible developments must be located inside the Urban/Suburban Tier;
2. Developments are required to be located near mass transportation and/or employment centers in order to receive a 100% density increase;

3. Existing very-low and low income concentrations in order to discourage undue concentrations; and
4. Review of County Housing Study Sector.

The specific program criteria including developer incentives will be set forth within the Unified Land Development Code (ULDC).

**Policy 1.5-h:** The Planning Division shall prepare an annual report that describes all Workforce Housing Program and the Affordable Housing Program activities during the previous year. The annual report shall be provided to the Board of County Commissioners.

**Policy 1.5-i:** The County shall establish a Affordable Housing Program to allow new residential developments within the Urban/Suburban Tier only, the opportunity to provide housing units for households with incomes at 60% of area median income and below, as a means to meet affordable housing needs and to disperse that needed housing in unincorporated Palm Beach County. Incentives shall be offered that will generally mirror the benefits of the Workforce Housing program criteria. Density bonus units will be allowed only when consistent with Housing Element Objective 1.5 to discourage the undue concentration of very low and low income housing in the County.

Consideration will be given to specific proposals that target households with incomes that crossover both the Workforce Housing and the Affordable Housing Programs. The Agricultural Reserve Tier is exempt from this Program.

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**Attachment 3**  
**Palm Beach County Workforce Housing Program**  
**Approved Projects through August 2018**

**Attachment 3: Breakdown of Residential Projects with Workforce Housing Program Units - Palm Beach County Planning, Zoning & Building- August 2018**

Number	Name	WHP Units	Status	Single Family Approved	Single Family Built	Multi Family Approved	Multi Family Built	Total Approved	Total Built	Total Remaining
1	Abbington	3/3*	Builtout	55	55	0	0	55	55	0
2	Andalucia	8/8*	Developing	204	54	42	26	246	80	166
3	Aqualina (PGA Waterfront)	4/4**	Approved DO - Unbuilt	0	0	88	0	88	0	88
4	Arden (Highland Dunes)	60	Developing	1,880	40	120	0	2,000	40	1,960
5	Atlantic Commons PUD	22	Builtout	458	458	395	395	853	853	0
6	Auburn Park (Veritas)	1/1*	Builtout	23	23	0	0	23	23	0
7	Avalon Trails at Villages of Oriole	13/13**	Approved DO - Unbuilt	104	0	417	0	521	0	521
8	Aviara Green	18	Approved DO - Unbuilt	0	0	60	0	60	0	60
9	Aviara Lake Worth (Vivendi Homes)	6	Developing	0	0	36	4	36	4	32
10	Berkeley Boca (Collier PUD)	4/4*	Developing	57	7	0	0	57	7	50
11	Blu Atlantic Apartments	62	Builtout	0	0	171	171	171	171	0
12	Boca Del Mar (Golf Course)	6/6**	Approved DO - Unbuilt	115	0	137	0	252	0	252
13	Boca Dunes	5/5*	Developing	0	0	211	36	211	36	175
14	Boca Lago	3/3*	Approved DO - Unbuilt	0	0	130	0	130	0	130
15	Boca Reserve	5/5*	Builtout	44	44	0	0	44	44	0
16	Briella PUD	23	Builtout	0	0	230	230	230	230	0
17	Cambria Parc (Flavor Pict Townhomes)	34	Developing	0	0	256	139	256	139	117
18	Casa del Sol	2	Developing	0	0	34	5	34	5	29
19	Colonial Lakes	12	Builtout	0	0	132	132	132	120	12
20	Colony Reserve (Colony at LW)	11	Builtout	1	1	190	190	191	191	0
21	Cypress Royal	10	Developing	74	20	0	0	74	20	54
22	Elysium (Osprey Oaks)	37	Builtout	171	171	37	37	208	208	0
23	Fields at Gulfstream Polo	36	Developing	457	37	516	110	973	147	826
24	Green Cay Village	320	Developing	286	0	420	420	706	420	286
25	Green Lake Apartments	2	Builtout	0	0	8	8	8	8	0
26	Gulfstream Preserve PUD	37	Developing	211	211	37	0	248	211	37
27	Gulfstream Villas	3	Builtout	0	0	6	6	6	6	0
28	Hamlet Estates at Lake Worth	9	Approved DO - Unbuilt	103	0	0	0	103	0	103
29	Hampton Cove (Juno Landings)	2/2*	Builtout	0	0	32	32	32	32	0
30	Herbetz Apartments	11	Developing	0	0	11	6	11	6	5
31	In the Pines North	30	Builtout	0	0	30	30	30	30	0
32	Kindred Cove (Hendrick Property)	1/1**	Builtout	33	33	0	0	33	33	0
33	Lake Point Condominiums	1	Approved DO - Unbuilt	0	0	34	0	34	0	34
34	Mango Cove	2	Approved DO - Unbuilt	0	0	36	0	36	0	36
35	Oasis (Cameron Park PUD)	5	Builtout	0	0	324	324	324	324	0
36	Palazzo at Casa Brea (Toscana Isles)	142	Developing	208	0	206	206	414	206	208
37	Pioneer Royale	1/1**	Approved DO - Unbuilt	34	0	0	0	34	0	34
38	Pointe 100 (Boca Pointe)	3/3*	Builtout	100	100	0	0	100	100	0
39	Pointe of Woods PUD (Cheney Ranch)	3/3**	Approved DO - Unbuilt	109	0	0	0	109	0	109
40	Polo Trace	26/26**	Developing (389 pre-existing)	713	389	0	0	713	389	324
41	Purdy Royale PUD (Angelocci)	1/1**	Approved DO - Unbuilt	52	0	0	0	52	0	52
42	Ranchette Lake (Auchmuty)	1/1**	Approved DO - Unbuilt	44	0	0	0	44	0	44
43	Ranchette Royale	2/2*	Approved DO - Unbuilt	41	0	0	0	41	0	41
44	Reflection Bay	30	Approved DO - Unbuilt	0	0	689	0	689	0	689
45	Serafica	11	Approved DO - Unbuilt	0	0	11	0	11	0	11
46	Silverleaf (Lantana Farms)	2/2**	Developing	141	15	0	0	141	15	126
47	Silverwood Estates (Marquez-Jones)	32	Developing	222	150	0	0	222	150	72
48	Sunset Drive Duplex	1	Builtout	0	0	6	6	6	6	0

49	The Atlantic at Delray (Stonybrook on the Lake)	63	Builtout	0	0	346	346	346	346	0
50	The Groves (Sabal Grove)	7	Builtout	0	0	67	67	67	67	0
51	Town Commons PUD	18	Approved DO - Unbuilt	0	0	132	0	132	0	132
52	Uptown Boca Raton (Johns Glades West)	114	Approved DO - Unbuilt	0	0	456	0	456	0	456
53	Vista Village Park (Mirzadeh Apartments)	14	Builtout	0	0	34	34	34	34	0
54	Wellington Club (Woodwind PUD)	156	Builtout	0	0	202	202	202	202	0
55	Windsor Place MXP	18	Approved DO - Unbuilt	0	0	320	0	320	0	320
<b>Grand Total</b>		<b>1456</b>		<b>5,940</b>	<b>1,808</b>	<b>6,609</b>	<b>3,162</b>	<b>12,549</b>	<b>4,958</b>	<b>7,591</b>