

# **City of Bartow**

## **Unified Land Development Code**



**Planning and Community  
Development Department**

**Amended through September 22, 2020  
Ordinance No. 2020-19**

**CITY OF BARTOW**  
**UNIFIED LAND DEVELOPMENT CODE**

|                                                                        |                |
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[RESERVED]



## **ARTICLE 1**

### **GENERAL PROVISIONS**

**1.01.00 Title.** This document shall be referred to as the "Unified Land Development Code of the City of Bartow" and may be referred to herein as the "Code."

**1.02.00 Authority.** This Land Development Code is enacted pursuant to the requirements and authority of 163.3202, Florida Statutes (the Local Government Comprehensive Planning and Land Development Regulation Act), the City Charter, and the general powers enumerated in 166, Florida Statutes (City Government).

#### **1.03.00 Applicability.**

**1.03.01 General Applicability.** With the exceptions listed below, all development in Bartow shall be subject to the provisions of this Code, and no development shall be undertaken without prior authorization pursuant to this Code.

##### **1.03.02 Exceptions.**

(A) Previously Issued Development Orders. A development project with an approved site development plan or subdivision plat may proceed under regulations in effect at the time of approval provided that:

- (1) the development order has not expired at the time of adoption of this Code or amendment thereto; and
- (2) development activity has begun or will begin according to the time limits under which the development was originally approved.

If the development order expires or is otherwise invalidated, any further development activity on the development site shall conform to the requirements of this Code or amendment thereto.

(B) Previously Issued Development Permits. The provisions of this Code and any amendments thereto shall not affect the validity of any lawfully issued and effective development permit provided that:

- (1) the development permit was issued prior to adoption of this Code and development activity has begun or will begin within six months of the date of issuance of the development permit; and
- (2) development activity continues without interruption until the development is complete. If the development permit expires, any further development shall conform to the requirements of this Code or any amendments thereto.

**1.04.00 Repeal of Conflicting Local Laws.** Any and all other City ordinances, resolutions, or general laws, or any part thereof, which conflict with any provision or provisions of this ordinance are hereby repealed.

**1.05.00 Interpretation.** The provisions of this Code will be held to be the minimum requirements adopted for the promotion of the public health, safety and welfare and to implement the Comprehensive Plan of the City of Bartow.

**1.05.01 Firearms.** This code shall not be construed in any way so as to impinge upon the exclusive occupation of the field of firearms and ammunition regulation by the Florida legislature or to in any way restrict or prohibit the sale, purchase, transfer or manufacture of firearms or ammunition within the city. Further, it is the intent of this Code that "Firearm businesses" (as that term is utilized in F.S. 790.33(4)(a)) as principal, accessory and special exception uses of land shall be regulated "along with other businesses" on the same terms and conditions as uses of similar intensity and impact. Use of the terms "Firearm" or "ammunition", whether singular or plural, is solely to describe permitted principal, accessory and special exception uses of land in applicable zoning categories.

**1.06.00 Penalties for Violation.** It shall be unlawful for any person to violate the provisions of this Code or to use land or structures in violation of any provision of this Code. Persons found guilty of violating this Code shall be deemed guilty of a misdemeanor and shall be subject to a fine not exceeding \$500.00 for each day that a violation exists, or by imprisonment for a period not exceeding 60 days, or both.

**1.07.00 Severability.** If any section, subsection, paragraph, sentence, clause, or phrase of this Code is for any reason held by any court of competent jurisdiction to be unconstitutional or otherwise invalid, the validity of the remaining portions of this Code shall continue in full force and effect.

**1.08.00 Effective Date.**

These regulations were adopted on December 6, 1993. There have been subsequent amendments, which are as follows:

Original Adoption 12/6/93, Ordinance 1635-A

Article 2, pages 28-38, Amended 4/17/95

Article 7, page 234, Amended 10/16/95

Article 5, page 164-170, Amended 2/19/96

Article 7, page 208-215, Amended 2/19/96

Article 8, page 283-299, Amended 2/19/96

Article 8, pages 294-296, Amended 9/3/96

Article 7, Section 7.06.06, first paragraph, Amended 9/16/96

Article 8, Section 8.06.00, first paragraph, Amended 9/16/96

Article 8, Section 8.03.03(B)(1), Amended 10/21/96

Article 8, Section 8.03.03(B)(3b), Amended 10/21/96

Article 8, Section 8.03.03(B)(7), Repealed; (B)(8) renumbered, Amended 10/21/96

Article 8, Section 8.03.03(E)(4), Amended 10/21/96

Article 2, Section 2.04.02.10(F)(1c), Amended 11/18/96

Article 2, Section 2.04.01(A), correctional facilities, jails to "C" in PI, Amended 11/18/96

Article 2, Table 2.04.01(A), Section 3.08.14, add cemeteries, Amended 12/16/96

Article 3, Section 3.08.11.01, Amended 12/16/96

Article 8, Section 8.03.02(A)(3), Amended 2/17/97

Articles 2, 3 & 7, Sections 2.02.09, 3.08.11.02, 3.10.00 and 7.12.00, Amended 9/2/97

Articles 2, 3, 7 & 9: Section 2.02.09 added; Table 2.04.01(A) amended; 3.08.11.02 added; 3.10.07 added; 7.12.07 added; Definitions added; communication antennas and towers, Amended 9/15/97

Article 8, Section 8.02.(B)(1), BOA alternate member added, Amended 11/17/97

Article 3, Sections 3.02.02, 3.02.03, 3.02.05, Amended 3/98

Article 2, Table 2.04.01(A), 2.04.02.12, 2.05.00(L), 2.05.03 add R-5 district, Amended 5/4/98

Definitions, Amended 5/4/98

Article 2, Table 2.04.01(A), delete communication towers in C1, C2, P1, P2, Amended 5/18/98

Article 2, Section 2.05.00 (K), Accessory Uses, Amended 8/98

Article 3, Section 3.08.14 renumbered to 3.08.11.01, Amended 8/98

Document reprinted 8/98 with some reorganization of Article 3

Article 3, Section 3.07.01 table, Table 3.07D and Table 3.07E, landscaping req. for multi-family residential, Amended 10/19/98

Article 7, Sections 7.06.07, 7.06.07.01, plat requirements, Amended 11/16/98

Article 2, Table 2.04.01(A), add auto/boat sales in I2 as a "D", Amended

Article 2, Section 2.02.10, Table 2.04.01(A), Article 9, "Definitions", to add regulations re: manufactured homes, Amended 2/1/99

Article 7, Section 7.11.01, Board of Adjustment, last sentence of section modified, Amended 2/15/99

Article 7, Section 7.10.01, Home Occupation, last sentence of the section is modified, Amended 4/19/99.

Article 2, Section 2.04.02.01 M Agriculture District, Greenbelt Exemption language, Amended 8/16/99.

Article 2, Delete Sections 2.02.03 & 2.02.04; Table of Land Uses, Table 2.04.01(A); Article 3, Section 3.08.03.02, 3.10.01 and 3.10.06; and Definitions, Article 9; amended for Child Care and Adult Care Homes and Facilities; Amended 9/20/99.

Article 3, Section 3.05.00; Article 5, 5.04.00; and Definitions, Article 9; amended for storm water management regulations, Amended 9/20/99.

Article 8, Section 8.03.03 (E)(3), Code Enforcement Board, action can be taken after three months, rather than one year, Amended 10/18/99, Ord. #1885.

Article 2, Section 2.04.02.21 PI Public Institutional District, changes to this section, Amended 12/20/99.

Article 2, Table 2.04.01(A), delete from PI permitted uses: appliance repair, convenience store (no gas), drinking establishment, restaurant and filling station (convenience store w/ gas), Amended 12/20/99.

Article 2, Table 2.04.01(A), add Professional Office as a Special Exception "S" in R-3 zoning district, Amended 2/21/00, Ord. #1898.

Articles 2, 3 and 9, Table 2.04.01(A) and Section 3.08.00 and add "Personal Services" to Article 9, Definitions, in regard to Commercial Uses, Amended 3/20/00, Ord. #1904.

Article 5, Section 5.02.00, Water Wellhead Protection, amended so that the zone of protection is 500 feet around each well, Amended 3/20/00, Ord. #1905.

Article 4, New Sign Ordinance with Map, Amended 6/1/00.

Document Reprinted to include new sign regulations and to repaginate, 11/1/00.

Article 2 - Designating the C-2, Intermediate Commercial District to the C-2, Community Commercial District, Amended 4/2/01.

Article 8 - Establishing the Development Review Committee, Amended 4/2/01.

Article 2 - Amend Section 2.02.09 to add Model Homes as allowable use in all districts, Amended 5/21/01.

Article 3 - Amend Sections 3.02.03 relating to street designs 3.02.05(C) relating to access, 3.04.01 relating to solid waste enclosures, 3.07.00 relating to compatibility, landscaping and buffering standards, 3.07.02.01 relating to selection of new trees and shrubs, 3.07.02.02 relating to reservation of existing trees and shrubs, 3.07.03 relating to canopy trees, 3.07.04.02 relating to buffer yard width and landscaping requirements, 3.07.04.04 relating to buffer yards between vehicular use areas and adjacent rights-of-way, 3.07.04.05 relating to buffer yards for double frontage lots, 3.07.05 relating to vehicular use areas, 3.07.06 relating to installation, irrigation and maintenance, 3.07.07 exemptions and aggregation, and the table of contents to reflect new sections. Amended 5/21/01.

Article 9 - Include definitions of Model Home and Vehicular Use Area. Amended 5/21/01.

Article 7 - Amend Section 7.06.00 relating to Subdivision Regulations to revise the process and procedure for submitting Concept Plans, Preliminary Subdivision Plats, Construction Plans and Final Plats. Amended 10/1/01.

Article 2 - Amend Section 2.02.01 relating to Historic Preservation to revise the process and procedures for designating and modifying historic structures and creating a Historic Architectural Review Board. Amended 11/5/01.

Article 8 - Amend Article 8.06.00 relating to notifying abutting property owners to require notification by first class mail in-lieu-of certified mail. Amended 3/18/02.

Article 2 - Article 3, Article 8 and Article 9 regarding requirements for obtaining a certificate of occupancy for manufactured / mobile homes, reduced setbacks for screen room additions, front and side street setback requirements in certain districts, use and setback requirements for accessory uses, additional authority to code inspectors for authority to enforce provisions regarding abandoned vehicles, the composition and activities of the City's Development Review Committee advertising form for public hearings, procedures for issuing certificates of occupancy, titles of administrative official and advisory board; defining the term screen rooms/porches. Amended 11/4/02

Article 8 - Amend Article 8.03 of the Unified Land Development Code of the City of Bartow, repealing Sections 18-25 through 18-30 and amending subsection 18-271(a) of the Code of Ordinances of the City of Bartow to combine the Construction Board of Adjustments and Appeals and the Housing Board of Adjustments and Appeals into a new board to be known as the Building and Housing Appeals Board. Amended 3/17/03

Article 2 - Amend Table 2.04.01(B) regarding minimum lot size requirements in the C-4, Neighborhood Commercial zoning district. Amended 6/2/03

Article 3 and Article 9 - Amend development standards for mini-warehouse facilities in the C-2, Community Commercial and C-3, Highway Commercial zoning districts; and defining the term Mini Warehouse. Amended 10/6/03 by Ordinance #2003-34.

Article 4 and Article 9 - Amend sign standards for centers and new automobile dealerships; defining the term directional sign. Amended 1/20/04 by Ordinance #2004-01.

Article 4 - Amend sign standards governing allowable signage for uses in industrial, commercial, office and residential districts. Amended 8/16/04 by Ordinance #2004-25.

Article 2 - Amend Table 2.04.01 (B) to increase minimum floor area requirements for single family residences in agricultural and residential zoning districts. Amended 8/16/04 by Ordinance #2004-26.

Article 7 - Amend Section 7.04.00 relating to Planned Unit Developments. Amended 12/20/04 by Ordinance #2004-65.

Article 2 - Establish guidelines for architectural preservation; designate historic district boundaries; and amend the definition of façade. Amended 1/18/05 by Ordinance #2005-01.

Article 7 - Amend Section 7.06.06.04 - Reduce subdivision guarantee from 100 percent to 25 percent of the cost of dedicated improvements. Amended 7/5/05 by Ordinance #2005-40.

Article 2 - Amend Section 2.02 to add Section 2.02.11 regarding requirements associated with modular buildings; amend Table 2.04.01(A) to delete reference to single family, modular. Amended 7/5/05 by Ordinance #2005-37.

Article 2 - Amend Article 2 and Sections 2.04.02.02 and 2.04.02.03 to establish the RE-1 and RE-2 zoning districts establish district requirements; amend Tables 2.04.01(A) and 2.04.01(B) to include districts in table of uses and delete references to maximum densities; and amend Sections 2.04.02.11 through 2.04.02.14 to include maximum permitted densities. Amended 7/5/05 by Ordinance #2005-39.

Article 2 and 9 - Amend Table 2.04.01(B) to increase maximum lot coverage ratio in single family zoning districts; amend Article 9 to define the term "Maximum Lot Coverage". Amended 7/18/05 by Ordinance #2005-42.

Article 8 - Amend Section 8.03.02(B)(1) to change the number of alternate members from one to two. Amended 4/3/06 by Ordinance 2006.20

Article 6 - Amend Article 6 to include proportionate fair share program. Amended 11/20/06 by Ordinance 2006-60.

Article 2, 3 and 9 - Amend Section 2.05.00 to revise standards for amount of permitted accessory use structure and to include criteria for Temporary Portable Storage Containers, amend Section 3.02.04 to require sidewalks on both side of internal project roads, and amend Article 9 to define the term "Temporary Portable Storage Containers". Amended 2/18/08 by Ordinance #2008-04.

Article 7 and 8 - Amend Section 7.09.00 related to procedures and time limits for special exception use approvals; Section 7.11.00 related to time limits for variance approvals; and Section 8.03.02 to revise voting requirements for Board decisions. Amended 6/16/08 by Ordinance #2008-17.

Article 5 and 9 - Amend Article 5 to include Section 5.06 relating to Florida Friendly Landscape requirements and define terms associated with Florida Friendly Landscaping. Amended 08-18-08 by Ordinance #2008-27.

Article 4 and 9 – Amend sign standards to allow community banner signs and provide definition of same. Amended 11/17/08 by Ordinance #2008-40.

Article 2, 3 and 9 – Amend Table 2.04.01(A) relating to Bed and Breakfast and Tea Room uses; Sections 3.03.02 and 3.03.02(G) related to required parking standards and parking lot improvements; Section 3.08.03.01 to establish minimum development guidelines for Breakfast uses; Section 3.08.04.07 to include Tea Rooms as a site development plan use and establish minimum development guidelines; Section 3.10.04.01 to include Tea Room as a special exception use and establish minimum development guidelines; and Article 9 to define the term “Tea Room”. Amended 10/19/09 by Ordinance #2009-15.

Article 2 and 9 – Amend Table 2.04.01(A) to allow Residential Mixed Use in commercial districts; Table 2.0.01(B) to change setbacks in C-1 and C-4 districts; and Sections 2.04.02.15 and 2.4.02.18 to revise certain performance standards. Amended 7/6/10 by Ordinance #2010-04.

Article 4 – Amend Article 4 to emphasize sign placement and clear visibility triangle requirements; conformance requirements and Section 4.07.12 to allow additional signs for certain residential communities. Amended 7/6/10 by Ordinance #2010-10.

Article 2, 3 and 9 - Amend Table 2.04.01(A) relating to Day Spa uses; Sections 3.03.02(A) related to required parking standards; Section 3.08.06.05 to include Day Spas as a site development plan use and establish minimum development guidelines; Section 3.10.06.01 to include Day Spas as a special exception use and establish minimum development guidelines; and Article 9 to define the term “Day Spa”. Amended 9/20/10 by Ordinance #2010-16.

Article 9 – Amend Article 9 related to the definition of the term “Tea-room”. Amended 10/18/10 by Ordinance 2010-19.

Article 6 – Amend Section 6.02.04(B) and 6.02.05(A) related to duration and reporting requirements for development agreements. Amended 3/21/11 by Ordinance 2011-05.

Article 3 – Repeal Section 3.06.02.03 regarding specific standards related to noise. Amended 7/18/11 by Ordinance 2011-10.

Article 1 – Amend Section 1.05.00 to include language regarding “firearm businesses” as required by Florida Statutes. Amended 10/3/11 by Ordinance 2011-18.

Article 4 – Amend Article 4 to allow for Master Sign Plans and to establish use and location criteria for Community Heritage Signs. Amended 6/4/12 by Ordinance #2012-06.

Article 5 – Amend Article 5 to adopt revised development standards for flood prone areas pursuant to State Statute. Amended 7/2/12 by Ordinance #2012-04.

Article 2 – Amend Section 2.02.01 to revise HARB Procedures. Amended 8/20/12 by Ordinance #2012-08

Article 3 and 9 – Amend Table 2.04.01(A) relating to Clubs, Community/Fraternal/Veterans; Section 3.03.02 related to parking requirements; Section 3.10.06 to include Clubs, Community/Fraternal/Veterans as a special exception use and establish minimum development guidelines. Amended 9/17/12 by Ordinance #2012-13.

Article 2 and 9 - Amend Section 2.05.05 to include provisions for the use of Permanent On-Site Storage Containers and amend Article 9 to define the term. Amended 04/15/13 by Ordinance #2013-01.

Article 2 - Amend Section 2.05.06 to include provisions for sidewalk cafes as accessory uses in certain zoning districts. Amended 04-15-13 by Ordinance #2013-02.

Article 3 - Amend Section 3.03.02(A) related to off-street parking standards and definition of terms. Amended 02-17-14 by Ordinance #2014-04.

Article 2 – Amend Section 2.02.01 to revise HARB boundaries and procedures. Amended 7/11/16 by Ordinance 2016-18.

Article 5 – Amend Article 5 to adopt revised development standards for flood prone areas pursuant to State Statute. Amended 12/5/16 by Ordinance #2016-19

Article 6 – Amend Section 6.02.04(B) related to duration of development agreements. Amended 6/8/18 by Ordinance 2018-07.

Article 2, 3 and 9 – Amend Section 2.04.01(A) to reclassify and add use categories for certain educational/cultural facilities; Section 3.10.09 to establish site specific requirements for certain educational/cultural facilities; Section 7.09.01 to establish additional information requirement for special exception use applications and Article 9 to included definitions for certain education/cultural facilities. Amended 03-12-18 by Ordinance #2018-16.

Article 2, 3 and 9 – Amend Section 2.04.01(A) to add a use category for “Brewpub” and “Microbrewery”; Section 3.08.04 and 3.10.04 to establish site specific requirements and Article 9 to included definitions for “Brewpub”, “Microbrewery” and “Food Truck”. Amended 02-18-19 by Ordinance #2019-02.

Article 5 – Amend Section 5.07.00 related to water conservation for landscape irrigation, irrigation system design and installation standards, and efficient plumbing requirements. Amended 02-17-20 by Ordinance #2020-07.

Article 3 - Amend Section 3.10.04.02(A)(9) related to the use of food trucks in association with the operation of a microbrewery use. Amended 09-22-20 by Ordinance #2020-19.

## **ARTICLE 2**

### **Regulations for Specific Districts**

#### 2.01.00 General Provisions

#### 2.02.00 General Regulations for All Zoning Districts

- 2.02.01 Historic Sites
- 2.02.02 Density Bonuses for Affordable Housing
- 2.02.03 Moving of Buildings
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- 2.03.01 Adult Entertainment
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#### 2.04.00 Establishment of Zoning Districts

- 2.04.01 Zoning District Summary
  - 2.04.01(A) Table of Land Uses
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- 2.04.02 Zoning District Descriptions
  - 2.04.02.01 M Agriculture
  - 2.04.02.02 RE-1 Single Family Residential Estates
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  - 2.04.02.06 R-1-3A Single Family Residential
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  - 2.04.02.08 R-1A Single Family Residential
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  - 2.04.02.13 R-4 Manufactured/Mobile Home Park
  - 2.04.02.14 R-5 High Density Residential
  - 2.04.02.15 C-1 Central Business District Commercial
  - 2.04.02.16 C-2 Community Commercial District
  - 2.04.02.17 C-3 Highway Commercial District
  - 2.04.02.18 C-4 Neighborhood Commercial District
  - 2.04.02.19 P-1 Professional Office District

- 2.04.02.20 P-2 Professional Office District
- 2.04.02.21 I-1 Industrial District
- 2.04.02.22 I-2 Industrial District
- 2.04.02.23 PI Public Institutional
- 2.04.02.24 PR Public Recreation
- 2.04.02.25 CN Conservation District

2.05.00 General Regulations for Accessory Uses

- 2.05.01 Swimming Pools
- 2.05.02 Boat Docks
- 2.05.03 Antennas and Satellite Dishes
- 2.05.04 Temporary Portable Storage Containers
- 2.05.05 Permanent On-Site Storage Containers
- 2.05.06 Sidewalk Cafes

[RESERVED]



## **ARTICLE 2**

### **Regulations for Specific Districts**

**2.01.00 General Provisions.** The purpose of this Section is to set forth the general provisions concerning land use. The provisions established herein shall regulate land use, density and intensity, establish building lot and yard requirements, establish land use districts that identify the location of land uses in the City of Bartow, establish standards for land use in the City, and provide for a map locating the permitted land uses in the City. All land in Bartow shall be subject to the provisions of this Section, and shall be shown on the Official Zoning Map as provided in Section 8.05.00. More than one permitted use may be co-located on a single parcel of land in any zoning district within the City.

### **2.02.00 General Regulations for All Zoning Districts.**

#### **2.02.01 Historic Architectural Preservation Regulations**

(A) Purpose and Intent; Policy.

It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of properties of historical, cultural, archeological, aesthetic and architectural merit are in the interest of the health, prosperity and welfare of the people of the City of Bartow. Therefore, this chapter is intended to:

- (1) Effect and accomplish the protection, enhancement and perpetuation of buildings, structures, improvements, and landscape features which represent distinctive elements of the City's cultural, social, economic, political, scientific, religious, and architectural history;
- (2) Safeguard the City's historical, cultural, and architectural heritage, as embodied and reflected in such individual sites and districts;
- (3) Foster civic pride in the accomplishments of the past;
- (4) Protect and enhance the City's attraction to visitors and the support and stimulus to the economy there provided; and
- (5) Promote the use of individual sites and districts for the education, pleasure and welfare of the people of the City of Bartow.

(B) Definitions.

As used in this chapter, the following terms shall have the following meanings unless the context clearly indicates otherwise.

*Alteration:* Any change affecting the outward appearance of the building, structure, or site, such as open space, because of construction, repair, maintenance or otherwise to a building, structure, or site.

*Antique:* Any building or structure or item that is 50 years old or older.

*Awning:* A metal tubular structure over a storefront or entrance that provides framework for a canvas covering and which provides protection from sun and inclement weather for patrons walking below.

*Awning face:* That portion of an awning which is angled other than 90 degrees to grade.

*Awning frame:* Structure that supports the awning cover.

*Awning valance:* The narrow vertical hanging flap at the front edge of an awning which is 90 degrees to grade.

*Applicant:* The record owner of a site and/or building located thereon, the lessee thereof, or a person holding a bona fide contract to purchase same who makes application for a certificate of review.

*Building:* Any building that encloses a space used for sheltering any occupancy. Each portion of a building separated from other portions by firewall shall be considered as a separate building.

*Building Official:* An inspector in the Building Department, City of Bartow, or equivalent thereof.

*Canopy:* Architectural structure projecting over a storefront/entrance; covering is not fabric and is typically metal and/or glass; provides protection from sun and inclement weather for patrons walking below.

*Certificate of Appropriateness:* The document evidencing approval of the Historic Architectural Review Board of the City of Bartow for new construction or rehab or alteration of an existing historic structure in an historic district or one individually listed, or to a locally designated historic landmark. An applicant, once issued a Certificate of Appropriateness, has been deemed to meet the requirements of the particular historic district or individual landmark, regarding proposed "appropriate changes" to a structure or building, and may apply for a Building Permit.

*Certified Local Government (CLG):* A level of standing within the State that meets certain requirements established by the State Division of Historical Resources, which entitles the City to a higher level of technical assistance and consideration for grants than if not designated as a CLG.

*Construction:* The erection of an on-site improvement to a building or structure or site located within an historic district, or to a site that is individually listed outside an historic district, whether the site is presently improved or unimproved, or hereafter becomes unimproved by "demolition" or as a result of destruction by fire, windstorm or other casualty, or otherwise.

*Contributing property:* A building, site, structure, or object that is 50 years old or older that has not been so physically altered that it has lost its historic architectural physical character, under the regulations for applying for inclusion on the National Register of Historic Places. A contributing property adds to the historical architectural qualities, historic associations, or archaeological values for which a district is significant because (1) it was present during the period of significance of the district, and possesses historic integrity reflecting its character at that time, (b) is capable of yielding important information about the period, or (c) it independently meets the National Register of Historic Places criteria for evaluation.

*Demolition:* The complete or constructive removal of any or part or whole of a building or structure upon any site.

*Division of Historical Resources:* A division of the Florida Department of State, located in Tallahassee, and with the closest branch office located in Ybor City, Tampa.

*Exterior:* All outside surfaces of a building.

*Façade:* The front of a building, that which is readily visible to the public and is often seen within the context of other buildings facing a street or other public right-of-way.

*Florida Master Site File:* A listing of historic buildings/sites in the State. The City of Bartow had an inventory of historic buildings done in 1990 in the area bounded by Business 60 on north, Stuart on the south, Woodlawn on the west; and US 17 on the east. The survey identified 551 historic buildings, which were submitted to the Florida Master Site File and remain on file.

*Guidelines for architectural preservation:* Criteria approved by the City Commission to be used in determining the validity of applications for a Certificate of Appropriateness, and to establish a set of guidelines for architectural preservation of buildings, structures, landmarks, landscape features or other improvements for the City.

*Historic architectural preservation:* The preservation of an architectural feature(s) of any structure, building, landscape feature, outdoor feature, or the like, that is 50 years old or older.

*Historic Architectural Review Board:* The appointed board of the City of Bartow as created by this chapter.

*Historic district:* A collection of buildings, structures, landscape features or other improvements that are concentrated in the same area and have been designated as a "district" pursuant to this chapter.

*Historic landmark:* Areas, places, buildings, structures, landscape features, and other Bartow's history, architecture, archeology or culture; and possess an integrity of location, design, setting, materials, workmanship or association; and one designated by the City Commission. When an area, place, building, structure, etc., has been designated, it shall be considered a "local historic landmark." A local historic landmark is of particular historic or cultural significance that (1) reflects the broad cultural, political, economic or social history of the City, region, state or nation; or (2) is identified with historic personages or important events in local, regional, state or national history; or (3) embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship; or (4) is representative of the notable work of a master builder or designer whose individual ability has been recognized or who influenced his age. Any building, site, or structure approved by the State for landmark designation or by the National Register of Historic Places shall be automatically considered by the Board for designation by the City.

*Improvement:* Any building, structure, foundation, fence, gate, wall, walkway, courtyard, parking facility, light fixture, bench, sign, work of art, earthworks, sidewalk, or other manmade objects constituting a physical change or betterment of real property, or any part thereof.

*Individually listed site:* A building or structure listed in the Florida Master Site Files and/or on the National Register of Historic Places by itself and not within a listed Historic District. This term also means an isolated historic structure outside any of the City's designated historic districts but kept on a list to which this ordinance applies.

*Infill lot in an historic district:* Any vacant lot that can be legally built on according to the zoning criteria for the zoning district (i.e. setbacks, lot width, etc).

*Landscape feature:* Any improvement or vegetation including, but not limited to, outbuildings, fences, gates, walls, courtyards, shrubbery, trees, sidewalks, in-ground planters, plantings, fixed street furniture, and exterior lighting, which may or may not be part of the facade.

*National Register of Historic Places:* A federal listing maintained by the U.S. Department of the Interior, of buildings, sites, structures and districts that have attained a quality of significance as determined by the Historic Preservation Act of 1966, as amended. Thirty-six sites in the City of Bartow were identified in 1990 as having architectural merit or historical association for potential listing as individual nominations. As of July 2001, there are five buildings within the City limits listed on the National Register, and three Neighborhood districts. The five individual sites are: the Brown House, the Benjamin Holland House, South Florida Military Institute, the John J. Swearingen House, and the Polk County Historic Courthouse. The three neighborhoods placed in the National Register of Historic Places are described as:

- (1) Northeast District, with 23 structures on Church and Oak Streets north of Main Street;
- (2) Commercial District, with 22 structures on Main, Summerlin, Broadway and Davidson; and
- (3) South District, with all structures located south of Main Street on: Floral (5), Carpenter (7), Broadway (19), Central (12), Wilson (14), Jackson (19), Oak (26), Courtland (11), Orange (19) and a few others scattered on side streets in this general vicinity.

*Noncontributing property:* A building, site, structure, or object that does not add to the historic architectural qualities, historic associations, or archaeological values for which a district is significant, under the regulations for applying for inclusion on the National Register of Historic Places. A property may be deemed "noncontributing" because (a) it was not present during the period of significance of the district, (b) due to alterations, disturbances, additions, or other changes, it no longer possesses historic integrity reflecting its character at that time or is incapable of yielding important information about the period, or (c) it does not independently meet the National Register of Historic Places criteria for evaluation.

*Ordinary building addition:* An addition to an historic building or structure which does not alter the exterior front face of a building or structure.

*Ordinary repairs or maintenance:* Work done to prevent deterioration of a building or to correct any deterioration or decay of a building or any part thereof by restoring the building as nearly as practicable to its condition prior to such deterioration or decay.

*Owner of record:* The owner in fee simple of real property as indicated in the official records of Polk County, Florida, regardless of any liens, mortgages, or other interest in the property.

*Reconstruction:* The rebuilding or repair of a building or structure which has been damaged, has fallen into disrepair or for any other reason is substantially rebuilt.

*Site:* A parcel of ground whether improved or unimproved, under single or multiple ownership by any public or private corporation, association, trust or individual, or any combination thereof.

*Structure:* That which is built or constructed.

(C) Historic Architectural Review Board-Members.

There is hereby created a Historic Architectural Review Board of the City of Bartow. The board established herein is intended to have City-wide jurisdiction and serve as the City's primary agency responsible for furthering historic architectural preservation within the City.

- (1) It shall be composed of an odd number of members, with no less than five (5) members and no more than eleven (11).
- (2) Members shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their official duties, as shall be determined and approved by the City Commission.
- (3) Appointments shall be made on the basis of civic pride, integrity, experience and interest in the field of historic preservation. Whenever possible, the City Commission should attempt to appoint architects, landscape architects/designers, contractors, builders, historians, art historians, archeologists, genealogists, craftsmen, engineers, realtors, developers, urban planners, and persons who, by the virtue of their profession or business or hobbies, have demonstrated concern for historic preservation. Resumes for each member of the Board shall be kept on file with the City.
- (4) All members of the board shall be residents of the City.
- (5) It is the desire of the City that the board shall have the following members, whenever possible, and one member may qualify under more than one of the following criteria:
  - one architect;
  - one civil or structural engineer;
  - a representative from one local historical society; and
  - a resident of one of the historic districts in the City of Bartow or an owner of an historic commercial property.
- (6) Local governments shall be certified without the minimum number or types of disciplines represented on the board, if they can demonstrate to the State Historic Preservation Officer that they have made a reasonable effort to fill those positions. Reasonable effort means that the local government has documented that: (a) professionals in the required disciplines do not reside in the jurisdiction; or (b) local professionals are not willing to serve on the Commission.
- (7) Board members shall be appointed to three year terms. Reappointments shall be made in a manner that ensures staggered terms and continuity of the Board. Any vacancy occurring on the Board shall be filled within 60 days by the City Commission and said appointed member shall serve for the remainder of the unexpired term.

- (8) The City Commission shall have the authority to designate appointments to the Board; the Commissioners may call for a nominating committee to contact interested persons and present a list of interested citizens. Nominations for prospective board members may also be brought forward by the public. The City Commission may remove members as provided in the Charter of the City of Bartow.
  - (9) The Building Official, as defined in the Unified Land Development Code of the City, and the City Planner shall serve as advisory staff to the Board and attend all meetings. The City shall provide staff sufficient to undertake the requirements for certification as a Certified Local Government and carry out delegated responsibilities.
- (D) Historic Architectural Review Board-Duties, Organization, Responsibilities, and Powers.

The Board shall be responsible for identifying and maintaining Bartow's historic buildings and structures for the benefit of its residents, both now and in the future, through the development and administration of a comprehensive historic architectural preservation program. The Board shall have the authority to review and render a decision on all proposed alterations, demolitions, relocations for contributing property, and to review new construction within the boundaries designated. The Board shall have the power and authority and shall be required to do the following:

- (1) Promote the awareness of historic architectural preservation and its community benefits.
- (2) Make and prescribe such rules and regulations reasonably necessary and appropriate for the proper administration and enforcement of the provisions of this chapter. Such rules and regulations shall conform to the provisions of this chapter and shall not conflict with the Constitution and general laws of the State of Florida, and shall govern and control procedures, hearings and actions of the Board. No such rules and regulations shall become effective until a public hearing has been held upon the proposed rules and regulations, and any amendments or modifications thereto, and the same have been approved by the City Commission and filed with the Clerk of the City of Bartow. Upon final approval by the City Commission, such rules and regulations shall have the force and effect of law within the City of Bartow, Florida.
- (3) Prescribe forms for use by applicants in compliance with the provisions of this chapter.
- (4) Adopt or amend rules of procedure, which shall be available for public inspection per s.119.07, F.S., and which shall be subject to review by the State Historic Preservation Office.

- (5) At the first meeting held after January 1 of each year, the Board shall elect a Chairperson and Vice-Chairperson. The Chairperson, or in their absence the Vice-Chairperson, shall preside over all meetings of the Board.
- (6) Meet at least four times per year at regular intervals at publicly announced meetings. The Board shall record and maintain records of its actions and decisions. All decisions of the Board shall be rendered in a public forum. Minutes of each Board meeting shall be kept and prepared under the supervision and direction of the Board, and copies of such minutes shall be filed with the Clerk of the City of Bartow. All meetings shall have a previously advertised agenda, all meetings shall be open to the public and meeting records shall be available to the public.
- (7) Recommend to the City Commission designation of individual sites and districts; maintain a detailed inventory of the designated districts, sites, and structures within the City. Such inventory materials shall be available to the public. Such inventory materials shall be updated at least once every two years and duplicates shall be provided to the State Historic Preservation Office. Recommend sites for inclusion on the Florida Master Site File and National Register of Historic Places. The Board shall review for the City proposed nominations for listing on the National Register of Historic Places within its jurisdiction.
- (8) Issue or deny Certificates of Appropriateness.
- (9) Recommend adoption of guidelines for use in reviewing new construction and façade rehabbing/alterations in historic districts in order to issue or deny Certificates of Appropriateness. The U.S. Secretary of Interior's standards for rehabilitation will be used until local guidelines are prepared and adopted by ordinance by the City Commission. Guidelines prepared shall achieve the purpose of the U.S. Secretary of the Interior's Standards. Thereafter said guidelines may be modified upon recommendation of the Board and approval by the City Commission by resolution.
- (10) Carry out responsibilities complementary to those of the State Historic Preservation Office.
- (11) Review new construction and façade alterations or rehabilitation to contributing property within each historic district and for any individually listed site and for any locally designated site not within an historic district.
- (12) Identify and recommend designation of local historic landmarks to the City Commission based on and consistent with the criteria used by the National Register of Historic Places. Local officials, owners of record, and applicants shall be given a minimum of 30 and not more than 75 days' notice prior to Board meetings in which to comment on or object to the listing of a property in the National Register. Objections by property owners to prevent nominations to the National Register must be notarized.



- (13) Attend pertinent informational or educational meetings, workshops and conferences within the region as appropriate. Participate in the survey and planning of the activities of the Certified Local Government.
- (14) Seek expertise on proposals or matters requiring evaluation by a professional of a discipline not represented on the Board.
- (15) Recommend land use and building code amendments to proper authorities; identify City policies which undermine architectural preservation and recommend changes to the City Commission.
- (16) Coordinate all official architectural preservation activities of the City with other preservation activities undertaken by other groups within the City.
- (17) Recommend to the City Commission grants and loans for historic preservation and activities for which the City may apply, such as those offered to Certified Local Governments by the State Division of Historical Resources.
- (18) Inform the public of the Board's activities and preservation needs of the community.
- (19) Provide an annual report to the City Commission on the actions of the Board by November 1 each year covering the previous October 1 through September 30 period.
- (20) Abide by the Satisfactory Performance Requirements set forth by the State Historic Preservation Officer, as follows:
  - a. Provide the State Historic Preservation Officer (SHPO) with thirty days prior notice of all meetings.
  - b. Submit minutes of each meeting to SHPO within 30 days. Attendance for each Board member and public attendance for each meeting must be recorded and submitted within 30 days of the meeting.
  - c. Notify the SHPO of change in board membership within 30 days of action.
  - d. Notify SHPO immediately of all new historic designations or alterations to existing designations.
  - e. Submit amendments to this ordinance to SHPO for review and comment at least 30 days prior to adoption.

- f. Submit annual report by November 1 covering previous October 1 through September 30. The following information shall be included in the Annual Report to SHPO, at a minimum:
  1. Any changes to the Rules of Procedure;
  2. Number of proposals reviewed;
  3. New designations (listings);
  4. Changes to the Board;
  5. Revised resumes of Board members as appropriate;
  6. Changes to local historic preservation ordinance;
  7. Review of Survey and Inventory activity with a description of the system used;
  8. Program report on each grant-assisted activity.

(E) Historic Districts

An historic district shall be a geographically definable, contiguous, or noncontiguous area possessing a significant concentration, linkage or continuity of sites, contributing buildings, structures, or objects united by past events or aesthetically by plan or physical development.

- (1) No historic district shall be established within the City of Bartow except as provided in this chapter. Historic districts existing in some format prior to the adoption of this chapter shall be incorporated into designated historic districts created under this chapter; or shall be officially recognized by the City Commission to become an official district in the City.
- (2) The Board, or its designee, shall identify and recommend an area as being suitable for designation as an historic district. It shall then have the area surveyed and studied, formally or informally, for the purpose of determining the age and significance of each building, site, or structure within the area and whether each structure is a contributing or noncontributing structure. The Board shall use as a basis for establishing districts the July 1990 survey completed by the citizens of Bartow and compiled by Historic Property Associates, Inc., St. Augustine, Florida. When considering establishing an historic district, a report shall be made to the Board, which may, following a public hearing, recommend to the City Commission the establishment of a district and the boundary thereof. The district shall be considered to be "established" after the adoption of an ordinance by the City Commission of the City of Bartow designating the boundaries of the district. Thereafter said boundaries may be modified upon recommendation of the Board and approval by the City Commission by resolution.
- (3) The Board shall survey, formally or informally, the entire City for inclusion into historic districts, not just the area used in the July 1990 survey done for the City bounded by Business 60, Stuart, Woodlawn, and US 17.

- (4) The Board shall incorporate the three neighborhoods previously placed in the National Register and any individual listings on the National Register into historic districts, if at all possible.
- (5) Boundaries of the City's historic district shall be contiguous whenever possible, so that no roadway or property is left out for any reason that could be misconstrued as prejudicial or exclusionary. Whenever a roadway or other form of public or private right-of-way is shown as the district boundary (except State or Federal highways) the real property lying contiguous to and on the outside of the district boundary shall be considered part of the historic district and regulated accordingly.

(F) Designation process and procedure-Local Historic Landmarks.

The Historic Architectural Review Board shall have the authority to recommend to the City Commission the designation of areas, places, buildings, structures, landscape features and other improvements or physical features, as individual sites or districts that are significant to the City of Bartow's history, architecture, archeology or culture and possess an integrity of location, design, setting, materials, workmanship or association. When an area, place, building, structure, etc., has been designated, it shall be considered a "local historic landmark."

- (1) A local historic landmark is of particular historic or cultural significance when it:
  - a. Reflects the broad cultural, political, economic or social history of the City, region, state or nation; or
  - b. Is identified with historic personages or important events in local, regional, state or national history; or
  - c. Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship; or
  - d. Is representative of the notable work of a master builder or designer whose individual ability has been recognized or who influenced his age.
- (2) No historic landmark within the City of Bartow shall be designated except as provided in this chapter.
- (3) The Board shall seek and accept nominations for designation as local historic landmarks or may initiate a list for designation for recommendation to the City Commission. The Board shall be responsible for reviewing a proposed landmark to determine its local, regional, state, or national

significance and making a recommendation to the City Commission for designation as a Local Historic Landmark.

- (4) Any building, site, or structure approved by the State for landmark designation or by the National Register of Historic Places shall be automatically recommended by the Board and sent to the City Commission for consideration of designation.
- (5) Properties not generally considered; exemptions. Certain properties, which include cemeteries, birthplaces, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, properties commemorative in nature and noncontributing properties, will not normally be considered for designation. However, such properties will qualify if they are integral parts of districts that do meet the criteria, or if they fall within the following categories:
  - a. A religious property deriving primary significance from architectural or artistic distinction of historical importance.
  - b. A building or structure removed from its location but which is primarily significant for architectural value, or is the surviving structure most importantly associated with an historic event or person.
  - c. A birthplace or grave of an historical figure of outstanding importance if there is no other appropriate site or building directly associated with his/her productive life.
  - d. A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, distinctive design features, or from association with historic events.
  - e. A property primarily commemorative in intent if design, age, tradition or symbolic value has invested it with its own historical significance.
  - f. A property or district achieving significance within the past 50 years if it is of exceptional importance, as determined by the Board.
- (6) Investigation and designation report. Prior to the designation of an individual site or district, an investigation and designation report must be filed with the Historic Architectural Review Board. The format of these reports may vary according to the type of designation; however, all reports must address the following:
  - a. The historical, cultural, architectural or archeological significance of the property or properties being recommended for designation;

- b. A recommendation of boundaries for districts and identification of boundaries of individual sites being designated;
- c. A recommendation of standards to be adopted by the Board in carrying out its regulatory function under this chapter with respect to certificates of appropriateness. Where a report is filed recommending designation of a district, the report must identify those properties, if any, within the district which are not historically or architecturally compatible with structures in the district. The standards for regulating such nonconforming properties shall provide that a certificate of appropriateness is required only for new construction on such properties.
- d. All reports shall take into consideration projected, proposed or existing public improvements and developmental or renewal plans.

(7) Procedure for designation.

- a. Petition of the owner. The owner of any property in the City limits of Bartow may petition the Board for designation of their property as an individual site or district provided that they appear before the Board with sufficient information to warrant the investigation of the property for future designation and the Board finds that the property may be worthy of designation. The Board shall, based on its findings, either direct the staff to begin designation process or deny the petition. Nothing in this subsection shall be deemed to restrict the power of the Board to initiate the designation process pursuant to part (7) section (b) below.
- b. Directive of the Board. The Board shall, upon recommendations from staff or the acceptance of petitions pursuant to part (7), section (a) above, make a recommendation to the City Commission to begin the designation process by preparing a designation report, pursuant to part (6) of this subsection and any other standards the Board may deem necessary, and submitting this report according to the procedures described herein. Upon receiving the Board's recommendations, the City Commission shall direct the City Manager to initiate the procedure pursuant to part (6) of this subsection.
- c. Notification of owner. For each proposed designation of an individual site or district, the Board is encouraged to obtain the permission of the property owner(s) within the designated area, and is responsible for mailing a copy of the designation report to the owner(s) as notification of the intent of the Board to consider designation of the property at least ten (10) days prior to a public hearing held pursuant to this section.

- d. Notification of government agencies. Upon filing of a designation report, the secretary of the Board shall immediately notify the City Building Department, Public Works Department and any other City agency, including agencies with demolition powers, that may be affected by said filing.
- e. Notification of a public hearing. For each individual site or district proposed for designation, a public hearing before the Historic Architectural Preservation Board must be held no sooner than ten (10) days and within sixty (60) days from the date a designation report has been filed with the Board. Owners of record of the proposed site and property within 150 feet or other parties having an interest in the proposed designated properties, if known, shall be notified of the public hearing by certified mail to the last known address of the party being served; however, failure to receive such notice shall not invalidate the same as such notice shall also be perfected by publishing a copy thereof in a newspaper of general circulation at least ten (10) days prior to the hearing. Owners shall be given an opportunity at the public hearing to object to the proposed designation.
- f. Requirement of prompt decision and notification. Within ten (10) days of public hearing on a proposed individual site or district the Board shall by written resolution render its decision to approve, deny or amend the proposed designation and shall direct the secretary of the Board to notify the following of its actions with a copy of the resolution:
  - 1. The City clerk,
  - 2. Owner(s) of the affected property, and property within 150' thereof, and other parties having an interest in the property, if known,
  - 3. The City Public Works Department, and
  - 4. Any other agency, including agencies with demolition powers, that may be affected by this action.
- g. Amendment or rescission. The Board may amend or rescind any designation provided it complies with the same manners and procedures used in the original designation.
- h. Moratorium. Upon the filing of a designation report by the staff, the owner(s) of the real property which is the subject matter of the designation report shall not:
  - 1. Erect any structure on the subject property.

2. Alter, restore, renovate, move or demolish any structure on the subject property, until such time as final administrative action, as provided by this chapter, is complete.
- i. Mapping requirement. A map of all historic districts and sites in the City shall be maintained by the City staff and kept on file in the City's Planning Department. Within ten (10) days of designation, the Board shall notify the Planning Department of all updates to be made. The official map shall be updated within 60 days of notification by the Board.

(G) Powers of the Board: Certificate of Appropriateness.

The Historic Architectural Review Board will formally review design plans for compliance with the guidelines for façade architectural features for historic districts. An applicant that wishes to construct a new building on an infill lot, or alter or rehab the façade of an existing building that is a contributing property, that is within an historic district designated by the City of Bartow, or is designated as a local historical landmark, is required to obtain a Certificate of Appropriateness before a Building Permit may be issued by the City Building Department.

- (1) Except for minor repairs as described in Section J below, no building, structure, or site of any kind shall be erected, altered, constructed, restored, moved or demolished within the historic district until an application for a Certificate of Appropriateness for improvement of façade architectural features has been approved by the Historic Architectural Review Board. For the purpose of this chapter, "improvement of façade architectural features" shall include, but not be limited to, the architectural style, scale, size and proportion, general design and arrangement, of the façade of a building, including the kind and texture of a building material and the type and style of roofs, windows, doors and signs.
- (2) Nothing in this chapter shall be construed to prevent ordinary maintenance or repairs which do not involve a change of design or material, or alter the outward appearance of a building; any ordinary maintenance or repair that does not require a permit from the City for a non-historic building shall not require a permit for an historic building.
- (3) The Board may make such recommendations for changes or modifications to building plans or specifications as deemed necessary to enable the applicant to satisfy the criteria for issuance of a certificate. The Board shall state its reason(s) for approving or not approving the issuance of a Certificate.

- (4) Where, by reason of particular site conditions and restraints or because of unusual circumstances applicable solely to the particular applicant, strict enforcement of the provisions of this chapter would result in serious undue economic hardship to the applicant, the Board shall have the power to vary or modify adherence to this chapter; provided always that its requirements ensure harmony with the general purposes hereof and will not adversely affect the City. An applicant may apply for a variance from the adopted guidelines for an historic district, using before the Board the same procedures provided for the Board of Adjustment in the variance sections of the Unified Land Development Code.
- (5) Exemption from review for those persons rehabbing or altering an existing structure in an historic district that may require a permit but does not involve the destruction of the historic character of the building shall be determined on a case by case basis by the City Manager or his or her designee at the time the permit is requested. Reroofing that does not include a design change is exempt from review for a Certificate under this ordinance.

(H) Certificate of Appropriateness; Procedure.

For new construction of a building on an infill lot, or to alter or rehab the facade of a contributing property in an historic district that requires a permit from the Building Department, an applicant must undergo a review procedure by the Historic Architectural Review Board first to assure the architectural guidelines of the district are being met. A Certificate of Appropriateness is issued to an applicant meeting the guidelines of the district, because the project is deemed to be "designed with appropriate architectural features" for the district.

- (1) The Board shall adopt rules of procedure for making and reviewing applications for a Certificate of Appropriateness, and the form and content thereof. These rules of procedure shall be reviewed by the State Historic Preservation Office.
- (2) The Board shall promptly hold a hearing upon each application and shall provide a minimum ten (10) day notice to the applicant and the public. Notice of the hearing shall be mailed by first class mail to all property owners within 150' of the subject property using their address shown on the latest Polk County Property Appraiser's ad valorem tax roll. Notice of the meeting shall also be posted at least ten days prior to the scheduled meeting on the City of Bartow website and at City Hall. Said hearing shall be conducted at the next regular meeting or a special called meeting of the Board; provided that the hearing shall be held no sooner than ten (10) days after the application is received and no later than 60 days from the date the application is received.



- (3) The Board shall: (1) approve the application; (2) approve the application with modifications; or (3) disapprove the application with reasons for disapproval. The Board shall notify the applicant and various City departments as noted in Section F(7)(f).
- (4) The Certificate of Appropriateness shall describe the project for which it is issued and the type of work to be done. The Board may require certain terms or conditions as a prerequisite for the approval of a Certificate, which shall be clearly stated thereon.

(I) Certificate of Appropriateness-Criteria.

The following criteria shall be the basis on which the Board approves or denies an application for a Certificate of Appropriateness depending on the nature of the façade alteration:

(1) New Construction Criteria

- a. New construction shall be visually compatible with the buildings and environment with which it is visually related, including, but not limited to: the height; the floor-to-area ratio; the proportion between width and height of the exterior; the proportions and relationships between doors and windows; the relationship of solids to voids created by openings in the façade; the materials used in the façade; the texture inherent in the façade; the colors, pattern and trim used in the façade; and the design of the roof.
- b. The relationship of building masses and spaces between them shall be visually compatible with the buildings and environment around them.
- c. The site and landscape plan shall be sensitive to the individual building, its occupants and needs and shall be visually compatible with the buildings and environment with which it is visually related.
- d. A new street façade shall relate to adjacent buildings.
- e. Architectural features shall be incorporated, whenever possible, to relate the new with the old, and to preserve and enhance the characteristics of the district.

(2) Alterations to Façade of Existing Contributing Structures. Alterations shall achieve the purpose of the U.S. Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

- a. Alterations to a façade shall be visually compatible with the buildings and environment with which it is visually related, including, but not limited to: the height; the floor-to-area ratio; the

proportion between width and height of the exterior; the proportions and relationships between doors and windows; the relationship of solids to voids created by openings in the façade.

- b. Alterations shall not affect the architectural quality or historic character of the building, structure, or site, but shall, to the extent possible, maintain or restore the historic design and condition.

(3) Demolition Criteria: provisions for the delay of demolitions, but not for the indefinite stay of a demolition.

- a. The City may not prohibit the demolition of a building under the criteria of this ordinance. Demolition of an historic structure may be delayed for the purposes of finding a buyer for the structure willing to rehabilitate the structure rather than tear it down, as described further below.
- b. Demolition of a designated building, structure, improvement or site may occur pursuant to an order of a government agency or a court of competent jurisdiction or pursuant to an approved application by the owner for a Certificate of Appropriateness. Once an application has been approved, the owner may proceed to obtain a demolition permit.
- c. Government agencies having the authority to demolish unsafe structures shall receive notice of designation of individual sites or districts by being provided with a map from the Board. The Board shall be deemed an interested party and shall be entitled to receive notice of any public hearings conducted by said government agency regarding demolition of any designated property. The Board may make recommendations and suggestions to the government agency and the owner(s) relative to the feasibility of and the public interest in preserving the designated property.
- d. No permit for voluntary demolition of a designated historic building, structure, improvement or site shall be issued to the owner(s) thereof until an application for a Certificate of Appropriateness has been submitted and approved pursuant to the procedures of this chapter. The Board shall be guided by the criteria contained in part (3)(e)(1-4) below. The Board may grant a Certificate of Appropriateness which may provide for a delayed effective date of up to six (6) months. The effective date shall be determined by the Board based upon the relative significance of the structure and the probable time required to arrange a possible alternative to demolition. During the demolition delay period, the Board may take such steps as it deems necessary to preserve the structure concerned, in accordance with the purposes of this chapter. Such steps may include, but shall not be limited to, consultation with civic

groups, public agencies and interested citizens, recommendations for acquisition of property by public or private bodies or agencies, and exploration of the possibility of moving one or more structures or other features.

- e. In addition to all other provisions of this chapter, the Board shall note the following for each property.
  - 1. The historic or historic architectural significance of the building or structure; whether the building or structure would reasonably meet national, state or local criteria for designation as an historic or architectural landmark.
  - 2. The difficulty or impossibility of reproducing such a building or structure because of its design, texture, material, detail, or unique location; whether reasonable measures can be taken to save the building or structure.
  - 3. The importance of the building or structure to the designated historic district; and, whether the building or structure is one of the last remaining examples of its kind in the neighborhood or in the City.
  - 4. The definite plans for reuse of the site if the proposed demolition is carried out, including any replacement buildings or structures, and the effect on the surrounding area.

(4) Reconstruction.

- a. The reconstruction of a building or structure damaged by fire, storm or other act of God shall be reviewed by the Board according to the criteria in subsection (2) of this Section.
- b. Totally or substantially new construction, regardless of reason, shall be reviewed according to the criteria set forth in subsection (1) of this Section.

(5) Relocation. The Board shall consider the following criteria in evaluating applications for a Certificate of Appropriateness for relocation:

- a. The historic character of the building or structure contributes to its present setting.
- b. The reasons for the proposed move.
- c. The proposed new setting and the general environment of the proposed new setting.

- d. Whether the building or structure can be moved without significant damage to its physical integrity, or change in or loss of significant characteristics. Elements removed in order to move the building or structure shall be replaced following relocation.
- e. Whether the proposed relocation site is compatible with the historic and architectural character of the building or structure.
- f. When applicable, the effect of the move on the distinctive historical and visual character of a designated historic district.
- g. The effect of relocation on subsurface resources.

(J) Administrative Review and Determination for Minor Changes and Repairs.

Minor repairs and changes to historic structures that require Building Permits may require a Certificate of Appropriateness review prior to a Building Permit being issued. However, the City may exempt a person or company from the review process for a Certificate of Appropriateness. The exemption shall be determined on a case by case basis by the City Manager or his or her designee, based on the extent of façade modifications, as follows:

- (1) Nothing in this ordinance shall be construed to prevent ordinary maintenance or repairs that do not require a Building Permit from being undertaken by a homeowner or building owner.
- (2) Minor changes to the façade of a structure that do not require a Building Permit shall not require approval by the Board for a Certificate of Appropriateness.
- (3) Exemption from review for those persons rehabbing or altering an existing structure in an historic district, or to an historic structure, that may require a Building Permit, but does not involve the destruction of the historic character of the building, shall be determined on a case by case basis by the City Manager or his or her designee at the time the permit is requested, based on the extent and type of façade modifications. Reroofing is exempt from review under this ordinance; however, design guidelines of neighborhood districts that will be drawn up after the passage of this ordinance may require specific roofing materials in some neighborhoods.
- (4) Exterior signs or interior signs plainly visible from adjacent rights of way shall be compatible with the buildings and environment with which they are visually related, consistent with established Historic District Guidelines for Signs and Graphics and meet the requirements of the sign regulations of the City.

- (5) Accessory buildings plainly visible from adjacent rights of way shall be compatible with the buildings and environment with which they are visually related, consistent with established Historic District Guidelines and meet any and all requirements related to the use and placement of such buildings in the City of Bartow.
- (K) Compliance.
  - (1) Except for minor repairs as described herein, the Building Department shall not issue a Building Permit for any façade alteration or demolition of a building, structure or site within a designated historic district unless a Certificate of Appropriateness has been approved and issued by the Board.
  - (2) Any façade alteration to a building, structure, or site shall be accomplished in strict compliance with the Certificate of Appropriateness. The Building Official shall, as part of his official duties, inspect the building to determine compliance with the Certificate. Failure to comply with the Certificate of Appropriateness shall be treated in the same manner as any other Building Code or Building Permit violation, including revocation of the permit and municipal ordinance violation punishable as provided in the City Code.
- (L) Appeals.
  - (1) Any person or persons aggrieved by any decision of the Historic Architectural Review Board to grant or deny a designation or to issue a Certificate of Appropriateness, may, within 30 days after the date at which the decision was rendered, but not thereafter, apply to the courts for relief in the manner provided by the laws of the State of Florida.
- (M) Expiration Criteria. Certificates of Appropriateness granted by the Board or City Staff shall remain with the property and be valid for one year from the date of approval. Improvements shall be vested upon issuance of a building permit and satisfactory completion of the improvements that are the subject of the action. If an improvement associated with the issuance of a Certificate is removed from a property it shall not be rebuilt or replaced unless it complies with the applicable provisions of the Unified Land Development Code. Certificates of Appropriateness granted prior to the effective date of this amendment shall be vested and not subject to the expiration criteria contained herein.

#### **2.02.02 Density Bonuses for Affordable Housing.**

Where a developer voluntarily provides a substantial number of dwelling units which qualify as affordable housing under the definition provided in Article 9, the City of Bartow may authorize an increase in residential density. The purpose of this Section is to increase the supply of affordable housing resources for families of low and moderate income, and to provide incentives for private-sector developers who address this need.

(A) Density bonuses for affordable housing shall be awarded under the following conditions:

- (1) Development site must be located in the Medium Density or High Density Residential land use designations, as indicated on the Future Land Use Map of the City of Bartow Comprehensive Plan.
- (2) Density bonuses shall be considered only in R-2 and R-3 districts.
- (3) Development site shall include no less than 20 dwelling units. At least 25 percent of all units on the site must qualify as affordable housing.
- (4) Affordable units shall be evenly distributed throughout the site, and shall not be clustered into particular areas. Site development plan or subdivision plat shall note the location of all affordable housing units.
- (5) Affordable units shall be similar in appearance and design with surrounding units, and must be compatible with the balance of the development.
- (6) Where density bonuses are approved, single family development shall meet the following minimum standards, regardless of zoning district:

|                       |                    |
|-----------------------|--------------------|
| Maximum Net Density:  | 9.0 units per acre |
| Minimum Lot Size:     | 4,000 s.f.         |
| Minimum Lot Width:    | 40 feet            |
| Minimum Floor Area:   | 600 s.f.           |
| Maximum Lot Coverage: | 45%                |

The above standards may be applied to all single family residential units within the development site, including those not qualifying as affordable housing.

Multiple family, duplex, and single family attached development shall be permitted as follows:

| District | Maximum Density (units/acre) |
|----------|------------------------------|
| R-2      | 13                           |
| R-3      | 20                           |

All other appropriate development standards shall apply to development authorized under a density bonus.

- (7) Application for approval of a density bonus shall include a statement indicating the number, type(s) and approximate cost of the units being represented as affordable housing. The Development Director shall determine the maximum allowable cost of units offered either for sale or rent, based on the most recent U.S. Census data or other available information. Units qualifying as affordable housing shall not be rented or sold above this maximum allowable cost for a period of two years following the issuance of certificates of occupancy.
  - (8) Density bonuses may be approved administratively upon receipt of all necessary development plans and documents meeting the standards listed above. However, at the Development Director's discretion, any application for a density bonus may be referred to the Planning and Zoning Commission for review and recommendations, and to the City Commission for final approval. In such cases, the application may be denied based on potential incompatibility with surrounding development, or approved with any conditions necessary to ensure compatibility.
- (B) Single Family Attached Development. Developments containing single family attached dwelling units, as defined in Article 9, shall be designed and approved according to the following regulations:
- (1) Development Plans. Single family attached developments shall be platted according to the provisions of Section 7.01.00. In addition to all other required information, plats shall show building envelopes for all structures. A site development plan meeting the requirements of Section 7.02.00 shall be submitted to the city for review and approval before construction begins.
  - (2) Density. Gross density of the development site shall not exceed the maximum permitted density for the zoning district wherein the site is located, as shown in Table 2.02.01(B). For purposes of calculating density, the development site shall include all platted lots, together with roads, stormwater management facilities, utility sites and any other common property within the perimeter of the subdivision plat, regardless of whether such facilities will ultimately be dedicated to the city.
  - (3) Non-Residential Tracts
    - a. Prior to approving the final plat for recording in the public records of Polk County, the Development Director shall verify that all parcels or tracts not intended for use as residential lots are clearly delineated on the plat as to size and dimension. The purpose, ownership, and responsibility for maintenance for each parcel or tract shall be noted on the plat.

Unless specifically accepted by the City Commission, the City of Bartow shall not be responsible for maintenance and/or repair of any common facilities or properties.

- b. Clubhouses, swimming pools, and other structures erected on common property shall be approved only after submittal of a site development plan in accordance with the requirements of Section 7.02.00. The Development Director may waive this requirement for structures under 300 s.f. in size which do not require water, sewer, or parking facilities. Such structures shall be located a minimum of 25 feet from all property lines.

- (4) Private Streets. Where internal streets are to be retained in private ownership, a security gate or other form of barrier to restrict access may be installed. However, the developer or homeowners' association shall be responsible for providing access to city emergency vehicles when necessary.

Private streets shall be placed on right-of-way meeting width requirements applicable to a public road. The use of easements to provide access to residential lots shall be prohibited.

- (5) Development Standards

- a. Minimum Development Site Requirements

|                        |                                                     |
|------------------------|-----------------------------------------------------|
| Two-unit structure:    | 7,200 s.f.                                          |
| Three+ unit structure: | 8,500 s.f.                                          |
| Minimum site width:    | 70 feet for a two-unit<br>85 feet for a three+ unit |
| Minimum site depth:    | 100 feet                                            |

- b. Minimum Residential Lot Requirements

|                    |            |
|--------------------|------------|
| Minimum lot size:  | 4,000 s.f. |
| Minimum lot width: | 40 feet    |

Where a lot fronts on a cul-de-sac or other curved right-of-way, there shall be no less than 25 feet of frontage, as measured along the arc of the curve.

- c. Setbacks

- 1) All structures shall be located at least 25 feet from the front lot line and 20 feet from the rear lot line. Side street setbacks on corner lots shall be 25 feet.



- 2) All principal structures shall be located at least 7.5 feet from side lot lines where there is no common wall.
  - 3) Accessory structures on residential lots, where permitted, shall be set back at least 7.5 feet from side and rear lot lines. This requirement shall apply to swimming pools and screen enclosures.
  - 4) Where the development site includes three units or more, and abuts a single family residential zoning district, all principal and accessory structures shall be located at least 25 feet from the perimeter of the site.
- d. Floor Area. Minimum floor area shall be 500 s.f.
  - e. Maximum Site Coverage. Structural coverage on the development site shall not exceed 35 percent.
  - f. Other Requirements
    - 1) No residential structure shall contain more than 10 dwelling units.
    - 2) No structure shall exceed 35 feet in height.
    - 3) Each unit shall have an individual access to the outside, both in the front and rear.
    - 4) Where ingress/egress to residential lots is from an arterial road, driveway access points shall be limited to one per structure or one for each 50 feet of frontage, whichever is less.
    - 5) Accessory structures, including swimming pools, shall be prohibited on residential lots of less than 5,000 s.f. Where permitted, such structures shall be limited to a cumulative total of 400 s.f. per lot. Swimming pools and screen enclosures are not included in this size limitation.

**2.02.03 Moving of Buildings.** No structure shall be moved from one development site to another unless such structure shall, at the new location, comply with all applicable provisions of this Code.

**2.02.04 Requirements for Lots Divided by a Right-of-Way.**

Where a single lot or parcel that has been recorded in the public records of Polk County under a unified legal description is divided by a public or private right-of-way, road, alley or easement, the following standards shall apply:

- (A) Where the land area on each side of the right-of-way meets the minimum size requirement of the applicable zoning district, the property shall be considered two lots for the purposes of this Code.
- (B) Where the land area on one or both sides of the right-of-way fails to meet the minimum size requirement, then the property shall be considered one lot for the purposes of this Code. The principal structure shall be located on the larger portion of the property.
- (C) No subdivision plat that includes a lot divided by a right-of-way shall be approved unless such lot meets the applicable size requirement on at least one side of the right-of-way.

**2.02.05 Alteration of Lot Size.** No existing lot shall be reduced in area or dimension below the minimum requirements applicable to such lot under the provisions of this Code, except that when a lot is reduced in dimension or total area by 20 percent or less by the voluntary dedication and acceptance of a portion of such lot for a public use, the lot shall be considered to contain the dimensions and area it contained prior to such dedication. However, for purposes of measuring compliance with setback requirements of this Code, the dimensions and area of such lot as it exists after the voluntary dedication shall apply.

**2.02.06 Fence Height Limitations.** No fence or solid wall on any property shall exceed six feet in height in any residential zoning district, or eight feet in any commercial or industrial zoning district. No fence or other obstruction, including signs (having less than 8 feet of ground clearance), walls, hedges, or other structures shall exceed four feet in height within 25 feet of a street intersection. In all zoning districts, fences or walls shall be limited to four feet in height within required front or side street setback areas, if visibility is not impaired, a maximum height of six feet may be approved by the building inspector.

**2.02.07 Communication Antennas.**

To encourage collocation and to minimize the number of communication towers within the City, communication antennas shall be considered a permitted use when placed on or attached to any structure, including existing communication towers. Communication antennas shall not, however, be placed on, or attached to, any structure used as a single family dwelling unit. Communication antennas shall not be placed on historic landmarks, recognized by federal, state, local law or ordinance, or listed in the National Register of Historic Places.

- (A) Standards.
  - (1) No new antennas shall exceed the height of the structure to which it will be attached by more than twenty feet, without a variance from the Board of Adjustment.

- (2) Communication antennas must be operated and installed in accordance with all applicable state or federal laws, regulations and standards, including applicable FCC regulations relating to radio frequency emissions and manufacturer standards.
  - (3) If a communication antenna is installed on a structure other than a tower, the antenna, if visible from surrounding properties, shall be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
  - (4) Electrical or mechanical equipment used in conjunction with communication antennas, if located on the ground, shall comply with the minimum accessory building setback requirements of the zoning district in which they are located.
- (B) Nonconforming Antennas. All communication antennas legally installed in the City prior to the effective date of this amendment to the Unified Land Development Code shall be considered permitted nonconforming uses, allowed to continue their usage. See Article 7, Section 7.12.00 "Nonconformities", and specifically Section 7.12.07 for further regulations.

#### **2.02.08 Manufactured/ Mobile Home Requirements.**

These regulations pertain to all manufactured/ mobile homes and "park model" manufactured/ mobile homes; and is based on the following citation, Chapter 320.8285, F.S. Manufactured/ mobile homes as single units are permitted in R4 zoning district within the City, and are a permitted use with an approved Site Development Plan in a manufactured/ mobile home park in R4 zoning district, as per the Table of Land Uses, Article 2, Section 2.04.01(A).

- (A) All manufactured homes, manufactured/ manufactured/ mobile homes and park models must be skirted prior to the issuance of a certificate of occupancy.
- (B) All manufactured/ mobile homes and structures applying for relocation to the City must pass a third party inspection regarding the integrity of the structure; the fee for this inspection shall be set by the City Commission and shall be paid for by the applicant. The unit under consideration for relocation cannot be deteriorated or dilapidated in any manner.
- (C) All manufactured/ mobile home structures that are to be located in zoning district R-4 but not within a manufactured/ mobile home park must meet the development standards set forth for the district in Article 2, Table 2.04.01(B) "Table of Development Standards", including minimum dwelling unit square footage for the zoning district.

- (D) All manufactured or manufactured/ mobile home structures that are to be located in zoning district R-4 and not located in a manufactured/ mobile home park must meet the following compatibility standards:
- (1) The pitch of the roof of the manufactured/ mobile home must be no less than 3:12;
  - (2) The siding used must match the predominant siding type of the site-built homes in the subdivision; and
  - (3) The driveway of the lot must have a paved or concrete apron.
- (E) All manufactured or manufactured/ mobile homes/structures are subject to the code enforcement procedures adopted by the City. If any unit becomes deteriorated or dilapidated, the unit is subject to a fine and/or demolition, as per Article 8, Section 8.03.03, "Code Enforcement Board".
- (F) As stated in Article 8, Section 8.02.00 (B): Temporary Office or Construction Trailer. The Planning Director may authorize the use of a manufactured/ mobile home or other temporary structure, not meeting the requirements of the Southern Standard Building Code, at the construction site with an approved Site Development Plan. The temporary structure may be used only as an office, tool shed or other facility in support of construction work, and shall not be used for living accommodations, for sales/rental of lots or offices, or for any other purpose.
- The applicant shall designate the exact location of the temporary structure on the Site Development Plan, and shall place it only in the approved location. The temporary structure shall not be installed prior to issuance of the building permit for the development site, and shall be removed upon expiration of the building permit or issuance of the Certificate of Occupancy, whichever comes first. If a manufactured/ mobile home is to be used, the wheels and axles shall not be removed.
- (G) As stated in Article 8, Section 8.02.00 (C): Temporary Manufactured/ Mobile Home for Use During Construction of a Residence. The Planning Director may authorize the use of a manufactured/ mobile home as a temporary residence during construction of a permanent residence under the following conditions:
- (1) The lot or building site is at least one-half acre in size;
  - (2) The applicant has received approval of a building permit for construction of a single family residence on the property;
  - (3) The foundation and rough plumbing for the permanent structure have been completed and approved by the Development Director.

- (4) The manufactured/ mobile home shall be placed at least 20 feet from all lot lines, and ten feet from any other existing or planned structure.
  - (5) The unit must be connected to a public sewer system or have received a septic tank permit from the Polk County Health Department.
  - (6) Wheels and axles shall not be removed.
  - (7) The manufactured/ mobile home shall be removed from the building site prior to issuance of the Certificate of Occupancy for the permanent residence, or at the end of a six month period commencing at the date of its installation, whichever comes first.
  - (8) This administrative approval may not be renewed or granted a second time for the same building site.
- (H) Specific regulations for the construction of a manufactured/ mobile home park can be found in Article 3, Section 3.08.01.

#### **2.02.09 Model Homes.**

The Planning Director shall have the ability to approve requests for construction of model homes once construction plans have been approved and prior to the completion of a final plat as provided for in Article 7.06.00 of the City's ULDC provided each of the following submittal requirements and permitting restrictions are complied with by an applicant:

- (A) Submittal Requirements: The applicant shall submit the following to the Planning Department.
- (1) A request to construct a model home on an application form provided by the City, together with applicable fees, which have been established by resolution of the City Commission.
  - (2) Three (s) copies of the plot plan on the proposed lot depicting the structure(s), footprint(s), setbacks and proposed easements for each model being requested.
  - (3) Three (3) copies of the overall subdivision plat which indicates where the models are to be located.
  - (4) An executed, notarized statement, on a form provided by the City, by the applicant that they understand, agrees to and shall comply with the permitting restrictions set forth in subsection B below.
- (B) Permitting Restrictions: The applicant shall understand and agree that:

- (1) The applicant shall utilize a preliminary final plat with proposed street names approved by the Building Department for issuance of a permanent street address.
- (2) Any permitting is at the risk and expense of the applicant if changes are made with respect to the final recorded plat; and, no certificate of occupancy will be issued until an amended building permit for a final permanent address is issued.
- (3) No certificate of occupancy shall be issued until a certificate of completion is issued for the subdivision.
- (4) All construction and permitting is at the applicant's own risk and expense.
- (5) Notice shall be placed in all model homes stating that the model home is for display purposes only and cannot be sold until such time that a certificate of completion is issued for the subdivision.

#### **2.02.10 Screen Rooms/Porches.**

Screen rooms/porches are permitted in all residential districts and shall meet the following requirements:

- (A) Screen rooms/porches may be constructed to within seven and one-half (7 ½) feet of rear property lines in-lieu-of twenty (20) feet as required by Table 2.04.01(B) of the ULDC.
- (B) Screen rooms/porches shall be located to the rear of the front building line, and shall not encroach into side street setback areas.
- (C) Screen rooms/porches shall not be located within public utility or stormwater management easements along side and rear lot lines.

#### **2.02.11 Modular Home or Building**

A modular home or building shall be permitted in all zoning districts provided there use satisfies the definition of "Modular Home or Building" as contained in Article 9, Definitions. In addition to satisfying the criteria contained in Article 9, Definitions, modular homes or buildings shall also satisfy the following requirements:

- (A) Modular homes or buildings shall be constructed on a finished slab or block stem wall. If constructed on a raised block stem wall the exterior of the stem wall shall be finished with stucco, brick or other material of similar aesthetic appearance.
- (B) Any modular home or building shall be of the type that is consistent with the certification requirements of the Florida Department of Community Affairs which shall be demonstrated to the satisfaction of the Building Official prior to issuance of a building permit.

- (C) Temporary modular buildings shall not be regulated pursuant to this section. The use within the City shall be regulated on a case by case basis and approved pursuant to one of the following regulatory processes: Development Agreement, Preliminary Subdivision Plan, Site Development Plan (w/ public hearing) or Conditional Use approval process.

## **2.03.00 General Regulations for Commercial/Industrial Zoning Districts.**

### **2.03.01 Adult Entertainment Establishments.**

- (A) New Establishments. New adult entertainment establishments shall be permitted in I-1 and I-2 districts subject to the following standards:
  - (1) No adult entertainment establishment shall be located within 500 feet of any property zoned Residential, or property within unincorporated Polk County zoned for agricultural or residential use.
  - (2) No adult entertainment establishment shall be located within 2,000 feet of any day care center or public recreation facility.
  - (3) No adult entertainment establishment shall be located within 2,500 feet of any church or school.
  - (4) No adult entertainment establishment shall be located within 1,000 feet of another adult entertainment establishment.
- (B) Non-Conforming Establishments. Adult entertainment establishments legally in operation prior to the effective date of this Code may continue to operate as a non-conforming use in accordance with Article 7.

Adult entertainment businesses established under paragraph (A) above shall not be rendered non-conforming by any of the following subsequent occurrences:

- (1) The rezoning of property within the City of Bartow or unincorporated Polk County for agricultural or residential use.
  - (2) The placement of a day care center or public recreation facility within 2,000 feet.
  - (3) The establishment of a church or school within 2,500 feet.
- (C) Measurement of Distances. Distances shall be measured from property line to property line, along the shortest distance between property lines, without regard to the route of normal travel.

- (D) Applicability of Other Laws and Ordinances. Nothing in this subsection shall be construed to permit the operation of any business or the performance of any activity prohibited under any other section of this Code or other applicable law or regulation. Additionally, nothing in this Code shall be construed to authorize, allow, or permit the establishment of any business, the performance of any activity, or the possession of any item, which is obscene under the judicially established definition of obscenity.

### **2.03.02 Temporary Tents.**

Tents may be erected temporarily on property in a commercial district where a commercial structure is already established, and on property occupied by a church, regardless of its zoning district, subject to the following requirements:

- (A) Tents may not be erected more than two times per year, for periods not exceeding two weeks.
- (B) No more than 10 percent of the existing parking area is used, and the tent does not block any point of ingress or egress to the development site.
- (C) All electrical connections must be inspected and approved by the Building Department.
- (D) The tent must be inspected and approved by the Bartow Fire Department as being in compliance with all relevant Fire Code regulations.



## **2.04.00 Establishment of Zoning Districts**

In order to classify, regulate, and restrict the uses of land, water, buildings, and structures; to regulate and restrict the height and bulk of buildings; to regulate the area of yards, courts, and other open spaces between buildings; and to regulate the intensity of land use, all the area of the City of Bartow is classified into one of the following districts:

|        |                               |
|--------|-------------------------------|
| M      | Agriculture                   |
| R-1-5A | Single Family Residential     |
| R-1-4A | Single Family Residential     |
| R-1-3A | Single Family Residential     |
| R-1-2A | Single Family Residential     |
| R-1A   | Single Family Residential     |
| R-1B   | Single Family Residential     |
| R-1    | Single Family Residential     |
| R-2    | Two-Family Residential        |
| R-3    | Multiple Family Residential   |
| R-4    | Multiple Family Residential   |
| R-5    | High Density Residential      |
| C-1    | Downtown Commercial           |
| C-2    | Community Commercial          |
| C-3    | Highway Commercial            |
| C-4    | Neighborhood Commercial       |
| P-1    | Professional Office District  |
| P-2    | Professional Office District  |
| I-1    | Industrial                    |
| I-2    | Industrial                    |
| PI     | Public Institutional District |
| PR     | Public Recreation District    |
| CN     | Conservation District         |

### **2.04.01 Zoning District Summary Tables.**

The tables on the following pages present, in a quick-reference form, information regarding permitted and special exception land uses, and development standards for all zoning districts. These tables must be read in conjunction with the regulations for specific zoning districts in Section 2.04.02. The key to the table is as follows:

- P = Permitted Use
- S = Special Exception Use, Board action required
- D = Site Development Plan required, use is permitted upon approval of site development plan
- C = Conditional Use, Board action required

TABLE 2.04.01 (A)  
Table of Land Uses

| Category/Use                                                                                                                                                        | M | R<br>E<br>1 | R<br>E<br>2 | R<br>1<br>5<br>A | R<br>1<br>4<br>A | R<br>1<br>3<br>A | R<br>1<br>2<br>A | R<br>1<br>A | R<br>1<br>B | R<br>1 | R<br>2 | R<br>3 | R<br>4 | R<br>5 | C<br>1 | C<br>2 | C<br>3 | C<br>4 | P<br>1 | P<br>2 | I<br>1 | I<br>2 | P<br>I | P<br>R | C<br>N |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|-------------|-------------|------------------|------------------|------------------|------------------|-------------|-------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| <b>Single Family Detached</b>                                                                                                                                       |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
| Single Family; std. construction                                                                                                                                    | P | P           | P           | P                | P                | P                | P                | P           | P           | P      | P      | P      |        |        | S      | S      | S      | S      | S      | S      |        |        |        |        |        |
| Single Family; Manufactured/Mobile Home                                                                                                                             |   |             |             |                  |                  |                  |                  |             |             |        |        |        | P      |        |        |        |        |        |        |        |        |        |        |        |        |
| Guest House                                                                                                                                                         |   | S           | S           | S                | S                | S                | S                | S           | S           | S      | S      | S      |        |        | S      | S      | S      | S      | S      | S      |        |        |        |        |        |
| Manufactured/Mobile Home Subd. or Park                                                                                                                              |   |             |             |                  |                  |                  |                  |             |             |        |        |        | D      |        |        |        |        |        |        |        |        |        |        |        |        |
| <b>Two Family Residential</b>                                                                                                                                       |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
| Duplex                                                                                                                                                              |   |             |             |                  |                  |                  |                  |             |             |        | P      | P      |        |        | S      | S      | S      |        | S      | S      |        |        |        |        |        |
| Garage Apartment                                                                                                                                                    |   |             |             |                  |                  |                  |                  |             |             |        | P      | P      |        |        | S      | S      | S      |        | S      | S      |        |        |        |        |        |
| <b>Multi Family Residential</b>                                                                                                                                     |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
| Apartment Building                                                                                                                                                  |   |             |             |                  |                  |                  |                  |             |             |        |        | P      |        | P      | S      | S      | S      | S      | S      | S      |        |        |        |        |        |
| Boarding House                                                                                                                                                      |   |             |             |                  |                  |                  |                  |             |             |        | S      | S      |        |        | S      | S      | S      | S      | S      | S      |        |        |        |        |        |
| Condominium                                                                                                                                                         |   |             |             |                  |                  |                  |                  |             |             |        | D      | D      |        | D      | S      | S      | S      | S      | S      | S      |        |        |        |        |        |
| Cluster Homes                                                                                                                                                       |   |             |             |                  |                  |                  |                  |             |             |        | D      | D      |        |        |        |        |        |        | S      | S      |        |        |        |        |        |
| Patio Homes                                                                                                                                                         |   |             |             |                  |                  |                  |                  |             |             |        | D      | D      |        |        |        |        |        |        |        |        |        |        |        |        |        |
| Zero Lot-Line Homes                                                                                                                                                 |   |             |             |                  |                  |                  |                  |             |             |        | D      | D      |        |        |        |        |        |        |        |        |        |        |        |        |        |
| Garden Apartments                                                                                                                                                   |   |             |             |                  |                  |                  |                  |             |             |        | D      | D      |        |        | S      | S      | S      | S      | S      | S      |        |        |        |        |        |
| Residential Mixed Use                                                                                                                                               |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | P      | P      | P      | P      |        |        |        |        |        |        |        |
| <b>Group Care Facilities</b>                                                                                                                                        |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
| Adult Family Care Home, Family Day Care Home, Family Foster Care                                                                                                    |   | P           | P           | P                | P                | P                | P                | P           | P           | P      | P      | P      | P      | P      |        |        |        |        | P      | P      |        |        | P      |        |        |
| Special Needs Facilities: Child Care Facility, Adult Day Care Center, Assisted Living Facility, Foster Care Facility, Group Home Facility, Hospice Residential Unit |   | S           | S           | S                | S                | S                | S                | S           | S           | S      | S      | S      | S      | S      | D      | D      | D      |        | P      | P      |        |        | P      |        |        |
| Nursing Home                                                                                                                                                        |   |             |             |                  |                  |                  |                  |             |             |        | S      | S      |        | D      | D      | D      | D      |        |        |        |        |        | P      |        |        |
| <b>Lodging</b>                                                                                                                                                      |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
| Bed & Breakfast                                                                                                                                                     | D | D           | D           | D                | D                | D                | D                | D           | D           | D      | D      | D      |        |        |        |        |        |        | P      | P      |        |        |        |        |        |
| Hotel/Motel                                                                                                                                                         |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | P      | P      | P      |        |        |        |        |        |        |        |        |
| RV Park/Campground                                                                                                                                                  | S |             |             |                  |                  |                  |                  |             |             |        |        |        | D      |        |        |        |        |        |        |        |        |        |        |        |        |

TABLE 2.04.01 (A)  
Table of Land Uses

| Category/Use                                               | M | R<br>E<br>1 | R<br>E<br>2 | R<br>1<br>5<br>A | R<br>1<br>4<br>A | R<br>1<br>3<br>A | R<br>1<br>2<br>A | R<br>1<br>A | R<br>1<br>B | R<br>1 | R<br>2 | R<br>3 | R<br>4 | R<br>5 | C<br>1 | C<br>2 | C<br>3 | C<br>4 | P<br>1 | P<br>2 | I<br>1 | I<br>2 | P<br>I | P<br>R | C<br>N |
|------------------------------------------------------------|---|-------------|-------------|------------------|------------------|------------------|------------------|-------------|-------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| <b>Retail Commercial, No Outdoor Storage or Activities</b> |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
| Adult Entertainment Establishment                          |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        | D      | D      |        |        |        |
| Appliance Repair                                           |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | P      | P      | P      |        |        |        | P      |        |        |        |        |
| Auto Parts, Retail                                         |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | P      | P      | P      | P      |        |        | P      |        |        |        |        |
| Bakery                                                     |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | P      | P      | P      | P      | P      | P      | P      | P      |        |        |        |
| Convenience Store (no gas)                                 |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | P      | P      | P      | P      |        | P      | P      | P      |        |        |        |
| Drinking Establishment                                     |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | D      | D      | D      |        |        | D      | D      | D      |        |        |        |
| Brewpub                                                    |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | D      | D      | D      |        |        |        |        |        |        |        |        |
| Filling Station (Convenience store w/gas)                  |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | P      | P      | P      | P      |        | P      | P      | P      |        |        |        |
| Mini-Warehouse                                             |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        | D      | D      |        |        |        | P      | P      |        |        |        |
| Pet Services                                               |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | P      | P      | P      | P      | P      | P      | P      | P      |        |        |        |
| Microbrewery                                               |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | S      | S      | S      |        |        |        |        |        |        |        |        |
| Pharmacy                                                   |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | P      | P      | P      | P      | P      | P      |        |        | P      |        |        |
| Recreation, Indoor, commercial                             |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | P      | P      | P      | P      |        |        |        |        |        |        |        |
| Recycling Center (indoor)                                  |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | P      | P      | P      | P      |        |        | P      | P      | P      |        |        |
| Restaurant                                                 |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | P      | P      | P      | P      |        |        |        |        |        |        |        |
| Tea Room                                                   |   |             |             |                  |                  |                  |                  |             |             | S      | S      | S      |        |        | P      | P      | P      | P      | D      | D      |        |        |        |        |        |
| Retail Sales                                               |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | P      | P      | P      | P      |        |        |        |        |        |        |        |
| Retail Shops                                               |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | P      | P      | P      | P      |        |        |        |        |        |        |        |
| Service Station (minor automotive repair)                  |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | P      | P      | P      | D      |        |        | P      | P      |        |        |        |
| Shopping Center (< 150,000 GLA)                            |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | D      | D      | D      |        |        |        |        |        |        |        |        |
| Shopping Center (> 150,000 GLA)                            |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | C      | C      | C      |        |        |        |        |        |        |        |        |
| Veterinary Clinic/Kennel                                   |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | D      | D      | P      | D      | D      | D      | D      | D      |        |        |        |
| <b>Retail Commercial, Outdoor Storage or Activities</b>    |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
| Auto/Boat Sales                                            |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        | D      | D      |        |        |        |        | D      |        |        |        |
| Building Supply Sales                                      |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        | P      | P      |        |        |        | P      | P      |        |        |        |
| Commercial Parking Lot                                     |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | S      |        |        |        |        |        |        |        |        |        |        |
| Flea Market                                                |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        | S      | S      |        |        |        | P      | P      |        |        |        |
| Major Automotive Repair                                    |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        | P      | P      |        |        |        | P      | P      |        |        |        |
| Mobile Home/RV Sales                                       |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        | P      | P      |        |        |        |        |        |        |        |        |
| Pet Services                                               |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        | P      | P      |        |        |        | P      | P      |        |        |        |
| Plant Nursery                                              |   |             |             |                  |                  |                  |                  |             |             | P      | P      | P      |        |        | D      | D      | P      |        |        |        | P      | P      |        |        |        |
| Recreation, outdoor, commercial                            |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        | D      | D      |        |        |        | D      | D      |        |        |        |
| Recycling Center (outdoor)                                 |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        | P      | P      | P      |        |        |
| Truck Stop                                                 |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        | P      |        |        |        | P      | P      |        |        |        |

TABLE 2.04.01 (A)  
Table of Land Uses

| Category/Use                                    | M | R<br>E<br>1 | R<br>E<br>2 | R<br>1<br>5<br>A | R<br>1<br>4<br>A | R<br>1<br>3<br>A | R<br>1<br>2<br>A | R<br>1<br>A | R<br>1<br>B | R<br>1 | R<br>2 | R<br>3 | R<br>4 | R<br>5 | C<br>1 | C<br>2 | C<br>3 | C<br>4 | P<br>1 | P<br>2 | I<br>1 | I<br>2 | P<br>I | P<br>R | C<br>N |
|-------------------------------------------------|---|-------------|-------------|------------------|------------------|------------------|------------------|-------------|-------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| <b>Office/Financial/Medical Facilities/Club</b> |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
| Bank/Financial Institution                      |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | P      | P      | P      | P      | P      | P      | P      | P      |        |        |        |
| Business Office                                 |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | P      | P      | P      | P      | P      | P      | P      | P      | P      |        |        |
| Clinic                                          |   |             |             | S                | S                | S                | S                | S           | S           | S      | S      | S      | S      |        | P      | P      | P      |        |        |        |        |        | P      |        |        |
| Clubs, Community/Fraternal/Veterans             |   |             |             |                  |                  |                  |                  |             |             |        |        | S      |        |        | P      | P      | P      | P      | P      | P      |        |        |        |        |        |
| Funeral Home/Mortuary                           |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | D      | P      | P      | D      | P      | P      | P      | P      |        |        |        |
| Hospital                                        |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        |        |        | D      |        |        |
| Medical/Health Care Office                      |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | P      | P      | P      | P      | P      | P      | P      | P      | P      |        |        |
| Medical Laboratory                              |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | P      | P      | P      |        |        |        |        |        | P      |        |        |
| Personal Services                               |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | P      | P      | P      | P      | P      | P      | P      | P      | P      |        |        |
| Professional Office                             |   |             |             |                  |                  |                  |                  |             |             |        |        | S      |        |        | P      | P      | P      | P      | P      | P      | D      | D      | P      |        |        |
| Real Estate/Business Office                     |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | P      | P      | P      | P      | P      | P      | D      | D      |        |        |        |
| Day Spa                                         |   |             |             |                  |                  |                  |                  |             |             |        |        | S      |        |        | P      | P      | P      | P      | D      | D      |        |        |        |        |        |
| <b>Nonretail/Service Commercial</b>             |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
| Auto/Boat Repair; no sales                      |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        | P      | D      |        |        |        | D      | D      |        |        |        |
| Contractor Storage Yard                         |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        | D      | D      |        |        |        | P      | P      |        |        |        |
| Sales/Repair of Heavy Equipment                 |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        | D      | D      |        |        |        | P      | P      |        |        |        |
| Warehouse                                       |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        | P      | D      |        |        |        | D      | D      |        |        |        |
| Wholesale Distributor                           |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        | P      | D      |        |        |        | D      | D      |        |        |        |
| <b>Light Industry</b>                           |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
| Airports/Aviation Uses                          |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        | P      | P      | P      |        |        |
| Bottling Plant/Bakery                           |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        | P      | P      |        |        |        |
| Food Processing/Packaging                       |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        | P      | P      |        |        |        |
| Freight/Truck Terminal                          |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        | P      | P      |        |        |        |
| Manufacture of Finished Products                |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        | P      | P      |        |        |        |
| Printing/Publishing                             |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        | P      | P      |        |        |        | P      | P      |        |        |        |
| Recycled Materials Processing                   |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        | P      | P      | P      |        |        |
| Sales/Minor Storage of Propane Gas              |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        | P      | P      |        |        |        |
| <b>Heavy Industry</b>                           |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
| Auto Salvage Yard                               |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        | D      | D      |        |        |        |
| Bulk Storage of Explosive Gases                 |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        |        | P      | P      |        |        |
| Cannery                                         |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        |        | P      |        |        |        |
| Citrus Processing Plant                         |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        |        | P      |        |        |        |
| Commercial Incinerator                          |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        | D      | P      | P      |        |        |
| Junkyard                                        |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        |        | C      |        |        |        |
| Manufacture of Building Materials               |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        |        | P      |        |        |        |
| Manufacture of Explosives                       |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        |        | S      |        |        |        |
| Processing of Raw Materials                     |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        |        | P      |        |        |        |
| Slaughterhouse                                  |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        |        | S      |        |        |        |
| Storage of Sand/Gravel/Blocks                   |   |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        | D      | P      | P      |        |        |

TABLE 2.04.01 (A)  
Table of Land Uses

| Category/Use                                  | M      | R<br>E<br>1 | R<br>E<br>2 | R<br>1<br>5<br>A | R<br>1<br>4<br>A | R<br>1<br>3<br>A | R<br>1<br>2<br>A | R<br>1<br>A | R<br>1<br>B | R<br>1 | R<br>2 | R<br>3 | R<br>4 | R<br>5 | C<br>1 | C<br>2 | C<br>3 | C<br>4 | P<br>1 | P<br>2 | I<br>1 | I<br>2 | P<br>I | P<br>R | C<br>N |
|-----------------------------------------------|--------|-------------|-------------|------------------|------------------|------------------|------------------|-------------|-------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| <b>Public Service Facilities</b>              |        |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
| Auto License/Tag Facility                     |        |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | P      | P      | P      |        | P      | P      |        |        | P      |        |        |
| City Hall/Municipal Building                  |        |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | P      | P      | P      |        | P      | P      |        |        | P      |        |        |
| Cemetery                                      | D      | D           | D           | D                | D                | D                | D                | D           | D           | D      | D      | D      | D      | D      | D      | D      | D      | D      | D      | D      | D      | D      | D      | D      |        |
| Communications Tower & Communications Antenna | S<br>D |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        | S<br>D | S<br>D |        |        | S<br>D | S<br>D | S<br>D | S<br>D |        |
| Construction and Demolition Disposal Site     | S      |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
| Correctional Facility                         |        |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        |        |        |        | C      |        |
| Electrical Power Plant                        |        |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        | P      | P      | P      |        |        |
| Fire Station                                  | D      | D           | D           | D                | D                | D                | D                | D           | D           | D      | D      | D      | D      | D      | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      |        |
| Jail                                          |        |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        |        |        |        | C      |        |
| Police Station                                | D      | D           | D           | D                | D                | D                | D                | D           | D           | D      | D      | D      | D      | D      | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      |        |
| Post Office                                   | D      | D           | D           | D                | D                | D                | D                | D           | D           | D      | D      | D      | D      | D      | P      | P      | P      |        | P      | P      |        |        | P      |        |        |
| Power Substation                              | P      | P           | P           | P                | P                | P                | P                | P           | P           | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      |
| Sewage Disposal Facility                      |        |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        | P      | P      | P      |        |        |
| Sewer Lift Station                            | P      | P           | P           | P                | P                | P                | P                | P           | P           | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      |
| Sewer/Water Station (on-site)                 | D      | D           | D           | D                | D                | D                | D                | D           | D           | D      | D      | D      | D      | D      | D      | D      | D      | D      | D      | D      | D      | D      | D      | D      |        |
| Sewer/Water Station (off-site)                |        |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        | P      | P      | P      | P      |        |
| Telephone Switching Station                   | P      | P           | P           | P                | P                | P                | P                | P           | P           | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      |
| <b>Educational/Cultural Facilities</b>        |        |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
| Church                                        | D      | S           | S           | S                | S                | S                | S                | S           | S           | S      | S      | S      | S      | S      | D      | D      | D      | D      | D      | D      | D      | D      | D      |        |        |
| Civic Center/Auditorium                       |        |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | P      | P      | P      |        | P      | P      | P      | P      | P      | P      |        |
| College/University                            |        |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | P      | P      | P      | P      |        |        |        |        | P      |        |        |
| Community Center                              |        | S           | S           | S                | S                | S                | S                | S           | S           | S      | S      | S      | S      | S      |        |        |        |        |        |        |        |        | P      | P      |        |
| Public Library                                |        | S           | S           | S                | S                | S                | S                | S           | S           | S      | S      | S      | S      | S      | P      | P      | P      | P      | P      | P      |        |        | P      | P      |        |
| Museum                                        |        | S           | S           | S                | S                | S                | S                | S           | S           | S      | S      | S      | S      | S      | P      | P      | P      | P      | P      | P      |        |        | P      | P      |        |
| Art Gallery                                   |        |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | P      | P      | P      | P      | P      | P      |        |        | P      | P      |        |
| Arboreta, Botanical & Zoological Gardens      | S      |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        |        |        | S      | S      |        |
| School (grades K-12)                          |        | S           | S           | S                | S                | S                | S                | S           | S           | S      | S      | S      | S      | S      | P      | P      | P      | D      | D      | D      |        |        | P      |        |        |
| Vocational/Technical School                   |        |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        | P      | P      | P      |        | P      | P      | P      | P      | P      |        |        |
| <b>Recreational Uses</b>                      |        |             |             |                  |                  |                  |                  |             |             |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
| Golf Course                                   |        | D           | D           | D                | D                | D                | D                | D           | D           | D      | D      | D      | D      | D      |        |        |        |        |        |        |        |        |        | P      |        |
| Park                                          | P      | P           | P           | P                | P                | P                | P                | P           | P           | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      |
| Recreation, indoor, public                    |        | S           | S           | S                | S                | S                | S                | S           | S           | S      | S      | S      | S      | S      | P      | P      | P      | P      | P      | P      |        |        | P      | P      |        |
| Recreation, outdoor, public                   |        | S           | S           | S                | S                | S                | S                | S           | S           | S      | S      | S      | S      | S      | P      | P      | P      | P      | P      | P      | P      | P      | P      | P      |        |

**TABLE 2.04.01 (B)**  
**Table of Development Standards**

| District | Minimum Lot Size (feet/ac.) | Minimum Lot Width (feet) | Minimum Floor Area (s.f.) | Setbacks |      |      |             | Maximum Lot Coverage (%) | Maximum Bldg. Height (feet) |
|----------|-----------------------------|--------------------------|---------------------------|----------|------|------|-------------|--------------------------|-----------------------------|
|          |                             |                          |                           | Front    | Rear | Side | Side Street |                          |                             |
| M*       | 5 acres                     | 200                      | 1,200                     | 30       | 30   | 20   | 25          | 10                       | 40                          |
| RE-1     | 40,000                      | 150                      | 1,200                     | 30       | 30   | 20   | 25          | 45                       | 30                          |
| RE-2     | 18,500                      | 130                      | 1,200                     | 30       | 30   | 20   | 25          | 45                       | 30                          |
| R-1-5A   | 16,000                      | 130                      | 2,400                     | 30       | 20   | 15   | 25          | 45                       | 30                          |
| R-1-4A   | 14,000                      | 120                      | 2,200                     | 30       | 20   | 12.5 | 25          | 45                       | 30                          |
| R-1-3A   | 12,000                      | 110                      | 2,000                     | 30       | 20   | 10   | 20          | 45                       | 30                          |
| R-1-2A   | 11,000                      | 100                      | 1,800                     | 30       | 20   | 10   | 20          | 45                       | 30                          |
| R-1A     | 10,000                      | 100                      | 1,600                     | 25 ***   | 20   | 10   | 20          | 45                       | 30                          |
| R-1B     | 10,000                      | 90                       | 1,400                     | 25 ***   | 20   | 10   | 20          | 45                       | 30                          |
| R-1      | 7,500                       | 70                       | 1,200                     | 20 ***   | 20   | 7.5  | 15          | 45                       | 30                          |
| R-2      | 6,000                       | 60                       | 900                       | 20 ***   | 20   | 7.5  | 15          | 45                       | 30                          |
| R-3      | 6,000                       | 60                       | 600                       | 20 ***   | 20   | 7.5  | 15          | 65                       | 45                          |
| R-4      | 4,000                       | 40                       | 500                       | 50       | 30   | 30   | n/a         | 65                       | 35                          |
| R-5      | 7,500                       | 75                       | 600                       | 25       | 20   | 10** | n/a         | 65                       | 45                          |
| C-1      |                             |                          |                           | 0        | 0    | 0    | 0           |                          | 85                          |
| C-2      |                             |                          |                           | 25       | 20   |      |             |                          | 40                          |
| C-3      |                             |                          |                           | 50       | 20   |      |             |                          | 40                          |
| C-4      |                             |                          |                           | 0        | 0    | 0    | 0           |                          | 30                          |
| P-1      |                             |                          |                           | 25       | 20   |      |             |                          | 85                          |
| P-2      |                             |                          |                           | 50       | 20   |      |             |                          | 85                          |
| I-1      |                             |                          |                           | 25       | 20   |      |             |                          | 60                          |
| I-2      |                             |                          |                           | 50       | 20   |      |             |                          | 60                          |
| PI*      | 7,000                       |                          |                           | 25       | 20   |      |             |                          | 45                          |
| PR*      | 7,000                       |                          |                           | 25       | 20   |      |             |                          | 35                          |
| CN*      |                             |                          |                           |          |      |      |             |                          |                             |

\* = New District

\*\* = See R-5 district for further information.

\*\*\* = For lots platted on or after 11/4/02. For lots platted prior to 11/4/02, or unplatted parcels the following setbacks shall apply:  
R-1A, 30 feet; R-1B, 30 feet; R-1, 25 feet; R-2, 25 feet; R-3, 25 feet.

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## **2.04.02 Zoning District Descriptions.**

The following zoning designations are hereby established within the City of Bartow. This section contains a description of each of the zoning districts established by the City of Bartow and identifies: 1) the Future Land Use classification or classifications that district is established to implement; 2) the intended purpose of each zoning district; and, 3) specific provisions that apply within a particular zoning district.

In all districts the following applies:

- (A) Permitted Principal Uses & Structures: Uses permitted in this district are detailed in the Table of Land Uses in Section 2.04.01(A). Permitted uses are designated by the letter "P". Uses designated by the letter "D" are also permitted, but require the submission and approval of a Site Development Plan prior to application for a Development Permit. Review of an application for approval of a Site Development Plan is governed by Article 7.
- (B) Accessory Uses: Accessory uses and structures customarily incidental and subordinate to permitted principal uses and structures; provided, however, that no accessory structures shall be located on property other than that on which the principal structure is located. Section 2.05.00 contains detailed guidance and regulations for permitted accessory uses.
- (C) Special Exception Uses: Uses permitted as Special Exceptions in this district are detailed in the Table of Land Uses in Section 2.04.01(A). Such uses are designated by the letter "S". Special Exception uses require the submission of an application and approval by the Board of Adjustment prior to application for a Development Permit. Review of an application for approval of a Special Exception is governed by Article 7.
- (D) Development Standards: Development standards for uses in this district are detailed in the Table of Development Standards in Section 2.04.01(B). Specifically, standards are established for Maximum Density; Minimum Lot Size; Minimum Lot Width; Minimum Lot Depth; Minimum Floor Area; Floor Area Ratio (as applicable); Setbacks; Maximum Lot Coverage; and Maximum Building Height. Minimum side setback for 2-story structure is 25 feet.

### **2.04.02.01 M Agriculture.**

- (A) FLUM Designation: Agricultural Classification
- (B) Purpose: To provide for agricultural activities within the City of Bartow. In general, agricultural pursuits and single family detached dwelling units.
- (C) Permitted Principal Uses & Structures:



- (1) Agricultural Uses as defined herein: The use of land for producing or harvesting crops or plants; for raising, livestock or fish; for dairying; for forestry, fisheries, animal specialty farms or hunting, trapping and game propagation. Intense agricultural activities such as feed lots and egg production are not allowed within the City Limits, unless they are pre-existing uses of the land prior to annexation.
- (2) Limited Agricultural Uses as defined herein: Land uses in residential areas that are characterized as agricultural in nature and are limited to orchards; vineyards; nurseries; ornamental horticulture areas; groves; noncommercial greenhouses, bee keeping and raising of exotic species with the exception of venomous reptiles.
- (3) Greenbelt Tax Exemption: Permitted in this district are newly annexed parcels with agricultural uses that have been previously qualified for the Agricultural Tax Exemption as defined by F.S. 193.461, "which includes, but is not limited to, horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee, pisciculture, when the land is used principally for the production of tropical fish; aquaculture; sod farming; and all forms of farm products and farm production."

(D) Special Exception Uses:

- (1) The following activities may be undertaken on lands defined as non-mandatory reclamation under §378.032(8), F.S.: aquaculture, commercial composting of yard wastes, fill dirt sales, landfill or recycling activities associated with the disposal of construction and demolition debris.
- (2) The location and operation of construction debris and other landfills in nonresidential districts shall be subject to a public hearing based on the following criteria:
  - a. The proximity to residential and agricultural uses;
  - b. Substantial competent evidence, provided by the land owner, that the landfill does not share a common roadway access with proximate residential uses;
  - c. Substantial competent evidence, provided by the land owner, that the landfill does not create, cause, or increase a negative environmental impact on surrounding uses, including the impact on proximate residential uses and the potential for impact or loss of proximate agricultural uses; and

- d. Provision by the land owner, of a technically adequate plan to monitor the potential environmental impacts of the proposed landfill. Such monitoring plan shall include the provision of monitoring reports on a quarterly basis.

Any approval of construction debris or other landfills is subject to annual review, by public hearing, based on the criteria listed in this subsection (2).

- (3) Uses and activities secondary and incidental to permitted uses include incineration incidental to commercial composting of yard wastes.

(E) Other Requirements:

- (1) Aquaculture, composting, landfill and recycling activities conducted on non-mandatory reclamation lands shall be subject to, and require evidence of, all relevant state and federal permits, and shall be appropriately buffered from existing or future adjacent residential development; and may be permitted as a Special Exception.
- (2) Excess produce and other products that are agricultural in nature and harvested from orchards, vineyards, nurseries, ornamental horticultural areas, groves, noncommercial greenhouses, etc., as well as excess produce, etc., harvested from any commercial farm, may be sold on the premises to the general public by the means of a roadside stand or similar structure. All setbacks must be observed from right-of-ways and property lines as is required for an accessory structure.
- (3) Clubhouses and similar facilities are permitted within platted subdivisions on parcels retained by the developer or dedicated to and maintained by a homeowners association. Appropriate development standards will be determined by the Development Director.
- (4) Private golf courses are permitted in conjunction with platted subdivisions of 50 lots or more.
- (5) Private schools offering a general curriculum in any or all of grades K-12 are permitted on property abutting a 60-foot right-of-way.
- (6) Except on active construction sites, the parking of vehicles or motorized equipment exceeding 35 feet in length or 1.5 tons in capacity is prohibited.

- (7) Home Occupation: An activity conducted in a residential dwelling unit that employs only members of the immediate family residing there. The activity may not occupy more than 500 s.f. of the dwelling nor may it display anything that will indicate from the exterior that the building is being utilized for any purpose other than that of a dwelling. Specific regulations are contained in Section 7.10.00 of this Code.
- (8) Bed and Breakfast: Property shall front on a collector or arterial roadway. Primary points of ingress-egress shall connect to such roadway. Signs shall be in accordance with regulations in Article 4. Parking requirements shall be one space per unit available for rent.

#### **2.04.02.02 RE-1 Single Family Residential Estate**

- (A) FLUM Designation: Low Density Residential, Medium Density Residential Classification
- (B) Purpose: The purpose of this district is to encourage and protect low density single family development and provide transitional lot sizes.
- (C) Other Requirements:
  - (1) Clubhouses and similar facilities are permitted within platted subdivisions on parcels retained by the developer or dedicated to and maintained by a homeowners association. Appropriate development standards will be determined by the Development Director.
  - (2) Private golf courses are permitted in conjunction with platted subdivisions of 50 lots or more.
  - (3) Private schools offering a general curriculum in any or all of grades K-12 are permitted on property abutting a 60-foot right-of-way.
  - (4) Except on active construction sites, the parking of vehicles or motorized equipment exceeding 35 feet in length or 1.5 tons in capacity is prohibited.
  - (5) Home Occupation: An activity conducted in a residential dwelling unit that employs only members of the immediate family residing there. The activity may not occupy more than 500 s.f. of the dwelling nor may it display anything that will indicate from the exterior that the building is being utilized for any purpose other than that of a dwelling. Specific regulations are contained in Section 7.10.00 of this Code.

#### **2.04.02.03 RE-2 Single Family Residential Estate**

- (A) FLUM Designation: Low Density Residential, Medium Density Residential Classification
- (B) Purpose: The purpose of this district is to encourage and protect low density single family development and provide transitional lot sizes.
- (C) Other Requirements:
  - (1) Clubhouses and similar facilities are permitted within platted subdivisions on parcels retained by the developer or dedicated to and maintained by a homeowners association. Appropriate development standards will be determined by the Development Director.
  - (2) Private golf courses are permitted in conjunction with platted subdivisions of 50 lots or more.
  - (3) Private schools offering a general curriculum in any or all of grades K-12 are permitted on property abutting a 60-foot right-of-way.
  - (4) Except on active construction sites, the parking of vehicles or motorized equipment exceeding 35 feet in length or 1.5 tons in capacity is prohibited.
  - (5) Home Occupation: An activity conducted in a residential dwelling unit that employs only members of the immediate family residing there. The activity may not occupy more than 500 s.f. of the dwelling nor may it display anything that will indicate from the exterior that the building is being utilized for any purpose other than that of a dwelling. Specific regulations are contained in Section 7.10.00 of this Code.

#### **2.04.02.04 R-1-5A Single Family Residential.**

- A) FLUM Designation: Low Density Residential, Medium Density Residential Classification
- (B) Purpose: The purpose of this district is to encourage and protect low density single family development.
- (C) Other Requirements:

- (1) Clubhouses and similar facilities are permitted within platted subdivisions on parcels retained by the developer or dedicated to and maintained by a homeowners association. Appropriate development standards will be determined by the Development Director.
- (2) Private golf courses are permitted in conjunction with platted subdivisions of 50 lots or more.
- (3) Private schools offering a general curriculum in any or all of grades K-12 are permitted on property abutting a 60-foot right-of-way.
- (4) Except on active construction sites, the parking of vehicles or motorized equipment exceeding 35 feet in length or 1.5 tons in capacity is prohibited.
- (5) Home Occupation: An activity conducted in a residential dwelling unit that employs only members of the immediate family residing there. The activity may not occupy more than 500 s.f. of the dwelling nor may it display anything that will indicate from the exterior that the building is being utilized for any purpose other than that of a dwelling. Specific regulations are contained in Section 7.10.00 of this Code.

#### **2.04.02.05 R-1-4A Single Family Residential.**

- A) FLUM Designation: Low Density Residential, Medium Density Residential Classification
- (B) Purpose: The purpose of this district is to encourage and protect low density single family development.
- (C) Other Requirements:
  - (1) Clubhouses and similar facilities are permitted within platted subdivisions on parcels retained by the developer or dedicated to and maintained by a homeowners association. Appropriate development standards will be determined by the Development Director.
  - (2) Private golf courses are permitted in conjunction with platted subdivisions of 50 lots or more.
  - (3) Private schools offering a general curriculum in any or all of grades K-12 are permitted on property abutting a 60-foot right-of-way.

- (4) Except on active construction sites, the parking of vehicles or motorized equipment exceeding 35 feet in length or 1.5 tons in capacity is prohibited.
- (5) Home Occupation: An activity conducted in a residential dwelling unit that employs only members of the immediate family residing there. The activity may not occupy more than 500 s.f. of the dwelling nor may it display anything that will indicate from the exterior that the building is being utilized for any purpose other than that of a dwelling. Specific regulations are contained in Section 7.10.00 of this Code.

#### **2.04.02.06 R-1-3A Single Family Residential.**

- A) FLUM Designation: Low Density Residential, Medium Density Residential Classification
- (B) Purpose: The purpose of this district is to encourage and protect low density single family development.
- (C) Other Requirements:
  - (1) Clubhouses and similar facilities are permitted within platted subdivisions on parcels retained by the developer or dedicated to and maintained by a homeowners association. Appropriate development standards will be determined by the Development Director.
  - (2) Private golf courses are permitted in conjunction with platted subdivisions of 50 lots or more.
  - (3) Private schools offering a general curriculum in any or all of grades K-12 are permitted on property abutting a 60-foot right-of-way.
  - (4) Except on active construction sites, the parking of vehicles or motorized equipment exceeding 35 feet in length or 1.5 tons in capacity is prohibited.
  - (5) Home Occupation: An activity conducted in a residential dwelling unit that employs only members of the immediate family residing there. The activity may not occupy more than 500 s.f. of the dwelling nor may it display anything that will indicate from the exterior that the building is being utilized for any purpose other than that of a dwelling. Specific regulations are contained in Section 7.10.00 of this Code.

#### **2.04.02.07 R-1-2A Single Family Residential.**

- A) FLUM Designation: Low Density Residential, Medium Density Residential Classification
- (B) Purpose: The purpose of this district is to encourage and protect low density single family development.
- (C) Other Requirements:
  - (1) Clubhouses and similar facilities are permitted within platted subdivisions on parcels retained by the developer or dedicated to and maintained by a homeowners association. Appropriate development standards will be determined by the Development Director.
  - (2) Private golf courses are permitted in conjunction with platted subdivisions of 50 lots or more.
  - (3) Private schools offering a general curriculum in any or all of grades K-12 are permitted on property abutting a 60-foot right-of-way.
  - (4) Except on active construction sites, the parking of vehicles or motorized equipment exceeding 35 feet in length or 1.5 tons in capacity is prohibited.
  - (5) Home Occupation: An activity conducted in a residential dwelling unit that employs only members of the immediate family residing there. The activity may not occupy more than 500 s.f. of the dwelling nor may it display anything that will indicate from the exterior that the building is being utilized for any purpose other than that of a dwelling. Specific regulations are contained in Section 7.10.00 of this Code.

#### **2.04.02.08 R-1A Single Family Residential.**

- A) FLUM Designation: Low Density Residential, Medium Density Residential Classification
- (B) Purpose: The purpose of this district is to encourage and protect low density single family development.
- (C) Other Requirements:

- (1) Clubhouses and similar facilities are permitted within platted subdivisions on parcels retained by the developer or dedicated to and maintained by a homeowners association. Appropriate development standards will be determined by the Development Director.
- (2) Private golf courses are permitted in conjunction with platted subdivisions of 50 lots or more.
- (3) Private schools offering a general curriculum in any or all of grades K-12 are permitted on property abutting a 60-foot right-of-way.
- (4) Except on active construction sites, the parking of vehicles or motorized equipment exceeding 35 feet in length or 1.5 tons in capacity is prohibited.
- (5) Home Occupation. An activity conducted in a residential dwelling unit that employs only members of the immediate family residing there. The activity may not occupy more than 500 s.f. of the dwelling nor may it display anything that will indicate from the exterior that the building is being utilized for any purpose other than that of a dwelling. Specific regulations are contained in Section 7.10.00 of this Code.

#### **2.04.02.09 R-1B Single Family Residential.**

- A) FLUM Designation: Low Density Residential, Medium Density Residential Classification
- (B) Purpose: The purpose of this district is to encourage and protect low density single family development.
- (C) Other Requirements:
  - (1) Clubhouses and similar facilities are permitted within platted subdivisions on parcels retained by the developer or dedicated to and maintained by a homeowners association. Appropriate development standards will be determined by the Development Director.
  - (2) Private golf courses are permitted in conjunction with platted subdivisions of 50 lots or more.
  - (3) Private schools offering a general curriculum in any or all of grades K-12 are permitted on property abutting a 60-foot right-of-way.



- (4) Except on active construction sites, the parking of vehicles or motorized equipment exceeding 35 feet in length or 1.5 tons in capacity is prohibited.
- (5) Home Occupation: An activity conducted in a residential dwelling unit that employs only members of the immediate family residing there. The activity may not occupy more than 500 s.f. of the dwelling nor may it display anything that will indicate from the exterior that the building is being utilized for any purpose other than that of a dwelling. Specific regulations are contained in Section 7.10.00 of this Code.

#### **2.04.02.10 R-1 Single Family Residential.**

- (A) FLUM Designation: Low Density Residential, Medium Density Residential Classification
- (B) Purpose: The purpose of this district is to encourage and protect low density single family development.
- (C) Other Requirements:
  - (1) Clubhouses and similar facilities are permitted within platted subdivisions on parcels retained by the developer or dedicated to and maintained by a homeowners association. Appropriate development standards will be determined by the Development Director.
  - (2) Private golf courses are permitted in conjunction with platted subdivisions of 50 lots or more.
  - (3) Private schools offering a general curriculum in any or all of grades K-12 are permitted on property abutting a 60-foot right-of-way.
  - (4) Except on active construction sites, the parking of vehicles or motorized equipment exceeding 35 feet in length or 1.5 tons in capacity is prohibited.
  - (5) Home Occupation: An activity conducted in a residential dwelling unit that employs only members of the immediate family residing there. The activity may not occupy more than 500 s.f. of the dwelling nor may it display anything that will indicate from the exterior that the building is being utilized for any purpose other than that of a dwelling. Specific regulations are contained in Section 7.10.00 of this Code.

#### **2.04.02.11 R-2 Two Family Residential.**

- A) FLUM Designation: Medium Density Residential Classification
- (B) Purpose: The purpose of this district is to provide areas for single-family, duplex, and multiple-family dwelling uses with a higher density standard and lower restrictive regulations than single-family districts, along with the necessary and incidental accessory uses, and uses characteristic with, but not detrimental to, the principal use. In no case shall a density be permitted in any R-2 medium density residential district that exceeds the rate of twelve (12) dwelling units per net acre; provided however, that such limitation shall not be applicable in any other zoning district within the City solely by reference to this section of the zoning ordinance.
- (C) Development Standards:
  - (1) Minimum Lot Requirements:
    - a. Two-Family: 7,200 s.f., width 70 feet
    - b. Garage Apartment: 2,000 s.f. in addition to lot requirement for main building
    - c. Single Family Structure: As provided in Table 2.04.01(B).
  - (2) Minimum Floor Area:
    - a. Two-Family: 900 s.f. per unit
    - b. Garage Apartment: 600 s.f.
  - (3) Minimum Yard Requirements:
    - a. Sides: 7.5 one-story structure; 15 two-story structure
  - (4) Maximum permitted density for development other than single family development is 12 du/acre
- (D) Other Requirements:
  - (1) Clubhouses and similar facilities are permitted within platted subdivisions on parcels retained by the developer or dedicated to and maintained by a homeowners association. Appropriate development standards will be determined by the Development Director.
  - (2) Private schools offering a general curriculum in any or all of grades K-12 are permitted on property abutting a 60-foot right-of-way.

- (3) Except on active construction sites, the parking of vehicles or motorized equipment exceeding 35 feet in length or 1.5 tons in capacity is prohibited.
- (4) Home Occupation. An activity conducted in a residential dwelling unit that employs only members of the immediate family residing there. The activity may not occupy more than 500 s.f. of the dwelling nor may it display anything that will indicate from the exterior that the building is being utilized for any purpose other than that of a dwelling. Specific regulations are contained in Section 7.10.00 of this Code.
- (5) Bed and Breakfast. Property shall front on a collector or arterial roadway. Primary points of ingress-egress shall connect to such roadway. Signs shall be in accordance with regulations in Article 4. Parking requirements shall be one space per unit available for rent.

#### **2.04.02.12 R-3 Multiple Family Residential.**

- (A) FLUM Designation: Medium Density Residential Classification
- (B) Purpose: The purpose of this district is to provide areas for single-family, duplex, and multiple-family and multiple family dwelling uses with a higher density standard and lower restrictive regulations than single-family districts, along with the necessary and incidental accessory uses, and uses characteristic with, but not detrimental to, the principal use. In no case shall a density be permitted in any R-3 multiple density residential district that exceeds the rate of twelve (12) dwelling units per net acre; provided however, that such limitation shall not be applicable in any other zoning district within the City solely by reference to this section of the zoning ordinance.
- (C) Development Standards: Development standards for uses in this district are detailed in the Table of Development Standards in Section 2.04.01(B). Specifically, standards are established for Maximum Density; Minimum Lot Size; Minimum Lot Width; Minimum Lot Depth; Minimum Floor Area; Floor Area Ratio (as applicable); Setbacks; Maximum Lot Coverage; and Maximum Building Height. Minimum side setback for 2-story structure is 15 feet.
  - (1) Minimum Lot Requirements:
    - a. Multiple Family Structure: 85 feet in width; 8,500 s.f. in area, plus 3,000 s.f. for each additional dwelling unit over the first three units.
    - b. Duplex Structure: 70 feet in width; 7,200 s.f. in area.

- c. Single Family Attached Structure: As provided in Table 2.04.01(B).
- (2) Maximum Building Height:
  - a. Single- and two-family dwellings shall not exceed 30 feet or two stories in height. Other permitted structures shall not exceed 50 feet or four stories in height; provided that one foot shall be added to required front and side yards for each foot of height over 30 feet in addition to the general yard requirements for two story dwellings.
  - b. Multiple-family dwellings shall not exceed four stories or 45 feet in height, exclusive of equipment housings which may extend an additional 10 feet, provided that one foot shall be added to front and side yards for each foot of building height over 30 feet in addition to the general yard requirements for two story dwellings within the district.
- (3) Minimum Floor Area:
  - a. Multiple Family Structure: 600 s.f. per dwelling unit
  - b. Duplex Structure: 900 s.f. per dwelling unit
  - c. Single Family Structure: As provided in Table 2.04.01(B)
- (4) Minimum Yard Requirements:
  - a. Sides: One-story structure, 7.5 feet; Two-story structure, 15 feet. Side yards for single family attached development shall be as provided in Section 3.08.17.
- (5) Maximum permitted density for development other than single family development is 12 du/acre.
- (D) Other Requirements:
  - (1) Clubhouses and similar facilities are permitted within platted subdivisions on parcels retained by the developer or dedicated to and maintained by a homeowners association. Appropriate development standards will be determined by the Development Director.
  - (2) Private schools offering a general curriculum in any or all of grades K-12 are permitted on property abutting a 60-foot right-of-way.

- (3) Except on active construction sites, the parking of vehicles or motorized equipment exceeding 35 feet in length or 1.5 tons in capacity is prohibited.
- (4) Home Occupation. An activity conducted in a residential dwelling unit that employs only members of the immediate family residing there. The activity may not occupy more than 500 s.f. of the dwelling nor may it display anything that will indicate from the exterior that the building is being utilized for any purpose other than that of a dwelling. Specific regulations are contained in Section 7.10.00 of this Code.
- (5) Bed and Breakfast. Property shall front on a collector or arterial roadway. Primary points of ingress-egress shall connect to such roadway. Signs shall be in accordance with regulations in Article 4. Parking requirements shall be one space per unit available for rent.

#### **2.04.02.13 R-4 Manufactured/ Mobile Home Park.**

- (A) FLUM Designation: Medium Density Residential Classification
- (B) Purpose: To establish locations suitable for manufactured/ mobile home development on undivided property, along with open space and other amenities for the common use of residents; to designate those uses and activities which are appropriate for and compatible with such areas; and to establish standards and provisions necessary to ensure proper development and public safety in a manufactured/ mobile home park setting.
- (C) Accessory Uses: Accessory uses and structures customarily incidental and subordinate to permitted principal uses and structures; provided, however, that no accessory structures shall be located on property other than that on which the principal structure is located. Section 2.05.00 contains detailed guidance and regulations for permitted accessory uses. Other permitted accessory uses are:
  - (1) Clubhouse, laundry, swimming pool, and other shared facilities for the common use of the residents of a development.
  - (2) No more than one single family home, at least 600 s.f. in size, for the use of a resident manager.
  - (3) Carports, porches, and awnings which are physically attached to manufactured/ mobile homes. Such structures shall not exceed a cumulative total of 300 s.f. Freestanding cabanas, storage sheds, and other detached structures for private use are prohibited.

- (4) Storage area for boats, recreational vehicles, and other types of vehicles which exceed 30 feet in length. Storage area is for the use of park residents only, and shall be fenced and landscaped. Storage of these units shall be prohibited on individual manufactured/ mobile home sites or on park roads.

(D) Development Standards:

(1) Minimum Lot Requirements:

- a. Minimum size for development site: 10 acres, with a width of not less than 150 feet and a depth of not less than 200 feet.
- b. Minimum size for manufactured/ mobile home site: 4,000 s.f., with a width of not less than 40 feet.

(2) Minimum Yard Requirements:

- a. No manufactured/ mobile home or structure shall be placed less than 25 feet from the front lot line or 10 feet from other lot lines. Where the development site adjoins property with a commercial or industrial zoning designation, the required side and rear setback shall be 10 feet.
- b. Manufactured/ mobile homes and structures shall be placed at least 25 feet from the pavement edge of private park roads.
- c. Manufactured/ mobile homes and freestanding structures serving as common facilities shall be at least 15 feet apart. No carport or other appurtenant structure may be installed on a manufactured/ mobile home less than 10 feet from another manufactured/ mobile home or appurtenant structure. This distance shall be measured between the closest points of the units.

- (3) Maximum permitted density for development other than single family development is 8 du/acre

(E) Other Requirements:

- (1) Ownership. Manufactured/ mobile home parks may not be platted or otherwise divided by fee simple ownership; however, the sale of interests or memberships on a condominium basis is permitted. All facilities, including roads, shall be privately owned or owned in common by residents of the park, and shall not occupy parcels of land which are deeded separately from the rest of the park. The City of Bartow shall not be responsible for maintenance and/or repair of common facilities within a manufactured/ mobile home park.
- (2) Parking. For each manufactured/ mobile home site, one paved off-street parking space of 10 feet by 20 feet shall be provided.
- (3) Common Open Space. An area comprising 20 percent of the development site or 5 acres, whichever is less, shall be set aside as common open space as defined in Article 2.
- (4) Nonconformities. No new manufactured/ mobile homes may be added to an existing manufactured/ mobile home park in an R-4 zone which does not comply with applicable requirements of this Code. However, previously installed units may be moved and additional property and common facilities may be incorporated into the site if such activities will eliminate nonconforming conditions or reduce the degree of nonconformity. See Section 7.07.00.
- (5) Site Development Plan. No manufactured/ mobile homes, structures or facilities shall be installed or constructed until a site development plan meeting the requirements of Section 7.02.00 of this Code has been submitted to and approved by the City of Bartow. All improvements, regardless of timing or project phasing, shall be substantially consistent with the approved site development plan.

Where an existing manufactured/ mobile home park in an R-4 district has no site development plan, such a plan shall be prepared and submitted to the city prior to the addition, improvement, rearrangement or replacement of park facilities or manufactured/ mobile homes.

#### **2.04.02.14 R-5 High Density Residential.**

- (A) FLUM Designation: High Density Residential Classification

(B) Purpose: The purpose of the High Density Residential land use classification is to accommodate high density residential uses, typically consisting of apartments, condominiums, and other types of attached and multi-story residential developments. The High Density Residential classification is intended to meet the City of Bartow's housing needs for higher residential density developments, to promote efficient use of existing infrastructure and to promote affordable housing. This classification shall permit densities from 12.01 up to and including 20 units per acre. Manufactured homes (a.k.a., manufactured/ mobile homes), manufactured/ mobile home parks, and single family detached dwellings units are **not** permissible in this zoning district.

(C) Development Standards:

(1) Minimum Lot Requirements: The development area for a complex built in this District shall have a lot width of not less than 75 feet in width; nor have less than 7,500 s.f. in total buildable area; and, there must be an additional 2,000 s.f. in lot area for each additional dwelling unit over the first two units.

(2) Maximum Building Height: Structures shall not exceed four stories or 45 feet in height, exclusive of equipment housings which may extend an additional 10 feet.

(3) Minimum Floor Area:

a. 600 s.f. per dwelling unit

(4) Minimum Yard Requirements:

a. Sides: Up to two stories, 10 feet. Three or four stories, 15 feet.

(5) Maximum permitted density for development other than single family development is 20 du/acre

(D) Other Requirements:

(1) Clubhouses and recreation facilities are permitted and may be retained by the developer or dedicated to and maintained by a homeowners association. Appropriate development standards will be determined by the Development Director.

(2) Private schools offering a general curriculum in any or all of grades K-12 are permitted on property abutting a 60-foot right-of-way.

(3) Except on active construction sites, the parking of vehicles or motorized equipment exceeding 35 feet in length or 1.5 tons in capacity is prohibited.



#### **2.04.02.15 C-1 Central Business District Commercial.**

- (A) FLUM Designation: Commercial Classification
- (B) Purpose: The purpose of the district is to provide for residential, office and commercial uses in the central business district; and, at the same time, not permit detrimental heavy commercial uses to adversely affect adjacent residential areas.
- (C) Accessory Uses:
  - (1) Accessory uses and structures customarily incidental and subordinate to permitted principal uses and structures; provided, however, that no accessory structures shall be located on property other than that on which the principal structure is located. Section 2.05.00 contains detailed guidance and regulations for permitted accessory uses.
- (D) Special Exception Uses:
  - (1) Residential development may be permitted as a Special Exception use.
- (E) Development Standards: Additional requirements are:
  - (1) Minimum Lot Requirements: Development site shall be large enough to accommodate all required setbacks, parking, stormwater management and other standards and facilities.
  - (2) Maximum Building Height: 85 feet. However, the maximum building height may be increased provided that one additional foot is added to each of the required yards for each additional foot of building height over 85 feet. In such cases the minimum side yard requirement shall be 10 feet plus one foot for each additional foot of building height.
  - (3) Minimum Yard Requirements:
    - a. None; however, if a setback other than zero is utilized on a yard setback abutting a public rights of way then a variance shall be required.
  - (4) Parking Requirements: None, provided that adequate parking can be accommodated on the adjacent street where the paved roadway is 30' or greater in width. Otherwise the parking provisions contained elsewhere in this code shall apply.
- (F) Other Requirements:

- (1) Landscape/buffering requirements shall be waived for side yards where adjoining property is zoned commercial or designated as such on the Future Land Use Map of the City of Bartow Comprehensive Plan.

#### **2.04.02.16 C-2 Community Commercial District.**

- (A) FLUM Designation: Commercial Classification
- (B) Purpose: The C-2 community commercial district is intended primarily to meet the retail shopping and service needs of several neighborhoods or a substantial territory.
- (C) Accessory Uses: Accessory uses and structures customarily incidental and subordinate to permitted principal uses and structures; provided, however, that no accessory structures shall be located on property other than that on which the principal structure is located. Section 2.05.00 contains detailed guidance and regulations for permitted accessory uses.
  - (1) Package sale of beer and wine is an accessory use to a convenience store.
- (D) Special Exception Uses:
  - (1) Residential development may be permitted as a Special Exception use.
- (E) Development Standards: Development standards for uses in this district are detailed in the Table of Development Standards in Section 2.04.01(B). Specifically, standards are established for Maximum Density; Minimum Lot Size; Minimum Lot Width; Minimum Lot Depth; Minimum Floor Area; Floor Area Ratio (as applicable); Setbacks; Maximum Lot Coverage; and Maximum Building Height. Additional requirements are:
  - (1) Minimum Lot Requirements: Development site shall be large enough to accommodate all required setbacks, parking, stormwater management and other standards and facilities.
  - (2) Maximum Building Height: 40 feet. However, the maximum building height may be increased provided that one additional foot is added to each of the required yards for each additional foot of building height over 40 feet. In such cases the minimum side yard requirement shall be 10 feet plus one foot for each additional foot of building height.
  - (3) Minimum Yard Requirements:

- a. Sides: None; however, the side street setback requirement on a corner lot shall be 25 feet.
- (F) Other Requirements: For a Bed and Breakfast: Property shall front on a collector or arterial roadway. Primary points of ingress-egress shall connect to such roadway. Signs shall be in accordance with regulations in Article 4. Parking requirements shall be one space per unit available for rent.

#### **2.04.02.17 C-3 Highway Commercial District.**

- (A) FLUM Designation: Commercial Classification
- (B) Purpose: The C-3 highway business district is intended to apply to arterial streets and traffic-ways where business establishments primarily not of a neighborhood or community service type, may properly be located to serve large sections of the city. Such businesses generally require considerable ground area, do not cater directly to pedestrians and need a conspicuous and accessible location convenient for motorists.
- (C) Accessory Uses: Accessory uses and structures customarily incidental and subordinate to permitted principal uses and structures; provided, however, that no accessory structures shall be located on property other than that on which the principal structure is located. Section 2.05.00 contains detailed guidance and regulations for permitted accessory uses.
  - (1) Package sale of beer and wine is an accessory use to a convenience store.
- (D) Special Exception Uses:
  - (1) Residential development may be permitted as a Special Exception use.
- (E) Development Standards: Additional requirements are:
  - (1) Minimum Lot Requirements: Development site shall be large enough to accommodate all required parking, stormwater management and other standards and facilities.
  - (2) Maximum Building Height: 40 feet. However, the maximum building height may be increased provided that one additional foot is added to each of the required yards for each additional foot of building height over 40 feet. In such cases the minimum side yard requirement shall be 10 feet plus one foot for each additional foot of building height.
  - (3) Minimum Yard Requirements:

- a. Sides: None; however, the side street setback requirement on a corner lot shall be 25 feet.

(F) Other Requirements:

- (1) Bed and Breakfast. Property shall front on a collector or arterial roadway. Primary points of ingress-egress shall connect to such roadway. Signs shall be in accordance with regulations in Article 4. Parking requirements shall be one space per unit available for rent.

**2.04.02.18 C-4 Neighborhood Commercial District.**

(A) FLUM Designation: Commercial Classification

- (B) Purpose: The C-4 neighborhood commercial district is intended primarily to meet the limited shopping and service needs of surrounding neighborhoods. Retail stores are intended to include convenience, fashion and durable goods.

- (C) Accessory Uses: Accessory uses and structures customarily incidental and subordinate to permitted principal uses and structures; provided, however, that no accessory structures shall be located on property other than that on which the principal structure is located. Section 2.05.00 contains detailed guidance and regulations for permitted accessory uses.

- (1) Package sale of beer and wine is an accessory use to a convenience store.

(D) Special Exception Uses:

- (1) Residential development may be permitted as a Special Exception.

(E) Development Standards: Additional requirements are:

- (1) Minimum Lot Requirements: Development site shall be large enough to accommodate all required setbacks, parking, stormwater management and other standards and facilities.

- (2) Minimum Yard Requirements:

- a. None; however, if a setback other than zero is utilized on a yard setback abutting a public rights of way then a variance shall be required.

- (3) Parking Requirements: None, provided that adequate parking can be accommodated on the adjacent street where the paved roadway is 30' or greater in width. Otherwise the parking provisions contained elsewhere in this code shall apply.

(F) Other Requirements:

- (1) Landscape/buffering requirements shall be waived for side yards where adjoining property is zoned commercial or designated as such on the Future Land Use Map of the City of Bartow Comprehensive Plan.

**2.04.02.19 P-1 Professional Office District.**

(A) FLUM Designation: Commercial Classification

- (B) Purpose: The P-1 professional office district is intended to encourage the compatible development of professional and related office complexes in predominantly developed areas which are suitable for such development.

(C) Special Exception Uses:

- (1) Residential development may be permitted as a Special Exception use.

(D) Development Standards: Additional requirements are:

- (1) Minimum Lot Requirements: Development site shall be large enough to accommodate all required parking, stormwater management and other standards and facilities.
- (2) Maximum Building Height: 85 feet. However, the maximum building height may be increased provided that one additional foot is added to each of the required yards for each additional foot of building height over 85 feet. In such cases the minimum side yard requirement shall be 10 feet plus one foot for each additional foot of building height.
- (3) Minimum Yard Requirements:
  - a. Sides: None; however, the side street setback requirement on a corner lot shall be 25 feet.

**2.04.02.20 P-2 Professional Office District.**

(A) FLUM Designation: Commercial Classification

- (B) Purpose: The P-2 professional office district is intended to encourage the compatible development of professional and related office complexes in predominantly developed areas which are suitable for such development.

(C) Special Exception Uses:

- (1) Residential development may be permitted as a Special Exception use.
- (D) Development Standards: Additional requirements are:
  - (1) Minimum Lot Requirements: Development site shall be large enough to accommodate all required parking, stormwater management and other standards and facilities.
  - (2) Maximum Building Height: 85 feet. However, the maximum building height may be increased provided that one additional foot is added to each of the required yards for each additional foot of building height over 85 feet. In such cases the minimum side yard requirement shall be 10 feet plus one foot for each additional foot of building height.
  - (3) Minimum Yard Requirements:
    - a. Sides: None; however, the side street setback requirement on a corner lot shall be 25 feet.
- (E) Other Requirements:
  - (1) Bed and Breakfast. Property shall front on a collector or arterial roadway. Primary points of ingress-egress shall connect to such roadway. Signs shall be in accordance with regulations in Article 4. Parking requirements shall be one space per unit available for rent.

#### **2.04.02.21 I-1 Industrial District.**

- (A) FLUM Designation: Industrial Classification
- (B) Purpose: The I-1 light industrial district is intended primarily for the manufacture of small articles and non-objectionable products not involving the use of any materials, processes or machinery likely to cause undesirable effects upon nearby or adjacent residential or business property.
- (C) Special Exception Uses:
  - (1) Residential development may be permitted as a Special Exception use.
- (D) Development Standards: Additional requirements are:
  - (1) Minimum Lot Requirements: Development site shall be large enough to accommodate all required parking, stormwater management and other standards and facilities.

- (2) Maximum Building Height: 60 feet. However, the maximum building height may be increased provided that one additional foot is added to each of the required yards for each additional foot of building height over 60 feet. In such cases the minimum side yard requirement shall be 10 feet plus one foot for each additional foot of building height.
- (3) Minimum Yard Requirements:
  - a. Sides: 15 feet; however, the side street setback requirement on a corner lot shall be 25 feet.

(E) Other Requirements. None.

#### **2.04.02.22 I-2 Industrial District.**

- (A) FLUM Designation: Industrial Classification
- (B) Purpose: The I-2 industrial district is intended primarily for manufacturing, or the use of processes or machinery having the potential to cause undesirable effects upon nearby residential or business property.
- (C) Special Exception Uses:
  - (1) Residential development may be permitted as a Special Exception use.
- (D) Development Standards: Additional requirements are:
  - (1) Minimum Lot Requirements: Development site shall be large enough to accommodate all required parking, stormwater management and other standards and facilities.
  - (2) Maximum Building Height: 60 feet. However, the maximum building height may be increased provided that one additional foot is added to each of the required yards for each additional foot of building height over 60 feet. In such cases the minimum side yard requirement shall be 10 feet plus one foot for each additional foot of building height.
  - (3) Minimum Yard Requirements:
    - a. Sides: 15 feet; however, the side street setback requirement on a corner lot shall be 25 feet.
- (E) Other Requirements: None.

#### **2.04.02.23 PI Public Institutional District.**

- (A) FLUM Designation: Public Institutional
- (B) Purpose: To establish locations for existing or future public and private institutional uses, such as local, state and federal government buildings and facilities; schools, hospitals, major medical clinics, hospices, nursing homes, adult and child care facilities, churches, colleges and universities.
- (C) Permitted Principal Uses & Structures: Examples of uses in this district are:
  - (1) Buildings, facilities or activities owned or operated by governments or other public or private agencies and having a public purpose.
  - (2) Recreational facilities are excluded except as accessory uses.
- (D) Accessory Uses: Accessory uses and structures customarily incidental and subordinate to permitted principal uses and structures; provided, however, that no accessory structures shall be located on property other than that on which the principal structure is located. Examples include, but are not limited to, caretakers' residences, dining facilities, and playing fields and other recreational facilities located on school grounds. Minimum building spacing shall be 15 feet. Section 2.05.00 contains detailed guidance and regulations for permitted accessory uses.
  - (1) Customary uses which are secondary and incidental to principal uses, including caretakers' residences, dining facilities, and playing fields and other recreational facilities located on school grounds.

#### **2.04.02.24 PR Public Recreation District.**

- (A) FLUM Designation: Recreation & Open Space Classification
- (B) Purpose: To establish locations for publicly-owned recreation facilities and properties reserved for open space.
- (C) Permitted Principal Uses & Structures: Examples of uses are:
  - (1) Lands, structures, and facilities owned and/or operated by government or other public agencies for recreational or open space uses.



(D) Accessory Uses: Accessory uses and structures customarily incidental and subordinate to permitted principal uses and structures; provided, however, that no accessory structures shall be located on property other than that on which the principal structure is located. Customary uses that are secondary and incidental to principal uses, including bathhouses, caretakers' residences, pavilions, and boat docks. Minimum building spacing shall be 15 feet. Section 2.05.00 contains detailed guidance and regulations for permitted accessory uses.

(1) Customary uses which are secondary and incidental to principal uses, including caretakers' residences, pavilions, and public restrooms.

(E) Development Standards: Additional requirements are:

Each application for the PR zoning designation shall be accompanied by a site development plan or sketch plan which accurately depicts the following:

- (1) lot lines, easements, adjacent rights-of-way and existing structures;
- (2) proposed use of the property;
- (3) all proposed new structures, including floor area of buildings and setback distances from property lines;
- (4) building heights;
- (5) internal roads and driveways;
- (6) parking areas; and
- (7) tracks, play equipment or other site improvements not qualifying as structures.

Approval of the PR zoning designation shall be granted in reliance upon the submitted plan, and all construction and improvements shall be substantially consistent with the plan, as determined by the Development Director.

#### **2.04.02.25 CN Conservation.**

(A) FLUM Designation: Conservation Classification

(B) Purpose: To preserve the proper functioning of natural resources, such as wetlands, floodplains, and groundwater recharge areas.

- (C) Accessory Uses: Accessory uses and structures customarily incidental and subordinate to permitted principal uses and structures; provided, however, that no accessory structures shall be located on property other than that on which the principal structure is located. Customary uses that are secondary and incidental to principal uses, including restrooms, caretakers' residences, pavilions, boardwalks, and pedestrian/bicycle paths. Section 2.05.00 contains detailed guidance and regulations for permitted accessory uses.

## **2.05.00 General Regulations for Accessory Uses.**

Accessory uses, as defined in Article 9, are those that are incidental and secondary to a principal use that is permitted within a given zoning district. It is the purpose of this Section to regulate the construction, placement, and use of accessory structures, in order to ensure that they do not adversely affect nearby residents and/or surrounding properties. In addition to the standards provided below, accessory structures shall meet all requirements set forth in individual zoning districts and other applicable provisions of this Code.

One or more accessory structures may be permitted on a development site, provided that the following requirements are met:

- (A) Accessory structures shall not be constructed prior to the principal structure.
- (B) All accessory structures shall comply with the Standard Building Code and all standards of this Code pertaining to the principal use.
- (C) Accessory structures shall not be located in a required landscape buffer; or within a public utility easement.
- (D) Accessory structures shall be included in all calculations of maximum lot coverage, impervious surface and stormwater runoff.
- (E) All accessory structures shall be shown on a site development plan when required under Section 7.05.00 of this Code.
- (F) In residential districts, accessory structures shall not be located forward of the front building line or, on a corner lot, within the required side street setback area.
- (G) Accessory structures shall not be served by an electrical meter separate from that of the principal use.
- (H) Except where otherwise provided, accessory structures shall be set back no less than five (5) from side and rear lot lines.
- (I) Except where otherwise provided, accessory structures shall be separated from each other and from the principal structure by no less than five feet (5') in all residential zoning districts and fifteen feet (15') in all commercial professional and industrial zoning districts.

- (J) No manufactured/ mobile home, trailer, or vehicle of any kind shall be permitted as an accessory structure on any development site.
- (K) An accessory structure shall not be used as habitable living space unless it meets all requirements in the Unified Land Development Code as a Guest House or Garage Apartment. This shall include setbacks, density, minimum floor space and all other requirements. Nonconforming uses shall not be re-established if destroyed or if use is discontinued for 90 consecutive days.
- (L) The allowable square footage of accessory structure(s) shall not exceed the total size of the principal structure or cause the maximum lot coverage to exceed the standards set forth in Table 2.04.01(B), Table of Development Standards.

#### **2.05.01 Swimming Pools.**

Swimming Pools are permitted in all residential districts as an accessory use. Pools located in any residential district shall meet the following requirements:

- (A) Swimming pools shall be permitted accessory to a residential use only, and shall be at least ten feet (10') from any lot line, as measured from the edge of the water.
- (B) Swimming pools, including all decking and screen enclosures, shall be located to the rear of the front building line, and shall not encroach into side street setback areas.
- (C) Screen enclosures over and around swimming pools shall be erected so as to conform to setback requirements for accessory buildings; however, such enclosures may be attached to the principal building. Lighting for pools shall be located and installed such that no direct light nor reflected light is visible on adjoining property.
- (D) Swimming pools shall not be located within public utility or stormwater management easements along side and rear lot lines. For purposes of setback measurement, the term "swimming pool" shall include all surrounding decking and vertical supports for screen enclosures.
- (E) All swimming pools shall be completely enclosed by a fence or a wall not less than four feet high.
- (F) No pool in Residential districts may be used for commercial purposes.

#### **2.05.02 Boat Slips/Ramps, Docks, Boat Houses and Fishing Piers.**

Boat slips/ramps, docks, boat houses and fishing piers are permitted in all Residential districts as an accessory use. Private boat slips/ramps and docks may be constructed by the owner on any lot bordering any canal, waterway or lake providing they comply with the following:

- (A) Docks shall not extend into the waterway or lake for a distance greater than fifty feet (50') measured from the water line that may be established by the City Commission on any lake that is not a meandering lake.
- (B) In Residential districts no boat house or permanent covering shall be provided over the dock or boat slip/ramp that is located beyond the water line of any waterway, that may be established by the City Commission.
- (C) No permit shall be issued for a boat slip/ramp, dock or boat house, except by the City Manager. The applicant shall provide to the City Manager complete plans, specifications and details, at least 30 days prior to the commission meeting at which it is to be considered. The City Manager shall determine if such plans meet all requirements of this ordinance, any state, county or other governmental rules or regulations. The applicant shall post a cash or surety bond, as the City Manager may determine, to assure that the work proposed will be completed in a manner not inconsistent with the public interest.

### **2.05.03 Antennas and Satellite Dishes.**

- (A) Antennas and satellite dish antennas shall be considered structures and shall be installed in accordance with all applicable provisions of this Code and any other relevant regulations. No antenna shall exceed 12 feet in diameter and 30 feet in height, as measured from the ground to the highest projection of the antenna or supporting structure.
- (B) No antenna shall be placed forward of the front building line, and shall be set back from all property lines a distance at least equal to its height. On a corner lot, it shall meet required side street setbacks for accessory structures. Setbacks shall be measured from the outermost projection of the antenna or supporting structure.
- (C) Where the antenna is not mounted on a building, the supporting structure holding the antenna shall not elevate the lower edge of the antenna more than 18 inches above the elevation of the eaves of the roof of the principal structure. Where mounted on a building, the combined height of the building and the antenna shall not exceed the maximum permitted building height in the applicable zoning district.
- (D) An Antenna Installation Permit shall be required for all antennas exceeding 25 feet in height and four feet in diameter. Applications for this permit shall include a site plan, sketch plan or other scaled drawing showing all structures on the property, and the location, height and size of the proposed antenna.
- (E) The following regulations apply to antennas and satellite dish antennas in specific districts:

Agricultural and Residential Districts, except R-3, R-4 and R-5

- (1) An antenna shall be permitted only as an accessory use to a single family detached dwelling unit.
- (2) Roof-mounted dish antennas shall be prohibited.
- (3) No more than one antenna and one dish shall be placed on any one lot or development site.

#### R-3, R-4 or R-5 Districts

- (1) An antenna shall be permitted as an accessory use to a single family detached dwelling unit, or for the common use of the residents of a multiple-family structure or a manufactured/ mobile home park.
- (2) Roof-mounted antennas shall be permitted for multi-family developments and manufactured/ mobile home parks only. Roof-mounted dish antennas in manufactured/ mobile home parks shall be affixed only to buildings of conventional construction.
- (3) No more than one antenna and one dish antenna shall be placed on any one lot or development site.

#### Commercial, Industrial and Professional Districts

- (1) An antenna shall be permitted either as an accessory use or, if permissible in the zoning district, a principal use. However, the dish antenna shall not be installed prior to construction of a building at least 300 s.f. in size.
- (2) No more than two dish antennas shall be placed on any one lot or development site, except at schools, colleges and broadcast studios.

### **2.05.04 Temporary Portable Storage Containers.**

- (A) Temporary Portable Storage Containers (TPSC) are permitted in any residential zoning district in a manner that is safe and compatible with adjacent surrounding uses and activities and in compliance with this section. This section shall not apply to nonresidential zoned property.
- (B) TPSCs shall be allowed on residential lots only as specified in this section and subject to the following:
  - (1) Notification. All companies engaged in the rental, loan or sale of TPSCs shall provide a legible copy of these regulations with every rental contract.
  - (2) Duration. TPSCs may be placed on residential properties for the following periods of time. If the TPSC is placed for seven consecutive days or more, a permit shall be required. Upon completion of the work permitted, the TPSC shall be removed within seven days.

- a. TPSCs placed in conjunction with moving activities may be permitted for a maximum of 14 days.
- b. TPSCs placed in conjunction with a building permit for reconstruction and/or remodeling may be permitted for a maximum of 30 days.
- c. TPSCs placed in conjunction with a building permit for new construction may be permitted for a maximum of 180 days.

(3) Location and size.

- a. TPSCs shall be located in a side or rear yard a minimum of five feet from any property line. If this is not possible, and it is necessary to locate the TPSC in the front or side street yard, the container shall be placed on a paved area only and not on grassed or landscaped areas.
- b. The maximum allowable size for TPSCs on residential lots is an aggregate sum of 160 square feet. This size restriction does not apply where the use of the TPSC coincides with the issuance of a building permit for purposes of reconstruction or remodeling, or for new construction.
- c. TPSCs shall not be located in a manner that impairs a motor vehicle operator's view of other vehicles, bicycles or pedestrians utilizing, entering or exiting a right-of-way; or in a manner that obstructs the flow of pedestrian or vehicular traffic.
- d. TPSCs shall not be placed within a required landscape or buffer area or areas that are considered environmentally sensitive.

(4) Time Extensions. The Building Official may authorize a time extension of the duration period if the property owner has demonstrated that extenuating circumstances exist to justify the extension.

(5) Exceptions. In the event of a city, county, state, or federal emergency declaration, the requirements of this section may be exempted for a specific period of time as deemed necessary by the City Manager to meet the needs of the community.

(6) Violation and enforcement. Any TPSC that is not removed at the end of the time for which it is permitted or immediately upon the direction of the Building Official or a code enforcement officer for removal or relocation of such TPSC for safety reasons, shall be in violation of this section. Enforcement shall be in accordance with applicable ordinances, rules and procedures of the City of Bartow as now exist or exist in the future.

### **2.05.05 Permanent On-Site Storage Containers**

- (A) Use. Permanent On-Site Storage Containers (POSSC) are permitted only in the following non-residential zoning districts in a manner that is safe and compatible with adjacent surrounding uses and activities and in compliance with this section: C-3, Highway Commercial, I-1, Light Industrial I-2, Heavy Industrial, and Planned Developments that include the use of POSSC in the approved Land Use Plan.
- (B) Placement. The placement of POSSCs shall be subject to the following:
  - (1) The placement of POSSCs shall comply with the Florida Building Code, Florida Fire Prevention code, and shall require a building permit.
  - (2) A minimum lot area of one acre is required for each POSSC placed on a parcel. In the instance where more than one POSSC is allowed they shall not be stacked.
  - (3) POSSCs shall be placed and anchored on a stabilize surface consisting of concrete, asphalt, gravel, block, etc., which will provide not less than two percent grade or drainage slope away from the structure.
  - (4) POSSCs shall conform to all of the criteria contained in Section 2.05.00 of the ULDC related to General Regulations for Accessory Uses.
  - (5) Setback requirements of POSSCs shall not be administratively reduced or varied in any manner.
  - (6) POSSCs shall not occupy any required off-street parking spaces, vehicular accesses or drive aisles, pedestrian facilities, drainage easements, stormwater management facilities or required landscape areas for the site.
  - (7) POSSCs shall not be modified or retrofitted for habitation. Electrical installations shall only be allowed if an electrical plan is submitted and a separate electrical permit is obtained.
- (C) Compatibility.
  - (1) The POSSC shall be in good condition, not be materially altered to a significant degree beyond its original specifications, free from severe rust, peeling paint, or other forms of deterioration and shall not have exposed bare metal.
  - (2) A POSSC shall be located and screened in a manner that minimizes its visibility from adjacent rights of way and/or residentially zoned property. Measures used to satisfy this requirement may include additional setbacks, landscaping, fencing/walls, finished appearance or any combination thereof.

- (D) Nonconforming Use. Any POSSC now established on any lot, tract, or parcel of land within the City which is not permitted under the provisions of these regulations is a nonconforming use. As such it shall not be replaced and must be brought into compliance with these regulations within one (1) year of the effective date of this code.

**2.05.06 Sidewalk Cafes.** Sidewalk cafes may be permitted on sidewalks located within a public right-of-way as an accessory use to an existing or proposed restaurant, bakery, drinking establishment, or tea room, in the C-1, C-2 or C-4 Zoning Districts. All sidewalk cafes shall meet the following requirements:

(A) Procedures:

- (1) Persons or entities proposing to operate a sidewalk cafe shall apply for and receive approval from the Development Review Committee (DRC).
- (2) All applications for sidewalk cafes, and any amendment thereafter, shall be reviewed by the DRC for compliance with this section. After DRC review, the applicant shall be given the opportunity to correct any noted deficiencies and resubmit the request to the DRC, which shall then approve, approve with conditions, or deny the application for a sidewalk cafe permit.
- (3) Approved sidewalk cafe applications shall be valid for a period of one (1) year, and shall be renewed on an annual basis, concurrently with the annual business tax payment of the principal use.
- (4) The sidewalk cafe permit application shall include the following:
  - a. A completed application form, which shall include, but not necessarily be limited to, the following:
    - 1) Name of the establishment, its address and phone number;
    - 2) Name, address, and phone numbers, both day and evening, of the establishment's owner/operator;
    - 3) Name, address, and phone numbers, both day and evening, of the building owner;
    - 4) Signature(s) of the establishment's owner/operator and the building owner.



- b. A scale diagram or sketch plan of the area for the sidewalk cafe. This should also include the location and description of all furniture, structures, and materials requested to be in the right-of-way and contiguous private property, including where such materials are proposed to be stacked, stored, and secured after the sidewalk café ceases its daily operation. The diagram shall indicate dimensions and proposed seating capacity.
- c. A certificate of insurance with coverage terms and policy limits consistent with Paragraph (D) below.
- d. Location of existing, and any proposed, restroom facilities, including number of fixtures.
- e. Other information as may be requested by the DRC.
- f. The current Business Tax Receipt for the principal use.
- g. A copy of all other necessary business operation permits as required by Florida law or local ordinance for the principal use.

(B) Rules, Regulations, and Conditions of Permit:

- (1) The operation of a sidewalk cafe shall be located such that there is:
  - a. A minimum forty-four inch (44") clear, unobstructed passageway between the edge of the sidewalk cafe and other permanent objects (e.g. fire hydrants, landscape planter, benches, lightpoles, sign posts, trash receptacles, etc.) within the right-of-way;
  - b. A minimum eighty inch (80") from the edge of the sidewalk or back of curb; and
  - c. Sufficient space between the edge of the customer seating/table and the unobstructed passageway pursuant to the Florida Building and Fire Prevention Codes.

The DRC may increase any of the above distances as necessary for public safety purposes.

- (2) The location of the sidewalk cafe may only be on the immediately adjacent and contiguous sidewalk or pedestrian alley to the applicant's business, and not interfere with any driveway, alleys, streets, or building entrances. The sidewalk cafe must not interfere with any functions, public or private, of the Americans with Disabilities Act (ADA).

- (3) Sidewalk cafes shall not be approved if the City's Police and Fire Chief determine that the proposed location constitutes a public safety hazard. This determination shall be based on their professional assessment of the situation that may include consideration of adjacent roadway conditions, historical data related to vehicle and pedestrian accidents in the area and the general characteristics of the surrounding environment.
- (4) Sidewalk cafes may be allowed for establishments whose primary purpose is food or beverage service to persons seated at a table. All food preparation shall occur within the existing principal use's established and approved kitchen and only pursuant to properly issued business operation permit under Florida law. Food shall not be prepared within the sidewalk cafe.
- (5) Additional seating within the sidewalk cafe shall be factored into the minimum number of plumbing fixtures provided on site as required by §403, Florida Building Code (Plumbing) as the same may be amended from time to time.
- (6) The sidewalk cafe and surrounding sidewalk areas shall be kept clean and free of litter by the owner/operator.
- (7) Only those items authorized by the permit and shown on the diagram may be placed in the public right-of-way. All furniture and objects shall complement and be compatible with surrounding areas. All furniture and objects within the sidewalk cafe shall not extend beyond the boundaries of the sidewalk cafe as delineated in the approved permit diagram.
- (8) Sidewalk cafes partially on private property and partially on the public right-of-way must adhere to all regulations for sidewalk cafes contained in this section. Sidewalk cafes solely on private property are exempt from the general permitting provisions of this section but must comply with all applicable Federal and State regulations, including but not limited to ADA standards, state building codes, hours of operation and removal of cafe furnishings in response to impending severe weather events.
- (9) All signage, including sandwich boards, awnings, canopies, and umbrellas, and other fixtures must be in compliance with all applicable City codes and regulations.

- (10) Furniture and other items associated with the sidewalk cafe, including but not necessarily limited to: tables; chairs; umbrellas; portable heaters; planter boxes; and bollards, must be durable and sufficiently stable to prevent displacement by winds of typical speed and intensity, as determined for Central Florida by the National Weather Service. The owner/operator is responsible for relocating, storing, and securing the outdoor furniture if the wind or wind gusts are of such strength that any displacement is likely. In the event severe weather conditions are expected, all items placed on the sidewalk shall be removed a minimum of twenty-four (24) hours prior to the severe weather event as forecasted by the National Weather Service. Those items not removed by the owner/operator shall be subject to removal by the City at the owner/operator's expense.
  - (11) All items shall be promptly stacked, set aside, and secured immediately after the sidewalk cafe discontinues its daily operation and must be stored on private property or that part of the public sidewalk immediately adjacent to the building within the boundaries of the sidewalk cafe as delineated in the approved permit diagram.
  - (12) Hours of operation shall not begin prior to 7:00 AM nor continue later than 9:00 PM on Sundays through Thursdays. On Fridays and Saturdays, cafés may operate past midnight until 1:00 AM the following day. The City Manager or his/her designee may authorize expanded hours during holidays and specific City-sponsored or City-co-sponsored Special Events.
  - (13) Music may be allowed during the hours of operation, subject to the regulations contained in the City's Code of Ordinances or Unified Land Development Code and any special conditions of the cafe permit.
  - (14) An owner/operator of a sidewalk cafe may request that the City allow one or more parallel parking spaces, or two or more angled parking spaces, along the street frontage adjacent to their place of business to be used for additional café purposes within the guidelines and regulations as noted herein. Any request to do so shall only be considered when the adjacent street is closed for specific City-sponsored or City-co-sponsored Special Events. The request, if approved, will be considered as an amendment to the original sidewalk café approval and be valid for only the Special Event for which the request is made.
  - (15) If alcoholic beverages are allowed to be offered for sale, service or consumption as part of the sidewalk cafe operation a sign shall be posted at the entrance stating "No Outside Alcohol Permitted". Furthermore, any alcoholic beverage consumed on the exterior of the business shall only be poured drinks (e.g. no bottles or cans) and served in a container that readily and permanently identifies the business from which it was obtained.
- (C) Suspensions, Revocations, and Terminations: If necessary, a permit may be "temporarily suspended", "temporarily suspended with prejudice", "revoked", or "terminated".

- (1) Temporarily Suspended. In the event that the City needs temporary access or use of the right-of-way, a permit will be temporarily suspended. In most cases, the City will make a "good faith" effort to provide the sidewalk café a notice of the temporary suspension at least 48 hours in advance. The notice will indicate the reason for the temporary suspension, and the length of time that the suspension will be in place.
  - (2) Temporarily Suspended with Prejudice. In the event that the establishment is in violation of any portion of the Code of Ordinances, Unified Land Development Code or State or Federal regulations, or is deemed to be a public hazard, the sidewalk cafe permit will be temporarily suspended with prejudice. If the establishment is in violation of a portion of this section, notice will be issued by the DRC and the establishment will then have a specified period of time to correct the violation. If the establishment does not correct the violation within the specified time period, the sidewalk cafe permit will be Temporarily Suspended with Prejudice. The sidewalk cafe is to remain closed until the problem is corrected. If the sidewalk cafe's permit is temporarily suspended with prejudice more than two (2) times in a 12 month period, the approval for the use shall be revoked.
  - (3) Revoked. The DRC may revoke any sidewalk cafe permit for the purposes of public safety, welfare, termination of liability insurance, or necessity for public usage of the subject right-of-way. Owners whose permits have been revoked may re-apply for a sidewalk cafe permit ninety (90) days after the date of revocation.
  - (4) Terminated. The City reserves the right to terminate individual sidewalk cafe permits. The termination of any individual sidewalk cafe permit may prevent the re-issuance of a sidewalk cafe permit to the owner/operator and/or to the restaurant location, based upon the specific reasons involved in the termination.
- (D) Liability and Insurance Clause: The applicant shall furnish a signed statement, with the application, that the permittee shall defend, indemnify, and hold harmless the City, its officers, and employees, from any claims for damages to property or injury to persons which may occur in connection with an activity carried on under the terms of the permit. The applicant shall maintain such public liability, food products liability, liquor liability (if applicable), and property damages insurance as will protect the permittee and City from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than the municipal tort liability under the Florida Tort Claims Act. Such insurance shall be without prejudice to coverage otherwise existing, and shall name the City, its officers, and employees, as additional persons insured, and shall further provide that the policy shall not terminate or be canceled prior to the expiration of the permit without 30 days written notice to the City. If the insurance is cancelled or terminated, the City has the right to revoke the sidewalk café approval.

## ARTICLE 3

### DEVELOPMENT DESIGN AND IMPROVEMENT STANDARDS

#### 3.01.00 General Provisions

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- 3.01.02 Responsibility for Improvements
- 3.01.03 Principles of Development Design

#### 3.02.01 Transportation Systems

- 3.02.01 General Provisions
- 3.02.02 Base Building Lines
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#### 3.03.00 Off-Street Parking and Loading

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#### 3.04.00 Utilities

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#### 3.06.00 Performance Standards

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  - 3.06.02.06 Hazardous Wastes
  - 3.06.02.07 Odors
  - 3.06.02.08 Glare
  - 3.06.02.09 Fumes, Vapors and Gases
  - 3.06.02.10 Heat, Cold, Dampness, or Movement of Air
  - 3.06.02.11 Fire and Safety Hazard
  - 3.06.02.12 Radioactive Emission
  - 3.06.02.13 Electromagnetic Radiation

- 3.07.00 Compatibility, Landscaping and Buffering Standards
  - 3.07.01 Classification of Land Uses
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    - 3.07.04.03 Buffer Yards Between Proposed Uses and Vacant Property
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    - 3.07.04.05 Buffer Yards for Double Frontage Lots
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- 3.08.00 Site Development Plans
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  - 3.08.02 Multiple Family Residential
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    - 3.08.02.02 Special Needs Facilities
    - 3.08.02.03 Family Foster, Day Care, Adult Care Homes
    - 3.08.02.04 Nursing Homes
  - 3.08.03 Lodging
    - 3.08.03.01 Bed and Breakfast
    - 3.08.03.02 RV Park / Campground
  - 3.08.04 Retail Commercial, No Outdoor Storage or Activities
    - 3.08.04.01 Adult Entertainment
    - 3.08.04.02 Drinking Establishment
    - 3.08.04.03 Mini-warehouse
    - 3.08.04.04 Recreation, Indoor, Commercial
    - 3.08.04.05 Shopping Center (150,000 SFGLA or less)
    - 3.08.04.06 Veterinary Clinic or Kennel
    - 3.08.04.07 Tea Room
    - 3.08.04.08 Brewpub
  - 3.08.05 Retail Commercial, Outdoor Storage
    - 3.08.05.01 Auto / Boat Sales
    - 3.08.05.02 Plant Nursery
    - 3.08.05.03 Recreation, Outdoor, Commercial
    - 3.08.05.04 Service Station (Minor Automotive Repair)
  - 3.08.06 Office / Financial / Medical Facilities / Club
    - 3.08.06.01 Funeral Home
    - 3.08.06.02 Hospital
    - 3.08.06.03 Professional Office
    - 3.08.06.04 Real Estate / Business Office
    - 3.08.06.05 Day Spas

- 3.08.07 Nonretail / Service Commercial
  - 3.08.07.01 Auto or Boat Repair, No Sales
  - 3.08.07.02 Contractor Storage Yard
  - 3.08.07.03 Sales or Repair of Heavy Equipment
  - 3.08.07.04 Warehouse
  - 3.08.07.05 Wholesale Distributor
- 3.08.08 Heavy Industry
  - 3.08.08.01 Auto Salvage Yard
  - 3.08.08.02 Commercial Incinerator
  - 3.08.08.03 Storage of Sand / Gravel / Block
- 3.08.09 Public Service Facilities
  - 3.08.09.01 Cemetery
  - 3.08.09.02 Communication Towers
  - 3.08.09.03 Fire Station
  - 3.08.09.04 Police Station
  - 3.08.09.05 Post Office
  - 3.08.09.06 Sewer or Water Station (on Site)
- 3.08.10 Educational / Cultural Facilities
  - 3.08.10.01 Churches
  - 3.08.10.02 School (grades K-12)
- 3.08.11 Recreation Uses
  - 3.08.11.01 Golf Courses
- 3.09.00 Design Standards for Conditional Uses
  - 3.09.01 Shopping Center (>150,000 SFGLA)
  - 3.0902 Junkyards
- 3.10.00 Development Standards for Uses Permitted by Special Exception
  - 3.10.01 Special Exceptions in all Residential Districts
  - 3.10.02 Boarding House
  - 3.10.03 RV Park / Campground
    - 3.10.03.01 General Requirements
    - 3.10.03.02 Environmental Requirements
    - 3.10.03.03 Tract Requirements
    - 3.10.03.04 Vehicle Site Requirements
    - 3.10.03.05 Recreation and Open Space Requirements
    - 3.10.03.06 Parking and Streets
    - 3.10.03.07 Service Requirements
    - 3.10.03.08 Refuse Handling
    - 3.10.03.09 Service Buildings and Facilities
    - 3.10.03.10 General Operating Requirements
    - 3.10.03.11 Permit Procedures and Requirements
  - 3.10.04 Retail Commercial, No Outdoor Storage or Activities
    - 3.10.04.01 Tea Room
    - 3.10.04.02 Microbrewery
  - 3.10.05 Retail Commercial, Outdoor Storage
    - 3.10.05.01 Commercial Parking Lot
    - 3.10.05.02 Flea Market
  - 3.10.06 Office / Financial / Medical Facilities / Club
    - 3.10.06.01 Day Spas
    - 3.10.06.02 Clubs, Community/Fraternal/Veterans
  - 3.10.07 Heavy Industry
    - 3.10.07.01 Manufacture of Explosive
    - 3.10.07.02 Slaughterhouse

- 3.10.08 Communication Towers
- 3.10.09 Education/Cultural Facilities
  - 3.10.09.01 Church
  - 3.10.09.02 Community Center
  - 3.10.09.03 Public Library
  - 3.10.09.04 Museum
  - 3.10.09.05 Arboreta, Botanical & Zoological Gardens
  - 3.10.09.06 School (grades K-12)

[RESERVED]



## **ARTICLE 3**

### **DEVELOPMENT DESIGN AND IMPROVEMENT STANDARDS**

#### **3.01.00 General Provisions.**

**3.01.01 Purpose.** The purpose of this Article is to provide development design and improvement standards applicable to all development activity within the City of Bartow.

**3.01.02 Responsibility for Improvements.** Unless otherwise specifically provided, all improvements required by this Article shall be designed, installed, and paid for by the Developer.

**3.01.03 Principles of Development Design Improvements.** The provisions of this Article are intended to ensure functional and attractive development. Development design shall first take into account the protection of natural resources as prescribed in Article 5 of this Code. All development shall be designed to avoid unnecessary impervious surface cover; to provide adequate access to lots and sites; and to avoid adverse effects of glare, noise, odor, traffic, stormwater management, and utilities on surrounding properties.

#### **3.02.00 Transportation Systems.**

##### **3.02.01 General Provisions.**

- (A) Purpose. This Section establishes minimum requirements applicable to the development of the transportation system, including public and private streets, bikeways, pedestrian ways, parking and loading areas, and access control to and from public streets. The standards in this Section are intended to minimize the traffic impacts of development, to ensure that all developments adequately and safely provide for the storage and movement of vehicles consistent with good engineering and development design practices.
- (B) Compliance with Technical Construction Standards. All required elements of the transportation system shall be provided in compliance with engineering design and construction standards adopted by the City of Bartow.

##### **3.02.02 Base Building Lines.**

- (A) General. The general purposes and intent of the City in the establishment of base building lines are to provide an efficient and economical basis for acquisition of street rights-of-way; and to provide a convenient and adequate thoroughfare network to meet the present and future needs of residential, commercial and industrial traffic through and around the City.
- (B) Base Building Lines Established. Base building lines are hereby established for all arterial and collector roads as shown on the Future Traffic Circulation Map of the City of Bartow Comprehensive Plan. Base building lines shall run parallel to the right-of-way centerline of such roads at a distance of one-half the right-of-way width required for the applicable roadway functional classification.

Right-of-way widths and base building line distances shall be as follows:

|                     | R/W Width | Base Building Line |
|---------------------|-----------|--------------------|
| Arterials           | 150 feet  | 75 feet            |
| Collectors          | 100 feet  | 50 feet            |
| Local               | 50 feet   | 50 feet            |
| Minor               | 50 feet   | 50 feet            |
| Loop Drives         | 50 feet   | 50 feet            |
| Marginal Access     | 50 feet   | 50 feet            |
| Alley               | 20 feet   | 0 feet             |
| Pedestrian Easement | 15 feet   | 0 feet             |
| Service Easement    | 15 feet   | 0 feet             |

No structure in any zoning district shall be placed forward of the base building line, regardless of the normal front or side street setback requirement for the district.

- (C) Base Building Line On State Roads. Regardless of the provisions of Section 3.02.02(B) or any other provision of this Code, no structure shall be placed within 25 feet of the edge of the right-of-way of any State Road located within the City.

### **3.02.03 Street Design Standards.**

(A) General Design Standards

- (1) All streets in a new development shall be designed and constructed pursuant to all engineering design standards adopted by the City of Bartow. Streets shall be dedicated to the City upon completion, inspection, and acceptance by the City.
- (2) The street system of the proposed development shall, to the extent practicable, conform to the natural topography of the site, preserving existing hydrological and vegetative patterns, and minimizing erosion potential, runoff, and the need for site alteration. Particular effort should be directed toward securing the flattest possible grade near intersections.
- (3) Streets shall be laid out to avoid environmentally sensitive areas.
- (4) No public streets shall be dedicated within 40 feet of the high water elevation of any lake, except where public access to the lake is to be provided.
- (5) Private streets may be allowed within any development, provided they are designed and constructed pursuant all engineering standards applicable to public roads of the same functional classification.

- (6) Private ownership of streets may be permitted with approval by the City Commission, if the developer, in writing, assures the City that these private improvements shall be kept in a satisfactory state of repair and maintenance by the developer or by legally established homeowners association, which shall be clearly stated on the face of the final plat.
- (7) The street layout in all new development shall be coordinated with and interconnected to the street system of the surrounding area.
- (8) Streets in proposed subdivisions shall be connected to rights-of-way in adjacent areas to allow for proper inter-neighborhood traffic flow. If adjacent lands are unplatted, stub-outs in the new development shall be provided for future connection to the adjacent unplatted land.
- (9) Residential streets shall be arranged to discourage through traffic, but not eliminate it.
- (10) Streets shall intersect as nearly as possible at right angles and in no case shall be less than 80 degrees.
- (11) Streets shall be designed to eliminate double frontage lots unless adequate provisions are made to buffer said lots.

(B) Pavement Widths. Pavement widths for each street classification shall be as follows:

|                   |                 |
|-------------------|-----------------|
| Arterial          | 24 feet minimum |
| Collector         | 24 feet minimum |
| Minor or Marginal | 24 feet minimum |

(C) Cul-de-sac Turnarounds and Alleys

- (1) Cul-de-Sacs. Permanent dead-end streets extending more than two lots or more than 125 feet shall provide a cul-de-sac turnaround, the location and specification of which shall be established by the Consulting City Engineer and the Fire Department.

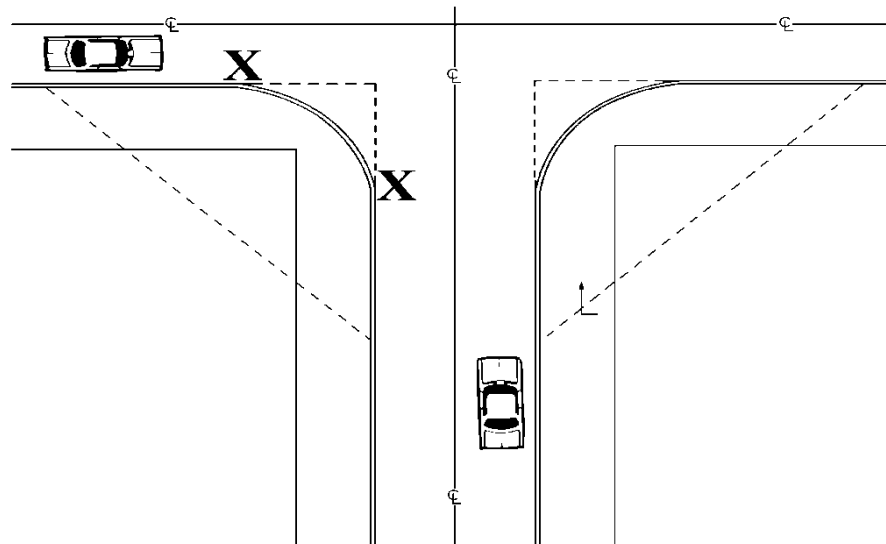
An unobstructed 12-foot wide moving lane with a minimum outside turning radius of 45 feet shall be provided at the terminus of every permanent cul-de-sac. Each cul-de-sac shall not exceed 600 feet in length.

- (2) Alleys. Alleys shall be provided in commercial and industrial districts or areas except that the Planning and Zoning Commission may waive requirement where other definite and positive provisions are made for service access, off-street loading, unloading or parking.

- a. Width. The width of any alley shall not be less than 20 feet.
- b. Intersections, direction changes. Alley intersections and sharp changes of direction shall be avoided. When necessary, all corners shall be rounded to a minimum radius of 25 feet to facilitate safe vehicular movement.
- c. Dead ends. Dead end alleys shall be prohibited unless provided with a turnaround or cul-de-sac.

(D) Clear Visibility Triangle. In order to provide a clear view of intersecting streets to the motorist, there shall be a triangular area of clear visibility formed by two intersecting streets or the intersection of a driveway and a street. The following standards shall be met:

- (1) Nothing shall be erected, placed, parked, planted, or allowed to grow in such a manner as to materially impede vision between a height of two feet and 10 feet above the grade, measured at the centerline of the intersection.
- (2) The clear visibility triangle shall be formed by extending a line from the back of the curb or the edge of pavement of two intersecting roadways to a point of intersection; measuring a prescribed distance from the point in both directions and drawing the hypotenuse of the triangle (see the following drawing).



- (3) The distance from the intersection of the lines extended from the edge of the pavement or the back of the curb for the various road classifications (shown as "X" in the diagram) shall be as follows.

| Type of Street | Distance From Center Line Intersection |
|----------------|----------------------------------------|
| Arterial       | 60 feet                                |
| Collector      | 50 feet                                |
| Local          | 40 feet                                |
| Driveway       | 25 feet                                |

- (4) Where roads of different functional classifications intersect, the distance for each street shall be used. For example, when a principal arterial and an urban collector intersect, there shall be no obstructions 60 feet along the principal arterial and 50 feet along the urban collector, from the intersection of the two streets.

- (E) Signage and Signalization. The developer shall deposit with the City sufficient funds to provide all necessary roadway signs and traffic signalization as may be required by the City, based upon City or State traffic standards. At least two street name signs shall be placed at each four-way street intersection, and one at each "T" intersection. Signs shall be installed under light standards and free of visual obstruction. The design of street name signs shall be consistent, of a style appropriate to the community, and of a uniform size and color.
- (F) Blocks
- (1) Where a tract of land is bounded by streets forming a block, said block shall have sufficient width to provide for two tiers of lots of appropriate depths.
  - (2) The lengths, widths, and shapes of blocks shall be consistent with adjacent areas.
  - (3) Block lengths shall not exceed 1,000 feet in length or be less than 200 feet in length, except as may be approved by the Planning and Zoning Commission. Due regard shall be given to U.S. land use multiples of 330 feet.
- (G) Yards and Lots
- (1) Clear Visibility Triangle. Obstructions to vision at street intersections shall not be allowed. See Section 3.02.03 (D), "Clear Visibility Triangle".
  - (2) Front Yard Regulations for Double Frontage Lots. Double frontage lots shall, on both of the adjacent streets, meet the front yard regulations of the district in which they are located.
  - (3) Yard Regulations for Corner Lots. Corner lots shall be subject to the following regulations:
    - a. Front yard regulations of the district in which the corner lot is located shall be met along the lot lines abutting the street upon which the lot has its least dimension.
    - b. On corner lots abutting two intersection streets, there shall be only one side yard. The remaining lot line shall be deemed a rear lot line or side street lot line. The side lot line shall be determined based on the following criteria:
      1. The side lot line shall be the lot line opposite the lot line having the greatest street frontage; or
      2. If the lot lines abutting on both streets are of equal length, the side lot line shall be determined based on the following criteria:
        - a) Where the corner lot abuts both a side lot line and a rear lot line on adjacent lots, the side lot line for the corner lot shall be the same as for the abutting side lot line;

- b) Where the corner lot abuts either two rear lot lines on adjacent lots, the side lot line for the corner lot shall be designated by the applicant at the time of his application for a zoning permit.
  - c) Side street setbacks of the district in which the corner lot is located shall be met along the lot line abutting the street upon which the lot has its greatest dimension.
  - d) On corner lots abutting three intersecting streets, the remaining lot line shall be deemed the rear lot line.
- (4) Application of yards to one building only. No part of a yard required for any building may be included as fulfilling the yard requirements for an adjacent building.
- (5) Use of yards for accessory buildings. No accessory buildings are permitted in front yards. They are permitted in rear or side yards according to the dimension and area regulations.
- (6) Reduction in lot area prohibited. No lot even though it may consist of one or more adjacent lots of record, shall be reduced in area to that lot area, yards, width or other dimension and area regulations of this Code are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

#### **3.02.04 Sidewalks and Bikeways.**

Design And Construction Standards. Design and construction of sidewalks and bikeways shall conform to all applicable engineering requirements adopted by the City of Bartow, including provisions for access by physically handicapped persons.

- (A) Projects abutting collector or arterial facilities shall provide sidewalks adjacent to such roadways. Location of sidewalks shall be consistent with planned roadway improvements.
- (B) Public sidewalks shall be provided on both sides of all internal project roads.
- (C) Where a proposed development includes improvements or new construction of collector or arterial facilities, facility designs shall include provision for sidewalks and bikeways within the right-of-way.
- (D) Residential projects adjacent to or in the immediate vicinity of commercial, office, service, schools or recreation activities shall provide sidewalks from the development to the activity center.
- (E) Pedestrian-ways or crosswalks, not less than 10 feet wide with a sidewalk meeting the requirements of this Section, may be required to be placed in the center of blocks more than 800 feet long where deemed necessary to provide circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.

#### **3.02.05 Access Points Onto Streets.**

All proposed development shall meet the following standards for vehicular access and circulation:

(A) Number Of Access Points

- (1) The maximum number of points of access permitted onto any one road shall be as follows:

| Lot Width Abutting Road | Number Of Points Of Access             |
|-------------------------|----------------------------------------|
| Less than 65 feet       | 1                                      |
| 65 feet to 200 feet     | 2                                      |
| Over 200 feet           | 2, plus 1 for each additional 200 feet |

- (2) In lieu of any two openings onto any one road, there may be permitted a single point of access up to a maximum width of 48 feet. When this alternative is elected, there shall be a permanent median at the center of the opening.
- (3) Adjacent uses may share a common driveway provided that appropriate access easements are granted between or among the property owners.

(B) Separation Of Access Points

- (1) There shall be a minimum distance of 12 feet, measured at the property line, between any two openings onto the same street, unless otherwise approved by the City Manager or his designee.
- (2) No point of access shall be allowed within 30 feet of the intersection of the right-of-way lines of any public road.
- (3) The distance between access points shall be measured from the centerline of the proposed driveway or roadway to the centerline of the nearest adjacent driveway or roadway, at the property line.

(C) Access To Residential Lots

- (1) No residential lots having a width less than 125 feet shall abut an arterial without also directly abutting a local or collector street.
- (2) No lot in a subdivision shall be approved with less than 40 feet of frontage on a public street right-of-way.
- (3) Residential subdivisions shall be designed to provide access to individual development lots by use of local or marginal access streets. No lots in the subdivision shall have direct access to a collector or arterial street and limited access easements shall be utilized when lots abut such streets.

(D) Access To Off-street Parking Spaces

- (1) There shall be only one access point, not to exceed 40 feet in width; or, two access points, not to exceed 24 feet in width each, permitted on the street on which the off-street parking space is located. Requests for additional access points must go before the Board of Adjustment.

- (2) All off-street parking space access points on a street shall be located at least 50 feet, or two-thirds the distance of the lot frontage on the street, whichever is less, from the intersection of any right-of-way lines of streets or a street and a railroad and at least two and one-half feet from all side or rear property lines. There shall also be a minimum distance of 20 feet between any two access points serving the property.

#### **3.02.06 Standards for Drive-in Facilities.**

All facilities providing drive-in or drive-through service shall provide on-site stacking lanes in accordance with the following standards:

- (A) The facilities and stacking lanes shall be located and designed to minimize turning movements in relation to driveway access to streets and intersections.
- (B) The facilities and stacking lanes shall be located and designed to minimize or avoid conflicts between vehicular traffic and pedestrian areas such as sidewalks, crosswalks, or other pedestrian access ways.
- (C) A by-pass lane shall be provided.
- (D) Stacking lane distance shall be measured from the service window to the property line bordering the furthest street providing access to the facility.
- (E) Minimum stacking lane distance shall be as follows:
  - (1) Financial institutions shall have a minimum distance of 200 feet. Two or more stacking lanes may be provided that together total 200 feet.
  - (2) All other uses shall have a minimum distance of 120 feet.
- (F) Alleys or driveways in or abutting areas designed, approved, or developed for residential use shall not be used for circulation of traffic for drive-in facilities.
- (G) Where turns are required in the exit lane, the minimum distance from any drive-in station to the beginning point of the curve shall be 34 feet. The minimum inside turning radius shall be 25 feet.
- (H) Construction of stacking lanes shall conform to all engineering design standards adopted by the City of Bartow.

### **3.03.00 Off-Street Parking And Loading .**

#### **3.03.01 Applicability.**

This Section shall apply to all new construction requiring off-street parking, and existing nonconforming parking facilities, if on-site renovation, construction or repair exceeds 50 percent of the assessed value of the property.



### 3.03.02 Off-Street Parking.

- (A) Number Of Required Spaces. In all districts, off-street parking shall be provided as set forth in the following table and as may be modified by the provisions following the table.

| Land Use and/or Building Type                                                               | Per Unit                | Per 1,000<br>SFGFA <sup>1</sup> or<br>SFGLA <sup>2</sup> | Per Student/Member<br>Seat/Employee/Etc. |
|---------------------------------------------------------------------------------------------|-------------------------|----------------------------------------------------------|------------------------------------------|
| Single family dwelling unit                                                                 | 1.0                     |                                                          |                                          |
| Duplex                                                                                      | 1.0                     |                                                          |                                          |
| Multi-family                                                                                | 1.5                     |                                                          |                                          |
| Boarding house<br>Plus Resident Manager                                                     | 1.0<br>1.0              |                                                          |                                          |
| Adult congregate living facility                                                            | 0.7                     |                                                          |                                          |
| Hotel and motel<br>Plus per Resident Manager<br>Plus per Restaurant Seat<br>Bed & Breakfast | 1.1<br>1.0<br>.2<br>1.0 |                                                          |                                          |
| Day Spas                                                                                    |                         | 4.0                                                      |                                          |
| Office and banks without drive-through                                                      |                         | 2.5                                                      |                                          |
| Small office (less than 3,000 SFGFA)                                                        |                         | 3.0                                                      |                                          |
| Bank with drive-through                                                                     |                         | 3.0                                                      |                                          |
| Medical, dental, optical, chiropractor office                                               |                         | 3.0                                                      |                                          |
| Medical clinic and professional buildings                                                   |                         | 4.5                                                      |                                          |
| Shopping center                                                                             |                         | 4.0                                                      |                                          |
| General retail sales                                                                        |                         | 4.0                                                      |                                          |
| Shopping Center (less than 100,000 SFGLA <sup>3</sup> )                                     |                         | 3.33                                                     |                                          |
| General Retail Outdoor Display/Storage Area <sup>4</sup>                                    |                         | 1.0                                                      |                                          |
| Supermarket and discount store                                                              |                         | 3.5                                                      |                                          |
| Furniture store                                                                             |                         | 1.5                                                      |                                          |
| Bowling alley, per lane                                                                     |                         |                                                          | 4.5                                      |
| Day care center/school, per employee                                                        |                         |                                                          | 1.3                                      |
| Putt-putt golf, per hole                                                                    |                         |                                                          | 1.0                                      |
| Theaters, freestanding, per seat                                                            |                         |                                                          | 0.3                                      |
| Restaurant / Tea Room, per seat                                                             |                         |                                                          | 0.4                                      |
| Restaurant with lounge, per seat                                                            |                         |                                                          | 0.5                                      |
| Fast Food Restaurant with Drive-in <sup>5</sup>                                             |                         | 9.98                                                     |                                          |
| Fast food restaurant with drive-in, per seat <sup>6</sup>                                   |                         |                                                          | 0.4                                      |
| Senior high school, per student                                                             |                         |                                                          | 0.4                                      |
| Elementary and junior high school, per teacher                                              |                         |                                                          | 1.2                                      |
| University or college, per daytime student                                                  |                         |                                                          | 1.0                                      |
| Church, per seat in sanctuary                                                               |                         |                                                          | 0.3                                      |
| Hospital, per bed                                                                           |                         |                                                          | 2.0                                      |
| Nursing home, per room                                                                      |                         |                                                          | 0.5                                      |
| Industrial park with offices                                                                |                         | 1.8                                                      |                                          |

| Land Use and/or Building Type                               | Per Unit | Per 1,000<br>SFGFA <sup>1</sup> or<br>SFGLA <sup>2</sup> | Per Student/Member<br>Seat/Employee/Etc. |
|-------------------------------------------------------------|----------|----------------------------------------------------------|------------------------------------------|
| Light industry                                              |          | 1.8                                                      |                                          |
| Manufacturing                                               |          | 1.0                                                      |                                          |
| Warehousing and distribution centers                        |          | 0.4                                                      |                                          |
| Recreation clubs (golf, yacht, etc.), per member            |          |                                                          | 0.2                                      |
| Clubs, Community/Fraternal/Veterans, and assembly, per seat |          |                                                          | 0.2                                      |

<sup>1</sup> Square Feet, Gross Floor Area (SFGFA) is defined as the total floor area of a building from its outside dimensions.

<sup>2</sup> Square Feet, Gross Leasable Area (SFGLA) is defined as the floor area of a building, less administrative, public and similar areas.

<sup>3</sup> This category shall apply to retail centers/shopping centers with less than 100,000 SFGLA, without a grocery store as the anchor tenant. An example of a grocery store as an anchor tenant would be a full service grocery store that is more than 25,000 SFGLA. This rate can be utilized for retail center/shopping center outparcels not otherwise specifically listed in the abovementioned table.

<sup>4</sup> This category shall apply to outdoor display areas adjacent to or in close proximity to the primary retail business area. These areas shall not have separate entrances open to the public, shall not contain cashier services, shall not have covered roofing and shall not have dedicated sales personnel.

<sup>5</sup> This category shall apply to fast-food restaurants with a drive-through window that are developed as an outparcel to a retail center/shopping center with more than 50,000 SFGLA and which shares common infrastructure with the center.

<sup>6</sup> This category shall apply to fast-food restaurants with a drive-through window that are not developed as an outparcel to a retail center/shopping center with more than 50,000 SFGLA and which shares common infrastructure with the center.

(B) Off-Street Parking for the Physically Disabled. All development covered by §316.1955 - .1956, Florida Statutes, shall provide parking for the physically disabled pursuant to the requirements of those sections. In addition, all residential developments with greater than 25 required parking spaces shall comply with the requirements of §316.1956, Florida Statutes.

(C) Exceptions to Off-street Parking Space Required in the C-1 Central Business Commercial Zoning District and P-1 Professional Office District. The Board of Adjustment may, upon appeal by the applicant, waive or reduce the requirement for off-street parking space within these two districts, provided the following determinations are made:

- (1) Construction of the required space would prevent the continuous development of a compact and coordinated row of commercial buildings fronting on an already established commercial block or shopping area;
- (2) The required space cannot be reasonably provided off the premises in accordance with this ordinance (within 400 feet walking distance);
- (3) The principal building and use proposed is not designed or oriented to providing sales or services to persons remaining in vehicles;
- (4) Construction of the required space would detract from the overall shopping desirability of the adjoining buildings and premises and would result in the incompatible mixing of vehicles, buildings and pedestrian shoppers.

(D) Special Parking Restrictions In Residential Districts

(1) Parking Of Trucks and Trailers

Within any residential district, no trucks, trailers or wagons for non-recreational use shall be parked for storage purposes, including overnight, on any public right-of-way or on private property except within a completely enclosed garage. This restriction shall also apply to empty trailers designed to carry boats or other vehicles.

(2) Parking Of Boats and Recreational Vehicles

Within any residential district, recreational vehicles (including collapsible camp trailers), and boats on trailers may be parked for storage purposes only within the side yard area not less than five feet from the side property line, and within the rear yard area not less than five feet from the rear property line. No recreational vehicle or boat may be parked between any public street and the living area of the principal building, except on a paved driveway.

(E) Bicycle Parking

- (1) One bicycle parking space shall be provided for every 10 automobile parking spaces, or fraction thereof, required for the use, except as provided below:

| Use                                                                   | Required Bicycle Spaces     |
|-----------------------------------------------------------------------|-----------------------------|
| Educational                                                           |                             |
| Elementary and Junior High                                            | 5.0 per required auto space |
| Senior High Schools                                                   | 1.0 per required auto space |
| Colleges                                                              | .5 per required auto space  |
| Entertainment and Recreation                                          |                             |
| Arcades, games, skating, tennis, handball, racquetball, swimming pool | .25 per required auto space |

(2) Design Standards

- a. The Development Director shall maintain a list of approved bicycle parking facilities.
- b. Other bicycle parking devices may be used if it is established to the satisfaction of the Department that the standards below are met.
- c. The rack or other facility shall:
  1. Be designed to allow the frame and wheels of each bicycle to be secured against theft.
  2. Be designed to avoid damage to the bicycles.
  3. Be anchored to resist removal and solidly constructed to resist damage by corrosion and vandalism.

4. Be located to prevent damage to bicycles by cars.
  5. Be located so as not to interfere with pedestrian movements.
- (F) Location of Parking Spaces. Parking spaces required by this Section shall be located as follows:
- (1) Parking spaces required in this Section shall in no part exist upon, and no portion of any vehicle shall overhang, the right-of-way of any public road, street, alley, or walkway. There shall be no off-street parking in the front yards of single-family residences, except as normally exists in driveways.
  - (2) Parking spaces for all other dwellings shall be located on the same development site as the main building.
  - (3) Parking spaces for all other uses shall be provided on the same development site as the main building, or not more than 400 feet distant, as measured along the nearest pedestrian walkway. Such parking area may be located in an adjacent residential district provided that such parking area is screened so as to prevent headlights from shining on residential properties and to minimize vehicular noise.
  - (4) Parking requirements for two or more uses, of the same or different types, may be provided by the establishment of the required number of spaces for each use in a common parking area.
- (G) Required Parking Lot Improvements. Any off-street parking lot serving any use other than dwellings of two units per building or less shall meet the following requirements for off-street parking lot improvements:
- (1) The parking area will be buffered and canopy provided pursuant to Section 3.07.00.
  - (2) All off-street driveways, parking, maneuvering and loading and unloading areas shall be provided with a hard surface of all-weather pavement, of asphalt or concrete, and shall be so graded and drained as to provide for the adequate runoff and disposal of surface water, and shall be constructed in accordance with standards of the City Engineer.
  - (3) Where lighting facilities are provided for the parking area, they shall be designed and installed so as to direct the light away from any contiguous residential property.
  - (4) All automobile and truck parking, loading and unloading spaces and access thereto shall be surfaced in a stable manner.

### **3.03.03 Off-Street Loading Requirements.**

Off-street loading spaces shall be provided in accordance with the following standards:

- (A) Every hospital, institution, commercial or industrial building or similar use shall be provided with one loading space for each 20,000 s.f. or more of floor area, and requiring the receipt or distribution by vehicles of materials or merchandise shall have at least one permanent off-street loading space for each 20,000 s.f. of gross floor area, or fraction thereof, immediately adjacent to the principal building.

- (B) Retail operations, wholesale operations, and industrial operations, with a gross floor area of less than 20,000 s.f. shall provide sufficient space for loading and unloading operations in order that the free movement of vehicles and pedestrians over a sidewalk, street or alley shall not be impaired.
- (C) Every off-street loading and unloading space shall have a direct access to a public street or alley, and shall have the following minimum dimensions:
- |                     |           |
|---------------------|-----------|
| Depth:              | 40 feet   |
| Width:              | 12 feet   |
| Overhead Clearance: | 13.5 feet |
- (D) Manufactured/ mobile home and recreational vehicle sales establishments shall provide adequate space off the public right-of-way for the maneuvering of manufactured/ mobile homes and recreational vehicles into position on the property without blocking traffic on the abutting street or road.

### 3.03.04 Design Standards for Off-Street Parking and Loading Areas.

- (A) Location. All required off-street parking spaces shall be located on the same parcel as the use which they serve.
- (B) Size
- (1) Standard and compact parking spaces for varying parking lot designs shall be sized according to Figure A below.
  - (2) Parallel parking spaces shall be a minimum of eight feet wide and 22 feet long. If a parallel space abuts no more than one other parallel space, and adequate access room is available, then the length may be reduced to 20 feet.
  - (3) Tandem parking spaces must be a minimum of nine feet wide and 20 feet long.
  - (4) A standard motorcycle parking space shall be four feet wide and nine feet long.
  - (5) The length of one or more of the loading spaces shall be increased up to 55 feet, if full-length tractor-trailers must be accommodated.

| Figure A       |             |             |             |             |             |
|----------------|-------------|-------------|-------------|-------------|-------------|
| A<br>(Degrees) | B<br>(Feet) | C<br>(Feet) | D<br>(Feet) | E<br>(Feet) | F<br>(Feet) |
| 0              | 9.5         | 10.0        | 12.0        | 23.0        | 32.0        |
| 20             | 9.5         | 16.2        | 12.0        | 29.2        | 44.4        |
| 30             | 9.5         | 18.7        | 12.0        | 20.0        | 49.4        |
| 40             | 9.5         | 20.5        | 12.0        | 15.6        | 53.0        |
| 45             | 9.5         | 21.2        | 12.0        | 14.1        | 54.4        |
| 50             | 9.5         | 21.7        | 16.0        | 13.1        | 59.4        |
| 60             | 9.5         | 22.3        | 18.0        | 11.5        | 62.6        |
| 70             | 9.5         | 22.2        | 20.0        | 10.6        | 64.4        |
| 80             | 10.0        | 21.4        | 24.0        | 10.2        | 66.8        |
| 90             | 10.0        | 20.0        | 24.0        | 10.0        | 64.0        |

A = Parking Angle  
 B = Stall Width  
 C = Stall Depth  
 D = Aisle Width  
 E = Curb Length  
 Per Car  
 F = Lot Width

(C) Layout

- (1) Pedestrian circulation facilities, roadways, driveways, and off-street parking and loading areas shall be designed to be safe and convenient.
- (2) Each off-street parking space shall open directly onto an aisle or driveway that, except for single-family and two-family residences, is not a public street.
- (3) Aisles and driveways shall not be used for parking vehicles, except that the driveway of a single-family or two-family residence may be counted as meeting the parking space requirements for the dwelling unit, provided it is at least 20 feet in length.
- (4) The design shall be based on a definite and logical system of drive lanes to serve the parking and loading spaces.
- (5) Parking spaces for all uses, except single-family and two-family residences, shall be designed to permit entry and exit without moving any other motor vehicle.
- (6) No parking space shall be located so as to block access by emergency vehicles.

**3.04.00 Utilities.**

**3.04.01 Requirements for All Developments.**

Utility easements shall not be less than 15 feet wide or 7.5 feet on each side of a lot. The following basic utilities are required for all developments subject to the criteria listed herein:

- (A) Water and Sewer. Every principal use and every lot within a newly platted subdivision shall have central potable water and wastewater hookup whenever required by the Comprehensive Plan and where the topography permits the connection to a public water or sewer line by running a connecting line no more than 200' from the lot to such line.
- (B) Stormwater and Stormwater management. Where a lot is traversed by a watercourse, drainageway, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse and width adequate for its purpose, access and maintenance. Parallel streets or parkways may be required in connection therein.
- (C) Fire Hydrants. All developments served by a central water system shall include a system of fire hydrants consistent with design standards adopted by the City of Bartow.
- (D) Electricity, Communication and Community Television. Every principal use and every lot within a subdivision shall have available to it a source of electric power, telephone and community television adequate to accommodate the reasonable needs of such use and every lot within such subdivision, and shall be placed underground, except as follows:
  - (1) Equipment appurtenant to underground facilities, such as surface mounted transformers, pedestal mounted terminal boxes, and meter cabinets; and
  - (2) Poles supporting only street lights.
  - (3) Upon written application of the owner or subdivider, the City Commission may, by resolution, waive or modify any provisions for underground requirements.

- (E) Illumination. All streets, driveways, sidewalks, bikeways, parking lots and other common areas and facilities in developments shall provide illumination meeting design standards adopted by the City of Bartow.
- (F) Solid Waste. When centralized solid waste facilities are utilized, said facilities shall be screened on three (3) sides by a minimum six (6) foot masonry wall if located in areas visible to patrons, pass-by traffic or abutting residential property.

#### **3.04.02 Design Standards.**

- (A) Compliance With Technical Construction Standards. All utilities required by this Chapter shall meet or exceed minimum design standards adopted by the City of Bartow.
- (B) Placement of Utilities Underground
  - (1) All electric, telephone, cable television, and other communication lines (exclusive for transformers or enclosures containing electrical equipment, including but not limited to switches, meters, or capacitors that may be pad mounted), and gas distribution lines shall be placed underground within easements or dedicated public rights-of-way, installed in accordance with the City's adopted design standards.
  - (2) Lots abutting existing easements or public rights-of-way where overhead electric, telephone, or cable television distribution supply lines and service connections have previously been installed may be supplied with such services from the utility's overhead facilities, provided the service connection to the site or lot is placed underground.
  - (3) Screening of any utility apparatus placed above ground shall be required.

**3.04.03 Utility Easements.** When a developer installs or causes the installation of water, sewer, electrical power, telephone, or cable television facilities and intends that such facilities shall be owned, operated, or maintained by a public utility or any entity other than the developer, the developer shall transfer to such utility or entity the necessary ownership or easement rights to enable the utility or entity to operate and maintain such facilities.

**3.05.00 Stormwater Management.** Treatment of stormwater runoff shall be required for all development, redevelopment and, when expansion occurs, existing developed areas. The stormwater treatment system or systems can be project specific, or serve sub-areas within the County. The design and performance of all stormwater management systems shall comply with applicable State Regulations, Chapter 17-25 and Chapter 17-302, Florida Administrative Code; and the rules of the SWFWMD stated in Chapter 40D-4, F.A.C; and with this section of the Code, which implements the City's ordinance and Polk County Ordinance 93-06. Stormwater discharge facilities shall be designed so as to not lower the receiving water quality or degrade the receiving water body below the minimum conditions necessary to maintain their classifications as established in Chapter 17-302, F.A.C. Steps to control erosion and sedimentation shall be taken for all development.

### **3.05.01 Stormwater Management Requirements.**

The contribution of pollutants through discharges from storm sewer systems has a significant impact on the receiving waters in Polk County. Improperly treated discharges from industrial activities and interconnected Municipal Separate Storm Sewer Systems (MS4's) and illicit discharges from spilling, dumping or disposal of material other than stormwater to the municipal separate storm sewer system will adversely affect the quality of waters receiving such discharges.

The EPA, pursuant to Title 40, Section 122.26 of the Code of Federal Regulations, has mandated that municipalities provide the legal authority to control discharges to the municipal separate storm sewer system under the National Pollutant Discharge Elimination System (NPDES) in order to control the quality of discharges from the MS4. The City Commission of the City of Bartow therefore finds it necessary and in the public interest, to protect the quality of waters receiving stormwater discharges from becoming contaminated, for the health, safety, and general welfare of the citizens of the City.

#### **(A) Control of Stormwater Discharges**

- (1) Stormwater Discharges to the Municipal System and U.S. Waters. The discharge of stormwater to an MS4 shall be controlled to the extent that such discharge will not impair the operation of the MS4 or contribute to the failure of the MS4 to meet any State or Federal requirements. Discharges to waters of the U.S. shall be controlled to the extent that the discharge will not adversely impact the quality or beneficial uses of the receiving water.

Any person responsible for stormwater discharges determined by the municipality to be contributing to the impairment of the waters of the U.S., either directly or through an MS4, shall provide corrective measure in accordance with a schedule approved by the municipality.

- (2) Stormwater Discharges from Industrial Activities and Construction Sites. Stormwater from construction sites shall be controlled in such a way as to retain sediment on-site and prevent violations of state water quality standards. All erosion and sediment controls required pursuant to the pollution prevention plan of a NPDES stormwater permit for construction or required pursuant to a state stormwater permit issued by either the FDEP or appropriate water management district shall be properly implemented, maintained and operated. The minimum acceptable requirements for construction sites are set forth in Appendix B, Best Management Practices (BMP's) for Construction Activities, attached at the back of the Code.

Stormwater from areas of industrial activity shall be treated or managed on-site, using best management practices, prior to discharging to an MS4 or to U.S. Waters. All stormwater discharges from the site shall be of a quality which will not adversely impact the water quality or beneficial uses of the receiving water. The owners of industrial facilities or construction sites which will discharge stormwater to an MS4, must provide written notification to the appropriate municipality prior to discharging.



- (3) Control of Pollutant Contributions from Interconnected MS4's. The discharge of stormwater between interconnected State, County or other municipal storm sewer systems shall not impair the quality of the discharge from the receiving storm sewer system. Owners of sections of an interconnected MS4 shall be responsible for the quality of discharge from their portion of the system and shall coordinate with the owners of the downstream segments prior to initiating any modifications to the system.
- (B) Control of Non-Stormwater Discharges. Any discharge, other than stormwater, to an MS4 or to waters of the U.S. which is not exempt under Section 3.05.01(D) is considered an illicit discharge and is prohibited. Upon discovery of an illicit discharge, persons responsible for the discharge shall report their findings immediately to the City. Persons responsible for illicit discharges shall immediately, upon notification, initiate procedures to cease discharging or provide suitable containment facilities until modifications are made to properly treat the discharge, or a NPDES permit is obtained. Such procedures shall include a requirement to obtain approval of a schedule for implementing proposed corrective measures from the City.
- (C) Inspection and Maintenance of Systems. City personnel shall be granted access for inspection of facilities discharging or suspected of discharging to an MS4 or waters of the U.S. in order to evaluate the potential for release of materials other than stormwater. All structures which allow discharges to an MS4 shall be made accessible to municipal personnel for continual monitoring of the quality of the discharges.
- Structural controls and other BMP's used to reduce pollutants in stormwater discharges shall be operated and maintained so as to function in accordance with the original design or performance criteria. Operation and maintenance shall be done so as to assure treatment of stormwater or reduction in pollutants in stormwater discharges consistent with appropriate federal, state or water management district rules or permit requirements.
- (D) Variances and Exemptions. Variances from specific requirements of this Code shall be considered on a case by case basis to the extent that granting of such variance will not adversely impact the quality of the receiving water or relieve a person from any federal, state or local requirements which may apply. Notification of variance application shall be provided to the owners of all MS4's within the City.

Exemptions. The following activities shall be exempt from the requirements of this Code:

- (1) Discharges from fire fighting and emergency response activities employing best management practices.
- (2) Discharges which meet the water quality standards of Chapter 17-302, F.A.C.
- (3) Discharges from facilities in compliance with the conditions of all required NPDES permits issued under the authority of the U.S. EPA.
- (4) The storage, use or disposal of fertilizers, pesticides, herbicides or other regulated substances in strict conformance with the EPA registration, manufacturer's label requirements and any applicable Federal, State or local regulations.

- (E) Performance Standards. All development must be designed, constructed and maintained to meet the following performance standards:
- (1) While development activity is underway and after it is completed, the characteristics of stormwater runoff shall approximate the rate, volume, quality, and timing of stormwater runoff that occurred under the site's natural unimproved or existing state, except that the first one inch of stormwater runoff shall be treated in an off-line retention system or according to FDEP's Best Management Practices.
  - (2) Maintenance activity may be undertaken so long as it does not change or affect the quality, rate, volume or location of stormwater flows on the site or of stormwater runoff.
  - (3) Actions may be undertaken during emergency conditions that violate these regulations to prevent imminent harm or danger, or to protect property from fire, violent storms, hurricanes or other hazards. Upon cessation of the emergency, all activities shall conform to this Section.
  - (4) Agriculture activity may be engaged in, provided farming activities are conducted in accordance with the requirements set forth in an approved Soil Conservation Service conservation Plan. If the Conservation Plan is not implemented accordingly, this exemption shall become void and a stormwater permit shall be required.
- (F) Residential Performance Standards. It is intended that all of the standards in the citations from the Florida Administrative Code are to apply to all development and redevelopment and that exemptions based on project size thresholds and individual structures do not apply for concurrency determinations. All development must meet F.A.C. and subsequently meet the following performance standards.
- (1) New Construction. For the purposes of determining whether residential development of 1-4 units on an individual lot requires retention, all the following standards must be met.
    - a. Structure and all impervious surface can be placed less than 100 feet from the receiving water body; and,
    - b. the topography of the lot is greater than a 6% slope; and,
    - c. the total of all impervious surface is 10% or more of the total lot area.
  - (2) Infill development. Infill development within an existing subdivision or a developed residential area is exempt from a retention area, when each of the following condition has been met:
    - a. Infill residential development shall be designed so as to not lower the receiving water quality or degrade the receiving water body below the minimum conditions necessary to maintain their classifications as established in Chapter 17-302, F.A.C.

### **3.05.02 Design Standards.**

To comply with the foregoing performance standards, the proposed stormwater management system shall conform to the following design standards:

- (A) Detention and retention systems shall be designed to comply with the FDEP's Best Management Practices.
- (B) To the maximum extent practicable, natural systems shall be used to accommodate stormwater.
- (C) The proposed stormwater management system shall be designed to accommodate the stormwater that originates within the development and stormwater that flows onto or across the development from adjacent lands.
- (D) The proposed stormwater management system shall be designed to function properly for a minimum 20-year life.
- (E) The design and construction of the proposed stormwater management system shall be certified as meeting applicable requirements, by a professional engineer registered in the State of Florida.
- (F) No surface water may be channeled or directed into a sanitary sewer.
- (G) The proposed stormwater management system shall be compatible with the stormwater management facilities on surrounding properties or streets, taking into account the possibility that substandard systems may be improved in the future.
- (H) The banks of detention and retention areas shall be sloped at no less than a 3:1 ratio and shall be planted with appropriate vegetation.
- (I) Dredging, clearing of vegetation, deepening, widening, straightening, stabilizing or otherwise altering natural surface waters shall be minimized.
- (J) Natural surface waters shall not be used as sediment traps during or after development.
- (K) Water reuse and conservation shall, to the maximum extent practicable, be achieved by incorporating the stormwater management system into irrigation systems serving the development.
- (L) Vegetated buffers of sufficient width to prevent erosion shall be retained or created along the shores, banks or edges of all natural or man-made surface waters.
- (M) In phased developments, the stormwater management system for each integrated stage of completion shall be capable of functioning independently.
- (N) All detention and retention basins, except natural water bodies used for this purpose, shall be accessible for maintenance from streets or public rights-of-way.

### **3.05.03 Dedication or Maintenance of Stormwater Management Systems.**

If a stormwater management system approved under this Code will function as an integral part of a County-maintained stormwater management system, as determined by the County Engineer, the facilities shall be dedicated to Polk County. The applicant shall be an acceptable entity and shall be responsible for the operation and maintenance of the stormwater management system from the time construction begins until the stormwater management system is dedicated to and accepted by another acceptable entity. All stormwater management systems that are not dedicated to Polk County, shall be operated and maintained by one of the following entities:

- (A) The City of Bartow.
- (B) An active water control district created pursuant to Chapter 298, Florida Statutes, or drainage district created by special act, or Community Development District created pursuant to Chapter 190, Florida Statutes, or Special Assessment District created pursuant to Chapter 170, Florida Statutes.
- (C) A State or Federal agency.
- (D) An officially franchised, licensed or approved communication, water, sewer, electrical or other public utility.
- (E) The property owner or developer if:
  - (1) Written proof is submitted in the appropriate form by either letter or resolution, that a governmental entity or such other acceptable entity as set forth in paragraphs A-D above, will accept the operation and maintenance of the stormwater management and discharge facility at a time certain in the future.
  - (2) A bond or other assurance of continued financial capacity to operate and maintain the system is submitted.
- (F) For-profit or non-profit corporations including homeowners associations, property owners associations, condominium owners associations or master associations if:
  - (1) The owner or developer submits documents constituting legal capacity and a binding legal obligation between the entity and the City affirmatively taking responsibility for the operation and maintenance of the stormwater management facility.
  - (2) The association has sufficient powers reflected in its organizational or operational documents to operate and maintain the stormwater management system as permitted by the City, establish rules and regulations, assess members, contract for services and exist perpetually, with the Articles of Incorporation providing that if the association is dissolved, the stormwater management system will be maintained by an acceptable entity as described above.

If a project is to be constructed in phases, and subsequent phases will use the same stormwater management facilities as the initial phase or phases, the operation and maintenance entity shall have the ability to accept responsibility for the operation and maintenance of the stormwater management systems of future phases of the project.

In phased developments that have an integrated stormwater management system, but employ independent operation and maintenance entities for different phases, such entities, either separately or collectively, shall have the responsibility and authority to operate and maintain the stormwater management system for the entire project. That authority shall include cross easements for stormwater management and the authority and ability of each entity to enter and maintain all facilities, should any entity fail to maintain a portion of the stormwater management system within the project.

### **3.06.00 Performance Standards Governing Waste and Emissions.**

**3.06.01 General Provisions.** All uses shall conform to the standards of performance described in this Section and shall be constructed, maintained and operated so as not to be injurious or offensive to the occupants of adjacent premises by reason of the emission or creation of noise, vibration, smoke, dust or other particulate matter, toxic or noxious waste materials, odors, fire and explosive hazard or glare. Within 100 feet of a residential district, all processes and storage, except for vehicle parking, shall be in completely closed buildings. Processes and storage located at a greater distance shall be effectively screened by a solid wall or fence at least six feet in height. Where other ordinances or regulations (whether federal, state, or local) that may be adopted hereinafter impose greater restrictions than those specified herein, compliance with such other ordinances and regulations is mandatory.

#### **3.06.02 Specific Standards.**

**3.06.02.01 Vibration.** Every use shall be so operated that ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point on the property line of the property on which the use is located. No vibration at any time shall produce an acceleration of more than 0.1g or shall result in any combination of amplitudes and frequencies beyond the "safe" range of Table 7 U.S. Bureau of Mines Bulletin No. 442. The equations of such bulletin shall be used to determine the values of enforcement.

**3.06.02.02 Smoke.** Every use shall be so operated as to prevent the emission of smoke, from any source whatever, to a density greater than described as Number 1 on the Ringelmann Smoke Chart; provided, however, that smoke equal to, but not in excess of, that shade of appearance described as Number 2 on the Ringelmann Chart may be emitted for a period or periods totaling four minutes in any 30 minutes. For the purpose of grading the density of smoke, the Ringelmann Chart as published and used by the United States Bureau of Mines, and which is hereby made, by reference, shall be standard. All measurements shall be at the point of emission. Smoke emission must comply with applicable rules of the FDEP.

#### **3.06.02.03 Reserved**

**3.06.02.04 Dust and Dirt.** Every use shall be so operated as to prevent the emission into the air of dust or other solid matter that may cause damage to property and health of persons or animals at or beyond the lot line of the property on which the use is located. Emissions must comply with applicable FDEP rules.

**3.06.02.05 Industrial Sewage and Waste.** Every use shall be so operated as to prevent the discharge into any stream, lake or the ground of any waste that will be dangerous or discomforting to persons or animals or that will damage plants or crops beyond the lot line of the property on which the use is located. Industries shall comply with applicable FDEP rules.

**3.06.02.06 Hazardous Wastes.** The handling and discharge of all hazardous waste shall follow all applicable standards established by the County health department, State Legislature and the U.S. Congress. Appropriate City officials shall review all procedures involving the handling and discharge of all hazardous waste to ensure that it does not create any safety or health problems.

**3.06.02.07 Odors.** Every use shall be so operated as to prevent the emission of objectionable or offensive odors in such concentration as to be readily perceptible at any point at or beyond the lot line of the property on which the use is located. There is hereby established, as a guide in determining the quantities of offensive odors, table III, chapter 5, Air Pollution Abatement Manual of the Manufacturing Chemists Association, Inc., Washington, D.C.

**3.06.02.08 Glare.** Every use shall be so operated as to prevent the emission of glare of such intensity as to be readily perceptible at any point on the lot line of the property on which the use is located. Buffering may provide a means of meeting this standard.

**3.06.02.09 Fumes, Vapors and Gases.** There shall be no emission of fumes, vapors, or gases of a noxious, toxic or corrosive nature that can cause any danger or irritation to health, animals, vegetation, or to any form of property.

**3.06.02.09 Fumes, Vapors and Gases.** There shall be no emission of fumes, vapors, or gases of a noxious, toxic or corrosive nature that can cause any danger or irritation to health, animals, vegetation, or to any form of property.

**3.06.02.10 Heat, Cold, Dampness, or Movement of Air.** Activities that shall produce any adverse effects on the temperature, motion or humidity of the atmosphere beyond the lot line shall not be permitted.

**3.06.02.11 Fire and Safety Hazard.** Each use shall be operated so as to minimize the danger from fire and explosion. The specific regulations to be met are set forth in the building code and the fire prevention code of the City.

**3.06.02.12 Radioactive Emission.** There shall be no radiation emitted from radioactive materials or by-products exceeding a dangerous level of radioactive emissions at any point. Radiation limitations shall not exceed quantities established as safe by the U.S. Bureau of Standards.

**3.06.02.13 Electromagnetic Radiation.**

- (A) Compliance with FCC Regulations. No person shall operate or cause to be operated, any planned or intentional source of electromagnetic radiation for such purposes as communication, experimentation, entertainment, broadcasting, heating, navigation, therapy, vehicle velocity measurement, weather survey, aircraft detection, topographical survey, personal pleasure, or any other use directly or indirectly associated with these purposes that does not comply with the current regulations of the Federal Communications Commission regarding such sources of electromagnetic radiation. Further, such operation in compliance with the Federal Communications Commission regulations shall be unlawful if such radiation causes an abnormal degradation in the performance of other electromagnetic receptors or radiators of quality and proper design because of proximity, primary field, blanketing, spurious re-radiation, conducted energy in power or telephone systems or harmonic content.

- (B) Evaluation of Performance. The determination of abnormal degradation in performance and of good quality and proper design shall be made in accordance with good engineering practices as defined in the principles and standards of the American Institute of Electrical Engineers, the Institute of Radio Engineers, and the Radio Manufacturer's Association. In case of any conflict between the latest standards and principles of the above groups, the following precedence in the interpretation of the standards and principles shall apply: (1) American Institute of Electrical Engineers; (2) Institute of Radio Engineers; (3) Radio Manufacturer's Association.

Recognizing the special nature of many of the operations that may be conducted in connection with research and educational activities, it shall be unlawful for any person, firm, or corporation to operate or cause to be operated, to maintain or cause to be maintained, any planned or intentional source of electromagnetic energy, the radiated power from which exceeds 1000 watts.

### **3.07.00 Compatibility, Landscaping and Buffering Standards.**

The City Commission finds that landscaping makes important contributions to the public safety and the general welfare of the City. The purpose and intent of this Section is to set forth requirements and standards for the provision of canopy trees, buffer yards, the conservation of native plants and trees, and the conservation of water resources in the City. Specifically, it is intended that buffer yards will aid in reducing the potential negative impacts caused by glare, noise, dust, dirt, litter, odors and view of various land uses on adjacent land uses. It is further intended that the planting of canopy trees will aid in lowering the ambient temperature of the air through increased shading; in conserving water; in enhancing the appearance of properties; in improving property values; and generally in protecting the health, safety and welfare of the public through the improvement of the quality of the human environment. As part of the development approval process, the City of Bartow shall ensure that all new development is properly buffered to prevent adverse impacts on surrounding land uses.

Prior to issuance of any development permit covered, a Landscape Plan shall be submitted showing canopy tree and buffer yard information required by this Section. The Landscape Plan shall be drawn to a scale with sufficient clarity and detail to indicate the type, nature and character of the improvements on the site, and the relative location of all landscaping in relation to said improvements. The Landscape Plan may be submitted separately, but shall be a part of the site development plan, when a site development plan is required under Section 7.05.00.

### 3.07.01 Classification of Land Uses.

For the purposes of this Section, all land uses are classified in accordance with the following list. Classifications are based upon the incompatibilities present between various types of land uses. Uses with similar density, intensity, off-street parking, paved areas, and traffic generation make up Classifications I through IX.

| LAND USE CLASSIFICATIONS |                                                                                                                                                                                                                                                                                                                   |
|--------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Class                    | Land Use                                                                                                                                                                                                                                                                                                          |
| I                        | Single family detached dwellings, including manufactured homes on platted lots.                                                                                                                                                                                                                                   |
| II                       | Duplex, single family attached, manufactured home parks and multi-family residential developments not exceeding 4 units per acre; outdoor recreation facilities; and cemeteries.                                                                                                                                  |
| III                      | Professional offices with no more than 8 off-street parking spaces; and child care centers in converted residential structures.                                                                                                                                                                                   |
| IV                       | Duplex, single family attached, manufactured home parks and multi-family residential developments at a density of 4-8 units per acre.                                                                                                                                                                             |
| V                        | Manufactured home parks, single family attached, and multi-family residential developments at a density of more than 8 units per acre and up to and including 12 units per acre; substations, switching stations, or transfer facilities for electric power, natural gas, telephone and cable television service. |
| VI                       | Professional offices with 9 or more off-street parking spaces; churches; schools; government buildings and facilities (excluding water and sewer treatment and public works storage and equipment facilities); and commercial development sites with not more than 10 off-street parking spaces.                  |
| VII                      | All retail, wholesale, service, and supporting business uses not already classified; full-service automobile service stations; shopping centers; motels and hotels; and hospitals; and multi-family residential developments at a density of more than 12 units per acre.                                         |
| VIII                     | Light industrial uses; governmental public works storage and equipment facilities.                                                                                                                                                                                                                                |
| IX                       | Heavy industrial uses; water and sewer treatment facilities.                                                                                                                                                                                                                                                      |

### 3.07.02 Landscaping.

Landscaping shall include the conservation of native plants and trees; the selection and planting of canopy trees to shade parking areas and other impervious surfaces; and the design, the selection of trees and shrubbery, the planting and the establishment of buffer yards.

#### 3.07.02.01 Selection of New Trees and Shrubs.

Canopy trees, small trees for buffer yards, and shrubbery that are best acclimated to the environment in the City are listed in Tables 3.07A through 3.07C. In order to satisfy the requirements of this Section, trees and shrubs from these lists must be selected for new landscape installations.

#### 3.07.02.02 Preservation of Existing Trees and Shrubs.

An existing canopy tree shall be preserved whenever possible. When a buffer is to be provided by preserving existing trees and shrubs, all healthy species growing in the location shall be acceptable to the City, and shall be maintained in their natural setting.



### 3.07.03 Canopy Trees.

Canopy trees shall be required for the purpose of shading impervious surfaces associated with all development in the City, lowering the ambient temperature of the air through increased shading; in conserving water; in enhancing the appearance of properties; in improving property values; and generally in protecting the health, safety and welfare of the public through the improvement of the quality of the human environment. Structures shall not be used in calculating or estimating the area of impervious surface.

- (A) Canopy trees shall be selected from Table 3.07A and planted no closer than five feet to any paved surface.
- (B) Planting areas for canopy trees shall be no less than 100 s.f. in area.
- (C) Planting areas under canopy trees shall be planted in compatible shrubs from Table 3.07C or ground covers, but not planted in grass.
- (D) Canopy trees shall be provided at a rate of two (2) trees per residential lot or one (1) tree per attached unit. Existing trees to be preserved may be used to satisfy this requirement on individual development parcels provided they are specifically listed in Table 3.07A, Canopy Trees.
- (E) Palm trees may be used as canopy trees so long as they constitute no more than ten (10) percent of the total number of trees required and are substituted at ratio of three (3) to one (1) towards the number of required canopy trees.

**Table 3.07A, Canopy Trees**

| Species                   | Common Name            | Height (feet) | Canopy (s.f.) |
|---------------------------|------------------------|---------------|---------------|
| Acer Rubrum               | Red maple              | 35-50         | 500           |
| Carya glabra              | Pignut hickory         | 80-100        | 700           |
| Carya Illinoensis         | Pecan                  | 60-100        | 700           |
| Carya tomentosa           | Mockernut hickory      | 80-100        | 700           |
| Celtis laevigata          | Sugarberry (Hackberry) | 40-60         | 1,300         |
| Cinnamomum camphora       | Camphor                | 40-50         | 700           |
| Fraxinus caroliniana      | Pop ash                | 40-60         | 500           |
| Liquidambar styraciflua   | Sweetgum               | 60-100        | 500           |
| Magnolia grandiflora      | Southern magnolia      | 50-100        | 500           |
| Pinus clausa              | Sand pine              | 60-80         | 500           |
| Pinus elliotii            | Slash pine             | 80-100        | 500           |
| Pinus elliotii var. densa | South Florida pine     | 80-100        | 500           |
| Pinus palustris           | Longleaf pine          | 80-100        | 500           |
| Platanus occidentalis     | Sycamore               | 50-80         | 700           |
| Quercus laurifolia        | Laurel oak             | 60-100        | 970           |
| Quercus nigra             | Water oak              | 60-100        | 700           |
| Quercus virginiana        | Live oak               | 50-60         | 2,000         |
| Tilia Caroliniana         | Carolina basswood      | 50-60         | 500           |
| Ulmus slata               | Winged elm             | 20-25         | 500           |
| Ulmus americana           | Florida elm            | 80-100        | 700           |

**Table 3.07B, Small Trees for Buffer Yards**

| <b>Species</b>         | <b>Common Name</b>       | <b>Height<br/>(feet)</b> | <b>Canopy<br/>(s.f.)</b> |
|------------------------|--------------------------|--------------------------|--------------------------|
| Baccharis halimifolia  | Groundsel tree salt bush | 7-12                     | 50                       |
| Betula nigra           | River birch              | 45-65                    | 200                      |
| Callistemon viminalis  | Weeping bottlebrush      | 15-20                    | 80                       |
| Carpinus caroliniana   | American hornbeam        | 25-35                    | 120                      |
| Carya folridana        | Scrub hickory            | 10-20                    | 120                      |
| Chionanthus virginicus | Fringe tree              | 15-25                    | 80                       |
| Cornus florida         | Flowering dogwood        | 20-30                    | 200                      |
| Crataegus              | Hawthorne                | 15-20                    | 120                      |
| Eriobotrya japonica    | Loquat, Japanese plum    | 15-20                    | 80                       |
| Eucalyptus cinerea     | Silver dollar eucalyptus | 15-25                    | 120                      |
| Gleditsia aquatica     | Water locust             | 40-60                    | 180                      |
| Gordonia lasianthus    | Loblolly bay             | 30-40                    | 200                      |
| Ilex attenuata         | East palatka holly       | 25-30                    | 200                      |
| Ilex cassine           | Dahoon holly             | 25-30                    | 200                      |
| Ilex opaca             | American holly           | 30-45                    | 200                      |
| Juniperus silicicola   | Southern red cedar       | 25-30                    | 120                      |
| Koelreuteria elegans   | Golden rain tree         | 30-50                    | 320                      |
| Lagerstroemia indica   | Crepe myrtle             | 15-25                    | 120                      |
| Magnolia virginiana    | Sweetbay magnolia        | 30-60                    | 200                      |
| Osmanthus americana    | Wild olive, Devilwood    | 15-30                    | 50                       |
| Osmanthus megacarpa    | Scrub olive              | 12-15                    | 80                       |
| Parkinsonia aculeata   | Jerusalem thorn          | 20-30                    | 200                      |
| Persea borbornia       | Red bay                  | 20-60                    | 120                      |
| Prunus caroliniana     | Cherry laurel            | 30-40                    | 120                      |
| Prunus serotina        | Wild black cherry        | 50-65                    | 320                      |
| Quercus chapmanii      | Chapman oak              | 15-20                    | 180                      |
| Quercus geminata       | Sand live oak            | 15-30                    | 120                      |
| Quercus incana         | Bluejack oak             | 20-30                    | 120                      |
| Quercus laevis         | Turkey oak               | 40-50                    | 180                      |
| Quercus myrtifolia     | Myrtle oak               | 15-20                    | 80                       |
| Taxodium distichum     | Bald cypress             | 60-100                   | 320                      |
| Ulmus parvifolia       | Drake elm, Chinese elm   | 30-40                    | 320                      |

**Table 3.07C, Shrubs**

| <b>Species</b>               | <b>Common Name</b>      | <b>Species</b>                 | <b>Common Name</b>        |
|------------------------------|-------------------------|--------------------------------|---------------------------|
| Abelia grandiflora           | Glossy abelia           | Jasminum pubescens             | Downy jasmine             |
| Baccharis halimifolia        | Groundsel tree/saltbush | Juniperus "Pfitzeriana"        | Pfitzer juniper           |
| Befaria racemosa             | Tarflower               | Juniperus conferta "compacta"  | Dwarf shore juniper       |
| Bumelia tenax                | Silver buckthorn        | Junipera squamata "expansa"    |                           |
| Camellia japonica            | Camellia                | Leucophyllum frutescens        | Texas sage                |
| Carrissa                     | Boxwood beauty          | Ligustrum japonicum            | Ligustrum                 |
| Cortaderia selloana          | Pampas grass            | Lyonia ferruginea              | Rusty lyonia              |
| Cycas revoluta               | King sago               | Lyonia lucida                  | Shiny lyonia/fetterbush   |
| Duranta repens               | Golden dewdrop          | Myrica cerifera                | Wax myrtle                |
| Garberia heterophylla        | Garberia                | Persea humilis                 | Silk bay                  |
| Gardenia jasminoides         | Gardenia                | Photinia glabra                | Red tip                   |
| Hydrangea macrophylla        | Hydrangea               | Pittosporum tobira             | Green pittosporum         |
| Hypericum hypericoides       | St. Andrew's cross      | Pittosporum tobira "compacta"  | Compact pittosporum       |
| Hypericum reductum           | St. John's wort         | Pittosporum tobira "variegata" | Variegated pittosporum    |
| Ilex cornuta "Bufordi"       | Buford holly            | Raphiolepis indica             | India hawthorn            |
| Ilex cornuta "Dwarf Bufordi" | Dwarf Buford holly      | Rhododendron "Duc de Rohan"    | Azalea, "Duc de Rohan"    |
| Ilex cornuta "rotunda"       | Rotunda holly           | Rhododendron simsii            | Indian azalea             |
| Ilex glabra                  | Gallberry               | Rhododendron serrulatum        | Swamp azalea              |
| Ilex opaca arenicola         | Scrub holly             | Serenoa repens                 | Saw palmetto              |
| Ilex vomitoria "nana"        | Shillings holly         | Thryallis glauca               | Thryallis, Shower-of-gold |
| Ilex vomitoria "Pendula"     | Weeping yaupon holly    | Vaccinium darrowi              | Little blueberry          |
| Illicium anisatum            | Japanese anise          | Viburnum obovatum              | Blackhaw                  |
| Illicium floridanum          | Star anise              | Viburnum odoratissimum         | Sweet viburnum            |
| Illicium parviflorum         | Florida anise           | Viburnum suspensum             | Sandankwa viburnum        |
| Itea virginica               | Virginia willow         | Zamia floridana                | Coontie                   |
| Jasminum natidum             | Shining jasmine         |                                |                           |

**3.07.04 Buffer Yards.** A buffer yard is a landscaped strip along parcel boundaries that serves as a buffer between incompatible or potentially incompatible uses and zoning districts. The purpose of this subsection is to establish minimum buffer yard widths and landscaping requirements, in order to ensure compatibility between adjacent properties and land uses. The minimum required width of the buffer yard is therefore based on the potential degree of incompatibility between two abutting land uses. In no case shall the buffer yard width be less than the minimum setback required by the zoning district.

**3.07.04.01 Establishment of Buffer Yards.** Table 3.07D establishes the buffer yard between a proposed and an existing land use. Table 3.07E establishes the buffer yard between a proposed land use and a vacant property. A buffer is required for vacant property based on its zoning district classification at the time of the proposal to develop the abutting property. Buffer yards are intended as landscaped open space, therefore, they shall be free of pavement and permanent structures other than fences, play equipment, unpaved pedestrian paths, and stormwater management and retention facilities.

**3.07.04.02 Buffer Yard Width and Landscaping Requirements.** The number of trees and shrubs required in a buffer yard depends on the nature of the adjoining land uses. The standards for buffer yard width and the associated number of trees and shrubs are set forth in Figures A, B, C, and D that specify the number of each type of plant required per 100 linear feet. For each buffer yard standard, several options for the developer as to the width are offered and different numbers of each type of plant are specified, depending on the width. Any option fulfills the buffer yard requirement; therefore, the developer is free to choose the option that best fits the site constraints and the features of the site design. As buffer yard width increases, planting requirements are reduced. Trees and shrubs may be spaced evenly along the length of the buffer yard or grouped to best display the plant material. When natural plant material is present, it may be counted towards fulfilling the total requirement for trees and shrubs provided the existing material is generally consistent with the intent of this code.

**3.07.04.03 Buffer Yards Between Proposed Uses and Vacant Property.** When the property adjacent to a proposed development is vacant, the need for a buffer yard is determined by the zoning classification of the vacant site. If the zoning will permit the development of a land use that requires a buffer, the buffer standard that applies will be found in Table 3.07E. Generally, the buffer yards for vacant property are only about half of those required next to an existing land use.

**Table 3.07D**  
**Landscape Requirements between Proposed and Existing Land Uses**

| Class | Proposed Use                                                                                                                                                                 | Existing Use |    |     |    |   |    |     |      |    |
|-------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|----|-----|----|---|----|-----|------|----|
|       |                                                                                                                                                                              | I            | II | III | IV | V | VI | VII | VIII | IX |
| I     | Single family detached dwellings.                                                                                                                                            | N            | A  | B   | B  | C | C  | C   | D    | D  |
| II    | Duplex; s.f. attached; m.f. residential up to 4 units/acre; outdoor recreation facilities and cemeteries.                                                                    | A            | N  | A   | B  | B | C  | C   | D    | D  |
| III   | Prof. Offices with up to 8 parking spaces; and child care centers in converted residential structures.                                                                       | B            | A  | N   | A  | B | B  | C   | C    | D  |
| IV    | Duplex, s.f. attached, manufactured home parks and m.f. developments at 4-8 units/acre.                                                                                      | B            | B  | A   | N  | A | B  | C   | C    | D  |
| V     | Manufactured home parks, s.f. attached, multi family developments at 8+ units per acre up to and including 12 units per acre; utility sub-stations, switching stations, etc. | C            | B  | B   | A  | N | A  | B   | C    | C  |
| VI    | Prof. offices with 9+ off-street parking spaces; churches; schools; government facilities; and commercial development sites with up to 10 parking spaces.                    | C            | C  | B   | B  | A | N  | A   | C    | C  |
| VII   | Other retail, wholesale, service businesses; automobile service stations; shopping centers; hotels/motels; hospitals; and m.f. developments over 12 units/acre.              | C            | C  | C   | C  | B | A  | N   | B    | C  |
| VIII  | Light industry; governmental public works storage/equipment facilities.                                                                                                      | D            | D  | C   | C  | C | C  | B   | N    | B  |
| IX    | Heavy industry; water and sewer treatment facilities.                                                                                                                        | D            | D  | D   | D  | C | C  | C   | B    | N  |

N = No buffer required

**Table 3.07E**  
**Landscape Requirements Between Proposed Land Uses and Vacant Property**

| Class | Proposed Use                                                                                                                                                            | Principal Use Permitted by Zoning District on Vacant Adjoining Property |    |     |    |   |    |     |      |    |
|-------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------|----|-----|----|---|----|-----|------|----|
|       |                                                                                                                                                                         | I                                                                       | II | III | IV | V | VI | VII | VIII | IX |
| I     | Single family detached dwellings.                                                                                                                                       | N                                                                       | N  | A   | A  | B | B  | B   | C    | C  |
| II    | Duplex; s.f. attached; m.f. residential up to 4 units/acre; outdoor recreation facilities and cemeteries.                                                               | N                                                                       | N  | N   | A  | A | B  | B   | C    | C  |
| III   | Prof. offices with up to 8 parking spaces; and child care centers in converted residential structures.                                                                  | A                                                                       | N  | N   | N  | A | B  | B   | B    | C  |
| IV    | Duplex, s.f. attached, manufactured home parks and m.f. developments at 4-8 units/acre.                                                                                 | A                                                                       | A  | N   | N  | A | A  | B   | B    | C  |
| V     | Manufactured home parks, s.f. attached, m.f. developments at 8+ units per acre and up to and including 12 units per acre; utility substations, switching stations, etc. | B                                                                       | A  | A   | A  | N | A  | A   | B    | B  |
| VI    | Prof. offices with 9+ off-street parking spaces; churches; schools; government facilities; and commercial development sites with up to 10 parking spaces.               | B                                                                       | B  | B   | A  | A | N  | A   | B    | B  |
| VII   | Other retail, wholesale, service businesses; automobile service stations; shopping centers; hotels/motels; hospitals; and m.f. developments over 12 units/acre.         | B                                                                       | B  | B   | B  | A | A  | N   | B    | B  |
| VIII  | Light industry; governmental public works storage/equipment facilities.                                                                                                 | C                                                                       | C  | B   | B  | B | B  | B   | N    | A  |
| IX    | Heavy industry; water and sewer treatment facilities.                                                                                                                   | C                                                                       | C  | C   | C  | B | B  | B   | A    | N  |

N = No buffer required

#### **3.07.04.04 Buffer Yards Between Vehicular Use Areas & Adjacent Right-of-Way.**

- (A) In addition to the standards set forth in this Article regarding landscape requirements between principal land uses and adjacent properties, provisions shall also be made to buffer vehicular use areas from adjacent public street or right-of-way as follows:
- (1) A landscape strip at least seven (7) feet wide; or at least five (5) feet wide, where a minimum four (4) foot radius is provided for required canopy trees.
  - (2) One (1) canopy tree for each forty (40) lineal feet of right-of-way frontage, or fraction thereof.
  - (3) A continuous hedge at least eighteen (18) inches high at planting of a species capable of growing to at least thirty-six (36) inches in height and one-hundred (100) percent opaque within eighteen (18) months, said hedge shall be maintained at a height not less than thirty-six (36) inches. The height of the hedge shall be measured from the finished grade of the vehicular use area.
  - (4) Where wheel stops are not used the required planting shall not be planted within two (2) feet of the curb, to allow for vehicle overhang.

#### **3.07.04.05 Buffer Yards For Double Frontage Lots.**

Where a residential development abuts or contains an existing or proposed collector or arterial street, special provisions shall be made to minimize vehicular traffic noise to residential sites. The special provisions shall include one or more of the following:

- (A) **Landscape Buffer.** A twenty-four (24) foot buffer-yard tract with a berm and plant screening where development lots abut a collector or arterial street. The berm shall be constructed with a slope not greater than thirty-three (33) percent and the plant screening must be of a type approved in the City's ULDC. One (1) canopy tree shall be provided for each forty (40) lineal feet or fraction thereof. Screening foliage must be at least twenty-four (24) inches in height when planted and, including the height of the berm, reach six (6) feet in one (1) year. Screening foliage must produce a solid opaque screen and be of the type that will fill-in at ground level at maturity. Adequate irrigation shall be provided, together with maintenance provisions by a mandatory property owners association.
- (B) **Landscape and Wall.** A solid concrete block or brick wall, at least six (6) feet in height, above the proposed finished grade of the residential building lot. If concrete block is utilized it shall be finished with a stucco treatment that is painted in a color that is aesthetically acceptable. All details and specifications, including stucco treatment and color, for the wall shall be shown on the required construction plans. The wall shall be constructed in a ten (10) foot landscape and wall tract which shall be owned and maintained by a mandatory property owners association. The wall shall be constructed opposite the edge of the tract that abuts the adjacent right-of-way and one (1) canopy tree shall be provided for each forty (40) lineal feet or fraction thereof.

- (C) The City may consider additional or alternative provisions as warranted by special circumstances, including the existence and preparation of existing vegetation.

### **3.07.05 Vehicular Use Areas.**

Landscaping shall be provided within vehicular use areas to provide visual and climatic relief from broad expanses of pavement and to define logical areas for pedestrian and vehicular circulation.

- (A) Vehicular use areas consist of all areas except those areas contiguous to a perimeter for which a landscape screen (hedge and canopy trees) is required.
- (B) Landscaping shall be provided throughout the vehicular use areas in an amount equal to ten (10) percent of the total paved area. Each separate landscaped area shall be a minimum of twenty-five (25) square feet, with one (1) canopy tree required for each one hundred (100) square feet of required interior landscaping. All landscaped areas adjacent to vehicular use areas used for parking or storage shall be protected from vehicle encroachment by curbing or wheel stops. A minimum of fifty (50) percent of the required landscape areas shall be landscaped with plant materials other than turfgrass.
- (C) A maximum of fifteen (15) continuous parking or storage spaces are permitted without a landscape break. The landscape break shall be a minimum of eight (8) feet in length and eight (8) feet in width and include one (1) canopy tree. As an alternative, landscaped eight-foot wide center medians located between all lineal rows of parking or storage areas which face head-to-head may be provided, with one (1) canopy tree provided per forty (40) lineal feet of median.
- (D) A landscape starter shall be provided at the end of each aisle of parking or storage area adjacent to the travel lane serving the parking or storage aisle.

### **3.07.06 Installation, Irrigation and Maintenance.**

Installation of Plants. All plants shall be "Florida No. 1" or better, shall be healthy and free of diseases and pests, and shall be selected from Tables 3.07A through 3.07C. The trunks of canopy trees at the time of planting shall be approximately three (3) inches in diameter twelve (12) inches above the ground; ten (10) to twelve (12) feet high above finished grade, with a canopy of five (5) feet. Small trees shall be a minimum of one and one-half (1½) inches in diameter twelve (12) inches above the ground. Shrubs shall be a minimum of nursery stock in two (2) gallon containers.

- (A) Plants shall be installed during the period of the year most appropriate for planting the particular species. If this requirement results in the planting of some or all of the landscaping subsequent to development approval, a performance bond shall be posted prior to the issuance of a certificate of occupancy, in an amount sufficient to insure that the required landscaping is installed.
- (B) Landscape plants shall not interfere at maturity with power, cable television, or telephone lines, storm sewer or water pipes, or any other existing or proposed overhead or underground utility service.
- (C) The owner shall provide an appropriate planting soil medium for required plants and shall irrigate plant materials to sustain healthy growth of all plants to maturity.



- (D) All landscaped areas shall be provided with an appropriate irrigation system, consistent with the needs of the plants contained therein.
- (E) Areas on any development site, including single family and duplex development on individual lots, not used for buildings, impervious surfaces or other landscape improvements shall be sodded or seeded prior to the issuance of a certificate of occupancy.
- (F) All requisite landscaping, whether preserved or newly planted, must demonstrate health and viability after issuance of the certificate of occupancy/completion. The City may perform a courtesy inspection of the landscaping within ninety (90) days after issuance of the certificate of occupancy/completion. If the landscaping appears to be under stress, staff shall notify the property owner. A compliance inspection will be performed approximately one (1) year after issuance of a certificate of occupancy/completion, or after actual landscape installation, whichever occurred last. If the landscaping is not viable, notice shall be given to the property owner, and the property owner shall be responsible for restoring the landscaping within a time period acceptable to the planning director.
- (G) Penalties. Failure to maintain viable landscaping consistent with the approved landscape plan shall constitute a violation subject to penalties and shall be subject to code enforcement action by the City.
- (H) Deviations from regulations; variances. The provisions of this Article shall be construed in order to effectively carry out the purpose of this chapter in the interest of the health, safety and welfare of the residents of the city. The planning director is authorized to grant deviations from this chapter where the application of this chapter to a specific site would result in a practical difficulty or a physical hardship affecting the economic use of the property. Where substantial deviation from this chapter is proposed, that in the opinion of the planning director does not further the intent and purpose of this Article, the Board of Adjustments may consider an appeal of the planning director's decision, pursuant to the standards contained in Article 8.03.02 of this code.

### **3.07.07 Exemptions and Aggregation.**

**Exemptions.** The development, redevelopment, reconfiguration, expansion or change of use of any site requiring review by the City must comply with all elements of this Article, unless any of the following exemptions apply:

- (A) Single family and duplex development on individual lots unless specifically stated otherwise.
- (B) Existing development of two thousand five hundred (2,500) square feet or less if the expansion is less than two hundred and fifty (250) square feet.

**Aggregation.** Expansions exempt via (B) above, shall be aggregated following the issuance of any development order. If at any time additional permit(s) for expansion exceed that allowed by exemptions in (B) above, the permit for construction that exceeds the exempted amount shall require full compliance with this chapter. The exemptions provided for in (B) above, do not apply to new vehicular use areas that may be associated with the exempt development.

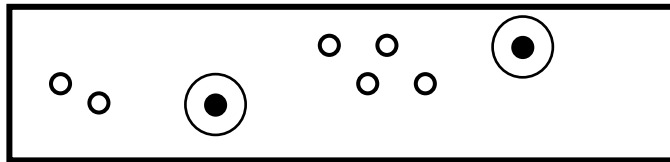
## Buffer Yard

**A**

Plant Material / 100 Feet

Width – 20'

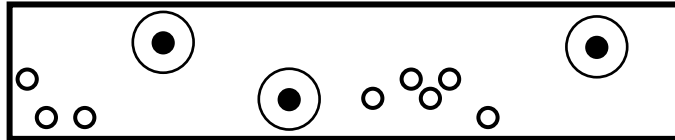
2 Small Trees  
6 Shrubs



 Small Tree  
 Shrub

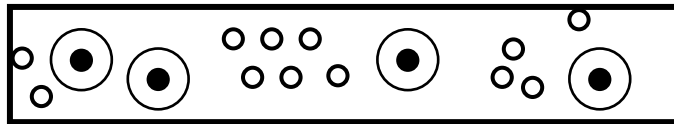
Width – 15'

3 Small Trees  
8 Shrubs



Width – 10'

4 Small Trees  
12 Shrubs



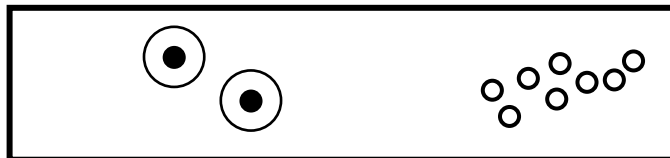
## Buffer Yard

**B**

Plant Material / 100 Feet

Width – 25'

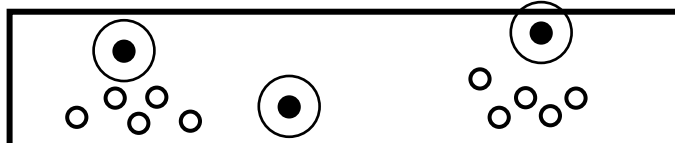
2 Small Trees  
8 Shrubs



 Small Tree  
 Shrub

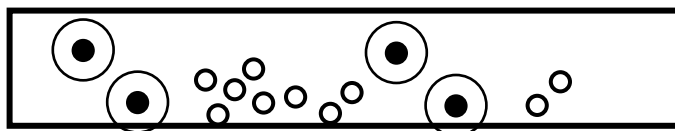
Width – 20'

3 Small Trees  
10 Shrubs



Width – 15'

4 Small Trees  
10 Shrubs



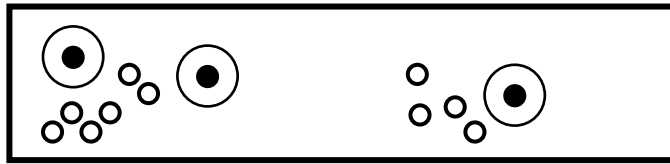
## Buffer Yard

**C**

Plant Material / 100 Feet

Width – 30'

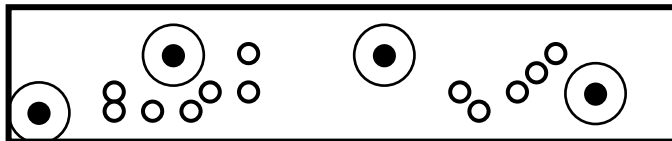
3 Small Trees  
10 Shrubs



● Small Tree  
○ Shrub

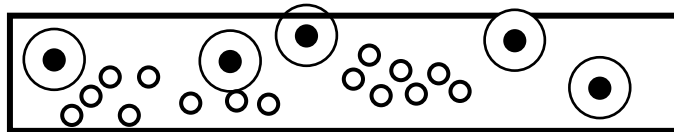
Width – 20'

4 Small Trees  
12 Shrubs



Width – 15'

5 Small Trees  
15 Shrubs



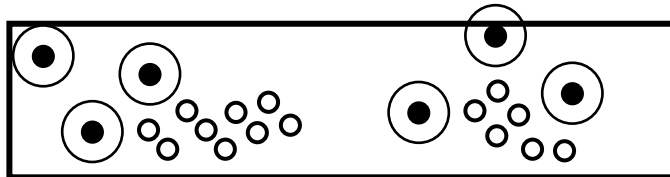
## Buffer Yard

**D**

Plant Material / 100 Feet

Width – 40'

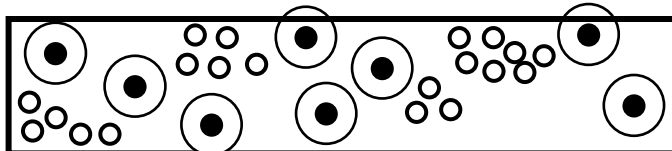
6 Small Trees  
15 Shrubs



● Small Tree  
○ Shrub

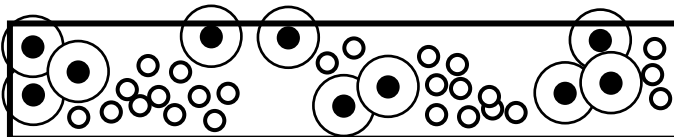
Width – 30'

8 Small Trees  
20 Shrubs



Width – 20'

10 Small Trees  
25 Shrubs



### **3.08.00 Development Standards for Uses Requiring a Site Development Plan.**

The purpose of this Section is to set the standards and requirements for Site Development Plan review. The intent of this Section is to ensure that certain uses are compatible with surrounding properties and are designed to safeguard the public health, safety, and welfare. Where standards provided herein exceed and/or create greater restrictions than those of the underlying zoning district, this Section shall supersede any other provision of this Code. Where no standard is established in this Section, that of the relevant zoning district shall apply.

#### **3.08.01 Manufactured/ Mobile Home Parks.**

The purpose of this Section is to establish locations suitable for manufactured/ mobile home development on undivided property, along with open space and other amenities for the common use of residents; to designate those uses and activities that are appropriate for and compatible with such areas; and to establish standards and provisions necessary to ensure proper development and public safety in a manufactured/ mobile home park setting.

Manufactured/ mobile home parks are a permitted use in an R-4 district. However, the development standards set forth in this Section shall supersede normal development standards applicable in R-4.

##### **3.08.01.01 Development Standards.**

- (A) Minimum Lot Requirements:
  - (1) Minimum size for development site: 10 acres, with a width of not less than 150 feet and a depth of not less than 200 feet.
  - (2) Minimum size for manufactured/ mobile home site: 4,000 s.f., with a width of not less than 40 feet.
- (B) Maximum Building Height: 35 feet
- (C) Minimum Floor Area: 500 s.f.
- (D) Minimum Yard Requirements:
  - (1) No manufactured/ mobile home or structure shall be placed less than 25 feet from the front lot line or 10 feet from other lot lines. Where the development site adjoins property with a commercial or industrial zoning designation, the required side and rear setback shall be 10 feet.
  - (2) Manufactured/mobile homes and structures shall be placed at least 25 feet from the pavement edge of private park roads.
  - (3) Manufactured/ mobile homes and freestanding structures serving as common facilities shall be at least 15 feet apart. No carport or other appurtenant structure may be installed on a manufactured/ mobile home less than 10 feet from another manufactured/ mobile home or appurtenant structure. This distance shall be measured between the closest points of the units.

### **3.08.01.02 Allowable Accessory Uses.**

- (A) Clubhouse, laundry, swimming pool, and other shared facilities for the common use of the residents of a development.
- (B) No more than 1 single family home, at least 600 s.f. in size, for the use of a resident manager.
- (C) Carports, porches, and awnings that are physically attached to manufactured/mobile homes. Such structures shall not exceed a cumulative total of 300 s.f. Freestanding cabanas, storage sheds, and other detached structures for private use are prohibited.
- (D) Storage area for boats, recreational vehicles, and other types of vehicles that exceed 30 feet in length. Storage area is for the use of park residents only, and shall be fenced and landscaped. Storage of these units shall be prohibited on individual manufactured/ mobile home sites or on park roads.

### **3.08.01.03 Other Requirements.**

- (A) Ownership. Manufactured/ mobile home parks may not be platted or otherwise divided by fee simple ownership; however, the sale of interests or memberships on a condominium basis is permitted. All facilities, including roads, shall be privately owned or owned in common by residents of the park, and shall not occupy parcels of land that are deeded separately from the rest of the park. The City of Bartow shall not be responsible for maintenance and/or repair of common facilities within a manufactured/ mobile home park.
- (B) Parking. For each manufactured home site, one paved off-street parking space of 10 feet by 20 feet shall be provided.
- (C) Common Open Space. An area comprising 20 percent of the development site or 5 acres, whichever is less, shall be set aside as common open space as defined in Article 9.
- (D) Nonconformities. No new manufactured homes may be added to an existing manufactured home park in an R-4 zone that does not comply with applicable requirements of this Code. However, previously installed units may be moved and additional property and common facilities may be incorporated into the site if such activities will eliminate nonconforming conditions or reduce the degree of nonconformity. See Section 7.12.00.
- (E) Site Development Plan. No manufactured homes, structures or facilities shall be installed or constructed until a site development plan meeting the requirements of Section 7.05.00 of this Code has been submitted to and approved by the City of Bartow. All improvements, regardless of timing or project phasing, shall be substantially consistent with the approved site development plan.

Where an existing manufactured home park in an R-4 district has no site development plan, such a plan shall be prepared and submitted to the City prior to the addition, improvement, rearrangement or replacement of park facilities or manufactured homes.

### **3.08.02 Multiple Family Residential.**

#### **3.08.02.01 Cluster Development: Garden Homes, Town or Row Houses, Zero Lot Line Homes and Z-lot Development.**

Developments containing single family attached dwelling units, as defined in Article 9, shall be designed and approved according to the following regulations:

- (A) Development Plans. Single family attached developments shall be platted according to the provisions of Section 7.06.00. In addition to all other required information, plats shall show building envelopes for all structures. A site development plan meeting the requirements of Section 7.05.00 shall be submitted to the City for review and approval before construction begins.
- (B) Density. Gross density of the development site shall not exceed eight units per acre. For purposes of calculating density, the development site shall include all platted lots, together with roads, stormwater management facilities, utility sites and any other common property within the perimeter of the subdivision plat, regardless of whether such facilities will ultimately be dedicated to the City.
- (C) Non-Residential Tracts
  - (1) Prior to approving the final plat for recording in the public records of Polk County, the Development Director shall verify that all parcels or tracts not intended for use as residential lots are clearly delineated on the plat as to size and dimension. The purpose, ownership, and responsibility for maintenance for each parcel or tract shall be noted on the plat.

Unless specifically accepted by the City Commission, the City of Bartow shall not be responsible for maintenance and/or repair of any common facilities or properties.
  - (2) Clubhouses, swimming pools, and other structures erected on common property shall be approved only after submittal of a site development plan in accordance with the requirements of Section 7.05.00. The Development Director may waive this requirement for structures under 300 s.f. in size that do not require water, sewer, or parking facilities. Such structures shall be located a minimum of 25 feet from all property lines.
- (D) Private Streets. Where internal streets are to be retained in private ownership, a security gate or other form of barrier to restrict access may be installed. However, the developer or homeowners' association shall be responsible for providing access to City emergency vehicles when necessary.

Private streets shall be placed on right-of-way meeting width requirements applicable to a public road. The use of easements to provide access to residential lots shall be prohibited.

(E) Development Standards

(1) Minimum Development Site Requirements

|                      |                                             |
|----------------------|---------------------------------------------|
| Duplexes:            | 7,200 s.f.                                  |
| Three units or more: | 8,500 s.f.                                  |
| Minimum site width:  | 70 feet for 2 units<br>85 feet for 3+ units |
| Minimum site depth:  | 100 feet                                    |

(2) Minimum Residential Lot Requirements

|                    |            |
|--------------------|------------|
| Minimum lot size:  | 4,000 s.f. |
| Minimum lot width: | 40 feet    |

Where a lot fronts on a cul-de-sac or other curved right-of-way, there shall be no less than 25 feet of frontage, as measured along the arc of the curve.

(3) Setbacks

- a. All structures shall be located at least 25 feet from the front lot line and 20 feet from the rear lot line. Side street setbacks on corner lots shall be 25 feet.
- b. All principal structures shall be located at least 7.5 feet from side lot lines where there is no common wall.
- c. Accessory structures on residential lots, where permitted, shall be set back at least 7.5 feet from side and rear lot lines. This requirement shall apply to swimming pools and screen enclosures.
- d. Where the development site includes three units or more, and abuts a single family residential zoning district, all principal and accessory structures shall be located at least 25 feet from the perimeter of the site.

(4) Floor Area. Minimum floor area shall be 500 s.f.

(5) Maximum Site Coverage. Structural coverage on the development site shall not exceed 35 percent.

(6) Other Requirements

- a. No residential structure shall contain more than 10 dwelling units.
- b. No structure shall exceed 35 feet in height.
- c. Each unit shall have an individual access to the outside, both in the front and rear.

- d. Where ingress/egress to residential lots is from an arterial or collector road, driveway access points shall be limited to one per structure or one for each 50 feet of frontage, whichever is less.
- e. Accessory structures, including swimming pools, shall be prohibited on residential lots of less than 5,000 s.f. Where permitted, such structures shall be limited to a cumulative total of 400 s.f. per lot. Swimming pools and screen enclosures are not included in this size limitation.

### **3.08.02.02 Special Needs Facilities.**

A Site Development Plan is required in C1, C2, C3 for Special Needs Facilities: Child Care Facility, Adult Day Care Center, Assisted Living Facility, Foster Care Facility, Group Home Facility, Hospice Residential Unit. These type facilities may be allowed in other residential categories by Special Exception.

- (A) Special needs facilities may provide 24-hour care. These care facilities are subject to local zoning laws and may be located in residential areas but are generally more appropriate in commercial areas.
- (B) They are licensed or registered by the State of Florida according to separate and specific provisions of the Florida Statutes. Article 9 of this Code defines each special needs facility. They are listed as a group in the Table of Land Uses, 2.04.01(A), and permitted in all commercial zoning districts and in some residential districts as a Special Exception.
- (C) When locating a facility in a residential zoning district, the facility shall be designed to look like a single family home or shall be located in a single family home. In addition to parking spaces normally required for a residential dwelling unit, one parking space shall be provided for each employee; and one space shall be provided for the first five residents, and an additional space shall be provided per five additional residents.
- (D) Play areas and play grounds for these type facilities shall be shaded a minimum of 50% by canopy trees. The list of acceptable trees is found in Article 3, Section 3.07.00, Table 3.07A, "Canopy Trees".
- (E) No sign indicating the purpose or nature of the facility shall be permitted in residential zoning districts, except as is allowed for a home occupation.
- (G) Any violation of applicable state regulations shall be deemed a violation of this Code, and shall constitute grounds for termination of the permitted use or Special Exception use.



### **3.08.02.03 Family Foster Homes, Family Day Care Homes, Adult Family Care Homes.**

- (A) Family Foster Homes, Family Day Care Homes and Adult Family-Care Homes are permitted in residential areas, in occupied homes only and are not subject to local zoning laws when so located. Licensing, registration, occupancy and other matters are regulated under specific provisions of the Florida Statutes. Article 9 of this Code defines each family care or foster home. They are included as a group in the Table of Land Uses, 2.04.01(A), and permitted in all residential zoning districts.
- (B) Where State Law permits such uses in residential zoning districts, no sign indicating the purpose or nature of the facility shall be permitted, except as is allowed for a home occupation.
- (C) Play areas and play grounds for these type facilities shall be shaded a minimum of 50% by canopy trees. The list of acceptable trees is found in Article 3, Section 3.07.00, Table 3.07A, "Canopy Trees".
- (D) Any violation of applicable State regulations shall be deemed a violation of this Code, and shall constitute grounds for termination of the use.

### **3.08.02.04 Nursing Home.**

A Site Development Plan is required in R-5, C-1, C-2 and C-3 districts. A nursing home may be permitted by special exception in R-2, and R-3 districts.

## **3.08.03 Lodging.**

### **3.08.03.01 Bed and Breakfast.**

It is the purpose of these standards to provide minimum development guidelines for bed and breakfast uses and to protect established or permitted uses under these regulations in the vicinity of such a facility subject to the following requirements:

- (A) A neighborhood meeting shall be held 30 days prior to the anticipated hearing date for the application. All property owners within 500' shall be notified and a synopsis of the meeting shall be included in the application.
- (B) Adequate on-site parking shall be provided for the owner and guests. Said parking may consist of materials other than a hard surface of all-weather pavement, asphalt or concrete, and shall be so graded and drained as to provide for the adequate runoff and disposal of surface water.
- (C) All ULDC requirements related to access, parking calculations, landscape and buffering, and parking for the physically disabled shall be satisfied.
- (D) Lighting to illuminate buildings, parking areas or open areas shall be designed so as to shine only on the subject property, and shall be directed away from any public street or residential area.

- (E) Signage shall comply with the requirements of Section 4.07.12.01 - Approved Special Uses.
- (F) Indoor and outdoor special functions, including, but not limited to receptions, showers, parties, and weddings are allowed subject to the following requirements;
  - (1) Special functions conducted outdoors and outdoor activities related to special functions are prohibited after 10 p.m. Sunday through Thursday and 11 p.m. on Friday or Saturday;
  - (2) Off-site parking for special functions may be utilized provided that a parking plan is reviewed and approved during the Site Development Plan process. In-lieu-of providing an individual plan for each type of event a master parking plan may be proposed. At a minimum the plan shall consider:
    - a. Number of vehicles anticipated;
    - b. Specific locations where vehicles can be lawfully parked and which will be available for parking (on-site, by valet, by formal agreement with adjacent or surrounding properties;
    - c. Lawful on street parking; or
    - d. Any combination of the previous three or an alternative method approved by City staff.
  - (3) Parking instructions consistent with the approved parking plan shall be communicated in each rental agreement for indoor and outdoor special functions for proper dissemination to all guests.

### **3.08.03.02 RV Park/ Campground.**

A Site Development Plan is required in R-4 district. After application and review, it may be permitted by special exception in M district. It is the purpose of these standards to provide minimum development guidelines for a recreational vehicle park and a recreational vehicle campground designed only to accommodate the recreational vehicle. For the purposes of this ordinance, a recreational vehicle park is defined as a development in which recreational vehicles and/or "park model" manufactured homes are permanently sited and occupied year round. A recreational vehicle campground, on the other hand, is a development for overnight or limited vacation-season type. These provisions are intended to protect established or permitted uses in the vicinity of such a park or campground, and to protect and promote the orderly growth and development of Bartow.

#### **(A) General Requirements.**

The development standards of this section shall apply to both recreational vehicle parks and campgrounds.

A recreational vehicle park or campground meeting the required design and compatibility standards shall accommodate the traveling public for a defined maximum time period associated with the specialized seasonal vacation and transient characteristics of such development, in contrast to the more permanent and extended stay characteristics of a recreational vehicle park and a manufactured home park.

(B) Environmental Requirements

- (1) General. Condition of soil, groundwater level, drainage, and topography shall not create hazards to the property or to the health and safety of the occupants.
- (2) Soil and Ground Cover Requirements. Exposed ground surfaces in all parts of every vehicle site area or other vehicle parking area shall be paved, or covered with stone screening, or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.
- (3) Stormwater management Requirements. Surface stormwater management plans for the entire tract shall be reviewed by appropriate City staff, who shall determine whether the proposed plan is compatible with the surrounding existing stormwater management pattern and any relevant stormwater management plan of Polk County, prior to issuance of Site Development Plan approval and building permits. No permit shall be issued in such instance where the Development Director finds the plan to be incompatible with surrounding areas.

(C) Tract Requirements

- (1) The tract shall have at least 75 feet of frontage on a Principal Arterial roadway, as designated on the Future Traffic Circulation Map of the Bartow Comprehensive Plan.
- (2) Minimum tract size for a recreational vehicle park or campground development shall be five acres.
- (3) Minimum width of the tract shall be 150 feet at the front building setback line.
- (4) Minimum depth of the tract shall be 200 feet.
- (5) Minimum perimeter setbacks shall be as follows:
  - a. Front: 25 feet, measured from property line to the most forward projection of any structure or vehicle.
  - b. Side and rear: 15 feet. Where a public right-of-way abuts a side or rear property line, the minimum setback shall be 25 feet.

- (6) Where any property line of a recreational vehicle park or campground abuts land either zoned for residential use or occupied by a residential use permitted by this Code, there shall be provided and maintained along, or within 10 feet of, said property line a solid face masonry wall, with a finish of stucco or other texture, no less than six feet in height, that shall be in addition to the buffer yard required by Section 3.07.00.

(D) Vehicle Site Requirements

- (1) The minimum vehicle site area shall be 1,200 s.f.
- (2) For the purpose of determining vehicle site width and depth, the width of a vehicle site shall be measured at right angles to and between the designated side boundary lines. The depth of a vehicle shall be measured at right angles to and between the designated front and rear boundary lines.
  - a. The minimum vehicle site width shall be 20 feet.
  - b. The minimum vehicle site depth shall be 40 feet.
- (3) Maximum density shall be 10 sites per gross acre.
- (4) The minimum distance between recreational vehicles shall be 10 feet. The minimum distance between a recreational vehicle and any structure shall be 20 feet. The minimum allowable distance between recreational vehicles shall, for the purpose of this section, be measured from and between the outermost structural parts or attached accessory features.
- (5) Each vehicle site shall be clearly defined by a permanent marker, constructed of a durable material such as masonry or metal, placed at all corners.
- (6) The addition or attachment of any permanent structures, such as awnings, porches, carports, or individual storage facilities, not specifically designed and included as a standard part of the original recreational vehicle, shall be expressly prohibited in an RV Campground. Such additions to park model recreational vehicles may be permitted in an RV Park, so long as they meet all required setbacks and all other requirements of this Code.

(E) Recreational and Open Space Requirements

There shall be provided within a recreational vehicle park or campground at least one area designed for recreational and open space use that is easily accessible from all vehicle sites. The size of such recreation area shall not be less than 10 percent of the entire tract area or 15,000 s.f., whichever is greater.

(F) Street System and Off-Street Parking Requirements

- (1) General. All parking areas shall be provided with safe and convenient vehicular access from abutting public streets and roads to each vehicle site. Alignment and gradient shall be properly adapted to topography. Surfacing and maintenance shall provide a smooth, hard and dense surface that shall be well drained.
- (2) Access. Access to a recreational vehicle park or campground from a public street or road shall be designed to minimize congestion and hazards at the entrance and on adjacent streets. All traffic into or out of the parking areas shall be through such entrances and exits.
- (3) Internal Streets. The designation of private right-of-way for internal streets is optional. Road surfacing shall meet the following minimum width requirements:
  - a. One-way travel: 12 feet.
  - b. Two-way travel: 24 feet.
- (4) Off-Street Parking and Maneuvering Space. Each recreational vehicle park or campground shall be designed so that parking, loading or maneuvering of vehicles incidental to parking spaces shall not necessitate the use of any public street, sidewalk, or right-of-way, or any private grounds not part of the recreational vehicle park or campground parking area.

Sufficient maneuvering space and off-street parking facilities shall be provided at each site to accommodate a towing vehicle, if any.

(G) Service Requirements

- (1) Utilities
  - a. Water Supply System. Connection to a potable public supply of water is required. Provision of water supply, water storage and water distribution shall be made in accordance with requirements and standards established by this Code and the State of Florida.
  - b. Watering Stations. Each recreational vehicle park or campground shall be provided with one or more easily accessible water supply outlets for filling recreational vehicle water storage tanks in accordance with design and construction requirements established by the State of Florida.
  - c. Sewage Disposal System. The recreational vehicle park or campground sewerage system shall be connected to the City's public sewage system. The distribution system shall be designed, constructed and maintained in accordance with requirements of this Code and by the State of Florida.

- d. Sanitary Connections. Each recreational vehicle park or campground shall be provided with individual connections to each vehicle site in the recreational vehicle park or campground.
- e. Electrical and Gas Systems. Each recreational vehicle park or campground shall be provided with an electrical or gas system that shall be installed and maintained in accordance with applicable codes and regulations.
- f. Lighting. Adequate lighting shall be provided for all roads, walkways, service buildings, watering and sanitary stations, and other facilities subject to nighttime use in accordance with requirements established by appropriate City departments and in the Standard Lighting Guide published by the Illuminating Engineering Society.

(H) Refuse Handling

- (1) General. The storage, collection and disposal of refuse (garbage, ashes, and rubbish) in a recreational vehicle park or campground shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazard or air pollution in accordance with requirements established by the State of Florida.
- (2) Location. All refuse shall be stored in watertight, fly-proof, rodent-proof containers, that shall be located within 150 feet of any vehicle.
- (3) Collection. All refuse containing garbage shall be collected at least twice weekly, in accordance with requirements established by the State of Florida.

(I) Service Buildings and Facilities

- (1) General. The requirements of this section shall apply to service buildings, recreation buildings and other service facilities, such as:
  - a. Management offices, repair shops and storage areas.
  - b. Sanitary facilities.
  - c. Laundry facilities.
  - d. Indoor recreation areas.
- (2) Service Building for Dependent Vehicles. A central service building containing the necessary toilet and other plumbing fixtures specified by the State of Florida shall be provided in a recreational vehicle park or campground that provides vehicle sites for dependent vehicles. Service buildings shall be conveniently located within a radius of approximately 300 feet of the sites to be served.

- (3) Service Facilities in Connection with Other Businesses. When a recreational vehicle park or campground requiring a service building is operated in connection with a resort or other business establishment, the number of sanitary facilities for such business establishment shall be in addition to those required by the public health standards for vehicle sites and shall be based upon the total number of persons using or expected to use such facilities.
- (4) Pedestrian Access to Service Buildings and Facilities. Surfaced, appropriately drained walkways having a width of not less than 3 feet shall be provided from the vehicle sites to all service buildings and facilities, refuse collection areas, and recreation areas.
- (5) Outdoor Cooking and Incinerator Facilities. All outdoor cooking and incinerator facilities shall be so located, constructed, maintained and used as to minimize fire hazard and smoke nuisance both on the property on which they are used and on neighboring property. Plans, construction, and operation of incinerators shall be carried out in accordance with requirements of the State of Florida.

(J) General Operating Requirements

- (1) General. The person to whom appropriate permits and licenses are issued shall operate the recreational vehicle park or campground at all times in compliance with applicable state and local laws pertaining to the management and operation of such a facility.
- (2) Duration of Stay in a Recreational Vehicle Campground. Vehicle sites shall be rented by the day or week only, and the occupant of a vehicle site shall remain at that site and within the recreational vehicle campground for a limited period of time consistent with the special seasonal, vacation and transient requirements of the recreational vehicle user, but in no case exceeding 120 calendar days within any 360 day period, whether accumulated consecutively or intermittently.
- (3) Duration of Stay in a Recreational Vehicle Park. Vehicle sites are intended for year round occupancy.

(K) Permit Procedures and Requirements

- (1) Site Development Plan. Any applicant for the required permits to establish, construct, alter or extend a recreational vehicle park or campground in Bartow shall first request and receive approval of a Site Development Plan in accordance with the provisions of Article 3 and Section 7.05.00 of this Code.
- (2) Health and Sanitation Permit. After receipt of required land use approvals, applicant shall then apply for and receive a health and sanitation permit for the proposed recreational vehicle park or campground from the Polk County Health Department and the State of Florida in accordance with the requirements of appropriate agencies.

- (3) Building Permit. Upon completion of (A) and (B) above, application shall be made to the Building Director for the building permit to construct, alter, or extend a recreational vehicle park or campground in accordance with the provisions of this Section. Before issuing a building permit for the construction, alteration or extension of a recreational vehicle park or campground, the Building Director shall determine that all applicable review procedures and standards required under this Code have been satisfactorily met.

#### **3.08.04 Retail Commercial, No Outdoor Storage or Activities.**

No outdoor storage or display is allowed of any products sold within the business after office hours and after the business is closed. All products and displays must be moved indoors after closing hours for uses in this category "Retail Commercial, No Outdoor Storage or Activities."

##### **3.08.04.01 Adult Entertainment.**

A Site Development Plan is required. General requirements for development are found in Article 2, Section 2.03.02.

##### **3.08.04.02 Drinking Establishments.**

A Site Development Plan is required in all districts.

##### **3.08.04.03 Mini-warehouse.**

A Site Development Plan is required in C-2 and C-3 districts.

It is the purpose of these standards to provide minimum development guidelines for a mini-warehouse facility and to protect established or permitted uses under these regulations in the vicinity of such a facility.

No storage bay or unit in a mini-warehouse shall be used as a place of business by persons renting storage space, and no occupational license shall be approved for the property other than that of the mini-warehouse owner/operator.

No mini-warehouse shall be used as a place of residence or as a storage location for hazardous materials.

#### **(A) Development Site Requirements**

- (1) Minimum Lot Size. An area not less than 20,000 s.f., with a minimum width of 100 feet and a minimum depth of 200 feet.
- (2) Dimensional standards for setbacks and building height shall be consistent with the requirements of Table 2.04.01 (B).

#### **(B) Design Requirements**

- (1) Lighting: All outdoor lighting within a mini-warehouse facility shall be attached on structure walls at a height no higher than the beginning of the roofline. All lighting shall also be directed downward and inward to reduce the potential for off-site impacts consistent with Article 3.06.00, Performance Standards.



- (2) Parking and travel aisle design: There shall be a minimum of two parking spaces, that shall be located in proximity to the business or manager's office on the site. One-way travel aisles shall include a ten foot parking/loading lane. Traffic direction and parking/loading lanes shall be indicated by either pavement marking or signage. Travel aisles not serving storage spaces shall not be required to provide parking/loading lanes.
- (3) Plumbing: Plumbing shall not be extended to individual storage spaces.
- (4) Outdoor storage: Outdoor storage of cars, boats, or recreational vehicles, may be permitted as an accessory use to a mini-warehouse facility. If outdoor storage is accommodated all stored items shall be completely screened from off-site view, outdoor storage shall be prohibited within 50 feet of residential uses and residential districts, and all storage shall be limited to a 15 foot maximum height.
- (5) Landscape and Buffering: In addition to the requirements contained in Article 3.07.00 for landscape and buffering all access doors to individual storage units shall be screened from off-site and public rights-of-way view by landscape walls, opaque fences, or vegetative buffers. All screening shall be located in a manner to not interfere with vehicular sight distances at driveway intersections and intersecting street corners.

#### **3.08.04.04 Recreation, Indoor, Commercial.**

In C-2 and C-3, such facilities shall be subject to the following requirements:

- (A) All activities shall be conducted entirely within an enclosed structure.
- (B) No structure shall be located within 50 feet of any property line.
- (C) No bowling alley or skating rink shall be maintained or operated within 300 feet of a school, library, church, hospital, child care center, nursing home, or other similar public or semipublic institution.
- (D) Lighting to illuminate buildings, open areas or advertising shall be designed so as to shine only on the subject property, and shall be directed away from any public street or residential area.

#### **3.08.04.05 Shopping Center (150,000 SFGLA or less).**

A Site Development Plan is required in all districts. It is the purpose of these standards to provide minimum development guidelines for a shopping center of less than 150,000 s.f. of gross lease-able area (SFGLA). These provisions are intended to protect established or permitted uses in the vicinity of such a shopping center and to protect and promote the orderly growth and development of Bartow.

- (A) Development Site Requirements
  - (1) Minimum Lot Size. An area not less than 50,000 s.f., with a minimum frontage of 300 feet.

(2) Setbacks

Front: 25 feet.

Side: 40 feet if contiguous to property designated for residential use on the Future Land Use Map.

20 feet if contiguous to property designated for commercial or industrial use on the Future Land Use Map.

Rear: 50 feet if contiguous to property designated for residential use on the Future Land Use Map.

30 feet if contiguous to property designated for commercial or industrial use on the Future Land Use Map.

(3) Maximum Lot Coverage. No more than 30 percent of the development site shall be covered by structures.

(B) Design Requirements

(1) Lighting: All lights shall be shielded to focus and direct light onto the shopping center, and away from adjacent property, but may be of sufficient intensity to discourage vandalism and theft. Reference Section 3.06.00, Performance Standards, for applicable glare and lighting standards.

(2) Fencing: Where a property line abuts and is contiguous to any residential land use classification, a six-foot solid face masonry wall, in addition to required buffer yards, shall be constructed along, or within 10 feet, of the property line.

(3) Signs: A single sign shall be permitted for each abutting road right-of-way, not to exceed 20 feet in height and 150 s.f. in gross surface area. No other free-standing signs shall be permitted on the property, except traffic directional signage. Signs shall be set back at least ten (10) feet from all property lines.

(4) Landscaping: Canopy and buffer yards shall be provided in accordance with the standards of Section 3.07.00.

(5) Parking: There shall be a minimum of 4.5 parking spaces per 1,000 SFGLA.

(6) Off-Street Loading: There shall be a minimum of one off-street loading space for each 25,000 SFGLA in the center.

**3.08.04.06 Veterinary Clinic or Kennel.**

A Site Development Plan is required in all districts except C-3.

#### **3.08.04.07 Tea Room**

It is the purpose of these standards to provide minimum development guidelines for tea rooms and to protect established or permitted uses under these regulations in the vicinity of such a facility subject to the following requirements:

- (A) A neighborhood meeting shall be held 30 days prior to the anticipated hearing date for the application. All property owners within 500' shall be notified and a synopsis of the meeting shall be included in the application.
- (B) On-street parking may be allowed if on-site parking cannot be reasonably provided. On-street parking shall comply with the following:
  - (1) The paved roadway where parking is proposed is 30' or greater in width;
  - (2) A parking plan showing the location of proposed street parking shall be provided which at a minimum considers:
    - a. Number of vehicles anticipated based on approved seating capacity; and
    - b. Specific on-street locations where vehicles can be lawfully parked;
- (C) Adequate on-site parking shall be provided for all employees.
- (D) Lighting to illuminate buildings, parking areas or open areas shall be designed so as to shine only on the subject property, and shall be directed away from any public street or residential area.
- (E) Signage shall comply with the requirements of Section 4.07.12.01 Approved Special Uses.

#### **3.08.04.08 Brewpub**

It is the purpose of these standards to provide minimum development guidelines for brewpubs and to protect established or permitted uses under these regulations in the vicinity of such a facility subject to the following requirements:

- (A) In addition to any specific development standards of the zoning district in which it is located, and any other general development standards or regulations contained elsewhere in the City of Bartow Unified Land Development Code or Code of Ordinances an establishment that meets the definition of a brewpub shall comply with the following.
  - (1) Revenue from food sales shall constitute more than 50 percent of the total business revenues of the brewpub. The brewpub shall produce no more than 2,500 barrels (77,500 U.S. gallons/2,933.7 hectoliters) of beer per year, as documented by an annual report which includes federal tax documentation from the previous calendar year. The annual report shall be submitted to the City prior to February 15<sup>th</sup> of each year.

- (2) No more than 25 percent of the total gross floor area of the brewpub shall be used for the brewery function including, but not limited to, the brewhouse, boiling and water treatment areas, bottling and kegging lines, malt milling and storage, fermentation tanks, conditioning tanks and serving tanks.
- (3) Where permitted by city, state and federal law, retail carryout sale of beer produced on the premises may be allowed.
- (4) All brewery equipment visible from adjacent streets/rights-of-way (excluding alleys), residential uses, or residential zoning districts shall be screened using architectural features consistent with the principal structure or shall be displayed in a manner that showcases the brewery equipment and function.
- (5) Access and loading bays are discouraged from facing toward any street/right-of-way (excluding alleys) and shall remain closed at all times, except during the movement of materials, supplies, and finished products into and out of the building. Exceptions may be made provided the access and loading bays do not face a residential use or residential zoning district.
- (6) Service trucks used for loading and unloading beverage products, materials and equipment shall be restricted to between the hours of 8:00 A.M. and 8:00 P.M. Monday through Saturday and between 11:00 A.M. and 7:00P.M. on Sundays.
- (7) No outdoor storage shall be allowed in conjunction with the brewpub, including the use of portable storage units, cargo containers and tractor trailers, unless specifically allowed herein.
- (8) Spent or used grain may be approved to be stored outdoors for a period not to exceed 24 hours, provided it is stored in a sealed container. The temporary storage area shall be:
  - a. Designated on the approved site plan; and
  - b. Prohibited within any required area (e.g. parking, greenspace, landscape buffer, storm water management area, etc.) or any yard abutting a residential use or residential zoning district.

### **3.08.05 Retail Commercial, Outdoor Storage.**

Outdoor storage or display is allowed after office hours and after the business is closed, of any products sold within the business, with proper screening. All outdoor storage and outdoor sales areas must be enclosed and fenced with opaque screening material.

#### **3.08.05.01 Auto/Boat Sales.**

- (A) A Site Development Plan is required in all districts.
- (B) At least 25,000 s.f., of lot area shall be required. All lots shall have at least one building having not less than 600 s.f. of floor space with adequate ventilation, light and toilet facilities.

- (C) All inoperative motor vehicles shall be stored in the rear of the premises and shall be permanently screened from adjoining properties and/or public streets by a visual buffer such as a wall, fence, evergreen hedge and or other approved enclosure. Such wall, etc., shall be approved by the administrative official and shall be at least six feet (6') in height.
- (D) No inoperative vehicle shall be permitted to be stored on the premises exceeding six months.
- (E) All lots shall be surfaced in a stable manner.

#### **3.08.05.02 Plant Nursery.**

A Site Development Plan is required in C-1 and C-2 Districts.

#### **3.08.05.03 Recreation, Outdoor, Commercial.**

A Site Development Plan is required in all districts. Such facilities shall be subject to the following requirements:

- (A) No outdoor amusement enterprise shall be located within 300 feet of existing residential development or property designated for residential use on the Future Land Use Map of the Bartow Comprehensive Plan. This distance shall be measured from the boundary of the property on which the proposed outdoor amusement enterprise would be located.
- (B) Minimum lot size shall be one acre.
- (C) Lighting to illuminate buildings, stages, open areas or advertising shall be designed so as to shine only on the subject property, and shall be directed away from any public street or residential area.
- (D) Outdoor amusement activities shall be subject to applicable performance standards provided in Section 3.06.00.
- (E) No building, manufactured home, trailer, vehicle, or mechanical equipment shall be located within 50 feet of any property line.

#### **3.08.05.04 Service Station (Minor Automotive Repair)**

A Site Development Plan is required in C-4 District.

- (A) Site - Service Station. The minimum frontage on an arterial or collector road shall be 150 feet. The minimum area of a service station development site shall be 15,000 s.f. Construction on site of minimum area shall include no more than two service bays and two pump islands. One service bay and one pump island may be added for each additional 2,000 s.f.

Site - Truck Stop. Development site shall be at least two acres in size, and shall have no less than 150 feet of frontage on an arterial roadway. Mechanical work shall be limited to minor automotive repairs as defined in Article 9.

- (B) Service Area. Service areas shall be provided as follows:
- (1) Paving. The entire area of service station sites not covered by structures and landscaping shall be paved; either concrete or asphaltic concrete shall be used for the paved areas.
  - (2) Curb. At the property line, face each street side of the service area which is not included in a driveway with a concrete vertical curb six inches wide by thirteen inches deep (6" x 13") with a top six inches above the finished pavement grade except where a transition is made to a driveway.
  - (3) Equipment. Pits, hoists, and all lubricating, washing, and repair equipment and work space shall be enclosed within a building. Washing and lubricating service areas shall drain to an approved sand and grease trap, drain field and dry well.
  - (4) Off-Street Parking Spaces Required. The service area shall include no less than one employee parking space for each two employees, with a minimum of two employee parking spaces.
  - (5) Access Points onto Streets. There shall be not more than two access point, not to exceed 40 feet in width each, permitted on the street on which the service station is located. All access points shall be located at least 50 feet from the intersection of any right-of-way lines of streets or a street and a railroad, and at least 10 feet from all side or rear property lines. There shall also be a minimum distance of 30 feet between any two access point serving the property.
  - (6) Truck Parking Areas - Truck Stop. Truck parking areas shall be set back at least 50 feet from any property zoned or designated on the Future Land Use Map for residential use.
- (C) Bulk Storage. Liquid petroleum fuels shall be stored in accordance with applicable State standards. No loading or unloading of freight shall be permitted on the site.
- (D) Structures. Structures shall conform to the following standards:
- (1) Building. The building shall be set back a minimum of 25 feet from street property lines. This distance shall be measured to vertical canopy supports if they are used, and the building vertical walls if vertical canopy supports are not used. The building shall be set back a minimum of 10 feet from interior property lines. A canopy overhang shall not project more than 10 feet from the canopy vertical supports.
  - (2) Pump Islands. Pump islands shall be set back a minimum of 25 feet from any property line.
  - (3) Exterior Lighting. Exterior lighting fixtures shall cast no glare beyond a property line.
- (E) Outdoor Display. Outdoor displays shall be limited to the following:

- (1) Racks containing cans of lubricating oil may be displayed on each service island.
  - (2) One rack or pedestal for the display of no more than one tire may be placed on each service island and along any side of the main entrance.
  - (3) One stationary storage cabinet may be located no more than four feet (4') from the wall of the main structure, excluding vending machines.
  - (4) The display of standards, banners, flags, and any sign not specifically authorized by County ordinance is prohibited, except that one permit for the display of standards, banners and flags for not more than 30 days may be issued to a newly constructed service station.
  - (5) The service area shall drain into a catch basin on the site and thence to a storm sewer if a storm sewer is available. If no storm sewer passes the site, the stormwater management shall be in accordance with Article 3, Section 3.05.00, Stormwater Management.
- (F) Shopping Centers. One service station may be constructed at a shopping center having a building development with a floor area of not less than 100,000 s.f. and having a land area of not less than 15 acres; provided, however, that such service station shall only be operated as an adjunct to a tenant's regular business and shall not comprise a major part thereof.
- (G) Storage, Sale And Rental Of Vehicles And Trailers. The storage of vehicles and trailers shall be permitted only as incidental to the customary servicing of vehicles and trailers, except that one vehicle or trailer may be stored for each 200 s.f. of land over 15,000 s.f. of lot area. The sale of vehicles and trailers shall be prohibited. The rental of vehicles or trailers shall be permitted provided that an additional 200 s.f. of lot area is provided for each rental vehicle and/or trailer.
- (H) Storage of vehicles that are used for parts or that are stored in connection with a wrecker or towing service have a maximum accumulation time of two months.

### **3.08.06 Office/Financial/Medical Facilities/Club.**

#### **3.08.06.01 Funeral Home.**

A Site Development Plan is required in C-1 and C-4 districts.

#### **3.08.06.02 Hospital.**

A Site Development Plan is required in PI district.

#### **3.08.06.03 Professional Office.**

A Site Development Plan is required in I-1 and I-2 Districts.

#### **3.08.06.04 Real Estate/Business Office.**

A Site Development Plan is required in I-1 and I-2 Districts.

#### **3.08.06.05 Day Spa**

It is the purpose of these standards to provide minimum development guidelines for day spas and to protect established or permitted uses under these regulations in the vicinity of such a facility subject to the following requirements:

- (A) On-street parking may be allowed if on-site parking cannot be reasonably provided. On-street parking shall comply with the following:
  - (1) The paved roadway where parking is proposed is 30' or greater in width and is located immediately adjacent to the development site;
  - (2) A parking plan showing the location of proposed street parking shall be provided which at a minimum considers:
    - a. Number of vehicles anticipated based on the day spa's floor plan and anticipated occupancy; and
    - b. Specific on-street locations where vehicles can be lawfully parked;
- (B) Adequate on-site parking shall be provided for all employees.
- (C) Lighting to illuminate buildings, parking areas or open areas shall be designed so as to shine only on the subject property, and shall be directed away from any public street or residential area.
- (D) Signage shall comply with the requirements of Section 4.07.12.01 Approved Special Uses.

#### **3.08.07 Nonretail/Service Commercial.**

##### **3.08.07.01 Auto or Boat Repair, No Sales.**

A Site Development Plan is required in C-3, I-1 and I-2 Districts.

##### **3.08.07.02 Contractor Storage Yard.**

A Site Development Plan is required in C-2 and C3 District.

##### **3.08.07.03 Sales or Repair of Heavy Equipment.**

A Site Development Plan is required in C-2 and C3 District.

##### **3.08.07.04 Warehouse.**

A Site Development Plan is required in C-3, I-1 and I-2 Districts.

##### **3.08.07.05 Wholesale Distributor.**

A Site Development Plan is required in C-3, I-1 and I-2 Districts.



### **3.08.08 Heavy Industry.**

#### **3.08.08.01 Auto Salvage Yard.**

- (1) Site Development Plan is required in all districts.
- (2) All inoperative motor vehicles shall be stored in the rear of the premises and shall be permanently screened from adjoining properties and/or public streets by a visual buffer such as a wall, fence, evergreen hedge and or other approved enclosure. Such wall, etc., shall be approved by the administrative official and shall be at least six feet (6') in height.
- (3) No inoperative vehicle shall be permitted to be stored on the premises exceeding six months.

#### **3.08.08.02 Commercial Incinerator.**

A Site Development Plan is required in I-1 District.

- (A) Minimum lot size shall be five acres.
- (B) Incinerator facility shall be located at least 300 feet from any existing residential structure.
- (C) Landscaping shall be provided in all setback areas according to Landscape Standard "D" (see Section 3.07.00).
- (D) Incinerator facility shall meet applicable standards for noise, smoke, lighting, and gases established in Section 3.06.00, Performance Standards.

#### **3.08.08.03 Storage of Sand/Gravel/Block.**

A Site Development Plan is required in I-1 District.

### **3.08.09 Public Service Facilities.**

All public service facilities require a Site Development Plan for any residential district. Included are: communications towers, fire stations, police stations and post offices

#### **3.08.09.01 Cemetery.**

A Site Development Plan is required in all districts.

#### **3.08.09.02 Communication Towers.**

- (A) Purpose. The purpose of this section is to provide for the siting, performance, and construction standards and general regulations governing communications towers and antennas; and to:
  - (1) Minimize adverse visual impacts of communications towers and antennas through appropriate design, siting, and landscape screening; and

- (2) Accommodate the growing need for communications towers and antennas, while promoting and encouraging collocation of antennas on new and existing towers as a primary option rather than construction of additional single use towers.
- (B) Applicability. All new communication towers located in the City shall be subject to the regulations contained in this section except as provided herein.
  - (1) Communication Towers installed prior to this amendment. All communication towers legally installed in the City prior to the effective date of this amendment to the Unified Land Development Code shall be considered permitted nonconforming uses, allowed to continue their usage. See Article 7, Section 7.12.00 "Nonconformities", and specifically Section 7.12.07 for further regulations.
- (C) Exceptions
  - (1) Amateur radio station operators. This section shall not apply to any communications tower or communications antenna that is owned and operated by a federally licensed amateur radio station operator that is less than the maximum height allowed in any zoning district. In addition, the said owner/operator must comply with any and all applicable federal and state laws, regulations and standards and the installation and use of the equipment must be in accordance with manufacturer's specifications, and grounding standards in conformance with those established by the National Electric Safety Code.
  - (2) Receive Only Antennas/. This section shall not apply to antennas that are used exclusively to receive signals, such as those that receive video programming services via multi-point distribution services, and those which receive television broadcast signals. Regulations for those type of antennas and dishes are found in Article 2, Section 2.05.03.
  - (3) Residential Personal Wireless Services. This section shall not apply to antennas attached to single family dwelling units that are utilized, solely, to provide personal wireless services to the occupants of the single family dwelling unit. Regulations for those type of antennas and dishes are found in Article 2, Section 2.05.03.
- (D) Type of Review
  - (1) Site Development Plan Review. A Site Development Plan Review is required for the following structures in the indicated zoning districts:
    - a. Utility/ Light Pole Structures, not to exceed more than fifty percent of the height of the existing or surrounding utility or light pole.
    - b. Towers in the M, C-3, C-4, I-1, I-2, PI, and PR zoning districts, if the following distance standards are met, measured from the base of the tower:

| Area                                                              | Distance Standard                |
|-------------------------------------------------------------------|----------------------------------|
| In the M zoning district, from any adjacent residential dwelling. | 100% of the height of the tower. |
| From any residential zoning district.                             | 100% of the height of the tower. |

For towers in other than the indicated areas and zoning districts, see Section 3.10.07.

(E) Development Standards

- (1) Lot size. For purposes of determining whether the installation of a communication tower complies with the Table of Development Standards, Section 2.04.01(B) in any zoning district, the dimensions of the entire lot shall control, even though the tower may be located on leased parcels within such lot.
- (2) Finish. Subject to any applicable standards of the FAA, communication towers shall either maintain a galvanized steel or concrete finish, so as to reduce visual obtrusiveness.
- (3) Colors. The design of the buildings and related structures at a tower site shall, to the extent practicable, use materials, colors, and textures that will blend them into the natural setting and surrounding buildings.
- (4) Building Codes and Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that communications towers, and any accessory structures are designed, constructed, and maintained in compliance with the City's codes and to the extent not in conflict therewith, the applicable standards that are published by the Electronic Industries Association, as amended. Designs for new communications towers shall be signed and sealed by an engineer registered in the State of Florida.
- (5) Setbacks. Communication tower setbacks shall be measured from the base of the tower to the property line of the parcel on which it is located.

Unless the required yards for principal structures in the applicable zoning district provides a greater setback, all towers shall, at a minimum, be setback from all property zoned and used for single-family dwellings a distance equal to 50% of structure height, measured from the base of the tower to the adjacent residential property, unless the applicant can demonstrate, to the satisfaction of the reviewing entity, that one or more of the following mitigating factors justifies a reduction in the setback. The reduced setback, if approved, shall not be less than the required yards for principal structures in the applicable zoning district.

- a. Locating the tower in compliance with the setbacks would result in the removal of trees which could be saved by reducing the setback;

- b. The line of sight of the lower fifteen feet of the tower is obscured from the adjacent single family property by intervening buildings, mature trees, landscaping, or other such screen; or
  - c. The adjacent property contains a permanent open area such as a retention pond, wetland, golf course, etc., which provides the equivalent distance separation; or
  - d. Compliance with the additional setback would prevent the collocation of additional communication antennas on the antenna structure; or
  - e. The communication tower is located within an electrical substation or other similar principal use.
  - f. Other such mitigating factors.
- (6) Security fencing. Communications towers, including accessory structures, shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device.
- (7) Landscaping. Landscaping, as required by this section, shall be installed on the outside of security fences. Further, existing vegetation shall be preserved to the maximum extent and may be used as a substitute of or in supplement towards meeting landscaping requirements. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent. In cases such as towers sited on large, wooded lots, natural growth around the property perimeter may be a sufficient buffer. Further, in cases where the tower is sited on paved or impervious surfaces, such as parking lots, the placement of landscaping required by this subsection may be modified so long as equivalent screening is provided. Camouflaged communication towers are exempt from the requirements of landscaping and buffering. The following landscaping and buffering of communications towers shall be required around the perimeter of the tower and accessory structures:
- a. A row of trees a minimum of eight feet tall and a maximum of twenty-five feet apart shall be planted around the perimeter of the fence and be in place when the tower is completed; and
  - b. A continuous hedge at least 30 inches high at planting capable of growing to at least 36 inches in height within 18 months shall be planted in front of the tree line referenced above; and
  - c. All landscaping shall be of the evergreen variety; and once installed, shall be preserved and maintained in an appropriate manner.

- (8) AM Array. For purposes of this section, an AM array, consisting of one or more tower units and supporting ground system that functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM Array. Additional tower units may be added within the perimeter of the AM Array.
- (9) Height.
- a. No communication tower, whether freestanding or installed on another structure, shall exceed 300 feet in height in the M, I-1, I-2 or C-3 zoning district; 200 feet in height in the PI or PR zoning district; and 150 feet in height in all other zoning districts, except as provided herein.
  - b. Height of communication towers shall be measured from the finished grade of the parcel to the highest point on the tower or structure, including any antenna.
- (10) Signs and Advertising. The use of any portion of a communications tower for sign or advertising purposes including, without limitation, company name, banners, or streamers, is prohibited.
- (11) Illumination. Communications towers shall not be artificially lighted except to assure human safety or as required by the FAA.
- (12) Collocation.
- a. Monopole communication towers shall be engineered and constructed to accommodate a minimum of one additional communication service provider.
  - b. Lattice and guyed communication towers shall be engineered and constructed to accommodate a minimum of two additional communication service providers.
  - c. Communications towers located within electrical substations may be engineered and constructed without accommodating additional communication service providers.
  - d. Onsite relocation. A communications tower which is being rebuilt to accommodate the collocation of an additional communication antenna may be moved onsite within 50 feet of its existing location, however, the tower shall meet the setback requirements of this section. After the communications tower is rebuilt to accommodate collocation, only one tower may remain on the site. The relocation of a tower in accordance with this subsection shall in no way be deemed to cause a violation of this section.
  - e. An existing communication tower may be increased to accommodate the collocation of an additional communication antenna(s) without additional site plan or special exception review; provided, however, that any communication tower

modified by greater than 40 feet must comply with all requirements of this section.

- (13) Availability of Suitable Existing Towers or Other Structures. No Special Exception Use shall be granted for a new tower unless the applicant demonstrates that no existing tower or structure can accommodate the applicant's proposed communications antenna(s). In this regard, an applicant shall submit information which may consist of the following:
- a. No exiting towers or structures are located within the geographic area which meet the applicant's engineering requirements.
  - b. Existing towers or structures are not of sufficient height.
  - c. Existing towers do not have sufficient structural strength to support equipment.
  - d. The applicant's proposed communications antenna would cause electromagnetic interference with the antenna on the existing tower or vice versa.
  - e. The fees, costs, contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
  - f. The applicant demonstrates that there are other limiting factors that render existing tower and structures unsuitable.
- (14) Noninterference. No communications tower or communications antenna shall interfere with public safety communication. Frequency coordination is required to ensure noninterference with public safety systems and/or public safety entities.
- (15) Abandonment. In the event the use of any communications tower or communications antenna has been discontinued for a period of 180 consecutive days, the tower or antenna shall be deemed to have been abandoned. Upon such abandonment, the owner/operator of the tower or antenna shall have an additional 180 days within which to reactivate the use, transfer the ownership/operation to another actual user, or dismantle the tower. The owner of the real property shall be ultimately responsible for all costs of dismantling and removal, and in the event the tower is not removed within 180 days of abandonment, the City may initiate legal proceedings to do so and assess the costs against real property.

### **3.08.09.03 Fire Station.**

A Site Development Plan is required in all residential districts.

#### **3.08.09.04 Police Station.**

A Site Development Plan is required in all residential districts.

#### **3.08.09.05 Post Office.**

A Site Development Plan is required in all residential districts.

#### **3.08.09.06 Sewer or Water Station (On-site).**

A Site Development Plan is required in all districts except I-1, I-2 and PI Districts.

### **3.08.10 Educational/Cultural Facilities.**

#### **3.08.10.01 Churches.**

A Site Development Plan is required in M, C1, C2, C3, C4, P-1, P-2, and PI. A Special Exception is required in all residential districts.

#### **3.08.10.02 School (grades K-12).**

A Site Development Plan is required in C-4, P-1 and P-2 Districts. A Special Exception is required in all residential districts.

### **3.08.11 Recreation Uses.**

#### **3.08.11.01 Golf Courses.**

A Site Development Plan is required in all districts.

### **3.09.00 Development Standards for Conditional Uses.**

The purpose of this section is to set criteria for approval of Conditional Uses. Conditional Uses are those uses that have some special impact or uniqueness such that their effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location. Conditional Use Permits shall be granted in accordance with the provisions of Section 7.08.00. Special standards and requirements presented in this section are conditions for approval of Conditional Uses and shall be binding on all development authorized under the Conditional Use Permit.

Where standards provided herein exceed and/or create greater restrictions than those of the underlying zoning district, this section shall supersede any other provision of this code. Where no standard is established in this section, that of the relevant zoning district shall apply.

#### **3.09.01 Shopping Center (>150,000 SFGLA).**

It is the purpose of these standards to provide minimum development guidelines for a shopping center of greater than 150,000 square feet of gross leaseable area (SFGLA). These provisions are intended to protect established or permitted uses in the vicinity of such a shopping center and to protect and promote the orderly growth and development of Bartow.

##### **(A) Development Site Requirements**

- (1) Minimum Lot Size. An area not less than 550,000 s.f., with a minimum frontage of 1,000.
- (2) Setbacks.  
  
Front: 50 feet.  
  
Side: 50 feet if contiguous to property designated for residential use on the Future Land Use Map.  
  
30 feet if contiguous to property designated for commercial or industrial use on the Future Land Use Map.  
  
Rear: 20 feet if contiguous to property designated for residential use on the Future Land Use Map.  
  
40 feet if contiguous to property designated for commercial or industrial use on the Future Land Use Map.
- (3) Maximum Lot Coverage. No more than 27 percent of the development site shall be covered by structures.

(B) Design Requirements

- (1) Lighting: All lights shall be shielded to focus and direct light onto the shopping center, and away from adjacent property, but may be of sufficient intensity to discourage vandalism and theft. Reference Section 3.06.00, Performance Standards, for applicable glare and lighting standards.
- (2) Fencing: Where a property line abuts and is contiguous to any residential land use classification, a six-foot solid face masonry wall, in addition to required buffer yards, shall be constructed along, or within 10 feet, of the property line.
- (3) Signs: A single sign shall be permitted for each abutting road right-of-way, not to exceed 20 feet in height and 150 s.f. in gross surface area. No other free-standing signs shall be permitted on the property, except traffic directional signage. Signs shall be set back 10 feet from all property lines.
- (4) Landscaping: Canopy and buffer yards shall be provided in accordance with the standards of Section 3.07.00.
- (5) Parking: There shall be a minimum of 5.5 parking spaces per 1,000 SFGLA.
- (6) Off-Street Loading: There shall be a minimum of one off-street loading space for each 25,000 SFGLA in the center.

**3.09.02 Junkyards.**

(A) Storage Of Materials

- (1) Material that is not salvageable shall not be permitted to accumulate, except in bins or containers, and shall be disposed of in an approved sanitary landfill. The period of accumulation is limited to two months.



- (2) In no case shall material that is not salvageable be buried or used as fill.
  - (3) Any items that can be recycled or salvaged shall be accumulated in bins or containers to be sold to a recycling firm.
  - (4) Recyclable material that cannot be stored in bins or containers may be stored in the open.
  - (5) Junkyard operators shall be responsible for compliance with all applicable Federal and State regulations pertaining to the handling, storage, and disposal of waste fluids. In no case shall disposal of waste fluids be permitted on-site, except with the express approval of the FDEP.
  - (6) In any open storage area, it shall be prohibited to keep any ice box, refrigerator, deep-freeze locker, clothes washer, clothes dryer, or similar air-tight unit having an interior storage capacity of 1.5 cubic feet or more from which the door has not been removed.
- (B) Screening. All junkyards shall comply with the following screening requirements:
- (1) All outdoor storage facilities shall be surrounded by a substantial continuous masonry, wood or metal fence (not including chain link fences), or a wall, any of which shall be a minimum of eight feet in height without openings of any type except for one entrance and/or one exit that shall not exceed 25 feet in width.
  - (2) Gates at entrance or exit shall be of a material without openings.
  - (3) The screen shall be constructed of the non-corrosive material throughout.
  - (4) Screens shall be maintained and in good repair at all times.
- (C) Buffer In Lieu Of Screening. Where an outdoor storage facility does not abut a public street or highway, a vegetative buffer may be permitted in lieu of screening. Such buffer may be approved by the City Commission after a finding that the proposed buffer would provide screening equivalent to that required in Paragraph (B) above.

### **3.10.00 Development Standards for Uses Permitted by Special Exception.**

The purpose of this Section is to create an approval process for Special Exception uses, those that are permitted only through special application and public review. Its intent is to ensure that such uses, if approved, are compatible with surrounding properties, and are developed in suitable locations with those design features that are necessary to safeguard the public health, safety, and welfare.

Special Exceptions shall be granted in accordance with the provisions of Section 7.09.00. Special standards and requirements presented in this Section are conditions for approval of the Special Exception and shall be binding on all development authorized under the Special Exception.

The following standards apply to uses listed as "S" Special Exceptions in Section 2.04.01, Table 2.04.01 (A), and approved under the provisions of Article 7, Section 7.09.00. Where standards provided herein exceed and/or create greater restrictions than those of the underlying zoning district, this Section shall supersede any other provision of this Code. Where no standard is established in this Section, that of the relevant zoning district shall apply.

### **3.10.01 Special Exceptions in all Residential Districts .**

- (A) Special exception uses in all residential districts:
  - (1) Churches;
  - (2) Cultural facilities;
  - (3) Noncommercial amusement facilities;
  - (4) Guest houses;
  - (5) Out-patient clinics;
  - (6) Manufactured homes for security purposes on public land only;
  - (7) Special needs facilities.
- (B) Special exception uses in R-2 and R-3 Residential districts
  - (1) One garage apartment behind main residential building.
  - (2) Nursing homes.
  - (3) Lodging house for the taking of boarders or renting of sleeping rooms by a resident family, provided that the number of boarders or roomers does not exceed two.
  - (4) Boarding or rooming houses, fraternity or sorority houses and dormitories.

Specific regulations are as follows.

#### **3.10.01.01 Guest House.**

- (A) The house shall not be rented.
- (B) All utilities shall be serviced from the principal residence.
- (C) All yard setback requirements shall be met.
- (D) The minimum floor space shall not be less than 400 square feet.
- (E) The combined floor space of the guest house and principal structure shall not exceed the maximum building area of the zoning district.

### **3.10.02 Multiple Family Residential - Boarding House.**

A boarding or rooming house is a special exception use in all districts. The following regulations must be agreed to before the special exception can be granted:

- (A) At least 20,000 s.f. of land area shall be required before any boarding or rooming house may be approved as a special exception use.
- (B) The maximum number of persons permitted to reside on the premises shall not exceed the total building floor area divided by 200 s.f.
- (C) No sleeping room shall contain more than two persons.
- (D) All boarding or rooming houses shall contain living quarters for a resident manager.
- (E) Centralized facilities necessary to provide meals for the occupants may be provided, or, such facilities may be included in the resident manager's living quarters; however, no meals shall be provided for persons other than resident occupants.

- (F) One attached, unlighted sign not over four s.f. in area plus one freestanding sign not over six s.f. in area identifying the boarding or rooming house shall be permitted.
- (G) All Landscaping Regulations must be followed, as cited in 3.07.00, with a permanent screening provided along the side and rear lot lines of a minimum of six feet.
- (H) No dwelling shall be converted to a boarding or rooming house unless all provision of this code are complied with.

### **3.10.03 Lodging - RV Park/Campground.**

An RV Park/Campground is a special exception use in M and R-4 Districts.

It is the purpose of these standards to provide minimum development guidelines for a recreational vehicle park and a recreational vehicle campground designed only to accommodate the recreational vehicle. For the purposes of this ordinance, a recreational vehicle park is defined as a development in which recreational vehicles and/or "park model" manufactured homes are permanently sited and occupied year round. A recreational vehicle campground, on the other hand, is a development for overnight or limited vacation-season type. These provisions are intended to protect established or permitted uses in the vicinity of such a park or campground, and to protect and promote the orderly growth and development of Bartow.

#### **3.10.03.01 General Requirements.**

The development standards of this section shall apply to both recreational vehicle parks and campgrounds.

A recreational vehicle park or campground meeting the required design and compatibility standards shall accommodate the traveling public for a defined maximum time period associated with the specialized seasonal vacation and transient characteristics of such development, in contrast to the more permanent and extended stay characteristics of a recreational vehicle park and a manufactured home park.

#### **3.10.03.02 Environmental Requirements.**

- (A) General. Condition of soil, groundwater level, stormwater management, and topography shall not create hazards to the property or to the health and safety of the occupants.
- (B) Soil and Ground Cover Requirements. Exposed ground surfaces in all parts of every vehicle site area or other vehicle parking area shall be paved, or covered with stone screening, or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.
- (C) Stormwater management Requirements. Surface stormwater management plans for the entire tract shall be reviewed by appropriate City staff, who shall determine whether the proposed plan is compatible with the surrounding existing stormwater management pattern and any relevant stormwater management plan of Polk County, prior to issuance of Site Development Plan approval and building permits. No permit shall be issued in such instance where the Development Director finds the plan to be incompatible with surrounding areas.

### **3.10.03.03 Tract Requirements.**

- (A) The tract shall have at least 75 feet of frontage on a Principal Arterial roadway, as designated on the Future Traffic Circulation Map of the Bartow Comprehensive Plan.
- (B) Minimum tract size for a recreational vehicle park or campground development shall be five acres.
- (C) Minimum width of the tract shall be 150 feet at the front building setback line.
- (D) Minimum depth of the tract shall be 200 feet.
- (E) Minimum perimeter setbacks shall be as follows:
  - (1) Front: 25 feet, measured from property line to the most forward projection of any structure or vehicle.
  - (2) Side and rear: 15 feet. Where a public right-of-way abuts a side or rear property line, the minimum setback shall be 25 feet.
- (F) Where any property line of a recreational vehicle park or campground abuts land either zoned for residential use or occupied by a residential use permitted by this Code, there shall be provided and maintained along, or within 10 feet of, said property line a solid face masonry wall, with a finish of stucco or other texture, no less than six feet in height, that shall be in addition to the buffer yard required by Section 3.07.00.

### **3.10.03.04 Vehicle Site Requirements.**

- (A) The minimum vehicle site area shall be 1,200 s.f.
- (B) For the purpose of determining vehicle site width and depth, the width of a vehicle site shall be measured at right angles to and between the designated side boundary lines. The depth of a vehicle shall be measured at right angles to and between the designated front and rear boundary lines.
  - (1) The minimum vehicle site width shall be 20 feet.
  - (2) The minimum vehicle site depth shall be 40 feet.
- (C) Maximum density shall be 10 sites per gross acre.
- (D) The minimum distance between recreational vehicles shall be 10 feet. The minimum distance between a recreational vehicle and any structure shall be 20 feet. The minimum allowable distance between recreational vehicles shall, for the purpose of this section, be measured from and between the outermost structural parts or attached accessory features.
- (E) Each vehicle site shall be clearly defined by a permanent marker, constructed of a durable material such as masonry or metal, placed at all corners.

- (F) The addition or attachment of any permanent structures, such as awnings, porches, carports, or individual storage facilities, not specifically designed and included as a standard part of the original recreational vehicle, shall be expressly prohibited in an RV Campground. Such additions to park model recreational vehicles may be permitted in an RV Park, so long as they meet all required setbacks and all other requirements of this Code.

#### **3.10.03.05 Recreational and Open Space Requirements.**

There shall be provided within a recreational vehicle park or campground at least one area designed for recreational and open space use that is easily accessible from all vehicle sites. The size of such recreation area shall not be less than 10 percent of the entire tract area or 15,000 s.f., whichever is greater.

#### **3.10.03.06 Street System and Off-Street Parking Requirements.**

- (A) General. All parking areas shall be provided with safe and convenient vehicular access from abutting public streets and roads to each vehicle site. Alignment and gradient shall be properly adapted to topography. Surfacing and maintenance shall provide a smooth, hard and dense surface that shall be well drained.
- (B) Access. Access to a recreational vehicle park or campground from a public street or road shall be designed to minimize congestion and hazards at the entrance and on adjacent streets. All traffic into or out of the parking areas shall be through such entrances and exits.
- (C) Internal Streets. The designation of private right-of-way for internal streets is optional. Road surfacing shall meet the following minimum width requirements:
  - (1) One-way travel: 12 feet.
  - (2) Two-way travel: 24 feet.
- (D) Off-Street Parking and Maneuvering Space. Each RV park or campground shall be designed so that parking, loading or maneuvering of vehicles incidental to parking spaces shall not necessitate the use of any public street, sidewalk, or right-of-way, or any private grounds not part of the recreational vehicle park or campground parking area.

Sufficient maneuvering space and off-street parking facilities shall be provided at each site to accommodate a towing vehicle, if any.

#### **3.10.03.07 Service Requirements.**

- (A) Utilities
  - (1) Water Supply System. Connection to a potable public supply of water is required. Provision of water supply, water storage and water distribution shall be made in accordance with requirements and standards established by this Code and the State of Florida.

- (2) Watering Stations. Each recreational vehicle park or campground shall be provided with one or more easily accessible water supply outlets for filling recreational vehicle water storage tanks in accordance with design and construction requirements established by the State of Florida.
- (3) Sewage Disposal System. The recreational vehicle park or campground sewerage system shall be connected to the City's public sewage system. The distribution system shall be designed, constructed and maintained in accordance with requirements of this Code and by the State of Florida.
- (4) Sanitary Connections. Each recreational vehicle park or campground shall be provided with individual connections to each vehicle site in the recreational vehicle park or campground.
- (5) Electrical and Gas Systems. Each recreational vehicle park or campground shall be provided with an electrical or gas system that shall be installed and maintained in accordance with applicable codes and regulations.
- (6) Lighting. Adequate lighting shall be provided for all roads, walkways, service buildings, watering and sanitary stations, and other facilities subject to nighttime use in accordance with requirements established by appropriate City departments and in the Standard Lighting Guide published by the Illuminating Engineering Society.

#### **3.10.03.08 Refuse Handling.**

- (A) General. The storage, collection and disposal of refuse (garbage, ashes, and rubbish) in a recreational vehicle park or campground shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazard or air pollution in accordance with requirements established by the State of Florida.
- (B) Location. All refuse shall be stored in watertight, fly-proof, rodent-proof containers, that shall be located within 150 feet of any vehicle.
- (C) Collection. All refuse containing garbage shall be collected at least twice weekly, in accordance with requirements established by the State of Florida.

#### **3.10.03.09 Service Buildings and Facilities.**

- (A) General. The requirements of this section shall apply to service buildings, recreation buildings and other service facilities, such as:
  - (1) Management offices, repair shops and storage areas.
  - (2) Sanitary facilities.
  - (3) Laundry facilities.
  - (4) Indoor recreation areas.
- (B) Service Building for Dependent Vehicles. A central service building containing the necessary toilet and other plumbing fixtures specified by the State of Florida shall

be provided in a recreational vehicle park or campground that provides vehicle sites for dependent vehicles. Service buildings shall be conveniently located within a radius of approximately 300 feet of the sites to be served.

- (C) Service Facilities in Connection with Other Businesses. When a recreational vehicle park or campground requiring a service building is operated in connection with a resort or other business establishment, the number of sanitary facilities for such business establishment shall be in addition to those required by the public health standards for vehicle sites and shall be based upon the total number of persons using or expected to use such facilities.
- (D) Pedestrian Access to Service Buildings and Facilities. Surfaced, appropriately drained walkways having a width of not less than 3 feet shall be provided from the vehicle sites to all service buildings and facilities, refuse collection areas, and recreation areas.
- (E) Outdoor Cooking and Incinerator Facilities. All outdoor cooking and incinerator facilities shall be so located, constructed, maintained and used as to minimize fire hazard and smoke nuisance both on the property on which they are used and on neighboring property. Plans, construction, and operation of incinerators shall be carried out in accordance with requirements of the State of Florida.

#### **3.10.03.10 General Operating Requirements.**

- (A) General. The person to whom appropriate permits and licenses are issued shall operate the recreational vehicle park or campground at all times in compliance with applicable state and local laws pertaining to the management and operation of such a facility.
- (B) Duration of Stay in a Recreational Vehicle Campground. Vehicle sites shall be rented by the day or week only, and the occupant of a vehicle site shall remain at that site and within the recreational vehicle campground for a limited period of time consistent with the special seasonal, vacation and transient requirements of the recreational vehicle user, but in no case exceeding 120 calendar days within any 360 day period, whether accumulated consecutively or intermittently.
- (C) Duration of Stay in a Recreational Vehicle Park. Vehicle sites are intended for year round occupancy.

#### **3.10.03.11 Permit Procedures and Requirements.**

- (A) Site Development Plan. Any applicant for the required permits to establish, construct, alter or extend a recreational vehicle park or campground in Bartow shall first request and receive approval of a Site Development Plan in accordance with the provisions of Article 3 and Section 7.05.00 of this Code.
- (B) Health and Sanitation Permit. After receipt of required land use approvals, applicant shall then apply for and receive a health and sanitation permit for the proposed recreational vehicle park or campground from the Polk County Health Department and the State of Florida in accordance with the requirements of appropriate agencies.

- (C) Building Permit. Upon completion of (A) and (B) above, application shall be made to the Building Director for the building permit to construct, alter, or extend a recreational vehicle park or campground in accordance with the provisions of this Section. Before issuing a building permit for the construction, alteration or extension of a recreational vehicle park or campground, the Building Director shall determine that all applicable review procedures and standards required under this Code have been satisfactorily met.

### **3.10.04 Retail Commercial, No Outdoor Storage or Activities**

#### **3.10.04.01 Tea Room**

It is the purpose of these standards to provide minimum development guidelines for tea rooms and to protect established or permitted uses under these regulations in the vicinity of such a facility subject to the following requirements:

- (A) Public notice for the proposed tea room shall include a neighborhood meeting 30 days prior to the anticipated public hearing date before the Board of Adjustment. The public notice requirement of Section 8.06.00 of the ULDC shall be followed except that property owners within 500' shall be notified in-lieu-of the standard 150'.
- (B) On-street parking may be allowed if on-site parking cannot be reasonably provided. On-street parking shall comply with the following:
  - (1) The paved roadway where parking is proposed is 30' or greater in width;
  - (2) A parking plan showing the location of proposed street parking shall be provided which at a minimum considers:
    - a. Number of vehicles anticipated based on approved seating capacity; and
    - b. Specific on-street locations where vehicles can be lawfully parked;
- (C) Adequate on-site parking shall be provided for all employees.
- (D) Lighting to illuminate buildings, parking areas or open areas shall be designed so as to shine only on the subject property, and shall be directed away from any public street or residential area.
- (E) Signage shall comply with the requirements of Section 4.07.12.01 Approved Special Uses.

#### **3.10.04.02 Microbrewery**

It is the purpose of these standards to provide minimum development guidelines for microbreweries and to protect established or permitted uses under these regulations in the vicinity of such a facility subject to the following requirements:



- (A) In addition to any specific development standards of the zoning district in which it is located, and any other general development standards or regulations contained elsewhere in the City of Bartow Unified Land Development Code or Code of Ordinances, an establishment that meets the definition of a microbrewery shall comply with the following.
- (1) The microbrewery shall produce no more than 15,000 barrels (465,000 U.S gallons/17,602.16 hectoliters) of beer per year, as documented by an annual report which includes federal tax documentation from the previous calendar year. The annual report shall be submitted to the City prior to February 15<sup>th</sup> of each year.
  - (2) This use shall be permitted only in conjunction with a commercial retail, restaurant, or drinking establishment and shall adhere to the following:
    - a. No more than 75 percent of the total gross floor space of the establishment shall be used for the brewery function including, but not limited to, the brewhouse, boiling and water treatment areas, bottling and kegging lines, mal milling and storage, fermentation tanks, conditioning tanks, serving tanks, and/or the storage of materials; and
    - b. The commercial establishment shall be oriented towards adjacent streets/rights-of-way or public space, excluding alleys.
  - (3) Where permitted by city, state and federal law, retail carryout sale of beer produced on the premises may be allowed.
  - (4) All brewery equipment visible from adjacent streets/rights-of-way (excluding alleys), residential uses, or residential zoning districts shall be screened using architectural features consistent with the principal structure or shall be displayed in a manner that showcases the brewery equipment and function.
  - (5) Access and loading bays are discouraged from facing toward any street/right-of-way (excluding alleys) and shall remain closed at all times, except during the movement of materials, supplies, and finished products into and out of the building. Exceptions may be made provided the access and loading bays do not face a residential use or residential zoning district.
  - (6) Service trucks used for loading and unloading beverage products, materials and equipment shall be restricted to between the hours of 8:00 A.M. and 8:00 P.M. Monday through Saturday and between 11:00 A.M. and 7:00P.M. on Sundays.
  - (7) No outdoor storage shall be allowed in conjunction with the microbrewery, including the use of portable storage units, cargo containers and tractor trailers, unless specifically allowed herein.
  - (8) Spent or used grain may be approved to be stored outdoors for a period not to exceed 24 hours, provided it is stored in a sealed container. The temporary storage area shall be:

- a. Designated on the approved site plan; and
  - b. Prohibited within any required area (e.g. parking, greenspace, landscape buffer, storm water management area, etc.) or any yard abutting a residential use or residential zoning district.
- (9) A food truck(s) may be located on-site as an accessory use subject to the following provisions:
- a. Operators shall obtain all necessary permits from city, county and state agencies, including but not limited to business tax receipts, state licenses, health inspections, etc.;
  - b. Operation of a food truck shall be limited to the hours of operation established for the principle use. A food truck, owned and/or operated by the microbrewery, may remain on site when not actively open for business. All other food trucks shall not be permitted to remain on-site when the principle use is closed;
  - c. On-site parking location shall be shown on the approved site plan for the principle use and shall be prohibited within any required area (e.g. parking, greenspace, landscape buffer, storm water management area, etc.) or any yard abutting a residential use or residential zoning district;
  - d. Outside tables, seating, shade canopies, waste receptacles, etc., shall not be placed within five feet of the property line;
  - e. The following actions are prohibited: audio amplification of any type; free standing signage; use of city trash receptacles; disposal of grease or liquid waste on the ground, in storm water or sanitary sewer systems or public streets; sales or service of alcohol; use of portable generators;
  - f. Electrical connections used to maintain needed power shall be provided from the main electrical source of the principle use and shall be made in a manner consistent with applicable codes; and
  - g. Operations shall be in accordance with the Florida Fire Prevention Code and be subject to review and inspection by the City's Fire Marshal.

### **3.10.05 Retail Commercial, Outdoor Storage.**

#### **3.10.05.01 Commercial Parking Lot.**

A Commercial Parking Lot is a special exception use in C-1 District.

#### **3.10.05.02 Flea Market.**

It is the purpose of these standards to provide minimum development guidelines for a flea market in C-2, C-3, I-2 or I-2 districts, to protect established or permitted uses under these regulations in the vicinity of such a facility, and to protect and promote the orderly growth and development of Bartow.

- (A) General Requirements. Flea markets shall be permitted only on property fronting on a principal arterial road, with all major points of ingress and egress connecting to that road. At least one enclosed building of 300 s.f. or more in size shall be constructed on the property.
- (B) Development Requirements
  - (1) Minimum Lot Size. An area not less than five acres, with a minimum width of 200 feet and minimum depth of 300 feet.
  - (2) Setbacks
    - Front: 50 feet
    - Side: 100 feet if contiguous to property designated for residential use on the Future Land Use Map.  
  
30 feet if contiguous to property designated for commercial or industrial use on the Future Land Use Map.
    - Rear: 100 feet if contiguous to property designated for residential use on the Future Land Use Map.  
  
30 feet if contiguous to property designated for commercial or industrial use on the Future Land Use Map.
  - (3) Maximum Lot Coverage. No more than 40% of the development site shall be covered by structures.
- (C) Design Requirements
  - (1) Lighting. All lights shall be shielded to focus and direct light onto the uses established, and away from adjacent property, but may be of sufficient intensity to discourage vandalism and theft. Reference Section 3.06.00, Performance Standards, for applicable glare standards.
  - (2) Fencing. Where a property line abuts and is contiguous to property zoned for residential use, a six foot solid masonry wall shall be constructed along the property line. At the discretion of the Development Director, a landscaped buffer may be substituted for this requirement in accordance with Section 3.07.00. Within required structural setback distances from public roads, the height of the wall shall be four feet.
  - (3) Signs. Signs are permitted according to the standards established in Article 4.
  - (4) Drives. Drives shall have a smooth, stabilized and dustless surface.
  - (5) Parking. Parking shall adhere to the off-street parking standards in Section 3.03.00.

- (6) Landscaping. Landscaping of vehicle use areas shall be in accordance with Section 3.07.00. Landscaping shall be provided in all setback areas according to Landscape Standard "D", except where a solid face masonry wall is required.
- (7) Restrooms. Restroom facilities shall be provided to adequately serve the customers anticipated to frequent the flea market.

### **3.10.06 Office/Financial/Medical Facilities/Club.**

#### **3.10.06.01 Day Spa**

It is the purpose of these standards to provide minimum development guidelines for day spas and to protect established or permitted uses under these regulations in the vicinity of such a facility subject to the following requirements:

- (A) Public notice for the proposed day spa shall include a neighborhood meeting 15 days prior to the anticipated public hearing date before the Board of Adjustment. The public notice requirement of Section 8.06.00 of the ULDC shall be followed except that property owners within 500' shall be notified in-lieu-of the standard 150'.
- (B) On-street parking may be allowed if on-site parking cannot be reasonably provided. On-street parking shall comply with the following:
  - (1) The paved roadway where parking is proposed is 30' or greater in width and is located immediately adjacent to the development site;
  - (2) A parking plan showing the location of proposed street parking shall be provided which at a minimum considers:
    - a. Number of vehicles anticipated based on the day spa's floor plan and anticipated occupancy; and
    - b. Specific on-street locations where vehicles can be lawfully parked;
- (C) Adequate on-site parking shall be provided for all employees.
- (D) Lighting to illuminate buildings, parking areas or open areas shall be designed so as to shine only on the subject property, and shall be directed away from any public street or residential area.
- (E) Signage shall comply with the requirements of Section 4.07.12.01 Approved Special Uses.

#### **3.10.06.02 Clubs, Community/Fraternal/Veterans**

It is the purpose of these standards to provide minimum development guidelines to protect established or permitted uses under these regulations in the vicinity of such a facility subject to the following requirements:

- (A) Public notice for the proposed club shall include a neighborhood meeting 15 days prior to the anticipated public hearing date before the Board of Adjustment. The public notice requirement of Section 8.06.00 of the ULDC shall be followed except that property owners within 500' shall be notified in-lieu-of the standard 150'.
- (B) Parking. On-site parking shall be provided at a ratio of 0.2 per member. Alternative forms of on-site parking, such as organized ride sharing, stacking, etc., may be approved subject to the findings of the Board.  
  
On-street parking may be allowed if on-site parking cannot be reasonably provided and shall comply with the following:
  - (1) The paved roadway where parking is proposed is 30' or greater in width and is located immediately adjacent to the development site;
  - (2) A parking plan showing the location of proposed street parking shall be provided which at a minimum considers:
    - a. Number of vehicles anticipated based on the club's floor plan and anticipated occupancy; and
    - b. Specific on-street locations where vehicles can be lawfully parked.
- (C) Alcoholic Beverages. If the use of the property involves serving alcoholic beverages to members and/or their guests for consumption on the premise then a detailed statement shall be provided with the application that cites the statutory authority for and organizational policies and/or procedures that will govern the service. The Board of Adjustment shall specifically review this matter and make specific findings of fact in support or denial of the service and consumption of alcoholic beverages on the property.
- (D) Lighting. Lighting to illuminate buildings, parking areas or open areas shall be designed so as to shine only on the subject property, and shall be directed away from any public street or residential area.
- (E) Signage. Shall comply with the requirements of Section 4.07.12.01 Approved Special Uses.

### **3.10.07 Heavy Industry.**

#### **3.10.07.01 Manufacture of Explosives.**

Manufacturing of explosives is a special exception use in I-2 District.

#### **3.10.07.02 Slaughterhouse.**

A slaughterhouse is a special exception use in I-2 District.

### **3.10.08 Communication Towers.**

- (A) The following communication towers shall be reviewed by a Special Exception:

- (1) Communication towers which are requested within the M, C-3, C-4, I-1, I-2, PI, and PR zoning districts, if the following distance standards are met, measured from the base of the tower:

| Area                                                              | Distance Standard                          |
|-------------------------------------------------------------------|--------------------------------------------|
| In the M zoning district, from any adjacent residential dwelling. | Less than 100% of the height of the tower. |
| From any residential zoning district.                             | Less than 100% of the height of the tower. |

For towers in other than the indicated areas and zoning districts, see Section 3.08.11.

- (2) Monopole Towers, 150 feet or less in height, on property controlled and used by a governmental or quasi-governmental entity, utility, public service organization, church, or school in a residential or CN zoning district;
- (3) The proposed communication tower which requires a Special Exception request shall be considered and reviewed under the regulations set forth in Article 7, Section 7.09.00 for Special Exceptions except as noted here.
- (B) In addition to the requirements of Article 7, Section 7.09.00, "Procedure for Obtaining a Special Exception", the following items are required:
- (1) Site Plan. A site plan, scaled at a standard engineering scale, clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking and any other information deemed by the City to be necessary to assess compliance with this Section;
- (2) Distances between proposed tower and nearest residential unit; and between the proposed tower and other existing towers within one-quarter mile of the site including information about the nearest tower including height and design;
- (3) Proposed landscape plan;
- (4) Method of fencing, finish, and if applicable, the method of illumination;
- (5) A notarized statement of the applicant as to whether construction of the tower will accommodate collocation of additional communication antennas for future users.
- (C) Approval of the Board of Adjustment. In determining whether to grant a Special Exemption Use pursuant to this section, the Board of Adjustment shall consider the following factors:

- (1) Design of the tower with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- (2) Type of antenna, with narrow profile antenna arrays being given preference;
- (3) Nature of uses on the site, with preference being given to the use of sites which are already developed with non-single family dwelling uses and which are currently visually impacted by tall structures, utility facilities, light poles, or other such impacts;
- (4) Nature of uses on adjacent and nearby properties and the proximity of the tower to all adjacent land uses, with preference being given to sites adjacent to nonresidential uses or non-dwelling aspects of residential properties, such as open space areas, parks, retention ponds, golf courses, wetlands, etc;
- (5) On-site and surrounding tree coverage and foliage, with preference being given to sites which can provide heavy vegetative screening of a tower; and
- (6) Availability of suitable existing towers, other structures, not requiring the use of towers.

The Board shall not consider the environmental effects of radio frequency emission, to the extent that the proposed tower, and attached communication antennas and related structures comply with the FCC's regulations concerning such emissions.

- (D) Denial by the Board of Adjustment. Any decision by the Board of Adjustment to deny a request for a Special Exception Use shall be in writing and supported by competent, substantial evidence contained in a written record.

### **3.10.09 Education/Cultural Facilities.**

#### **3.10.09.01 Church**

Reserved

#### **3.10.09.02 Community Center**

Reserved

#### **3.10.09.03 Public Library**

Reserved

#### **3.10.09.04 Museum**

It is the purpose of these standards to provide minimum development guidelines for museums and to protect established or permitted uses under these regulations near such a facility subject to the following requirements:

- (A) A Statement of Use and/or Business Plan shall be submitted which addresses the following requirements and outlines the proposed activities in sufficient detail to provide complete understanding of the request.
- (B) Proof of property ownership in the form of a deed, title opinion or other legal document as approved by city staff. The property must serve as the primary residence of the owner.
- (C) Hours of operation are limited to 10:00 AM to 8:00 PM on Friday and Saturday and from 12:00 PM to 6:00 PM on Sunday; other days and times may be considered upon request of the owner.
- (D) Approval of the application is valid for the current property owner only. If the property is sold or transferred to a new owner and the new owner desires to continue to operate the museum a new application shall be submitted for review and action.
- (E) Public notice for the proposed museum shall include a neighborhood meeting, 15 days prior to the anticipated public hearing date before the Board of Adjustment. The public notice requirement of Section 8.06.00 of the ULDC shall be followed except that property owners within 500' shall be notified in-lieu-of t 150'.
- (F) Adequate on-site parking shall be provided for the owner and visitors. Said parking may consist of materials other than a hard surface of all-weather pavement, asphalt or concrete, and shall be so graded and drained as to provide for the adequate runoff and disposal of surface water.
- (G) On-street parking may be allowed if on-site parking cannot be reasonably provided. On-street parking shall comply with the following:
  - (1) The paved roadway where parking is proposed is 30' or greater in width and is located immediately adjacent to the museum site;
  - (2) A parking plan showing the location of proposed street parking shall be provided with the application which at a minimum considers:
    - a. Number of vehicles anticipated based on the business plan; and
    - b. Specific on-street locations where vehicles can be lawfully parked.
- (H) Any outdoor lighting to illuminate buildings, parking areas or open areas shall be designed to shine only on the subject property and shall be directed away from any public street or residential area.
- (I) Signage shall comply with the requirements of Section 4.07.12.01 Approved Special Uses.
- (J) Indoor and/or outdoor special functions are allowed subject to the following requirements;



- (1) Requests for special functions may be submitted as part of the initial museum special exception use application or as an amendment to a previous approval at a later date. Amendments shall be subject to the same application and review requirements of the original application.
- (2) Special Functions are allowed from 10:00 AM to 8:00 PM on Saturday and from 12:00 PM to 6:00 PM on Sunday; other days and times may be considered upon request of the owner.
- (3) Off-site parking may be utilized provided that a parking plan is reviewed and approved during the review process. The plan shall consider:
  - a. Number of vehicles anticipated;
  - b. Specific locations where vehicles can be lawfully parked, and which will be available for parking (on-site, by valet, by formal agreement with adjacent or surrounding properties;
  - c. Lawful on street parking; or
  - d. Any combination of the previous three or an alternative method reviewed by City staff prior to action by the Board.
- (4) Parking instructions consistent with the approved parking plan shall be communicated in each rental agreement for proper dissemination to all guests.
- (K) Occupant load for all activities shall be established as part of the application.
- (L) All activities shall be subject to review pursuant to the current edition of the Florida Accessibility Code.

#### **3.10.09.05 Arboreta, Botanical & Zoological Gardens**

Reserved

#### **3.10.09.06 School (grades K-12)**

Reserved

[RESERVED]

## ARTICLE 4

### SIGN REGULATIONS

- 4.01.00 General Provisions
- 4.02.00 Purpose
- 4.03.00 Compliance
- 4.04.00 Exempted Signs
- 4.05.00 Prohibited Signs
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  - 4.07.01 Existing Commercial Corridor District Signs
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  - 4.07.05 General District Signs
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  - 4.07.09 Entrance/Exit/Private Parking Signs
  - 4.07.10 Grand Opening Signs
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  - 4.07.12 Signs in Residential Zoning Districts
    - 4.07.12.01 Approved Special Uses
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    - 4.07.12.03 Illumination
    - 4.07.12.04 Development Signs
    - 4.07.12.05 Non-Conforming Uses
    - 4.07.12.06 Single Family Community – Model Home Centers and Sales Offices
    - 4.07.12.07 Multi-Family Community
  - 4.07.13 Community Banner Signs
  - 4.07.14 Community Heritage Signs
- 4.08.00 Measurement of Sign Area
- 4.09.00 Maintenance
- 4.10.00 Nonconforming Signs
  - 4.10.01 Damage Requiring Compliance
  - 4.10.02 Alterations and Modifications Requiring Compliance
  - 4.10.03 Schedule of Compliance of All Nonconforming Signs

[RESERVED]

**ARTICLE 4**  
**SIGN REGULATIONS**

**4.01.00 General Provisions.**

These sign regulations are intended to complement the requirements of the adopted building and electrical codes. In case of an inconsistency between these regulations and the building or electrical code, the more stringent requirement shall apply.

Unless otherwise provided in this Article, the following requirements apply to all signs in the City:

- (A) Permit Required. The City shall review every application for a permit to construct, erect, alter or extend a sign, and shall, when satisfied that the sign is in compliance with this Article and other applicable codes of the City, issues a permit. No sign shall be constructed, altered or extended until such permit has been issued. This shall apply to all but exempt signs.
- (B) Street Address Numbers. Street numbers may be included on any sign and shall not count toward the square footage requirement for each business. Street address numbers are assigned by the City and are required for all buildings. The numbers shall be not less than three inches in height and shall be visible from a public thoroughfare.
- (C) Historic Signs and Signs as Landmarks. Existing signs of such age, character and/or design as to be deemed historic signs or signs that are landmarks by the City Commission. In order for a sign to be deemed historic or a landmark, an application shall be made to the Planning and Zoning Commission stating the request and the reasons therefore. The Planning and Zoning Commission shall consider the request and make its recommendation to the City Commission. Formal approval, conditioning and designation of a sign as historic or a sign that is a landmark shall be by resolution of the City Commission. Designation of a sign as a historic sign or landmark shall not be subject to the 20 year amortization provision in Section 4.10.03 (C).
- (D) Sign Maintenance. All signs shall be legible, properly painted, in good repair, properly maintained and sturdy enough to permit persons working on the signs to do so in safety. All signs, including their supports, braces, guys and anchors, electrical parts and lighting fixtures, and all painted and display areas, shall be maintained in accordance with the building and electrical codes adopted by the City, and shall present a neat and clean appearance. The vegetation around, in front of, behind, and underneath the base of ground signs for a distance of ten feet shall be neatly trimmed and free of unsightly weeds, and no rubbish or debris that would constitute a fire or health hazard shall be permitted under or near the sign.
- (E) Illumination. For signs that are not internally or back lighted, white and yellow are the only colors of floodlights permitted on signs, except for Christmas or seasonal lighting. Floodlights may only be directed at the face of the sign, and signs shall not be of such intensity or brilliance as to cause glare or impair the vision of motorists, cyclists, or pedestrians using or entering a public right-of-way.
- (F) Engineering Plans Required for Signs. Engineering plans may be required at the discretion of the Building Official for any sign.
- (G) Location. No sign within the City of Bartow shall be located in a manner that blocks a Clear Visibility Triangle as may be established in the ULDC.

- (H) Variances. Variances for sign structure setback, height, face size or the total signage for a development site will be considered by the City's Board of Adjustment, pursuant to Section 7.11.00 Variances.
- (I) Master Sign Plan
  - (1) Purpose and intent. The intent of permitting a master sign plan and associated regulations in lieu of the standards set forth in this article is to provide flexibility in the types, number and sign area requirements for individual signs permitted by these regulations in exchange for the development of an integrated, high quality master plan for signage for larger-scale developments and/or shopping districts. By no means is the master sign plan option to be a surrogate for the variation process, therefore no flexibility shall be granted to permit signs that are otherwise prohibited or to permit additional sign height and/or total sign area for all signs, than would otherwise be permitted on a development site. The master sign plan shall clearly set forth the maximum permitted sign area that would be permitted for all signs under these regulations for the entire development. Within that maximum permitted overall sign area for the entire development, the number, type and sign area of individual signs may be varied; provided they are designed in a coordinated manner.
  - (2) Authority. Planned developments, commercial shopping centers, office/industrial parks, universities, colleges, medical centers, institutions having multibuilding campuses, community heritage facilities or any association of merchants or building owners doing business within a specified area of the City, may establish a master sign plan and associated regulations for their property or district subject to review and approval by the Planning and Zoning Commission. Persons desiring to obtain approval of a master sign plan shall submit the coordinated sign plan and associated regulations/standards together with any additional material requested to the Planning Director.
  - (3) Review and Action by Planning and Zoning Commission. A Master Sign Plan shall be reviewed and approved by the Planning and Zoning Commission. Public comment on the proposed Master Sign Plan shall be permitted.

**4.02.00 Purpose.** These sign regulations are intended to assure consistent and fair regulation, permitting and enforcement for all signs and sign structures. They are also intended to protect the health, safety and general welfare of those residing, visiting and working in the City of Bartow. Further, they shall improve pedestrian and vehicular traffic safety and be used for locational and directional purposes, only.

**4.03.00 Compliance.** Every new business, whether established in an existing structure or constructed or reconstructed, shall act to bring all existing nonconforming signs into full compliance with this Code, prior to the issuance of a Certificate of Occupancy or City of Bartow Business Tax Receipt. For additional regulations governing nonconforming signs and amortization of prohibited signs, see Section 4.10.02-.03 of this Article.

#### **4.04.00 Exempted Signs.**

The following signs are exempt from the operation of these sign regulations, and from the requirement that a permit be obtained for the erection of permanent signs, provided they are not placed or constructed so as to create a hazard of any kind:

- (A) Signs that are not designed or located so as to be visible from any street or adjoining property.
- (B) Signs necessary to promote health, safety and welfare, and other regulatory, statutory, traffic control or directional signs erected on public property.
- (C) Legal notices and official instruments.
- (D) Holiday lights and decorations
- (E) Memorial signs or tablets containing names of buildings, dates of erection and other information when inscribed in a masonry surface or metal plaque and permanently affixed to the side of a building.
- (F) Public warning signs to indicate the dangers of trespassing, swimming, animals or similar hazards.
- (G) Signs carried by a person.
- (H) Religious displays erected on church grounds.
- (I) Construction signs not exceeding 16 square feet in size.
- (J) Real estate yard signs not exceeding six square feet in size and six feet in height, to advertise that the premises is for sale, rent or lease. Said may be located on the front property line, but shall not be within the visibility triangle.
- (K) Political signs for candidates qualified for office shall be permitted from the date the candidates qualifies until the primary election date or if the candidate is successful or until the date of a run-off or the general election. Political signs are permitted on private property only and shall be removed within 10 days following the primary election if the candidate is unsuccessful or within 10 days following a run-off or the general election.
- (L) The American, State, or City flag when displayed properly, is not a sign under these regulations, regardless of number.
- (M) Water Towers.

#### **4.05.00 Prohibited Signs.**

Except as otherwise permitted, the following types of signs are prohibited in all districts:

- (A) Abandoned signs.
- (B) Signs that are in violation of the adopted building or electrical codes.
- (C) Any sign that, in the opinion of the City Administration, constitutes a safety hazard.
- (D) Signs imitating or resembling official traffic or government signs or signals.
- (E) Signs attached to trees, telephone poles, power poles, public benches, streetlights, or signs placed on any public property or public right-of-way.

- (F) Signs placed on vehicles or trailers that advertise and are permanently parked or located off premises for the primary purpose of displaying said sign. (This does not apply lettering on buses, taxis, or vehicles operating during the normal course of business).
- (G) Signs with the optical illusion of movement by means of a design that presents a pattern capable of giving the illusion of motion or changing of copy.
- (H) Any sign obstructing traffic visibility.
- (I) Signs with moving, revolving or rotating parts.
- (J) Signs with lights or illuminations that flash, move, rotate, blink, flicker, or vary in intensity or color, except on theater marquees and electronic message boards that display community messages, and time-temperature-date information.
- (K) Illuminated signs of such intensity or brilliance as to cause glare or impair the vision of motorists, cyclists, or pedestrians using or entering a public right-of-way, or that are a hazard or nuisance to occupants of any property because of glare or other characteristics.
- (L) Signs emitting sound, odors, smoke, or steam.
- (M) Billboards and all other off-premises signs.
- (N) Temporary signs.
- (O) Portable Signs.
- (P) Inflatable signs and advertising balloons.
- (Q) Signs consisting of one or more banners, flags, pennants, ribbons, spinners, streamers or captive balloons, or other objects or material fastened in such a manner as to move in the wind, and searchlights, lasers, skyjectors, equipment and other paraphernalia used to advertise or promote a business or to attract customers to a property, subject to the provisions of Section 4.07.08.
- (R) Roof-mounted signs.
- (S) Pendant Signs.

#### **4.06.00 Establishment of Sign Districts.**

The City of Bartow hereby establishes and divides its jurisdiction into four sign districts with specific regulations in each district. The districts are described in detail in the following paragraphs, and are depicted on Map A. Every parcel, lot, development site or property with any frontage on the highway, street or travelway shall comply with the regulations established for that district. In the case of the General District regulations, the entire City outside of the delimited districts is considered to be in the district.



- (A) Existing Commercial Corridor District. The Existing Commercial Corridor District is depicted as a green line marking highways and streets on Map A.
- U.S. Highway 98 between Lyle Parkway south to the CSX railroad.
  - Van Fleet Boulevard (S.R.60) between Dorothy Street and U.S. Highway 17.
  - U.S. Highway 17 from Van Fleet Boulevard (S.R.60) north to Bear Creek.
  - S.R.60 east of the Peace River to the east City Limits.
  - S.R.60 west of the intersection of Van Fleet Boulevard (S.R.60) and Main Street to the west City Limits.
  - U.S. Highway 17 from Van Fleet Boulevard (S.R.60) south to Gay Street.
  - U.S. Highway 17 from Hooker Street south to the south City Limits
- (B) Historic Downtown District. The Historic Downtown District is depicted as a red line marking highways and streets on Map A. The Downtown District is bounded generally by Carpenter Avenue on the west, Davidson Street on the north, Oak Avenue on the east, and Parker Street on the South and includes properties fronting on both sides of the street.
- (C) Historic Neighborhood District. The Historic Neighborhood District is depicted by a light red overlay on Map A. The District abuts and surrounds the Historic Downtown District, but does not overlap it. Properties are either in the Historic Downtown District or the Historic Neighborhood District, not both. The Neighborhood District is bounded by Floral Avenue on the west, but only south of Main Street, Main Street from Floral to Broadway Avenue, Broadway Avenue north to the CSX Railroad; the CSX Railroad on the north, First Avenue on the east, and Stanford Street on the south. Properties included within these district boundaries, do not extend to both sides of the streets.
- (D) General Sign District. All areas of the City zoned for professional office, commercial, industrial or public institutional uses and not included in the Existing Commercial Corridor District, the Historic Downtown District, or the Historic Neighborhood District.

#### **4.07.00 Permitted Signs.**

##### **4.07.01 Existing Commercial Corridor District Signs.**

On-site commercial signs are permitted accessory to commercial and industrial structures on property zoned for such uses within the Existing Commercial Corridor District as specified below.

- (A) Total Signage. A total of 120 square feet of signage is permitted for each development site, which may be used to construct or erect any permitted sign, except that each development site may construct or erect only one freestanding sign. When the freestanding sign is a pole mounted sign, the maximum area of the sign face/structure shall not be greater than 48 square feet. As an incentive to encourage ground mounted signs, a ground mounted sign with a sign face/structure no greater than 64 square feet is allowed.

(B) One freestanding sign is permitted for each development site.

- (1) **Pole Mounted Sign.** A pole mounted sign shall be not greater than 16 feet in height, with a sign face area of not more than 48 square feet, and a 10 foot clear area between the ground and the bottom edge of the sign. The sign may be constructed or erected on one or more poles, and requires no setback from the property line, so long as no pole, sign face, support or other structural member extends beyond the property line.

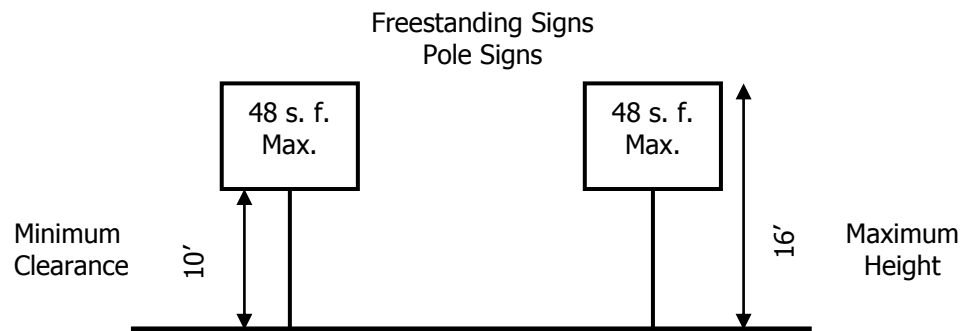


Figure 1a

- (2) **Ground Mounted Sign.** When the freestanding sign is a ground mounted sign, the maximum area of the sign face and structure shall not be greater than 64 square as seen from one side. The maximum height of a ground mounted sign structure shall not exceed eight feet. Ground mounted signs that are two feet, or less, in height may be constructed at the property line, all others must be setback far enough to be out of any visibility triangle formed by public or private ingress/egress to the property as determined by the City's Building Official.

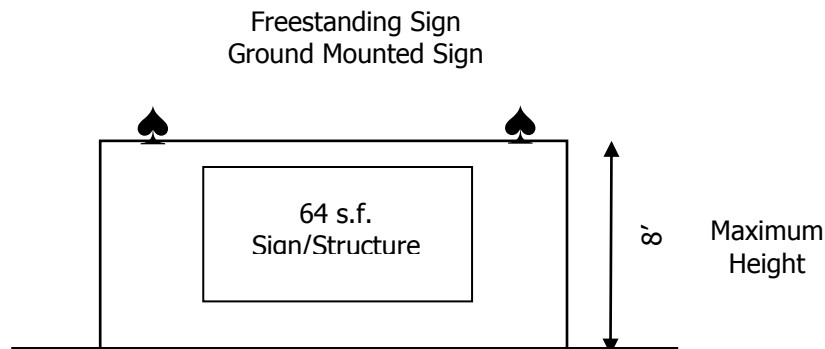


Figure 1b

- (C) **Building Mounted Signs.** Building mounted signs are not limited in number and are permitted in the total signage for the development site.
- (D) **Window Advertising.** Window advertising of the kind described in this paragraph shall not count against the total signage for a development site, but is regulated in the following manner. Not more than 25% of glass surfaces of windows facing a public street or right-of-way in any commercial or industrial building may be utilized for signage or any other opaque items that block the glass. This includes, but is not limited to, posters, fliers, advertisements, display racks, other interior furnishings, and similar materials or objects.
- (E) The following diagram and example are provided to clarify the manner in which signage may be applied to commercial and industrial development sites. Generally, the total signage of 120 square feet, less the 48 square feet for the freestanding sign, allows 72 square feet to be utilized for other signage. In the case of a ground mounted sign, as an incentive, the allowable sign face is 16 square feet greater than the pole sign. This additional square footage is a bonus. As an example, if a freestanding pole sign of less than 48 square feet is used, then the 72 square feet available for all other signage may be increased by the difference between 48 square feet and the actual area of the sign face. For example, a site with a 32 square foot freestanding pole sign, would be allowed 72 square feet, plus an additional 16 square feet, for a total of 88 square feet for all other permitted signage.

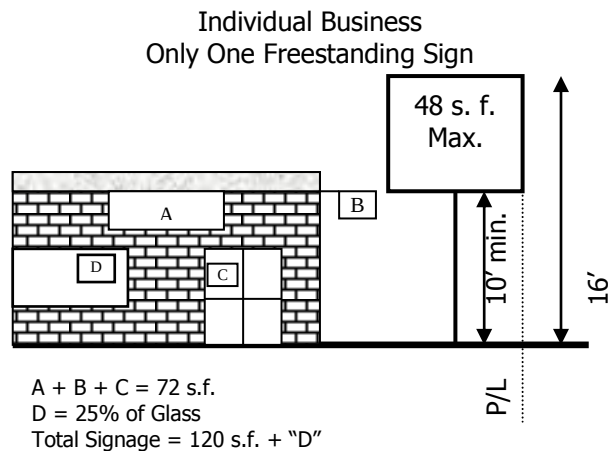


Figure 2

#### 4.07.02 Reserved.

#### 4.07.03 Historic Downtown District Signs.

The historic downtown sign district applies to all buildings that front the streets shown in red on Map A and have a front zero lot line setback. In this district, signs are allowed to extend over public right-of-way in the proximity of the business, but no permanent, freestanding signs are permitted. Novelty, historic, neon, and symbol signs are encouraged. Internally lighted, plastic signs are permitted mounted flat against the wall of a building or as a window sign.

- (A) Total Signage. The total signage for a development site in this district shall be in accordance with the following table.

| Gross Leasable Area             | Maximum Square Footage of signage per business |
|---------------------------------|------------------------------------------------|
| Less than 5,000 square feet     | 40                                             |
| 5,000 up to 15,000 square feet  | 80                                             |
| 15,000 up to 25,000 square feet | 120                                            |
| 25,000 up to 40,000 square feet | 160                                            |
| 40,000 square feet and above    | 200                                            |

- (B) Permitted Signs. Permitted signs in the Historic Downtown District include all of the following signs, some of which are individually limited in sign area, but all of which are limited by the total signage for the business or development site.

- (1) Building mounted signs.
- (2) Directory signs, two square feet maximum.
- (3) Signs painted on window glass. Buildings with 2<sup>nd</sup> and 3<sup>rd</sup> story occupants, are allowed one pane of window glass per business, preferably the bottom pane and only as tall as the width of the pane. In addition signs of other types, listed in the paragraph, subject to the total square footage requirement in the table listed for this sign district, are allowed.
- (4) Reader boards.
- (5) Sandwich boards, six square feet maximum, located in close proximity to the business advertised, but not located within the public right-of-way.
- (6) Swinging signs. Swinging signs that are mounted under a canopy, awning and awning-like structure, and shall maintain a clearance of seven feet from the bottom of the sign to the walkway beneath. Swinging signs must be mounted so that they swing freely.
- (7) Right angle signs, four square feet maximum. Right angle signs, whether mounted under a canopy, awning and awning-like structure or another location over the public walkway, shall maintain a clearance of seven feet from the bottom of the sign to the walkway beneath, and shall swing freely.

- (C) Window Advertising. Window advertising of the kind described in this paragraph shall not count against the total signage for a development site, but is regulated in the following manner. Not more than 25% of glass surfaces of windows facing a public street or right-of-way in any building in this district may be utilized for signage or any other opaque items that block the glass. This includes, but is not limited to, posters, fliers, advertisements, display racks, other interior furnishings, and similar materials or objects.

#### 4.07.04 Historic Neighborhood District Signs.

- (A) Total Signage. A total of 56 square feet of signage is permitted for each development site, which may be used to construct or erect any permitted sign, except that each development site may erect only one ground mounted sign. The ground mounted sign is permitted a maximum sign face and structure of not more than 48 square feet in area.
- (B) Height, Location and Materials of Ground Mounted Signs
- (1) Ground Mounted Sign. The maximum height of a ground mounted sign structure shall not exceed five feet. Ground mounted signs that are two feet, or less, in height may be constructed at the property line, all others must be setback far enough to be out of any visibility triangle formed by public or private ingress/egress to the property as determined by the City's Building Official. Ground mounted signs shall be constructed of natural materials or simulated natural materials. Illumination shall be provided by light fixtures mounted on the sign or indirectly from lights mounted on the ground. Neon lighting is not permitted.

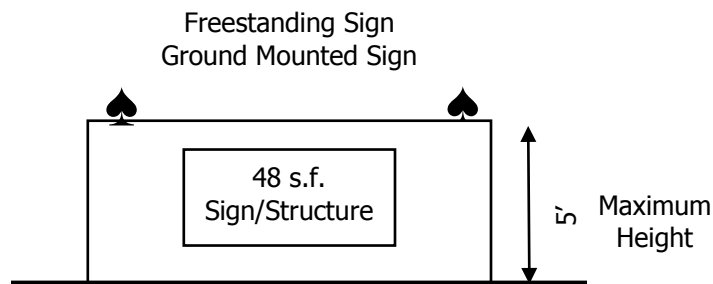


Figure 3

- (2) Reader boards are permitted in this sign district, and shall be included in the total square footage of allowable signage.
- (C) Building Mounted Signs. Building mounted signs are not limited in number and are permitted in the total signage for the development site.
- (D) Window Advertising. Window advertising of the kind described in this paragraph shall not count against the total signage for a development site, but is regulated in the following manner. Not more than 25% of glass surfaces of windows facing a public street or right-of-way in any commercial or industrial building may be utilized for signage or any other opaque items that block the glass. This includes, but is not limited to, posters, fliers, advertisements, display racks, other interior furnishings, and similar materials or objects.

#### **4.07.05 General District Signs.**

On-site signs are permitted accessory to structures on lots within the General District, as specified below.

- (A) Total Signage. A total of 100 square feet of signage is allowed for each development site, which may be used to construct or erect any permitted sign, except that each development site may erect only one ground mounted sign. The ground mounted sign is permitted a maximum sign face and structure of not more than 48 square feet in area.
- (B) Height and Location of Ground Mounted Sign.
  - (1) Ground Mounted Sign. The ground mounted sign is permitted a maximum sign face and structure of not more than 48 square feet as seen from one side. The maximum height of a ground mounted sign structure shall not exceed five feet. (See Figure 3 above) Ground mounted signs that are two feet, or less, in height may be constructed at the property line, all others must be setback far enough to be out of any visibility triangle formed by public or private ingress/egress to the property as determined by the City's Building Official.
  - (2) Reader boards are permitted as building mounted signs in this sign district and shall be included in the total square footage of allowable signage.
- (C) Building Mounted Signs. Building mounted signs are not limited in number and are permitted in the total signage for the development site.
- (D) Window Advertising. Window advertising of the kind described in this paragraph shall not count against the total signage for a development site, but is regulated in the following manner. Not more than 25% of glass surfaces of windows facing a public street or right-of-way in any commercial or industrial building may be utilized for signage or any other opaque items that block the glass. This includes, but is not limited to, posters, fliers, advertisements, display racks, other interior furnishings, and similar materials or objects.
- (E) Illumination for any sign shall be provided only by light fixtures mounted on the sign or indirectly from lights mounted on the ground. Neon lighting is not permitted.

#### **4.07.06 Center Signs.**

Shopping centers, professional or medical centers, and new automobile dealerships make up a special category of commercial land uses. Because they are made up of a center owner and individual businesses within the center, the following signage is permitted:

- (A) One freestanding pole or ground mounted center sign per frontage on an arterial or collector highway.
  - (1) Pole Mounted Sign.
    - (a) For centers with up to and including five businesses. A pole mounted sign, not greater than 20 feet in height, with a sign face area of not more than 110 square feet, and a 10-foot clear area between the ground and the bottom edge of the sign is permitted. The sign may be

constructed or erected on one or more poles, and requires no setback from the property line, so long as no pole, sign face, support or other structural member extends beyond the property line. Business directories are permitted as a part of the 110 square foot sign face, but not in addition to it. Individual business directory signs shall be a minimum of 12 inches in height.

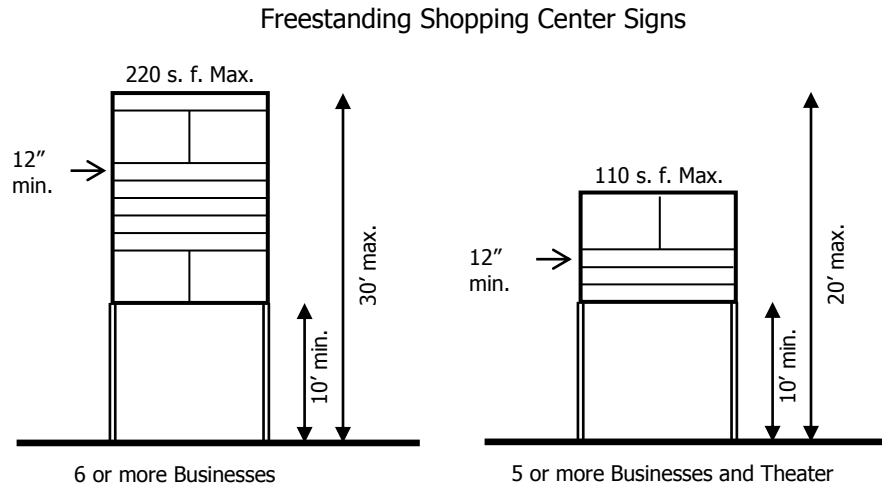


Figure 4

- (b) For centers with six businesses or more and for new automobile dealerships. A pole mounted sign, not greater than 30 feet in height, with a sign face area of not more than 220 square feet, and a 10 foot clear area between the ground and the bottom edge of the sign is permitted. The sign may be constructed or erected on one or more poles, and requires no setback from the property line, so long as no pole, sign face, support or other structural member extends beyond the property line. Business directories are permitted as a part of the 220 square foot sign face, but not in addition to it. Individual business directory signs shall be a minimum of 12 inches in height.

(2) Ground Mounted Sign.

- (a) For centers with up to and including five businesses. One ground mounted sign, per frontage on an arterial or collector is permitted with an overall sign face/structure of 64 square feet as measured from one side and limited to 8 feet in height. Maximum of two signs allowed. Ground mounted signs that are two feet, or less, in height may be constructed at the property line, all others must be setback far enough to be out of any visibility triangle formed by public or private ingress/egress to the property as determined by the City's Building Official. Business directories are permitted as a part of this sign, but not in addition to it. Individual business directory signs shall be a minimum of 12 inches in height.

- (b) For centers with six businesses or more and for new automobile dealerships. One ground mounted sign with an overall sign face/structure of 96 square feet as measured from one side and limited to 10 feet in height is allowed for the first 400 feet of frontage with an additional sign allowed for each additional 300 feet of frontage per frontage on an arterial or collector, up to a total maximum of three signs per development site. Ground mounted signs that are two feet, or less, in height may be constructed at the property line, all others must be setback far enough to be out of any visibility triangle formed by public or private ingress/egress to the property as determined by the City's Building Official. Business directories are permitted and shall be a minimum of 12 inches in height.

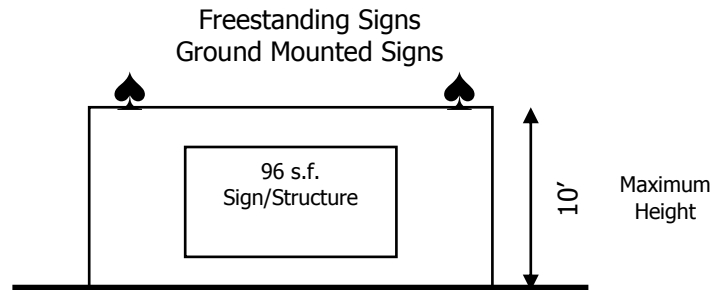


Figure 5

(3) Theatres in Shopping Centers.

- (a) Any movie theatre located in a shopping center with five or more acres, may have one pole mounted sign, not greater than 20 feet in height, with a sign face area of not more than 110 square feet, and a 10 foot clear area between the ground and the bottom edge of the sign. The sign may be constructed or erected on one or more poles, and requires no setback from the property line, so long as no pole, sign face, support or other structural member extends beyond the property line. Directories for the listing of movies and their show times are permitted as a part of the 110 square foot sign face, but not in addition to it. Individual directory signs shall be a minimum of 12 inches in height. Such sign shall contain only the name of the theatre, and a directory of the schedule of movies/films. Total sign face area shall be not more than 110 square feet.
- (b) As an option, any movie theatre located in a shopping center with five or more acres may be permitted instead of the pole sign in (a) above, one ground mounted sign with an overall sign face/structure of 96 square feet as measured from one side and limited to 10 feet in height. Ground mounted signs that are two feet, or less, in height may be constructed at the property line, all others must be setback far enough to be out of any visibility triangle formed by public or private ingress/egress to the property as determined by the City's Building Official. Directories for the listing of movies and their show times are permitted as a part of this sign, but not in addition to it. Such sign shall contain only the name of the theatre, and a directory of the schedule of movies/films. Individual directory signs shall be a minimum of twelve (12) inches in height.



- (4) Directional Signs. Centers with six businesses or more and new automobile dealerships, if located on parcels greater than 10 acres in size, may incorporate directional signs into an approved sign package. Directional signs may only be utilized if the property owner agrees to eliminate one other pole or ground mounted sign that they would otherwise be entitled to construct. Individual directional signs shall:
- (a) Not exceed twenty-four (24) square feet in area (inclusive of the sign cabinet area);
  - (b) Be limited to one (1) directional sign per primary customer entrance.
  - (c) If mounted on a pole not exceed nine and one-half (9-1/2) feet in height with a six and one half (6-1/2) foot clear area between the ground and the bottom edge of the sign; and if ground mounted not exceed three (3) feet in height.
  - (d) Be setback a minimum of seven and one-half (7-1/2) feet from the public right-of-way line and comply with all other visibility requirements contained elsewhere in this code.
  - (e) Only be allowed at entrances fronting on roadways classified as collector or local roads or on approved frontage or backage roads associated with an approved Corridor Access Management Plan.

- (B) Business in a Center. Individual businesses within a center are permitted building mounted signs only, which include signs mounted flat to the front of the building, right angle signs, awning signs, and swinging signs. All building mounted signs are limited to the total signage for an individual business in a center, based on the following table:

| <b>Gross Leasable Area</b>      | <b>Maximum Square Footage of building mounted signage per business</b> |
|---------------------------------|------------------------------------------------------------------------|
| Less than 5,000 square feet     | 50                                                                     |
| 5,000 up to 15,000 square feet  | 100                                                                    |
| 15,000 up to 25,000 square feet | 150                                                                    |
| 25,000 up to 40,000 square feet | 200                                                                    |
| 40,000 square feet and above    | 250                                                                    |

- (C) Window Advertising. Window advertising of the kind described in this paragraph shall not count against the total signage for a development site, but is regulated in the following manner. Not more than 25% of glass surfaces of windows facing a public street or right-of-way in any commercial or industrial building may be utilized for signage or any other opaque items that block the glass. This includes, but is not limited to, posters, fliers, advertisements, display racks, other interior furnishings, and similar materials or objects.

#### **4.07.07 Service Center Signs.**

Service centers such as Wal-Mart Super Centers, Target Department Stores and the like make up a special category of commercial land uses. The following signage is permitted:

- (A) One freestanding pole or ground mounted center sign per frontage on a arterial or collector highway. Maximum of two signs allowed.
- (1) Pole Mounted Sign. A pole mounted sign, not greater than 20 feet in height, with a sign face area of not more than 64 square feet, and a 10 foot clear area between the ground and the bottom edge of the sign is permitted. The sign may be constructed or erected on one or more poles, and requires no setback from the property line, so long as no pole, sign face, support or other structural member extends beyond the property line. Business directories are permitted as a part of the 64 square foot sign face, but not in addition to it.
- (2) Ground Mounted Sign. One ground mounted sign, per frontage on an arterial or collector is permitted with an overall sign face/structure of 96 square feet as measured from one side and limited to 10 feet in height. A maximum of two signs shall be allowed. Ground mounted signs that are two feet, or less, in height may be constructed at the property line, all others must be setback far enough to be out of any visibility triangle formed by public or private ingress/egress to the property as determined by the City's Building Official.
- (B) Building Mounted Signs. A service center is also permitted building mounted signs mounted flat to the front of the building or painted on the wall, based on the following table:

| <b>Gross Leasable Area</b>      | <b>Maximum Square Footage of building mounted signage per service center</b> |
|---------------------------------|------------------------------------------------------------------------------|
| 15,000 up to 25,000 square feet | 150                                                                          |
| 25,000 up to 40,000 square feet | 200                                                                          |
| 40,000 square feet and above    | 250                                                                          |

- (C) Window Advertising. Window advertising of the kind described in this paragraph shall not count against the total signage for a development site, but is regulated in the following manner. Not more than 25% of glass surfaces of windows facing a public street or right-of-way in any commercial or industrial building may be utilized for signage or any other opaque items that block the glass. This includes, but is not limited to, posters, fliers, advertisements, display racks, other interior furnishings, and similar materials or objects.

**4.07.08 Drive-thru Restaurant Menu Signs.** Drive-thru restaurants are permitted one outdoor menu board per drive-thru lane. The maximum sign face area shall not exceed 32 square feet nor shall the sign structure exceed six feet in height. Said menu board(s) shall be setback at least as far as the front of the restaurant and shall not count against the total signage for the development site.

**4.07.09 Entrance/ Exit/ Private Parking Signs.** Small entrance, exit and private parking signs are permitted on professional, commercial and industrial development sites. Such signs must include the words "entrance" "exit" "private parking", and arrows or both. Corporate/business name and/or logos may be included as part of this sign and shall not be included in the overall square footage of allowable signage for the business. The sign face shall be limited to four square feet in area, shall be less than two feet in height, and shall be located only on private property.

**4.07.10 Grand Opening Signs.** The following displays and related paraphernalia are permitted on a temporary basis in connection with a Grand Opening of a new business or a relocated business in a new area. Displays consisting of one or more banners, flags, pennants, ribbons, spinners, streamers or captive balloons, or other objects or material fastened in such a manner as to move in the wind; and searchlights, lasers, skyjectors, equipment and paraphernalia used to advertise or promote a business or to attract customers to a property, are all included in grand opening signs. Grand Opening Displays are by special permit only issued by the Building Official. Such permit shall be valid for a specified period not to exceed 30 days, after which time the sign, displays and related paraphernalia shall be removed.

**4.07.11 Churches.** Churches are permitted one ground mounted sign not 64 square feet, with a maximum height of eight feet. Ground mounted signs that are two feet, or less, in height may be constructed at the property line, all others must be setback far enough to be out of any visibility triangle formed by public or private ingress/egress to the property as determined by the City's Building Official. Neon lighting is not permitted. Reader boards are permitted and shall be included in the total square footage of this sign. In addition, one sign not to exceed four square feet mounted flat against the wall of the structure is permitted and may incorporate a reader board.

**4.07.12 Signs in Residential Zoning Districts.** Certain uses that may be located in residential zoning districts are permitted to construct or erect signs. Those uses are identified with the regulations that apply to signs in the following paragraphs:

**4.07.12.01 Approved Special Uses.** Special uses, approved by special exception under Section 3.10.00 of the City's Unified Land Development Code, are allowed a total of 24 square feet of signage which may be used to construct or erect any permitted sign, except that each development site may erect only one ground mounted sign. In addition to the criteria listed below each sign shall conform to the design criteria located in the Historic Neighborhood District. Such uses include but are not limited to tearooms, bed and breakfast inns, churches and gift and antique shops.

- (A) **Location and Height of Ground Mounted Sign.** Ground Mounted Sign. The ground mounted sign is permitted a maximum sign face and structure of not more than 16 square feet as seen from one side. The maximum height of a ground mounted sign structure shall not exceed four feet. Ground mounted signs that are two feet, or less, in height may be constructed at the property line, all others must be setback far enough to be out of any visibility triangle formed by public or private ingress/egress to the property as determined by the City's Building Official.

- (B) **Building Mounted Signs.** One building mounted sign is permitted for each development site. The copy area of this sign is included in the total allowable signage for the development site.
- (C) Signage for approved Special Uses in nonresidential zoning districts shall only be illuminated by light fixtures mounted on the sign or indirectly from lights mounted on the ground. Signage for approved Special Uses in residential zoning districts shall not be illuminated in any manner.

**4.07.12.02 Yard or Garage Sale.** Yard or garage sale signs are permitted for the legal length of the garage or yard sale as per City Code. Yard or garage sale signs shall not exceed four square feet in size and shall not exceed four feet in height. Yard or garage sales are permitted for a period of not more than two consecutive days and not more often than twice per year. See Section 58-27 of the Code of Ordinances.

**4.07.12.03 Illumination.** The general provisions stated in paragraph 4.01.00(D) above govern lighting of signs in residential zoning districts.

**4.07.12.04 Development Signs.** Development signs are permitted to display only the name of subdivision, manufactured home community, condominium or apartment complex, or campus. Development signs shall be addressed during development review, rezoning, and subdivision processes, and may be approved in accordance with such decisions. In the case of a subdivision review, conditional use permit, a planned unit development, or DRI, development signs may depart from the regulations set forth in the following. A development sign shall not advertise real estate for sale or indicate the availability of units for rent.

- (A) A development sign shall be a ground mounted sign. The maximum area of the sign face and structure as seen from one side shall not exceed 48 square feet in area. The maximum height of a ground mounted sign structure shall not exceed four feet. Development signs that are two feet, or less, in height may be constructed at the property line, all others must be setback far enough to be out of any visibility triangle formed by public or private ingress/egress to the property as determined by the City's Building Official. Two freestanding ground mounted signs, one on each side of every approved entrance are allowed.
- (B) Development signs shall be constructed of natural materials or simulated natural materials. Illumination shall be provided by light fixtures mounted on the sign or indirectly from lights mounted on the ground. Neon lighting is not permitted.
- (C) As an option, a wall or fence mounted sign may be used, subject to the regulations of the first paragraph of 4.07.12.04 above.

**4.07.12.05 Non-Conforming Uses.** Non-conforming uses, as defined in Article 7.12.01 of the ULDC, are allowed to maintain the signage that exists on a site as of the effective date of this amendment. Signs considered, as being non-conforming, pursuant to Article 4.10.00 of the ULDC shall be regulated as such. New or replacement signs shall comply with the provisions of Article 4.07.12.01 of the ULDC.

**4.07.12.06 Single Family Community - Model Home Centers and Sales Offices.**

Model home centers and sales offices located within an approved Planned Development shall be permitted to have the following promotional signage. All signage allowed pursuant to this section shall terminate when the model home center and sales offices cease to function.

- (A) Up to three pole mounted flags depicting "model", "open", "welcome", etc., per model home lot inclusive of paved parking lot with an additional four flags allowed at each entrance to the development. Each flag shall not exceed fifteen (15) square feet.
- (B) One ground mounted sign for each model home lot along with one sign for each entrance to the development. Total area of said ground mounted sign shall not exceed twenty-four (24) square feet and shall not be greater than eight feet in height.
- (C) Temporary signs that do not exceed 3 square feet in size or 3 feet in height are permitted on site, between noon on Friday and sundown on Sunday.

**4.07.12.07 Multi-Family Community.** Multiple family communities with an approved density in excess of eight units per acre and approved for not less than eighty (80) total units shall be permitted to have the following promotional signage during the time between the first and last residential building being completed. Upon issuance of a certificate of occupancy for the last residential building the total number of promotional signs shall be reduced by half and clustered at the project entrances.

- (A) One flag depicting "open", "welcome", etc for each fifty (50) feet of frontage along a collector roadway with an additional four flags at the on-site business office of the community. Each flag shall not exceed fifteen (15) square feet in size.
- (B) One ground mounted sign for each seventy-five (75) feet of collector roadway frontage. Total area of said ground mounted sign shall not exceed sixteen (16) square feet and shall not be greater than six feet in height. One ground mounted sign not exceeding twenty-four (24) square feet in size shall be permitted at each entry to the community.
- (C) The total number of flags based on 50' centers and signs on 75' centers may be clustered.
- (D) Temporary signs that do not exceed 3 square feet in size or 3 feet in height are permitted, on site, between noon on Friday and sundown on Sunday.

**4.07.13 Community Banner Signs.** Community Banner Signs are allowed subject to the following provisions:

- (A) Community Banners shall only be located on public banner poles erected by the City for that use.
- (B) Letters on the sign shall not be less than 12 inches in height except for lettering associated with sponsor logos.
- (C) Banners shall not be illuminated or have any attention-getting lights or other appurtenances
- (D) Sponsor logos shall be limited to the corporate symbol and/or name of the sponsor.

**4.07.14 Community Heritage Signs** Community Heritage Signs identify sites of historical significance, community public landmarks and/or facilities which serve the interests of the greater Bartow area and/or tourist population subject to the following provisions:

- (A) Community Heritage Signs shall be owned, maintained and controlled by a federal, state, or local government entity or a non-profit entity organized pursuant to Section 501(c)(3) of the Internal Revenue Code.
- (B) Community Heritage Signs may include both on-site and off-site roadway/directional signage.
- (C) The application for a Community Heritage Sign shall be approved through the Master Sign Plan approval process and shall contain sufficient documentation and justification for the type of sign being proposed. This may include but not be limited to number and type, amount of copy area, height, location and materials used. If the sign is to be located within the boundary of the City's Historic District then a Certificate of Appropriateness from the Historic Architectural Review Board shall be obtained.
- (D) The application for a Community Heritage Sign shall include a determination by City staff that:
  - (1) The facility is a site of historical significance or a community public landmark/facility;
  - (2) The proposed signage fosters the public health, safety, and welfare by promoting safe and efficient public access to the site of historical significance or community public landmark/facility or; and
  - (3) The signage is in the best interest of the City of Bartow and does not have a negative impact on surrounding land uses.

#### **4.08.00 Measurement of Sign Area.**

The area of a sign shall be the area within the smallest square, rectangle, parallelogram, triangle, circle or semicircle, the sides of which touch the extreme points or edges of the sign face.

Where two sign faces are placed back to back on a single sign structure, and the faces are at no point more than four feet apart, the area of the sign shall be counted as the area of one of the faces. Where four sign faces on a single sign structure are arranged in a square, rectangle, or diamond, the area of the sign shall be the area of the two largest faces.

Where a sign is in the form of a three-dimensional object, the area shall be determined by drawing a square, rectangle, parallelogram, triangle, circle or semicircle, the sides of which touch the extreme points or edges of the projected image of the sign and multiplying that area by two. The "projected image" is that image created by tracing the largest possible two-dimensional outline of the sign.

Where a sign is composed of letters or pictures attached directly to or painted on a wall, a facade or marquee, and the letters or pictures are not enclosed by a border or trimming, the sign area shall be the sum of areas within the smallest rectangle, parallelogram, triangle, circle or semicircle, the sides of which touch the extreme points of each letter or picture.

**4.09.00 Maintenance.** All signs, including their supports, braces, guys and anchors, electrical parts and lighting fixtures, and all painted and display areas, shall be maintained in accordance with the building and electrical codes adopted by Bartow, and shall present a neat and clean appearance. The vegetation around, in front of, behind, and underneath the base of ground signs for a distance of ten feet shall be neatly trimmed and free of unsightly weeds, and no rubbish or debris that would constitute a fire or health hazard shall be permitted under or near the sign.

**4.10.00 Nonconforming Signs.** A sign that does not strictly comply with the regulations of this Article may be both a nonconforming use and a nonconforming structure. For nonconforming signs, the effect is the same. Every nonconforming signs shall be brought into compliance with the regulations of the Article under certain conditions or within a time specified herein.

**4.10.01 Damage Requiring Compliance.** Nonconforming signs shall be maintained in the same good appearance and safe condition as required by this chapter and the City's building code for conforming signs and structures in the City. Nonconforming sign structures that become damaged from any cause and are deemed by the building official to no longer comply with the building code shall be removed within 30 days and be replaced with a sign and structure that is in compliance with these regulations.

**4.10.02 Alterations and Modifications Requiring Compliance.** Alterations, modifications and other changes can result in the loss of the nonconforming status of a sign and/or sign structure. The following activities or circumstances constitute alterations, modifications, changes and actions that result in the loss of nonconforming status and the requirement that the sign and/or sign structure be brought into full compliance with this Article or removed entirely.

- (A) A change in the land use conducted on the development site. A change of land use shall mean from one land use to another as referenced in the City's Unified Land Development Code, Table 2.04.01 (A).

- (B) A change in ownership and the name of a business and which involves the voluntary replacement of the face of a nonconforming sign, even though the business and other structures on the development site are not otherwise altered. Individual business directory boards for non-conforming Center Signs may be changed without requiring the entire non-conforming sign to be brought into compliance.
- (C) Relocation, alteration, renovation or replacement of a nonconforming sign structure whether voluntarily by the owner of the business, or because of the required relocation of the nonconforming sign structure because of an acquisition or taking associated with a public improvement.
- (D) Movement, in whole or in part, of a nonconforming sign structure to another location on the same parcel or lot that it occupies, or transportation of it to any other parcel of land in the City, unless such movement or transportation shall render the sign and/or sign structure fully conforming with this Article.

#### **4.10.03 Schedule for Compliance of All Nonconforming Signs.**

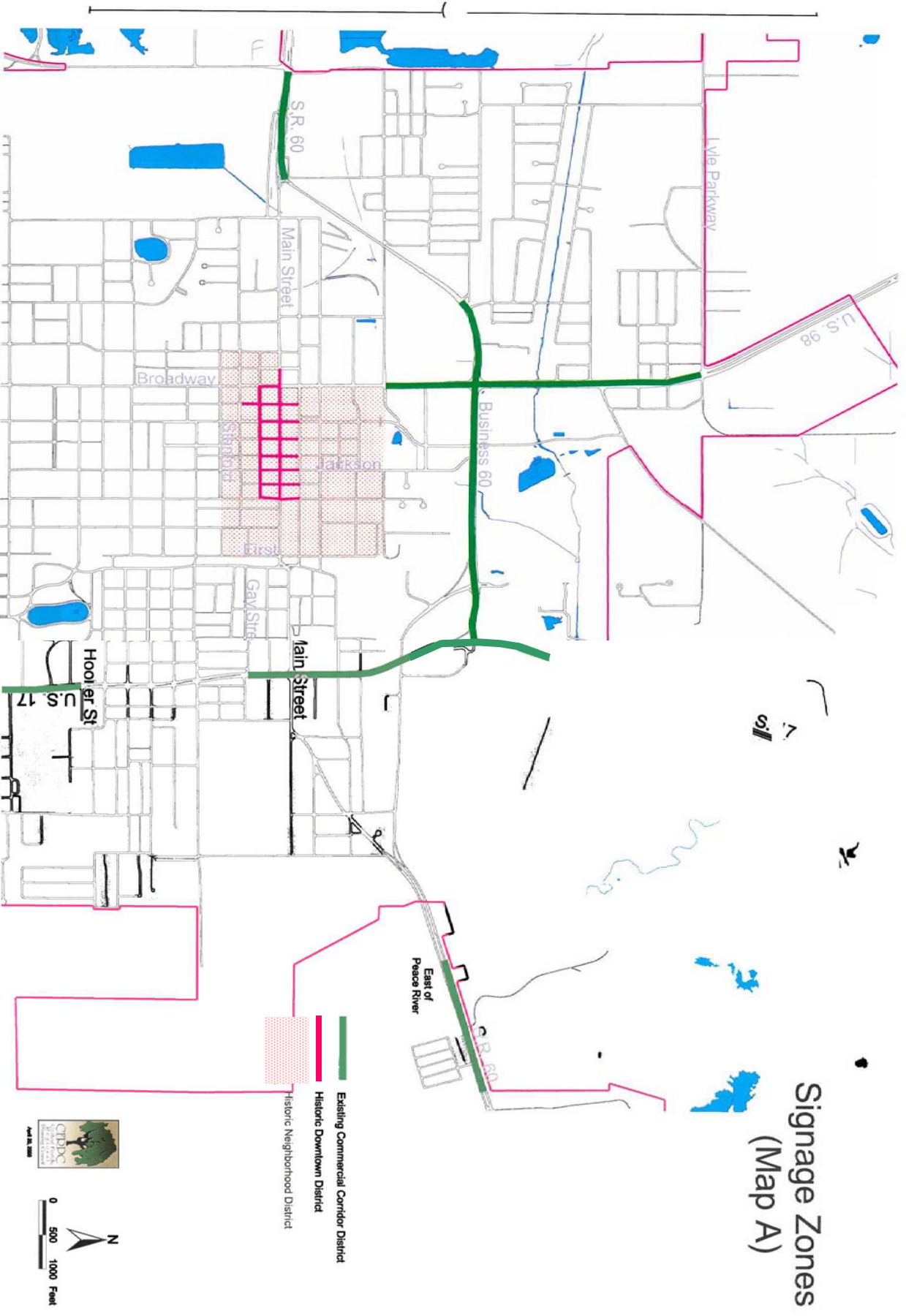
Nonconforming signs shall be removed or altered to reflect compliance with the land development code according to the following schedule.

- (A) **Illegal Signs.** Portable signs, signs of two square feet or less, signs consisting of one or more banners, flags, pennants, ribbons, spinners, streamers or captive balloons, or other objects or material fastened in such a manner as to move in the wind, signs that have been placed on public property without a permit, signs not properly maintained or in hazardous condition, and other types of signs that do not comply with the terms, conditions, provisions, and intent of this Article, shall be removed within one month of the effective date of this Article.
- (B) **Billboards and Off-Premises Signs.** All billboards are non-conforming except if compensation is required under the provisions of F.S. 479. No billboard or other off-premise sign shall be permitted within the City of Bartow after the effective date of this Article.
  - (1) **Existing Billboards.** All existing billboards not on a federal aid to primary-highway system roadway within the City of Bartow are nonconforming and shall cease to exist (sunset) after an amortization period of not more than 10 years following adoption of this Article.
  - (2) **Annexation of Billboards.** Each billboard annexed after the effective date of this Article billboards and which are not on a federal aid to primary-highway system roadway shall become nonconforming at the time of annexation; and, cease to exist after an amortization period of not more than ten (10) following the effective date of the Annexation Ordinance.
- (C) **Nonconforming On-Premises Signs.** All non-conforming on-premises signs will come into compliance within twenty (20) years upon the effective date of this Article.

[RESERVED]



# Signage Zones (Map A)





## ARTICLE 5

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[RESERVED]

## ARTICLE 5

### RESOURCE PROTECTION STANDARDS

#### 5.01.101 Administration.

**5.01.101.1 Title.** These regulations shall be known as the 2016 *Floodplain Management Ordinance* of City of Bartow, hereinafter referred to as "this ordinance."

**5.01.101.2 Scope.** The provisions of this ordinance shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the *Florida Building Code*; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

#### 5.01.101.3 Intent.

The purposes of this ordinance and the flood load and flood resistant construction requirements of the *Florida Building Code* are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

- (A) Minimize unnecessary disruption of commerce, access and public service during times of flooding;
- (B) Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
- (C) Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
- (D) Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
- (E) Minimize damage to public and private facilities and utilities;
- (F) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
- (G) Minimize the need for future expenditures of public funds for flood control projects and response to and recovery from flood events; and

- (H) Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22.

**5.01.101.4 Coordination with the *Florida Building Code*.** This ordinance is intended to be administered and enforced in conjunctions with the *Florida Building Code*. Where cited, ASCE 24 refers to the edition of the standard that is reference by the *Florida Building Code*.

**5.01.101.5 Warning.** The degree of flood protection required by this ordinance and the *Florida Building Code*, as amended by this community, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this ordinance.

**5.01.101.6 Disclaimer of Liability.** This ordinance shall not create liability on the part of the City Commission of the City of Bartow or by any officer or employee thereof for any flood damage that results from reliance on this ordinance or any administrative decision lawfully made thereunder.

## **5.01.102 Applicability.**

**5.01.102.1 General.** Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

**5.01.102.2 Areas to Which This Ordinance Applies.** This ordinance shall apply to all flood hazard areas within the City of Bartow, as established in Section 5.01.102.3 of this ordinance.

**5.01.102.3** The Flood Insurance Study for Polk County, Florida and Incorporated Areas dated December 22, 2016, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this ordinance and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the City of Bartow, Building Department, 450 North Wilson Avenue, Bartow, Florida 33830.



**5.01.102.4 Submission of Additional Data to Establish Flood Hazard Areas.** To establish flood hazard areas and base flood elevations, pursuant to Section 5.01.105 of this ordinance the Floodplain Administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:

- (A) Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this ordinance and, as applicable, the requirements of the *Florida Building Code*.
- (B) Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.

**5.01.102.5 Other Laws.** The provisions of this ordinance shall not be deemed to nullify any provisions of local, state or federal law.

**5.01.102.6 Abrogation and Greater Restrictions.** This ordinance supersedes any ordinance in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing ordinances including but not limited to land development regulations, zoning ordinances, stormwater management regulations, or the *Florida Building Code*. In the event of a conflict between this ordinance and any other ordinance, the more restrictive shall govern. This ordinance shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this ordinance.

**5.01.102.7 Interpretation.**

In the interpretation and application of this ordinance, all provisions shall be:

- (A) Considered as minimum requirements;
- (B) Liberally construed in favor of the governing body; and
- (C) Deemed nether to limit nor repeal any other powers granted under state statutes.

**5.01.103 Duties and Powers of the Floodplain Administrator.**

**5.01.103.1 Designation.** The Building Official is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

**5.01.103.2 General.** The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this ordinance. The Floodplain Administrator shall have the authority to render interpretations of this ordinance consistent with the intent and purpose of this ordinance and may establish policies and procedures in order to clarify

the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this ordinance without the granting of a variance pursuant to Section 5.01.107 of this ordinance.

#### **5.01.103.3 Applications and permits.**

The Floodplain Administrator, in coordination with other pertinent offices of the community, shall:

- (A) Review applications and plans to determine whether proposed new development will be located in flood hazard areas;
- (B) Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this ordinance;
- (C) Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;
- (D) Provide available flood elevation and flood hazard information;
- (E) Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;
- (F) Review applications to determine whether proposed development will be reasonably safe from flooding;
- (G) Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*, when compliance with this ordinance is demonstrated, or disapprove the same in the event of noncompliance; and
- (H) Coordinate with and provide comments to the Building Official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this ordinance.

#### **5.01.103.4 Substantial improvement and substantial damage determinations.**

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- (A) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or

structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

- (B) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (C) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (D) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the *Florida Building Code* and this ordinance is required.

**5.01.103.5 Modifications of the strict application of the requirements of the *Florida Building Code*.** The Floodplain Administrator shall review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the *Florida Building Code* to determine whether such requests require the granting of a variance pursuant to Section 5.01.107 of this ordinance.

**5.01.103.6 Notices and Orders.** The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this ordinance.

**5.01.103.7 Inspections.** The Floodplain Administrator shall make the required inspections as specified in Section 5.01.106 of this ordinance for development that is not subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*. The Floodplain Administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

**5.01.103.8 Other Duties of the Floodplain Administrator.**

The Floodplain Administrator shall have other duties, including but not limited to:

- (A) Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 5.01.103.4 of this ordinance;
- (B) Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);

- (C) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available;
- (D) Review required design certifications and documentation of elevations specified by this ordinance and the *Florida Building Code* to determine that such certifications and documentations are complete; and
- (E) Notify the Federal Emergency Management Agency when the corporate boundaries of City of Bartow are modified.

**5.01.103.9 Floodplain Management Records.** Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this ordinance and the flood resistant construction requirements of the *Florida Building Code*, including Flood Insurance Rate Maps; Letters of Map Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the *Florida Building Code* and this ordinance; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this ordinance and the flood resistant construction requirements of the *Florida Building Code*. These records shall be available for public inspection at City of Bartow Building Department, 450 North Wilson Avenue, Bartow, Florida 33830.

#### **5.01.104 Permits.**

**5.01.104.1 Permits Required.** Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this ordinance, including buildings, structures and facilities exempt from the *Florida Building Code*, which is wholly within or partially within any flood hazard area shall first make application to the Floodplain Administrator, and the Building Official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this ordinance and all other applicable codes and regulations has been satisfied.

**5.01.104.2 Floodplain Development Permits or Approvals.** Floodplain development permits or approvals shall be issued pursuant to this ordinance for any development activities not subject to the requirements of the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

### **5.01.104.3 Buildings, Structures and Facilities Exempt from the *Florida Building Code*.**

Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the *Florida Building Code* and any further exemptions provided by law, which are subject to the requirements of this ordinance:

- (A) Railroads and ancillary facilities associated with the railroad.
- (B) Nonresidential farm buildings on farms, as provided in section 604.50, F.S.
- (C) Temporary buildings or sheds used exclusively for construction purposes.
- (D) Mobile or modular structures used as temporary offices.
- (E) Those structures or facilities of electric utilities, as defined in section 366.02, F.S., which are directly involved in the generation, transmission, or distribution of electricity.
- (F) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
- (G) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
- (H) Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
- (I) Structures identified in section 553.73(10)(k), F.S., are not exempt from the *Florida Building Code* if such structures are located in flood hazard areas established on Flood Insurance Rate Maps

### **5.01.104.4 Application for a Permit or Approval.**

To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the community. The information provided shall:

- (A) Identify and describe the development to be covered by the permit or approval.

- (B) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
- (C) Indicate the use and occupancy for which the proposed development is intended.
- (D) Be accompanied by a site plan or construction documents as specified in Section 5.01.105 of this ordinance.
- (E) State the valuation of the proposed work.
- (F) Be signed by the applicant or the applicant's authorized agent.
- (G) Give such other data and information as required by the Floodplain Administrator.

**5.01.104.5 Validity of Permit or Approval.** The issuance of a floodplain development permit or approval pursuant to this ordinance shall not be construed to be a permit for, or approval of, any violation of this ordinance, the *Florida Building Codes*, or any other ordinance of this community. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions.

**5.01.104.6 Expiration.** A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.

**5.01.104.7 Suspension or Revocation.** The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this ordinance or any other ordinance, regulation or requirement of this community.

**5.01.104.8 Other Permits Required.**

Floodplain development permits and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including but not limited to the following:

- (A) The Southwest Florida Water Management District; section 373.036, F.S.
- (B) Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.
- (C) Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.

- (D) Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.
- (E) Federal permits and approvals.

### **5.01.105 Site Plans and Construction Documents**

#### **5.01.105.1 Information for Development in Flood Hazard Areas.**

The site plan or construction documents for any development subject to the requirements of this ordinance shall be drawn to scale and shall include, as applicable to the proposed development:

- (A) Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.
- (B) Where flood hazard areas, base flood elevations, or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 5.01.105.02 of this ordinance.
- (C) Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and the base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 5.01.105.2(1) of this ordinance.
- (D) Location of the proposed activity and proposed structures, and locations of existing buildings and structures.
- (E) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
- (F) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.
- (G) Existing and proposed alignment of any proposed alteration of a watercourse.

The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this ordinance but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this ordinance.

#### **5.01.105.2 Information in Flood Hazard Areas Without Base Flood Elevations (Approximately Zone A)**

Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the Floodplain Administrator shall:

- (A) Require the applicant to develop base flood elevation data prepared in accordance with currently accepted engineering practices.
- (B) Obtain, review, and provide to applicants' base flood elevation and floodway data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source.
- (C) Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the Floodplain Administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate.
  - (1) Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or
  - (2) Specify that the base flood elevation is two (2) feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than two (2) feet.
- (D) Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

#### **5.01.105.3 Additional Analyses and Certifications.**

As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

- (A) For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in Section 5.01.105.4 of this ordinance and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.



- (B) For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one (1) foot at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.
- (C) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in Section 5.01.105.4 of this ordinance.

**5.01.105.4 Submission of Additional Data.** When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

#### **5.01.106 Inspections.**

**5.01.106.1 General.** Development for which a floodplain development permit or approval is required shall be subject to inspection.

**5.01.106.2 Development Other Than Buildings and Structures.** The Floodplain Administrator shall inspect all development to determine compliance with the requirements of this ordinance and the conditions of issued floodplain development permits or approvals.

**5.01.106.3 Buildings, Structures, and Facilities Exempt from the *Florida Building Code*.** The Floodplain Administrator shall inspect buildings, structures and facilities exempt from the *Florida Building Code* to determine compliance with the requirements of this ordinance and the conditions of issued floodplain development permits or approvals.

**5.01.106.4 Buildings, structures and facilities exempt from the *Florida Building Code*, lowest floor inspection.**

Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the *Florida Building Code*, or the owner's authorized agent, shall submit to the Floodplain Administrator:

- (A) If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or
- (B) If the elevation used to determine the required elevation of the lowest floor was determined in accordance with Section 5.01.105.2(3)(b) of this ordinance, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

**5.01.106.5 Buildings, Structures and Facilities Exempt from the *Florida Building Code*, final inspection.** As part of the final inspection, the owner or owner's authorized agent shall submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in Section 5.01.106.4 of this ordinance.

**5.01.106.6 Manufactured Homes.** The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this ordinance and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the Floodplain Administrator.

**5.01.107 Variances and Appeals.**

**5.01.107.1 General.** The Board of Adjustment shall hear and decide on requests for appeals and requests for variances from the strict application of this ordinance. Pursuant to section 553.73(5), F.S., the Board of Adjustment shall hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the *Florida Building Code*.

**5.01.107.2 Appeals.** The Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the administration and enforcement of this ordinance. Any person aggrieved by the decision may appeal such decision to the Circuit Court, as provided by Florida Statutes.

**5.01.107.3 Limitations on Authority to Grant Variances.** The Board of Adjustment shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 5.01.107.7 of this ordinance, the conditions of issuance set forth in Section 5.01.107.8 of this ordinance, and the comments and recommendations of the Floodplain Administrator and the Building Official. The Board of Adjustment has the right to attach such conditions as it deems necessary to further the purposes and objectives of this ordinance.

**5.01.107.4 Restrictions in Floodways.** A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in Section 5.01.105.3 of this ordinance.

**5.01.107.5 Historic Buildings.** A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the *Florida Building Code, Existing Building*, Chapter 12 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the *Florida Building Code*.

**5.01.107.6 Functionally Dependent Uses.** A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this ordinance, provided the variance meets the requirements of Section 5.01.107.4, is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.

**5.01.107.7 Considerations for Issuance of Variances.**

In reviewing requests for variances, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all other applicable provisions of the *Florida Building Code*, this ordinance, and the following:

- (A) The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
- (B) The danger to life and property due to flooding or erosion damage;
- (C) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
- (D) The importance of the services provided by the proposed development to the community;

- (E) The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
- (F) The compatibility of the proposed development with existing and anticipated development;
- (G) The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
- (H) The safety of access to the property in times of flooding for ordinary and emergency vehicles;
- (I) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (J) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

#### **5.01.107.8 Conditions for Issuance of Variances**

Variances shall be issued only upon:

- (A) Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this ordinance or the required elevation standards;
- (B) Determination by the Board of Adjustment that:
  - (1) Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;
  - (2) The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and
  - (3) The variance is the minimum necessary, considering the flood hazard, to afford relief;
- (C) Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and

- (D) If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

### **5.01.108 Violations.**

**5.01.108.1 Violations.** Any development that is not within the scope of the *Florida Building Code* but that is regulated by this ordinance that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this ordinance, shall be deemed a violation of this ordinance. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this ordinance or the *Florida Building Code* is presumed to be a violation until such time as that documentation is provided.

**5.01.108.2 Authority.** For development that is not within the scope of the *Florida Building Code* but that is regulated by this ordinance and that is determined to be a violation, the Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.

**5.01.108.3 Unlawful Continuance.** Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by Section 1-14 of the City of Bartow Code of Ordinances, or pursuant to the table of penalties as set forth in Ordinance No. 2016-02 and Resolution No. 16-3920-R.

### **5.01.201 Definitions - General.**

**5.01.201.1 Scope.** Unless otherwise expressly stated, the following words and terms shall, for the purposes of this ordinance, have the meanings shown in this section.

**5.01.201.2 Terms Defined in the *Florida Building Code*.** Where terms are not defined in this ordinance and are defined in the *Florida Building Code*, such terms shall have the meanings ascribed to them in that code.

**5.01.201.3 Terms Not Defined.** Where terms are not defined in this ordinance or the *Florida Building Code*, such terms shall have ordinarily accepted meanings such as the context implies.

### **5.01.202 Definitions.**

Alteration of a watercourse: A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

Appeal: A request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.

ASCE 24: A standard titled *Flood Resistant Design and Construction* that is referenced by the *Florida Building Code*. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

Base flood: A flood having a 1-percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, Section 202.] The base flood is commonly referred to as the "100-year flood" or the "1-percent-annual chance flood."

Base flood elevation: The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM). [Also defined in FBC, B, Section 202.]

Basement: The portion of a building having its floor subgrade (below ground level) on all sides. [Also defined in FBC, B, Section 202; see "Basement (for flood loads)".]

Design flood: The flood associated with the greater of the following two areas: [Also defined in FBC, B, Section 202.]

1. Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or
2. Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

Design flood elevation: The elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to 2 feet. [Also defined in FBC, B, Section 202.]

Development: Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities.

**Encroachment:** The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

**Existing building and existing structure:** Any buildings and structures for which the "start of construction" commenced November 3, 1980. [Also defined in FBC, B, Section 202.]

**Existing manufactured home park or subdivision:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before November 3, 1980.

**Expansion to an existing manufactured home park or subdivision:** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Federal Emergency Management Agency (FEMA):** The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

**Flood or flooding:** A general and temporary condition of partial or complete inundation of normally dry land from: [Also defined in FBC, B, Section 202.]

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

**Flood damage-resistant materials:** Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Also defined in FBC, B, Section 202.]

**Flood hazard area:** The greater of the following two areas: [Also defined in FBC, B, Section 202.]

1. The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.
2. The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

**Flood Insurance Rate Map (FIRM):** The official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community. [Also defined in FBC, B, Section 202.]

**Flood Insurance Study (FIS):** The official report provided by the Federal Emergency Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the base flood, and supporting technical data. [Also defined in FBC, B, Section 202.]

**Floodplain Administrator:** The office or position designated and charged with the administration and enforcement of this ordinance (may be referred to as the Floodplain Manager).

**Floodplain development permit or approval:** An official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this ordinance.

**Floodway:** The channel of a river or other riverine watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. [Also defined in FBC, B, Section 202.]

**Floodway encroachment analysis:** An engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the evaluation shall be prepared by a qualified Florida licensed engineer using standard engineering methods and models.

**Florida Building Code:** The family of codes adopted by the Florida Building Commission, including: *Florida Building Code, Building; Florida Building Code, Residential; Florida Building Code, Existing Building; Florida Building Code, Mechanical; Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.*

**Functionally dependent use:** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long-term storage or related manufacturing facilities.

**Highest adjacent grade:** The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

**Historic structure:** Any structure that is determined eligible for the exception to the flood hazard area requirements of the *Florida Building Code, Existing Building*, Chapter 12 Historic Buildings.

**Letter of Map Change (LOMC):** An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

**Letter of Map Amendment (LOMA):** An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

**Letter of Map Revision (LOMR):** A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.



Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

Light-duty truck: As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

1. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
2. Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
3. Available with special features enabling off-street or off-highway operation and use.

Lowest floor: The lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the *Florida Building Code* or ASCE 24. [Also defined in FBC, B, Section 202]

Manufactured home: A structure, transportable in one or more sections, which is eight (8) feet or more in width and greater than four hundred (400) square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer." [Also defined in 15C-1.0101, F.A.C.]

Manufactured home park or subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Market value:** The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this ordinance, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, Actual Cash Value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser.

**New construction:** For the purposes of administration of this ordinance and the flood resistant construction requirements of the *Florida Building Code*, structures for which the "start of construction" commenced on or after November 3, 1980 and includes any subsequent improvements to such structures.

**New manufactured home park or subdivision:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after November 3, 1980.

**Park trailer:** A transportable unit which has a body width not exceeding fourteen (14) feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. [Defined in section 320.01, F.S.]

**Recreational vehicle:** A vehicle, including a park trailer, which is: [Defined in section 320.01, F.S.)

1. Built on a single chassis;
2. Four hundred (400) square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Special flood hazard area:** An area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 202.]

**Start of construction:** The date of issuance of permits for new construction and substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns.

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Also defined in FBC, B Section 202.]

**Substantial damage:** Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred. [Also defined in FBC, B Section 202.]

**Substantial improvement:** Any repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, Section 202.]

1. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
2. Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure. *[See Instructions and Notes]*

**Variance:** A grant of relief from the requirements of this ordinance, or the flood resistant construction requirements of the *Florida Building Code*, which permits construction in a manner that would not otherwise be permitted by this ordinance or the *Florida Building Code*.

**Watercourse:** A river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

### **5.01.301 Flood Resistant Development – Buildings and Structures**

**5.01.301.1 Design and construction of buildings, structures and facilities exempt from the *Florida Building Code*.** Pursuant to Section 5.01.104.3 of this ordinance, buildings, structures, and facilities that are exempt from the *Florida Building Code*, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the *Florida Building Code* that are not walled and roofed buildings shall comply with the requirements of Section 5.01.307 of this ordinance.

### **5.01.302 Subdivisions.**

#### **5.01.302.1. Minimum Requirements.**

Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:

- (A) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
- (B) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
- (C) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

#### **5.01.302.2 Subdivision Plats.**

Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

- (A) Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats;
- (B) Where the subdivision has more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with Section 5.01.105.2(1) of this ordinance; and
- (C) Compliance with the site improvement and utilities requirements of Section 5.01.303 of this ordinance.

### **5.01.303 Site Improvements, Utilities, and Limitations.**

#### **5.01.303.1 Minimum Requirements.**

All proposed new development shall be reviewed to determine that:

- (A) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
- (B) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and

- (C) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

**5.01.303.2 Sanitary Sewage Facilities.** All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.

**5.01.303.3 Water Supply Facilities.** All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

**5.01.303.4 Limitations on Sites in Regulatory Floodways.** No development, including but not limited to site improvements, and land disturbing activity involving fill or regrading, shall be authorized in the regulatory floodway unless the floodway encroachment analysis required in Section 5.01.105.3(1) of this ordinance demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

**5.01.303.5 Limitations on Placement of Fill.** Subject to the limitations of this ordinance, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the *Florida Building Code*.

#### **5.01.304 Manufactured Homes.**

**5.01.304.1 General.** All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to section 320.8249, F.S., and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this ordinance.

**5.01.304.1.1 Limitations on installation in floodways.** New installations of manufactured homes shall not be permitted in floodways.

**5.01.304.2 Foundations.** All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that are designed in accordance with the foundation requirements of the *Florida Building Code Residential* Section R322.2 and this ordinance. Foundations for manufactured homes subject to Section 5.01.304.6 of this ordinance are permitted to be reinforced piers or other foundation elements of at least equivalent strength.

**5.01.304.3 Anchoring.** All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.

**5.01.304.4 Elevation.** Manufactured homes that are placed, replaced, or substantially improved shall comply with Section 5.01.304.5 or 5.01.304.6 of this ordinance, as applicable.

**5.01.304.5 General Elevation Requirement.** Unless subject to the requirements of Section 5.01.304.6 of this ordinance, all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the *Florida Building Code, Residential* Section R322.2 (Zone A).

**5.01.304.6 Elevation Requirement for Certain Existing Manufactured Home Parks and Subdivisions.**

Manufactured homes that are not subject to Section 5.01.304.5 of this ordinance, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:

- (A) Bottom of the frame of the manufactured home is at or above the elevation required in the *Florida Building Code, Residential* Section R322.2 (Zone A); or
- (B) Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.

**5.01.304.7 Enclosures.** Enclosed areas below elevated manufactured homes shall comply with the requirements of the *Florida Building Code, Residential* Section R322.2 for such enclosed areas.

**5.01.304.8 Utility Equipment.** Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the *Florida Building Code, Residential* Section R322.2.

### **5.01.305 Recreational Vehicles and Park Trailers.**

#### **5.01.305.1 Temporary Placement.**

Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:

- (A) Be on the site for fewer than 180 consecutive days; or
- (B) Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.

**5.01.305.2 Permanent Placement.** Recreational vehicles and park trailers that do not meet the limitations in Section 5.01.305.1 of this ordinance for temporary placement shall meet the requirements of Section 5.01.304 of this ordinance for manufactured homes.

### **5.01.306 Tanks.**

**5.01.306.1 Underground Tanks.** Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

**5.01.306.2 Above-ground Tanks, Not Elevated.** Above-ground tanks that do not meet the elevation requirements of Section 5.01.306.3 of this ordinance shall be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

**5.01.306.3 Above-ground Tanks, Elevated.** Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

#### **5.01.306.04 Tank Inlets and Vents.**

Tank inlets, fill openings, outlets and vents shall be:

- (A) At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and,

- (B) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

### **5.01.307 Other Development.**

#### **5.01.307.1 General Requirements for Other Development.**

All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this ordinance or the *Florida Building Code*, shall:

- (A) Be located and constructed to minimize flood damage;
- (B) Meet the limitations of Section 5.01.303.4 of this ordinance if located in a regulated floodway;
- (C) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
- (D) Be constructed of flood damage-resistant materials; and
- (E) Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

**5.01.307.02 Fences in Regulated Floodways.** Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 5.01.303.4 of this ordinance.

**5.01.307.03 Retaining Walls, Sidewalks and Driveways in Regulated Floodways.** Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 5.01.303.4 of this ordinance.

**5.01.307.04 Roads and Watercourse Crossings in Regulated Floodways.** Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 5.01.303.4 of this ordinance. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of Section 5.01.105.3(3) of this ordinance.



## **5.02.00 Potable Water Wellhead Protection Areas.**

**5.02.01 Purpose and Intent.** The purpose and intent of this Section is to safeguard the health, safety and welfare of the citizens of the City by registering all land uses and activities that occur within Wellhead Protection Areas surrounding potable water supply wells, thereby providing protection of the principal source of water for domestic, agricultural, and industrial use. The availability of adequate and dependable supplies of potable quality water is of primary importance to the future of the City; therefore, standards are described in this Section with the intent of protecting both the quantity and quality of the groundwater supply. It is further the intent of this Section to control development in and adjacent to designated wellheads to protect water supplies from potential contamination.

### **5.02.02 Establishment of Wellhead Protection Area.**

Development regulations established in this Section shall be applicable to designated wellhead protection areas for all public supply water wells. Prior to designation of or in the absence of sufficient information for wellhead protection areas, the official Wellhead Protection Area shall consist of a radius of 500 feet around each of the City's public supply potable water wells, as provided for in the Future Land Use Element, Objective 4 and Policy 4.8 and Conservation Element, Objective 2 and Policy 2.2 of the Comprehensive Plan of the City of Bartow (see Figure 1). An official map of wells and their Wellhead Protection Areas shall be maintained in the Development Director's office.

Where a property lies partly outside the Wellhead Protection Area, development standards contained in this Section shall apply only to that part of the property lying within the Wellhead Protection Area. Where the Wellhead Protection Area boundary passes through a building, the entire building shall be considered to be in the Protection Area.

### **5.02.03 Wellhead Protection Area Land Use Restrictions.**

- (A) Zone of Exclusion. The first 200 foot radius from a well shall be a Zone of Exclusion, where all development activities are prohibited (*see Figure 1*).
  - (1) It is the intent and purpose of the City to eliminate all activity within 200 feet of a wellhead. The City shall disallow the re-establishment of any use that generates or stores hazardous materials once the use has ceased.
- (B) Zone of Protection. This Zone is the area from 200 feet to 500 feet from a wellhead (*See Figure 1*).
  - (1) All activities located 200 feet to 500 feet from a wellhead are permitted in accordance with the zoning district and the table of land uses, except in the handling, production or storage of hazardous substances, which shall be prohibited within the Wellhead Protection Area.

# WELLHEAD PROTECTION AREA

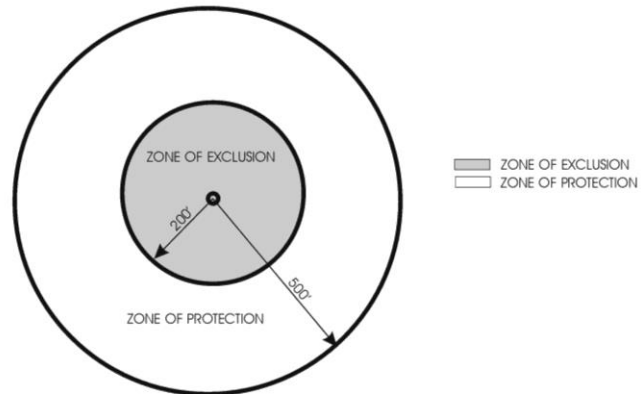


Figure 1

- (2) The City shall maintain a list of all land uses and activities within the Wellhead Protection Area Zone of Protection by requiring all activities to be registered with the City. The City shall register all activities from 200 to 500 feet of a well within one year of the adoption of this Code.
- (C) Prohibited Land Uses and Activities. The following land uses and activities are prohibited in the entire Wellhead Protection Area, including the Zone of Protection and shall cease within one year of the adoption of this Code:
  - (1) Landfills;
  - (2) Facilities for bulk storage, handling or processing of materials on the Florida Substance List;
  - (3) Activities that require the storage, use, handling, production or transportation of restricted substances, agricultural chemicals, petroleum products, hazardous toxic waste, medical waste, or similar substances; non-residential use, handling, production or storage of hazardous substances in any quantity; and, residential use of more than five gallons;
  - (4) Feed lots or other commercial animal facilities;
  - (5) Wastewater treatment plants, percolation ponds or similar facilities;
  - (6) Mines; and
  - (7) Excavation of waterways or stormwater management facilities which intersect the water table.

#### **5.02.04 Registration of Land Uses and Activities in Wellhead Protection Areas.**

All land uses and activities within the Wellhead Protection Area must be identified and registered with the City. The registration is to enable the City to eliminate all potential sources of contamination of the potable water supply.

- (A) Registration Within One Year. All land uses and activities from 200 to 500 feet of a wellhead shall be registered with the City within one year from the adoption of this Section, without a fee. Thereafter, said person shall be subject to the fee schedule adopted in connection with this Code.
- (B) Exemptions. The following activities or uses are exempt from registration requirements in the Zone of Protection:
  - (1) The transportation of any hazardous substance through the Zone of Protection;
  - (2) Fuel in a vehicle fuel tank or as lubricant in a vehicle;
  - (3) Repairing or maintaining any facility or improvement on lands within the Zone of Protection; and
  - (4) Geotechnical borings.
- (C) Registration Procedure. Each landowner with a legal use or activity between 200 feet and 500 feet of a wellhead shall notify the City as to the nature of the use or activity. The information shall be sent to the Planning and Zoning Department by letter. The information required is as follows:
  - (1) Name, address, and phone number of the property owner, operator, and/or agent, and the Tax Parcel Number;
  - (2) Signature of agent or owner;
  - (3) Locational description of the property, such as "located on Highway 17 between Pine and Redwood Streets."
  - (4) A description of the land use or activity at the location;
  - (5) A list of all known hazardous substances that may be utilized, generated and/or stored at the described property;
  - (6) If required by the Development Director, a survey or scale drawing of the property, identifying existing structures, adjacent streets and water bodies in relation to the wellhead.

#### **5.02.05 Modification of Requirements.**

Any person affected by this Section may petition the Commissioners for modification from the prohibitions and registering requirements of this Section, provided that the person demonstrates that special or unusual circumstances and adequate technology exists to isolate the facility or activity from the potable water supply in the event of a spill.

The Commissioners shall determine whether the land use or activity shall be approved under the provisions of this Section. In making this decision, the Commissioners shall consider:

- (A) the cumulative impacts of the land use or activity on the Zone of Protection in combination with other uses or activities that have been permitted within said Zone; and
- (B) whether the proposed use end product that is a threat to the water supply can be contained in the case of a spill.

#### **5.02.06 Notification of Discontinuation of Land Use or Activity in a Wellhead Protection Zone.**

It is the intent and purpose of the City to eliminate all land uses and activities within 200 feet of a wellhead. All activities from 200 feet to 500 feet from a wellhead are limited, with some activities prohibited. Those prohibited activities are listed in this Article, specifically in Section 5.02.03 (D). An owner of a property that falls within the Wellhead Protection Zone is required to register his land use activity with the City as outlined in this Article, specifically in Section 5.02.04.

A record will be kept on file of all land uses and activities within the 500 foot Wellhead Protection Area of all wells. If a land use or activity ceases, the owner must notify the City by registered letter within 30 days of cessation of use.

**5.02.07 Fee Resolution.** The Commissioners may, at their option, adopt a fee schedule by resolution to provide for funding for the administration of this Section.

**5.02.08 Location of New Wells.** No new public supply water wells shall be located such that the Wellhead Protection Area extends past the owners' property boundaries.

### **5.03.00 Wetlands Protection.**

#### **5.03.01 Purpose and Intent.**

The Bartow City Commission has determined that wetlands contiguous to waters of the state, and non-contiguous and isolated wetlands serve important functions in the hydrologic cycle and ecological system and therefore require protection. It is the purpose and intent of this Section to provide for the protection, maintenance, and enhancement of wetlands within the City of Bartow in accordance with the adopted comprehensive plan,

recognizing the rights of individual property owners to use their lands in a reasonable manner as well as the rights of all citizens to protection and purity of the waters of the City of Bartow and their associated wetland ecosystems. It is further the purpose and intent of this Section to ensure that there be no net loss of wetlands as defined in this Code.

**5.03.02 Relationship to Other Requirements Relating to Wetlands Protection.**

In addition to meeting the following wetlands protection requirements, development plans shall comply with applicable federal, state and water management district regulations. In all cases the strictest of the applicable standards shall apply.

**5.03.03 Protection Zones Established.**

Two zones of protection for wetlands are hereby established. The protection zones shall be known as the wetland protection and wetland transitional zones.

- (A) Wetland Protection Zone. There is hereby created a wetlands protection zone in which special restrictions on development apply. The boundaries of this zone shall be the most landward extent of the following:
- (1) Areas within the dredge and fill jurisdiction of the FDEP as authorized by Section 403, F.S.
  - (2) Areas within the jurisdiction of the U.S. Army Corps of Engineers as authorized by section 404, Clean Water Act or Section 10, River and Harbor Act.
  - (3) Areas within the jurisdiction of the SWFWMD pursuant to Rule 40D-4, FAC.
  - (4) Development requiring a permit or permits from one or more of the U.S. Army Corps of Engineers, FDEP, and the SWFWMD, shall have the most restrictive agency wetlands boundary determination recognized by the City as the wetlands boundary. The term most restrictive is used here to mean the boundary covering the largest area.
  - (5) In circumstances where the natural boundary of wetland vegetation is unclear, the line of demarcation may be approximated at a surveyed elevation measured at a location in the same wetland where the natural line is clear.
  - (6) In the event an undeveloped area has been recently cleared of all vegetation, the wetland boundary may be determined by a study of the soils, aerial mapping, photography, hydrology, and other relevant historical information.

(B) Wetland Transitional Zone

There is hereby created a wetland transitional zone adjacent to each wetland protection zone. The transitional zone is an area having a direct ground- or surface water influence and functions as a buffer between wetlands and development. The purpose of the transitional zone is to minimize the adverse effects of development upon the wetland itself. This zone shall encompass all land within 200 feet of the boundary of the wetland protection zone unless the applicant is able demonstrate to the City Commission's satisfaction that the functions of the wetland can be protected with a smaller transitional zone. In no case, however, shall a transitional zone of less than 30 feet be approved.

**5.03.04 Permits Required.** Except as provided in Subsection 5.03.05, no person shall remove, fill, drain, dredge, clear, destroy or alter any wetland as defined in this Code without first submitting a wetland management plan to the Development Director and obtaining from the City Commission a wetland alteration permit. This permit may be issued concurrently with any other land development permits issued by the City.

**5.03.05 Exemptions.**

Activities or development types that are exempted from this Section include:

- (A) Nonmechanical clearing of vegetation from an area of less than 10% of the protected zone.
- (B) Minor maintenance or emergency repair to existing structures of improved areas.
- (C) Cleared walking trails having no structural components.
- (D) Timber catwalks and docks four feet or less in width.
- (E) Utility crossings.
- (F) Maintenance of stormwater management systems, including routine dredge and fill activities in ditches, retention and detention areas, public road and other rights-of-way.
- (G) Bona fide mosquito control activities.
- (H) Activities approved by a federal, state, or regional agency prior to adoption of this Section.

**5.03.06 Development Standards.**

- (A) Wetland Zone. Except as otherwise provided in this Section, it is presumed that development will have an adverse effect on wetlands. No activities other than those listed below shall be undertaken in a wetland protection zone.

Activities Permitted in Wetland Protection Zones. The following activities and development types generally may be undertaken unless the City Commission determines in a specific case that a listed activity or development type would have a significant adverse impact on the wetland protection zone:

- (1) Scenic, historic, wildlife, or scientific preserves.
  - (2) Minor maintenance or emergency repair to existing boat docks, walking trails, and timber catwalks.
  - (3) Cultivating agricultural or horticultural products that occur naturally in the wetland.
  - (4) Constructing fences where no fill activity is required and where navigational access will not be impaired by construction of the fence.
  - (5) Developing a "Wetlands Storm Water Discharge Facility" in accordance with state permits received under Chapters 17-25, FAC.
  - (6) Construction of foot bridges and vehicular bridges.
- (B) Upland Zone. All development in an upland zone shall be in accordance with the Future Land Use Map of the Comprehensive Plan and the zoning classification, and shall be designed, constructed and maintained to avoid significant adverse effects on the adjacent wetland. Where a development site lies partly within the wetland zone and partly within the upland zone, the acreage within a wetland zone may be used to determine the total allowable units or square footage of development that will be allowed on a site. This development potential shall be transferred from the wetland zone to the upland zone.

Special Standards for Upland Zones. The following standards shall apply within upland zones:

- (1) Natural vegetative buffer areas shall be retained between all development and all wetlands where such buffer areas exist. The minimum width of the buffer shall be 25 feet and the average of all wetland buffers shall be 40 feet. No structures shall be located in such areas. Impervious surfaces shall be limited to roads or walking trails providing access to a body of water. Where a natural buffer area does not exist, an equivalent buffer shall be created.
- (2) The developer shall completely restore any portion of a wetland zone damaged as a result of construction activity in the upland zone.

- (3) The City Commission may require other reasonable protective measures to be undertaken within the upland zone as necessary to prevent significant adverse effects on a wetland. Protective measures may include, but are not limited to:
  - a. Maintaining natural drainage patterns.
  - b. Limiting the removal of vegetation.
  - c. Minimizing the amount of fill used in the development activity.
  - d. Prohibiting or limiting the use of septic tanks.

#### **5.03.07 Mitigation.**

The City Commission may require mitigation of adverse impacts on wetlands as a condition of development approval if it finds that such impacts are unavoidable. In such cases, action will be taken during or after development to reduce or counteract damage to wetlands areas. A mitigation plan approved by a federal, state, or regional agency shall be acceptable to the town. Mitigation shall not contribute to the production of mosquitoes by creating mosquito larval habitat or by eliminating habitat for predatory fish. The mitigation plan may include, but is not limited to, the following actions:

- (A) Preservation and maintenance regulations to reduce or eliminate the impact over time.
- (B) Compensation for the impact through enhancement of existing wetlands, reestablishment of wetlands that are no longer functioning, or the creation of new wetlands.
- (C) Repair, rehabilitation, or restoration of the wetland.
- (D) Specific design requirements based upon conditions of the site and the type of wetland to be created or restored.
- (E) Periodic monitoring to remove exotic or nuisance vegetation.
- (F) Preservation or creation of an appropriate habitat in an adjacent wetland zone.

A developer of a compensatory mitigation plan shall grant a conservation easement in accordance with Section 704.06, F.S., and Section 5.06.00 of this Code on the newly purchased, created, enhanced or restored environmentally sensitive lands to protect them from future development. A legal mechanism other than a conservation easement may be considered, if appropriate, to carry out the purpose of this subsection.



#### **5.03.08 Prohibited Ongoing Activities.**

The following standards apply to post-development activities taking place within any wetland or upland zone.

- (A) Clearing. Without an amendment to the development order, no person shall clear more vegetation than was permitted for the original development.
- (B) Handling and Storage of Fuel, Hazardous and Toxic Substances, and Wastes. No fuel or toxic substances shall be stored, transferred, or sold in a wetland or an upland zone.
- (C) Fertilizers, Herbicides, or Pesticides. Fertilizers, herbicides, or pesticides shall not be applied in a wetland, except for projects conducted under the authority of Sections 373.451 - 373.4595, F.S., the Surface Water Improvement and Management Act, and governmentally authorized mosquito control programs.

#### **5.04.00 Erosion Control.**

**5.04.01 Required Soil Conservation Measures.** The following soil conservation measures shall apply to all development activities requiring site development plan or subdivision reviews:

- (A) During Construction. The developer shall follow standard practices as specified in the Erosion Control Handbook - Florida published by the U.S. Dept. of Agriculture, Soil Conservation Service, latest edition, or details specifically approved by the City to prevent erosion and depositing of soils off the construction site.

The City has adopted, by reference, the Polk County Ordinance 93-06 "Polk County Stormwater Quality Management Ordinance." A summary of the City's position on this matter plus regulations relating to the management of stormwater sewer system discharges and establishing the minimum acceptable best management practices at construction sites for containment of runoff and prevention of erosion are located in Article 3, Section 3.05.00, "Stormwater Management." In addition, Appendix B, attached to this Code at the back, contains the standards for stormwater, erosion and sediment control during construction.

- (B) After Construction. All disturbed areas shall be mulched, seeded or sodded as required by the town, and shall be maintained as such. The removal or lack of maintenance of vegetation resulting in on-site or off-site erosion or windblown loss of soils shall be deemed a violation of this Section.

### **5.05.00 Conservation Easements.**

As a condition for approval of a development permit or development order, or as part of a development agreement established under Article 6 of this Code, any person, corporation or entity owning property in the City of Bartow may create a conservation easement. Conservation easements shall be subject to the provisions of Section 704.06, F.S., and may be used to prevent or prohibit the following activities:

- (A) Construction or placing of buildings, roads, signs or other advertising, utilities, or other structures on or above the ground.
- (B) Dumping or placing of soil or other substances or materials as landfill, and dumping of trash, waste, or unsightly or offensive materials.
- (C) Removal or destruction of trees, shrubs, or other vegetation.
- (D) Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface of the ground.
- (E) Any use that alters the natural condition of the land or water area.
- (F) Activities detrimental to stormwater management, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.
- (G) Any use that is detrimental to the retention of land or water areas.
- (H) Any use that is detrimental to the preservation of properties of historical, architectural, archaeological, or cultural significance.

Conservation easements are perpetual, undivided interests in property and may be created or stated in the form of a restriction, easement, covenant, or condition in a deed, will, or other instrument executed by or on behalf of the owner of the property, or in any order of taking. Such easements may be acquired in the same manner as other interests in property are acquired, except by condemnation or by the exercise of the power of eminent domain. They may be assigned to other governmental agencies, charitable organizations, or trusts authorized to acquire such easements. Conservation easements run with the land and are binding on all subsequent owners of the property. Conservation easements entitle holder to enter the land in a reasonable manner and at reasonable times to assure compliance with the purpose(s) of the easement. All conservation easements shall be recorded and indexed in the public records of Polk County in the same manner as any other instrument affecting the title to real property.

## **Section 5.06.00 Florida Friendly Landscape Practices and Irrigation Systems.**

### **5.06.01 Purpose and Intent.**

The purpose of these regulations is to establish minimum standards for the development, installation, and maintenance of landscape areas without inhibiting creative landscape design, construction and management.

Specific Best Management Practices (BMPs) have been developed that include water conservation measures, the preservation of natural vegetation where applicable, and appropriate plant selection and location. Best management Practices have also been developed for the use of fertilizers, pesticides and appropriate maintenance practices such as proper pruning techniques, mowing, mulching and composting. Implementation of BMPs will aid in improving environmental quality and the aesthetic appearance of public, commercial, industrial, and residential areas.

These guidelines and landscape practices are established to help the City of Bartow, developers, builders, contractors, businesses and homeowners as partners in improving and protecting Florida's environment.

These practices are also based on the premise that the quality of Florida's surface and ground water is affected by stormwater runoff and leachate. Improper landscape design construction and management may contribute to nonpoint source pollution that affects ground and surface water quality. Use of BMPs in proper landscape design and maintenance can reduce pollution and save water, as well as save labor, resources, and money. Application of BMPs will also help to enhance property values, improve Florida's quality of life and protect natural resources for Florida residents well into the future.

This ordinance is based on concepts of Florida Friendly Landscaping (FFL) and Xeriscape™ and the use of BMPs. The FFL concept is based on the principles of the Florida Yards and Neighborhoods (FYN) and Environmental Landscape Management (ELM) programs operated by the University of Florida Cooperative Extension Service, along with the Xeriscape™ programs of the State's Water Management Districts, and BMPs identified in the Florida Green Industries Best Management Practices for Protection of Water Resources in Florida (2002).

The Florida Yards & Neighborhoods Handbook, the Water Management Districts' Waterwise Florida Landscape Guide, Xeric Landscaping with Florida Native Plants by the Association of Florida Native Nurseries, FDEP's Waterfront Property Owners Guide, the Florida Green Industries Best Management Practices for Protection of Water Resources in Florida, and Water Right: Conserving our Water, Preserving our Environment published by the International Turf Producers Foundation should be referred to before making landscape and other site decisions. In general, all landscapes shall be designed to minimize adverse effects on Florida's natural systems.

No part of these guidelines shall be interpreted to restrict creative designs or the inclusion of landscape elements such as vegetable gardens, fruit trees, arbors, water gardens, or furnishings.

**5.06.02 Administrative Standards.** Whenever, in the course of administration and enforcement of this ordinance, it is necessary and desirable to make any administrative decision, the decision shall be made so that the result will not be contrary to the spirit and purpose of these regulations or injurious to the surrounding neighborhood or the community at large.

**5.06.03 Applicability.**

- (A) The provisions of this ordinance shall apply to the development, redevelopment, and rehabilitation of all property within present or future incorporated areas of the City of Bartow.
- (B) No permit shall be issued for building, paving, or tree removal unless the landscape construction documents comply with the provisions hereof; and no Certificate of Occupancy shall be issued until the requirements herein are met.
- (C) All city facilities will be managed in accordance with these practices effective immediately of the approval of this Regulation. All city landscape service contractors will adhere to these practices. All new bid specifications and contracts will reflect this requirement beginning one year after the approval of this regulation. All new and renovated city facility landscapes will be designed in accordance with these principles and be constructed and installed using Florida Friendly landscape materials.
- (D) Specific application of the provisions shall include, but not be limited to:
  - (1) All new, redeveloped, or rehabilitated landscapes for public agency projects and private development projects including but not limited to industrial, commercial, residential, and recreation projects, including new single-family and two-family homes;
  - (2) Developer-installed landscapes at entrances into and common areas of single-family and multi-family projects;
  - (3) Any development approved prior to the effective date of this ordinance if a governing development order is amended;
- (E) Exempted from the provisions of this ordinance are the following as applicable:
  - (1) Bonafide agricultural activities;
  - (2) Golf courses and specialized athletic fields;

- (3) Any development that is governed by an approved construction plan or preliminary subdivision plat, if a construction plan is not required, or a valid building permit issued prior to the effective date of this ordinance is exempted from retrofitting or meeting the specific provisions of Sections 5.06.04(A)-(K). However, existing development is not exempted from those provisions affecting management, maintenance, or the education of maintenance personnel.
  - (4) Rights-of-way for public utilities, including electrical transmission and distribution lines, and natural gas pipelines.
- (F) Conditional exemption may be granted by the Board of Adjustment for individual projects if the applicant can demonstrate acceptable reasons for the requested exemption.

#### **5.06.04 General Provisions and Design Standards.**

When the construction upon or the development of a new site or the redevelopment, reconstruction, upgrading, expansion or change in use of a previously developed site is such that site plan review by the City of Bartow is required prior to the issuance of a building permit, the following provisions shall be applied to newly disturbed areas of such site.

- (A) Site Planning and Design. Site designs and landscape construction documents shall be prepared in accordance with the requirements of all applicable Florida Statutes. All landscape and irrigation system designs shall be consistent with the principles expressed in Section E of this section. The site plan shall consider natural drainage features to minimize runoff. The use of pervious surfaces and areas is preferred; therefore impervious surfaces and materials within the landscaped area shall be limited to borders, sidewalks, step stones, and other similar materials.
- (B) Standards for land clearing and preservation of native vegetation. Areas that are set aside during site design and review processes for preservation of native vegetation shall be protected from all on-site construction. Protective barriers shall be installed along the perimeter of all preserve areas and shall be constructed at such intervals to prevent machinery from passing between them. No equipment or materials shall be permitted to be stored within the set-aside areas, and dumping of excess soil, liquids, or any other construction debris within the preservation areas is prohibited. Removal or re-grading of soils within preservation areas is prohibited. Any damaged vegetation within the set-aside areas shall be replaced with vegetation equivalent to the vegetation destroyed before any certificates of occupancy or other approvals may be issued.

Areas that are considered to be of high ecological importance should be given highest priority for protection. These areas include, but are not limited to, areas that have occurrences of federal and state listed species of flora and fauna, areas of high biological diversity, and areas that are in aquifer recharge zones. If more than one native terrestrial plant community is present on the site, areas

representing all existing plant communities shall be preserved onsite unless preserving more of one particular community is more ecologically beneficial.

High-quality areas placed in preservation shall be retained in entirety, in their current or improved natural state, and protected into perpetuity regardless of ownership. This requirement may be negotiated to create contiguous preservation among plant communities. The developer shall prove to the reviewer, through exhibits provided during the site approval process, that the highest ecologically valued land is being retained first in order to satisfy the set-aside requirement. If the preservation of the highest ecologically valued land produces undue burden on the development of the property, it is also the developer's responsibility to prove such hardship and provide an acceptable alternative for approval.

Areas set aside for preservation should be contiguous parcels of land that are interconnected and considered viable habitat for wildlife to the extent practical. Small fragmented areas of preservation should be avoided when possible. Rights-of-way and areas determined to be future rights-of-way in the comprehensive plan, and utility or drainage easements shall not be allowed as designated set-aside areas.

- (C) Appropriate Plant Selection, Location, and Arrangement. Plant selection should be based on the plant's adaptability to the existing conditions present at the landscaped area and native plant communities, particularly considering appropriate hardiness zone, soil type and moisture conditions, light, mature plant size, desired effect, color and texture. Plant species that are drought and freeze tolerant are preferred. For purposes of determining prohibited and controlled plant species refer to the Department of Agriculture and Consumer Services rule, Chapter 5B-57 Florida Administrative Code. Plants named in this rule may not be used except as allowed in Chapter 5B-57.

Plants shall be grouped in accordance with their respective water and maintenance needs. Plants with similar water and cultural (soil, climate, sun, and light) requirements shall be grouped together. The water use zones (hydrozones) shall be shown on the irrigation, layout, and planting plans (where required). Where natural conditions are such that irrigation is not required, the presence of site appropriate plants shall not be considered a high water use hydrozone.

- (D) Turf Areas. The type and location of turf areas shall be selected in the same manner as with all the other plantings. Irrigated turf areas, as opposed to non-irrigated turf areas, are considered to be a high water use hydrozone. Turf shall be placed so that it can be irrigated using separate zones. While turf areas provide many practical benefits in a landscape, how and where it is used can result in a significant reduction in water use.

Irrigated turfgrass areas shall be consolidated and limited to those areas on the site that receive pedestrian traffic, provide for recreation use, provide cover for septic tank drainfields or provide soil erosion control such as on slopes or in swales;

and where turfgrass is used as a design unifier, or other similar practical use. Turf areas shall be identified on the landscape plan (where plan is required).

- (E) Efficient Irrigation. If an irrigation system is new or being rehabilitated, it shall be designed and constructed in accordance with the technical standards contained in Appendix F of the plumbing volume of the Florida Building Code or Florida Irrigation Society (FIS) Standards, and operated and maintained according to the Florida Green Industries Best Management Practices for Protection of Water Resources in Florida (2002) or (for homeowners) the Florida Yards and Neighborhood program.

The irrigation system shall be designed to correlate to the organization of plants into zones as described in (C) above. The water use zones shall be shown on the Irrigation Plan (where plan is required). All plants (including turf) require watering during establishment. Temporary facilities may be installed to facilitate establishment.

Irrigation must also be conducted in accordance with current and future watering restrictions. Moisture sensing and/or rain shut-off switch equipment shall be required on automatic irrigation systems to avoid irrigation during periods of sufficient soil moisture. Said equipment shall consist of an automatic mechanical or electronic sensing device or switch that will override the irrigation cycle of the sprinkler system when adequate rainfall has occurred.

Check valves must be installed at irrigation heads as needed to prevent low head drainage and puddling. Nozzle precipitation rates for all heads within each valve circuit must be matched to within 20% of one another. No water spray from irrigation systems shall be applied under roof overhangs. Irrigated areas shall not be less than 4 feet wide, except when next to contiguous property or using micro or drip irrigation.

- (F) Yard Waste Management, Composting and Use of Mulches. Yard wastes shall not be disposed of or stored by shorelines, in ditches or swales, or near storm drains. Shredded yard clippings and leaves should be used for mulch or be composted for use as fertilizer. However, diseased material should not be mulched and should be properly disposed of to avoid spreading disease. Composting of yard wastes provides many benefits and is strongly encouraged. The resulting materials are excellent soil amendments and conditioners. Other recycled solid waste products are also available and should be used when appropriate.
- (G) Fertilizer Management. All applications of fertilizer, other than by private homeowners on their own property, shall be made in accordance with the most current version of the Florida Green Industries Best Management Practices for Protection of Water Resources in Florida and recommendations of the University of Florida Cooperative Extension Service.

- (H) Pesticide Management. All landscape applications of pesticides for hire should be made in accordance with State and Federal Law and with the most current version of the Florida Green Industries Best Management Practices for Protection of Water Resources in Florida.
- (I) Shoreline Considerations. Grading and design of property adjacent to bodies of water shall conform to Federal, State and Local regulations which may include but is not limited to the use of berms or retention ditches to intercept surface runoff of water and debris that may contain fertilizers or pesticides.

When mowing near the shoreline, direct the chute away from the water body. Riparian or littoral zone plants that do not require mowing or fertilization should be planted in these areas. Where water levels vary considerably, care must be taken in the selection of these plants.

Waterfront structures extending along the water's edge and into the water shall meet all applicable federal, state and local government regulations and requirements. The maximum allowable total width of a structure along the shoreline of any development parcel is 20% of the waterfront footage of that parcel. The remainder of the shoreline should remain as natural as possible. No structures are permitted that could obstruct the flow of water into, out of, or through the water body or the navigability of the water body by any users.

**5.06.05 Education.** Code Enforcement employees and appropriate city Maintenance Operations staff shall be trained in the Florida Yards & Neighborhoods Environmental Landscape Management Course and the Florida Green Industries Best Management Practices for Protection of Water Resources in Florida within one year of the approval of this Regulation. New employees will be trained within 180 days of starting a new position. Government facilities should serve as educational examples and demonstration sites of building, landscape, and/or design principles related to natural resource conservation including water, energy, and landscapes.

#### **5.06.06 Enforcement and Monitoring.**

Implementation and enforcement of these regulations shall consist of:

- (A) Licensing. In order to provide professional landscape maintenance services for hire inside the corporate limits of Bartow, proof is required that a minimum of 4 Professional Development Hours (PDH = 50 minutes of instruction), in principles of Florida Friendly landscape management, have been granted within the previous 12 months from an approved training organization. A valid pesticide license issued under Ch. 482 or Ch 487 F.S., or certification as a landscape professional by a recognized professional association or government agency that requires a minimum of 4 PDHs per year (or 8 over a two-year period) to maintain certification, shall be accepted as proof of such training. The Parks and Recreation Department



shall maintain a list of approved certification programs and training organizations, including in-house corporate programs.

- (B) Inspections. The City Code Enforcement Department shall be authorized and empowered to make inspections at reasonable hours of all land uses or activities regulated by this ordinance, in order to determine if applicable provisions of the Code of Ordinances and these regulations relating to Florida Friendly landscaping are being followed.

Inspections may be made without notice, and refusal to allow such an inspection shall be deemed a violation of this ordinance. Such failure to permit an inspection shall be sufficient grounds and probable cause for a court of competent jurisdiction to issue an administrative warrant for the purpose of inspecting, surveying or examining said premises.

In the event a building, structure, or land appears to be vacant or abandoned, and the property owner cannot be readily contacted in order to obtain consent for an inspection, the Code Enforcement may enter into or upon any open or unsecured portion of the premises in order to conduct an inspection thereof.

- (C) Notice of Violation, Notice of Hearing and Hearing Procedure. Whenever the City Code Enforcement Officer or an inspector determines that there is a violation of this ordinance, the officer or inspector shall follow the procedures established for bringing a case before the Code Enforcement Board or any alternative code enforcement body or shall seek injunctive relief as provided below. A notice to cease a land use activity or permit issued under this ordinance shall not relieve the owner or operator of the obligation to comply with any other applicable state, regional or local code, regulation, rule ordinance, or requirement. Nor shall said notice or permit relieve any owner or operator of any liability of violation of such codes, regulations, rules, ordinances, or requirements.
- (D) Injunctive Relief. If any person engages in activities regulated by this ordinance without having obtained an approved permit as provided within this ordinance or continues in violation of the provisions of this ordinance or the regulations promulgated pursuant thereto, then the City may file an action for injunctive relief in a court of competent jurisdiction.

**5.06.08 Variances.** As provided in Chapter 7 of the Unified Land Development Code, the Board of Adjustment is hereby authorized to grant variances in accordance with stated provisions and can attach conditions to variances granted.

#### **5.06.09 Violations and penalties.**

For any violation which does not constitute a threat to life or property, the City shall have the authority to issue a citation and/or to withhold a certificate of occupancy. The citation shall be in the form of a written official notice issued in person or by certified mail to the owner of the property, or to his agent, or to the person doing the work. The receipt of a

citation shall require that corrective action be taken within thirty (30) calendar days, unless otherwise extended at the discretion of the City. If the required corrective action is not taken within the time allowed, the City may use any available civil or criminal remedies to secure compliance, including revoking a permit.

The City shall have resource to such civil and criminal remedies in law and equity as may be necessary to ensure compliance with the provisions of this section of this ordinance, including injunctive relief to rejoin and restrain any person from violating the provisions of this section of this ordinance and to recover such damages as may be incurred by the implementation of specific corrective actions.

A conviction for violation of the provisions of this section and the F.S. Chapter 162 shall be punishable by the following fines:

|                                   |           |
|-----------------------------------|-----------|
| First violation                   | Warning   |
| Second violation                  | \$ 50.00  |
| Third violation                   | \$ 75.00  |
| Fourth violation                  | \$ 100.00 |
| Fifth violation                   | \$ 150.00 |
| Sixth violation                   | \$ 200.00 |
| Seventh and subsequent violations | \$ 300.00 |

#### **5.07.00 Water Conservation for Landscape Irrigation, Irrigation System Design and Installation Standards, and Efficient Plumbing Requirements**

**5.07.01 Intent and Purpose.** It is the intent and purpose of this Section to implement uniform procedures that promote water conservation through more efficient landscape irrigation and the installation of more efficient plumbing fixtures and appliances.

#### **5.07.02 Definitions.**

For the purposes of this Section, the following words, and terms shall have the meaning given herein:

- (1) *Appliances.* Includes, but not limited to, clothes washers and dish washers.
- (2) *Automatic irrigation system.* An irrigation system designed to operate following a preset program entered into an automatic controller.

- (3) *Distribution equipment.* The water emitters on irrigation systems, including but not limited to sprinklers, rotors, spray heads and micro-irrigation devices.
- (4) *ENERGY STAR® ("Energy Star").* For this Section, Energy Star is the joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy, which certifies products and practices that protect the environment and lead to money saving through energy and water conservation,
- (5) *Florida Water Star® ("Florida Water Star").* A certification program for new residential and commercial construction that is intended to provide indoor and outdoor water efficient options and help prevent leaks.
- (6) *Florida Water Star Inspector.* A person who verifies Florida Water Star program criteria in accordance with program documents. Inspectors demonstrate sufficient knowledge to verify appropriate subcategories, such as; irrigation, landscape, and plumbing, and have passed the inspector exam and are current with their CEUs per the requirements of the Florida Water Star <sup>SM</sup> program. Inspectors are accredited parties who may inspect irrigation systems modified or installed by irrigation professionals.
- (7) *Florida Water Star Irrigation and Landscape Accredited Professional.* A landscape or irrigation professional who has successfully passed the Florida Water Star accredited professional exams for landscaping and irrigation and is currently in good standing with the program.
- (8) *Head to head coverage.* The spacing of sprinkler heads so that each sprinkler throws water to the adjacent sprinkler.
- (9) *High volume irrigation.* An irrigation system with a minimum flow rate per emitter of more than 30 gallons per hour ("GPH") or higher than 0.5 gallons per minute ("GPM"). High volume emitter flow rates are usually measured in GPM.
- (10) *Irrigation professional.* Any person installing or maintaining an irrigation system in the City of Bartow for payment.
- (11) *Irrigation design professional.* An irrigation design professional shall include state-licensed plumbers operating within the limits of the Florida Building Code, professional engineers or landscape architects licensed by the State of Florida, Florida Water Star Irrigation and Landscape Accredited Professionals and irrigation designers certified by the Irrigation Association or the Florida Irrigation Society.
- (12) *Irrigation system.* A set of components that may include the water source, water distribution network, control components, and other general irrigation equipment which has been installed to provide irrigation.
- (13) *Landscaped area.* The entire parcel less the building footprint, driveways, hardscapes such as decks and patios, and other non-planted areas. Water features are included in the calculation of the landscaped area. Landscaped area includes Florida-Friendly landscaped areas.
- (14) *Licensed Irrigation Professional.* An irrigation specialty contractor who obtains the irrigation specialty license from The Florida Construction Industry Licensing Board and maintains continuing education requirements.

- (15) *Low volume irrigation.* Any emitter or sprinkler that applies less than 30 GPH or 0.5 GPM.
- (16) *Matched precipitation.* Irrigation in which all of the sprinklers in a particular zone apply similar amounts of water to a given area.
- (17) *Micro-irrigation.* The frequent application of small quantities of water directly on or below the soil surface or plant root zone, usually as discrete drops, tiny streams, or miniature sprays through emitters placed along the water delivery pipes. Micro-irrigation encompasses a number of methods or concepts, including drip, subsurface, bubbler and micro-spray irrigation, previously known as trickle irrigation. Micro-irrigation is typically a form of low volume irrigation.
- (18) *Plumbing Fixtures.* These include, but are not limited to, toilets, faucets and showerheads.
- (19) *Rotors.* Sprinkler heads in lawn areas that provide water as they rotate through a set arc of operation.
- (20) *Spray heads.* Irrigation heads that pop up with water pressure and provide a continuous spray pattern throughout a given arc of operation.
- (21) *Substantial modification.* Any modification to existing irrigation systems such that 50 percent or more of the irrigation system (by area) is replaced or altered.
- (22) *Temporary establishment irrigation.* The temporary use of irrigation for the establishment of new vegetation that shall be removed once the plants are established or within two years, whichever occurs first.
- (23) *WaterSense.* A U.S. Environmental Protection Agency (EPA) program for the management of water supplies by working with manufacturers and retailers to establish efficient plumbing standards, guidelines and certifications.

**5.07.03 Efficient Plumbing Requirements.** All new residential, commercial and institutional construction contractors obtaining City of Bartow Building Permits, 60 days after the effective date of this Section, shall incorporate WaterSense labeled plumbing fixtures, to consist at a minimum of all faucets, showerheads and toilets, and Energy Star labeled appliances, to consist at a minimum of all washing machines and dishwashing machines, into said construction. In applications where WaterSense plumbing fixtures and Energy Star appliances are not available, a written request for an exception must be submitted and approved by the City Building Official. For the exception to be approved, a best alternative water and/or energy conservative fixture and/or appliance must be identified in the submittal.

**5.07.04 Florida Water Star Certification; Effect.** Florida Water Star is a water conservation certification program for new and existing homes and commercial developments that meet specific water-efficiency criteria for indoor fixtures and appliances, landscape design and irrigation systems. Residential and commercial properties obtaining the Florida Water Star Certification will exceed the conservation requirements imposed by this Section. Upon receipt of certification from the Florida Water Star program that a residential or commercial property has obtained the Florida Water Star Certification, the City will not require submission of the Letter of Certification of the

Design for an Irrigation System, or the Letter of Completion Certifying Compliance with Design for Irrigation System.

#### **5.07.05 Irrigation System Design and Installation Standards.**

- (A) For all new commercial and institutional construction where a new landscape irrigation system will be installed, and for all significant (50% or greater) alteration or rehabilitation of an existing landscape irrigation system, the design and installation of said system, or of a portion of such system, shall be required to be installed or rehabilitated in a manner consistent with this section ("irrigation system standards").
- (B) All new residential irrigation system construction or significant (50% or greater) alteration or rehabilitation of a residential irrigation system shall be consistent with the irrigation systems standards and consistent with the following additional requirements:
  - (1) The maximum total irrigated area on residential lots, regardless of lot size, shall not exceed 0.5 acres. This provision does not apply to temporary irrigation such as portable hoses and sprinklers.
  - (2) High volume irrigation area shall not exceed 60 percent of the landscaped area. This standard is applicable on residential lots over 1/8 acre and commercial lots over 1/8 acre. This standard applies to common areas and open space in developments. This standard excludes vegetable gardens and fruit or nut trees on individual lots or community gardens.
  - (3) Narrow areas, four feet wide or less, shall not be irrigated unless correctly installed irrigation devices are used, as recommended by a licensed irrigation professional, which confine the spray pattern to the area in question.
  - (4) High volume irrigation shall not be used for trees, shrubs, or groundcover beds. Permanent micro-irrigation may be used in these areas. The county encourages the use of temporary establishment irrigation.
  - (5) Irrigation zones shall be divided according to vegetated groupings (e.g., turfgrass, shrubs, native plants, trees) and the water requirements of the plants. Turf grass and landscaped beds, such as trees, shrubs, and groundcover beds, shall not be irrigated in the same zone as each other.
  - (6) Sprinkler head types, such as spray heads and rotors, shall not be mixed in the same zone.
  - (7) Distribution equipment in a given zone shall have matched precipitation rates.

- (8) Rotors and spray sprinkler heads in turfgrass areas shall be spaced to provide head to head coverage.
- (9) A minimum separation of four inches shall be required between distribution equipment and pavement.
- (10) A minimum separation of 24 inches shall be required between distribution equipment and buildings and other vertical structures, except fences.
- (11) Technology that inhibits or interrupts operation of the system during periods of sufficient moisture shall be required on all irrigation systems to avoid irrigation during periods of sufficient rainfall. Examples of such devices include soil moisture sensors, weather stations, and rainfall shut off devices. The technology shall override the irrigation cycle when adequate rainfall has occurred. Technology that depends on rainfall for bypassing irrigation shall be placed where it is exposed to unobstructed natural rainfall and in compliance with section 373.62, Fla. Stat., as amended.
- (12) Permanent irrigation systems shall be equipped with an automatic control system to provide the following minimum capabilities:
  - a. Ability to be programmed in minutes, by day of week, season, and time of day;
  - b. Ability to accommodate multiple start times and programs;
  - c. Automatic shut off after adequate rainfall;
  - d. Ability to maintain time during power outages; and
  - e. Operational flexibility to meet applicable year-round water conservation requirements.
- (13) Check valves which are capable of holding a minimum of a five-foot head shall be used in low-lying areas to prevent head drainage.
- (14) Irrigation system equipment shall be installed in accordance with manufacturer's specifications.
- (15) No direct spray shall be allowed onto walkways, buildings, roadways and drives.
- (16) Pipelines shall be designed to provide the system with the appropriate pressure required for maximum irrigation uniformity.
- (17) All sprinkler heads with spray nozzles (non-rotary) shall be pressure-regulated at the head or zone valve.
- (18) All irrigation system underground piping shall have minimum soil cover of six inches.

- (C) All irrigation systems must be properly installed and maintained and must operate technology such as rain and/or soil moisture sensors which inhibit or interrupt operation of the irrigation systems during periods of sufficient moisture.
- (D) Nothing within this Section shall require the installation of an irrigation system. Requirements for installing irrigation systems are specified in other locations within Section 3.07.00 of the Land Development Code.
- (E) All irrigation systems shall be designed by an irrigation design professional consistent with the irrigation systems standards and as set forth in this Section.
- (F) A "Letter of Certification of the Design for an Irrigation System" signed by the contracted irrigation/design professional certifying the design is consistent with the requirements of this Section shall be required to obtain a building or irrigation permit before issuance of said permit.
- (G) A "Letter of Completion Certifying Compliance with Design for Irrigation System" signed by the contracted irrigation/design professional certifying the installation or Florida Water Star inspector consistent with the design shall be required before issuance of a certificate of completion.
- (H) Compliance with this Section shall not exempt an individual from any other local, state or federal requirements.

#### **5.07.06 Maintenance of Irrigation Systems.**

- (A) An irrigation professional responsible for installing or substantially modifying an irrigation system shall provide the property owner with a maintenance checklist affixed to or near the controller and accompanied by a recommended maintenance schedule, proper irrigation system settings according to season, recommendations for checking technology that inhibits or interrupts operation of the system during periods of sufficient moisture, filter cleaning recommendations, if applicable, and information on the current water restrictions.
- (B) A property owner shall ensure that irrigation systems on their property are inspected at least annually for leaks, overspray, maladjusted heads, and heads that may be capped due to changes in the landscape, such as maturity or changes in plants. Technology that inhibits or interrupts operation of the system during periods of sufficient moisture may need to be replaced every few years and shall be correctly functioning to be in compliance with this article. Irrigation systems with known leaks shall not be operated until the leaks are repaired, except for testing purposes.

- (C) Within 60 calendar days after installation, the property owner shall ensure that the irrigation controller is adjusted to operate according to normal, established landscape conditions or irrigation restrictions, if the irrigation system is installed as part of newly established landscaping.

#### **5.07.07 Exemptions.**

The following are exempted from the provisions of this article, but should follow applicable Florida-Friendly Best Management Practices for Protection of Water Resources by the Green Industries:

- (A) Bona fide agricultural activities;
- (B) Vegetable gardens and fruit and nut trees;
- (C) Athletic fields;
- (D) Golf course play areas;
- (E) Cemeteries;
- (F) Nurseries; and
- (G) Temporary establishment irrigation (as defined in Section 5.07.02)

#### **5.07.08 Alternative Compliance.**

- (A) An applicant may submit a proposal that varies from the strict application of the requirements of this Section (also known as "alternative compliance") in order to accommodate unique site features or characteristics, utilize innovative design, prevent extraordinary hardship, or to promote the overriding public interest or general public welfare. Diminished value of property or inconvenience is not an extraordinary hardship.
- (B) An applicant seeking authorization for alternative compliance shall have the burden of demonstrating to the City Building Official the reasons why the strict application of the requirements of this Section should not apply.
- (C) Requests for alternative compliance shall be submitted as part of the irrigation system approval process.
- (D) The City Building Official may approve an alternative compliance plan upon finding that the alternative compliance plan fulfills the purpose and intent of this Section at least as well as a plan that strictly adheres to the requirements of this Section.



- (E) The City Building Official may require a site inspection and corresponding site inspection fee for systems which are installed according to a department-approved alternative compliance plan.

**5.07.09 Enforcement.** Violation of any provision of this article shall be subject to penalties as provided for by this Code or by local law and compliance with this article may be enforced by any remedy available to the City at law or equity.

[RESERVED]

## ARTICLE 6

### PUBLIC FACILITY MONITORING AND PERMITTING

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  - 6.04.07 Proportionate Fair-Share Agreements
  - 6.04.08 Appropriation of Fair-Share Revenues

Application for Concurrency

[RESERVED]

## **ARTICLE 6**

### **PUBLIC FACILITY MONITORING AND PERMITTING**

#### **6.01.00 Concurrency.**

##### **6.01.01 General Provisions.**

The purpose of this Section is to ensure that facilities and services needed to support development are available concurrent with the impacts of development. The following public facilities and services are subject to concurrency evaluation: roads, potable water, sanitary sewer, stormwater management, solid waste, and recreation.

Except as otherwise provided, no development proposal submitted after the effective date of this Code shall be approved unless public facilities are or will be available to serve a proposed development, such that the Levels of Service adopted in the Comprehensive Plan are maintained. Prior to concurrency approval for a proposed development, the following conditions shall be met, as applicable.

- (A) Potable Water, Sewer, Solid Waste, and Stormwater management. The concurrency requirement may be met through one of the following conditions or actions:
  - (1) The necessary facilities and services are in place at the time a development permit is issued; or
  - (2) A development permit is issued subject to the condition that the necessary facilities and services will be in place when the impacts of the development occur; or
  - (3) The necessary facilities are under construction at the time a permit is issued; or
  - (4) The necessary facilities and services are guaranteed in an enforceable development agreement that includes provisions 1-3 above. An enforceable development agreement shall include, but is not limited to, the provisions of Section 163.3227, F.S., or shall be a development order issued pursuant to Sections 163.3220-3243, F.S., or an agreement or development order issued pursuant to Chapter 380, F.S. The agreement shall guarantee that the necessary facilities and services will be in place when the impacts of the development occur.
- (B) Roads. The concurrency requirement may be met by satisfying the conditions listed in paragraphs (A)(1-4) above, and by complying with the following standards:
  - (1) The Capital Improvements Element and 5-Year Schedule of Capital Improvements must be financially feasible, and may recognize and include transportation projects listed in the applicable FDOT 5-Year Work Program.
  - (2) The 5-Year Schedule of Capital Improvements must include facilities necessary to maintain the adopted level of service standards to serve the proposed new development, and the facilities necessary to eliminate those portions of existing deficiencies that are a priority to be eliminated during the five-year period in which the Capital Improvements Plan is to be implemented.

- (3) The Capital Improvements Element and 5-Year Schedule of Capital Improvements must be based on currently available revenue sources that must be adequate to fund the public facilities required to serve the development authorized by the development order and development permit.
  - (4) The 5-Year Schedule of Capital Improvements must include the estimated date of commencement of actual construction and the estimated date of project completion.
  - (5) The 5-Year Schedule of Capital Improvements must demonstrate that the actual construction of the road must be scheduled to commence in or before the third year of the five-year schedule.
  - (6) A plan amendment would be required to eliminate, defer or delay construction of any road that is needed to maintain the adopted level of service standard and that is listed in the 5-Year Schedule of Capital Improvements.
  - (7) The City will adopt land development regulations that, in conjunction with the Capital Improvements Element, ensure that development orders and permits are issued in a manner that will assure that the necessary public facilities will be available to accommodate the impact of that development.
  - (8) A monitoring system shall be adopted that enables the City to determine whether it is adhering to the adopted level of service standards and its capital improvements schedule.
  - (9) The Comprehensive Plan shall clearly designate those areas within that facilities will be provided by the City with public funds in accordance with the 5-Year Schedule of Capital Improvements.
- (C) Parks and Recreation. The concurrency requirement may be met by satisfying the conditions listed in paragraphs (A)(1-4) above, or by complying with the following standards:
- (1) At the time the development permit is issued, the necessary public facilities and services are the subject of a binding executed contract that provides for the commencement of the actual construction of the required public facilities or the provision of services within one year of the issuance of the development permit; or
  - (2) The necessary public facilities and services are guaranteed in an enforceable development agreement that requires the commencement of the actual construction of the public facilities or the provision of services within one year of the issuance of the applicable development permit. An enforceable development agreement may include, but is not limited to the provisions of Section 163.3227, F.S., or an agreement or development order issued pursuant to Chapter 380, F.S.

**6.01.02 Concurrency Management System.** The Concurrency Management System (CMS) shall identify and inventory existing service capacities available for development. It shall include facility and service improvements approved in the first year of the City's 5-Year Schedule of Capital Improvements. No development order or permit may be issued by the City that results in a reduction in LOS below the adopted standard.

**6.01.02.01 Concurrency Test Statement.** Concurrency Test Statements shall be filed with and reviewed by the City, and a determination of concurrency shall be made prior to formal submittal of a development plan of any kind. This shall include issuance of building permits for residential development on existing lots where no plat or Site Development Plan is required.

**6.01.02.02 Procedure.**

The following procedure shall be carried out in order to obtain a determination of concurrency:

- (A) Prepare Concurrency Test Statements on forms available at the Concurrency Management Officer's (CMO's) office.
- (B) Completed Concurrency Test Statements shall include the following information:
  - (1) A legal description of the site proposed to be developed along with a map identifying the site in relationship to the City's boundaries.
  - (2) A narrative description of the proposed development identifying the type of development and all land uses proposed within the site.
  - (3) Identification of all roadways adjacent to the site by name, pavement width, functional classification, jurisdiction (i.e., state, county or City jurisdiction), current capacity and existing LOS.
  - (4) Projected Average Daily Traffic (ADT) and peak-hour traffic generated by the proposed development and the traffic distribution on the existing roadway(s).
  - (5) Projected potable water demand generated by the proposed development and identification of the service provider.
  - (6) Projected wastewater demand generated by the proposed development and identification of the service provider.
  - (7) Projected solid waste generation and identification of the service provider.
  - (8) Description of the stormwater management system for the proposed development. This description shall include the stormwater management basin in which the proposed project is located, method of treatment, system design parameters, and location of outfall.
  - (9) Identification of required park and recreation facilities, if any, and method of providing said facilities.

- (10) A development schedule identifying the proposed date for the start of construction and the date of project completion.

Where required information is readily available, the CMO may, at his discretion, obtain or calculate one or more of the above data requirements. However, it shall be the applicant's full responsibility to ensure that the Concurrency Test Statement is complete and accurate.

The CMO shall distribute the completed Concurrency Test Statement to appropriate City departments charged with providing the identified services. Each department shall certify on the Concurrency Test Statement whether or not there is sufficient capacity to service the development.

For any public service not provided by the City of Bartow, the CMO may waive capacity certification on a case-by-case basis if there is satisfactory evidence that capacity is available to support the proposed development. Stormwater management certification for single family development on existing lots may be waived under the same conditions.

The applicant shall be notified within seven working days as to whether the proposed development meets the concurrency requirement. If the proposal is determined to meet concurrency, the applicant may proceed with the development process as set forth in other sections of this Code. Proposals not meeting concurrency shall not be processed for review until and unless an agreement has been reached by the City and the developer to mitigate the identified deficiency.

**6.01.03 Fees.** Fees for staff review of Concurrency Test Statements shall be established, and may be changed from time to time, by resolution of the City Commission.

**6.01.04 Developments to be Consistent with Concurrency Test Statements.**

All development proposals submitted to the City for review shall be consistent with the data established in the Concurrency Test Statement. Those exceeding the service demand levels established in the Concurrency Test Statement shall not be processed. The applicant shall be provided with a written notice that a new Concurrency Test Statement shall be required.

Where deficiencies have been identified, development plans based on an agreement to provide needed facilities and/or services shall be processed with the agreement as a condition of development approval. However, the City shall not be required to approve a development plan that meets the concurrency requirement, but does not satisfy other provisions of this Code.

**6.01.05 Allocation of Municipal Services.**

Allocations of public facility and service capacities shall be on a first-come, first-served basis. Services shall be allocated at the following stages:

- (A) Subdivisions. On final approval of a subdivision plat, service capacities shall be allocated based on the approved plat. Allocation of service capacity shall be valid for five years from the date of final plat approval.
- (B) Conditional Use Permit. On final approval of a subdivision plat, service capacities shall be allocated based on the approved plat. Allocation of service capacity shall be valid for five years from the date of final plat approval.



- (C) Site Development Plan. Those developments that are processed under the site development plan review procedures shall be allocated service capacities upon approval of the site development plan. Allocation of service capacity shall be valid for six months from the date of site development plan approval.
- (D) Single Family Residential on Existing Lots. Prior to receiving a building permit for single family structures on platted lots existing before the adoption of this Code, or on non-subdivision lots established by metes and bounds legal description, the builder or property owner shall secure a Certificate of Concurrency from the CMO. Allocation of service capacity shall be valid until the expiration date of the building permit or the issuance of a certificate of occupancy.

#### **6.01.06 Levels of Service.**

Through the Concurrency Management System, Bartow shall maintain the following levels of service for public facilities:

| <b>Facility</b>                    | <b>Level of Service</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Sanitary sewer                     | 125 gallons per capita per day (g/c/d)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Potable water                      | 196 g/c/d by 1995<br>177 g/c/d by 2000                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Solid waste                        | 5.5 pounds per person per day                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Backlogged facilities              | Maintain and improve                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Principal arterials                | Established in the Comprehensive Plan, Transportation Element                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Minor arterials                    | Established in the Comprehensive Plan, Transportation Element                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Collector and other local roadways | Established in the Comprehensive Plan, Transportation Element                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Recreation and open space          | 5.5 acres per 1,000 residents                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Stormwater management              | The stormwater management level of service for new development shall be equal to a 25-year 24-hour storm event. Stormwater treatment and disposal facilities shall meet the design and performance standards established in Section 17-25.025, F.A.C. The first inch of stormwater runoff shall be treated on site, pursuant to Section 17-3.051, F.A.C. Stormwater discharge facilities shall be designed such that the receiving water body shall not be degraded below minimum conditions necessary to assure the suitability of water for the designated use of its classification as established in Chapter 17-3, F.A.C. These standards shall apply to all new development and redevelopment. For existing development, the City has established a level of service to contain the 3 year 24 hour storm event. |

All development that was not approved through a subdivision plat, conditional use permit, site development plan, or the issuance of a building permit prior to the date of adoption of this Code shall be subject to an Adequacy Determination through the Concurrency Management System. An Adequacy Determination shall also be required for existing development where any improvement, expansion, or other change is proposed that may result in a greater demand for those public facilities addressed in this Section. The CMO shall determine whether a proposed change in existing development requires an Adequacy Determination.

**6.01.07 Required Determinations.** As part of the Adequacy Determination, findings shall be made as to the amount of available capacity in those public facilities that are addressed in this Section.

**6.01.07.01 Adequacy of the Road System.**

The adequacy of the road network shall be evaluated according to conditions at the time the development plan or building permit is approved. Initial measurement of roadway capacities shall be based on capacities developed as part of the Polk Transportation Organization's Roadway Network Database (RND), or other traffic analysis techniques that are technically justifiable as determined by the CMO.

Any proposed development shall be required to address the adequacy of the City's road network as it relates to the projected traffic volumes generated by the development. If any affected road segment lacks capacity to accommodate the additional traffic generated at the adopted LOS, it shall be determined whether such capacity will be available if all of the transportation improvements contained in the City's Comprehensive Plan and/or that of Polk County are completed.

For the purpose of this Section, improvements to state roads resulting in an improvement in the level of service, and that are scheduled to occur by the third year of the FDOT's Five-Year Work Program, shall be considered concurrent. If it is determined that such capacity will not be available, then the specific improvements necessary to enable the road network to reach such capacity shall be identified, through the completion of a detailed transportation study conducted by a professional in the field of transportation planning, and the application may be granted with an express condition regarding the adequacy of the City's transportation network. At the sole discretion of the City Commission, such condition shall require one of the following:

- (A) That the applicant shall construct the necessary improvements proportional to the share of the additional capacity that is needed to accommodate traffic generated by the applicant's development; or
- (B) That the applicant deposit money into a "road fund" equal to the share of the cost of the improvements that would otherwise be required.

A determination of facility deficiency shall be based on RND capacities as described above, or methodologies approved by the CMO and consistent with the most recent edition of the Highway Capacity Manual of the Transportation Research Board of the American Association of State Highway and Transportation Officials (AASHTO) Research Council, Washington, D.C. It shall be the applicant's responsibility to provide the transportation data and analysis necessary for an Adequacy Determination.

At the CMO's option, and where adequate capacity appears to be available, an alternate methodology may be used to establish concurrency. Where a capacity analysis indicates the proposed development would create a new level of service equal to or below the adopted standard, a more detailed analysis shall be performed using a Highway Capacity Manual methodology. The final Adequacy Determination shall be based on the latter analysis.

Properties served by local roads or other roads for which traffic count information is unavailable shall be evaluated for impact on the nearest road(s) for which levels of

service can be measured. The impact on the transportation system shall be determined by utilizing the trip generation standards set forth in the most recent ITE Trip Generation Manual. The estimated number of trips generated by the proposed development shall be subtracted cumulatively from the available capacity on the roadway to determine whether the roadway's capacity is adequate to support the development based on the impacted roadway's level of service.

The calculation of total traffic generated by a proposed non-residential or mixed use project will assume 100 percent buildout and occupancy of the project. Credit against the trip generation of non-residential land uses may be taken utilizing the percentages shown in Table 6.1. Any capture of trips from passing traffic in excess of these percentages must be justified by the applicant.

**Table 6.1  
Trip Capture Ratios**

| <b>Use</b>                             | <b>Percent</b> |
|----------------------------------------|----------------|
| Shopping Center (>400,000 s.f.)        | 25             |
| Shopping Center (100,000-400,000 s.f.) | 25             |
| Shopping Center (<400,000 s.f.)        | 34             |
| Supermarkets                           | 25             |
| Hardware Stores                        | 5              |
| Convenience Stores                     | 40             |
| Fast Food Restaurants                  | 35             |
| Cocktail Lounges/Bars                  | 30             |
| Restaurants                            | 15             |
| Banks                                  | 46             |
| Day Care Centers                       | 10             |
| Service Stations/Car Washes            | 58             |
| Offices                                | 0              |
| Industrial Uses/Warehouses             | 0              |

For mixed use development, the applicant shall justify any trips that will be absorbed internally by the project.

The procedures outlined in the most recent ITE Trip Generation Manual can be used to quantify pass-by trips. Bartow may consider these procedures in conjunction with locally derived data and Table 6.1.

At the discretion of the CMO, a development may establish a land use trade off matrix, in which proposed land uses may be exchanged for other similar uses, assuming that such

a tradeoff is consistent with current zoning and land use policies and that total external trips may not exceed those approved as part of a concurrency determination.

#### **6.01.07.02 Adequacy of Stormwater Management.**

The proposed development shall be designed to provide adequate areas and easements for the construction and maintenance of a water management system to serve the proposed development and adjacent public rights-of-way in a manner that conforms to sound engineering standards. The development order shall require that the applicant meet the following LOS standards, where applicable, prior to any plan approval.

- (A) Road Protection. Residential streets having not more than fifty (50) feet of pavement width shall have crown elevations equal to the 100-year flood elevation. Rights-of-way having greater than fifty (50) feet of pavement width shall have a final edge of pavement elevation no lower than the 100-year flood elevation.
- (B) Buildings. The lower floor elevation for buildings shall be no lower than one foot above the 100-year elevation.
- (C) Off-Site Discharge. Off-site discharge is not to exceed the standards allowed by the SWFWMD and this Code.
- (D) Storm Sewers. The design frequency applicable to storm sewers is the 25-year, 24-hour storm event.

#### **6.01.07.03 Adequacy of Potable Water Service.**

Potable water service must be available for the needs of the proposed development at the adopted LOS. The proposed development shall be designed so as to reserve rights-of way, easements, and any other areas that may be needed for the installation and maintenance of a potable water distribution system that will meet all applicable building, health, and environmental regulations, including Chapter 17-22, F.A.C.

Where adequate potable water capacity is available in the City of Bartow's municipal water system, the Concurrency Test Statement shall include a certification from the appropriate City official, stating that sufficient capacity exists as of the date of application. Such certification shall be based on the existing level of demand in addition to permitted development that has not been constructed, and any other development for which capacity has been reserved.

Where adequate potable water service will be made available at a future date concurrent with the impacts of the proposed development, an Adequacy Determination must be based on a financially feasible plan to construct or expand a water treatment facility that will have sufficient capacity to provide for the needs of the development. For purposes of the Concurrency Test Statement, the CMO shall certify that such a plan exists.

An agreement will be required between the City and the developer prior to approval in order to provide for the expansion of water treatment facilities necessary to serve the proposed development. City approval of an application for plat approval shall not create a reservation of potable water plant or network capacity, or a commitment to provide service.

#### **6.01.07.04 Adequacy of Wastewater Treatment and Disposal Services.**

Sanitary sewer service must be available for the needs of the proposed development at the adopted LOS. The proposed development shall be designed so as to reserve rights-of way, easements, and any other areas that may be needed for the installation and maintenance of a wastewater treatment and disposal system that will meet all applicable building, health, and environmental regulations.

Where adequate sanitary sewer capacity is available in the City of Bartow's municipal wastewater treatment system, the Concurrency Test Statement shall include a certification from the appropriate City official, stating that sufficient capacity exists as of the date of application. Such certification shall be based on the existing level of demand in addition to permitted development that has not been constructed, and any other development for which capacity has been reserved.

Where adequate sanitary sewer service will be made available at a future date concurrent with the impacts of the proposed development, an Adequacy Determination must be based on a financially feasible plan to construct or expand a wastewater treatment facility that will have sufficient capacity to provide for the needs of the development. For purposes of the Concurrency Test Statement, the CMO shall certify that such a plan exists.

An agreement will be required between the City and the developer prior to approval in order to provide for the expansion of wastewater treatment facilities necessary to serve the proposed development. City approval of an application for plat approval shall not create a reservation of wastewater plant or network capacity, or a commitment to provide service.

#### **6.01.07.05 Adequacy of Solid Waste Disposal Sites or Facilities.**

Solid waste disposal sites or facilities shall be available prior to development approval to provide for the needs of the proposed development at the LOS shown in Section 6.01.06. Certification shall be made by Polk County, in a form acceptable to the CMO, that adequate landfill capacity is available to meet the needs of the proposed development. Certification may be made on a project-by-project basis, or through a written statement, renewed at regular intervals, that sufficient capacity exists to meet the City of Bartow's needs during a specific time period. In the latter instance, the CMO shall provide Solid Waste Disposal certification on the Concurrency Test Statement.

A finding that solid waste disposal sites or facilities are available must be based on a demonstration that existing facilities have sufficient capacity to provide for the needs of the development proposed and for other developments in the service area that are occupied, or available for occupancy, for which building permits have been issued, or for which solid waste disposal capacity has been reserved. If existing capacity is unavailable, conditional approval may be granted if it is shown that there is a financially feasible plan to expand solid waste disposal capacity so that sufficient capacity will be available to accommodate the solid waste of the proposed development and for other developments within the service area that are occupied or available for occupancy, for which building permits are in effect, or for which solid waste disposal capacity has been reserved.

#### **6.01.07.06 Adequacy of Parks and Recreational Facilities.**

Park and recreational facilities shall be available prior to development approval for any residential development to meet the needs of that development at adopted LOS. Calculations shall be based on average household size figures provided in the Housing Element of the Comprehensive Plan.

A finding that park and recreational facilities are available to serve a proposed residential development must be based upon a level of service calculation that includes other such developments, existing and permitted, for which capacity has been reserved. If existing capacity is not available, conditional approval may be granted if it is shown that there is a financially feasible plan to expand park and recreational facilities so that sufficient capacity will be available for the proposed development at the time that certificates of occupancy are anticipated to be requested. If sufficient capacity does not exist for park and recreational facilities at the time that he seeks development approval, the developer may elect to donate land of suitable size, topography and general character to serve as a recreation facility that will meet the adopted LOS standard for park and recreational facilities, or make payment in lieu of land dedication.

#### **6.01.08 Monitoring.**

The Concurrency Management System shall be monitored and updated annually. Monitoring and updating shall consist of summing all approved services during each year and subtracting those sums from the capacities available at the beginning of the concurrency period. Any capital improvement scheduled during the concurrency period and constructed or placed into service shall then be added to the capacity totals. In addition, any developer-sponsored facility or service placed into service as a result of mitigation shall be accounted for in the specific facility/service provided. Upon calculation of available capacities under this method, all capital improvements projects budgeted and approved by the City Commission in the first year of its 5-Year Schedule of Capital Improvements shall be added to the relevant capacities. The sums of all aforementioned calculations shall then be the available capacities for the next year. The following calculation shall be the basis of the annual concurrency monitoring system:

$$\begin{array}{rcl} & \text{Available Capacity} & \\ + & \text{Programmed Improvements (1st year} & \\ & \text{S.C.I.)} & \\ - & \text{Development Approved during year} & \\ \hline & \text{Available Capacity (Nth year)} & \end{array}$$

If capital projects identified in the first year of the City's 5-Year Schedule of Capital Improvements were not constructed or placed into service during the identified concurrency period, those projects shall be subtracted from available capacities and, if not provided for in the Capital Budget, removed from capacity available for concurrency purposes. Development projects approved based on service capacities presumed to be available shall not be permitted to proceed until a method to mitigate any deficiency has been approved. Such mitigation shall include, but not be limited to, phasing of a development project, payment of monies to construct necessary facilities, or the construction of necessary facilities.

Any subdivision plat or site development plan for which construction has not begun within the time frame specified in this Code shall be considered lapsed and shall forfeit any allocation of service capacity. Upon forfeiture, all capacities so allocated shall be returned to the service/facility provider. The Concurrency Management System shall be approved by Resolution of the City Commission on the first regularly scheduled City Commission meeting in September of each year.

#### **6.01.09 Appealing City's Adequacy Determination.**

A developer may challenge any concurrency determination made by the City by appealing the decision to the City Commission. The appeal shall be accompanied by substantial, competent evidence that sufficient capacity does exist by virtue of the following:

- (A) The impacts of the proposed development will differ from the impacts estimated by the City as a result of special circumstances of that development;
- (B) Based on the City's own information, the analysis being used has an error in its base data;
- (C) In the case of roads, the applicant presents evidence through travel speed, distance and time studies that impacted roadway links actually operate at higher levels of service than indicated by the City's analysis. Methodology for such travel speed/distance/time studies shall be certified by a licensed professional traffic engineer. In the event the travel speed/distance/time studies are warranted, the City or its agent shall conduct or commission such a study after receiving a fee from the applicant to cover the costs of conducting and analyzing the study. The applicant shall have the opportunity to review the methodology prior to the commencement of the study.

#### **6.01.10 Options for Achieving Compliance.**

Where it appears, or it has been determined, that there is a lack of capacity to service a proposed development, the developer should consider a variety of methods for achieving compliance. Some possibilities are as follows.

- (A) Plan Amendment. The developer may propose a plan amendment that lowers the adopted level of service standard for the affected facilities and/or services.
- (B) Reduce Impact of Development. The developer may propose a reduction in the scale or impact of the proposed development.
- (C) Phasing of Development. The developer may propose a phasing of the proposed development to match the availability of capacity with the timing of each phase of the development. Specific conditions for permitting each phase to proceed shall be included in an enforceable development agreement or development order to ensure that necessary public facilities and services will be in place when the impacts of the development occur.
- (D) Development Agreement. The developer may propose a development agreement assuring that the required facility capacity will be provided. Any development agreement must provide one or more of the following assurances, acceptable to the City in form and amount, to guarantee the applicant's pro rata share of the cost of completing or providing any public facilities and services that may be necessary to maintain the adopted level of service standards for the subject property:

- (1) cash escrow;
- (2) irrevocable letter of credit;
- (3) prepayment of capacity/connection charges.

Whenever an applicant's pro rata share of a public facility is less than the full cost of the facility, the City shall do one of the following:

- (1) contract with the applicant for the full cost of the facility, including terms regarding reimbursement of the applicant for costs in excess of the applicant's pro rata share; or
  - (2) obtain assurances from other sources similar to those described above in this Section; or
  - (3) amend the Comprehensive Plan to modify the adopted level of service standard so as to reduce the required facility to equal the applicant's needs.
- (E) Alternative Transportation Study. Where a developer disagrees with the results obtained by the City in its concurrency review regarding transportation, a transportation study may be performed at the option and expense of the developer. The results of the study shall be considered by the City in subsequent determinations regarding the development's compliance with concurrency requirements.
- (F) Other Transportation Studies. For those roadway facilities that indicate a lower LOS than the adopted standard of the City of Bartow Comprehensive Plan, the City shall allow applicants to perform an operating LOS assessment based upon procedures outlined in the most recent addition of the Highway Capacity Manual. A discussion of any proposed transportation system management and/or mitigation strategies shall be included in the study. The transportation study shall be signed and sealed by a registered professional engineer. The cost of this assessment shall be borne by the applicant.

## **6.02.00 Development Agreements.**

### **6.02.01 General Provisions.**

The lack of certainty in the approval of development can result in a waste of economic and land resources, discourage sound capital improvement planning and financing, escalate the cost of housing and development, and discourage commitment to comprehensive planning. Assurance to a developer that upon receipt of his development permit he may proceed in accordance with existing laws and policies, subject to the conditions of a development agreement, strengthens the public planning process, encourages sound capital improvement planning and financing, assists in assuring there are adequate capital facilities for the development, encourages private participation in comprehensive planning, and reduces the economic costs of development.

It is the intent of this Section to encourage a stronger commitment to comprehensive and capital facilities planning, ensure the provision of adequate public facilities for development, encourage the efficient use of resources, and reduce the economic cost of development, all in conformity with and to carry out the purposes of the Bartow Comprehensive Plan and the Local Government Comprehensive Planning and Land Development Regulation Act.



**6.02.02 Authority.** This intent is affected by exercising the authority granted the City to enter into development agreements with developers under F.S. Sections 163.3220 through 163.3243. This Section shall be regarded as supplemental and additional to the powers conferred upon the City by other laws and shall not be regarded as in derogation of any powers now existing.

**6.02.03 Procedures.**

**6.02.03.01 Application for Development Agreement.** The developer shall make application for a development agreement through the CMO and pay an application fee set by resolution.

**6.02.03.02 Public Hearing.** Before entering into, amending or revoking a development agreement, the City shall conduct at least two public hearings, one of which shall be held by the Planning and Zoning Board.

**6.02.03.03 Notice of Hearing.** Notice of intent to consider a development agreement shall be advertised approximately seven days before each public hearing in a newspaper of general circulation and readership in Polk County. Notice of intent to consider a development agreement shall also be mailed to all affected property owners before the first public hearing. The day, time, and place at which the second public hearing will be held shall be announced at the first public hearing.

**6.02.03.04 Contents of Notice.** The notice shall specify the location of the land subject to the development agreement, the development uses proposed on the property, the proposed population densities, and the proposed building intensities and height and shall specify a place where a copy of the proposed agreement can be obtained.

**6.02.04 Contents and Duration of Development Agreement.**

(A) Contents. A development agreement shall include the following:

- (1) A legal description of the land subject to the agreement and the names of its legal and equitable owners.
- (2) The duration of the agreement.
- (3) The development uses permitted on the land, including population densities, and building intensities and height.
- (4) A description of public facilities that will service the development, including who shall provide such facilities; the date any new facilities, if needed, will be constructed; and a schedule to assure public facilities are available concurrent with the impacts of the development.
- (5) A description of any reservation or dedication of land for public purposes.
- (6) A description of all local development permits approved or needed to be approved for the development of the land.
- (7) A finding that the development permitted or proposed is consistent with the City's Comprehensive Plan and land development regulations.

- (8) A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the City for the public health, safety, or welfare of its citizens.
  - (9) A statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction shall not relieve the developer of the necessity of complying with the law governing said permitting requirements, conditions, term, or restriction.
  - (10) A development agreement may provide that the entire development or any phase thereof be commenced or completed within a specific period of time.
- (B) Duration of Agreement. The duration of a development agreement shall not exceed twenty (20) years. It may be extended by mutual consent of the City and the developer, subject to a public hearing in accordance with 6.02.03.02-6.02.03.04 above.

#### **6.02.04.01 Applicability of Laws.**

- (A) Consistency With Plan And Regulations. A development agreement and authorized development shall be consistent with the City's Comprehensive Plan and land development regulations.
- (B) Development Governed By Laws In Effect At Execution. The City's laws and policies governing the development of land at the time of the execution of the development agreement shall govern the development of the land for the duration of the development agreement.
- (C) Applicability Of Subsequent Laws. The City may apply subsequently adopted laws and policies to a development that is subject to a development agreement only if the City has held a public hearing and determined:
  - (1) They are not in conflict with the laws and policies governing the development agreement and do not prevent development of the land uses, intensities, or densities in the development agreement;
  - (2) They are essential to the public health, safety, or welfare, and expressly state that they shall apply to a development that is subject to a development agreement;
  - (3) They are specifically anticipated and provided for in the development agreement;
  - (4) The City demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of the development agreement; or
  - (5) The development agreement is based on substantially inaccurate information supplied by the developer.
- (D) Rights Vested Pursuant To Common Law. This Section does not abrogate any rights that may vest pursuant to common law.

#### **6.02.05 Review, Amendment, Termination.**

- (A) Periodic Review of Agreements. The City shall inspect land subject to development agreement at least once every 12 months to determine if there has been demonstrated good faith compliance with the terms of the development agreement. Each annual review shall be incorporated into a written report which shall be submitted to the parties to the agreement and the state land planning agency. The report shall be limited to the information sufficient to determine the extent to which the parties are proceeding in good faith to comply with the terms of the development agreement. If the City finds, on the basis of substantial competent evidence, that there has been a failure to comply with the terms of the development agreement, the agreement may be revoked or modified by the City
- (B) Amendment or Cancellation of Agreement. A development agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest.
- (C) Modification or Revocation to Comply with Subsequent State and Federal Law. If state or federal laws are enacted after the execution of a development agreement that are applicable to and preclude the parties' compliance with the terms of a development agreement, such agreement shall be modified or revoked as is necessary to comply with the relevant state or federal laws.

#### **6.02.06 Recording and Enforcement.**

- (A) Recording of Agreement. Within 14 days after the City enters into a development agreement, the City shall record the agreement with the clerk of the circuit court. The burdens of the development agreement shall be binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.
- (B) Enforcement of Agreement. Any party, any aggrieved or adversely affect person as defined in F.S. 163.3215(2) may file an action for injunctive relief in circuit court to enforce the terms of a development agreement or to challenge the validity of the agreement.

#### **6.03.00 Development Exactions And Dedications.**

##### **6.03.01 Dedication of Sites for Public Uses or Fee In Lieu.**

- (A) Parks
  - (1) Where an evaluation under the Concurrency Management System indicates that additional usable recreation land and facilities are needed to maintain the adopted level of service standard, the developer shall dedicate land of suitable size, topography and general character to the City or pay a fee that is equal to the fair market value of the land otherwise required to be dedicated. The required acreage or fee shall be determined by the CMO based on information supplied in the Concurrency Test Statement submitted in connection with the proposed development.

Conditions for the City's acceptance of dedicated recreation land shall be established in a Development Agreement under the provisions of Section 6.02.00.

- (2) Where dedication of recreation land is not required to maintain the adopted level of service, the City may refuse to accept such land, or establish reasonable conditions for acceptance. Proposed recreational uses must be consistent with the Future Land Use Map of the Bartow Comprehensive Plan. Other conditions may include, but are not limited to, the following:
  - a. Land must be readily accessible and usable for recreational purposes.
  - b. Land must be fully or partially developed for recreational use at time of acceptance.
  - c. The facility would meet a specific recreational need of the City (i.e., picnic areas, boat launch facilities).
- (B) Right-Of-Way. Right-of-way required to serve all development shall be dedicated in accordance with the requirements of Article 3 of this Code. Where subdivisions are bordered by public right-of-way, additional right-of-way shall be dedicated so as to meet minimum widths specified in the comprehensive plan. Where dedicated right-of-way is extended to an adjoining property or street, there shall be no reserved strips affording private control of future access. The City may require public reserved strips where such reservations promote the public health and safety and implement the comprehensive plan.

Where right-of-way has been dedicated independent of any requirement of this Code or the Comprehensive Plan, the City may refuse to accept such right-of-way, or establish such conditions for acceptance as the City Commission determines to be reasonable.

**6.03.02 Dedication of Utility Easements.** Except where alleys are provided for the purpose of access and utility placement, easements of no less than 15 feet in width, or wider as the City Engineer deems necessary, shall be dedicated for the installation of underground utilities by the City or franchised utility providers. Easements for watercourses or drainageways traversing a subdivision shall be of a width sufficient to convey the volume of stormwater projected to be generated by the 25-year storm event. Such easements shall be approved by the City Engineer.

#### **6.04.00 Proportionate Fair-Share Program.**

**6.04.01 Applicability.** The Proportionate Fair-Share Program shall be available to all developments in the City of Bartow that have been notified of a lack of capacity to satisfy transportation concurrency on a transportation facility in the City's CMS, including transportation facilities maintained by FDOT or another jurisdiction that are relied upon for concurrency determinations, pursuant to the requirements of Section D. The Proportionate Fair-Share Program does not apply to developments of regional impact (DRIs) using proportionate fair-share under §163.3180(12), F.S., or to developments exempted from concurrency as provided in Section 6.01.00 of the ULDC, the City's Comprehensive Plan, and/or Chapter 163.3180, F.S.. The Proportionate Fair-Share Program does not preclude applicants from funding transportation improvements pursuant to a development agreement to meet concurrency requirements.

#### **6.04.02 General Requirements.**

- (A) An applicant may choose to satisfy the transportation concurrency requirements of the City by making a proportionate fair-share contribution, pursuant to the following requirements:
  - (1) The proposed development is consistent with the comprehensive plan and applicable land development regulations.
  - (2) The five-year schedule of capital improvements in the City's CIE or the long-term schedule of capital improvements for an adopted long-term CMS includes the construction phase of a transportation improvement(s) that, upon completion, will satisfy the requirements of the City's transportation CMS.
- (B) The City may choose to allow an applicant to satisfy transportation concurrency through the Proportionate Fair-Share Program by adding an improvement (construction phase) to the CIE or adopted long-term CMS that will satisfy the requirements of the City's transportation CMS. For the purposes of the Proportionate Fair-Share Program, no capacity road project shall be added to the CIE unless any required alignment study or a Project Development and Environmental (PD&E) Study has been completed with an endorsed build alternative.

To implement this option, the City shall adopt, by resolution or ordinance, a commitment to add the improvement to the five-year schedule of capital improvements in the CIE or long-term schedule of capital improvements for an adopted long-term CMS no later than the next regularly scheduled update. To qualify for consideration under this section, the proposed improvement must be reviewed by the City Commission, and be determined to be financially feasible pursuant to §163.3180(16) (b) 1, F.S., consistent with the comprehensive plan, and in compliance with the provisions of this ordinance. Any improvement project proposed to meet the developer's fair-share obligation must meet the design standards of the jurisdiction with maintenance responsibility for the subject transportation facility.

**6.04.03 Memorandum of Understanding on Proportionate Fair-Share Program.** The City shall coordinate with the Florida Department of Transportation, Polk Transportation Planning Organization, Central Florida Regional Planning Council and other local governments to implement the provisions of the Proportionate Fair-Share Program. Appropriate provisions for intergovernmental coordination will be detailed in a Memorandum of Understanding on the Proportionate Fair-Share Program (MOU), and the City of Bartow shall coordinate with other signatory parties to ensure that mitigation to impacted facilities is based on comprehensive and consistent transportation data.

#### **6.04.04 Application Process.**

- (A) Upon notification of a lack of capacity to satisfy transportation concurrency, the applicant shall also be notified in writing of the opportunity to satisfy transportation concurrency through the Proportionate Fair-Share Program pursuant to the requirements of Section 6.04.02.
- (B) Prior to submitting an application for a proportionate fair-share agreement, a pre-application meeting shall be held to discuss eligibility, e.g., project status in CIE, application submittal requirements, potential mitigation options, and related issues. If

the impacted facility is on the SIS, or any state transportation facility, then the FDOT will be notified and invited to participate in the pre-application meeting.

- (C) Eligible applicants shall submit an application to the City that includes the applicable application fee and the following:
  - (1) Name, address and phone number of owner(s), developer and agent;
  - (2) Property location, including parcel identification numbers;
  - (3) Legal description and survey of property;
  - (4) Project description, including type, intensity and amount of development;
  - (5) Phasing schedule, if applicable;
  - (6) Description of requested proportionate fair-share mitigation method(s);
  - (7) Copy of concurrency application;
  - (8) Copy of the project's traffic study or traffic impact analysis; and
  - (9) Location map depicting the site and affected road network.
- (D) The City shall review the application and certify that the application is sufficient and complete within 10 business days. If an application is determined to be insufficient, incomplete or inconsistent with the general requirements of the Proportionate Fair-Share Program as indicated in Section 6.04.02, then the applicant will be notified in writing of the reasons for such deficiencies within 15 business days of submittal of the application. If such deficiencies are not remedied by the applicant within 30 days of receipt of the written notification, then the application will be deemed abandoned. The City may, in its discretion, grant an extension of time not to exceed 60 days to cure such deficiencies, provided that the applicant has shown good cause for the extension and has taken reasonable steps to effect a cure.
- (E) Pursuant to §163.3180(16) (e), F.S., proposed proportionate fair-share mitigation for development impacts to facilities on the SIS requires the concurrence of the FDOT. The applicant shall submit evidence of an agreement between the applicant and the FDOT for inclusion in the proportionate fair-share agreement.
- (F) When an application is deemed sufficient, complete, and eligible, the applicant shall be advised in writing and a proposed proportionate fair-share obligation and binding agreement will be prepared by the City or the applicant with direction from the County and delivered to the appropriate parties for review, including a copy to the FDOT for any proposed proportionate fair-share mitigation on a SIS facility, or any state transportation facility, no later than 60 days from the date at which the applicant received the notification of a sufficient application and no fewer than 45 working days prior to the City Commission meeting when the agreement will be considered.
- (G) The City shall notify the applicant regarding the date of the City Commission meeting when the agreement will be considered for final approval. No proportionate fair-share agreement will be effective until approved by the City Commission.

#### **6.04.05 Determining Proportionate Fair-Share Obligation.**

- (A) Proportionate fair-share mitigation for concurrency impacts may include, without limitation, separately or collectively, private funds, contributions of land, and construction and contribution of facilities as provided in §163.3180 (16) (c), F.S.

- (B) A development shall not be required to pay more than its proportionate fair-share. The fair market value of the proportionate fair-share mitigation for the impacted facilities shall not differ based on the form of mitigation as provided in §163.3180 (16) (c), F.S. (contributions of private funds, land or facility construction).

- (C) The methodology used to calculate an applicant's proportionate fair-share obligation shall be as provided for in Section 163.3180 (12), F. S., as follows:

The cumulative number of peak hour, peak direction trips from the complete build out of the proposed development, or build out of the stage or phase being approved, that are assigned to the proportionate share program segment divided by the change in the peak hour maximum service volume (MSV) of the proportionate share program segment resulting from construction of the proportionate share program improvement, multiplied by the anticipated cost of the proportionate share project. In this context, cumulative does not include project trips from previously approved stages or phases of development.

This methodology is expressed by the following formula:

$$\text{Proportionate Fair Share} = \sum \left[ \left[ (\text{Development Trips}_i) / (\text{SV Increase}_i) \right] \times \text{Cost}_i \right]$$

Where:

$\sum$  = Sum of all deficient links proposed for proportionate fair-share mitigation for a project;

Development Trips<sub>i</sub> = Those trips from the stage or phase of development under review that are assigned to roadway segment "i" and have triggered a deficiency per the concurrency management system (CMS);

SV Increase<sub>i</sub> = Service volume increase provided by the eligible improvement to roadway segment "i";

Cost<sub>i</sub> = Adjusted cost of the improvement to segment "i". Cost shall include the cost of all project phases (preliminary engineering or alignment study, design, rights-of-way acquisition and construction) in the years said phases will occur with all associated costs.

- (D) The cost of the proportionate fair-share project shall be determined by the maintaining jurisdiction.
- (E) The value of right-of-way dedications used for proportionate fair-share payment shall be subject to the approval of the maintaining jurisdiction. No value shall be assigned to right-of-way dedications required under ordinance or as a condition of development approval.

#### **6.04.06 Impact Fee Credit for Proportionate Fair-Share Mitigation.**

- (A) The City shall maintain a list of transportation projects funded by road impact fees under the CIE. If the subject improvement is contained in the current CIE and funded in part or whole by road impact fees, the proportionate fair-share contributions shall be applied as a credit against road impact fees.

- (B) Impact fee credits for the proportionate fair-share contribution will be determined when the transportation impact fee obligation is calculated for the proposed development. Impact fees owed by the applicant will be reduced per the Proportionate Fair-Share Agreement as they become due per the City of Bartow Impact Fee Ordinance. If the applicant's proportionate fair-share obligation is less than the development's anticipated road impact fee for the specific stage or phase of development under review, then the applicant or its successor must pay the remaining impact fee amount to the City pursuant to the requirements of the City impact fee ordinance.
- (C) The proportionate fair-share obligation is intended to mitigate the transportation impacts of a proposed development at a specific location. As a result, any road impact fee credit based upon proportionate fair-share contributions for a proposed development cannot be transferred to any other location unless provided for within the local impact fee ordinance.
- (D) The amount of traffic impact fee credit for a proportionate fair-share contribution may be up to, but shall not exceed, the project's proportionate fair-share amount and will be determined based on the following formula:

$$\text{Credit} = [(\text{Cost of Proportionate Share Project}) \div (\text{Total Cost of All Projects in Applicable Impact Fee District})] \times (\text{Total Project Traffic Impact Fee Liability})$$

Where:

Cost of projects shall include the cost of all project phases in the year said phases will occur with all associated costs. Credit shall be calculated based on multiple Proportionate Share Projects, if applicable.

#### **6.04.07 Proportionate Fair-Share Agreements.**

- (A) Upon execution of a proportionate fair-share agreement (Agreement) and satisfying other concurrency requirements, an applicant shall receive a City of Bartow Certificate of Concurrency Approval. Should the applicant fail to apply for building permits within the timeframe provided for in the City's concurrency certificate, then the project's concurrency vesting shall expire, and the applicant shall be required to reapply. Once a proportionate fair share payment for a project is made and other impact fees for the project are paid, no refunds shall be given. All payments, however, shall run with the land.
- (B) Payment of the proportionate fair-share contribution for a project and other road impact fees not subject to an impact fee credit shall be due and must be paid within 60 days of the effective date of the proportionate fair share agreement. The effective date shall be specified in the agreement and shall be the date the agreement is approved by the City Commission.
- (C) All developer improvements accepted as proportionate fair share contributions must be completed within three years of the issuance of the first building permit for the project which is the subject of the proportionate fair share agreement and be accompanied by a security instrument that is sufficient to ensure the completion of all required improvements. It is the intent of this section that any required improvements be completed within three years of the issuance of the first building permit for the project which is the subject of the proportionate fair share agreement.



- (D) Dedication of necessary right-of-way for facility improvements pursuant to a proportionate fair-share agreement must be completed prior to the effective date of the proportionate fair share agreement.
- (E) Any requested change to a development project subsequent to issuance of a development order shall be subject to additional proportionate fair-share contributions to the extent the change would generate additional traffic that would require mitigation.
- (F) Applicants may submit a letter to withdraw from the proportionate fair-share agreement at any time prior to the execution of the agreement. The application fee and any associated advertising costs to the City will be nonrefundable.

#### **6.04.08 Appropriation of Fair-Share Revenues.**

- (A) Proportionate fair-share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the City's CIE, or as otherwise established in the terms of the proportionate fair-share agreement. At the discretion of the local government having jurisdiction over the relevant transportation facility subject to the proportionate fair share agreement, and with the concurrence of the local government issuing the development order, proportionate fair-share revenues may be used for operational improvements prior to construction of the capacity project from which the proportionate fair-share revenues were derived. These operational improvements shall consistent with, and sustainable through, the construction of the capacity project. Proportionate fair-share revenues may also be used as the 50% local match for funding under the FDOT TRIP.
- (B) In the event a scheduled facility improvement is removed from the CIE, then the revenues collected for its construction may be applied toward the construction of another improvement within that same corridor or sector that would mitigate the impacts of development.

**CITY OF BARTOW  
APPLICATION FOR CONCURRENCY EVALUATION**

This application, together with all required attachments, shall be completed and filed with the CMO prior to making application for site development plan, subdivision, or building permit approval. A finding of non-deficiency only entitles the owner to apply for development permits pursuant to the time parameters established in Article 6 of the City of Bartow Land Development Code.

**Type or Print the following information.**

|                                                                                                                                                                            |       |                         |     |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|-------------------------|-----|
| Owner                                                                                                                                                                      |       | Applicant               |     |
| Address                                                                                                                                                                    |       | Address                 |     |
|                                                                                                                                                                            | Zip   |                         | Zip |
| Phone #                                                                                                                                                                    |       | Phone #                 |     |
| <b>PROPERTY DESCRIPTION</b>                                                                                                                                                |       |                         |     |
| Adjacent Road(s)                                                                                                                                                           |       |                         |     |
| Township                                                                                                                                                                   | Range | Section                 |     |
| Subdivision Name                                                                                                                                                           | Block | Lot/Parcel              |     |
| Plat Book / Page Number (if applicable)                                                                                                                                    |       |                         |     |
| <b>PROPOSAL</b>                                                                                                                                                            |       |                         |     |
| <input type="checkbox"/> Site Development Plan <input type="checkbox"/> Subdivision <input type="checkbox"/> Building Permit                                               |       |                         |     |
| <b>DEVELOPMENT INFORMATION</b>                                                                                                                                             |       |                         |     |
| Acreage / Lot Dimensions                                                                                                                                                   |       | Zoning District         |     |
| <input type="checkbox"/> Residential Development                                                                                                                           |       |                         |     |
| Type(s) of Units                                                                                                                                                           |       | Maximum Number of Units |     |
| <input type="checkbox"/> Non-Residential Development                                                                                                                       |       |                         |     |
| Specific Use(s)                                                                                                                                                            |       | Floor Area or Acreage*  |     |
|                                                                                                                                                                            |       |                         |     |
|                                                                                                                                                                            |       |                         |     |
|                                                                                                                                                                            |       |                         |     |
|                                                                                                                                                                            |       |                         |     |
| * Other measures of intensity may be substituted as appropriate for the proposed use, such as number of students (schools), seating capacity (churches and theaters), etc. |       |                         |     |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                   |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
| <b>TRANSPORTATION FACILITIES</b>                                                                                                                                                                                                                                                                                                                                                                                                                    |                                   |
| Primary Access Street(s):                                                                                                                                                                                                                                                                                                                                                                                                                           |                                   |
| Classification:                                                                                                                                                                                                                                                                                                                                                                                                                                     | Current PHT:                      |
| Current V/C and LOS?                                                                                                                                                                                                                                                                                                                                                                                                                                | Adopted LOS Standard:             |
| Required facility improvement scheduled in: <ul style="list-style-type: none"> <li>• 5-Year Schedule of Capital Improvements</li> <li>• FDOT 5-Year Work Program (no later than 3rd year)</li> <li>• No facility improvement needed</li> </ul>                                                                                                                                                                                                      |                                   |
| Potential PHT generated by development:                                                                                                                                                                                                                                                                                                                                                                                                             | V/C ratio & LOS with development: |
| Further evaluation of traffic impacts needed?      • Yes      • No                                                                                                                                                                                                                                                                                                                                                                                  |                                   |
| <b>POTABLE WATER FACILITIES</b>                                                                                                                                                                                                                                                                                                                                                                                                                     |                                   |
| Is proposed development within an existing potable water service area? <ul style="list-style-type: none"> <li>• Yes (Capacity Certification attached)<br/>Supplier of potable water service _____</li> <li>• No</li> </ul>                                                                                                                                                                                                                          |                                   |
| Are facility expansions or improvements needed to service the development? <ul style="list-style-type: none"> <li>• Yes             <ul style="list-style-type: none"> <li>• Needed facilities included in 5-Year Schedule of Capital Improvements</li> <li>• Needed facilities will be provided by applicant</li> <li>• Needed facilities will be provided by other means (explain below)<br/>_____</li> </ul> </li> <li>• No<br/>_____</li> </ul> |                                   |
| <b>SANITARY SEWER FACILITIES</b>                                                                                                                                                                                                                                                                                                                                                                                                                    |                                   |
| Is proposed development within an existing sanitary sewer service area? <ul style="list-style-type: none"> <li>• Yes (Capacity Certification attached)<br/>Supplier of sanitary sewer service _____</li> <li>• No (Attach copy of Septic Tank Permit)</li> </ul>                                                                                                                                                                                    |                                   |
| Are facility expansions or improvements needed to service the development? <ul style="list-style-type: none"> <li>• Yes             <ul style="list-style-type: none"> <li>• Needed facilities included in 5-Year Schedule of Capital Improvements</li> <li>• Needed facilities will be provided by applicant</li> <li>• Needed facilities will be provided by other means (explain below)<br/>_____</li> </ul> </li> <li>• No<br/>_____</li> </ul> |                                   |

|                                                                                                                                                                                                                                                                         |                                                 |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|
| <b>PARKS AND RECREATION FACILITIES (Residential proposals only)</b>                                                                                                                                                                                                     |                                                 |
| Potential population of development proposal?                                                                                                                                                                                                                           |                                                 |
| Existing Level of Service?                                                                                                                                                                                                                                              | Level of Service based on proposal's potential? |
| Additional recreation property/funding required to service development      • Yes • No                                                                                                                                                                                  |                                                 |
| <b>SOLID WASTE DISPOSAL</b>                                                                                                                                                                                                                                             |                                                 |
| Solid Waste facility to be used?                                                                                                                                                                                                                                        |                                                 |
| Adequate facility capacity is available to service the development? <ul style="list-style-type: none"> <li>▪ Yes (Capacity Certification attached)</li> <li>▪ No</li> </ul>                                                                                             |                                                 |
| <b>STORMWATER MANAGEMENT</b>                                                                                                                                                                                                                                            |                                                 |
| This development is designed such that post-development runoff does not exceed pre-development runoff for a 25-year storm even of 24-hour duration? <ul style="list-style-type: none"> <li>▪ Yes (Engineering plans or certification attached)</li> <li>▪ No</li> </ul> |                                                 |

### SUMMARY OF CONCURRENCY EVALUATION RESULTS

Using the information provided in items A through F of the worksheet, will the development proposal be served by the following facilities and services with the adopted Level of Service Standards of the City of Bartow Comprehensive Plan?

|                       | Yes | No | Unknown (Explain below) |
|-----------------------|-----|----|-------------------------|
| Transportation        |     |    |                         |
| Potable Water         |     |    |                         |
| Sanitary Sewer        |     |    |                         |
| Solid Waste           |     |    |                         |
| Parks/Recreation      |     |    |                         |
| Stormwater Management |     |    |                         |

Note: Form subject to change as needed pursuant to administrative requirements.

## ARTICLE 7

### DEVELOPMENT APPROVAL PROCESS

#### 7.0100 Pre-Application Conference

#### 7.02.00 Comprehensive Plan Amendments

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- 7.02.02 Contents of the Application for Plan amendments
- 7.02.03 Planning and Zoning Commission Standards for Evaluation
- 7.02.04 Public Hearings
- 7.02.05 Findings and Recommendation to Approve a Plan Amendment
- 7.02.06 Findings and Recommendation to Deny a Plan Amendment
- 7.02.07 Decision By City Commission

#### 7.03.00 Rezoning

- 7.03.01 Purpose and Intent
- 7.03.02 Contents of the Application
- 7.03.03 Planning and Zoning Commission Standards for Evaluation
- 7.03.04 Public Hearings
- 7.03.05 Findings and Recommendation to Approve a Rezoning
- 7.03.06 Findings and Recommendation to Deny a Rezoning
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#### 7.04.00 Planned Development

- 7.04.01 Intent and Purpose of District
- 7.04.02 Relationship of PD Regulations to the Comprehensive Plan, Land Development Code, or Other Applicable Regulations
- 7.04.03 General Regulations and Requirements
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#### 7.05.00 Site Development Plan

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- 7.05.02 Site Development Plan Review
- 7.05.03 Content of the Application
- 7.05.04 Development Site to be Unified
- 7.05.05 Planning and Zoning Commission Review and Action
- 7.05.06 Approval of Site Development Plans
- 7.05.07 Effect of Site Development Plan Approval
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- 7.05.09 Integration of Other Review Procedures

- 7.05.10 Non-Compliance
- 7.06.00 Subdivision Regulations
  - 7.06.01 General
  - 7.06.02 Procedure
  - 7.06.03 Concept Plan Review
  - 7.06.04 Administrative Approval of Minor Subdivisions
  - 7.06.05 Preliminary Subdivision Plat
    - 7.06.05.01 Submission of Preliminary Subdivision Plat
    - 7.06.05.02 Term of Preliminary Subdivision Plat
  - 7.06.06 Construction Plans
    - 7.06.06.01 Submission of Construction Plans
    - 7.06.06.02 Construction Inspections
    - 7.06.06.03 Record Drawings
    - 7.06.06.04 Maintenance Guarantee
  - 7.06.07 Final Plat
    - 7.06.07.01 Submission of Final Plat
    - 7.06.07.02 Performance Bond
  - 7.06.08 Vacating of Plats and Replats
    - 7.06.08.01 Vacating of Plat by Owner
    - 7.06.08.02 Vacating of Plat by City
  - 7.06.09 Access to Individually Owned Parcels
- 7.07.00 Cluster/Zero Lot Line Development
  - 7.07.01 Cluster Subdivision
  - 7.07.02 Zero Lot Line Development
- 7.08.00 Conditional Use Permits
  - 7.08.01 Purpose and Intent
  - 7.08.02 Conditional Uses in the City of Bartow
  - 7.08.03 General Standards of Review
  - 7.08.04 Application
  - 7.08.05 Review of Proposed Conditional Use
- 7.09.00 Procedure for Obtaining a Special Exception
  - 7.09.01 Application
  - 7.09.02 Review of Proposed Special Exception
  - 7.09.03 Expiration or Abandonment of Special Exception Use
  - 7.09.04 Communication Towers
- 7.10.00 Home Occupations
  - 7.10.01 Procedure for Approval of a Home Occupation
- 7.11.00 Variances
  - 7.11.01 Criteria for Granting a Variance
- 7.12.00 Nonconformities
  - 7.12.01 Nonconforming Uses
  - 7.12.02 Nonconforming Lots of Record
  - 7.12.03 Nonconforming Structures
  - 7.12.04 Nonconforming Manufactured Home Parks
  - 7.12.05 Nonconforming Manufactured Homes

- 7.12.06 Amortization of Nonconforming Uses
- 7.12.07 Nonconforming Communication towers and Antennas

## **ARTICLE 7**

### **DEVELOPMENT APPROVAL PROCESS**

#### **7.01.00 Pre-Application Conference.**

A pre-application conference will be held for each new site development plan or subdivision plat submitted to the City for approval. The Development Director will conduct pre-application conferences as needed and, at his discretion, will summon various members of City staff and other persons whose expertise is relevant to a particular project.

Persons participating in pre-application conferences shall have knowledge and experience in one or more of the following areas: planning and/or zoning, public works, downtown redevelopment, law enforcement, fire/emergency services, parks and recreation, traffic engineering, environmental protection, community development, or others as appropriate

A pre-application conference will be scheduled upon submission of preliminary development plans and payment of the pre-application review fee. The applicant may waive the pre-application conference if he so chooses; however, the fee may not be waived without approval of the City Commission.

The pre-application review fee and conference shall not be required for proposals involving existing development sites and meeting the following conditions:

- (A) Site Development Plan: proposed change does not generate the need for additional parking spaces.
- (B) Subdivision Plat: proposed change does not create more than two additional lots.

Such proposals shall be considered amendments to existing plans rather than new ones; however, all other provisions of this Code shall apply.



## **7.02.00 Comprehensive Plan Amendments.**

### **7.02.01 Intent and Purpose.**

- (A) An amendment to the Comprehensive Plan may either be a change to the goals, objectives and policies of the Comprehensive Plan; or, the amendment of a land use classification shown on the Future Land Use Map. A Plan Amendment may be initiated by the City, by a property owner or agent of a property owner, or by citizens or interested parties who have established standing to bring amendments to the City for consideration.
- (B) The basis for review of a proposed Plan Amendment is the same as the basis for the adoption of the Comprehensive Plan, which entails a review of data and analysis in support of the Plan Amendment: analysis of the impact of the Amendment on public facility Levels of Service and the Capital Improvements Budget of the City; and an analysis of the need for the proposed Amendment in relation to the existing structure of the City and the future as delineated in the goals, objectives and policies of the Comprehensive Plan.
- (C) The Comprehensive Plan may only be amended twice each calendar year, however Small Scale Plan Amendments, the criteria for which is detailed in Section 8.07.05 of this Code, do not count against standard. The City Commission transmits approved Plan Amendments to the DCA for review, but may adopt a Small Scale Amendment before transmission. Small scale amendments are defined by Florida Statute as:
  - Encompasses the use of 10 or fewer acres of any land use category;
  - Residential densities are limited to 10 or fewer units per acre;
  - Does not involve the same property more than once per year;
  - Does not involve the same owner's property within 200 feet of property granted a land use change within the past 12 months;
  - Does not include any text change to the Plan's goals, objectives, and policies;
  - Is not located within an are of critical state concern; and
  - The local government can approve the amendment without exceeding its yearly maximum of 80 acres of small scale amendments.

### **7.02.02 Contents of the Application for Plan Amendments.**

There are two general types of Plan Amendments: text amendments; and, amendments effecting land use, development standards, and maps. All requests for Plan Amendments shall be submitted in writing to the Development Director, together with applicable fees, which shall have been established by resolution of the City Commission.

- (A) Application Contents for Text Amendments. The application shall contain the following items, as applicable:
  - (1) A description of the proposed Plan Amendment, specifying the goals, objectives and policies of the Comprehensive Plan that are to be modified.
  - (2) Data and analysis that supports the change applied for. Specifically, new data that would alter the assumptions in the Comprehensive Plan and would, therefore, justify the Plan Amendment of a goal, objective or policy.

- (B) Application Contents for Amendments Effecting Land Use, Development Standards, & Maps. The application shall contain the following items, as applicable:
- (1) A description of the proposed Plan Amendment, specifying the goals, objectives and policies of the Comprehensive Plan that are to be modified.
  - (2) Where the Plan Amendment proposed will change the Future Land Use Map, a legal description of the property.
  - (3) A concurrency analysis of all public facilities and services for which a Level of Service has been established in the Comprehensive Plan.
  - (4) An Evaluation and Appraisal Report (EAR Report), the format of which is outlined in (C) below.
- (C) Plan Amendment Evaluation and Appraisal Report (EAR Report) Required from the Applicant. Based on the data found in the Comprehensive Plan Data and Analysis sections, the evaluation and appraisal report shall contain the following, as applicable.
- (1) Inventory and Analysis of Site Characteristics
    - a. A description of the terrain; type of vegetation on the site; statement regarding the existence of surface water or wetlands or both; and existence of any flood plains on the site.
    - b. The type of soils present on the site and in the area; an analysis of the limitations for construction for each type of soil; and an analysis of absorption rate for septic fields. Identification of habitats present on the site as indicated by the soil types.
    - c. An inventory of endangered plant and animal species on the site; an inventory of plant and animal species (mammals, birds and reptiles) common to this site.
    - d. A list of trees with an estimate of canopy that they provide; a list of herbaceous plants and vines; a list of grasses and grass-like plants.
  - (2) Inventory and Analysis of Land Use: location in the City; former use; existing surrounding land uses; and, analysis of type of buffer needed between proposed project site and existing land uses.
  - (3) Inventory of Public Facilities: location of existing sewer service and potable water facilities serving the development site with capacities and the future demand associated with the proposed development; the functional classification of roads serving the area with estimated daily traffic volumes; an analysis detailing the future volumes and their effect on roadway Levels of Service; and an analysis of recreation land and facilities needs generated by the proposed land use classification.

### **7.02.03 Planning and Zoning Commission Standards for Evaluation.**

The Planning and Zoning Commission shall review every Plan Amendment. In reviewing and formulating recommendations to the City Commission on proposed Amendments to the Comprehensive Plan, and particularly, the Future Land Use Element and Future Land Use Map, the Planning and Zoning Commission shall specifically consider and evaluate the proposed amendments against the following standards.

- (A) The proposed Plan Amendment is consistent with the goals of the City of Bartow Comprehensive Plan. Objectives and policies of the Plan may be proposed for modification by the Amendment.
- (B) The proposed Plan Amendment contains an analysis of the Levels of Service for all public facilities and services; identifies the timing of improvements to maintain Levels of Service established by the Comprehensive Plan; and estimates the cost of such improvements to the City and to the developer.
- (C) In the case of a proposed Plan Amendment to the Future Land Use Map, the proposed Land Use Classification at the proposed location has been analyzed to identify adverse impacts to adjacent land uses, the character of the neighborhood, parking, or other matters affecting land use compatibility and the general welfare of the City. Said analysis must address land uses as they now exist, and as they may exist in the future, as a result of the implementation of the goals, objectives and policies of the Comprehensive Plan; and contains objectives and policies to mitigate or eliminate adverse impacts.
- (D) The proposed Plan Amendment contains an analysis of community need for the development associated with the Amendment. The analysis is based on existing and proposed uses of a similar nature in the City, and an assessment of the need to provide or maintain a proper mix of uses both within the City of Bartow and also in the immediate area in Polk County or another municipality.
  - (1) The proposed Plan Amendment shall not result in either a detrimental over concentration of a particular use within the City or within the immediate area.
  - (2) The Plan Amendment contains sufficient proof to convince the Planning and Zoning Commission and the City Commission that the proposed Plan Amendment and Land Use Classification supplants the analysis that supported the establishment of the existing Land Use Classification.

**7.02.04 Public Hearings.** No Plan Amendment may be considered by the Planning and Zoning Commission until due public notice has been given of a public hearing. All procedures for advertisement and notification of a public hearing shall be as delineated in Article 8, Section 8.06.00 of this Code.

### **7.02.05 Findings and Recommendation to Approve a Plan Amendment.**

The Planning and Zoning Commission may recommend approval of an application for a Plan Amendment only when all of the following conditions are met.

- (A) The proposed Plan Amendment is, or proposes objectives and policies, that will be consistent with the City of Bartow Comprehensive Plan.
- (B) The proposed Plan Amendment will not degrade the Level of Service of one or more public facilities and services, or contains commitments to make improvements to maintain Levels of Service established by the Comprehensive Plan, **and** does not increase the cost of improvements to be undertaken by the City as stated in the Capital Improvements Element.
- (C) There is a community need for the proposed Plan Amendment. This finding must be based on an analysis of existing and proposed land uses of a similar nature in the City, and  
an assessment of the need to provide or maintain a proper mix of land uses both within the City of Bartow and also in the immediate area of Polk County.

#### **7.02.06 Findings and Recommendation to Deny a Plan Amendment.**

The Planning and Zoning Commission may recommend denial of any application for a Plan Amendment for one or more of the following reasons:

- (A) The proposed Plan Amendment is inconsistent with the City of Bartow Comprehensive Plan.
- (B) The proposed Plan Amendment will degrade the Level of Service of one of more public facilities and services, and contains no commitment to undertake improvements to maintain acceptable Levels of Service.
- (C) No community need can be demonstrated for the proposed Plan Amendment at the proposed location.

#### **7.02.07 Decision By City Commission.**

In not more than sixty (60) days of receipt of the Planning and Zoning Commission recommendation, the City Commission shall hold a public hearing, after due public notice, on all recommendations associated with a Plan Amendment from the Planning and Zoning Commission. It may accept, reject, modify, return or continue and seek additional information on those recommendations. No approval of a Plan Amendment shall be granted unless approved by a majority of the Commissioners voting.

Plan Amendments are subject to review by the DCA under Chapter 163, F.S. The City Commission therefore, does not act to "adopt" a Plan Amendment, but rather to "transmit" the Plan amendment for review. For guidance in the submission of amendments for review by the State, see Article 8, Section 8.07.00. In the case of a Small Scale Plan Amendment, the City Commission does adopt the Amendment, transmit it to DCA, but may proceed to consider rezoning without waiting for the conclusion of State review. Small Scale Amendment criteria are contained in Section 8.07.05 of this Code.

### **7.03.00 Rezoning.**

**7.03.01 Purpose and Intent.** A rezoning may be initiated by the City, or by a property owner or agent of a property owner. The basis for review of application for rezoning entails a review of data and analysis in support of the rezoning; analysis of the impact of the rezoning on public facilities Levels of Service; and an analysis of the need for the proposed rezoning in relation to the goals, objectives and policies of the Comprehensive Plan.

### **7.03.02 Contents of the Application.**

Rezoning requests shall be submitted to the Development Director on an application form provided by the City, together with applicable fees, which shall have been established by resolution of the City Commission. The application shall contain, at a minimum, the following information:

- (A) A legal description of the property, including the size of the area in acres. For all property not included in a platted and recorded subdivision, a certified boundary survey of the property to be rezoned.
- (B) A description of the proposed rezoning, specifying the goals, objectives and policies of the Comprehensive Plan that it supports and advances.
- (C) A detailed map showing the location of the property in the City, existing land use, existing surrounding land uses; existing zoning and boundaries of the zoning district, and the proposed boundaries of the rezoned district.
- (D) A description and generalized site plan of any proposed development including; the number of units proposed and resulting net density; number of required parking spaces and location; footprint of all proposed buildings and structures on the site, including setbacks; required landscape and buffer yards; and sign locations.
- (E) The location of existing sewer service and potable water facilities to the development site and whether or not the existing facilities will serve the new development.
- (F) The functional classification of all roadways that will be impacted by development permitted by the proposed zoning district, with current and estimated future daily traffic volumes.
- (G) The location of all public and private streets, driveways and utility easements within and adjacent to the site.
- (H) A description of the terrain and the vegetation on the site, including a topographic map, when available.
- (I) An inventory and description of surface water and wetlands; and any flood plains on the site.
- (J) A general inventory of plant and animal species common to the area, any endangered plant and animal species, and habitats present on the site.

- (K) A inventory of trees with an estimate of canopy that they provide, and an inventory of stands of mature trees and understory vegetation that may provide wildlife habitats or other environmentally unique areas.

### **7.03.03 Planning and Zoning Commission Standards for Evaluation.**

The Planning and Zoning Commission shall review every request for rezoning. In reviewing and formulating recommendations to the City Commission on rezoning applications, the Planning and Zoning Commission shall specifically consider and evaluate the proposed rezoning against the following standards.

- (A) Consistency with the Comprehensive Plan. The proposed rezoning is consistent with the goals of the City of Bartow Comprehensive Plan.
- (B) Concurrency Analysis. The proposed rezoning contains an analysis of the Levels of Service for all public facilities and services; identifies the timing of improvements to maintain Levels of Service established by the Comprehensive Plan; and estimates the cost of such improvements to the City and to the developer.
- (C) Impact Analysis. The proposed rezoning has been analyzed to identify future adverse impacts to adjacent land uses, the character of the neighborhood, parking, or other matters affecting land use compatibility and the general welfare of the City.
- (D) Zoning and Use of Nearby Property. An analysis of the range of development that will occur as a result of the rezoning, in comparison to the existing pattern of development, and the future pattern established by the Comprehensive Plan. Depending on the uses permitted in the proposed zoning district, inconsistency in the two patterns may be created.
- (E) Substantial Changes in Land Use Circumstances. Analysis of the effect of significant changes in land use in the vicinity of the proposed rezoning. Such changes are substantial if they include: widening of a street, expansion of existing permitted uses, the completion of a subdivision that was previously platted, the construction of a new public facility, such as a park, or any number of other examples. One such change may not be significant and may not justify the rezoning, but several would be and may justify rezoning to higher intensities.
- (F) Time Vacant. If the property (site) is vacant, an analysis of the length of the vacancy versus the present zoning classification is important. In particular, an analysis should have been done to compare the rate of land development in the vicinity of the property and the conversion of vacant land to development in the same zoning district in other parts of the City.
- (G) Effect on Property Values. An analysis of the effect of the proposed rezoning on property values.

**7.03.04 Public Hearings.** Due Public Notice. No request for rezoning may be considered by the Planning and Zoning Commission until due public notice has been given of a public hearing. All procedures for advertisement and notification of a public hearing must be followed as delineated in Article 8, Section 8.06.00 of this Code.

#### **7.03.05 Findings and Recommendation to Approve a Rezoning.**

The Planning and Zoning Commission may recommend approval of an application for a rezoning only when all of the following conditions are met.

- (A) The proposed rezoning is consistent with the City of Bartow Comprehensive Plan.
- (B) The proposed rezoning will not degrade the Level of Service of one or more public facilities and services, or contains commitments to make improvements to maintain Levels of Service established by the Comprehensive Plan, **and** does not increase the cost of improvements to be undertaken by the City as stated in the Capital Improvements Element.
- (C) The proposed rezoning and all permitted uses are compatible with development on surrounding property; **or** compatibility can be achieved by the imposition of conditions, buffers or limitations on the uses within the zone, which are specified in the Board's recommendation. By this analysis the Planning and Zoning Commission determines whether or not the proposed rezoning provides "appropriate use" of the property.

#### **7.03.06 Findings and Recommendation to Deny a Rezoning.**

The Planning and Zoning Commission may recommend denial of any application for a rezoning for one or more of the following reasons:

- (A) The proposed rezoning is inconsistent with the City of Bartow Comprehensive Plan.
- (B) The proposed rezoning will degrade the Level of Service of one of more public facilities and services, and contains no commitment to undertake improvements to maintain acceptable Levels of Service.
- (C) The Public Welfare benefits in maintaining the present zoning classification are so great, that any hardship imposed on the property owner by denying the request for rezoning, is justified.

**7.03.07 Decision By City Commission.** In not more than sixty (60) days of receipt of the Planning and Zoning Commission recommendation, the City Commission shall hold a public hearing, after due public notice, on all recommendations associated with a rezoning from the Planning and Zoning Commission. It may accept, reject, modify, return or continue and seek additional information on those recommendations. No approval of an application for rezoning shall be granted unless approved by a majority of the Commissioners voting.

## **7.04.00 Planned Development**

### **7.04.01 Intent and Purpose of District**

The Planned Development (PD) zoning district is established to provide for well-planned and orderly mixed-use development in any area of the City. Further, PDs are intended to:

- (A) Promote flexibility in development design and provide maximum opportunity for application of innovative concepts of site planning in the creation of aesthetically pleasing living, shopping and working environments on properties of adequate size, shape and location;
- (B) To reduce improvement and energy costs through a more efficient use of land design and smaller networks of utilities and streets than is possible through application of other zoning districts and subdivision requirements;
- (C) Preserve the natural amenities and environmental assets of the land by encouraging the preservation and improvement of scenic and functional open areas;
- (D) To encourage an increase in usable and suitably located, open space areas, recreation facilities and other public and common facilities than would otherwise be provided by permitting a more economical and concentrated use of building areas than would be possible through conventional zoning districts;
- (E) To allow diversification of uses, structures, and open spaces in a manner compatible with existing and permitted land uses on abutting properties by coordinating architectural styles, building forms and building relationships ;
- (F) Lessen the burden of traffic conflict on streets and highways.
- (G) The PD district is a flexible zoning district which is intended to provide for a balance between the intensity of development and the ability to provide a balanced land use mixture and adequate capacity within the support services and facilities.
- (H) To ensure that development will occur according to limitations of use, design, density, coverage and phasing stipulated on an approved Land Use Plan, Development Plan and associated conditions of approval.

### **7.04.02 Relationship of PD Regulations to the Comprehensive Plan, Land Development Code, or Other Applicable Regulations**

- (A) The development of land uses within a PD shall be consistent with the pattern of land use designations established on the Future Land Use Map of the Comprehensive Plan. Residential densities in a PD shall not exceed the permitted densities established in the plan.
- (B) Where there are conflicts between these special PD provisions and other regulations in this Code, these special regulations shall apply. Where no standard is designated in this Section for a particular element of a PD, appropriate regulations set forth in other sections of this Code shall apply. In a unique situation where no standard is specified, the City Commission shall determine the appropriate standard.



### **7.04.03 General Regulations and Requirements**

- (A) Professional Services Required. All applications for rezoning and development approval in a PD district shall consist of a Land Use Plan of the complete development, any phases therein, and shall be prepared by a member of one or more of the following professions: Urban planner whose education and experience are in the planning and community development fields; landscape architect licensed by the State of Florida; architect licensed by the State of Florida; civil engineer licensed by the State of Florida; or land surveyor licensed by the State of Florida.
- (B) Minimum Site Area. Planned Developments intended for residential or commercial development shall be at least one (1) acre in size and industrial developments shall be at least five (5) acres in size. While the PD site may include water bodies, wetlands and areas within the 100-year floodplain, no such areas may be counted towards satisfying the minimum PD size or individual minimum lot sizes.
- (C) Uses Permitted. The following uses shall be permitted in the PD district if their designation is consistent with the City of Bartow's Comprehensive Plan and is shown on an approved Land Use Plan:
  - (1) Planned Residential Communities. Complimentary and compatible commercial and industrial uses may be included if they are compatible and harmoniously designed into the total residential community within a PD district.
  - (2) Planned Commercial Centers. Complimentary and compatible residential and industrial use may be included if they are compatibly and harmoniously designed into the total commercial center within a PD district.
  - (3) Planned Industrial Parks. Complimentary and compatible residential and commercial uses may be included if properly related to the total industrial park within a PD district.
  - (4) Other Uses. Any other private, public or semipublic use complementary to, and compatible with, planned residential, commercial, or industrial developments may be included.
- (D) Subdivision of Property. Property in a PD shall be platted in accordance with Section 7.06.00 prior to the issuance of building permits. In the case of lands that have been platted prior to the adoption of this Code, the landowner shall be required to vacate the previous plat if the boundary of the PD does not match the external boundary of the previously approved plat.

#### **7.04.04 Procedures for Obtaining PD Zoning Designation Approval**

- (A) Concept plan. The applicant shall submit four (4) copies of a concept plan to the Planning Director at least ten (10) working days prior to scheduling a preapplication conference. The purpose of the preapplication conference is to acquaint the DRC with the proposed project and provide the applicant with preliminary review comments identifying major concerns or the need for additional support data. Within five (5) working days following the preapplication conference, the Planning Director shall send a letter to the applicant summarizing the major points of the meeting. The concept plan and the comments made during the course of the meeting are considered to be nonbinding.
- (B) Land Use Plan (LUP). The applicant shall submit to the Planning Director, after payment of application fees, ten (10) copies of the LUP and all supporting data. The Planning Director shall schedule the application for review at the next available DRC meeting. The Planning Director shall also forward copies of the application to other reviewing agencies as necessary.

When the DRC review of the proposed LUP is complete, the Planning Director shall forward the findings and recommendation to the Planning and Zoning Commission for its review and consideration. The Planning Director shall include with the findings and recommendation all pertinent documents, comments of other reviewing agencies, and any other applicable documentation or graphics. A copy of the recommendation shall be sent to the applicant at least five (5) days prior to the Planning and Zoning Commission public hearing.

Planning and Zoning Commission Review and Recommendation. The Planning and Zoning Commission shall hear the request at a regularly scheduled public hearing, and make a recommendation to the City Commission that the proposed PD rezoning be approved, approved with conditions, or denied. The official minutes of the meeting shall include a summary of the reasons for the recommendation.

In support of its recommendation, the Planning and Zoning Commission may make findings as to:

- (1) The suitability of the area for the type and pattern of development proposed in relation to the physical characteristics of the land, relation to surrounding areas, concurrency, and other requirements of this Code.
- (2) Conformity of the proposed development with the Comprehensive Plan of the City of Bartow.
- (3) Conformity with these regulations, or as to desirable modification of such regulations in the particular case, based on determination that such modifications are justified as meeting public purposes.
- (4) Compatibility with surrounding land uses.
- (5) All such other review criteria as may be appropriate.

The Planning and Zoning Commission shall also assess the adequacy of the following items relating to arrangements for ownership, operation and maintenance of common properties and/or facilities that are not provided at public expense:

- (1) Evidence of unified control of the overall development site.
- (2) Suitability of any proposed agreements, or contracts, or other instruments that are to be executed to create or provide the facilities.
- (3) The need for such instruments or for amendments in those that have been proposed.

Action by City Commission. The recommendation of the Planning and Zoning Commission shall be transmitted to the City Commission in accordance with the standards established in Article 7.03.07 of the ULDC. That transmittal shall include all pertinent documents submitted by the applicant, the DRC report and recommendation, the Planning and Zoning Commission findings and any other applicable documentation or graphics. The City Clerk shall keep all this material as part of the public record of the City Commission. The City Commission may:

- (1) Deny the application.
  - (2) Phase the application to insure compliance with the standards herein and other standards and requirements in this Code.
  - (3) Modify the application so that these standards are met.
  - (4) Approve the application and attach whatever reasonable conditions or requirements the City Commission deems necessary to insure compliance with these standards or maximum mitigation of the adverse impacts of the development.
- (C) Development Plan (DP). The applicant shall submit to the Planning Director, after payment of the application fees, ten (10) copies of the DP and supporting materials.
- (1) The DP may cover all or a portion of the approved LUP. The Planning Department shall determine if all appropriate data and information has been properly provided.
  - (2) The DP shall be reviewed by the DRC in order to determine that:
    - a. It substantially complies with the approved LUP;
    - b. The phase of development can exist as a stable independent unit; and
    - c. Existing or proposed utility services and transportation systems are adequate for the uses proposed.
  - (3) The DRC shall review the DP and evaluate it for consistency with the approved LUP and all applicable ordinances, regulations and policies. The DRC shall either approve the DP, approve the DP with conditions (which may include technical

conditions consistent with applicable ordinances, regulations and policies) or deny the DP based upon specific findings which shall be stated. The decision of the DRC may be appealed to the Planning and Zoning Commission by the applicant or other aggrieved party. Any party choosing to appeal the decision of the DRC shall pay the required fee and file a notice of appeal within seven (7) days of the DRC decision. Preliminary Subdivision Plan applications may be processed concurrently with the DP and shall be subject to approval by the City Commission consistent with Article 7.06.00 of the Unified Land Development Code.

#### **7.04.05 Submittal requirements.**

- (A) Concept Plan. The concept plan shall consist of a generalized sketch, drawn to scale (the proportion and locations of land uses may be generalized, showing or addressing (with supporting information) the following information:
- (1) Boundary of the subject property, identified by a heavy line.
  - (2) Major natural features such as lakes, streams and conservation areas.
  - (3) Existing or proposed streets abutting the project and other major streets and intersections within five hundred (500) feet of access points to the subject property.
  - (4) Generalized location map and legal description, including acreage.
  - (5) Proposed land use types and their locations (land use or building bubbles are acceptable).
  - (6) Gross densities.
  - (7) Approximate minimum lot size.
  - (8) Approximate number of units.
  - (9) Approximate floor area for nonresidential uses.
  - (10) Adjacent zoning and land use designations.
  - (11) Anticipated internal major road network.
  - (12) Anticipated maximum building height.
  - (13) Anticipated phasing plan.
  - (14) Proposed method of providing water service (including fire protection); sewage disposal; stormwater management; parks/recreation facilities; and schools.
- (B) Land Use Plan. The review and approval of a LUP constitutes a zoning change resulting in a PD zoning designation. The determination by the Planning and Zoning Commission and City Commission concerning the appropriateness of the LUP shall be based on the

same factors as any other change of zoning designation, including consistency with the Future Land Use Map and compatibility with surrounding land uses.

In addition to other requirements of the rezoning process, PD applications for LUP approval shall include the following:

- (1) A letter of transmittal officially submitting the proposal for approval, signed by the developer or his authorized representative.
- (2) Written consents and agreements from all property owners of record within the PD that they have given the applicant authority to act in their behalf and that said representative or agent has the delegated authority to represent the owner or owners and they agree that all commitments made by the aforementioned representative or agent are binding.
- (3) A statement of the applicant's interest in the property to be rezoned, including a deed showing ownership; or, if a contract purchaser, written consent of the seller/owner; or, if a lease, a copy of the lease agreement and written consent of the owner(s).
- (4) Required Information. The LUP shall be submitted on a twenty-four (24) by thirty-six (36) inch sheet(s), or other size as approved by the Planning Director, and include the following information:
  - a. A key map at a convenient scale showing existing roads, streams, street rights-of-way and street intersections; the location of the nearest public roads on all sides; a statement indicating the distance to all public improvements such as schools, firehouses, public recreational areas and the like, that would serve the subject development; a description of how the proposed development is in conformity with the City of Bartow Comprehensive Plan and all relevant laws, ordinances, and regulations.
  - b. Location, with pavement type, right-of-way, names, and other related appurtenances of all existing public streets adjoining or traversing the site.
  - c. Identification of the name, plat book and page number of any recorded subdivision comprising all or part of the site.
  - d. Identification and location of any existing water courses, lakes, wooded areas, or other significant natural physical features on the project site and within two-hundred and fifty (250) of its perimeter.
  - e. Existing and proposed land uses with each phase of the total development identified showing:
    1. Residential. Maximum gross densities, total number of units, types of unit where feasible or necessary, minimum net lot size, minimum net living floor area, building height, open space and recreation areas.
    2. Commercial. Types of uses, gross floor area, floor area ratio, building height, setbacks and open space.

3. Industrial. Types of uses, gross floor area, floor area ratio, building height, setbacks, open space and buffers.
4. All existing and proposed means of vehicular access to and from the site, including an internal traffic circulation plan depicting arterial and collector streets.
5. A transportation analysis, prepared by a professional in the field of transportation planning, to include an estimate of average trips/land use, total average daily trips, distribution of total peak hour trips on existing and/or proposed transportation network, and distribution splits onto existing and/or proposed transportation network (may be waived at the DRC's discretion).
6. Location of existing structures and/or open space facilities of adjacent properties within 250 feet of any boundary line of the site (use of a recent aerial photo is adequate).
7. A statement by the applicant of the major planning assumptions and objectives of the development project including but not limited to:
  1. Size and/or scope of development.
  2. Projected Population.
  3. Proposed timing and phases of development.
  4. Proposed ownership and forms of organization to maintain common open space and facilities.
8. A general layout of the types, quantities and location of trees and other such significant vegetative features (use of a recent aerial photo is adequate).
9. A map of Soil Conservation Service Soil Classification by Soil Associations.
10. A general floodplain map indicating areas subject to inundation and high groundwater levels up to the 100-year flood zone boundary, at a scale of one inch to 500 feet.
11. Delineation of all wetland areas on the site, including wetland type (i.e., FDEP jurisdictional, SWFWMD isolated, and all others). For the purpose of the LUP review, wetland areas may be assumed using the best available data sources including, but not limited to, aerial photographs, recognized published reports/studies, etc.
12. The most recent aerial photograph available, with the areas to be modified delineated.

13. Preliminary stormwater management plan showing existing topographic contours based on applicable United States Geographical Survey data, identification of the major natural drainage basin(s) of the site, areas for proposed stormwater management retention/detention basins, and location of outfall.
14. A description of anticipated potable water and sanitary sewer demands of the proposed development and what facilities are available or projected to be available to meet this demand.
15. Any other reasonable information that may be required by the Planning Director that is commensurate with the intent and purpose of this Code.

(C) The Development Plan (DP) for the entire project or any phase, consisting of ten (10) copies of properly identified exhibits and support materials, shall be submitted on a twenty-four (24) by thirty-six (36) inch sheet(s), or other size as approved by the Planning Director, and include the following information:

- (1) Project name with appropriate reference if it is different than the approved LUP.
- (2) Legal description and the gross acreage of the proposed development, including and identifying land and water bodies.
- (3) A location map identifying the relationship of the DP to the approved LUP.
- (4) Preliminary Subdivision Plat,
- (5) Waivers from the subdivision regulations or site development standards of the PD district shall be indicated on the DP.
- (6) The DP, drawn at a scale of one (1) inch equals one hundred (100) feet, or other scale as approved by the Planning Director, with all dimensions provided, shall show:
  - a. Certified boundary and topographic survey drawn at one (1) foot contours showing all natural features.
  - b. Existing street intersections or rights-of-way within five hundred (500) feet of access points.
  - c. Surface improvements of primary streets serving the project.
  - d. Proposed uses.
  - e. Number of dwelling units, density, minimum square footage of living area, and minimum net lot area.
  - f. Total square footage of commercial, industrial or office space and floor area ratio.

- g. Maximum building height (stories and feet).
  - h. Maximum building coverage.
  - i. Acreage, types and percent of open space and recreation area.
  - j. Pedestrian/bike path facilities.
  - k. Stormwater management plan, including direction of surface drainage flow.
  - l. On-site soils based on the soil classification service classification system (if muck soils exist, their depth and extent must be identified).
  - m. On-site vegetation.
  - n. Method of providing support utilities including water, sewer, fire flows and refuse storage areas.
  - o. Existing or proposed easements.
  - p. Parking spaces and locations.
  - q. Exterior lighting.
- (7) Recreation area plan.
  - (8) Landscape, tree planting and screening concept plan.
  - (9) Design elevations or renderings of structures.
  - (10) Sign plan, including scaled plans of proposed signs.
  - (11) Preliminary engineering plans for the provision of road, water, sewer and stormwater management for the proposed phase and its relationship to the master stormwater concept.
  - (12) Proposed covenants, conditions, restrictions, agreements and grants which govern the use, maintenance and continued protection of building structures, drainage systems and landscaping within the PD.
  - (13) Areas to be conveyed or dedicated and improved for roadways, parks, parkways, playgrounds, school sites, utilities, public buildings and other similar public and public service uses. Improvement bonds for facilities to be owned and maintained by the city and not completed, shall be posted before the issuance of building permits.
  - (14) Identification of owners, developers and the consultants involved in the DP.



#### **7.04.06 Alterations to the Land Use Plan and Development Plan.**

- (A) Alterations to the approved LUP or DP shall be classified as either substantial or nonsubstantial amendments. The following criteria shall be used to identify a substantial amendment:
  - (1) A change which would include additional lands or a land use not previously permitted under the approved PD zoning.
  - (2) A change which would alter a land use type adjacent to a property boundary, except when it is (i) a reduction in the density or (ii) a reduction of intensity of approved residential development, unless the reduction locates the residential use adjacent to an incompatible land use.
  - (3) A change which would require an amendment to a condition of approval.
  - (4) A change which would increase the land use intensity within any development phase without a corresponding decrease in some other portion of the overall PD.
  - (5) An amendment to the phasing which would propose a land use in advance of the development it was designed to support.
- (B) The determination of a substantial or nonsubstantial alteration shall be made by the DRC.
- (C) Where the developer proposes to reduce the number of units or floor area in one (1) phase of the project, a corresponding increase in the number of units or floor area in another phase may be considered, if other conditions of approval are not adversely affected, nor any other change is proposed which would be considered a substantial change as described above.
- (D) Alterations to the land use plan determined to be substantial must submit plans and support data (following the LUP requirements) for review by the DRC and then a public hearing for final action by the City Commission.
- (E) All nonsubstantial alterations must be submitted (including plans and support data) and approved by the DRC.
- (F) When partial amendments are requested to the LUP, the overall project shall be evaluated in conjunction with the proposed amendment, to determine its compatibility with the remaining portion of the PD. Amendments which the DRC considers to be incompatible or conflict with the proposed plans or conditions of approval, will be required to update the LUP or may be subject to an administrative rezoning public hearing.

#### **7.04.07 Control of development following approval.**

- (A) Upon the approval of the DP or any phase thereof, the use of land and the construction or modification of any buildings or structures within the PD shall be in accordance with the approved DP, rather than with the other provisions of this chapter. However, all other city codes, ordinances, policies and resolutions shall apply to the project.

- (B) The Planning Director shall be responsible for certifying that all aspects of the PD, including conditions of approval (applicable to the subject portion of the project) have been satisfactorily completed prior to the issuance of a certificate of completion for the project or phase.
- (C) After certification no changes may be made in the approved development plan except under the procedures provided below:
  - (1) Any structural extension, alteration or modification of existing building structures which are consistent with the approved DP may be authorized by the Planning Director.
  - (2) A building or structure that is seventy-five (75) percent or more destroyed may be reconstructed only in compliance with the DP unless an amendment to the DP is approved under the provisions of this article.

#### **7.04.08 Other requirements.**

- (A) Off-site improvements may be required in conjunction with the LUP approval in order to offset the impacts created by the proposed development. All projects shall be required to provide an adequate level of facilities and services to accommodate the project as proposed in the DP.
- (B) At the time of development, the PD or any phase proposed for development shall comply with all regulations and ordinances in force at the time of building permit approval.
- (C) Those projects which the City Commission considers to be inconsistent with the provisions of this article may be required to update the LUP or may be subject to an administrative rezoning public hearing.
- (D) Development in Stages. Rather than construct the entire PD at once, the developer may choose to build the project in stages. Phased development of a PD is permissible under the following conditions:
  - (1) Developer must submit a construction schedule covering all phases of the PD to the Planning Director. This schedule may be revised from time to time as necessary.
  - (2) All roads, stormwater management and utility facilities needed to support any stage shall be completed and available for use prior to issuance of any building permits.
  - (3) Recreation facilities shall be completed and available for use prior to issuance of certificates of occupancy for the phases they are intended to support. This requirement may be modified or waived during the LUP approval process subject to final approval by the City Commission.
- (E) Ownership and Maintenance of Common Property. The developer shall establish a property owner's association or similar legal entity for the perpetual ownership and maintenance of common areas, open space, stormwater management facilities and other community facilities designated on the LUP and subdivision or site development plans for

individual tracts. Roads may also be included unless dedicated to the City of Bartow for public use.

In the event that the organization, its successors or assigns, established to own and maintain common open space after the establishment of a PD fails to maintain the common areas as previously defined above, in reasonable order and condition, and in accordance with the adopted LUP and subsequent DPs, the City may serve written notice upon such organization and/or the owners or residents of the PD and hold a public hearing. If deficiencies of maintenance are not corrected within thirty (30) days after such notice and hearing, the City shall call upon any public or private agency to maintain the common open space for a period of one year. If the City determines that the subject organization is not prepared or able to maintain the common open space, such public or private agency shall continue maintenance for yearly periods. The cost of such maintenance by the designated public or private agency shall be assessed proportionately against the properties within the PUD that have a right of enjoyment of the common open space, and shall become a lien on said properties.

Applicable requirements of this subsection shall be inserted into the legal documents of the homeowners association or similar organization having legal ownership of common properties. These legal documents shall be structured to serve the following purposes:

- (1) To define what is owned and by whom, including the specific location and parameters of the individual units and the ownership interest in the common elements of the owners of the association or organization;
- (2) To establish a system of interlocking relationships binding each owner to all other owners for the purpose of maintaining and preserving what is owned and used in common;
- (3) To establish an array of protective standards or restrictions designed to establish limits and assure that a certain level of appearance is maintained;
- (4) To create an administrative vehicle, the owners association, to manage those elements shared in common and to enforce standards;
- (5) To provide for the operation and financing of the association;
- (6) To specify the process involved in effecting the transfer of control of the association and responsibility for the common elements from the developer to the unit owners collectively; and,
- (7) To set forth proper access and utility easements for the owners and the association.

All common areas are to be properly defined in legal descriptions and must be consistent with the approved LUP and all subsequent DPs and PSPs of the PD.

- (F) Private Roads. Internal roads serving the PD may remain in the private ownership of the developer or may be conveyed to a property owner's association or similar entity. Private roads shall be designed and constructed to meet all standards applicable to a public road serving the same function, including right-of-way widths.

If a guard house or other form of barrier is placed at the entrance to the PUD for the purpose of restricting access, the developer or property owner's association shall be responsible for ensuring entry to the property for emergency vehicles. The City shall have no liability for injury or loss of life resulting from restricted access to the development.

#### **7.04.09 Development Conditions**

Conditions placed on a request by the City may include requiring the applicant, at their cost and expense, to:

- (A) Finance or dedicate land for public rights-of-way, easements, parks and open space, school sites, or other such sites as may be necessary to protect the health, safety, and welfare of the residents of the PUD.
- (B) Finance or construct potable water, wastewater or stormwater management facilities.
- (C) Any other reasonable conditions necessary to ensure compliance with these standards, if the applicant agrees in writing in a recordable agreement binding upon his successors and assigns, that no further processing of the development request, pursuant to the provisions of this Code, shall occur until the requirements of this article are met. Attachment of these conditions shall be voluntary on the part of the applicant, and agreement by the applicant to provide any conditions will not, in any way, obligate the City to approve the subject application. Any conditional approval shall be based solely on the fact that the development application, as modified or conditioned, meets the standards of this article, and may not be based solely on the granting of certain conditions deemed favorable by the City unless the standards of the PD district are thereby met.

#### **7.04.10 Effect of a PD Approval**

- (A) Approval of a PD shall constitute a rezoning of the subject property and amendment to the Official Zoning Map. Any and all development of the approved PD shall be in strict conformance with the approved LUP.
- (B) In the event of an amendment to the Comprehensive Plan, the ULDC, or other applicable regulations that occurs prior to completion of construction of the PD, all subsequent development that has not received PSP approval pursuant to Article 7.06.00 (Subdivision Regulations) as of the date of the amendment shall be consistent with the new regulations. Approval of development under these sections of the Code shall be valid for one year. Unless construction begins on or before the first anniversary date, development approval shall be null and void, and the new standards shall apply.
- (C) Previous approval of a LUP shall not by itself convey the right to develop property in a manner that is inconsistent with the Comprehensive Plan and current codes. Prior to approval of further PSPs or DPs within the PD, the LUP shall be amended to reflect the requirements of the amended codes or other requirements.

#### **7.04.11 General Development Standards**

General development standards are established for all PDs to insure adequate levels of light, air and density, to maintain and promote functional compatibility of uses, to promote the safe and efficient circulation of pedestrian and vehicular traffic, to provide for orderly phasing of development, and to otherwise protect the public health, safety and general welfare.

(A) Variances.

- (1) Variances from the minimum standards set forth in this section may be granted by the City Commission. Requests for variances must be specified in conjunction with the LUP, otherwise all standards shall apply. Variance requests shall be specifically stated on the LUP and in all staff reports and recommendations.
- (2) Variances requested after approval of the LUP must be approved by the City Commission at a public hearing after notification of abutting property owners.

(B) Natural features/project design.

- (1) The natural topography, soils and vegetation should be preserved and utilized, where possible, through the careful location and design or circulation ways, buildings and structures, parking areas, recreation areas, open space, and drainage facilities. Designation and use of conservation areas must be consistent with the adopted comprehensive plan.
- (2) The proposed location and arrangement of structures should not be detrimental to the existing or committed adjacent land uses or to the existing or committed development of the neighborhood. Building setbacks from the normal high water elevation of all natural water bodies shall be a minimum of fifty (50) feet. Established minimum floor elevations shall be observed. Base building line setbacks from adjacent roadways shall apply. Lighting, access point, or activities resulting in high noise levels which adversely affect abutting property shall be prohibited.

(C) Street facilities. All streets shall meet minimum city standards with appropriate design widths of pavement surfaces to accommodate projected traffic and providing free movement for safety and efficient use within the development. Local streets shall provide access within the PD in a manner that will discourage through traffic and provide for convenient accessibility to parking areas serving each group of units. Local streets shall be designed and located so that future urban development will not require their conversion to arterial routes. Arterial and collector streets shall be free of backing movement from adjoining parking areas.

(D) Parking facilities.

- (1) Parking and loading facilities shall be provided for each phase or unit of development in accordance with the standards established in Article 3.03.00 of the ULDC. Parking areas should be located within one hundred fifty (150) feet of the uses they serve. Parking areas shall be paved and designed with regard to pedestrian safety. Alternative parking surfaces may be permitted where frequency of use is appropriate for the proposed surface.

- (2) Consideration may be given to incorporating up to twenty-five (25) percent of the required spaces with parking for compact cars. Such spaces should contain at least one hundred twenty (120) square feet in the configuration of eight (8) feet by fifteen (15) feet. The placement and distribution of such spaces should not limit the availability of standard parking spaces in high demand areas and should be adequately identified in order to notify patrons of the reduced size.
- (E) Stormwater management. The design and construction of stormwater management systems shall be in accordance with the City of Bartow's ULDC and Infrastructure Development Standards.
- (F) Utilities systems. Central water systems, sewerage systems, utility lines, and easements shall be provided in accordance with the appropriate sections of the City of Bartow's Codes and Ordinances and Infrastructure Development Standards.
- (G) Landscaping. Landscaping consisting of trees, shrubs, vines, ground cover or any combination thereof shall be installed in all PDs. Irrigation facilities shall be installed in all landscaped common areas with special consideration given towards implementing Xeriscape principals. Special attention should be given to the type and location of trees in order to provide for relief from the exposure of the sun on both buildings and paved areas and to the location and type of planting in and around parking areas, refuse storage areas and in building setback and separation areas to achieve proper screening of these areas from occupied buildings and exterior roadways. In addition to the requirements contained in Article 3.07.00 of the ULDC, landscape plans in an approved PD shall provide the following:
  - (1) Natural vegetation. All existing trees with a trunk diameter of eight (8) inches or larger shall be identified on the landscape plan and incorporated, where possible, into the overall landscape concept. Those trees which are proposed for removal should be identified. Preference shall be given to the preservation of existing trees over the strict interpretation of the minimum standards set forth herein, provided the proposed design will produce a more unique or aesthetically pleasing design.
  - (2) Perimeter landscaping. Trees shall be provided along side and rear lot lines not abutting rights-of-way, at a ratio of one (1) canopy tree for each seventy-five (75) linear feet or fraction thereof. Existing trees may be counted to meet this requirement. The application of the perimeter landscaping criteria shall be flexible with preference being given to aesthetically pleasing landscape design over a rigid interpretation of the tree spacing standard; however, no more than one hundred fifty (150) contiguous feet along the perimeter of the property shall be void of trees.
  - (3) Screen hedges/berms. All fenced stormwater retention facilities shall be screened from the public right-of-way by a continuous hedge or berm, or combination of both. The use of plant materials to provide a continuous hedge shall conform to the plant material specifications provided in Article 3.07.00 of the ULDC.

- a. Berms may be utilized to provide screening of stormwater retention facilities, provided they are a minimum of two (2) feet in height and no more than five (5) feet in height. Berms shall be supplemented with landscaping in order to provide a minimum thirty-six-inch high screen.
  - b. Berms constructed adjacent to the public right-of-way shall not exceed seventy-five (75) feet in length without a landscape break. Overlapping berms may be utilized in lieu of landscape breaks.
  - c. Paved areas adjacent to side or rear property lines shall be screened from abutting properties by hedging or berms equaling twenty-five (25) percent of the paved frontage. No more than fifty (50) continuous feet along the property line shall be void of screening. Additional landscaping shall be provided to screen any on-site uses having a negative impact on adjacent property.
- (4) Building landscaping. A landscaped area shall be provided around the base of all non-residential buildings and multiple family buildings oriented toward public rights-of-way or public parking areas. The rear of the building shall not be included within the landscaped area unless it is oriented to a public right-of-way.
  - a. This landscaped area shall be equal to fifty (50) percent of the linear length of the building base oriented toward the rights-of-way or parking areas, with a minimum width of four (4) feet.
  - b. At least half of the required landscaped area shall contain landscape material other than ground cover, with trees provided at a ratio of one (1) tree per two hundred (200) square feet of required landscaped area or fraction thereof. The distribution of the landscaped areas shall be at the discretion of the owner.
- (H) Open space. Open space areas shall be provided within all PDs in order to enhance the working environment and serve as amenities to the residents of the PD.
  - (1) Designated Open Space. Designated open space shall be defined as the total area within the PD serving any one of the following three (3) basic functions:
    - a. Shapes urban patterns. Areas which define and delineate urban concentration on a large scale. These areas can be used to separate or consolidate development and prevent development in undesirable locations.
    - b. Conservation. Areas with unique natural qualities or physical benefits which need protection or preservation from man-build developments including scrub or other natural areas to be set aside for the preservation of endangered plant or animal species.
    - c. Recreation. Lands which support a specified recreation pursuit, whether it is an active or passive form of recreation.

- (2) All PDs shall provide open space in the form of greenbelts and buffer zones at a ratio of two (2) percent of the gross land area.
- (3) Open space shall be provided within the PD based on the following ratios:
 

|    |              |                                     |     |
|----|--------------|-------------------------------------|-----|
| a. | Residential: | Single Family, (excluding lot area) | 10% |
|    |              | Multifamily                         | 25% |
| b. | Office       |                                     | 20% |
| c. | Commercial   |                                     | 20% |
| d. | Industrial   |                                     | 15% |
- (4) Open space in the form of greenbelts or buffers provided within the legal description portion of the proposed phase or project may be included to meet the minimum open space criteria. Excess open space committed in prior phases adjacent to a proposed development phase may be considered to meet up to seventy-five (75) percent of the open space criteria.
- (5) Category A open space. All of the uses listed below shall count one hundred (100) percent towards meeting the total open space required:
  - a. Buffer zones and greenbelts.
  - b. Recreational areas (active and passive).
  - c. Landscaped areas.
  - d. All other permanently undeveloped uplands
- (6) Category B open space. All of the uses listed below may be credited towards meeting the minimum open space requirements if the performance standards are met but shall not account for more than fifty (50) percent of the total open space required.
  - a. Wet-bottom stormwater management ponds that meet the following requirements:
    1. Minimum of 1.0 acre
    2. 5:1 side slopes.
    3. Sodded or an equivalent ground cover.
    4. Unfenced.
    5. Curvilinear in shape rather than angular.



6. Landscaped in accordance with the following criteria:
  - a) 1.0--2.5 acres: At least ten (10) percent of the land above the design high water level excluding maintenance berms shall be landscaped with at least fifty (50) percent of the required area landscaped with plant materials other than ground cover (the use of native plant species is encouraged); or a littoral zone band of at least five (5) feet in width for at least fifty (50) percent of the shoreline established with native aquatic or semi aquatic plant species;
  - b) 2.5--5.0 acres: At least five (5) percent of the land above the design high water level excluding maintenance berms shall be landscaped with at least fifty (50) percent of the required area landscaped with plant materials other than ground cover (the use of native plant species is encouraged); or a littoral zone band of at least five (5) feet in width for at least thirty-five (35) percent of the shoreline established with native aquatic or semi aquatic plant species;
  - c) More than 5.0 acres: A littoral zone band of at least five (5) feet in width for at least twenty (20) percent of the shoreline established with native aquatic or semi aquatic plant species.
7. Access provided for all residents/employees of the P-D.
8. One hundred (100) feet minimum width.
- b. Dry-bottom stormwater management ponds that meet the following requirements:
  1. Sodded.
  2. Unfenced.
  3. Must be dry within seventy-two (72) hours after a twenty-five-year storm event.
  4. A skimmer must be provided to minimize the accumulation of trash and pollutants.
  5. At least five (5) percent of the area above the peak stage elevation must be landscaped with at least fifty (50) percent of the required area landscaped with plant materials other than ground cover (the use of native plant species is encouraged).

- c. Easements that meet the following requirements:
    - 1. Minimum twenty-five (25) feet wide.
    - 2. Accessible for public use.
    - 3. Written verification from the easement holder authorizing unrestricted access.
  - d. Plazas/hardscapes that meet the following requirements:
    - 1. Twenty (20) percent landscaped.
    - 2. Seating areas.
    - 3. Thirty (30) percent pedestrian accessible (excluding sidewalks) for area remaining after landscaping and water features/sculptures.
  - e. Natural lakes that meet the following requirements:
    - 1. Only lakes which are totally within the legal description of the land use plan shall be credited towards open space.
    - 2. Must be accessible to all residents/employees.
    - 3. Common access to natural lakes shall be at least equal to the minimum lot size established by the land use plan or one-half acre, whichever is greater.
- (7) Category C open space. Areas within a project, phase, or tract, which are classified as conservation areas, shall be identified at the time of development plan submission. Conservation areas shall qualify as open space. However, to insure that conservation areas or mitigation areas which comprise a high percentage of a project or tract do not constitute the only open space for the project, the amount of open space credit shall be limited to no more than fifty (50) percent of the total open space required.
- (8) Open space categories "B" and "C" cannot count more than seventy-five (75) percent of the total open space required for the project, phase or tract.

#### **7.04.12 Site Development Standards for Residential Developments**

- (A) Density. The total number of permitted dwelling units within a PD shall be based on the gross acreage of the overall development site, including all open space, recreation areas, stormwater management facilities, road rights-of-way. These units may be clustered or otherwise arranged according to sound planning principles throughout the PD site, providing a mixture of housing types, densities, and price ranges in a creative development design that is appealing to residents and beneficial to the City as a whole.

Where a PD site lies within two or more land use designations, as shown on the Future Land Use Map (such as Low Density Residential and Medium Density Residential), separate dwelling unit calculations shall be made, using the appropriate permitted density value for each. Where a PD site lies partially within the Commercial land use designation, densities within these areas shall not exceed 12 units per acre. In no case, however, shall the total number of units exceed the number allowable under the provisions of the Comprehensive Plan.

(B) Site performance standards.

- (1) The applicant shall propose, and the Planning & Zoning Commission shall recommend, to the City Commission maximum residential densities, type of development, building setbacks, maximum height limitations, minimum lot size and living area. Types of residential construction may be intermixed as long as adopted residential densities are compatible and height limitations are not exceeded.
- (2) The maximum coverage of all buildings shall not exceed thirty (30) percent of the gross land area.
- (3) The maximum building height for residential development shall be thirty-five (35) feet. Height in excess of thirty-five (35) feet for residential development shall be requested on the land use plan and subject to approval by the City Commission.

(C) Recreation Facilities.

- (1) Common recreation area shall be designated as such on the DP, shall be distributed throughout the PD, and shall be integrated into its overall design. Recreation areas shall be usable and accessible, and shall be improved with facilities to allow a specific use or range of uses. Types of recreation facilities and the acreage assigned to each shall be shown in tabular form on the DP.

Common Recreation Area may include the following uses and associated facilities:

- a. clubhouses, swimming pools, and tennis courts
- b. playing fields and playgrounds
- c. picnic areas and pavilions (up to 20% of total required Common Recreation Area acreage)
- d. golf courses, provided they are open to the general public (up to 50% of total required Common Recreation Area acreage)
- e. rights-of-way for nature trails, jogging/bicycle paths, or other pedestrian facilities, up to 15 feet in width (excluding sidewalks in residential or commercial areas)

- (2) Common Recreation Area shall constitute not less than 50 percent of the total area required for open space in traditional single family projects. Common Recreational Area shall constitute not less than 10 percent of the total area required for open space in projects that are oriented towards active adult communities and incorporate a community center complex that contains components of common recreation areas as defined above.
  - (3) All recreation areas should be easily accessible by all residents of the community and include, where appropriate, sidewalk/bike path facilities, as well as parking areas for both autos and bicycles. Attention should be given to screening and buffering light and noise from adjacent residents.
  - (4) All land shown on the development plan as common open space, private recreational areas and facilities shall be subject to covenants and restrictions which ensure the payment of future taxes and the maintenance of areas and facilities for a safe, healthful and attractive living environment.
- (D) Setbacks. Setbacks from side and rear property lines shall relate to the design height of the structures. The following guidelines shall be utilized to review projects; however, they may vary depending upon conditions and design considerations:
- (1) All one- and two-story units should provide a minimum twenty-five-foot setback from all boundaries of the P-D. Structures in excess of two (2) stories should increase this setback to reflect the additional structural height.
  - (2) Setbacks from street rights-of-way shall meet the following minimum requirements, unless more restrictive requirements are specified on the approved LUP.
 

|    |                         |         |
|----|-------------------------|---------|
| a. | Collector street        | 25 feet |
| b. | Arterial street         | 50 feet |
| c. | All other rights-of-way | 20 feet |
  - (3) Where doors, windows or other openings in the building wall of a multifamily structure back up to a wall of another building with doors, windows or other openings, there shall be a minimum separation of thirty (30) feet for two-story buildings, and forty (40) feet for buildings three (3) stories plus. Separations should increase in proportion to additional structural height. There shall be a minimum of twenty (20) feet between all multifamily, office, commercial and industrial structures for fire protection purposes.
- (E) Building Layout. The design and layout of residential structures should take into account the exposure of the sun by reducing, to the degree possible, the east and west exposure of buildings.

(F) Multifamily residential compatibility.

(1) Multi-family development in a PD shall satisfy the following site specific criteria:

- a. Multi-family buildings located within one hundred (100) feet of single family zoned property lying outside the boundaries of the PD as measured from property line to property line shall be restricted to single story in height.
- b. Multi-family buildings located between one hundred plus (100+) feet to one hundred and fifty (150) feet of single-family zoned property lying outside the boundaries of the PD shall vary in building height with a maximum of fifty (50) percent of the buildings being three (3) stories (not to exceed forty (40) feet) in height with the remaining buildings being one (1) story or two (2) stories in height.
- c. Parking and other paved areas for multi-family development shall be located at least twenty-five (25) feet from any single-family zoned property. A 25-foot landscape buffer shall be provided consistent with Type C landscape buffer requirements.
- d. A six-foot high masonry, brick, or block wall shall be constructed whenever a multi-family development is located adjacent to single family zoned property lying outside the boundaries of the PD. The wall height shall be measured from the finished elevation of the side of the wall which is highest. However, if a right-of-way is located between the multi-family development and the single-family zoned property, such a wall is not required.
- e. Multi-family development shall not directly access any right-of-way serving platted single-family residential development. Access to collector or arterial roads shall be permitted.
- f. Active recreation areas shall be provided within a multi-family development to serve the needs of the residents of the multi-family development. The recreation areas shall be provided at the ratio of two and one-half ( $2\frac{1}{2}$ ) acres per one thousand (1,000) residents (calculated at a rate of two and one tenth-(2.1) residents per unit).

The following guidelines shall be considered in designing these areas:

1. Active recreation facilities typically include playgrounds, athletic fields, various types of courts (tennis, basketball, and racquetball) swimming pools, exercise trails and clubhouses. Passive recreational areas may be utilized but cannot be used to account for more than fifty percent (50%) of the required recreation area.
2. The recreation areas shall be located internally away from any single-family zoned property.

3. The multi-family residential area and/or population shall not be included in the calculation for determining the recreation requirements for the balance of the PD.

#### **7.04.13 Site Development Standards for Commercial/Office Developments**

- (A) Commercial/Office Uses. Commercial/Office development within a PD shall adhere to development standards set forth on an approved LUP or DP. Such uses shall be permitted only on parcels or tracts labeled on the LUP or DP as being for commercial use.
- (B) Building setbacks. Building setbacks from side and rear property lines shall be at least ten (10) feet; however, where adjacent to a residential use a minimum twenty-five-foot setback shall be provided. A twenty-five (25) foot setback shall be maintained along the perimeter of the PD.
  - (1) Building setbacks from streets shall meet the following minimum guidelines, unless more stringent requirements are established in the ULDC or PD approvals:
    - a. Collector 30 feet
    - b. Arterial 50 feet
    - c. All other rights-of-way 10 feet
  - (2) Paving setback. The following setback standards shall be utilized to create buffer yard areas between paved areas and property lines:
    - a. Collector 20 feet
    - b. Arterial 25 feet
    - c. All other rights-of-way 7 feet
    - d. Side and rear lot lines 5 feet
- (C) Access criteria.
  - (1) The number of access cuts serving a commercial/office development shall be based upon the frontage of the site and functional classification of the roadway. Classifications of roadways shall be either an arterial or collector road.
  - (2) Access cuts shall be provided in accordance with the following criteria (due to the existence of a corridor access management plan, traffic or safety conditions, the maximum number allowed may be reduced):

|    |                 |                         |                             |
|----|-----------------|-------------------------|-----------------------------|
| a. | Arterial road:  | Site Frontage           | Maximum No.<br>of Driveways |
|    |                 | Less than 250 feet      | 1                           |
|    |                 | 251 feet - 800 feet     | 2                           |
|    |                 | 801 feet - 1,200 feet   | 3                           |
|    |                 | 1,201 feet - 2,000 feet | 4                           |
|    |                 | More than 2,000 feet    | 5                           |
| b. | Collector road: | Site Frontage           | Maximum No.<br>of Driveways |
|    |                 | Less than 200 feet      | 1                           |
|    |                 | 200 feet - 400 feet     | 2                           |
|    |                 | More than 400 feet      | 3                           |

- (3) The above criteria shall apply unless more stringent criteria have been established during preparation of a specific plan for an area.
  - (4) In instances where the developer desires additional access cuts to serve a project, frontage roads shall be designed and constructed to city standards and constructed by the developer on private property with access and pedestrian easements dedicated to the City. Frontage road access points on arterial highways shall have a minimum separation of six hundred (600) feet, unless coordinated with a median cut.
  - (5) Access driveways shall be separated a minimum of one hundred (100) feet from an intersection with a collector road and one hundred fifty (150) feet from an intersection of an arterial highway. Such measurements are to be measured from the centerline of the driveway to the nearest right-of-way line of the intersecting street as measured along the right-of-way.
  - (6) The design of driveways shall conform to city standards. All vehicular maneuvering areas and parking areas shall be paved to meet city standards.
- (D) Service areas. Service areas visible from a public right-of-way or abutting properties shall be screened by a six-foot maintenance-free masonry wall or a ten-foot landscaped buffer. Landscaping shall be a minimum of thirty-six (36) inches in height upon planting and attain a height of forty-eight (48) inches within twelve (12) months with an opacity of seventy-five (75) percent.
- (E) Screening walls.
- (1) Maintenance-free masonry walls on side or rear property lines may be permitted; however, their use must be specifically identified on the construction plans. Walls on side property lines shall be no more than two (2) feet high when forward of the building setback line.
  - (2) Wood fences shall not be permitted. No fence or wall when placed on a side or rear lot line shall exceed six (6) feet in height. Landscaping shall be provided in

the form of hedge material or shrubs planted adjacent to the wall or fence equal to twenty-five (25) percent of its length.

- (F) Outdoor storage. Open storage of articles, goods or materials shall not be permitted unless totally screened from the public right-of-way and adjacent properties. Utility fixtures and mechanical equipment, when outside a structure, shall be screened with dense plant materials or berms or a combination of both, or within a completely enclosed area. Display areas shall not be visible from the right-of-way or abutting properties.
- (G) Roof-mounted equipment. All roof-mounted equipment shall be screened from view.
- (H) Exterior lighting. Lighting devices for the illumination of the ground, driveways, walkways, signs, parking areas and building exteriors, shall be installed and maintained in such a manner as to confine direct rays to the premises and prevent direct rays and glare onto adjacent properties or rights-of-way.
- (I) Maximum Building Height. The maximum height shall be sixty (60) feet, but thirty-five (35) within one hundred (100) of single-family residential. The maximum height shall be two hundred (100) feet for a hotel or time share, provided the applicant can demonstrate to the city that there will not be any adverse impact on adjacent development and the hotel or time share will not be located within three hundred (300) feet of any single-family residential.

#### **7.04.14 Site Development Standards for Industrial Developments**

- (A) Industrial Uses. Industrial development within a PD shall adhere to development standards set forth on an approved LUP or DP. Such uses shall be permitted only on parcels or tracts labeled on the LUP or DP as being for industrial use.
- (B) Setbacks. The setback criteria established in Table 2.04.01(B) for the I-1 zoning district shall be utilized as guidelines for the PD district. Variations to the setback distances may be proposed, provided that acceptable alternatives are incorporated to alleviate the potential negative impacts on adjacent parcels or properties.
- (C) Industrial developments shall comply with all other performance standards contained in Article 2.04.02.19 of the ULDC.

### **7.05.00 Site Development Plan.**

#### **7.05.01 Intent and Purpose.**

The site development plan procedure shall be required for all uses designated by the letter "D" in the Table of Land Uses in Article 2.04 to ensure that site-specific development projects meet the requirements of this Code prior to the issuance of a building permit. It is the intent of this Section that the site development plan process be a part of the building permit application process, in that the site development plan is the instrument by which improvements to the site will be constructed and inspected, and by which final inspection and certificate of occupancy shall be issued. Site development plan approval shall be required prior to the issuance of a building permit for the following:



- (A) Division of an existing development site (such a division shall result in a new or modified site development plan for previously existing development, in addition to a separate plan for new development).
- (B) An expansion or reconfiguration of any of those types of development that are subject to site development plan requirements.

#### **7.05.02 Site Development Plan Review.**

Those developments subject to site development plan review shall submit six copies of the site development plan, with a completed application form, all necessary attachments and the requisite application fee to the Development Director to initiate processing of the plan. Additional plans shall be provided for review by other state, regional and county agencies upon staff request.

- (A) Site Development Plan Preparation Requirements. Where the proposed development site is five acres in size or larger, the site development plan shall be prepared by an architect or engineering professional. At the Development Director's discretion, the same requirement may be applied to sites of less than five acres where the plan proposes high-intensity uses or activities that may have a substantial impact on surrounding properties.

Sketch plans and drawings submitted with variance, special exception or other zoning-related applications shall not be accepted for review as a site development plan unless prepared in accordance with the guidelines of this section. In all cases, engineering plans addressing stormwater management, road construction and other technical aspects of development design shall be sealed by a civil engineer registered in the State of Florida.

- (B) Completeness of Plans. Completeness of site development plans shall be determined within five days by the Development Director, and if complete shall be scheduled for a Pre-Application Conference according to the requirements of Section 7.01.00.
- (C) Staff Review. The Development Director, the Planning and Zoning Commission's Technical Review Committee, and other appropriate City staff members shall review the site development plan with specific regard to the codes and ordinances of the City of Bartow.

The staff review shall identify matters of development policy concern to which the developer shall address particular attention. Specific comments to be addressed based on staff's review of the plan shall be provided in writing. The applicant shall be permitted to respond to staff comments at this stage of review.

- (D) Revised Plans. Upon agreement by the applicant to incorporate the staff review comments into the plan, the applicant shall submit to the Development Director revised site development plans in which all concerns of the staff have been addressed.

When the Development Director determines that all staff comments have been adequately addressed, and that the requirements of all applicable City, state and federal regulations have been met, he shall place the plan on the agenda for the next regular meeting of the Planning and Zoning Commission.

### **7.05.03 Content of the Application.**

Site development plans for sites in excess of five acres and those determined by the Development Director to require the detail, shall be drawn to a minimum scale of one inch equals 100 feet on an overall sheet size not to exceed 22 by 36 inches. When more than one sheet is required, an index sheet of the same size shall be included showing the entire parcel with individual sheet numbers referenced thereon. The following information is required on or in an acceptable form so as to accompany the site development plans respectively:

- (1) Site development plan name.
- (2) The property owner's name, address and telephone number; and the designated project applicant or representative if other than property owner. In addition, it shall reserve a blank space, three inches wide and five inches high for the use of the approving authority.
- (3) The engineer's name, address, telephone number and registration number.
- (4) North arrow, scale and date prepared.
- (5) A certified boundary survey of the tract prepared by a surveyor registered with the State of Florida showing the location and type of boundary evidence related to the State Plane Coordinate System, if available, and the accurate legal description of the property with a computation of the total acreage of the tract to the nearest tenth of an acre. Survey must have been done within one year prior to filing.
- (6) Zoning district assigned to the property that is the subject of the site plan and to the properties contiguous thereto.
- (7) Identification of watercourses, wetlands, and significant stands of mature trees and understory vegetation that may provide wildlife habitats or other environmentally unique areas.
- (8) Number of units proposed, if any, and resulting net density.
- (9) Floor area of non-residential uses.
- (10) Open space expressed in square feet and as a percentage of the overall site.
- (11) Number of parking lots and spaces required and proposed.
- (12) Location of all public and private streets, driveways and utility easements, within and adjacent to the site.
- (13) The footprint of all proposed buildings and structures on the site, including setbacks.
- (14) Required landscape and buffer yards.
- (15) Sign locations.

- (16) Phase lines, if the development is constructed in phases.
- (17) Provisions for both on- and off-site stormwater management and detention related to the proposed development.
- (18) Existing topography with a maximum contour interval of one foot.
- (19) Proposed finished grading by contours supplemented where necessary by spot elevations and in particular at those locations along lot lines.
- (20) The delineation of all wetlands and flood-prone areas as delineated by the National Wetlands Inventory and the Flood Insurance Rate Maps published by the Federal Emergency Management Agency (FEMA).
- (21) Delineation of all environmentally sensitive areas as determined by any appropriate agency.
- (22) All existing and proposed utilities, including but not limited to:
  - a. Water and sanitary sewer pipe sizes, rim and invert elevations, direction of flow and top and bottom elevations and fire hydrant locations and flows.
  - b. Telephone, electric, gas and other utilities.
- (23) Location of major solid waste receptacles.

#### **7.05.04 Development Site to be Unified.**

When requesting site development plan approval, the applicant shall furnish proof that the development site is unified by title, and not spatially divided by ownership; however, multiple ownership is permissible so long as each owner or investor holds a percentage or proportionate interest in the site as a whole. The development site shall be designed to provide all required facilities, including parking and stormwater retention; no such facilities shall be located off-site. The entire site shall have the zoning designation required to accommodate the principal use.

No development site, once granted site development plan approval, shall be divided except through the site development plan modification process established in Section 7.05.08.

#### **7.05.05 Planning and Zoning Commission Review and Action.**

The Planning and Zoning Commission shall review and approve or disapprove any site development plan. The Planning and Zoning Commission shall review and evaluate the site development plan with specific regard to the Comprehensive Plan, applicable City codes, and the advisory recommendations of City staff. The Planning and Zoning Commission shall approve, approve with conditions, or deny the site plan.

In the alternative, the Planning and Zoning Commission may, for the purpose of allowing the applicant an opportunity to address unresolved issues, continue consideration of the site development plan. In the event a site development plan is denied, the reason(s) for the denial shall be noted.

- (A) Where the proposed development involves only the expansion of existing structures, the Planning and Zoning Commission may reduce or waive certain criteria, data, or other submission requirements as appropriate provided that the following conditions are met:
- (1) No existing structure will be expanded by more than 30% of its total floor area and/or seating.
  - (2) No change in the existing use of the site is proposed.
  - (3) No existing nonconforming use would be expanded, and all other aspects of the site are in conformity with the requirements of this Code.
  - (4) The development site will not be reduced in size.
- (B) Under no circumstances shall any site development plan be approved that is inconsistent with any term contained in this development code unless a variance or waiver has been authorized in accordance with the provisions of Section 7.09.00 of this Code.

**7.05.06 Approval of Site Development Plans.** On approval of a site development plan, a minimum of eight (8) copies, and any additional copies as may be required by the City, of the approved site development plan shall be submitted to the Development Director prior to processing of a building permit. The Development Director shall forward copies of the plan to appropriate City staff. The City Clerk shall retain and file one copy of the site development plan to constitute a permanent record of the site development plan. A minimum of three copies of the plan shall be reserved for the applicant, two of which shall accompany the application for building permit submitted to the Building Director, and one copy to be available for inspection at the job site.

**7.05.07 Effect of Site Development Plan Approval.**

Approved site development plans shall remain valid if a building permit is obtained subject thereto within one year after final approval. Granting of extensions for approval may be made by the Development Director for a single period up to one year from the date when a site development plan would otherwise expire. An extension may be granted if the Official concludes that the recipient of the approved site development plan has proceeded with due diligence and in good faith, and that conditions have not changed substantially so as to warrant a new application. All such requests for extensions must be submitted in writing, not less than thirty (30) days before the expiration of the approved site development plan stating the reason for the time extension request.

Upon approval of the site development plan, the applicant may proceed to submit construction drawings to the appropriate City staff for permitting. These shall include, but are not limited to, building plans, drainage and stormwater management facilities, road and driveway construction specifications, and tree removal plans.

Nothing contained herein shall preclude the City from accepting for review and processing building construction plans related to the structural, mechanical, electrical and plumbing systems prior to stamped approval of a site development plan, subject to such conditions as may be established by the City relative to such pre-plan certification processing.

In such instances, no building permit will be issued until the site development plan has been stamped approved and is on file in the Building Office. All building and construction permits issued for any project requiring site development plan review shall be consistent with the stamped approved site development plan. The approval of a site development plan shall not, under any circumstances, be construed to waive or otherwise diminish the applicable City requirements for construction or installation of structures or materials. Whenever a conflict between the site development plan and such construction details occurs, the more restrictive or that requiring the higher standard shall prevail.

#### **7.05.08 Modification of Site Development Plans.**

Any modification, variation or adjustment of a stamped approved site development plan shall require approval of a site development plan amendment.

The Development Director shall determine whether a proposed site development plan modification is a major modification or a minor modification. The determination shall be based on, but not limited to the following: any substantial change, including increase in density, change in permitted uses, change in stormwater runoff characteristics, change in traffic patterns and trip generation, or other similar changes shall be considered a major modification; any proposed minor changes in configuration or similar changes shall be considered a minor modification.

The Development Director may approve a minor modification. If the proposed change or amendment is determined to be other than a minor modification, the Development Director shall forward any revisions to appropriate members of City staff, outside consultants, and schedule a hearing by the Planning and Zoning Commission to consider approval of the change.

#### **7.05.09 Integration of Other Review Procedures.**

Any development involving the following provisions of this code shall be coordinated as set forth below:

- (A) **Development Built in Phases.** Development built in phases or stages must clearly show the various phases or stages of the proposed development on the site development plan and on all subsequent site development plans. Any amenity or stormwater management system proposed in any future phase shall be constructed in the first phase of development. A site development plan must be submitted for each successive phase of the development.
- (B) **Variance or Special Exception Uses.** For developments requiring approval of a Variance or a Special Exception, a request for such approval shall be submitted to the Planning and Zoning Commission and City Commission, and the Special Exception shall be approved prior to final approval of the site development plan. A site development plan and a Special Exception request may be processed concurrently.

**7.05.10 Non-Compliance.** Failure to comply with a stamped approved site development plan or any of the conditions upon which such approval was contingent, including time limits for performance, shall be cause to deny issuance of a building permit or, where a permit has been issued pursuant to a stamped approved site development plan, to render such building permit invalid. Any action, construction, development or use of property undertaken in violation of the provisions of this Section for a site plan shall constitute a violation of this Code and may be

subject to a stop-work order.

## **7.06.00 Subdivision Regulations**

### **7.06.01 General**

- (A) Purpose and Intent. The purpose of this Section is to establish minimum procedures and standards to further the provisions of State Law that regulates and requires the platting of land for development; to further the goals and policies of the Bartow Comprehensive Plan; and to set forth a process for approval of the subdivision of land within the jurisdiction of the City. Where provisions for subdividing land are either more restrictive or less restrictive than other land development codes, resolutions or rules adopted by the City, those provisions that are more restrictive and impose higher standards or requirements shall govern. Subdivision approval procedures are set forth herein as a four-step process, the concept plan review, preliminary subdivision plat (PSP) review, construction plan review and final plat approval. This process is intended to permit comprehensive review by the City and to benefit the developer by identifying potential problems and their solutions at appropriate times during the process. As with all stages of the development approval process, it is the responsibility of the developer to check all State and local regulations governing the subdivision of land and to adhere strictly to the procedures therein.
- (B) Applicability. These regulations shall apply only to the subdivision of land.
- (C) Variances. At the PSP approval stage, and subject to final approval by the City Commission, certain variances may be granted provided that such variance is not contrary to the public interest. Where the Planning and Zoning Commission finds that extraordinary hardships may result from the strict application of the planning and engineering standards set forth in the ULDC, it may consider those variances that are recommended by the DRC, provided however, that the effect of the variance shall not be to nullify the purposes and intent of these regulations nor the Comprehensive Plan of the City of Bartow.

### **7.06.02 Procedure**

- (A) Whenever any subdivision of land is proposed and before any permit for the installation of utilities, either public or private; construction; paving and stormwater management; or structures in a proposed subdivision shall be granted, the developer, or their authorized agent, shall apply for and secure approval from the City of the proposed subdivision through submission of the following documents:
  - (1) Concept Plan
  - (2) Preliminary Subdivision Plat
  - (3) Construction Plans
- (B) Upon completion of all subdivision infrastructure improvements, or guarantee thereof, the developer or authorized agent shall apply for and receive approval of a Final Subdivision Plat before any contract is made for the sale of any part thereof and before applying for permits to build structures on the lots thus created.

### **7.06.03 Concept Plan Review**

The developer shall present a concept plan, drawn to an appropriate scale, to the Planning Director who shall schedule it for review before the DRC. The DRC shall review the plan as to its conformance to the Comprehensive Plan, zoning and other applicable land development regulations. The concept plan shall be reviewed by the City's DRC within fifteen (15) working days of its submittal. A letter shall be sent to the developer following the DRC review detailing any issues identified during the review. The plan shall show, at the minimum:

- (A) Proposed use
- (B) Basic street layout
- (C) Typical lot sizes
- (D) Boundaries
- (E) Significant physical conditions

### **7.06.04 Administrative Approval of Minor Subdivisions**

- (A) The intent of this section is to establish an administrative review and approval process for minor subdivisions.
- (B) Within three days of submittal of plans for a building or land development permit, the Planning Director shall determine if minor subdivision approval is applicable and shall state any requirements in a letter or memorandum, that shall be attached to the permit application.
- (C) In requesting the administrative approval of a minor subdivision, the applicant shall provide the following information:
  - (1) A copy of the deed to the property. If the applicant does not own the property, he must obtain written permission from the owner, including a notarized signature, authorizing him to make the application.
  - (2) A copy of the official property appraiser's map indicating the subject property and all other properties within 200 feet.
  - (3) A certified survey.
  - (4) Any established application fee plus the per lot fee for subdivision shall be charged.
- (D) The DRC may administratively approve a minor subdivision under the following conditions:
  - (1) The approval does not result in the creation of more than four new lots.
  - (2) The approval does not create a lot, or lots, that do not meet applicable zoning district standards.

- (3) Each lot has frontage on a public road, and no new public streets are needed to serve either property.
  - (4) No extension of a public water or sewer system to the development is needed.
  - (5) There will be no necessity for stormwater management facilities serving other properties to cross the lot affected by the administrative approval. Certification to this effect shall be provided by a professional engineer registered in the State of Florida.
- (E) In granting approval, the DRC may impose such conditions, safeguards and requirements as deemed necessary to implement the intent and purpose of this section. The DRC may require any division or combination of previously platted property to comply with the complete platting process as set forth in this section.
  - (F) The developer shall agree to prepare and submit a final plat to the City within thirty (30) days of the approval of the minor subdivision by the DRC. Failure to submit a final plat within the time frame established will cause the minor subdivision approval to become null and void. The Planning Director shall be responsible for placing the final plat on the City Commission agenda for approval and acceptance. The plat shall be recorded with the Clerk of the Circuit Court of Polk County prior to issuance of a certificate of occupancy.
  - (G) The minor subdivision plat for recording shall conform to all requirements set forth in Article 7.06.07 and Chapter 177 of the Florida Statutes.

#### **7.06.05 Preliminary Subdivision Plat**

The purpose of the PSP is to provide sufficient information regarding a proposed development to enable the City to evaluate the proposed subdivision as it relates to the Comprehensive Plan and the Unified Land Development Code.

The developer may present a PSP at any time after receiving the comments of the DRC in response to the submission of a concept plan. The PSP shall demonstrate the manner in which any comments from the concept plan review have been incorporated into the plat.

##### **7.06.05.01 Submission of Preliminary Subdivision Plat**

- (A) Submittal. The PSP review shall be initiated when the following items have been submitted:
  - (1) Completed application forms with all necessary attachments.
  - (2) The applicable review fee, as established by the City Commission.
  - (3) Ten (10) copies of the PSP, a survey and a topographic map.

The above-listed items must be submitted at least fifteen (15) days prior to consideration by the DRC.



(B) Required Information. The PSP shall be submitted on a twenty-four (24) by thirty-six (36) inch sheet(s) and shall include the following:

- (1) Legend and supporting data. The legend and supporting data of the PSP shall include:
  - a. Names, addresses and telephone numbers of the owner/developer, surveyor, engineer and other consultants.
  - b. Letter with notarized signature from the property owner authorizing the application if owner is not the applicant.
  - c. Title block identifying the name and/or title of the proposed subdivision. The name shall not duplicate or closely approximate the name of any other subdivision recorded in the Public Records of Polk County, Florida.
  - d. Date, north arrow, and scale of the plan [preferably one (1) inch equals one hundred (100) feet].
  - e. Location map showing the site in relation to existing roads and developments.
  - f. Legal description of the tract to be subdivided and the approximate acreage.
  - g. All contiguous property under ownership or control of the applicant shall be shown, described or noted on the PSP. In some instances, a conceptual master plan may be required where the size or character of the area would dictate a unified planning approach.
  - h. Boundary of the tract shown by a heavy line.
  - i. The existing zoning, the proposed minimum lot size and width, the proposed residential, commercial and industrial land use type and the residential density.
  - j. Names of all abutting subdivisions and location of adjoining platted lots and parcel lines within one hundred (100) feet (if unplatted, so state).
  - k. Existing utility transmission and drainage systems, easements and improvements including buildings located on the tract.
  - l. Adjacent zoning districts including zoning on opposite sides of rights-of-way.
  - m. All requests for variances shall be noted on plan with appropriate City ULDC reference and justification.

- n. Number of lots.
  - o. Number of dwelling units and the projected school age population.
  - p. Lot lines, scaled dimensions and lot numbers.
  - q. Where more than one (1) setback applies to a lot, the greater setback distance shall apply.
    - 1. Illustrate all base building setbacks.
    - 2. Indicate by the use of notes the applicable setbacks for the zoning district.
  - r. Approximate phasing of the project, if applicable.
  - s. Location of all sites for multifamily, commercial, industrial, utility, institutional or recreational uses and other public and nonpublic uses exclusive of single-family residential lots.
  - t. Recreational and park facilities (to be owned and maintained by a mandatory homeowners association) with the following data:
    - 1. Identify the tract(s) proposed for recreational use.
    - 2. Type and location of all proposed recreational facilities.
    - 3. Setback from all property lines.
    - 4. Access and parking.
    - 5. Exterior lighting plan (if proposed).
    - 6. Landscape and buffer plan.
- (2) Physical/environmental conditions. The following physical and environmental conditions shall be shown on the PSP.
- a. Existing contours at one foot intervals based on field surveys or photogrammetric surveys for the tract to be subdivided. To properly assess the drainage impact that the proposed project will have on adjacent properties, the survey shall be extended a minimum of two hundred fifty (250) feet beyond the tract boundary onto adjacent parcels (extension across open roadways is not required). If contours are based upon a field survey, it shall be certified by a land surveyor.
  - b. Identification of on-site conservation/wetland areas.

- c. One hundred (100) year flood elevation data for all developments with Zone A as indicated on the City Flood Insurance Rate Map, as amended, prepared by the Federal Emergency Management Agency. Where the one hundred (100) year flood elevation has not been established, the applicant's engineer will conduct the necessary drainage basin studies to establish the one hundred (100) year flood elevation to the satisfaction of the City.
  - d. Indicate the disposition of any existing on-site structures.
  - e. Identification of any other known environmental issues or explanation of the results of any environmental audits performed.
- (3) Required Improvements. The following improvements shall be required and shall be indicated on the PSP.
- a. Streets:
    - 1. The following information shall be provided for existing streets:
      - (a) The name, location and right-of-way width of all existing streets, rights-of-way and platted streets within three hundred (300) feet in each direction of the proposed entrance to the proposed subdivision;
      - (b) Right of way and setback requirements in Article 3 of the ULDC.
    - 2. The following information shall be provided for proposed streets:
      - (a) The name or temporary designation and right-of-way width.
      - (b) The projected Average Daily Traffic (ADT) from the proposed development based upon trip generation rates contained in the most recent edition of the Institute of Transportation Engineers (ITE) Manual, unless other standards are justified and approved.
      - (c) Proposed access improvements serving the project.
    - 3. A note explaining any proposed vacation of rights-of-way or easements.

- b. Water and Wastewater Systems. The proposed method and source of water supply and wastewater disposal shall be shown. The developer shall show the points of connection to the existing systems.
- c. Stormwater Management. A stormwater management plan will be proved with a schematic diagram of the proposed stormwater collection system. Stormwater retention/detention areas shall be designated as "tracts."
- d. Screen Walls and Buffer Tracts. Show the location of and details for all screen walls and buffer tracts which comply with Article 3 of the ULDC. Maintenance responsibility shall be indicated, but in no case will it be the responsibility of the City.
- e. Borrow Operations. If it is anticipated that a borrow operation for export offsite will be undertaken as part of the project, it should be noted on the plans and preliminary grades and quantities shown. Permits may be required for material removed from the site.
- f. Finished Grade Change. If it is anticipated that finished floor grades for lots at the perimeter of the property will vary more than one (1) foot above or below existing grades, it shall be noted on the PSP. If the subdivision construction plans result in exceeding these limits without being noted on the PSP , it shall constitute a substantial change requiring a new public hearing.

(C) Procedure.

- (1) Development Review Committee. The DRC shall review the PSP to ensure conformance with the requirements set forth herein. The DRC shall make findings and a recommendation to the Planning and Zoning Commission to approve, approve with conditions or disapprove the PSP.
- (2) Planning and Zoning Commission Action: At a properly advertised public hearing, the Planning and Zoning Commission shall review exhibits, staff reports and comments by reviewing agencies and individuals and shall make a recommendation to the City Commission to approve, approve with conditions or disapprove the PSP.
- (3) City Commission Action: The City Commission shall review the action of the Planning and Zoning Commission and take action to approve, approve with conditions or disapprove the PSP. Approval of the PSP authorizes the developer to prepare construction plans for public infrastructure improvements.

#### **7.06.05.02 Term of Preliminary Subdivision Plat**

- (A) Preliminary Subdivision Plats shall remain valid for one year from the date of approval. Extensions for approval may be granted for a single period up to one year from the date the plan would otherwise expire. An extension may be granted if the Planning Director concludes that the owners or successors of the PSP have proceeded with due diligence and in good faith and the conditions have not changed substantially as to warrant a new application. All such requests for extensions shall be submitted in writing not less than thirty (30) days before the expiration of the PSP, stating the reason for the time extension request. Upon expiration of a PSP, municipal services allocated thereto shall be forfeited.
- (B) Any amendment, variation or adjustment of a PSP shall require approval of an amended PSP. The DRC shall determine whether a proposed modification amounts to a major deviation to the approved PSP. The determination shall be based on, but not limited to the following: a change to the plat, including increase in density, change in permitted uses, change in stormwater runoff characteristics, change in traffic patterns and trip generation, or other similar changes to the plat. If the DRC determines that a proposed modification amounts to a major deviation to the approved PSP, the request shall be placed on the next available agenda for review and consideration by the Planning and Zoning Commission. The Planning and Zoning Commission shall make a recommendation to the City Commission to approve, approve with conditions or disapprove the major deviation.

#### **7.06.06 Construction Plans**

The purpose of the construction plan review process is to allow the DRC to review and approve all proposed site improvements prior to construction. The construction plans shall consist of complete working drawings and design specifications, and shall be the basis for evaluating the quality and completeness of the proposed engineering design, compliance with all applicable regulations, the establishment of a construction schedule, and site improvement permitting.

##### **7.06.06.01 Submission of Construction Plans**

After approval by the City Commission of the PSP and prior to the review of the Final Plat, the developer shall submit construction plans for review and approval by the DRC. Approval of the construction plans by the DRC may be subject to any conditions, restrictions, and/or time schedules as may be deemed necessary in the public interest.

- (A) Submittal. Construction Plan review will be initiated when the following information has been provided.
  - (1) Complete application forms with all necessary attachments.
  - (2) The applicable review fee, as established by resolution of the City Commission.
  - (3) Ten (10) complete sets of construction plans.

The above listed items must be submitted at least fifteen (15) days prior to consideration by the DRC.

- (B) Required Information. Construction plans shall be submitted on twenty-four (24) by thirty-six (36) inch sheets drawn to a scale of not less than one (1) inch = forty (40) feet and shall show, in addition to the data provided on the PSP, the following:
- (1) Name, address, and seal of registered engineer and surveyor responsible for the plan and accepted data.
  - (2) Final alignments, dimensions, grades and profiles of proposed streets, utilities, stormwater management and other improvements to be constructed consistent with the City of Bartow's Infrastructure Development Standards, as amended.
  - (3) Such other calculations, computation and details as may be necessary to determine the limits of wetlands, the groundwater table, off-site impacts of the proposed development, and other technical matters that may be specified by the City or any consultant under contract to do work for the City.
  - (4) Any permits from agencies approving access to state, county, or local roadways.
  - (5) Any permits from agencies approving the proposed stormwater management system.
  - (6) Any permits from agencies approving the utilities plan.
  - (7) Three copies of estimates of quantities, unit prices and estimated costs for streets, stormwater management and storm sewers; water distribution systems; and sanitary sewer systems.
- (C) Procedure. The DRC shall review the construction plans to ensure conformance with the approved PSP and requirements set forth herein. The DRC shall approve, approve with conditions or disapprove the construction plans. If an applicant believes there is an error in any order, requirement, decision or determination made by the DRC with respect to its review of said construction plans, a written appeal shall be filed with the Board of Adjustment pursuant to Article 8.03.02 of these regulations.

#### **7.06.06.02 Construction Inspection**

The Public Works Department shall conduct periodic inspections of required improvements during construction to ensure their satisfactory completion. If it is found that any of the required improvements have not been constructed in accordance with the City's construction standards and specifications, the developer shall be responsible for modifying and/or completing the improvements so as to comply with such standards and specifications.

#### **7.06.06.03 Record Drawings**

Three sets of engineering as-built drawings shall be submitted to the Public Works Department prior to the issuance of a certificate of completion for the subdivision or any portion thereof. The engineering as-built drawings shall be consistent with the City of Bartow's Infrastructure Development Standards, as amended. All as-built drawings shall contain a certification by a professional engineer and registered land surveyor of personal verification of the exact location and dimensions of all completed improvements, as well as certification that all utilities have been installed in accordance with specifications.

#### **7.06.06.04 Maintenance Guarantee**

The developer shall guarantee the materials and workmanship of pavement, curb and gutter, sidewalks, water system, wastewater (sewage) system and the stormwater management system in the subdivision for a period of one year after final acceptance by the Public Works Department. A bond shall be required for the maintenance and repair requirements to cover faulty plans, materials or workmanship. The bond shall be effective for a period of one year after the issuance of a certificate of completion by the City and shall be in an amount equal to twenty-five (25) percent of the cost of all required improvements.

#### **7.06.07 Final Plat**

The intent of the Final Plat is to establish a legal record of the subdivision. The Final Plat may not be approved unless it is in strict conformance with details of the PSP and any changes required by, and approved by the City.

Prior to approval by the City, the plat shall be reviewed for conformity to Chapter 177 of the Florida Statutes by a professional surveyor and mapper either employed by or under contract to the City, the costs of which shall be borne by the legal entity offering the plat for recordation, and evidence of such review must be placed on such plat.

##### **7.06.07.01 Submission of Final Plat**

(A) Submittal. Final plat review will be initiated when the following information has been provided.

- (1) Complete application forms with all necessary attachments.
- (2) The applicable review fee, as established by resolution of the City Commission.
- (3) Ten (10) complete copies of the final plat.

The above listed items must be submitted at least fifteen (15) days prior to consideration by the DRC.

(B) Required Information. Although it may constitute only that portion of the PSP that the developer proposes to record and develop at the time, the Final Plat for recording shall be prepared in conformance with the requirements specified herein. The Final Plat shall show, in addition to the data provided on the PSP, the

following:

- (1) The Final Plat shall be drawn on a linen tracing cloth or stable base film at least three mils thick, 24 inches wide by 36 inches long. Preferred scale of the Final Plat is one (1) inch equals forty (40) feet. If a different scale is used for the recorded plat, a facsimile scaled to one (1) inch equals forty (40) feet on stable base film shall be provided to the Planning Director.
- (2) Name of plat.
- (3) Each plat shall show a description of lands platted and the description shall be the same in the title certification. The description shall be so complete that from it, without reference to the plat, the starting point and boundary can be determined.
- (4) All required final permits and approvals issued by agencies and governing bodies having jurisdiction over properties being subdivided shall be furnished to the Public Works Department. The Final Plat shall not be approved by the City without proper submission of the final permits and approvals.
- (5) All easements or rights-of-way provided for public services or utilities, and limitations of such easements.
- (6) All lots shall be numbered either by progressive numbers or, if in a block, progressively numbered or lettered in each block. Lot lines shall be marked with accurate dimensions in feet and hundredths of feet, and bearings or angles to street lines.
- (7) The accurate location of all monuments and the designation of specific control corners.
- (8) A statement shall be included on the Final Plat indicating the final length of roads, water and sewer lines installed.
- (9) The purpose of all areas dedicated must be clearly indicated or stated on the plat. Accurate descriptions of any such areas to be dedicated or reserved for public use shall state the purpose thereon.
- (10) In the event the plat includes open space, clubhouses, playgrounds or other amenities to be owned and used in common by residents of the development, a plat note shall be added requiring the creation of a homeowners or property owners association that shall be responsible for such facilities.
- (11) All interior excepted parcels shall be clearly indicated and labeled "Not A Part of This Plat."
- (12) Any existing or proposed private restrictions and trusteeships and their periods of existence shall be filed as a separate instrument, and reference to such instrument shall be noted on the Final Plat.



- (13) City signature spaces for the Mayor, City Clerk, City Manager, Planning Director, and professional surveyor and mapper either employed by or under contract to the City.
  - (14) The Clerk of the Circuit Court of Polk County of the Circuit Court certificate and the land surveyor's certificate and seal.
- (C) Plat Documentation Requirements. The following documentation shall accompany the Final Plat:
- (1) The Final Plat for recording shall conform with all requirements set forth in F.S., Chapter 177, including dedications and reservations executed by the developer and certification by a registered land surveyor.
  - (2) A title opinion by an Attorney at Law, licensed in Florida, or a certification by an abstractor or title company stating that the court records identify that the title of the land as described and shown on the plat is in the name of the person or persons or corporation executing the dedication. In addition, a document entitled, "Consent to Platting of Lands and Partial Release of Mortgage," shall be filed together with the Final Plat for each person or corporation holding a mortgage on all land included on the plat, where such person or corporation has not signed the Final Plat.
  - (3) Certification by a registered land surveyor that the plat represents a survey made by that individual and, further, that all necessary monuments, lot sizes and lot dimensions are correctly shown thereon. Impressed thereon, and affixed thereto, shall be the personal seal and signature of the registered land surveyor by whom, or under whose authority and direction, the plat was prepared.
  - (4) Certification that all real estate taxes have been paid.
- (D) Procedure
- (1) Development Review Committee. The DRC shall review the Final Plat to ensure conformance with the requirements set forth herein and with the provisions of Chapter 177, Florida Statutes. The DRC shall make a finding to the City Commission that the plat is in acceptable form for recording purposes.
  - (2) City Commission Action. Approval of the plat and acceptance of public improvements and dedications shall be by ordinance and shall authorize the appropriate City officials to sign the plat.
  - (3) Recording. Upon approval by the City Commission, the Final Plat shall be filed and recorded with the Clerk of the Circuit Court for Polk County. The developer shall be responsible for the payment of all fees related to the cost of recording the final plat and producing copies. Two mylar reproductions of the final plat will be returned to the City for use by the City Clerk and Public Works Department. The Final Plat shall be recorded prior to the issuance of any building permits within the subdivision.

#### **7.06.07.02 Performance Bond**

If at the time of application for Final Plat approval all improvements are not satisfactorily installed, the subdivider shall post a bond in an amount estimated as sufficient to secure to the City the satisfactory construction, installation and dedication of all required improvements. Such performance bond shall comply with all statutory requirements and shall be satisfactory to the City Attorney as to form, sufficiency and manner of execution as set forth in these regulations. The period within which required improvements must be completed shall be specified by the City Commission as part of the approval action on the Final Plat and shall be incorporated in the bond and shall not in any event exceed two years from date of final City approval. The City Commission may at any time during the period of such bond accept a substitution of principal or sureties on the bond upon recommendation of the City Attorney.

#### **7.06.08 Vacating of Plats and Replats**

##### **7.06.08.01 Vacating of Plat by Owner**

The owner of any land subdivided into lots may petition the City under the provisions of 177.101, F.S., to remove (vacate and annul) the existing plat, or portion thereof, from the official records of the City of Bartow and Polk County. The applicant vacating a plat, or a part thereof, shall file the petition, proof of publication of notice of intent, certificate of title, statement of taxes, and shall pay the appropriate filing fee as established by the City Commission. Following review by the DRC and recommendation by the Planning and Zoning Commission, the petition shall be acted on by the City Commission. The applicant shall be responsible for recording the petition and the proof of publication with the Clerk of the Circuit Court for Polk County.

##### **7.06.08.02 Vacating of Plat by City**

The City Commission may, on its own motion, order the vacation and annulment of all or any part of a subdivision within its jurisdiction. Such action may include the vacation of dedicated rights-of-way and easements, provided that:

- (A) The subdivision plat was lawfully recorded not less than five years before the date of such action by the City Commission; and
- (B) No more than 10% of the total subdivision, or part thereof, has been sold as lots by the original subdivider or his successor in title. Such action shall be based on a finding by the Commission that the proposed vacation and annulment of the plat will result in greater conformity with the comprehensive plan of the City, and the public health, safety, and welfare will be promoted.

Before acting on a proposal for vacation and annulment of subdivided land the Commission shall hold a public hearing, with notice of intent as set forth by Chapter 166, F.S. Notwithstanding these provisions, the City may require conformity with existing standards for all or parts of subdivisions as outlined in this Section.

#### **7.06.09 Access to Individually Owned Parcels**

No owner of any parcel of land in a subdivision shall be deprived by the vacation and annulment of a plat, or a portion of a plat, of reasonable access to such parcel, nor of reasonable access therefrom to existing facilities to which such parcel presently has access; provided that such access remaining or provided after such vacation need not be the same as that previously existing.

#### **7.07.00 Cluster/Zero Lot Line Development.**

The purpose of this Section is to encourage creative development design in the City of Bartow and to provide a mechanism for preserving open space, protecting natural resources, or reserving land for recreational facilities to serve the City's residents. It may be used in implementing various policies of the Comprehensive Plan.

Cluster/zero lot line development may be granted in any district where single family detached development is permitted as a principal use. The City Commission may limit the approval to permit cluster subdivision development only, or zero lot line development only; or, both techniques may be authorized for use in conjunction with each other.

#### **7.07.01 Cluster Subdivision.**

Clustering of single family detached dwelling units on a development site may be permitted where the Comprehensive Plan requires preservation of a natural resource, where land is needed for open space or low-intensity recreational use, or where the developer wishes to create an amenity for residents of the site or for the City as a whole. Approval or denial of the clustering concept at a particular location shall be based on consistency with the Comprehensive Plan, compatibility with surrounding land uses, and compliance with the following requirements:

- (A) Density. Gross density of the subdivision shall not exceed the maximum permitted density for the zoning district wherein the site is located, as shown in Table 2.04.01(B). For purposes of calculating density, the development site shall include all platted residential lots, together with roads, stormwater management facilities, utility sites and all other common property within the perimeter of the subject property, regardless of whether such facilities will ultimately be dedicated to the City.
- (B) Development Site To Be Unified. In making application for approval of a for cluster development, the applicant shall furnish proof that the development site is unified by title, and not spatially divided by ownership (however, multiple ownership is permissible so long as each owner or investor holds a percentage or proportionate interest in the site as a whole). The site shall have the zoning designations required to accommodate the principal residential uses proposed.
- (C) Platting. Information supplied to the Development Director in support of the application for a cluster/zero lot subdivision shall include a Preliminary Subdivision Plat that fulfills all of the requirements of section 7.06.05. The application for a cluster/zero lot line subdivision shall be procured and reviewed in conjunction with each other, unless the Preliminary Subdivision Plat has been previously approved.

The Development Director may subsequently approve minor changes to the development concept that do not involve increases in density, additional points of access to existing

roads, or substantial rearrangement of lots.

- (D) **Lot Size and Lot Coverage.** The normal minimum residential lot size and lot coverage requirements established in Table 2.04.01(B) shall be waived under this section. Where cluster subdivision development is proposed, minimum lot requirements shall be as follows:

| <b>District</b> | <b>Min. Lot Size</b> | <b>Min. Lot Width</b> | <b>Max. Lot Coverage</b> |
|-----------------|----------------------|-----------------------|--------------------------|
| RE              | 10,000               | 80 feet               | 55%                      |
| R-1AA           | 8,000 s.f.           | 70 feet               | 35%                      |
| R-1A            | 7,000 s.f.           | 60 feet               | 40%                      |
| R-1             | 6,000 s.f.           | 50 feet               | 45%                      |
| R-2             | 4,500 s.f.           | 40 feet               | 50%                      |

- (E) **Open Space.** The preliminary and final subdivision plats for the cluster subdivision shall designate a specific parcel as an open space tract, that will encompass the natural feature(s) or open space area that the developer intends to preserve. No residential, commercial, industrial, or public institutional use shall be permitted within an amenity tract.

Open space shall primarily consist of undisturbed natural land, with passive or low-intensity recreation facilities. Such areas shall be accessible and available for the use and enjoyment of all residents of the subdivision. Permitted uses include boat ramps, playing fields, nature trails and boardwalks. Uses requiring off-street parking and utilities shall be prohibited.

The minimum size of an open space tract shall be one acre, or 10% percent of the total area of all platted residential lots and streets.

Where natural features are being preserved, open space tracts may include wooded areas, wetlands and floodplains. However, lands not in their natural state may be used for recreational purposes and shall be free of waste or debris, dangerous or hazardous materials, and all structures not related to the property's designated use. Open space tracts may include stormwater management or utility sites and facilities. Water bodies may be included, but shall not count toward the minimum land area for an open space tract. Other areas may be excluded if, in the Development Director's opinion, the use of such areas in an open space tract would be inconsistent with the intent of this subsection.

Prior to submitting the final subdivision plat for approval, the Development Director shall verify that the plat includes a notation indicating the ownership and maintenance responsibility for the open space tract, including all recreation facilities, existing or planned. No open space tracts or associated facilities shall be dedicated to the City of Bartow, unless specifically accepted by the City Commission.

#### **7.07.02 Zero Lot Line Development.**

The purpose of this subsection is to promote architectural design flexibility and efficient use of land in residential subdivisions. Under this concept, the dwelling unit may be placed against a

side lot line in order to maximize usable open area within each residential lot. The requirements provided below shall apply in addition to those of Article 3 and Section 7.06.00.

- (A) Lot Sizes. The permitted lot sizes in a zero lot line development shall be those permitted for cluster/zero lot line subdivision per section 7.07.01.
- (B) Platting. Building permits shall not be issued in a zero lot line subdivision until all requirements of Section 7.06.00 have been met.
- (C) Building Envelope and Maintenance Easements. All zero lot line subdivision plats shall show building envelopes wherein all structures shall be located. No structures shall be placed outside the designated building envelope. No windows, doors, air conditioning units, or other openings or projections of any kind shall be permitted where the structure meets the side lot line. Structures on abutting lots may share a common zero lot line, and may be structurally joined by a common fire wall or by porches, garages or privacy fence/wall.

For each unit constructed along a side lot line, an easement five feet in width shall be created on the neighboring property. The purpose of this easement is to permit maintenance and repair of the exterior portion of the structure or structures bordering the zero side yard. All maintenance easements shall be shown on the final plat, along with an indication of the lot to which each easement is assigned.

- (D) Setbacks. Each dwelling unit in a zero lot line subdivision shall be set back 15 feet from one side lot line. No setback is normally required from the opposite lot line, but a setback may be provided such that the unit is detached in a conventional sense. On corner lots, the front setback requirement shall apply to both road frontages.

Front and rear setbacks for principal structures shall be those required by the zoning district.

Detached accessory structures shall be limited to a total of 400 square feet, regardless of their number.

## **7.08.00 Conditional Use Permits.**

**7.08.01 Purpose and Intent.** Conditional Uses are those uses that have some special impact or uniqueness such that their effect on the surrounding environment cannot be accurately determined in advance of the use being proposed for a particular location. As a result, a Conditional Use is subjected to the highest standard of review, and combines the analysis and considerations required for amending the Comprehensive Plan, rezoning, review of a Site Development Plan, and other standards detailed in this Article. A Conditional Use is rezoning, and therefore may only be abandoned or revoked by amending the Comprehensive Plan, by rezoning, or by action of a Court of jurisdiction that may set the action aside. It is the purpose of this Section to identify the uses that shall be considered Conditional, and to describe the standards and the review process for a Conditional Use.

**7.08.02 Conditional Uses in the City of Bartow.** Uses designated as Conditional Uses are identified in the Table of Land Uses 2.04.01(A), Article 2. Conditional Uses are designated by the letter "C" and require approval of an application by the Planning and Zoning Commission and City Commission as outlined in the following sections. Development Standards for Conditional Uses

are found in Article 3, Section 3.09.00.

### **7.08.03 General Standards of Review.**

At the time of a proposal for a particular Conditional Use, a detailed review of the location, design, configuration, and impact will be conducted by comparing the proposed Conditional Use to fixed standards. Of particular importance are standards for weighing the public need for and benefit to be derived from the use, against the greater than local impact that it may cause. The review considers the proposal in terms of;

- (A) Whether and to what extent, the Conditional Use at the particular location for which it is proposed, is necessary or desirable and in the interest of furthering the Comprehensive Plan, of providing for the public convenience, or of contributing to the general welfare of Bartow and Polk County.
- (B) Whether and to what extent all steps possible have been taken by the developer to minimize any adverse effects of the Conditional Use on the immediate vicinity and on the public health, safety, and welfare in general.
- (C) Whether and to what extent, planned and proposed public and private developments may be adversely affected by the Conditional Use.
- (D) Whether and to what extent, existing zoning and land use in the vicinity of the Conditional Use require special considerations and conditions.

### **7.08.04 Application.**

All requests for Conditional Uses shall be submitted in writing to the Development Director, together with applicable fees, which shall have been established by resolution of the City Commission.

- (A) Contents. The application shall contain the following items, as applicable:
  - (1) A legal description and street address of the property.
  - (2) Notarized authorization of the owner if the applicant is other than the owner or an attorney for the owner.
  - (3) A concurrency analysis of all public facilities and services for which a Level of Service has been established in the Comprehensive Plan, pursuant to the standards and procedures in Article 6 of this Code.
  - (4) A detailed Site Development Plan drawn to scale showing:
    - a. The dimensions of the property;
    - b. The existing and proposed location of structures on the property including signage, vehicular access ways and circulation areas, off-street parking and loading areas, sidewalks, refuse and service areas, required yards and other open spaces, and landscaping or buffer areas;

- c. The measurements of existing and proposed adjacent rights-of-way, setbacks, distances between buildings, widths of access ways and driveways, and sidewalks.
- (5) A tabular summary describing the proposed use of the property including:
  - a. Existing and proposed use of property;
  - b. Conditions on the use, such as hours of operation, numbers of residents, etc.;
  - c. Area of the property, pervious and impervious areas, and existing and proposed structures.
  - d. Number of required and provided off-street parking and loading spaces, existing and proposed density, and number of existing and proposed units.

#### **7.08.05 Review Of Proposed Conditional Use.**

- (A) Sufficiency Review. Within fifteen (15) working days of receipt of an application for a Conditional Use, the Development Director shall:
  - (1) Determine that the plan is complete and proceed with formal review.
  - (2) Determine that the information submitted as the application is not complete and inform the developer in writing of any deficiencies.
    - a. The developer shall submit any required information within fifteen (15) working days, or submit a letter indicating that in his/her judgement the application is complete. In the second case, the developer shall specifically request that formal review commence.
    - b. If as a result of the Development Director's comments the developer chooses to submit an amended application, he/she shall do so within sixty (60) working days without payment of an additional fee. If more than sixty (60) working days pass, the developer shall file a new application, that may be subject to additional fees.
- (B) Report To Planning and Zoning Commission. The Development Director shall submit a written report containing his/her recommendations on the proposed Conditional Use to the Planning and Zoning Commission prior to the meeting of the Planning and Zoning Commission at which the application will be heard. A copy of the report shall be made available to the applicant.
- (C) Planning and Zoning Commission Hearing. In not more than sixty (60) days of submission of the Development Director's report, the Planning and Zoning Commission shall hold a public hearing on the application for a Conditional Use and shall forward its recommendations to the City Commission. The Planning and Zoning Commission review and recommendations shall specifically address:

- (1) Concurrency management issues and considerations associated with the proposed Conditional Use, pursuant to the standards and procedures in Article 6 of this Code.
  - (2) The need to formally amend the Comprehensive Plan. Should the Planning and Zoning Commission find that a Plan Amendment is required, then the Plan Amendment review shall be conducted in accordance with the standards and procedures set forth in Article 7.02.00 of this Code. Depending on the nature of the Plan Amendment, further consideration of the application for a Conditional Use may be placed on hold until the amendment is adopted.
  - (3) Rezoning issues and recommended conditions for the proposed Conditional Use pursuant to Article 7.03.00 of this Code.
  - (4) Site Development Plan issues and conditions for the proposed Conditional Use pursuant to Article 7.05.00 of this Code.
- (D) Findings and Recommendation to Approve a Conditional Use. The Planning and Zoning Commission may recommend approval of an application for a Conditional Use only when all of the conditions below are met.
- (1) The proposed Conditional Use is consistent with the City of Bartow Comprehensive Plan.
  - (2) The proposed Conditional Use would not degrade the Level of Service of one or more public facilities and services, or contains commitments to make improvements to maintain Levels of Service established by the Comprehensive Plan.
  - (3) The proposed Conditional Use at the proposed location will not result in adverse impacts to adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, or other matters affecting the public health, safety, and general welfare; Either as they now exist or as they may exist in the future, as a result of the implementation of the goals, objectives and policies of the Comprehensive Plan.
  - (4) There is a community need for the proposed Conditional Use at the proposed location. This finding must be based on an analysis of existing and proposed uses of a similar nature in the area, and an assessment of the need to provide or maintain a proper mix of uses both within the City of Bartow and also in the immediate area of the proposed use. To reach a conclusion on this finding, the two standards below must be addressed in the affirmative.
    - a. The proposed Conditional Use in the proposed location will not result in either a detrimental over concentration of a particular use within the City or within the immediate area, and
    - b. The area for which the Conditional Use is proposed is not better suited for, or likely to be needed for, uses that are permitted as a matter of right within that district and are in accordance with the goals, objectives and policies of the Comprehensive Plan.



- (5) The proposed Conditional Use meets all of the standards and requirements of this Code that are applicable to it.
  - (6) Reasonable conditions can be derived and agreed upon that will address the concerns of the Planning and Zoning Commission and mitigate adverse impacts of the proposed Conditional Use.
- (E) Findings and Recommendation to Deny a Conditional Use. The Planning and Zoning Commission may recommend denial of any application for any Conditional Use for one or more of the following reasons:
- (1) The proposed Conditional Use is inconsistent with the City of Bartow Comprehensive Plan.
  - (2) The proposed Conditional Use would degrade the Level of Service of one of more public facilities and services, and contains no commitment to make improvements to maintain acceptable Levels of Service.
  - (3) No community need can be demonstrated for the proposed Conditional Use at the proposed location.
  - (4) The proposed Conditional Use does not meet all of the standards and requirements of this Code that are applicable to it.
  - (5) The proposed Conditional Use at the proposed location results in an adverse impacts on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, or other matters affecting the public health, safety, and general welfare; and no reasonable conditions have been, or can be, derived or agreed upon that will address the concerns of the Planning and Zoning Commission and mitigate the impact of the proposed Conditional Use.
- (F) Decision By City Commission. In not more than sixty (60) days of receipt of the Planning and Zoning Commission recommendation, the City Commission shall hold a public hearing after due public notice on all recommendations associated with a Conditional Use from the Planning and Zoning Commission. It may accept, reject, modify, return or continue and seek additional information on those recommendations. No approval of a Conditional Use shall be granted unless approved by a majority of the Commissioners voting.
- (G) Conditions And Safeguards. The development and use of the site of an approved Conditional Use shall be in accordance with the approved Site Development Plan and application materials. The approved Site Development Plan shall be filed with the Development Director, and all development shall be in compliance with that plan. The Planning and Zoning Commission may recommend and the City Commission may impose on the grant of any Conditional Use any conditions or safeguards found to be necessary to ensure the compatibility of the conditional use with surrounding properties or the community in general. These may include, but are not limited to:
- (1) Requiring restrictions on hours of operation and size of buildings,

- (2) Requiring additional landscape and buffer areas,
- (3) Limiting vehicular access points,
- (4) Prescribing the location of off-street parking, and
- (5) Other conditions that are reasonable and necessary to preserve the General Welfare of the City of Bartow.

Violation of any such condition or safeguard shall be deemed a violation of this Code and may result in a revocation of any conditional use permit, in addition to any other remedy for such violation provided in this Code.

- (H) Denial. The City Commission may deny any application for conditional use, for one or more of the following reasons:

- (1) It is inconsistent with the City of Bartow Comprehensive Plan.
- (2) It would degrade the Level of Service of one or more public services and facilities and contains no commitment to make improvements to maintain acceptable concurrency management standards.
- (3) It does not meet all of the standards and requirements of this Code that are applicable to the proposed Conditional Use.
- (4) No reasonable conditions can be derived or agreed upon that will address the concerns of the City Commission and mitigate the impact of the proposed Conditional Use.

- (I) Findings. The City Commission shall make written findings of its decision, which shall be furnished to the applicant within five working days of the action. Any conditions adopted as a part of the approval of a Conditional Use shall be explicitly stated in the correspondence, and shall be the basis for any subsequent Development Agreement or Development Order associated with the Conditional Use. In the instance of a denial, the written finding shall state the reason, or reasons, for the denial from the list above, in sufficient detail to eliminate misunderstanding on the part of the applicant, any future applicant, and the officials of the City of Bartow.

#### **7.09.00 Procedure for Obtaining a Special Exception Use.**

Special Exception Uses shall be granted only for those activities specified as such and identified by an "S" in the Table of Land Uses 2.04.01(A), Article 2.

The Board of Adjustment shall hear and decide applications for Special Exception Uses authorized under this Code in the manner prescribed below.

##### **7.09.01 Application.**

- (A) Application Fees. All requests for Special Exception Use shall be submitted in writing to the Planning Director, together with all applicable fees as provided by resolution.

- (B) Contents. The application shall contain the following items, as applicable:
- (1) A legal description and street address of the property.
  - (2) Notarized authorization of the owner if the applicant is other than the owner or an attorney for the owner.
  - (3) Site plan or sketch plan drawn to scale showing:
    - a. The dimensions of the property;
    - b. The existing and proposed location of structures on the property including signage, vehicular accessways and circulation areas, off-street parking and loading areas, sidewalks, refuse and service areas, required yards and other open spaces, and landscaping or buffer areas;
    - c. The measurements of existing and proposed adjacent rights-of-way, setbacks, distances between buildings, widths of accessways and driveways, and sidewalks.
  - (4) A tabular summary describing the proposed use of the property including:
    - a. Existing and proposed use of property;
    - b. Conditions on the use, such as hours of operation, numbers of residents, etc.;
    - c. Area of the property, pervious and impervious areas, and existing and proposed structures.
    - d. Number of required and provided off-street parking and loading spaces, existing and proposed density, and number of existing and proposed units.
  - (5) All other site-specific information required by Section 3.10.00 – Development Standards for Uses Permitted by Special Exception, shown either as part of a business/operation plan or part of the required site plan or sketch.

#### **7.09.02 Review of Proposed Special Exception.**

- (A) Completeness Review. Within five working days of receipt of Special Exception Use application, the Planning Director shall:
- (1) Determine that the information is incomplete and inform the applicant in writing of the deficiencies.
  - (2) Determine that the plan is complete and proceed with the following procedures.
- (B) Report to Board of Adjustment. The Planning Director shall submit a written report containing his/her recommendations on the proposed special exception to the Board of

Adjustment prior to the meeting at which the application will be heard. A copy of the report shall be made available to the applicant. The Board of Adjustment review shall include a concurrency management review of the proposed use pursuant to the standards and procedures in Article 6 of this Code.

- (C) Board of Adjustment Hearing. The Board of Adjustment shall hold a public hearing on each application.
- (D) Conditions and Safeguards. The development and use of the site of an approved special exception shall be in accordance with the approved site plan and application materials. The approved site plan shall be kept on file with the Planning Director, and all development shall be in compliance with that plan. The Board of Adjustment may recommend and may impose on the grant of any Special Exception Use any conditions or safeguards found to be necessary to ensure the compatibility of the Special Exception Use with surrounding properties or the community in general. These may include, but are not limited to, requiring restrictions on hours of operation and size of buildings, additional landscape and buffer areas, limiting vehicular access points and location of off-street parking, and similar conditions. Violation of any such condition or safeguard shall be deemed a violation of this Code and may result in a revocation of any Special Exception Use, in addition to any other remedy for such violation provided in this Code.
- (E) Denial. The Board of Adjustment may recommend denial of any application for any special exception, for one or more of the following reasons:
  - (1) It is inconsistent with the City of Bartow Comprehensive Plan.
  - (2) It would violate the concurrency management standards in Article 6 of this Code.
  - (3) It does not meet the requirements of the applicable special exception regulations.
- (F) Findings. The Board of Adjustment shall make written findings, based on one or more of the reasons listed above, in support of a denial of an application for a Special Exception Use.

#### **7.09.03 Expiration or Abandonment of Special Exception Use.**

If a Special Exception Use does not begin to serve the purpose for which it was granted permission within one year from the date of approval, it shall expire. A one year extension may be granted if the Planning Director concludes that the owners or successors of the Special Exception Use have proceeded with due diligence and in good faith and the conditions have not changes substantially as to warrant a new application. All such requests for extensions shall be submitted in writing not less than thirty (30) days before the expiration of the Special Exception Use, stating the reason for the time extension request. Once initiated, the Special Exception Use may continue indefinitely or until the expiration of any time limit established as a condition of approval. However, if such use is abandoned for 180 days, it shall expire.

#### **7.09.04 Communication Towers.**

- (A) Communication Towers shall only be allowed as a Special Exception Use in commercial, industrial and institutional zoning districts, if the tower is proposed to be closer than

100% of its height to a residential zoning district, as designated in Article 2, Section 2.04.00, Table 2.04.01(A) "Table of Land Uses" of this Code.

- (B) The Special Exception request shall be considered and reviewed under the regulations set forth in this Section and in the regulations listed in Article 3, Section 3.08.11.02 or Section 3.10.07.

#### **7.10.00 Home Occupations.**

Authorized home occupations shall comply with all of the following provisions:

- (A) No person other than a member of the family residing on the premises shall be employed in the home occupation.
- (B) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to the use of the unit for residential purposes by its occupants. Under no circumstances shall the residential character of the property be changed by the home occupation.
- (C) No sign or display shall be provided to indicate from the exterior that the building is being used in whole or in part for any purposes other than that of a dwelling.
- (D) Business activities associated with a home occupation, including storage of merchandise and materials, shall take place only in the principal structure.
- (E) No home occupation shall occupy more than a total of 500 square feet of floor area.
- (F) Traffic shall not be generated by the home occupation in greater volumes than would normally be generated by a dwelling unit in a residential area. No additional parking spaces shall be provided in excess of those required to serve the residential unit under Section 3.03.00.
- (G) No equipment or process shall be used in a home occupation that creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses. In case of electrical interference, no equipment or process shall be used that creates visual or audible interference in radio or television receivers or causes fluctuations in line voltages off the premises.
- (H) No articles or materials pertaining to the home occupation shall be stored on the premises, except inside the principal structure.

#### **7.10.01 Procedure for Approval of a Home Occupation.**

A home occupation may be approved administratively by the Development Director upon payment of a review fee established by the City Commission and submission of an application containing the following information and documentation:

- (A) Name(s) of owner(s) and a copy of the deed to the property.
- (B) Legal description of the property.
- (C) Complete written description of the activity proposed as a home occupation.
- (D) Copy of Polk County Property Appraiser's map showing subject property and all

surrounding properties within a 100-foot radius of subject property's boundaries.

- (E) Certified survey of subject property (at Development Director's discretion).
- (F) Signatures of all property owners within 100 feet on a petition indicating no objection to the home occupation.

The Development Director may refer the matter to the Planning and Zoning Commission for approval if signatures from all property owners within 100 feet of the subject property cannot be obtained, or for any other reason that may justify such referral.

**7.11.00 Variances.** Any person, firm or corporation owning property in the City of Bartow may apply for a variance from specific provisions of this Code, excepting those relating to permitted land uses, concurrency and consistency with the Comprehensive Plan. Variances shall be granted only by the Board of Adjustment in a public hearing that has been advertised in accordance with Section 8.06.00 of this Code. Variances granted by the Board shall be the minimum necessary to provide a reasonable use of the property and may be approved subject to time limits or any other conditions that the Board deems appropriate.

**7.11.01 Criteria for Granting a Variance.**

The granting of a variance shall be based on a determination by the Board of Adjustment that the request will not be contrary to the public interest and the intent of this Code, and that strict enforcement of the regulation in question would create an undue and unnecessary hardship for the applicant. Considerations of health, convenience or economics shall not be considered as justification for a variance. Approval of a variance shall be based solely on the following criteria, all of which must be fully satisfied:

- (A) Special conditions and circumstances exist that are peculiar to the land or structure involved and that are not applicable to other lands or structures in the same land use classification.
- (B) The special conditions and circumstances do not result from the actions of the applicant.
- (C) The requested variance, if approved, will not confer on the applicant any special privilege that is denied by the provisions of this Code to other lands or structures in the same land use classification.
- (D) Literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the identical land use classification and will constitute an unnecessary and undue hardship on the applicant.
- (E) That the variance granted is the minimum variance that will make possible a reasonable use of the land or structure.
- (F) That the granting of the variance will be in harmony with the general intent of this Code, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
- (G) Existing undeveloped lot of record. If an undeveloped lot of record is existing before the adoption of this Code, and is too small to allow conformance with the dimension and

area regulations, and if the owner owns no adjoining undeveloped lot, the Board of Adjustment may grant a dimensional variance in lieu of the general conditions listed above to allow the owner the reasonable use of his premises.

When adjoining undeveloped, undersized lots of record are under the same ownership, they shall not be used separately except in conformance with the dimension and area regulations of this Code. Notwithstanding the limitations imposed by this section, unless the owner owns an adjoining undeveloped lot of record, the erection of a single family dwelling in any residential district shall be permitted on any lot of record, at the time of passage of this ordinance, which contains an area or width less than that required for a single family dwelling in the district regulations, provided that the yard dimensions and other requirements shall conform to the regulations for the district in which such lot is located.

For each variance granted, the Board of Adjustment shall find that the above criteria have been satisfied.

**7.11.02 Term of Variances.** Variances granted by the Board of Adjustment shall remain with the property and be valid for one year from the date of approval. Improvements shall be vested upon issuance of a building permit and satisfactory completion of the improvements that are the subject to the variance action. If an improvement associated with the issuance of a variance is removed or destroyed it shall not rebuilt and all future site development shall comply with the applicable provisions of the Unified Land Development Code. Variances granted prior to the effective date of this amendment shall be vested.

**7.12.00 Nonconformities.** Nonconformities are land uses, structures, lots and other elements of development that do not conform to the provisions of this Code but were created in accordance with those land development regulations (if any) in effect at the time of their establishment. Subject to the provisions listed below, nonconformities may continue to exist if otherwise lawful and in existence on the date of adoption of this Code. The casual, intermittent, temporary or illegal use of land or structures prior to the effective date of this Code shall not qualify such use or structure for the privileges outlined in this Section.

**7.12.01 Nonconforming Uses.**

Nonconforming uses shall not be:

- (A) Enlarged, increased or expanded to occupy a greater land or floor area than at the effective date of this Code or amendment to the Code, whichever date created the nonconformity.
- (B) Enlarged or intensified through the erection of any additional structure or use that is not permitted under the provisions of this Code.
- (C) Re-established if destroyed or if use is discontinued for 90 consecutive days.
- (D) Moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of this Code.

Nonconforming uses of land where no principal structure exists, other than Agriculture, shall be discontinued within two years of the adoption of this Code or amendment thereto, whichever

date rendered the use nonconforming.

#### **7.12.02 Nonconforming Lots of Record.**

Lots not meeting the standards established in this Code for minimum width, depth and area but recorded in the public records of Polk County prior to the date of adoption of this Code or amendment thereto may be used for building purposes with the following provisions:

- (A) Single family dwelling units shall not be built on lots of less than 50 feet in width and 5,000 square feet in size without a variance authorized by the Board of Adjustment.
- (B) All other structures shall be built on lots of no less than 60 feet in width and 6,000 square feet in size without a variance authorized by the Board of Adjustment.
- (C) Contiguous lots that are of single ownership, and do not separately meet width, depth and area requirements of the applicable land use classification, shall be considered a single lot for development purposes.
- (D) Nonconforming lots of record shall not be reduced in size, width or depth without a variance authorized by the Board of Adjustment.
- (E) All development permitted on nonconforming lots of record shall be subject to normal setbacks and all other requirements of this Code.

#### **7.12.03 Nonconforming Structures.**

Structures qualifying as nonconforming shall not be:

- (A) Moved in whole or in part, if nonconforming by use, to another location on the same parcel or lot that it occupies.
- (B) Transported to any other parcel of land unless such transport would render the structure conforming to all applicable provisions of this Code.
- (C) Enlarged or expanded in any manner, unless such enlargement reduces the degree of nonconformity and is carried out in accordance with the provisions of this Code.
- (D) Rebuilt, repaired or renovated in excess of 50% of the assessed value of the structure, as determined by the Polk County Property Appraiser.

Structures that are nonconforming by size, but not by use, may be enlarged if the addition will reduce a nonconformity of floor area and will meet required setbacks. Structures that are nonconforming by setback, but not by use, may be enlarged if all new construction meets required setbacks.

#### **7.12.04 Nonconforming Manufactured Home Parks.**

Existing manufactured home parks that are nonconforming by use shall not be redesigned, expanded in area, or modified to accommodate additional manufactured homes. Replacement of existing manufactured homes in such parks shall be prohibited.



Manufactured home parks that are nonconforming by design only may be expanded in area and/or modified so as to reduce or eliminate those aspects of design that render it nonconforming. The Development Director may authorize additional manufactured home sites in such parks upon submission of a site development plan showing a redesign of the park that substantiates the following:

- (A) Overall density of the park will not exceed the allowable density established in the Comprehensive Plan and the appropriate section of this Code.
- (B) An area comprising 20% of the development site or five acres, whichever is less, shall be set aside as common open space as defined in Article 9.
- (C) No new manufactured home will be placed within 20 feet of any property line.
- (D) Where possible, all development standards of the zoning district have been met, or the degree of nonconformity reduced. In no case shall the degree of nonconformity of any design aspect be increased.

A redesign proposal that does not include the addition of new manufactured home spaces shall not be subject to conditions A and B above.

#### **7.12.05 Nonconforming Manufactured Homes.**

The replacement of an existing manufactured home on property that is not designated for manufactured home use on the Official Zoning Map shall be prohibited.

#### **7.12.06 Amortization of Nonconforming Uses.**

- (A) Certain nonconforming uses which, by their nature, would present a substantial likelihood of detrimental effect on adjoining uses and on the health, safety and welfare of the community at large, may continue only for a period of two years from the date of this ordinance, or any amendment thereto specifically including the use as an amortized nonconforming use. Amortized nonconforming uses shall include:
  - (1) Construction debris or other landfills located within or adjacent to residential districts or uses;
  - (2) Construction debris or other landfills located within or adjacent to agricultural districts or uses; and
  - (3) Nonconforming signs and billboards that are in existence at the time of adoption of this ordinance.
- (B) The decision of an administrative official determining that a certain use constitutes an amortized nonconforming use and the length and duration of any amortization may be appealed to the Zoning Board of Adjustment. In determining whether a certain use constitutes an amortized nonconforming use and the duration of any such amortization, the Board shall consider the following factors:
  - (1) The exact nature and extent of the amortized nonconforming use;

- (2) The type of uses adjacent to the amortized nonconforming use;
  - (3) The potential for disruption or environmental contamination of adjacent uses by the amortized nonconforming use;
  - (4) The length of time that the amortized nonconforming use has existed;
  - (5) Improvements and investments made by the property owners in the development of the amortized nonconforming use; and
  - (6) The realistic investment backed expectations of the property owners in the development of the amortized nonconforming use.
- (C) It shall be the property owner's burden to prove, by the substantial competent evidence, including the provision of detailed financial statements, that the schedule of amortization does not allow for the realization of the land owner's realistic investment backed expectations and that the land cannot be used consistent with the provisions of the City's Comprehensive Plan.
- (D) Notification of Nonconforming Use and Expiration of Use
- (1) The Development Director shall identify every nonconforming use within two months after the adoption of this Code and shall notify the owner/manager/operator by registered letter of: the existence of this provision and its requirements; and, the specific date the business shall cease.
  - (2) The Owner/Operator/Manager of the nonconforming use shall apply for a certificate of use within three months after the adoption of this Code.
  - (3) The Development Director shall inspect each identified, nonconforming use annually to determine the progress of the owner/manager/operator toward conformity with this Code.
  - (4) The Development Director shall determine by his/her inspection that the scope of operations has been reduced by 50%, on or about the first anniversary of the adoption of this Code.
  - (5) The Development Director shall notify the owner/manager/operator by registered letter the date by which all operations shall cease, six months prior to the second anniversary of the adoption of this Code.

#### **7.12.07 Nonconforming Communication Towers and Antennas.**

- (A) Abandonment. In the event the use of any communication tower or communication antenna has been discontinued for a period of 180 consecutive days, the tower or antenna shall be deemed to be abandoned. Upon such abandonment, the owner/operator of the tower or antenna shall have an additional 180 days within which to reactivate the use, transfer the ownership/operation to another actual user, or dismantle the tower. The owner of the real property shall be ultimately responsible for all costs of dismantling and removal, and in the event the tower is not removed within 180 days of abandonment, the City may initiate legal proceedings to do so and assess the costs against real property.

- (B) Continued Use of Nonconforming Communication Towers. To discourage the construction of unnecessary new communication towers, existing legally nonconforming communication towers may be used for the placement of additional, or the relocation of existing, communication antennas without the tower being required to meet the standards contained within this Code. Similarly, the equipment supporting the existing antennas on the tower may be modified, if necessary for co-location, without being required to meet the standards contained within this Code.
- (C) Rebuilding damaged or destroyed nonconforming towers or antennas. Legally nonconforming communication towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain Special Exception Use approval. The type, height and location of the tower on site shall be the same type and intensity as the original facility. Building permits to rebuild the facility shall comply with applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained, or said permit expires, the communication tower or antenna shall be deemed abandoned.

[RESERVED]

## ARTICLE 8

### ADMINISTRATION AND ENFORCEMENT

- 8.01.00 Development Officials
  - 8.01.01 Planning Director
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- 8.02.00 Administrative Approvals by the Planning Director and Building Official
- 8.03.00 Development Boards
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- 8.08.00 Public Records
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- 8.10.00 Enforcement of Development Permits and Orders
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  - 8.10.04 Revocation of Development Order

[RESERVED}

## **ARTICLE 8**

### **ADMINISTRATION AND ENFORCEMENT**

**8.01.00 Development Officials.** At the option of the City Commission, both of the positions established in this Section may be assigned to one person.

#### **8.01.01 Planning Director.**

The Planning Director shall supervise and administer all staff activities regarding comprehensive planning, zoning, and development review. He/she shall perform duties prescribed by this Code, as well as any others assigned by the City Manager or the City Commission. The Planning Director shall be duly qualified for these responsibilities through appropriate education and work experience. The Planning Director shall have a thorough knowledge of the provisions of the Comprehensive Plan and this Code, and shall have the authority to interpret the intent and meaning of this Code in situations where its applicability is not clear. Appeals of administrative decisions of the Planning Director may be made to the Board of Adjustment.

Other specific duties of the Planning Director are as follows:

- (A) Advise and cooperate with the City Manager in the implementation, amendment and enforcement of this Code and the Comprehensive Plan.
- (B) Attend all public hearings at which zoning and comprehensive planning matters are discussed, including meetings of the Planning and Zoning Commission, Board of Adjustment, and City Commission. Attend meetings of the Code Enforcement Board when necessary.
- (C) Accept and process all applications for amendments to the Comprehensive Plan, zoning actions, and variances.
- (D) Certify the accuracy of the Official Zoning Map and amendments thereto.
- (E) Collect and account for all required application fees.
- (F) Grant such administrative approvals as are allowed under the provisions of this Code.
- (G) Receive applications and application fees for Comprehensive Plan Amendment, Rezoning, Planned Unit Development, Landscaping Plan, Site Development Plan, Subdivision Plat, Conditional Use Permit, Special Exception Use Permit, Home Occupation Permit, Request for a Variance and others as identified in this Code.
- (H) Evaluate each proposed Comprehensive Plan Amendment, Rezoning, Planned Unit Development, Site Development Plan, Subdivision Plat, Conditional Use, Special Exception Use, Home Occupation, Request for a Variance, for consistency with this Code and the Comprehensive Plan and others as identified in this Code.
- (I) Evaluate each application for a development order, including Building Permits, to determine whether it meets applicable Concurrency requirements.

- (J) Ensure that all time limits prescribed by this Code are met.
- (K) Monitor the progress of all development applications through the review process and be available to respond to inquiries from interested persons.
- (L) Any other duties assigned by the City Manager.

**8.01.02 Building Official.** The Building Official shall be responsible for review of building construction plans, the issuance of Building Permits and Certificates of Occupancy, code enforcement, and the inspection of construction sites and buildings under construction. He/she shall have a working knowledge of the Standard Building Code and be familiar with electrical, fire, zoning and other codes having a bearing on building construction in Bartow. The Building Official shall have experience as an architect, engineer, building inspector or building contractor. Alternatively, the City may retain a licensed professional contractor/builder on a part-time basis to perform technical review of building activities.

#### **8.02.00 Administrative Approvals by the Planning Director and Building Official.**

The Planning Director and Building Official shall have the authority to approve the following, subject to conditions set forth below and in applicable provisions of this Code:

- (A) Setback Adjustments. In single-family land use classifications only, the Planning Director may approve reduction of side and rear setbacks for principal and accessory structures (excluding swimming pools) by no more than 10% subject to the following conditions:
  - (1) The setback requirement is established by the land use classification and no other section of this Code;
  - (2) The total structural coverage of the lot or building site shall not exceed 25%;
  - (3) The approval would not result in the encroachment of a structure into an existing utility or drainage easement held by the City;
  - (4) A certified survey shall be submitted by the applicant verifying building locations and structural coverage;
  - (5) A statement of no objection shall be provided with notarized signatures of owners of all adjoining properties.

At his discretion, the Planning Director or Building Official may deny the approval and refer the application to the Board of Adjustment as a variance.

- (B) Temporary Office or Construction Trailer. The Planning Director or Building Official may authorize the use of a manufactured home or other temporary structure not meeting the requirements of the Standard Building Code at the construction site of an approved Site Development Plan. The temporary structure may be used only as an office, tool shed or other facility in support of construction work, and shall not be used for living accommodations, for sales/rental of lots or offices, or for any other purpose.

The applicant shall designate the exact location of the temporary structure on the Site Development Plan, and shall place it only in the approved location. The temporary structure shall not be installed prior to issuance of the building permit for the development site, and shall be removed upon expiration of the building permit or issuance of the Certificate of Occupancy, whichever comes first. If a manufactured home is to be used, the wheels and axles shall not be removed.

- (C) Temporary Manufactured Home for Use During Construction of a Residence. The Planning Director or Building Official may authorize the use of a manufactured home as a temporary residence during construction of a permanent residence under the following conditions:

- (1) The lot or building site is at least one-half acre in size;
- (2) The applicant has received approval of a building permit for construction of a single family residence on the property;
- (3) The foundation and rough plumbing for the permanent structure have been completed and approved by a City building inspector.
- (4) The manufactured home shall be placed at least 20 feet from all lot lines, and 10 feet from any other existing or planned structure.
- (5) The unit must be connected to a public sewer system or have received a septic tank permit from the Polk County Health Department.
- (6) Wheels and axles shall not be removed.
- (7) The manufactured home shall be removed from the building site prior to issuance of the Certificate of Occupancy for the permanent residence, or at the end of a one-year period commencing at the date of its installation, whichever comes first.
- (8) This administrative approval may not be renewed or granted a second time for the same building site.

- (D) Commercial Use Zoning Permits for Occupational Licenses. The Planning Director or Building Official shall issue a Commercial Use Zoning Permit to each applicant for an occupational license within the City. This permit shall not attest to the applicant's ownership or legal right to make use of the property, but shall serve only as notice to the City Clerk that the proposed business is a permitted use at the specified location. The owner(s) of the property, if different from the applicant, may request revocation of the Commercial Use Zoning Permit at any time.

- (1) The applicant shall provide:
  - a. A description of the proposed or existing business;
  - b. Exact legal description and address of the property on which the business will be located; and,
  - c. Floor area of the building in which the business will operate.
- (2) Commercial Use Zoning Permits shall not be granted for property without an existing structure at least 300 square feet in size.



- (3) The Planning Director or Building Official may revoke a Commercial Use Zoning Permit if it is determined that the applicant provided incorrect information prior to approval.
- (4) In cases where the business is a nonconforming use, the applicant must provide documentation or otherwise satisfy the Planning Director or Building Official that the commercial operation was established legally and meets all the requirements of Section 7.12.00 (Nonconformities).

### **8.03.00 Development Boards.**

#### **8.03.01 Planning and Zoning Commission.**

##### **(A) Functions, Powers and Duties**

- (1) Act as Local Planning Agency pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, Ch. 163, Part II, Florida Statutes, and perform all functions and duties prescribed in the statute.
- (2) Obtain and maintain information on population, property values, the land economy, land use and other information necessary to assess the amount, direction and type of development to be expected in the City.
- (3) Advise and make recommendations to the City Commission regarding applications for amendments to the Official Zoning Map and requests for Conditional Uses or other special designations on property within the City.
- (4) At the request of the Planning Director or Building Official, interpret and determine the intent of provisions of this Code that are unclear or in conflict with other regulations.
- (5) Consider the need for revision or addition of regulations in this Code, and recommend changes to the City Commission.
- (6) Consider the need for revision of the Comprehensive Plan, and recommend changes to the City Commission.
- (7) Other duties as assigned by the City Commission.

##### **(B) Appointment of Members**

- (1) The Planning and Zoning Commission shall have five members, to be appointed by the City Commission.
- (2) Each member of the Planning and Zoning Commission shall reside in the City.
- (3) Each member shall be appointed to a three year term. In the event that all members are appointed at the same time, two members shall be appointed for a term of one year, two members shall be appointed for a term of two years, and three members shall be appointed for a term of three years.

- (4) Regular vacancies shall be filled by appointments made at the last regular meeting of the City Commission in December of each year. All members shall serve until their successors are appointed.
- (5) If a position becomes vacant before the end of a term, the City Commission shall appoint a substitute member to fill the vacancy for the duration of the vacated term. A member whose term expires may continue to serve until a successor is appointed and qualified.
- (6) Members may be removed without notice and without assignment of cause by a majority vote of the City Commission.
- (7) At the first meeting held after November 1 of each year, the Board shall elect a Chairman, Vice-Chairman and such other officers as deemed necessary. The Chairman, or in his absence the Vice-Chairman, shall preside over all meetings of the Commission. Officers shall serve terms of one (1) year.
- (8) The Chairman will establish subcommittees and appoint members as needed to carry out the purposes of the Commission.
- (9) Members shall not be compensated, but may be reimbursed for travel and other expenses incurred on Commission business.
- (10) If any member fails to attend three (3) successive meetings, the Commission may declare the member's office vacant and notify the City Commission.

(C) Procedures

- (1) The Commission shall adopt procedures to carry out its purposes. All rules must conform to this Code, other City ordinances, and state law.
- (2) The Commission shall meet at least once each month, unless a meeting is canceled by a decision of the Commission at a regular meeting or by decision of the Chairman.
- (3) The Commission shall keep minutes of its proceedings, indicating the attendance of each member, and the decision on every question.
- (4) Three members shall constitute a quorum.
- (5) Each decision of the Commission must be approved by a majority vote of the members present at a meeting in which a quorum is present and voting.

**8.03.02 Board of Adjustment.**

- (A) Functions, Powers and Duties. The Board of Adjustment has three basic functions, which are listed below. The procedure for granting a Special Exception Use is found in Article 7, Section 7.09.00, "Procedure for Granting a Special Exception Use". The criteria for granting variances are found in Article 7, Section 7.11.01, "Criteria for Granting a Variance."

- (1) Special Exception Uses. The Board shall have the power to hear and decide on applications for Special Exception Uses in conformance with this ordinance in order to allow the property integration into the community of uses that are specifically designated in this ordinance but which may be suitable only in specific locations within the zoning district and then only if certain conditions are met. The Board shall refuse to hear an application for a special exception use that has been previously denied by it within the past twelve (12) month period unless a significant change has occurred.
- (2) Administrative Official's Decisions. The Board shall have the power to hear and decide on appeals where it is alleged there is error in any order, requirement, decision or determination made by the administrative official in the enforcement of this ordinance. Such appeal shall be taken within 30 days after rendition of the order, requirement, decision or determination appealed from by filing with the administrative official from whom the appeal is taken and with the Board a notice of appeal specifying the grounds therefor. In addition, the Board shall have the power to hear and decide on any other decisions specifically delegated to it by the provisions of this ordinance.
- (3) Dimensional variance. The Board shall have the power to hear and decide on appeals for dimensional variances where, by reason of the exception narrowness, shallowness or unusual shape of a site on the effective date of this ordinance or by reason of exceptional topographic conditions, or some other extraordinary situation or condition of that site, the literal enforcement of the dimensional requirements (height or width of building or size of yards, but not dwelling unit or population density) of this ordinance would deprive the applicant of reasonable capacity to make use of the land in a manner equivalent to the use permitted other landowners in the same zoning district. The Board may impose any reasonable conditions or restrictions on any dimensional variance it decides to grant. The Board shall refuse to hear an application for a variance regarding the same improvement previously denied by the Board within the past 12 month period.

(B) Appointment of Members

- (1) The Board of Adjustment shall have six members and two alternate members, to be appointed by the City Commission.
- (2) Each member of the Board of Adjustment shall reside in the City.
- (3) Each member shall be appointed to a three year term. In the event that all members are appointed at the same time, one member shall be appointed for a term of one year, two members shall be appointed for a term of two years, and two members shall be appointed for a term of three years.
- (4) Vacancies shall be filled by appointments made at the regular meeting of the City Commission within 30 days after the vacancy occurs. All members shall serve until their successors are appointed.
- (5) Any member may be removed from office by the City Commission upon written charges and after public hearing.

- (6) At the first meeting held after January 1 of each year, the Board shall elect a Chairman and Vice-Chairman. The Chairman, or in his absence the Vice-Chairman, shall preside over all meetings of the Board. Officers shall serve terms of one year.
- (7) Members shall not be compensated, but may be reimbursed for travel and other expenses incurred on Board business.
- (8) If any member fails to attend three successive meetings, the Board may declare the member's office vacant and notify the City Commission.

(C) Procedures

- (1) The Board shall adopt procedures to carry out its purposes. All rules must conform to this Code, other City ordinances, and state law.
- (2) The Board shall meet at least once each month, unless a meeting is canceled by a decision of the Board at a regular meeting or by decision of the Chairman.
- (3) The City Clerk shall keep minutes of the Board's proceedings, indicating the attendance of each member, and the decision on every question.
- (4) Four members shall constitute a quorum.
- (5) Each decision of the Board must be approved by a majority vote of the members present at a meeting in which a quorum is present and voting.
- (6) All decisions of the Board of Adjustment are final. Variance requests, once acted upon, may not be reheard unless the applicant can demonstrate that the decision resulted from an error in substantive or procedural law, or provides new evidence or information not discoverable prior to the initial hearing. A different or more effective presentation of the same evidence or information shall not be considered grounds for a rehearing.
- (7) Any person or persons aggrieved by any decision of the Board of Adjustment, may, within 30 days after the date of the public hearing at which the decision was rendered, but not thereafter, apply to the courts for relief in the manner provided by the laws of the State of Florida.

- (D) Exercise of Power. In exercising its powers, the Board may, upon appeal and in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination made by the administrative official in the enforcement of this ordinance. The concurring vote of at least four members of the Board shall be necessary to decide in favor of the applicant on any matter upon which the Board is required to pass under this ordinance.

**8.03.03 Code Enforcement Board.**

A Code Enforcement Board is hereby created to enforce the provisions of this Code pursuant to Chapter 162, F.S. It is the intent of this Section to promote, protect, and improve the health, safety and welfare of the citizens of the City of Bartow by providing an equitable, expeditious, effective and inexpensive method of enforcing the Land Development Code of the City of Bartow.

(A) Powers and Duties

- (1) Adopt rules for the conduct of its hearings.
- (2) Subpoena evidence, witnesses, and alleged violators.
- (3) Take testimony under oath.
- (4) Issue orders, having the force of law, commanding those actions necessary to bring a violation into compliance.
- (5) Establish fines.

(B) Appointment of Members

- (1) The Code Enforcement Board shall be composed of seven members and two alternates, all of whom shall be residents of the City of Bartow.
- (2) Members of the Code Enforcement Board shall have experience or an interest in zoning and building control. The membership of the Board shall, whenever possible, consist of an architect, a businessperson, an engineer, a general contractor, a subcontractor, and a realtor.
- (3) The initial terms of the members of the Board shall be as follows:
  - a. Two members and two alternate members shall be appointed for a term of one year from the date of their initial appointment;
  - b. Three members shall be appointed for a term of two years from the date of their initial appointment; and,
  - c. Two members shall be appointed for a term of three years from the date of their initial appointment.

Thereafter, the appointments shall be for a term of three years.

- (4) Members may be reappointed for one successive term upon the concurrence of the City Commission. Appointment to fill any vacancy of the Board shall be for the remainder of the unexpired term of office.
- (5) Members shall serve without compensation, but may be reimbursed for such travel, mileage, and per diem expenses as may be incurred.
- (6) If any member of the Board fails to attend two out of three successive meetings without cause and without prior approval of the Chairman, the Board shall declare the member's office vacant and the City Commission shall promptly fill such vacancy.
- (7) The members shall serve in accordance with the ordinances of the City and may be removed for cause as provided in such ordinances for removal of members of the City Boards.

(C) Hearing Procedures

- (1) The Board shall adopt procedures to carry out its purposes. All rules must conform to this Code, other City ordinances, and state law.
- (2) Meetings of the Board shall occur at such time or times as the Board has business to come before it, upon call of the Chairman, or the vice-chairman, or upon call of any three members.
- (3) The Board shall keep minutes of its proceedings, indicating the attendance of each member, and the decision on every question.
- (4) Four members shall constitute a quorum.
- (5) Each decision of the Board must be approved by a majority vote of the members present at a meeting in which a quorum is present and voting.
- (6) Each case before the Board shall be presented either by the City Attorney or his assistant, or by an employee or a commissioner of the City of Bartow; however, in no case shall the City Attorney or his assistant present cases before the Board while at the same time serving as counsel to the Board.
- (7) All testimony shall be under oath and shall be recorded. The Board shall take testimony from the code inspector, the violator and any other person familiar with the case or having knowledge about the case. The Board shall not be bound by formal rules of evidence; however, it shall act to ensure fundamental due process in each of its hearing cases.
- (8) At the conclusion of each hearing, the Board shall issue findings of fact and conclusion of law, based on the evidence of record, and its orders shall provide relief consistent with Section 8.03.03(A). Each finding shall be by motion approved by a majority of those present and voting, except that at least four members of the Board present at the hearing must vote in order for the action to be official.
- (9) The City Manager shall render to the City Commission a monthly status report of the Board's activities.

(D) Enforcement Procedures. Except where the inspector charged with enforcing a particular technical code identified herein has reason to believe that a code violation presents a serious threat to the public health, safety and welfare, the code enforcement procedure under this Section shall be as follows:

- (1) It shall be the duty of the code inspector to initiate the enforcement proceedings with respect to each technical code.
- (2) Where the code inspector finds or is made aware of a code violation, he shall provide in writing a reasonable time within which to correct the violation. Should the violation continue beyond the time specified in the correction notice, then the code inspector shall file an affidavit of violation with the Code Enforcement Board. The Board shall assign a case number and mail a copy of affidavit of violation and

notification of the date, time and place of the hearing to the violator. "Reasonable time" is defined as 10 days; however, where a different time period in which to correct the violation is provided for by the ordinance being enforced, that time period shall constitute reasonable time for that particular violation; or, in cases of more complexity, a greater time period may be granted.

- (3) If the code inspector has reason to believe a violation presents a serious threat to the public health, safety and welfare, the code inspector may proceed to request an emergency hearing before the Code Enforcement Board without notifying the violator.
- (4) Code inspector shall have authority to enforce the provisions of the Standard Housing Code, this Unified Land Development Code and the Code of Ordinances of the City of Bartow relating to abandoned vehicles and their removal.
- (5) The City Manager shall appoint the code inspectors, and shall develop and publish written procedures for the filing of complaints to be heard by the Code Enforcement Board.

(E) Fines, Liens, and Foreclosures

- (1) Upon being notified by the code inspector that a previous order of the Board has not been complied with by the set time, the Board may order the violator to pay a fine to the City of Bartow not to exceed \$250.00 for each day that the violations continue past the date set for compliance.
- (2) A certified copy of an order imposing the fine provided for herein may be recorded in the public records of Polk County, and thereafter such order shall constitute a lien against the land on which the violation existed or, if the violator does not own the land, upon any other real or personal property owned by the violator, and may be enforced in the same manner as a court judgment by the sheriffs of this State, including levy against the personal property, but shall not be deemed otherwise to be a judgment of a court, except for enforcement purposes.
- (3) After three months from the filing of any such lien that remains unpaid, the Board may authorize the City Attorney to foreclose on such lien in the manner provided by statute for the foreclosure of any other municipal liens.
- (4) No lien provided by this Section shall continue for a longer period than twenty years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. In an action to foreclose on a lien, the prevailing party is entitled to recover all costs, including reasonable attorney's fee, that it incurs in the foreclosure. The City of Bartow shall be entitled to collect all costs incurred in recording and satisfying a valid lien. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

- (F) Appeal. Any aggrieved party, including the City, may appeal a ruling or order of the Code Enforcement Board to the Circuit Court of Polk County. The appeal provided for herein shall be filed within 30 days of the order to be appealed. The record shall be presented to the Court on appeal.
- (G) Notices. All notices required to be provided by this Section shall be by certified mail, return receipt requested, or, where mail would not be effective, by hand delivery of the code inspector.

**8.03.04 Development Review Committee.** A Development Review Committee (DRC) is hereby created to act as an advisory board to the Planning and Zoning Commission, Board of Adjustments and City Commission for the purpose of review, evaluation and recommendations on land development issues or other matters as deemed necessary. The DRC shall be comprised of members consisting of the director or manager, or their designee, of the planning, public works, fire rescue, electric, utility, and other departments as necessary. The City Manager shall appoint a Chairman from one of the members. The Chairman shall be responsible for facilitating the activities of the DRC.

**8.03.05 Building and Housing Appeals Board.**

A Building and Housing Appeals Board is hereby created subject to the following:

- (A) Functions, Powers and Duties. The Building and Housing Appeals Board shall have the power and duty to hear and decide all appeals from decisions of the Building Official made pursuant to the building and housing codes adopted by or applicable to the City of Bartow.
- (B) Appointment of Members.
  - (1) The Building and Housing Appeals Board shall have five members, to be appointed by the City Commission.
  - (2) Each member of the Building and Housing Appeals Board shall reside in the City. Whenever possible, the Board should include an architect, an engineer and a contractor or subcontractor active in the building industry.
  - (3) Each member shall be appointed to a three-year term. In the event, all members are appointed at the same time, one member shall be appointed for a term of one year, two members shall be appointed for a term of two years, and two members shall be appointed for a term of three years.
  - (4) Vacancies shall be filled by appointments made at the regular meeting of the City Commission within 30 days after the vacancy occurs. All members shall serve until their successors are appointed.
  - (5) Any member may be removed from office by the City Commission upon written charges and after public hearing.
  - (6) At the first meeting held after January 1 of each year, the Board shall elect a Chairman and Vice-Chairman. The Chairman, or in his absence the Vice-Chairman, shall preside over all meetings of the Board. Officers shall serve terms of one year.



- (7) Members shall not be compensated, but may be reimbursed for travel and other expenses incurred on Board business.
  - (8) If any member fails to attend three successive meetings, the Board may declare the member's office vacant and notify the City Commission.
- (C) Procedures
- (1) The Board shall adopt procedures to carry out its purposes. All rules must conform to this Code, other City ordinances, and state law.
  - (2) The Board shall meet on call of the Building Official.
  - (3) The City Clerk shall keep minutes of the Board's proceedings, indicating the attendance of each member and the decision on every question.
  - (4) Three members shall constitute a quorum.
  - (5) Each decision of the Board must be approved by an affirmative vote of three members present at a meeting in which a quorum is present and voting.
  - (6) All decisions of the Building and Housing Appeals Board are final. Any person or persons aggrieved by any decision of the Building and Housing Appeals Board may, within 30 days after the date of the public hearing at which the decision was rendered, but not thereafter, apply to the courts for relief in the manner provided by the laws of the State of Florida.

#### **8.04.00 Duties of City Commission.**

- (A) Powers and Duties in the Areas of Development and Land Use Regulation
- (1) Adopt and amend the Comprehensive Plan.
  - (2) Adopt and amend the Unified Land Development Code.
  - (3) Appoint members of the Planning and Zoning Commission, Board of Adjustment and Code Enforcement Board.
  - (4) Determine the need for and appoint members of additional boards, committees and subcommittees to investigate and make decisions on various land use and development issues.
  - (5) Establish, by Resolution, fees for Plan Amendments, zoning actions, Site Development Plan reviews, Conditional Use reviews, variances, special exceptions, and other activities carried out under the provisions of this Code.
  - (6) Make final decisions on requested changes to the Comprehensive Plan, Zoning Ordinance and Map, Planned Unit Developments, Site Development Plans, Conditional Uses, and other special designations on property within the City.

- (7) Make final decisions on acceptance of public improvements constructed pursuant to the platting of approved subdivisions.

#### **8.05.00 Official Zoning Map.**

- (A) The districts listed in Article 2 and the boundaries thereof are shown upon the Official Zoning Map or series of maps of the City enacted as law immediately upon enactment of this Code and made a part thereof, such maps being designated as the "Zoning Map of the City of Bartow." This map or maps and all notations, references and other information properly inscribed thereon are hereby incorporated as a part of this Article.
- (B) The boundaries of such districts as are shown on the Official Zoning Map, together with all regulations in this Code that are applicable in such districts, are hereby established and declared to be in effect upon all land included within the boundaries of each and every district shown upon said map(s).
- (C) Within twenty working days of action by the City Commission or Board of Adjustment, the Official Zoning Map will be amended to reflect all approved changes in zoning classifications, land uses, variances, and any other relevant information pertaining to permitted uses or development standards in the City of Bartow.
- (D) The Zoning Map is amended by ordinance after due public notice of a public hearing. Before the ordinance goes before the City Commission, the proposed change and/or addition is reviewed by the Planning and Zoning Board.

#### **8.05.01 Rules of Interpretation of District Boundaries.**

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- (A) boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed to follow such center lines;
- (B) boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- (C) boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- (D) boundaries indicated as following shore lines shall be construed to follow the high water line, and in the event of a lowering of the water level shall be construed as moving downward to the current water level;
- (E) boundaries indicated as following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines; and
- (F) boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above shall be so construed.

The legal description advertised for public hearing purposes on a zoning action or variance on any parcel of property shall override any and all of the above rules for interpretation of district boundaries.

#### **8.06.00 Public Hearings.**

Due Public Notice. No change in land use classification or designation, zoning classification or designation, subdivision plats or subdivision construction plans, variance, plan amendment or amendment to this Code, may be considered by the Planning and Zoning Commission or Board of Adjustment or the City Commission until due public notice has been given of a public hearing. All property owners within 150 feet of a land use or zoning change, special exception use, or subdivision, and adjoining property owners of a variance request, will be notified by first class mail to their address shown on the latest ad valorem tax rolls at least 10 days prior to the public hearing. An emergency ordinance or a resolution may not be used to make these changes. Specific regulations pursuant to Chapter 166.041, F.S., are listed below.

- (A) All ordinances and resolutions acted on by the City must be read on two separate days and shall, at least 10 days before adoption, be noticed once in a newspaper of general circulation in the municipality. The notice of proposed enactment shall state the date, time, and place of the meeting; the title or titles of proposed ordinances; and the place or places within the municipality where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.
- (B) Less Than 10 Contiguous Acres Of City Affected
  - (1) Petitioner Initiated Cases. In cases in which the proposed ordinance changes the actual list of permitted, conditional or prohibited uses within a zoning category or the actual zoning map designation for a parcel(s) of land involving less than 10 contiguous acres of the total land area of the municipality, shall be enacted pursuant to paragraph (A) above.
  - (2) City Initiated Cases. In cases in which the proposed ordinance changes the actual list of permitted, conditional or prohibited uses within a zoning category or changes the actual zoning map designation for a parcel(s) of land involving less than 10 contiguous acres of the total land area of the municipality, the governing body shall direct the clerk of the governing body to notify each real property owner whose land will be redesignated by enactment of the ordinance. Notice shall be sent by first class mail at least 30 days prior to the date of the public hearing to all property owners whose land will be affected, using their addresses shown on the latest ad valorem tax rolls.
  - (3) Contents of the Notice. The notice shall state the substance of the proposed ordinance as it affects that property owner and shall set a time and place for one or more public hearings on such ordinance. A copy of the notice shall be kept available for public inspection during the regular business hours of the office of the clerk. Upon the conclusion of the second public hearing, the governing body may immediately adopt the ordinance.
  - (4) Other Local Government Notification. When a proposed zoning action or Variance or Special Exception lies within 200 feet of the jurisdiction of another local government, the Planning and Zoning Commission or governing body of that local government shall be notified, by first class mail, so that it may have an opportunity to send a representative to the public hearing to speak on its behalf.

(C) Advertisement of Public Hearings for Actions Involving 10 Acres or More.

- (1) In cases in which the proposed ordinance changes the actual list of permitted, conditional or prohibited uses within a zoning category or the actual zoning map designation for a parcel(s) of land involving 10 contiguous acres or more of the total land area of the municipality: the governing body shall hold two advertised public hearings on the proposed ordinance.
- (2) At least one hearing shall be held after 5 p.m. on a weekday, unless the local governing body, by a majority plus one vote, elects to conduct that hearing at another time of day, and the first hearing shall be held at least seven days after the day that the first advertisement is published. The second hearing shall be held at least ten days after the first hearing and shall be advertised at least five days prior to the public hearing. The day, time and place at which the second public hearing will be held shall be announced at the first public hearing.
- (3) The required advertisements shall be no less than two columns wide by ten inches long in a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be placed in a newspaper of general circulation in the City and of general interest and readership in the municipality.
- (4) Advertisement Form:

|                                                                                                                                                                                                                                                                  |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p style="text-align: center;">NOTICE OF <u>(TYPE OF)</u> CHANGE</p> <p>The City of Bartow proposes to adopt the following ordinance: (title of the ordinance).</p> <p>A public hearing on the ordinance will be held on (date and time) at (meeting place).</p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Except for amendments that change the actual list of permitted, conditional, or prohibited uses within a zoning category, the advertisement shall contain a geographic location map that clearly indicates the area covered by the proposed ordinance. The map shall include major street names as a means of identification of the general area.

- (5) Mail-out May Be Done. In lieu of publishing the advertisement as outlined above, the City may mail a notice, by first class mail, to each person owning real property within the area covered by the ordinance. Such notice shall clearly explain the proposed ordinance and shall notify the person of the time, place, and location of both public hearings on the proposed ordinance.

#### **8.07.00 Statutory Requirements for Plan Amendments.**

There are two general types of Plan Amendments: text amendments and map amendments (large and small scale). All requests for Plan Amendments shall be submitted in writing to the Development Director, together with applicable fees, which will have been established by resolution of the City Commission. Specific regulations for Plan Amendments applications are detailed in Article 7, Section 7.02.00. Plan

Amendments may be submitted by the City to DCA no more than twice yearly for review and according to the procedures established in Chapter 163 F.S., except small scale amendments. See Section 8.07.05 for specific regulations regarding small scale amendments. Small scale amendments are defined by Florida Statute as:

Encompasses the use of 10 or fewer acres of any land use category;  
Residential densities are limited to 10 or fewer units per acre;  
Does not involve the same property more than once per year;  
Does not involve the same owner's property within 200 feet of property granted a land use change within the past 12 months;  
Does not include any text change to the Plan's goals, objectives, and policies;  
Is not located within an area of critical state concern; and  
The local government can approve the amendment without exceeding its yearly maximum of 80 acres of small scale amendments.

#### **8.07.01 Public Hearing for a Plan Amendment.**

As outlined in Chapter 163.3184, F.S., a public hearing is required proposing to adopt an Ordinance to amend the Comprehensive Plan and to transmit to DCA, by Resolution, the proposed Comprehensive Plan amendment and attached Evaluation and Appraisal Report. All procedures for advertisement of a public hearing to adopt an ordinance or resolution must be followed as adopted by the City and set forth in Section 8.06.00 above. According to State Law, the following sections (A) and (B) must be adhered to:

(A) 7 Day Notice. This public hearing shall be held on a weekday at least seven days after the day that the first advertisement is published. The intention to hold and advertise a second public hearing when the amendment comments are returned from DCA, shall be announced at the first public hearing.

(B) Advertisement Form:

NOTICE OF (CHANGE OF LAND USE AND AMENDMENT TO THE MAPS OF THE  
COMPREHENSIVE PLAN or TEXT AMENDMENT TO THE COMPREHENSIVE PLAN)

The City of Bartow proposes to adopt the following ordinance:  
(Title of the Ordinance)

A public hearing on the (change of land use or text amendment) will be held on  
(date and time) at (meeting place).

(C) Except for amendments which change the text of the Comprehensive Plan, the advertisement shall contain a geographic location map which clearly indicates the area covered by the proposal. The map shall include major street names as a means of identification of the area.

#### **8.07.02 Transmittal to DCA.**

(A) Immediately following the public hearing, the City shall transmit six copies of the plan amendment and attached Evaluation and Appraisal Report to DCA for written comment. The City shall transmit one copy to each of the following:

Central Florida Regional Planning Commission;  
Southwest Florida Water Management District;  
Florida Department of Transportation; and  
Florida Department of Environmental Protection.

- (B) DCA will notify the local government and other agencies, and any other person who has requested notice of an affirmative decision by DCA to review the amendment, within 30 days of receipt of complete amendment.
- (C) Upon receipt of state agency comments, DCA shall have 45 days to provide its own written comments to the City, stating its objections to the Plan Amendment, if any, and recommendations for modification.

#### **8.07.03 Public Hearing After Receipt of DCA Comments, and Adoption.**

Upon receipt of DCA comments, the City shall have 60 days to adopt the Ordinance to amend the Comprehensive Plan as proposed or with changes. According to State Law, the following sections (A), (B) and (C) must be adhered to:

- (A) 5 Day Advance Notice. A public hearing shall be held for adoption Ordinance to amend the Comprehensive Plan, and shall take place on a weekday approximately 5 days after the advertisement is published.
- (B) Contents of Advertisement and Advertisement Form shall be the same as described in 8.07.01 (B).
- (C) Vote to Transmit. At this Public Hearing, the City Commission shall vote to transmit the adopted ordinance to DCA for final compliance review.

#### **8.07.04 Transmittal of Adopted Amendment to DCA.**

- (A) The City Commission shall transmit the adopted Ordinance to DCA within ten days of adoption. Upon receipt of the adopted Ordinance, DCA shall have 45 days to review and determine whether or not the plan amendment is in compliance with Chapter 163, F.S. During this period, DCA shall issue a Notice of Intent (NOI) indicating a finding of compliance or noncompliance.
- (B) If DCA finds the amendment not in compliance, the NOI is forwarded to the Division of Administrative Hearings for a hearing pursuant to Chapter 120.57 F.S. The hearing officer assigned by the division shall submit a recommended order to the Administration Commission for final agency action.
- (C) If the Administration Commission (Governor and Cabinet) finds that the plan amendment is not in compliance with this act, the Commission shall specify remedial actions which would bring the comprehensive plan or plan amendment into compliance.

#### **8.07.05 Small Scale Plan Amendments Exempt from DCA Review.**

Plan amendments that are defined as Small Scale Amendments are exempt from the annual quota allowed by DCA and do not have to be submitted to DCA for review. The amendment is adopted by ordinance and sent to DCA and the Regional Planning Council. DCA will not issue a Notice of

Intent for the small scale amendment.

- (A) Definition. Small Scale Plan Amendments are defined by Florida Statute as:

Encompassing the use of 10 or fewer acres of any land use category; and  
Residential densities are limited to 10 or fewer units per acre; and  
Does not involve the same property more than once per year; and  
Does not involve the same owner's property within 200 feet of property granted a land use change within the past 12 months; and  
Does not include any text change to the Plan's goals, objectives, and policies;  
Is not located within an area of critical state concern; and  
The local government can approve the amendment without exceeding its yearly maximum of 80 acres of small scale amendments.

- (B) Reviewing Board. Proposed Small Scale Plan Amendments are heard by the Planning and Zoning Commission and are recommended to the City Commission by the P & Z Commission. Then the amendments are heard at two Public Hearings and are adopted by Ordinance. The amendments become law after the waiting period for the ordinance has expired, which is 31 days after adoption.

- (C) Public Notice Requirements. The public notice required for the amendment is:

A newspaper notice as for ordinary, non-rezoning ordinances; and  
The City must mail the owners of the property notice; and  
There is no size requirements for the newspaper advertisement; and  
Notice must be given of: the date, place and time of the meeting; the title of the proposed ordinance; the location where the proposed ordinance can be inspected by the public; and that interested parties can appear and be heard.

- (D) Challenges. Challenges will be heard by the Division of Administrative Hearings. In any action brought under this section, the DCA may intervene and become a party if granted that right by the hearing officer. If the hearing officer recommends that the amendment be found "in compliance," and DCA agrees, the DCA will enter the final order. If DCA does not agree, the recommended order will be forwarded to the Administration Commission (Governor and Cabinet) for rendering the final order.

**8.08.00 Public Records.** All resolutions, ordinances and records involving permitted land uses, development regulations and development approval are hereby declared to be public information and shall be maintained in an orderly fashion by the Planning Director or his designee(s). Such materials shall be available for public inspection between the hours of 8 a.m. and 5 p.m. on weekdays at City Hall. Copies shall be made available at a price reflecting the City's reproduction costs.

**8.09.00 Fees.** The City Commission shall, by separate resolution, establish and revise as necessary a schedule of fees for zoning changes, review/approval of plans, administrative approvals, and other actions undertaken under the provisions of this Code. All fees shall be set, at a minimum, at levels that cover the City's costs of administration, inspection, and enforcement.

**8.10.00 Enforcement of Development Permits and Orders.** The Planning Director is the enforcement officer for all regulations contained in this Code. The Planning Director shall implement a procedure for periodic inspection of development work in progress to insure compliance with the development permit and final development order that authorized the activity.

#### **8.10.01 Certificate of Occupancy**

Upon completion of work authorized by a development permit or development order, and before the development is occupied, the developer shall apply to the Building Official for a Certificate of Occupancy. The Building Official shall coordinate with all other applicable City Departments to ensure that all work authorized by the development permit or development order is complete prior to a Certificate of Occupancy being issued. The Building Official shall inspect the work and issue the Certificate of Occupancy, if all work is found to be in conformity with the permit or order.

A nonconforming use shall not be maintained, renewed, changed or extended until a certificate of use shall have been issued by the Administrative Official, stating specifically the matters wherein the nonconforming use differs from the provisions of this ordinance and, to the extent that a nonconforming use may be subject to amortization, the duration and conditions of amortization. Application for such certificate of use shall be made by the owner or occupant of every nonconforming use within three months after adoption of this ordinance or any amendment under which nonconforming uses are created. After said three month period, failure to have made such application shall be presumptive evidence that the property was not being used as a nonconforming use at the time of adoption of, or amendment to, this ordinance and such nonconforming use shall immediately cease.

#### **8.10.02 Administrative Approval of Minor Field Adjustments.**

A minor field adjustment is a deviation from a final development order that falls within the following limits and that is necessary in light of technical or engineering considerations first discovered during actual development and not reasonably anticipated during the initial approval process:

- (A) Alteration of the location of any road, walkway, landscaping or structure by not more than five feet.
- (B) Reduction of the total amount of open space by not more than 5%, or reduction of the yard area or open space associated with any single structure by not more than 5%; provided that such reduction does not permit the required yard area or open space to be less than that required by this Code.
- (C) If the work is found to have one or more minor field adjustments, the Planning Director shall request a revised site plan from the applicant showing the deviations and amend the development order to conform to actual development. The Planning Director may, however, refer any minor field adjustment that significantly affects the development's compliance with the purposes of this Code to the Planning and Zoning Commission for treatment as a major deviation.
- (D) Major Deviation Defined. A major deviation is a deviation other than a minor field adjustment, from a final development order.

#### **8.10.03 Major Deviation from Development Permits and Development Orders.**

- (A) If the work is found to have one or more major deviations, the Planning Director shall:
  - (1) Place the matter on the next agenda of the Planning and Zoning Commission, allowing for adequate notice, and recommend appropriate action for the Commission to take.



- (2) Issue a stop work order and/or refuse to allow occupancy of all or part of the development if deemed necessary to protect the public interest. The order shall remain in effect until the Planning Director determines that work or occupancy may proceed pursuant to the decision of the Planning and Zoning Commission.
  - (3) Refer the matter to the Building Official, if it appears that the developer has committed violations within the jurisdiction of the Code Enforcement Board.
- (B) The Code Enforcement Board shall hold a public hearing on the matter and shall take one of the following actions:
  - (1) Order the developer to bring the development into substantial compliance (i.e. having no or only minor deviations) within a reasonable period of time. The development order or permit may be revoked if this order is not complied with.
  - (2) Amend the development order or permit to accommodate adjustments to the development made necessary by technical or engineering considerations first discovered during actual development and not reasonably anticipated during the initial approval process. Amendments shall be the minimum necessary to overcome the difficulty, and shall be consistent with the intent and purpose of the development approval given and the requirements of this Code.
  - (3) Revoke the relevant development order or permit based on a determination that the development cannot be brought into substantial compliance and that the development order or permit should not be amended to accommodate the deviations.

**8.10.04 Revocation of Development Order.** Should a development order or permit be revoked, development activity shall not proceed on the site until a new development order or permit is granted in accordance with procedures for original approval.

[RESERVED]

## ARTICLE 9

### DEFINITIONS

For the purposes of this Code, the following terms shall have the meanings set forth below. Included are pertinent definitions adopted in the Comprehensive Plan, in addition to others applicable to this Code but not covered in the Plan. It is the intent of this Article to incorporate Comprehensive Plan definitions in substantially the same form in which they were adopted, although some terms may be defined here in a more detailed or restrictive manner. In the event a Comprehensive Plan amendment conflicts with a definition contained herein, the definition in the Comprehensive Plan shall take precedence, and shall be incorporated into this Code by reference.

**Abandoned sign:** Any sign left blank for more than 90 days. Any sign that remains for more than 90 days after the business has closed or moved from the premises.

**Accessory Building or Use:** A building, use of a building, a use of land or water that is clearly secondary and incidental to the principal use of a building, water or land, which building or use is located on the same parcel of land with the principal building or use.

**Adjacent Municipalities:** Those municipalities that could have an immediate effect on land use decisions.

**Adult Day Care Center:** Any building, buildings, or part of a building, whether operated for profit or not, in which is provided through its ownership or management, for a part of a day, basic services to three or more persons who are 18 years of age or older, who are not related to the owner or operator by blood or marriage, and who require such services. (c. 400.551, F.S.)

**Adult Family-Care Home:** A full-time, family-type living arrangement, in a private home, under which a person(s) provide, for profit or not for profit, room, board, and one or more personal services, as appropriate for the level of functional impairment, for no more than five aged persons or disabled adults who are not relatives. The following establishments are not adult family-care homes:

- (a) An establishment that provides personal services for three or fewer adults who do not receive optional state supplementation under s. 409.212, F.S., but that does not hold itself out to the public to be an establishment that regularly provides such services.
- (b) An establishment in which a person(s) provide personal services only to their relatives.
- (c) An establishment that is licensed as an assisted living facility. (c. 400.617, F.S.)

**Adult Entertainment Establishment:** Any business that excludes minors by virtue of age due to the presence or display of films, photographs, published materials, or activities of a sexual nature or nudity. This definition shall include adult bookstores and theaters, and establishments offering massage, body rubs and similar activities to the exclusion of minors. Establishments that offer medical and therapeutic services provided by state licensed practitioners are excluded from this definition. Any business qualifying as an incidental adult materials vendor shall also be excluded from this definition.

**Advertising sign:** Any form of public announcement intended to aid, directly or indirectly, in the sale, use or promotion of a product, commodity, service, activity or entertainment.

**Abandoned sign:** Any sign left blank for more than 90 days. Any sign that remains for more than 90 days after the business has closed or moved from the premises.

**Advertising balloon:** A balloon of any size containing a display of advertising.

**Affordable Housing:** Housing for which monthly rents or monthly mortgage payments, including taxes, insurance and utilities, do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for households or persons indicated in s. 420.004, F.S. Affordable housing definitions that are prescribed by other affordable housing programs administered by either HUD or the State may be used by local governments if such programs are implemented by the local government to provide affordable housing.

**Agricultural Tax Exempt Uses:** Agricultural uses that have been previously qualified for the agricultural tax exemption as defined by F.S. 193.461, "which includes, but is not limited to, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bee, pisciculture, when the land is used principally for the production of tropical fish, aquaculture, sod farming, and all forms of farm products and farm production."

**Agricultural Uses:** Activities within land areas which are predominantly used for the cultivation of crops and livestock including: crop land; pasture land; orchards; vineyards; nurseries; ornamental horticulture areas; groves; confined feeding operations; specialty farms; and silviculture areas. (40C-44.021 F.A.C.)

**Agricultural Uses, Limited:** Land uses in residential areas that are characterized as agricultural in nature and are limited to orchards; vineyards; nurseries; ornamental horticulture areas; groves; noncommercial greenhouses; bee keeping and raising of exotic species with the exception of venomous reptiles.

**Aircraft Establishments:** An establishment engaged in the retail selling of new and/or used aircraft and related new parts accessories. Aircraft establishments may include repair departments provided such repair departments are incidental and accessory to the principal retail selling of aircraft and related aircraft accessories.

**Airport Clear Zone:** A designated area of land which is subject to peak aircraft noise and on which there is the highest potential of danger from airport operations.

**Airport Facility:** Any are of land or water improved, maintained or operated by a governmental agency for the landing and takeoff of aircraft, or privately owned paved runways of 4,000 or more feet in length, and any appurtenant area which is used for airport buildings, or other airport facilities or rights-of-way. (67-701.200 F.A.C.)

**Alley:** Any public right-of-way less than twenty (20) feet in width which affords secondary access to property and is not intended for general traffic circulation.

**Alteration:** Any change in, addition to, deletion from, or rearrangement of structures, walls, roofs, floors, wiring, pipes, or other structural parts of a building, except customary maintenance or repair.

**Amendment:** Any action of a local government which has the effect of amending, adding to, deleting from or changing an adopted comprehensive plan element or map or map series, including an action affecting a prior plan or plan amendment adoption ordinance, but shall not mean a legislative act which only codifies local legislation or makes corrections, updates and modification of the capital improvements element concerning costs, revenue sources, acceptance of facilities or facility construction dates consistent with the plan as provided in Subsection 163.3177(3)(b), F.S., and corrections, updates or modifications of current costs in other elements, as provided in Subsection 163.3187(2). F.S.

**Amusement Enterprise, Indoor:** See Recreation, Commercial, Indoor.

**Amusement Enterprise, Outdoor:** See Recreation, Commercial Outdoor.

**Animated sign:** A sign which utilized motion of any part by any means, including wind power, or displays flashing, oscillating or intermittent lights.

**Annexation:** The adding of real property to the boundaries of an incorporated municipality, such addition making such real property in every way a part of the municipality. (s. 171-031 F.S.)

**Antique Car/ Vehicle:** Any vehicle 25 years or older.

**Antique Stores:** An establishment engaged in the selling of antique furniture, home furnishings and objects of art and related antique accessories.

**Apartment:** A dwelling unit in a duplex or multiple family dwelling.

**Apartment Building:** A building that is used or intended to be used as a home or residence for three (3), or more, families living in separate quarters. Dwelling units share a common outside access. Ownership is not a factor, and may be either rental or condominium. See drawing labeled "apartments" and "multiplex" at the back of this Code.

**Aquascape:** The planting of aquatic and wetland plants in the enhancement, restoration, or creation of freshwater, estuarine, or marine systems.

**Aquifer:** A water bearing stratum of permeable rock, sand, or gravel.

**Area of Shallow Flooding:** Areas located within the areas of special flood hazard having hazards associated with base flood depths of one (1) to three (3) feet, where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate.

**Area of Special Flood Hazard:** The Area of Special Flood Hazard shall include:

1. All areas designated as an area of special flood hazard pursuant to Section 5.01.01(C). The relevant Flood Hazard Boundary Map and Flood Insurance Rate Maps, and any revisions thereto, are adopted by reference and declared to be a part of this Code.
2. Other areas of the community designated on a map by the Development Director as having a one percent (1%) or greater chance of flooding in any given year. This may include isolated topographic depressions with a history of flooding or a high potential for flooding.

**Art Galleries:** An establishment engaged in the sale, loan, or display of art books, paintings, sculpture, or other works of art to the public. Does not include libraries, museums, or non-commercial art galleries.

**Arterial Road:** A roadway providing service that is relatively continuous and of relatively high traffic volume, long trip length, and high operating speed. In addition, every United States numbered highway is an arterial road. 334.03 FS)

**Assisted Living Facility (aka Adult Congregate Living Facility):** Any building or buildings, section of a building, or distinct part of a building, residence, private home, boarding home, home for the aged or other place, whether operated for profit or not, that undertakes through its ownership or management to provide, for a period exceeding 24 hours, housing, food service, and one or more personal services for four or more adults, not related to the owner or administrator by blood or marriage, who require such services; or to provide extended congregate care, limited nursing services or limited mental health services, when specifically licensed to do so pursuant to s. 400.407, unless the facility is licensed as an adult family-care home. A facility offering personal services, extended congregate care, limited nursing services, or limited nursing services, or limited mental health services for fewer than four adults is within the meaning of this definition, if it formally or informally advertises to or solicits the public for residents or referrals and holds itself out to the public to be an establishment that regularly provides such services, unless the facility is licensed as an adult family-care home. (§400.402, F.S.)

**Auto Salvage Yard:** A commercial business which disassembles inoperable vehicles for the purpose of resale of automobile parts. Not more than three (3) inoperable vehicles may be stored at any one time. See "Junkyard" for a business which stores more than three inoperable vehicles.

**Automatic Controller:** A mechanical or electronic device, capable of automated operation of valve stations to set the time, duration and frequency of a water application.

**Automobile and Truck Rental Establishments:** An establishment engaged in renting or leasing of passenger automobiles and/or trucks without drivers.

**Automobile and Truck Repair Establishments:** An establishment in which a person practices a vocation or occupation that performs a type of labor, act or work, that results in the fixing and repair of automobiles and trucks. The type of fixing and repair provided by an automobile and truck repair establishment includes the following: repair of automobile and truck tops, bodies, battery and ignition systems and radiators; automobile and truck painting and refinishing and repair and replacement of glass; and, general and specialized automobile and truck repairs including motorcycle, farm tractors and farm equipment repairs.

**Automobile Parking Establishments:** An establishment engaged in providing commercial parking facilities on open air lots surfaced in a stable manner and/or structures for a fee or charge.

**Automobile Service Establishments or Car Wash:** An establishment engaged in furnishing car washing, waxing, polishing and/or similar services except repairs.

**Automotive Dealer Establishments:** An establishment engaged in the selling of new and/or used automobiles and trucks and related new parts and accessories. Automotive dealer establishments may include repair departments provide such repair departments are clearly incidental and accessory to the principal selling of automobiles and trucks.

**Automotive Equipment Rental Establishments:** An establishment engaged in renting or leasing large equipment and machinery.

**Automotive Repair, Major:** Includes activities listed under Service Station, as well as removal and major overhaul of engines, transmissions and drive systems, and all types of paint and body work.

**Automotive Repair, Minor:** See Service Station.

**Automotive Restoration/Antique or Classic (Private and "Not for Profit"):** Restoring of classic vehicles (more than 20 years old) or antique vehicles (more than 25 years old) by a private individual and "not for profit". All activities must take place under cover. Stored vehicles must be screened. Vehicles may not be stored in front of the principal structure and must be setback ten feet (10') from side and rear property lines. An individual who is restoring a classic or antique vehicle, may have 3 inoperable vehicles as long as they are of the same make and model of the vehicle he is restoring.

**Automotive Specialty Establishments:** An establishment engaged in the selling of new and/or used travel trailers, manufactured homes, motorcycles and similar automotive product specialties and related new parts and accessories within a building or on open air lots surfaced in a stable manner.

**Availability or Available:** With regard to the provision of facilities and services concurrent with the impacts of development, means that at a minimum the facilities and services will be provided in accordance with the principles, standards and strategies set forth in the Comprehensive Plan.

**Awning:** Any structure made of cloth with a metal frame attached to a building and/or projecting over a public right-of-way; and extending from an exterior wall or any other exterior portion of a building; and utilized as protection from the rain or sun.

**Awning sign:** A sign painted on or affixed to an awning, canopy or awning-like structure.

**Backlogged Facility:** A state roadway, at least 0.2 miles in length, operating below the Florida Department of Transportation's statewide adopted minimum operating level of service standards for its functional classification, and that is not in the FDOT's Five-Year Work Program and has not been determined by FDOT to be a constrained facility. Unlike a constrained roadway, there are no prohibitive costs or environmental constraints.

**Banner:** Any signs having characters, letters, illustrations, or ornamentation applied to cloth, paper, or fabric of any kind, including foil, with only such material for backing; and including flags, streamers, and flappers.

**Bars and Lounges:** An establishment designed for the serving of beverages for consumption on the premises.

**Bed and Breakfast:** A residential structure containing guest rooms where lodging with breakfast included is provided for compensation, and generally for a stay of a week or less. Bed and Breakfast structures are normally found in established neighborhoods and may be the primary residence of the owner and innkeeper. Residential structures rented out for a season or for longer than a week or two are considered boarding houses. See that definition.

**Best Management Practice (BMP):** A practice or combination of practices that are determined to be the most effective, practical means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

**Best Management Practices (BMPs):** A practice or combination of practices based on research, field-testing, and expert review, determined to be the most effective and practicable on-location means, including economic and technological considerations, for improving water quality, conserving water supplies and protecting natural resources.

**Best Management Practices (BMP's) for MS4:** Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce pollutants from entering the MS4 or being discharged from the MS4 so as to protect or restore the quality of "Waters of the United States." BMP's include, but are not limit to, treatment methods and practices to control; site runoff, spillage, leaks, sludge, waste disposal or runoff from raw material.

**Bicycle and Pedestrian Ways:** Any road, path or way that is open to bicycle travel and traffic afoot and from which motor vehicles are excluded.

**Billboard:** Any permanently constructed sign, wall or other structure which advertises property, products, services, amenities or activities which are not available on the lot or parcel on which the structure is located.

**Blighted Areas:** Developed areas that have deteriorated through neglect or abandonment and which could benefit the community if redeveloped.

**Board of Adjustment:** The board of adjustment of the City of Bartow as established by article VII of this ordinance.

**Boarding House:** Residential facility other than an apartment building, hotel/motel, or restaurant where meals and/or lodging are provided in exchange for monetary compensation for three or more persons.

**Brewpub:** An establishment that is primarily a restaurant and bar, but which includes the brewing of malt beverages as an accessory use. A brewpub produces only enough beer for consumption on the premises or for retail carryout pursuant to local, state, and federal law.

**Buffer Yard:** An area or strip of land established to separate and protect one type of land use from another with which it is incompatible. A buffer area typically is landscaped and contains vegetative plantings, berms, and/or walls or fences to create a visual and/or sound barrier between the two incompatible uses.

**Building:** A structure created to shelter any form of human activity. This may refer to a house, barn, garage, church, hotel, packing house, or similar structure. Buildings may refer to a historically or architecturally-related complex, such as a house or jail, or a barn.

**Building Area:** The gross land area covered by a building or buildings, including the total land coverage by roofs, steps, balconies, and unroofed porches, stoops, porticos, and patios, including accessory buildings.

**Building directory sign:** A sign indicating the location of an activity or service, incidental to a use, but not advertising the use in any manner.

**Building Height:** The vertical distance from the average finish grade elevation at the building line to the highest point of the structure.

**Building Line:** The vertical projection of the outer limits of the roof and portions of the structure onto the ground.

**Building mounted sign (Wall Sign):** An exterior wall sign, which is approximately parallel to and not extending more than eight inches from the façade of the building to which it is attached and supported throughout its entire length by the façade of the building.

**Building Permit:** A permit that may be required by appropriate authority as described herein, relating to the location, construction, alteration, demolition, or relocation of structures within the area of jurisdiction.

**Building Site:** The lot, lots, or parcel of land upon which a building or use of land has been located or is proposed to be located.

**Bulk Storage of Explosive Gases:** The maintenance on a commercial or industrial development site, for sale or on-site use, of a quantity of fuel-related gases exceeding 500 gallons.

**Business listing sign included on a shopping center sign:** A sign identifying the name of a particular business located within a center.

**Business, Professional and Nonprofit Organization Offices:** An establishment in which a person practices a particular kind of occupation requiring specialized knowledge and often a long and intensive preparation, that results in a specialized aid, assistance or action directly or indirectly to the needs of individuals, clients or persons engaged in commerce or industry. The type of specialized aid, assistance or action provided by a business, professional and nonprofit organization office includes the following: finance, insurance and real estate functions; medical and other health out-patient functions; legal functions; engineering, architectural and planning functions; accounting, auditing and bookkeeping functions; welfare and charitable administration and executive functions; business, professional, political, labor, civic, social and fraternal associations, organizations and union administrative and executive functions; advertising, employment, protective, business and management consulting functions; administration and executive functions.

**Business Training Schools:** An establishment engaged in furnishing nonacademic instruction and trade courses. Business training schools include the following: correspondence schools; business and stenographic schools; barber and beauty schools; art and music schools; and dancing schools.

**Canopy:** Canopy refers to the area shaded by the crown of mature tree, that is listed among the approved species.

**Canopy:** Any structure made of attached to a building and/or projecting over a public right-of-way; and and/or extending from an exterior wall or any other exterior portion of a building; and utilized as protection from the rain or sun.

**Canopy sign:** A sign painted on or affixed to an awning, canopy or awning-like structure.

**Capital Budget:** The portion of each local government's budget that reflects capital improvements scheduled for a fiscal year.



**Capital Improvement:** Physical assets constructed or purchased to provide, improve or replace a public facility and that are large scale and high in cost. The cost of a capital improvement is generally nonrecurring and may require multi-year financing. For the purposes of this rule, physical assets that have been identified as existing or projected needs in the individual comprehensive plan elements shall be considered capital improvements. (163.3164 FS)

**Capital Improvement Program (CIP):** A five year listing of proposed capital improvement projects.

**Carport:** A carport is an accessory structure of a principal structure, consisting of a roof and support members such as columns or beams unenclosed from the ground to the roof on at least two sides, and designed or used for the storage of motor driven vehicles or boats owned and used by the occupants of a building to which it is accessory.

**Cemetery:** A plot or parcel of land used or intended for use as a burial place in or above the ground for dead human bodies, whether or not markers or monuments are used.

**Center:** Two or more businesses, located separately but within the same building.

**Central Business District:** A compact urban core area of a municipality or unincorporated urbanized area which serves as the primary center for economic activity in the jurisdiction.

**Certificate of Use:** A certificate, required by appropriate authority under the provisions of this ordinance, which authorizes the occupancy of a structure or premises and is required prior to occupancy, change of use and under other specific conditions.

**Child Care:** The care, protection, and supervision of a child, for a period of less than 24 hours a day on a regular basis, which supplements parental care, enrichment, and health supervision for the child, in accordance with his or her individual needs, and for which a payment, fee, or grant is made for care. (402.302, F.S.)

**Child Care, Drop-in:** Child care provided occasionally in a child care facility in a shopping mall or business establishment where a child is in care for no more than a 4-hour period and the parent remains on the premises of the shopping mall or business establishment at all times. Drop-in child care arrangements shall meet all requirements for a child care facility unless specifically exempted. (402.302, F.S.)

**Child Care, Evening:** Child care provided during the evening hours and may encompass the hours of 6:00 p.m. to 7:00 a.m. to accommodate parents who work evenings and late-night shifts. (402.302, F.S.)

**Child Care, Weekend:** Child care provided between the hours of 6 p.m. on Friday and 6 a.m. on Monday. (402.302, F.S.)

**Child Care Facility:** Any child care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit. The following are not included:

(a) Public schools and nonpublic schools and their integral programs, except as provided in s. 402.3025, F.S.;

(b) Summer camps having children in full-time residence;

- (c) Summer day camps;
- (d) Bible schools normally conducted during vacation periods; and
- (e) Operators of transient establishments, as defined in chapter 509, which provide child care services solely for the guests of their establishment or resort, provided that all child care personnel of the establishment are screened according to the level 2 screening requirements of chapter 435. (402.302, F.S.)

Church: Any building or structure used or intended for use by a nonprofit religious organization or group primarily for worship purposes, and any use customarily accessory thereto.

City: The City of Bartow, Florida.

Civic Center/Auditorium: A prominent land area within a community that is constructed to be its focal point or center. It usually contains one or more dominant public buildings, which may also include a government building. It may also combine venues for sporting events, theaters, concerts and similar events.

Classic Car/ Vehicle: A vehicle 20 years or older.

Clearing: The alteration of the shoreline vegetation by complete removal, chemical treatment, and mechanical or non-mechanical uprooting.

Clerk of the Circuit Court: The clerk of the circuit court in and for Polk County, Florida.

Clinic: An establishment operated by one (1) or more persons for the purpose of rendering human health care or services by any lawful practitioner of medical arts under Florida statutes.

Club, Community/Fraternal/Veterans: Building, facilities and property owned and operated by a corporation or association of persons for social, educational or recreational purposes, including those organized chiefly to promote friendship and welfare among its members, to which membership is required for participation but not operated primarily for profit or to render a service that is customarily carried on as a business. The term when used herein shall also mean lodge, fraternal order, or society.

Cluster Development: Generally refers to a development pattern - for residential, commercial, industrial, institutional, or combinations of such uses - in which the uses are grouped or "clustered", rather than spread evenly throughout a parcel as a conventional lot-by-lot development. A zoning ordinance may authorize such development by permitting smaller lot sizes if a specified portion of the land is kept in permanent open space either through public dedication or through creation of a homeowners association.

Clustering: The grouping together of structures and infrastructure on a portion of a development site.

Code of Federal Regulations: The codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government.

Collector Road: A roadway providing service that is of relatively moderate traffic volume, moderate trip length, and moderate operating speed. Collector roads collect and distribute traffic between local roads or arterial roads. 334.03 FS)

College/University: An institution other than a trade school that provides full-time or part-time education beyond high school.

Commercial Uses: Activities within land areas which are predominantly connected with the sale, rental and distribution of products, or performance of services.

Commercial Zone Apartments: Amendment Note: Ordinance Number 1491-A, enacted on March 21, 1988, amended the definitions by deleting Commercial Zone Apartments.

Commission: The city commission for Bartow, Florida.

Communication antenna: Any exterior transmitting or receiving device less than 30 feet in height, mounted on a tower, building or structure and used in communication that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals, or other communications signals.

Communication tower: Any structure that is designed and constructed primarily for the purpose of supporting one or more communication antenna for telephone, radio, and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, and any support structures thereto.

Community Center: A building or series of buildings designed to serve as a place of meeting, recreation, or social activity and not operated for profit.

Community Park: A park between 16 and 100 acres in size designed to serve more than one neighborhood.

Community service sign: A temporary sign which advertises solely a function of a nonprofit organization.

Comparison Goods Stores: An establishment engaged in the selling of merchandise in less than bulk quantities. Comparison goods stores as distinct convenience goods stores are further defined by the following characteristics: retail sale or merchandise purchase by the consumer on an infrequent basis, before making a final decision the consumer will probably visit several stores in which he will compare prices, styles and brands; comparison goods stores offer a large variety and selection of merchandise which enables the consumer to fulfill his particular desire; and, the type of merchandise in comparison goods stores includes clothing, shoes, apparel accessories, furniture, appliances and home furnishings. Trade stamp redemption stores are included in the comparison goods store category.

Compatibility: A condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition. (163.3164 FS)

Concurrency: The necessary public facilities and services to maintain the adopted level of service standards are available when the impacts of development occur. 163.3180 FS)

Concurrency Management Officer (CMO): The City Manager and/or his or her designee.

Concurrency Management System: The procedures and/or process that the local government will utilize to assure that development orders and permits are not issued unless the necessary facilities and services are available concurrent with the impacts of development.

**Concurrent with the Impacts of Development:** Concurrent with the impacts of development shall be satisfied when: the necessary facilities and services are in place at the time a development permit is issued; or a development permit is issued subject to the condition that the necessary facilities and services will be in place when the impacts of the development occur; or that the necessary facilities are under construction at the time a permit is issued; or that the necessary facilities and services are guaranteed in an enforceable development agreement that includes the provisions of concurrency as defined. Concurrency adherence is further described in the Comprehensive Plan.

**Condominium:** A building that is used or intended to be used as a home or residence for three (3) or more families living in separate quarters. Dwelling units share common outside access. Ownership is the defining factor between an apartment building unit and a condominium unit: an apartment unit is a rental unit, a condominium unit is an owned unit. See drawing labeled "apartments" and "multiplex" at the back of this Code.

**Cone of Influence:** An area around one or more major water wells the boundary of which is determined by the government agency having specific statutory authority to make such a determination based on groundwater travel or drawdown depth.

**Conservation:** The preservation of native plants and trees to provide canopy, buffer yards, and reduce water demanded to maintain landscaping.

**Conservation Easement:** A right or interest in real property intended to maintain land or water areas predominantly in their natural, scenic, open, or wooded condition. Such areas may preserve habitat for fish, plants, or wildlife; the structural integrity or physical appearance of sites of historical, architectural, archaeological, or cultural significance; or existing land uses compatible with conservation of natural resources.

**Conservation Uses:** Activities or conditions within land areas designated for the purpose of conserving or protecting natural resources or environmental quality, including areas designated for such purposes as flood control, protection of quality or quantity of groundwater or surface water, floodplain management, commercially or recreationally valuable fish and shellfish, or protection of vegetative communities or wildlife habitats.

**Constant Pressure/Flow Control:** A device that maintains a constant flow, or pressure, or both.

**Constrained Facility:** A segment of roadway on the state highway system operating below the adopted level of service standard and unable to reach the standard because of prohibitive costs and environmental constraints. Existing level of service must be maintained on these roadways.

**Construction and Demolition Debris:** Materials generally considered to be not water soluble and nonhazardous in nature, including, but not limited to, steel, iron, aluminum, brass, copper, cast iron, metal, tin, glass, plexiglass, plastic, vinyl, rubber (excluding whole tires), leather, concrete, asphalt, tar paper, shingles, non-contaminated gravel, non-contaminated rocks, non-contaminated soils, street sweepings, plants, grass, lumber, dry paint-dyes, drywall, dry spackling-plaster-stucco-grout, paper, cardboard, dry ink-adhesives and wood. Household garbage, medical waste, liquid waste, biohazardous waste or toxic waste shall be prohibited. Mixing of construction and demolition debris with other types of solid waste, including material from a construction or demolition structure, will cause it to be classified as other than construction and demolition debris.

**Construction and Demolition Debris Disposal Site:** Waste disposal facility, permitted in the M district, authorized to accept only construction and demolition debris as defined in this Article. Such facility shall operate under a general permit pursuant to Rules 17-4, Part III and 17-701.803, FAC, or at a solid waste facility permitted under Rule 17-701, FAC. Composting, incineration incidental to the composting operations, as permitted by the FDEP and a recycling center shall be permitted on the site. Owners and operators of construction and demolition disposal facilities shall comply with all applicable state standards, and shall be required to produce evidence of all relevant state and federal permits; facilities not in compliance with such standards shall be brought into compliance immediately upon adoption of this Code. Hours of operation to accept refuse shall be 7:30 a.m. to 5:00 p.m. five (5) days per week. Site development plans must be reviewed by the Planning and Zoning Commission and approved by the City Commission. The Planning and Zoning Commission and City Commission may impose additional requirements such as setbacks, elevation of site, proper buffering, maximum size in acres of the site, and any other requirements deemed necessary in the best interests of the City of Bartow.

**Construction Service Establishments:** An establishment in which a person practices a vocation or occupation that performs a type of labor, act or work off the premises that directly results in the fabrication, construction, addition, alteration, repair or development of land, buildings or other structures on a given premises. Construction services include the following: operative and investment builders; subdividers and developers; general building, heavy construction and special trade contractors; plumbing, painting, electrical work and carpentry contractors; and highway, bridges, dams, sewer and water system contractors.

**Consumptive Use Permit:** A permit issued by the Water Management District that allows the production (or pumping) of groundwater up to a specified amount, usually expressed in gallons per day.

**Convenience Goods Stores:** An establishment engaged in the selling of merchandise in less than bulk quantities. Convenience goods stores as distinct from comparison goods stores are further defined by the following characteristics: retail sale of merchandise purchased by the consumer on a frequent and often daily basis; the consumer tends to purchase all desired convenience merchandise in the same general location; and the consumer usually purchased convenience merchandise at locations easily accessible to him. This type of merchandise in convenience goods stores includes groceries, drugs, notions, toiletries, sundries, and other items which are usually inexpensive and purchased frequently.

**Cultural Facilities:** Such establishments include libraries, museums, art galleries and arboreta, botanical and zoological gardens.

**Day Spa:** A nurturing, safe, clean commercial establishment, which employs professional, licensed therapists whose services include massage and body or facial treatments. Treatments may include two or more of the following services body packs and wraps, exfoliation, cellulite and heat treatments, electrolysis, body toning, waxing, aromatherapy, cleansing facials, medical facials, nonsurgical face lifts, and electrical toning. hydrotherapy and steam and sauna facilities, nutrition and weight management, and spa cuisine. Accessory uses to the day spa may include hair care, make-up consultation and application, and manicure and pedicure services. Private rooms are provided for each client receiving service.

**Demolition:** The complete or constructive removal of any or part or whole of a building or structure upon any site when same will not be relocated intact to a new site.

Density: An objective measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre. "Density Control" is a limitation on the occupancy of land, and is generally implemented through zoning. Specific methods include use restrictions, such as single or multiple family dwellings, minimum lot-size requirements, floor area ratio, setback or yard requirements, minimum house size requirements, lot area requirements, or other means. The average density over an area or parcel remains constant, but internal variations are allowed.

Density Bonus: An additional number of dwelling units above what would otherwise be permissible within a particular zoning classification or future land use classification.

DEO (FDEO): Florida Department of Economic Opportunity.

DEP (FDEP): The Florida Department of Environmental Protection.

Developed Landscape Area: That portion of the property where pre-development vegetation is to be removed.

Developer: Any person, including a governmental agency, undertaking any development. (§380.031 F.S.)

Development: The carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels.

The following activities or uses shall be taken to involve "development:" A reconstruction, alteration of the size, or material change in the external appearance of a structure on land; a change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land; alteration of a shore or bank of a seacoast, river, stream, lake, pond, or canal, including any "coastal construction"; commencement of drilling, except to obtain soil samples, mining, or excavation on a parcel of land; demolition of a structure; clearing of land as an adjunct of construction; deposit of refuse, solid or liquid waste, or fill on a parcel of land.

The following operations or uses shall not be taken to involve "development": Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way; work by any utility and other persons engaged in the distribution or transmission of gas or water, for the purpose of inspecting, repairing, renewing, or constructing on established rights of way any sewers, mains, pipes, cables, utility tunnels, powerlines, towers, poles, tracks, or the like; work for the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure; the use of any structure or land devoted to dwelling uses for any purpose customarily incidental to enjoyment of the dwelling; the use of any land for the purpose of growing plants, crops, trees, and other agricultural or forestry products, raising livestock, or for other agricultural purposes; a change in use of land or structure from a use within a class specified in an ordinance or rule to another use in the same class; a change in the ownership or form of ownership of any parcel or structure; the creation or termination of rights of access, riparian rights, easements, covenants concerning development of land, or other rights in land.

"Development" as designated in an ordinance, rule, or development permit includes all other development customarily associated with it unless otherwise specified. When appropriate to the context, "development" refers to the act of developing or to the result of development. Reference to

any specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. (§380.04 F.S.)

**Development Capacity:** An element of the concurrency management system, addressing the ability of public facilities to absorb development that has not been built, or that has not been completely built out, and that therefore has not impacted, or fully impacted, existing public facilities. The availability of public facilities to accommodate future development, in order to maintain an established level of service, will take into account this vested but currently unused or under-utilized capacity.

**Development Controls:** Standards in the comprehensive plan which control the development or use of land and which are in addition to the densities, intensities, and uses assigned to land by the future conditions maps.

**Development of Regional Impact (DRI):** Any development that, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county.

**Development Order:** Any order granting, denying, or granting with conditions an application for a development permit. (§380.031 F.S.)

**Development Permit:** Includes any building permit, zoning permit, plat approval, or rezoning, certification, variance, or other action having the effect of permitting development. (§380.031 F.S.)

**Development Site:** One or more lots or parcels or properties that make up the land upon which a business property is located or to be located, including the addition of lots, parcels, or properties to accommodate expansion of the business.

**Dimensional Variances:** A departure from the terms of this ordinance pertaining to height, width, depth and area of structures and size of yards and open spaces, where such departure will not be contrary to the public interest, and where, owing to conditions peculiar to the property because of its size, shape or topography, and not as a result of the actions of the applicant, the literal enforcement of this ordinance would result in unnecessary and undue hardship.

**Directional Sign:** Means a pole or ground sign, located on private property, which directs vehicular traffic to the location of goods or services. The sign may display arrows, words, or other symbols to indicate the direction of the facilities; however, no goods or services for sale may be listed.

**Discharge:** Includes, but is not limited to, any spilling, leaking, seeping, pouring, emitting, emptying or dumping of any material.

**Discharge, Illicit:** Any discharge to a municipal separate storm sewer system or to waters of the U.S. that is not composed entirely of stormwater, with the exception of discharges which are exempt pursuant to Article 3, Section 3.05.01, (D) of this Code.

**Domestic and Business Repair Establishments:** An establishment in which a person, or persons, performs a type of labor, act or work that results in the fixing and repair of an article of merchandise or piece of equipment intended for and directly incidental to the customer's business or domestic use. The type of fixing and repair provided by a domestic and business repair establishment includes the following: small electrical appliances, radios and television repairs; re-upholstery and furniture repairs; bicycle, leather goods, locks, guns, and musical instruments repairs; and business machine and typewriter repairs.

**Domestic and Business Service Establishments:** An establishment in which a person performs a type of labor, act or work that results in a specialized aid or assistance intended and directly incidental to the customer's domestic or business operations. The type of specialized aid or assistance provided by a domestic and business service establishment includes the following: duplicating, mailing and stenographic services; blueprinting and photocopying services; window cleaning, floor waxing, office cleaning and janitorial services; disinfecting and exterminating services; ambulance services; and catering services.

**Domestic Rental Establishment:** An establishment engaged in renting or leasing small miscellaneous merchandise, products or goods.

**Dormitory, Fraternity House or Sorority House:** A building in which rooms are provided for occupancy by, and maintained as a place of residence exclusively for students affiliated with an academic or professional college or university, with or without meals, and when approved and regulated by such institution.

**DOT (FDOT):** The Florida Department of Transportation.

**Double-faced sign:** A sign with two faces that are no more than 12 inches apart at their closest point, and which describe an internal angle between face planes extended no more than 30 degrees.

**Drainage Basin:** see Stormwater Basin.

**Drainage Detention Structure:** see Stormwater Management Detention Structure.

**Drainage Facilities:** see Stormwater Management Facilities.

**Drainage Retention Structure:** see Stormwater Retention Structure.

**Drive-in Restaurant:** A business establishment where food or drink is served to patrons in automobiles, or that have take-out services or provide parking spaces, or outside tables for use by patrons.

**Duplex:** A single building containing two (2) dwelling units. See drawing labeled "twin house" at back of this Code.

**Dwelling:** A building used or intended for use primarily for human habitation. The word shall not include hotels, motels, tourist courts, fraternity or sorority houses, rooming or boarding houses, nor other structures primarily for transient uses.

**Dwelling, single family:** A building used or designed to be used as a dwelling unit.

**Dwelling, two family:** See Duplex.

**Dwelling, multiple family:** A building used or designed to be used for three (3) or more dwelling units.

**Dwelling Unit:** A room or rooms comprising the essential elements of a single housekeeping unit. Facilities for preparation, storage, and keeping of food for consumption within the premises shall identify the unit as a dwelling unit.

**EAR:** An Evaluation and Appraisal Report as defined in 163.3191, F.S.



**Easement:** A right given by the owner of land to another party for specific limited use of that land. For example, a property owner may give or sell an easement on his property to allow utility facilities like power lines or pipelines, or to allow access to another property. A property owner may also sell or dedicate to the government the development rights for all or part of a parcel, thereby keeping the land open for conservation, recreation, scenic or open space purposes.

**Eating and Drinking Establishments:** An establishment for preparation and retail sale of food and/or beverages.

**Educational Uses:** Activities and facilities of public or private primary or secondary schools, vocational and technical schools, and colleges and universities licensed by the Florida Department of Education, including the areas of buildings, campus open space, dormitories, recreational facilities or parking.

**Efficiency Apartment:** A minimum dwelling unit.

**Emitter:** This term primarily refers to devices used in micro irrigation systems.

**Environmentally Sensitive Land:** Areas of land or water which are determined necessary by the local government, based on locally determined criteria, to conserve or protect natural habitats and ecological systems. Nothing in this definition shall be construed to prohibit silvicultural operations which employ the Florida Department of Agriculture and Consumer Affairs Best Management Practices as revised in 1993.

**Evacuation Routes:** Routes designated by county civil defense authorities or the regional evacuation plan, for the movement of persons to safety, in the event of a hurricane. (§9J-5.003 FAC)

**FAA:** the Federal Aviation Administration.

**FAC:** Florida Administrative Code.

**Facility Availability:** Whether or not a facility is available in a manner to satisfy the concurrency management system.

**FCC:** the Federal Communications Commission.

**Factory-built Housing:** Shall mean any residential building, or building component or building system therefor, which is of closed construction and that is made or assembled in manufacturing facilities for installation, or assembly and installation, on the building site. Factory-built housing may also mean any residential building, or building component or building system therefor of open construction made or assembled in manufacturing facilities for installation or assembly and installation on the building site.

**Family:** One (1) or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit.

**Family Day Care Home:** An occupied residence in which child care is regularly provided for children from at least two unrelated families and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit. A family day care home shall be allowed to provide care for one of the following groups of children, which shall include those children under 13 years of age who are related to the caregiver:

- (a) A maximum of four children from birth to 12 months of age.

- (b) A maximum of three children from birth to 12 months of age, and other children, for a maximum total of six children.
- (c) A maximum of six preschool children if all are older than 12 months of age.
- (d) A maximum of 10 children if no more than 5 are preschool age and, of those 5, no more than 2 are under 12 months of age. (402.302, F.S.)

**Family Foster Home:** A private residence in which children who are unattended by a parent or legal guardian are provided 24-hour care. Such homes include emergency shelter family homes, family foster group homes, and specialized foster homes for children with special needs. The following are not considered a family foster home: a person who cares for a child of a friend for a period not to exceed 90 days; a relative who cares for a child and does not receive reimbursement for such care from the state or federal government; or an adoptive home which has been approved by the state or by a licensed child-placing agency for children places for adoption. (c. 409.175, F.S.)

**Farm Equipment and Supply Establishments:** An establishment engaged in the selling of farm equipment, machinery, hardware, production supplies and other miscellaneous farm and garden supplies. Farm equipment and supply establishments may include farm equipment repair departments provided such repair departments are incidental and accessory to the principal selling of farm equipment and supplies.

**Farming:** An establishment having as the principal purpose of business the production for sale of field crops, fruit, tree nuts, vegetables, livestock, livestock products, poultry hatcheries and animal husbandry activities.

**Farming Service Establishments:** An establishment in which a person performs a type of labor, act or work off the premises that results in a variety of farming services such as crop dusting, vegetable and fruit picking, grain cleaning, harvesting, plowing and similar operations.

**FDEO (DEO):** Florida Department of Economic Opportunity.

**FDEP (DEP):** The Florida Department of Environmental Protection.

**FDOT (DOT):** The Florida Department of Transportation.

**Fence:** Artificial barrier installed or constructed for the purpose of screening or enclosing property. All fences shall be appropriate for use in an urban area. Fences in Residential Districts shall be fabricated from materials which are compatible with surrounding properties, including, but not limited to, chain link, wood stockade panels, or masonry. In all Residential Districts, electrified fences shall be prohibited, and fences shall not be constructed of the following materials: barbed wire, chicken wire, hog wire, or razor wire. The Development Director shall approve all fences erected in the City of Bartow.

**Filling Station (Convenience Store with Gas):** A building and land used or intended for use to dispense, sell, or offer for sale any motor fuels, oils, or automotive accessories, but where no major automotive repair, body rebuilding, welding, tire capping, or painting is or is intended to be performed.

**Filter:** A device in irrigation distribution systems that separates sediment or other foreign matter.

**Flood or Flooding:** A temporary partial or complete inundation of normally dry land from the overflow of lakes, rivers, or other water bodies, or from the unusual and rapid accumulation of runoff or surface waters from any source.

**Flood Hazard Boundary Map (FHBM):** An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

**Flood Insurance Rate Map (FIRM):** An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**Floodplain:** Land that will be inundated by floods known to have occurred or reasonably characteristic of what can be expected to occur from the overflow of inland or tidal waters and the accumulation of runoff of surface waters from rainfall.

**Floodprone Areas:** Areas inundated during a 100-year flood event or areas identified by the National Flood Insurance Program as an A Zone on Flood Insurance Rate Maps or Flood Hazard Boundary Maps, produced by FEMA.

**Flood Protection Elevation:** The elevation of the base flood plus one (1) foot.

**Floodway:** The channel of a stream plus any adjacent flood plain areas that must be kept free of encroachment in order that the 100-year flood may be carried without substantial increases in flood heights.

**Floor Area:** The total floor area of all stories measured to outside faces of exterior walls.

**Floor Space:** That portion of the total area of a building which is suitable for year-round use, including fully enclosed porches and breezeways, but excluding enclosed garages, carports, and screened porches.

**Florida Friendly:** Describes practices, materials, or actions that help to preserve Florida's natural resources and protect the environment.

**Florida Friendly Landscape (FFL):** See "Xeriscape™" for statutory definition; a landscape that incorporates the BMPs and philosophies promoted by programs such as Florida Yards and Neighborhoods/Environmental Landscape Management.

**Food truck:** A licensed, motorized vehicle that includes a self-contained or attached trailer kitchen in which food is prepared, processed, or stored and such vehicle is used to sell and dispense food to the general public.

**Foster Care Facility:** A residential facility which provides a family living environment including supervision and care necessary to meet the physical, emotional, and social needs of its residents. The capacity of such a facility shall not be more than three residents. (c. 393.063, F.S.)

**FS:** Florida Statutes.

**GPH:** Gallons Per Hour

**Garage Apartments:** A dwelling unit above a garage accessory to a principal building.

**Garage, Residential:** A garage is an accessory structure designed or used for inside parking of private passenger vehicles, recreational vehicles, or boats, owned by the occupants of the main building. A residential garage attached to or part of the main structure is to be considered part of the principal building. An unattached garage is to be considered as an accessory structure.

**Garage, mechanical:** See Major Automotive Repair.

**Garage, private:** A building, attached or detached to or from the principal structure, intended for the storage of automobiles or other wheeled property belonging primarily to occupants of the premises.

**Garage, public:** Any land or building used for the storage of automobiles or other wheeled property primarily for non-occupants of the premises, whether or not remuneration is paid or received for such storage.

**Garden Apartment:** A garden apartment or atrium house is similar to, though distinct from, the patio home. It differs from the patio home in three respects: it has a smaller lot and yard, it is an attached unit, and it is usually a single story unit. A small private yard is surrounded by the house and its walls; privacy is guaranteed. See drawing labeled "atrium house" at the back of this Code.

**Gardens, Arboreta:** A place where trees, shrubs, and herbaceous plants are cultivated for scientific and educational purposes.

**Gardens, Botanical:** A public or private facility for the demonstration and observation of the cultivation of flowers, fruits, vegetables, or ornamental plants.

**Gardens, Zoological:** A place where wild animals and, in some instances, domesticated animals are exhibited in captivity.

**Gasoline Service Stations:** See Service Station.

**Government Uses and Structures:** Any land, building, structure, uses or activity that is owned and operated by the city, county, state or federal government or legally empowered special governmental district and is necessary to the conduct of government, the furnishing of public services or of an institutional character and over which such governments exercise direct and complete control.

**Ground Cover:** Low growing plants, other than turfgrass, used to cover the soil and form a continuous, low mass of foliage.

**Ground-mounted sign:** A self supported structure not attached or affixed in any way to a building or any other structure. The sign face may be attached to supports and be slightly above the ground. A ground mounted sign may have a space underneath the sign for plant material. See drawing.

**Group Home Facility:** A residential facility which provides a family living environment including supervision and care necessary to meet the physical, emotional, and social needs of its residents. The capacity of such a facility shall be at least four residents but not more than 15 residents. For the purposes of this chapter, group home facilities shall not be considered commercial enterprises. (c. 393.063, F.S.)

**Guest House:** A single-family dwelling located on the same lot as the principal residence and which is not occupied year round except by members of the family.

**Hardscape:** Areas such as patios, decks, driveways, paths and sidewalks that do not require irrigation.

**Hazardous Material:** A hazardous chemical, toxic chemical, or extremely hazardous substance, as defined in s. 329 of Title III, Superfund Amendments and Reauthorization Act of 1986 (42 USC s. 11001, et seq.). (s. 252.82 FS)

**Hazardous Waste:** Solid waste, or a combination of solid wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated or otherwise managed. (§9J-5.003 FAC)

**Heating Fuel and Ice Establishments:** An establishment engaged in the selling of coal, wood, heating fuel oil, bottled gas and/or ice.

**Heavy:** Refers to those uses which are hazardous although the maximum public and private safety precautions have been taken and the most stringent performance standards have been met and/or those uses whose premises do contain outdoor or open storage or above-ground tank storage of merchandise, products or materials or any outdoor or open storage of equipment, materials or other items utilized by such establishments in practicing their vocation or occupation except for automobiles and delivery trucks.

**High Recharge Area:** Geographic areas designated by a Florida Water Management District where, generally, water enters the aquifer system at a rate of greater than ten inches per year.

**High Water Use Plants:** Plants that require irrigation to provide supplemental water on a regular basis in addition to natural rainfall, or are so identified by a regulatory agency having jurisdiction. When placed in a naturally high water table area appropriate to the plant such that irrigation is not required, such plants shall not be considered high water use for the purposes of this ordinance.

**Historic Resources:** All areas, districts or sites containing properties listed on the Florida Master Site File, the National Register of Historic Places, or designated by a local government as historically, architecturally, or archaeologically significant.

**Historical Sign:** A sign, because of its place in history in the City, is exempt from begin brought into conformity with the regulations of this Code. Any sign deemed as such by the City Commission of the City of Bartow, Florida.

**Historic Site:** A single lot or portion of a lot containing an improvement, landscape feature, or archaeological site, or a historically related complex of improvements, landscape features or archaeological sites that may yield information on history or prehistory.

**Home Occupation:** Any occupation in connection with which there is kept no stock in trade or commodity sold upon the premises, no person employed other than a member of the immediate family residing upon the premises, and no mechanical equipment used except such as is permissible for purely domestic or household purposes; and in connection with which there is used no sign, other than an unlighted name plate not more than one (1) square foot in area, nor display that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling.

**Horticultural Specialty Farms:** An establishment having as the principal purpose of business the production for sale of greenhouse, frame, cloth house, lath house, or outdoor grown horticultural products such as bulbs, florists' greens, herbs, mushrooms, flower seeds, and sod crops. Horticultural specialty farms may include landscaping service establishments.

Hospice: A centrally administered corporation not for profit ("not-for profit" as defined in c. 617, F.S.) providing a continuum of palliative and supportive care for the terminally ill patient and his or her family. (400.601, F.S.)

Hospice Residential Unit: A homelike living facility, or other facility licensed under other parts of c. 400, F.S., or c. 395, F.S., that is operated by a hospice for the benefit of its patients and is considered by a patient who lives there to be his or her primary residence. (c. 400.6005, F.S.)

Hospitals: An establishment engaged in providing health in-patient facilities, in which medical or surgical services are a main function.

Hotel: A building or other structure used and maintained as primarily a place where sleeping and supplemental accommodations are supplied transient guests.

Hurricane Shelter: A structure designated by local officials as a place of safe refuge during a storm or hurricane.

Hydrozone: A distinct grouping of plants with similar water needs and climatic requirements.

Incompatible Land Uses: Land uses that, if occurring adjacent to one another, have a detrimental effect on one or both of the uses.

Identification sign: A sign that indicates the name, owner and use or service of a particular activity.

Illuminated sign: Any sign having characters, letters, figures, designs or outlines illuminated by electric lights or luminous tubes located within the sign structure.

Indirectly illuminated sign: A sign illuminated by an external light, including flood or spotlights, directed primarily toward such sign and so shielded that no direct rays from the light are visible elsewhere than on the lot where said illumination occurs. If not effectively so shielded, such sign shall be deemed to be a directly illuminated sign.

Indoor: Refers to that which is within a building.

Industrial Uses: The activities within land areas predominantly connected with manufacturing, assembly, processing, or storage of products.

Infiltration Rate: The rate of water entry into the soil expressed as a depth of water per unit of time (inches per hour).

Infrastructure: Those man-made structures that serve the common needs of the population, such as: sewage disposal systems; potable water systems; potable water wells serving a system; solid waste disposal sites or retention areas; stormwater systems; utilities; piers; docks; wharves; breakwaters; bulkheads; seawalls; bulwarks; revetments; causeways; marinas; navigation channels; bridges; and roadways.

Inoperable vehicle: A motor vehicle which does not have a current state license plate; or a vehicle which is licensed but is disassembled or wrecked in part or in whole and is unable to move under its own power.

Intensity: An objective measurement of the extent to which land may be developed or used, including the consumption or use of the space above, on or below ground; the measurement of the use of or demand

on natural resources; and the measurement of the use of or demand on facilities and services. (163.3164 FS)

**Irrigated Landscape Area:** All outdoor areas that require a permanent irrigation system.

**Irrigation System:** An artificial watering system designed to transport and distribute water to plants.

**Irrigation Zone:** A grouping of sprinkler heads or micro irrigation emitters operated simultaneously by the control of one valve.

**Junkyard:** A place where junk, waste, discarded, or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including automobile wrecking yards, house wrecking and structural steel materials and equipment, but not including the purchase or closed storage of used furniture and household equipment, used cars in operable condition, used or salvaged materials as part of manufacturing operations. Storage of more than three (3) inoperable vehicles constitutes a junkyard. [Note: An individual who is restoring, not for profit, a classic or antique vehicle, may have 3 inoperable vehicles as long as they are of the same make and model of the vehicle he is restoring.]

**Land Area:** The total land area within the property lines.

**Land Development Regulations:** Includes local zoning, subdivision, building, and other regulations controlling the development of land. (§380.031 F.S.)

**Land Use:** The development that has occurred on land. (§380.031 F.S.)

**Landscape:** Any combination of living plants (such as grass, ground cover, shrubs, vines, hedges, or trees) and non-living landscape material (such as rocks, pebbles, sand, mulch, walls, fences, or decorative paving materials).

**Landscape Construction Documents:** Landscape construction documents may include a planting plan, a landscape layout plan, an irrigation plan, a grading and drainage plan, detail sheets and written specifications. Plans shall be numbered, dated, North arrow indicated, scaled, and sealed by an appropriately licensed professional where required by Florida Statutes Chapter 481, Part II.

**Landscape Design:** Means consultation for and preparation of planting plans drawn for compensation, including specifications and installation details for plant materials, soil amendments, mulches, edging, gravel, and other similar materials. Such plans may include only recommendations for the conceptual placement of tangible objects for landscape design projects. Construction documents, details, and specifications for placement of tangible objects and irrigation systems shall be designed or approved by licensed professionals as required by law.

**Landscape Layout Plan:** Plans and drawings showing the location of buildings, structures, pedestrian, transportation, or environmental systems, and the detail for placement of site amenities, accessibility components, plantings and other tangible objects. Plans shall be numbered, dated, North arrow indicated, scaled, and sealed by an appropriately licensed professional where required by Florida Statutes Chapter 481, Part II.

**Landscaped Area:** The entire parcel; less the building footprint, driveways, hardscapes such as decks and patios, and non-porous areas. Water features are included in the calculation of landscaped area. Landscaped area includes Xeriscape™ as defined in Chapter 373.185(1)(b), F.S.

**Landscaping Service Establishments:** An establishment in which a person performs a type of labor, act or work off the premises that result in horticultural services such as cemetery upkeep, landscape gardening, tree planting and similar operations. Landscaping service establishments do not include horticultural specialty farms.

**Laundromats, Self-service or Coin-operated:** An establishment designed to provide limited laundry and dry cleaning facilities which are used and operated by ultimate consumers on the premises on a self-service basis and not by employees of the establishment itself.

**Laundry and Dry Cleaning Pick-up Establishments:** An establishment designed for the convenient and efficient pick up of and drop off of laundry or dry cleaning on the premises by persons not employed by the establishment. No actual laundry or dry cleaning service or work is performed on the premises except for the collecting and distributing activities stated above.

**Laundry and Dry Cleaning Plants:** An establishment engaged in the commercial operation of mechanical laundries with steam or other power and including rug cleaning, dry cleaning or dyeing apparel and household fabrics or establishments supply laundered linens, work clothing, diapers, baby linens or uniforms.

**Level of Service (LOS):** An indicator of the extent or degree of service provided by, or proposed to be provided by a facility based on and related to the operational characteristics of the facility. Level of service shall indicate the capacity per unit of demand for each public facility. (163.3164 FS)

**Light:** Refers to those uses which are nonhazardous and whose premises do not contain any outdoor or open storage or above-ground tank storage of merchandise, products or materials or any outdoor or open storage of equipment, materials or other items utilized by such establishments in practicing their vocation or occupation except for automobiles and delivery or service trucks.

**Local Comprehensive Plan:** Any or all local comprehensive plans or elements or portions thereof prepared, adopted, or amended pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, as amended. (§380.031 F.S.)

**Local Road:** A roadway providing service that is of relatively low traffic volume, short average trip length or minimal through traffic movements, and high volume land access for abutting property. (334.03 FS)

**Lodging House:** A building in which up to four (4) sleeping rooms are provided for occupancy by nontransient persons with or without meals. A lodging house may include living quarters containing independent cooking facilities designed for the resident manager only.

**Logo:** A sign used to signify an organization, corporation or the like.

**Lot:** A parcel of land under one (1) principal building and its accessory buildings and including the open spaces and yards required under this ordinance.

a. **Lot Line:** The boundary dividing a lot from a right-of-way adjoining lot, or other adjoining tract of land.

- 1) **Front lot line:** The lot line abutting a street right-of-way line.
- 2) **Rear lot line:** The lot line opposite the front lot line.
- 3) **Side lot line:** Lot lines other than the front or rear lot lines.



- b. Corner lot: A lot which abuts on two (2) or more intersecting streets at their intersection.
- c. Double frontage lot: Any lot other than a corner lot which abuts on two (2) streets.
- d. Lot of record: A lot which is duly recorded in the office of the clerk of the circuit court.

**Low Income Persons:** One or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater. For the City of Bartow, the median income of Polk County is used. (420.524, F.S.)

**Low-flow Point Applicators:** Irrigation applicators with output less than 60 gph.

**Low Water Use Plants:** Plants that do not need supplemental water beyond natural rainfall, or are so identified by a regulatory agency having jurisdiction.

**Major Automotive Repair:** Includes activities listed under Service Station, as well as removal and major overhaul of engines, transmissions and drive systems, and all types of paint and body work.

**Major Trip Generators or Attractors:** Concentrated areas of intense land use or activity that produces or attracts a significant number of local (vehicle) trip ends.

**Manufactured Home or Mobile Home:** A preconstructed dwelling unit, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width, and which is built on a metal frame and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. If fabricated after June 15, 1976, each section bears a U.S. Department of Housing and Urban Development (HUD) label certifying that it is built in compliance with the federal Manufactured Home Construction and Safety Standards. Manufactured/ mobile homes shall be used for single-family residential purposes only and shall be licensed pursuant to Chapter 320, F.S. In the event a manufactured / mobile home becomes ineligible for a title certificate under Chapter 319, F.S., it shall no longer be considered a manufactured/ mobile home. (320.01, F.S. 1992 Supplement). A manufactured home produced after June 1976 will bear a 2" by 4" metal, rectangular, red and silver certification label, located above the tail light, on each section of the home. Its general appearance is as follows:

|                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>AS EVIDENCED BY THIS LABEL NO. _____</p> <p>THE MANUFACTURER CERTIFIES TO THE BEST OF THE MANUFACTURER'S KNOWLEDGE AND BELIEF THAT THIS MANUFACTURED HOME HAS BEEN INSPECTED IN ACCORDANCE WITH THE REQUIREMENTS OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND IS CONSTRUCTED IN CONFORMANCE WITH THE FEDERAL MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS IN EFFECT ON THE DATE OF MANUFACTURE.</p> <p>SEE DATA PLATE.</p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**Manufactured (Mobile) Home Park:** Development site on which manufactured homes are installed and organized around a common set of amenities, including private internal roads, clubhouse or recreation facility, and common open space. A manufactured home park may not be platted or otherwise divided by fee simple ownership; however, the sale of interests or memberships on a condominium basis is permitted. All facilities, including roads, are privately owned or owned in common by residents of the park.

**Manufactured (Mobile) Home Unit:** Shall mean a manufactured home, factory built dwelling, the land area assigned thereto, access, and parking for one (1) motor vehicle.

**Manufacturing:** Assembly or fabrication of parts that are free of hazardous or objectionable elements, such as noise, odor, dust, smoke or glare, that may be detectable to the normal senses from outside the building. Such uses shall operate entirely within enclosed structures, and the premises shall not contain any outdoor or open storage or aboveground tank storage of merchandise, products or materials or any outdoor or open storage of equipment, materials or other items utilized by such establishments except for automobiles and delivery or service trucks. Such uses shall not involve electrical interference to television, radio or communication systems off the premises.

**Marine Establishments:** An establishment engaged in the retail selling of new and/or used boats and motor boats and related new parts and accessories. Marine establishments may include repair departments provided such repair departments are incidental and accessory to the principal retail selling of boats and related marine accessories.

**Maximum Lot Coverage:** That portion of the lot that is covered by buildings and certain building-like structures specified in this code. The term does not include pools, pool cages, uncovered patios, walkways and surface parking areas.

**Microbrewery:** An establishment that produces malt beverages for sale on premises in a tap room, or for sale in packages for later consumption off premises pursuant to local, state, and federal law. A microbrewery may also, in conjunction with the sale of beer on the premises, sell wine by the glass for consumption on the premises.

**Microclimate:** The climate of a specific area in the landscape that has substantially differing sun exposure, temperature, or wind, than surrounding areas or the area as a whole.

**Micro Irrigation (low volume):** The application of small quantities of water directly on or below the soil surface, usually as discrete drops, tiny streams, or miniature sprays through emitters placed along the water delivery pipes (laterals). Micro irrigation encompasses a number of methods or concepts including drip, subsurface, bubbler, and spray irrigation, previously referred to as trickle irrigation, low volume, or low flow irrigation.

**Minerals:** All solid minerals, including clay, gravel, phosphate rock, lime, shells (excluding live shellfish), stone, sand, heavy minerals, and any rare earths, that are contained in the soils or waters of the state. (211.30 FS)

**Mini-warehouse:** A building or group of buildings that contain individual compartmentalized and controlled separate storage spaces leased or rented on an individual basis and accessible to the lessees through individual doors (also known as self storage facilities). (Ord. #2003-34, 10/6/03)

**Mining:** The act of taking mineral substances from a pit or excavation in the earth.

**Minor Arterial:** A route that is relatively continuous, of high traffic volume, of shorter trip lengths, of moderate operating speed. Minor arterials allow greater access to adjacent properties. Such roads are designated on the Future Traffic Circulation Map of the City of Bartow Comprehensive Plan.

**Minor Automotive Repairs (Service Station):** Activities conducted at a service garage involving maintenance or small-scale mechanical work on motor vehicles. This shall include inspection, maintenance, repair or replacement of the following: brake systems; ignition and electrical systems; carburetors and fuel systems; batteries; oil, antifreeze and other fluids; and tires. Also included are

auto washing and detailing, and the tuning and adjustment, but not disassembly or removal, of engines and transmissions.

**Mitigation:** Any action, including but not limited to, restoration, enhancement, or creation of wetlands, required to be taken in order to offset environmental impacts on permitted activities.

**Model Home:** A residential structure used for demonstration or sales purposes within a residential development under active development, open to the public for sales purposes, and not occupied as a dwelling unit.

**Moderate Income Persons:** One or more natural persons or a family, the total annual adjusted gross household income of which does is less than 120 percent of the median annual adjusted gross income for households within the state, or 120 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater. For the City of Bartow, the median income of Polk County is used. (420.602, F.S.)

**Moderate Water Use Plants:** Plants that need supplemental water during seasonal dry periods.

**Modular Home or Building:** Any structure, or portion of a structure, including electrical, plumbing, heating, or ventilating systems, that was built in a manufacturing facility for installation or erection as a finished building or as part of a finished building. Modular buildings must be constructed to meet the requirements of the Florida Building Code and any other design standards the City may adopt which apply to conventional construction. Modular buildings may include residential, commercial, institutional, storage, and industrial structures. For purposes of this Code, modular buildings shall not include manufactured (mobile) homes.

The Florida Building Commission oversees the construction and inspection of modular units. A modular unit will have a 4" by 5" blue and silver insignia bearing the Florida Building Commission name and is typically placed on the electrical panel cover. The sticker looks like the following:

|                                                                                                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| [SEAL]                                                                                                                                                                  |
| OCCUPANCY _____                                                                                                                                                         |
| YEAR _____                                                                                                                                                              |
| Mfgr. _____                                                                                                                                                             |
| State of Florida<br>Building Commission                                                                                                                                 |
| M.B. 0000                                                                                                                                                               |
| This insignia certifies that this structure is in<br>compliance with the Manufactured Buildings Act.<br><br>(Part IV, Chapter 553, F.S.)<br><br>PERMANENT DO NOT REMOVE |

**Moisture Sensing Device or Soil Moisture Sensor:** A device to indicate soil moisture in the root zone for the purpose of controlling an irrigation system based on the actual needs of the plant.

**Mortuaries, Funeral Homes and Crematories:** An establishment engaged in preparing the dead for burial, conducting funerals and cremating the dead and includes emergency ambulance service.

**Motel:** Shall also include the terms motor hotel, tourist court, transient accommodations, and efficiency motel; a building primarily for the use of persons traveling by automotive vehicles and consisting of two (2) or more rooms or suites for rent for the purpose of sleeping and/or light housekeeping with no common entrance or lobby.

**Motion Picture Theaters:** An establishment engaged in the commercial exhibition of motion pictures, with or without stage presentations.

**Motor Freight Transportation Establishments:** An establishment engaged in furnishing local or long distance trucking, transfer and draying services with or without the storage of merchandise, products or materials and including maintenance facilities provided such maintenance facilities are incidental to the principal trucking and freight handling services.

- a. **Light motor freight transportation establishments:** Those motor freight transportation establishments which are nonhazardous and whose premises do not contain any outdoor or open storage or aboveground tank storage of merchandise, products or materials.
- b. **Heavy motor freight transportation establishments:** Those motor freight transportation establishments which are hazardous, although the maximum public and private safety precautions have been taken and the most stringent performance standards have been met and/or those motor freight transportation establishments whose premises do contain outdoor or open storage or aboveground tank storage of merchandise, products or materials.

**Motor Home:** See Recreation Vehicle Unit.

**MSA:** Metropolitan Statistical Area, as established by the Census Bureau.

**MS4's or Municipal Separate Storm Sewer Systems:** An MS4 is a conveyance or system or conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels or storm drains) owned or operated by a municipality that discharges to waters of the United States and that is designed solely for collecting or conveying stormwater that is not part of a publicly owned treatment works.

**Mulch:** Non-living, organic or synthetic materials customarily used in landscape design to retard erosion and retain moisture.

**Mural:** a mural is, in general, a large scene painted on a building. In the City of Bartow, murals that are used as advertising are prohibited. Murals are considered artwork and may not be used as an advertising sign.

**Museum:** A building having public significance by reason of its architecture, former use, occupancy or a building serving as a repository for a collection of natural, scientific, literary curiosities, objects of interest, or works of art, and arranged, intended, and designed to be used by members of the public for viewing, with or without an admission charge, and which may include as an accessory use the sale of related goods to patrons or the public.

**National Register of Historic Places:** Established by Congress in 1935, the National Register of Historic Places is a listing of culturally significant buildings, structures, objects, sites, and districts in the United States. The listing is maintained by the U.S. Department of Interior.

**Native Vegetation:** Any plant species with a geographic distribution indigenous to all, or part, of the State of Florida as identified in: Wunderlin, R. P. 1998. Guide to the Vascular Plants of Florida. University Press of Florida, Gainesville.

**Natural Drainage Features:** The naturally occurring features of an area which accommodate the flow of significant amounts of stormwater, such as streams, rivers, lakes, sloughs, floodplains, and wetlands.

**Natural Drainage Flow:** The pattern of surface and stormwater drainage through or from a particular site before the construction or installation of improvements or prior to regrading.

**Natural Reservations:** Areas designated for conservation purposes, and operated by contractual agreement with or managed by a federal, state, regional or local government or non-profit agency such as: national parks, state parks, lands purchased under the Save Our Coast, Conservation and Recreation Lands or Save Our Rivers programs, sanctuaries, preserves, monuments, archaeological sites, historic sites, wildlife management areas, national seashores, and Outstanding Florida Waters. This definition does not include privately owned land managed by a state agency on either a voluntary or a short-term contractual basis.

**Natural Resources:** Land, air, water, groundwater, drinking water supplies, fish and their habitats, wildlife and their habitats, biota, and other such resources belonging to , managed by, held in trust by, appertaining to, or otherwise controlled by the State of Florida and situated in an area of critical state concern or offshore from an area of critical state concern. (§380.0558 F.S.)

**Natural Vegetation:** Vegetative communities that are native to, and therefore tolerant of, a particular geographic location.

**New Town:** A new urban activity center and community designated on the future land use map and located within a rural area or at the rural-urban fringe, clearly functionally distinct or geographically separated from existing urban areas and other new towns. A new town shall be of sufficient size, population and land use composition to support a variety of economic and social activities consistent with an urban area designation. New towns shall include basic economic activities; all major land use categories, with the possible exception of agricultural and industrial; and a centrally provided full range of public facilities and services. A new town shall be based on a master development plan, and shall be bordered by land use designations which provide a clear distinction between the new town and surrounding land uses. (163.3164 FS)

**Noncommercial direction or information sign:** A sign located on and relating to an activity on the premises upon which the sign shall be located including, "entrance," "exit," "caution," "no trespassing," "parking in rear," and the like.

**Nonconforming sign:** A sign or advertising structure existing within the City limits, or a sign or advertising structure existing in an area annexed to the City which, by its height, type, content, square foot area, location, use or structural support does not conform to the requirements of the sign chapter.

**Nonconforming Structure:** A structure or portion thereof, existing at the effective date of this chapter, or any amendment thereto, which was occupied, designed, erected, intended, or structurally altered for a use not permitted at its location by the provisions of this chapter for a new use, and/or which does not conform to all of the regulations applicable to the district in which it is located. A nonconforming structure cannot be rebuilt, replaced or enlarged, except as provided in this Code. The presence of a nonconforming structure on a parcel of land does not allow the reestablishment of a nonconforming use which has been abandoned or eliminated. (See Section 7.07.00 of this Code)

**Nonconforming Use:** Land use or activity that is prohibited under the current provisions of the Comprehensive Plan or this Code, but complied with those requirements in effect at the time it was established. Such uses may continue indefinitely, except where this Code requires their elimination. Once a nonconforming use is eliminated, removed, or suspended for a period exceeding 90 days, associated land or structures shall be used only in accordance with the adopted Comprehensive Plan and this Code (see Section 7.07.00).

**Nonhazardous:** Those structures, uses, materials or premises that do not constitute a fire, explosion or safety hazard and/or not emit any atmospheric or environmental pollutant, light flashes, noxious gases, electromagnetic interference, radioactive emissions, smoke or heat, glare, dust, dirt, odor, noise or vibrations which may be heard or felt off the premises.

**NPDES or National Pollutant Discharge Elimination System:** The Federal program, implemented by the U.S. EPA, for controlling discharges from point source discharges directly into waters of the U.S. under the Clean Water Act.

**Nursing Home Facility:** Any facility which provides nursing services as defined in Chapter 464, F.S., and which is licensed according to Chapter 400, F.S. Facility means any institution, building, residence, private home, or other place, whether operated for profit or not, including a place operated by a county or municipality, which undertakes through its ownership or management to provide, for a period exceeding 24-hours, nursing care, personal care, or custodial care for three or more persons not related to the owner or manager by blood or marriage, who by reason of illness, physical infirmity, or advanced age require such services; but does not include any place providing care and treatment primarily for the acutely ill. A facility offering services for fewer than three persons is within the meaning of this definition if it holds itself out to the public to be an establishment which regularly provides such services. (c. 400, F.S.)

**Open Space:** Undeveloped lands suitable for passive recreation or conservation uses.

**Outdoor:** Refers to that which is not within a building.

**Outdoor Advertising Service Establishment:** An establishment engaged in the maintenance, distribution and erection of display boards, posters and painted and electric spectacular displays on panels, bulletins and frames principally outdoors and off the premises.

**Outdoor Menu Board:** A menu affixed to a free standing sign and used at drive-thru restaurants with drive-thru windows.

**Outpatient Clinic:** An establishment where patients are not lodged overnight, but are admitted for examination and treatment by, but not limited to, physicians, dentists, optometrists and clinical laboratory personnel.

**Parcel of Land:** Any quantity of land capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit or which has been used or developed as a unit. (§380.031 F.S.)

**Park Model Recreational Vehicle (Park Trailer):** A transportable unit which has a body width not exceeding 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. The total area of the unit in a setup mode, when measured from the exterior surface of the exterior stud walls at the level of maximum dimensions, not including any bay window, does not exceed 400 square feet when constructed to ANSI A-119.5 standards, and 500 square feet when

constructed to U.S. Department of Housing and Urban Development Standards. The length of a park trailer means the distance from the exterior of the front of the body (nearest to the drawbar and coupling mechanism) to the exterior of the rear of the body (at the opposite end of the body), including any protrusions. (s. 320.01, FS)

**Patio Home:** A single family detached or semi-detached unit. It is built on a small lot enclosed by walls which provide privacy. If the walls are ignored, its layout may be similar to either the zero lot line or duplex (twin house); thus, it may be built either as a detached or semi-detached dwelling. The patio home appeals to those who want privacy without the maintenance of a larger yard. See drawing labeled "patio house," "lot line house," and "twin house" at the back of this Code.

**Pendant sign:** An auxiliary or supplementary sign, affixed or hung below another and supplementing the main sign. These signs are used to indicate "vacancy," "air conditioned," "credit cards accepted," and similar messages.

**Permanent On-Site Storage Containers (POSSC):** POSSCs include, but are not limited to, Sea-Trains, Hapag-Lloyd containers, Transportainers, Land-Sea containers, Conex boxes, PODS, or any other portable storage container designed and constructed as a standardized, reusable vessel intended to be loaded on a truck, rail car or ship and modified to be used for storage purposes on any property within the City in accordance with the provisions contained herein.

**Personal Service Establishments:** An establishment in which a person performs a type of labor, act or work that results in a specialized aid or assistance directly to the personal needs of ultimate consumers. The type of specialized aid or assistance provided by a personal service establishment includes the following: beauty and barber services; garment mending, alteration and related minor pressing services; laundry and dry cleaning pick-up services; self-service or coin-operated laundromat services; fur repair and storage services; shoe shining, shoe repair and hat cleaning services; watch, clock and jewelry repair services; and commercial photographic services. Personal service establishments do not include laundry and dry cleaning plants.

**Personal Services:** those business activities usually conducted in a commercial zoning district customarily providing services rather than goods to individuals. Such uses include beauty salons (including tanning and nails), barbershops, daytime spas, caterers, mailing services, dry cleaning drop off point, notary public, gyms and fitness centers, weight loss centers, sports lesson centers; dance, art and music studios; learning centers, and other similar, compatible or ancillary uses.

**Pervious Paving Materials:** A porous asphaltic, concrete or other surface and a high-void aggregate base which allows for rapid infiltration and temporary storage of rain on, or runoff delivered to, paved surfaces.

**Planned Unit Development (PUD)/Planned Development Project (PDP):** A form of development characterized by a unified site design for a number of housing units, clustering buildings, and providing common open space, density increases, and a mix of building types and land uses. It permits the planning of a project and the calculation of densities over the entire development, rather than on an individual lot-by-lot basis. Also, a process in which public officials have considerable involvement in determining the nature of development through site plan review. It includes aspects of both subdivision and zoning regulation and usually is administered either through a special permit or a rezoning process.

**Planned Development Project:** A complex of structures and uses planned as an integral unit of development rather than as a single principal structure or use on a single lot. A planned-development project may include a subdivision, but a subdivision need not be construed to be a planned-development project.

**Planning and Zoning Commission:** The zoning commission for the City of Bartow, Florida.

**Plant Bed:** A grouping of trees, shrubs, ground covers, perennials or annuals growing together in a defined area devoid of turfgrass, normally using mulch around the plants.

**Plant Communities:** An association of native plants that are dominated by one or more prominent species, or a characteristic physical attribute.

**Planting Plan:** Specifications and installation details for plant materials, soil amendments, mulches, edging, gravel, and other similar materials.

**Plat:** A map, plan or chart of a tract of land or property which is drawn to scale and shows the existing or proposed location of boundary lines, buildings, structures, uses or any other required data or information.

**Point of Connection (POC):** The location where an irrigation system is connected to a water supply.

**Pole mounted sign:** A sign erected upon a pole or poles and which is wholly independent of any building or other structure for support, and which has ground clearance of at least ten feet.

**Pop-up Sprays:** Spray heads that pop up with water pressure and provide a continuous spray pattern throughout a given arc of operation.

**Portable sign:** Any sign which is manifestly designed to be transportable, including transportation by trailer or on its own wheels, even though the wheels on such sign may be removed and the remaining chassis or support, constructed without wheels, is converted to an "A" or "T" frame, or attached temporarily or permanently to the ground, since this characteristic is based on the design of such a sign. It is a characteristic of such a portable sign that the space provided for advertising matter may consist of a changeable copy sign. Signs which are affixed to vehicles which are parked longer than one hour in a 24-hour period shall be a portable sign. These signs are prohibited in Bartow, Florida.

**Potable Water:** Water suitable for human consumption and that meets water quality standards determined by the Department of Health and Rehabilitative Services, provided through a public system or by private well.

**Potable Water Facilities:** A system of structures designed to collect, treat, or distribute potable water, and includes water wells, treatment plants, reservoirs, and distribution mains.

**Potable Water Wellfield:** The site of one or more water wells which supply potable water for human consumption to a water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

**Premises:** A lot or other tract of land under one ownership and all the structures on it.

**Pressure Tank:** A pressurized holding tank for irrigation water coming from wells to minimize cycling of the water pump.



**Principal Arterial:** A route that is relatively continuous, of high traffic volume, of long average trip length, of high operating speed, of limited access to adjacent property and of high mobility importance. Such roads are designated on the Future Traffic Circulation Map of the City of Bartow Comprehensive Plan.

**Principal Building:** The building in which is conducted the principal use of the lot on which it is situated. Construction trailers or manufactured homes, used as offices, are not considered principal buildings.

**Property Line:** The recorded boundary of a lot or other tract of land under one ownership.

**Public Buildings and Grounds:** Structures or lands that are owned, leased, or operated by a government entity, such as civic and community centers, hospitals, libraries, police stations, fire stations, and government administration buildings.

**Public Facilities:** Transportation systems or facilities, sewer systems or facilities, solid waste systems or facilities, stormwater management systems or facilities, potable water systems or facilities, educational systems or facilities, parks and recreation systems or facilities and public health systems or facilities.

**Public Hurricane Shelter:** A structure designated by local emergency management officials and the American Red Cross as a shelter during a hurricane. (§308.032 F.S.)

**Public Library:** A building containing printed information, electronic information, and pictorial material for the public use and purpose of study, reference, and recreation.

**Public Offices:** A building occupied on a rental, lease or similarly obtained basis by the city, county, state or federal government or legally empowered special governmental district, but not owned by such governments, in which public officials and employees direct the administrative and executive functions and affairs of government.

**Public (Supply) Sanitary Sewer Facilities:** Sanitary sewer facilities which serve at least 15 service connections, or regularly serves at least 25 residents. Generally, a multi-user septic tank is not a public sanitary sewer facility.

**Public Service Structures:** Any structure, excluding buildings for general administrative, executive, studio, warehousing or storage functions or general maintenance operations, that is necessary for the operation and maintenance of a utility that is regulated or controlled by the city, county, state or federal government or legally empowered special governmental district, but not owned and operated by such government. Public service structures include the following: railroad tracks and related appurtenances; telephone and telegraph transmission lines, towers and related appurtenances; radio broadcasting, television transmission towers and related appurtenances; water and sanitary sewer distribution and collection mains, lines and related appurtenances; and electric, gas, petroleum and steam transmission lines, pipes, towers, transformers, meters, substations and related appurtenances.

**Public Supply Potable Water Wellfield:** A potable water wellfield that serves a public supply water system.

**Public Supply Water System:** A potable water facility which serves at least 15 service connections, or regularly serves at least 25 residents.

**Public Transportation Terminals:** An establishment engaged in passenger transportation by railway, highway, water, or air, or furnishing services related to transportation, including maintenance facilities and/or freight transportation provided such maintenance facilities and/or freight transportation is incidental and accessory to the principal passenger transportation services.

**Publishing and Printing Service Establishments:** An establishment in which a person performs a type of labor, act or work that results in newspaper publishing and printing and/or specialized aid and assistance performed as a customer service including the following: duplicating, mailing and stenographic services; blueprinting and photocopying services; commercial and job printing services.

**Pump Cycling:** Irrigation pump coming on and shutting off frequently during operation of irrigation systems.

**Purchase of Development Rights:** The acquisition of a governmentally recognized right to develop land which is severed from the realty and held or further conveyed by the purchaser.

**Rain Sensor Device:** A low voltage electrical or mechanical component placed in the circuitry of an automatic irrigation system that is designed to turn off a sprinkler controller when precipitation has reached a pre-set quantity.

**Reader Board:** A sign which incorporates as part or in whole, non-electronic changeable copy.

**Real estate sign:** A sign erected by the owner, or his agent, indicating property which is for rent, sale or lease.

**Recharge Areas:** Geographic areas where the aquifer system is replenished through rainfall. Areas of high aquifer recharge are important for the continuation of potable ground water supplies.

**Reclamation:** The alteration and/or restoration of land, after a mining activity, establishing land suitable for agriculture, development, recreation, lakes, wetlands, or other natural environments.

**Reclamation Plan:** Plan for the rehabilitation, per Chapter 378, F.S., of land from which a mineral resource has been extracted.

**Recreation:** The pursuit of leisure time activities occurring in an indoor or outdoor setting.

**Recreation Facility:** A component of a recreation site used such as a trail, tennis court, basketball court, athletic field, golf course or swimming pool.

**Recreation Uses, indoor, public:** Indoor recreation uses include areas for recreation activities including, but not limited to, aquariums, day or youth camps, community or recreation centers, gymnasiums, libraries or museums, indoor skating rinks, indoor swimming pools, indoor tennis, racquetball, handball courts, and all other institutional, indoor recreation.

**Recreation Uses, indoor commercial:** This category consists of uses that share land use characteristics such as traffic-generation rates and bulk (buildings) requirements. These uses include but are not limited to, bowling alleys, dance studios, schools for martial arts, physical fitness centers, private clubs or lodges, movie theater, theaters and auditoriums, and indoor skating rinks.

Recreation Uses, outdoor, public: Outdoor recreation uses include areas for recreation activities including, but not limited to, arboretums, basketball courts, boat launching ramps, areas for cycling, hiking, and jogging, golf courses (regulation or par 3), outdoor nature areas, parks (public or private), picnic areas, playfields, playgrounds, commercial stables, outdoor swimming pools and springs, tennis courts, totlots, wildlife sanctuaries, and all other outdoor recreation uses. Specifically excluded are outdoor movie theaters, firing ranges, miniature golf courses, golf driving ranges, and marinas.

Recreation Uses, outdoor commercial: This group includes recreation uses that are greater nuisances than conventional outdoor recreation activities because of their size and scale, traffic volumes, noise, lights, or physical hazards such as flying objects or use of weapons. These uses include, but are not limited to, amusement parks, drive-in theaters, fairgrounds, golf driving ranges (including miniature golf), marinas, outdoor theaters (or amphitheaters), race tracks (e.g., auto, dog, go-cart, harness, horse, motorcycle), ranges (skeet, rifle, or archery), sport arenas, and all other outdoor commercial recreation uses.

Recreation Vehicle (RV): A unit primarily designed as temporary living quarters for recreation, camping, or travel use, that either has its own motive power or is mounted on or drawn by another vehicle. The basic entities of recreation vehicles are: travel trailer, fifth-wheel travel trailer, camping trailer, truck camper, motor home, private motor coach, van conversion, and park model RV/park trailer. (s. 320.01, FS)

Recreation Vehicle (RV) Campgrounds: A development designed specifically to accommodate recreation vehicles for overnight or limited vacation-season stays.

Recreation Vehicle (RV) Parks: A development designed specifically to accommodate recreation vehicles in which recreation vehicles and/or "park model" manufactured homes are permanently sited and occupied year round.

Recreation Vehicle Unit: Those units primarily designed as temporary living quarters for recreation, camping or travel use, that either have their own mode of power or are mounted on or drawn by another vehicle

1. "Travel trailer": A vehicular portable unit mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a motorized vehicle. It is primarily designed and constructed to provide temporary living quarters for recreation, camping, or travel use. It is of a body width, not more than eight feet and a body length of no more than thirty-five feet when factory equipped.
2. "Camping trailer": A vehicular portable unit mounted on wheels and constructed with collapsible partial sidewalls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreation, camping or travel use.
3. "Truck camper": A portable unit, designed to be loaded onto, or affixed to, the bed or chassis of a truck, constructed to provide temporary living quarters, for recreation, camping, or travel use.
4. "Motor home": A vehicular unit built on a self-propelled motor vehicle chassis, primarily designed to provide temporary living quarters for recreation, camping or travel use. For the purposes of this Code, motor home shall NOT refer to "mobile home" or "manufactured home".
5. "Park Model RV/Mobile Home": See Park Model RV (Park Trailer).

**Redevelopment:** A reconstruction, alteration of the size, a change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units, or demolition of a structure on a parcel of land.

**Rehabilitation:** A material change in the external appearance of a structure or property, including the repair and replacement of parking facilities, building facades, stormwater management facilities and other site features that contribute to the functional appearance of the property.

**Religious Establishments:** A building occupied by a religious organization operated for worship and related activities.

**Research, Development and Testing Laboratories:** An establishment engaged in research, development and testing.

**Residential Mixed Use:** A mixed-use category that encourages combinations of non-residential uses on lower floors with residential units above. The intent of this category is to encourage redevelopment of selected downtown and neighborhood commercial areas by mixing uses and reducing parking requirements. It is pedestrian-oriented and contains elements of a live-work-play environment. It maximizes space usage, has amenities and architectural expression and tends to mitigate traffic and sprawl.

**Residential Uses:** Activities within land areas used predominantly for housing.

**Resource Recovery:** The process of recovering materials or energy from solid waste, excluding those materials or solid waste under control of the Nuclear Regulatory Commission. (s. 171.031 F.S.)

**Restaurant:** An eating and drinking establishment designed to serve customers foods and beverages which are consumed within the confines of the principal building itself.

**Right angle sign:** A sign attached to the exterior wall of a building, at right angles to the building, and is supported by the building. A right angle sign shall be hung so as to leave a seven foot clearance beneath it.

**Right of Way:** Land in which the state, a county, or a municipality owns the fee simple title or has an easement dedicated or required for a transportation or utility use. (334.03 FS)

**Roadway:** A road, that includes streets, sidewalks, alleys, highways, and other ways open to travel by the public, including the roadbed, right-of-way, and all culverts, drains, sluices, ditches, water storage areas, waterways, embankments, slopes, retaining walls, bridges, tunnels, and viaducts necessary for the maintenance of travel and all ferries used in connection therewith. (§334.03(18) FS)

**Roadway Functional Classification:** The assignment of roads into categories according to the character of service they provide in relation to the total road network. Basic functional categories include limited access facilities, arterial roads, and collector roads, that may be subcategorized into principal, major or minor levels. Those levels may be further grouped into urban and rural categories. (334.03 FS)

**Roof sign:** A sign erected over or on the roof, or extending above the roof line, which is dependent upon the roof, parapet or upper walls of any building, or portion thereof, for support.

**Runoff:** Water that is not absorbed by the soil or landscape and flows from the area.

Rural Areas: Low density areas characterized by social, economic and institutional activities which may be largely based on agricultural uses or the extraction of natural resources in unprocessed form, or areas containing large proportions of undeveloped, unimproved, or low density property.

Rural Village or Rural Activity Center: A small, compact node of development within a rural area containing development, uses and activities which are supportive of and have a functional relationship with the social, economic and institutional needs of the surrounding rural areas.

Sandwich or sidewalk sign: A moveable sign not secured or attached to the ground. This type sign is considered to be a temporary sign and, in addition, must be located on the premises.

Sanitary Landfill: includes the following types of facilities:

- a) Class I Sanitary Landfill: a disposal facility which receives an average of 20 tons or more per day, if scales are available, or 50 cubic yards or more per day of solid waste, as measured in place after covering, and which receives an initial cover daily. Such sites shall receive an initial cover at the end of each working day in accordance with FAC Rule 17-701.050(6)(m). (S. 171.031 F.S. and Rule 17.050, FAC)
- b) Class II Sanitary Landfill: a disposal facility which receives an average of less than 50 cubic yards per day of solid waste, as measured in place after covering, and which receives an initial cover at least once every 4 days. Such sites shall receive an initial cover at least once every four days. If Class II sites receive sewage or industrial sludge, dead animals, rendering wastes, or other nuisance wastes, Class I covering frequency shall be required. (S. 171.031 F.S. and Rule 17.050, FAC)
- c) Class III Sanitary Landfill: a disposal facility which receives only trash or yard trash. Class III sites which are operated as trash facilities, based on site specific information, may be exempt from the liner and leachate and gas controls required in FAC Rule 17-701.050(5)(a), (b), (c), (d), (e), (f), (i), (j), and 6(i), and are required to apply initial cover once every week. In determining whether a Class III landfill qualifies for the exemptions from certain requirements of Rule 17-701.050, the FDEP shall consider the hydrogeology, types of waste, and methods used to control types of waste received for disposal. Class III sites which are operated as yard trash composting facilities are not required to apply initial cover and, additionally, are exempt from FAC Rules 17-701.050(3)(a) and (b), (4), (5), and (6)(a), (c)4., (d), (f), (h), (i), (j), (k), (l), (m), (n), and (o). If trash or yard trash is mixed with other types of solid waste, the disposal site shall be classified as a Class I or II landfill. (Rule 17.050, FAC).

Sanitary Sewer Facilities: Structures or systems designed for the collection, transmission, treatment, or disposal of sewage and includes trunk mains, interceptors, treatment plants and disposal systems.

SAP: Selected Area Plan.

Screen Rooms/Porches: A nonhabitable structure consisting of roof panels, attached to the principal structure. Such room shall be open and unenclosed on the projecting three (3) sides, supported by columns. The columns may only support screen mesh, solid kick panels up to twenty- four (24) inches in height above the floor of the room and/or vinyl panels which are seasonal, nonpermanent and removable.

Seasonal Population: Part time inhabitants who utilize, or may be expected to utilize, public facilities or services, but are not residents. Seasonal population shall include tourists, migrant farmworkers, and other short term and long term visitors. (163.3164 FS)

**Secondhand Stores:** An establishment engaged in the retail selling of used merchandise and goods including clothing, furniture, books and similar miscellaneous used merchandise and goods. Secondhand stores may include repair departments.

**Selected Area Plan (SAP):** A detailed, integrated land use plan for an area of the City that includes a future land use map overlay with objectives and policies establishing the mix of land uses, the densities and intensities of the land uses, a capital improvements plan for roads, potable water, sanitary sewer and parks and recreation facilities. The purposes of the SAP are to incorporate features that discourage the proliferation of urban sprawl, promote urban design criteria, establish landscaping requirements, identify the hierarchy of road networks, protect natural, historical and archaeological resources, and preserve useable open space.

**Septic Tank:** A watertight receptacle constructed to promote separation of solid and liquid components of wastewater, to provide limited digestion of organic matter, to store solids, and to allow clarified liquid to discharge for further treatment and disposal in a soil absorption system. (§10D-6 FAC)

**Services:** The programs and employees determined necessary by local government to provide adequate operation and maintenance of public facilities and infrastructure as well as those educational, health care, social and other programs necessary to support the programs, public facilities, and infrastructure set out in the local plan or required by local, state, or federal law.

**Service Center:** Multi-business facility under one ownership, i.e. Wal-Mart.

**Service Station:** See Minor Automotive Repairs.

**Setback:** The distance between a street right of way line and the front building line of a principal building or structure, projected to the side lines of the lot, and including driveways and parking areas except where otherwise restricted by this ordinance.

**Sign:** A structure or apparatus designed and erected for the purpose of showing directions, giving information or advertising a business location.

**Sign area:** The area enclosed by a perimeter line encompassing all the items of information in a sign or the area of a sign face.

**Sign area for wall signs consisting of individual cutout letters:** The total area of the imaginary rectangles contiguous to and surrounding each word. The horizontal separation of words shall not exceed twice the maximum letter height. The maximum vertical separation of words shall not exceed 60% of the maximum letter height.

**Sign, Community Banner:** Means a temporary sign located on City banner poles, which advertises an event that would provide civic, cultural, educational, philanthropic, or service opportunities hosted or promoted by the City or a community group that is not-for-profit or non-profit and non-political with appropriate state and federal tax designations.

**Sign face:** The part of the structure that is intended primarily for or can be utilized for communication purposes.

**Site:** The location of a significant event, activity, building, structure, or archaeological resource.

**Site Appropriate Plant:** A plant that after establishment will thrive within the environmental conditions that are normal for a specific location without artificial supplements such as irrigation.

**Site Development Plan:** A plan, to scale, showing uses and structures proposed for a parcel of land. It includes lot lines, streets, building sites, reserved open spaces, buildings, major landscape features; both natural and man-made; the locations of proposed utility lines; and, other pertinent information, per Section 7.04.00 of this Code.

**Site Plan Review:** The process whereby local officials review the site plans and maps of a developer to assure that they meet the stated purposes and standards of land development regulations, provide for the necessary public facilities, and protect and preserve topographical features and adjacent properties through appropriate siting of structures and landscaping.

**Sleeping Room:** A single room rented for living purposes but without cooking facilities or other amenities for separate and independent housekeeping. A sleeping room shall not be construed to mean a dwelling or sleeping unit.

**Sleeping Unit:** A single room or suite intended for occupancy by transient persons which are lodged with or without meals for compensation. A sleeping unit shall not be construed to mean a dwelling unit.

**Snipe sign:** A sign which is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes, or fences, or to other objects with the message appearing thereon not applicable to the present use of the premises or structures upon which the sign is located.

**Soil Moisture Sensor:** See Moisture Sensing Device.

**Soil Texture:** The classification of soil based on the percentage of sand, silt, and clay in the soil.

**Solid Waste:** Sludge from a waste treatment works, water supply treatment plant, or air pollution control facility or garbage, rubbish, refuse, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. (403.703 FS)

**Solid Waste Facilities:** Structures or systems designed for the collection, processing or disposal of solid wastes, including hazardous wastes, and includes transfer stations, processing plants, recycling plants, and disposal systems.

**Solid Waste Processing Plant:** A facility for incineration, resource recovery, or recycling of solid waste prior to its final disposal.

**Solid Waste Transfer Station:** A facility for temporary collection of solid waste prior to transport to a processing plant or to final disposal.

**Special Exception Use:** A use which is essential to or would promote the public health, safety, or welfare in one or more districts, but which would impair the integrity and character of the district in which it is located, or in adjoining districts unless restrictions or conditions on location, size, extent and character of performance are imposed in addition to those imposed in this ordinance. No use shall be approved under this definition unless specifically listed as a special exception for a particular district in Section 2.02.01.

**Special Transportation Services:** A means of transportation provided on a subsidized basis to transportation disadvantaged individuals by a public, private or non-profit organization, such as a bus company, a taxicab company, or a social service organization.

**Stormwater:** The flow of water that results from a rainfall event. (62-40.210 FAC)

Stormwater: Surface runoff and drainage of water, resulting from rainfall. (City of Bartow)

Stormwater Basin (formerly Drainage Basin): The area defined by topographic boundaries which contributes stormwater to a watershed, drainage system, estuarine waters, or oceanic water, including all areas artificially added to the basin.

Stormwater Detention Structure (formerly Drainage Detention Structure): A structure which collects and temporarily stores stormwater for the purpose of treatment through physical, chemical or biological processes with subsequent gradual release of the stormwater.

Stormwater Management Facilities: Manmade structures that are part of a stormwater management system designed to collect, convey, hold, divert, or discharge stormwater, and may include stormwater sewers, canals, detention facilities and retention facilities.

Stormwater Management Retention Structure (formerly Drainage Retention Structure): A structure designed to collect and prevent the release of a given volume of stormwater by complete on-site storage.

Street: A public access way 20 feet or more in width dedicated or otherwise having legal sanction for unlimited public use, includes the terms road, avenue, lane, boulevard, thoroughfare, highway, place, way, drive, and terrace.

Structure: Anything constructed, installed, or portable, the use of which requires a location on a parcel of land. It includes a movable structure while it is located on land that can be used for housing, business, commercial, agricultural, or office purposes either temporarily or permanently. Structure also includes fences, billboards, swimming pools, poles, pipelines, transmission lines, tracks, and advertising signs. (§380.031 F.S.)

Subdivision: The platting of real property into two or more lots, parcels, tracts, tiers, blocks, sites, units, or any other division of land; and includes establishment of new streets and alleys, additions, and re-subdivisions; and, when appropriate to the context, relates to the process of subdividing or to the lands or area subdivided.

Subdivision sign: A sign identifying a recorded subdivision.

Sufficiency Review: Department of Economic Opportunity (DEO) review of an adopted evaluation and appraisal report to determine whether it has been submitted in a timely fashion and whether it contains components in accordance with the prescribed criteria in Section 163.3191, F.S.

Surfaced in a Stable Manner: The term "surfaced in a stable manner" shall mean hard penetration type asphalt or concrete with proper drainage and precluding excessive glare in a manner approved by the administrative official; except that areas of parking facilities utilized for parking spaces, excluding moving aisles, access roads and off-street parking appurtenances may be surfaced with materials such as wood chips, gravel, wood bark, synthetic materials, open web concrete blocks and other means; provided, however, the grade preparation and sub-grade has not more than four-tenths percent grade and base soil will provide percolation.

SWFWMD: The Southwest Florida Water Management District.

Swinging sign: A sign hanging from the underside of an awning or canopy, which may not extend beyond the awning or canopy. Such sign will generally be permitted in the Historic Downtown District, as signage for buildings with zero lot line setbacks.



Tea-room: Shall mean a room or shop where tea, refreshments and meals are served.

Temporary Portable Storage Container (TPSC). A purpose-built, fully enclosed, box-like container with or without signage on one or more of its outer surfaces that is designed for temporary storage of household goods and/or equipment. Such containers are uniquely designed for ease of loading to and from a transport vehicle.

Temporary sign: Any sign intended for a use not permanent in nature. For the purposes of the sign chapter, Article 4, any sign with an intended use of 12 months or less shall be deemed a "temporary sign."

Tire and Automotive Accessory Establishments: An establishment engaged in the selling of automobile tires, batteries and other new automobile parts and accessories, including installation of the automotive accessories sold on the premises provided such activities are incidental and accessory to the principal selling of tires and automotive accessories.

Town House: A design term, referring to the physical form of more than two single-family attached homes with a ground floor entry. A single-family dwelling unit forming one of a group of two (2) attached single-family dwellings, each built upon an individual plot, separated by fire or party walls, which do not permit passage or visibility between such units, with separate utilities and services provided for each unit. In a Planned Unit Development (PUD), a town house may be a detached single-family dwelling utilizing a zero yard set-back on one side. See the drawing labeled "town house" and "weak-link town house" at the back of this Code.

Transfer of Development Rights: A governmentally recognized right to use or develop land at a certain density, or intensity, or for a particular purpose, which is severed from the realty and placed on some other property.

Turf and/or Turfgrass: A mat layer of monocotyledonous plants such as Bahia, Bermuda, Centipede, Paspalum, St. Augustine, and Zoysia.

25-Year Frequency, 24-Hour Duration Storm Event: A storm event and associated rainfall during a continuous 24-hour period that may be expected to occur once every 25 years. Its associated floodplain is that land which may be expected to be flooded during the storm event.

Urban Areas: An area of or for development characterized by social, economic and institutional activities which are predominantly based on the manufacture, production, distribution, or provision of goods and services in a setting which typically includes residential and nonresidential development uses other than those which are characteristic of rural areas.

Urban Sprawl: Urban development or uses which are located in predominantly rural areas, or rural areas interspersed with generally low-intensity or low-density urban uses, and which are characterized by one or more of the following conditions: (a) The premature or poorly planned conversion of rural land to other uses; (b) The creation of areas of urban development or uses which are not functionally related to land uses which predominate the adjacent area; or (c) The creation of areas of urban development or uses which fail to maximize the use of existing public facilities or the use of areas within which public services are currently provided. Urban sprawl is typically manifested in one or more of the following land use or development patterns: leapfrog or scattered development; ribbon or strip commercial or other development; or large expanses of predominantly low-intensity, low-density, or single-use development. Primary indicators that a plan or plan amendment does not discourage the proliferation of urban sprawl are listed in 163.3177 FS.

Use: Use refers to the activities which take place on any land or premises and also refers to the structures located thereon and designed for those activities.

**Utility/ Light Pole Structures:** A utility transmission pole or structure, or a pole integrated into such structure, a lighting pole or structure, or any other such pole-like structure which, in addition to its utility or lighting function, can support one or more antennas.

**Valve:** A device used to control the flow of water in the irrigation system.

**Variance:** A modification of the zoning ordinance regulations when such variance will not be contrary to the public interest, and when, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. A variance is authorized only for height, area, size of structure or size of yards and open spaces, or other dimensional requirements. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance nor shall the variance be granted because of the presence of nonconformities in the zoning district or classification or in the adjoining zoning districts or classifications.

**Vegetative Communities:** Ecological communities, such as coastal strands, oak hammocks, and cypress swamps, that are classified based on the presence of certain soils, vegetation and animals.

**Vehicular Use Area:** Any ground surface area (paved or unpaved) used for storage, display, temporary parking and/or maneuvering of vehicles by employees or customers, either for compensation or to provide an accessory service to a commercial, industrial or residential use, excluding single-family and duplex residences.

**Very-low Income Persons:** One or more natural persons or a family, not including students, the total annual adjusted gross household income of which does not exceed 50 percent of the median annual adjusted gross income for households within the State or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical areas (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater. For the City of Bartow, the median income of Polk County is used. (420.004, F.S.)

**Vested Right:** A right is vested when it has become absolute and fixed and cannot be defeated or denied by subsequent conditions or change in regulations, unless it is taken and paid for. There is no vested right to an existing zoning classification or to have zoning remain the same forever. However, once development has been started or has been completed, there is a right to maintain that particular use regardless of the classification given the property. In order for a nonconforming use to earn the right to continue when the zoning is changed, the right must have vested before the change. If the right to complete the development was not vested, it may not be built, no nonconforming use will be established, and the new regulations will have to be complied with.

**Veterinarian and Animal Hospital Service Establishments:** An establishment in which a person performs a type of labor, act or work that results in the medicine, dentistry, or surgery or similar animal hospital and veterinarian services. Veterinarian and animal hospital service establishments do not include animal specialty farms.

**Wall sign:** See Building mounted sign.

**Water Recharge Areas:** Land or water areas through which groundwater is replenished.

**Water Use Zone:** See "Hydrozone".

**Water Wells:** Wells excavated, drilled, dug, or driven for the supply of industrial, agricultural or potable water for general public consumption.

**Waters of the United States:** As defined by the U.S. EPA in Title 40, Section 122 of the Code of Federal Regulations or any modification or derivative thereof.

**Wellhead Protection Area:** An area designated by local government to provide land use protection for the groundwater source for a potable water wellfield, as defined in this code, including the surface and subsurface area surrounding the wellfield. Differing levels of protection may be established within the wellhead protection area commensurate with the capacity of the well and an evaluation of the risk to human health and the environment. Wellhead protection areas shall be delineated using professionally accepted methodologies based on the best available data and taking into account any zones or contribution described in existing data.

**Wetlands:** Those areas that are inundated or saturated by surface water or ground water at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial, or possess characteristics that are associated with reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These species, due to morphological, physiological, or reproductive adaptations, have the ability to grow, reproduce or persist in aquatic environments or anaerobic soil conditions. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an under story dominated by saw palmetto. Wetlands as used in this rule has the meaning as defined in Subsection 373.019, F.S. (and repeated here) and as further described by the delineation methodology in Section 373.4211, F.S.

**Wholesale and Storage Establishments:** An establishment engaged in the wholesaling of merchandise, products or materials in bulk quantities; or where merchandise, products or materials are stored or held for safekeeping until later disposal or distribution.

**Window sign:** A sign located on a window or within a building or other enclosed structure which is visible from the exterior through a window or other opening intended to attract the attention of the general public.

**"Xeriscape™" or "Florida-friendly Landscape":** Quality landscapes that conserve water and protect the environment; are adaptable to local conditions; and which are drought tolerant. The principles of Xeriscape™ include planning and design, appropriate choice of plants, soil analysis which may include the use of solid waste compost, efficient irrigation, practical use of turf, appropriate use of mulches, and proper maintenance. (Ref. 373.185 F.S.)

**Yard:** The open space surrounding the principal building on any lot, unoccupied and unobstructed by any portion of that building except where specifically permitted by this ordinance. Yards are further defined as follows:

- a. **Front yard:** That portion of the yard extending the full width of the lot and measured between the front lot line and a parallel line tangent to the nearest part of the principal building, which line shall be designated as the front yard line.

- b. Rear yard: That portion of the yard extending the full width of the lot and measured between the rear lot line and parallel line tangent to the nearest part of the principal building.
- c. Side yards: Those portions of the yard extending from the front yard to the rear yard and measured between the side lot lines and parallel lines tangent to the principal building; provided, however, that overhanging eaves may extend two (2) feet into the required side yard.

Zero Lot Line Development: A single family detached unit which instead of being centered on the lot, is placed against one of the side lot lines. This makes the side yard usable and requires less land than a house centered on its lot. The front yard, which is seldom used, may be substantially reduced. The intent is to allow more flexibility in site design and to increase the amount of usable open space on the lot. See the drawing labeled "lot line house" in the back of this Code.

Zoning Permit: A permit, required by appropriate authority under the provisions of this ordinance, which authorizes the excavation, construction or alteration of a structure and is required prior to such construction or alteration, except for recurring maintenance work regardless of cost or the installation of required improvements according to an approved preliminary subdivision plat or an approved preliminary development plat including planned-development projects and special exception uses.

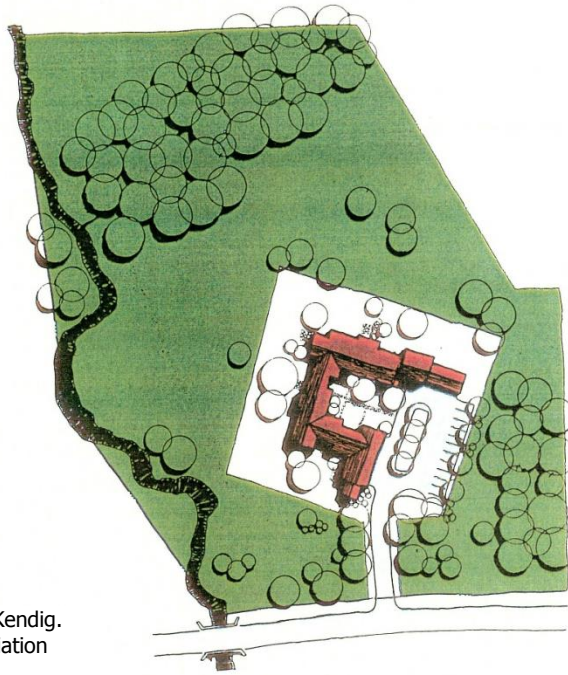
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APPENDIX A  
DEFINITION ILLUSTRATIONS

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## Apartments

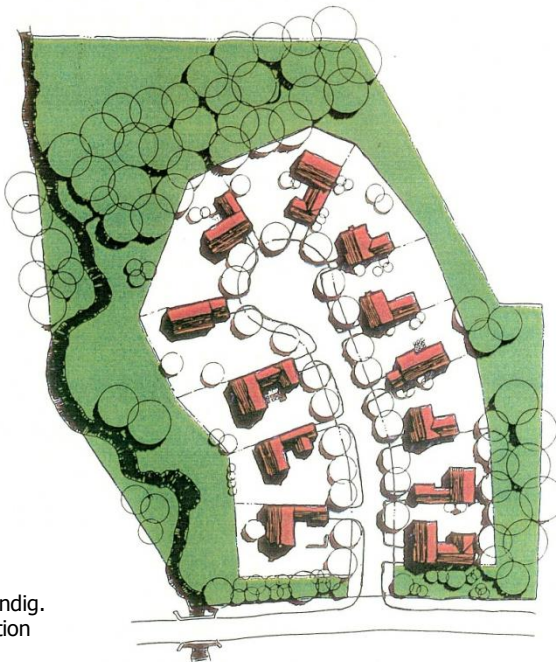
Apartments are multi-family housing. Dwelling units share a common outside access. Ownership is not a factor in this type of unit, which may be either rental or condominium. Apartments, appeal to single individuals and families without children.



Drawing by Performance Zoning – Lane Kendig.  
Planners Press, American Planning Association  
Washington D.C. 1980

## Patio House

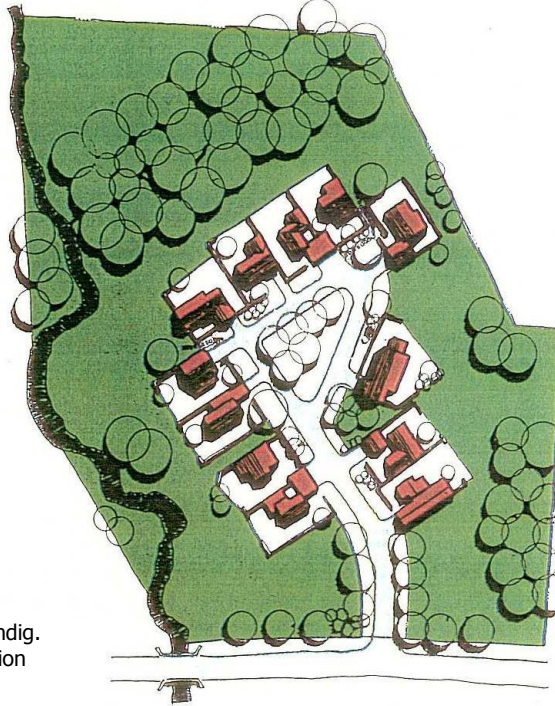
The lot-line house is a single-family detached unit which, instead of being centered on the lot, is placed against one of the side lot lines. This makes the side yard usable and requires less land than a house centered on its lot. The front yard, which is seldom used, may be substantially reduced.



Drawing by Performance Zoning – Lane Kendig.  
Planners Press, American Planning Association  
Washington D.C. 1980

## Patio House

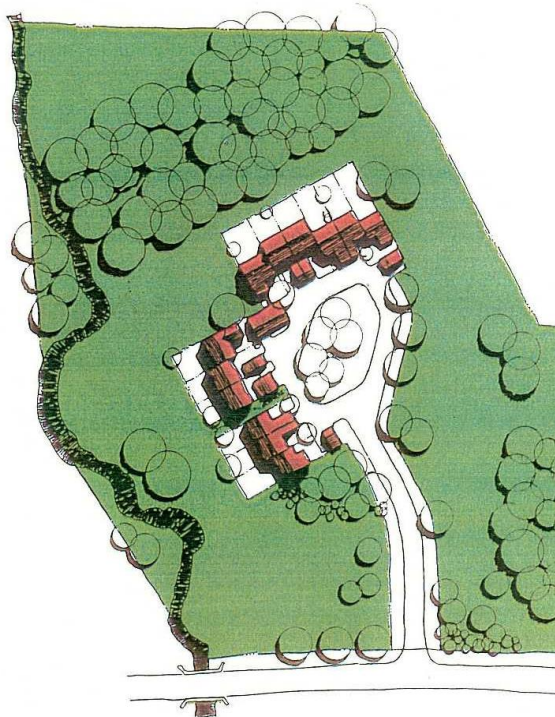
The patio house is a single-family detached or semi-detached unit. It is built on a small lot enclosed by walls which provide privacy. If the walls are ignored, its layout may be similar to either the lot-line or twin house; thus, it may be built wither as a detached or semi-detached dwelling. The patio house appeals to those who want privacy without the maintenance of a larger yard.



Drawing by Performance Zoning – Lane Kendig.  
Planners Press, American Planning Association  
Washington D.C. 1980

## Town House

The town house is a form of single-family attached dwelling in which units share common side walls and are often designed in rows although good design attempts to deemphasize the "lined up" appearance. Yard areas are small, and privacy requires careful protection.

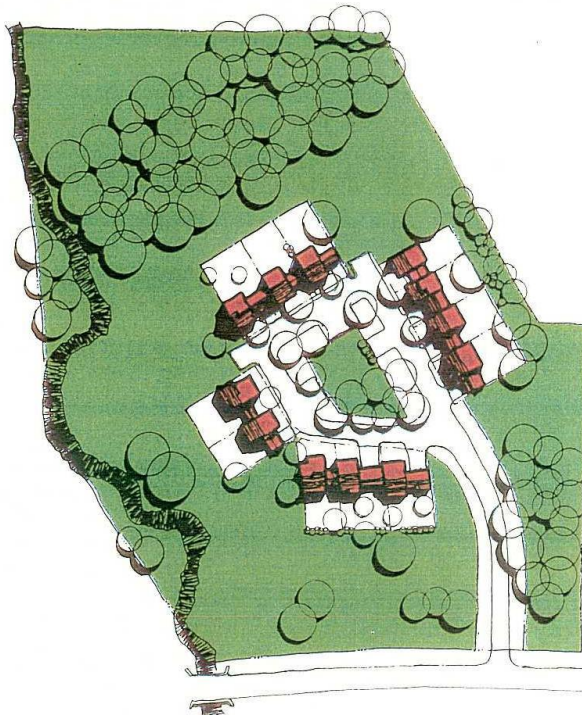


Drawing by Performance Zoning – Lane Kendig.  
Planners Press, American Planning Association  
Washington D.C. 1980



### Twin House

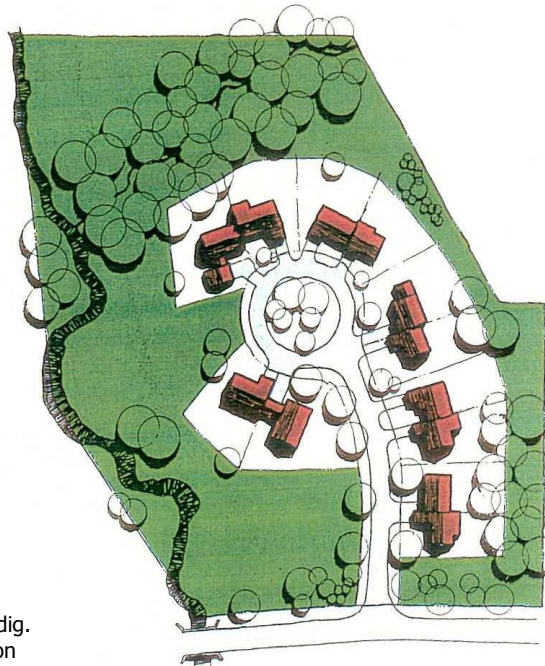
The single-family attached dwelling is a variation of the town house. It is distinguished by the fact that each unit has both a one-story and a two-story portion. The units are wider than conventional town houses and are on larger lots. They present a façade resembling single-family detached homes and therefore provide a greater sense of the individual unit identity.



Drawing by Performance Zoning – Lane Ke  
Planners Press, American Planning Association  
Washington D.C. 1980

### Twin House

The twin house is a semi-detached single family house, which is connected along a common party wall to a similar unit. Each structure has only two dwellings. Space is saved by elimination two side yards.



Drawing by Performance Zoning – Lane Kendig.  
Planners Press, American Planning Association  
Washington D.C. 1980

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APPENDIX B

BEST MANAGEMENT PRACTICES  
FOR CONSTRUCTION ACTIVITIES

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APPENDIX B  
BEST MANAGEMENT PRACTICES (BMPs) FOR CONSTRUCTION ACTIVITIES

All construction activities which are required by the U.S. Environmental Protection Agency to obtain a NPDES stormwater permit, including but not limited to Industrial, Commercial, Residential Communities, Utilities, Right-of-Way and Roadway Construction shall be required to utilize Best Management Practices (BMP's) in the control of stormwater and illicit discharges. An illicit discharge is any discharge to the Municipal Separate Storm Sewer System (MS4) or Waters of the U.S. that is not composed entirely of stormwater. BMP's shall be implemented as necessary to insure that discharges from all construction activities, including land clearing, are in compliance with water quality standards in Chapter 17-302, F.A.C. These BMP's shall be in accordance with the Florida Development Manual – A Guide to Sound Land and Water Management, Stormwater Management Practices, Chapter 6 – Stormwater and Erosion and Sediment Control/Best Management and the latest version of the FDOT standard specifications.

The following 14 specific items, as a minimum, must be addressed in a stormwater pollution prevention plan which shall be included in the plans and specifications submitted for City Approval on all construction sites:

1. EROSION AND SEDIMENT CONTROLS – An erosion and sediment control plan which minimizes erosion and retains sediment on site must be developed and implemented prior to any construction activity taking place at the site. All components of the plan shall be utilized, secured and properly maintained during the construction activities until the site has been stabilized. Details for the proper installation of silt fence and hay bales are provided at the end of this document.

All areas of exposed soil shall be stabilized with 72 hours of attaining final grade. Stabilization may be in the form of grass sodding, seeding and mulching or hydroseeding. Temporary stabilization should be provided to areas of bare soil, which will remain unworked for longer than a 14 day period.

2. EQUIPMENT MAINTENANCE AND REPAIR – Maintenance and repair of construction machinery or equipment should be confined to areas specifically designated for that purpose. Such designated areas shall be located and designed so that oils, gasoline, grease, solvents and other potential pollutants cannot be washed directly into receiving streams or stormwater conveyance systems. These areas must be provided with adequate waste disposal receptacles for liquids as well as solid waste. Maintenance areas should be inspected and cleaned routinely.

On a construction site where designated equipment maintenance areas are not feasible, exceptional care must be taken during each individual repair of maintenance operation to prevent potential pollutants from being washed into surface waters through conveyance systems.

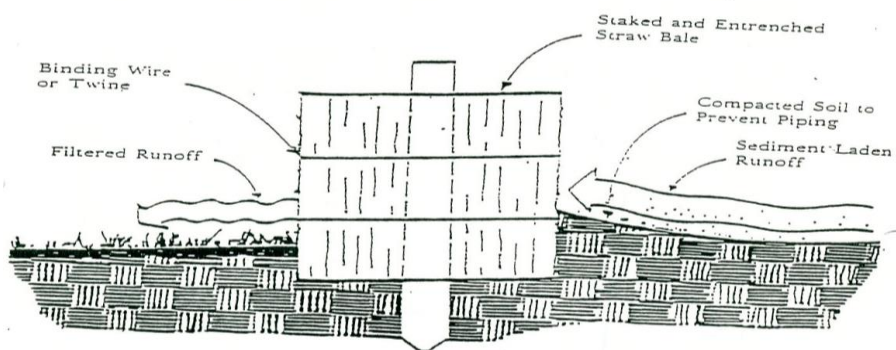
3. STORM SEWER SYSTEM PROTECTION – Storm Sewer Systems must be protected against any discharge other than stormwater during construction and may require suitable filtering devices during construction to keep settleable pollutants from entering conveyance systems.
4. WASTE COLLECTION AND DISPOSAL – A plan must be formulated for the collection and disposal of construction debris. Such a plan shall designate locations for trash and waste receptacles and establish a special collection schedule. Methods for ultimate disposal of waste should be specified and carried out in accordance with applicable local and state health and safety regulations. Special provisions shall be made for the collection and disposal of liquid wastes and toxic or hazardous materials.

Receptacles and other waste collection areas should be kept neat and orderly to the extent possible. Water shall not be allowed to overflow its container or accumulate for excessively long periods of time. Trash collection points must be located where they will least likely be affected by concentrated stormwater runoff.

5. WASHING AREAS – Vehicles such as concrete or dump trucks and other construction equipment shall not be washed at locations where the runoff will flow directly into lakes, wetlands, watercourse or stormwater conveyance systems. Special areas must be designated near the site entrance(s) and utilized for washing vehicles as specified under item 12. These areas should be located where the wash water will spread out and evaporate or infiltrate directly into the ground, or where the runoff can be collected in a temporary holding or seepage basin. Wash areas should have gravel or rock bases to minimize mud generation and include underdrains where infiltration basins are provided. Upon completion of the project the wash area should be graded and stabilized and any trash or waste collected and disposed of properly.
6. STORAGE OF CONSTRUCTION MATERIALS, CHEMICALS, ETC. – Fuel, chemicals, cements, solvents, paints. Topsoil or other potential water pollutants shall be stored in areas where they will not cause runoff pollution.

Toxic chemicals and materials, such as pesticides, paints and acids, must be stored in accordance with manufacturer's guidelines. Groundwater resources should be protected from leaching by placing a plastic mat, packed clay, tar paper, or other impervious materials on any areas where toxic liquids are to be opened or stored.

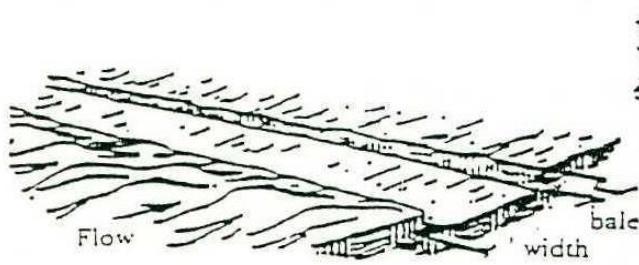
7. DEMOLITION AREA – Demolition projects usually generate large amounts of dust with significant concentrations of heavy metals and other toxic pollutants. Dust control techniques should be used to limit the transport of the airborne pollutants. However, water or slurry used to control dust should be retained on the site and not be allowed to run directly into lakes, wetlands, watercourses or stormwater conveyance systems.



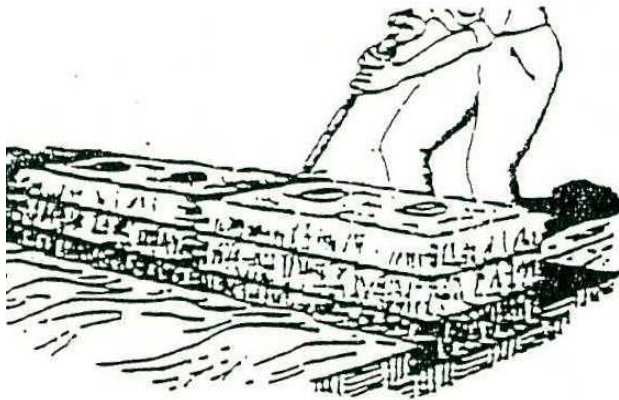
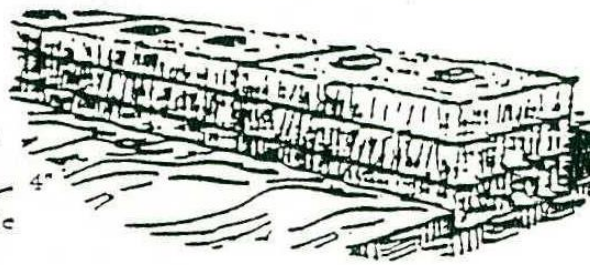
CROSS-SECTION OF A PROPERLY  
INSTALLED STRAW BALE

8. SANITARY FACILITIES – All construction sites should be provided with adequate sanitary facilities for worker in accordance with applicable health regulations.
9. PEST CONTROL – Pesticides used during construction should be stored and used in accordance with manufacturers' guidelines. Overuse should be avoided and great care should be taken to prevent accidental spillage. Pesticide containers should never be washed in or near waterbodies, wetlands, flowing streams or stormwater conveyance systems. Further guidelines for pesticide use control are contained in other standards available in the previous referenced Florida Development Manual.
10. DUST CONTROL – The use of calcium chloride, oils or other chemical dust control agents on construction sites should be avoided. Periodic watering of these areas is a preferred alternative however, water used to control dust should be retained on the site and not be allowed to run directly into waterbodies, wetlands, water courses or stormwater conveyance systems.
11. VEGETATIVE BUFFERS – Vegetative buffers are effective in controlling erosion and discharge of sediment. Natural site vegetation should remain undisturbed to the maximum extent possible. Site clearing should be to areas where construction is taking place. Re-vegetation of disturbed areas must be accomplished so as to stabilize all exposed soil surfaces within 72 hours of completion of construction in the area.
12. CONSTRUCTION SITES INGRESS/EGRESS – The contractor shall provide a designated construction ingress/egress road(s), consisting of, at a minimum, a stone stabilized pad. All vehicles entering and exiting the site shall be restricted to the designated ingress/egress road(s). If the action of the vehicle traveling over the stone pad is not sufficient to remove the majority of the mud, then the tires must be washed before the vehicle enters a public road. If washing is used, provisions must be made to intercept the wash water and trap the sediment before is carried off-site. The ingress/egress road should be used in conjunction with the stabilization of construction roads to reduce the amount of mud picked up by construction vehicles.
13. DEWATERING DISCHARGES – Discharges from de-watering activities must be controlled so as not to impair the quality of any receiving waterbodies. Treatment at the construction site by discharging through overland flow or to on-site detention or retention facilities should be utilized to reduce sediments.
14. PHASED ACTIVITIES – Whenever possible, construction activities should be phased to minimize the exposure of the site to rainfall which may create sediment discharge problems. Activities, which disturb soils, should be scheduled for times when the chances of storm events are minimal.

1. Excavate the trench.



2. Place and stake straw bales.



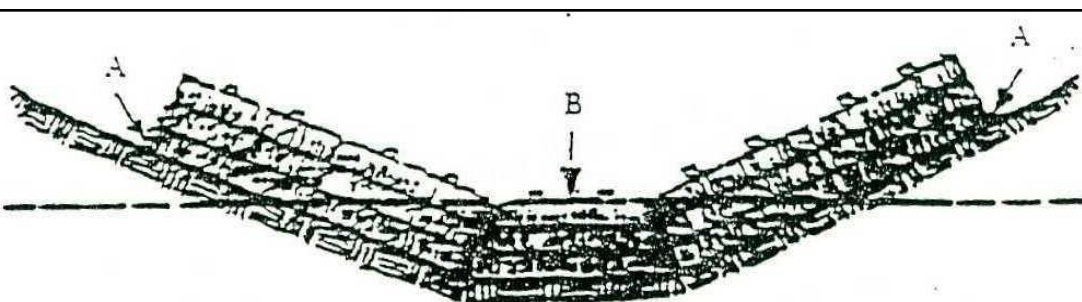
3. Wedge loose straw bale between bales.



4. Backfill and compact the excavated soil

### CONSTRUCTION OF A STRAW BALE BARRIER

Source: Adapted from Installation of Straw and Fabric Filter Barriers for Sediment Control.  
Sherwood and Wyant



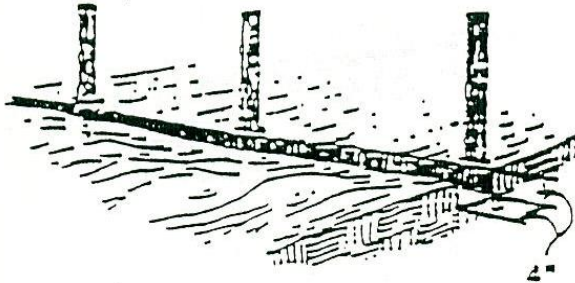
Points A should be higher than Point B

### PROPER PLACEMENT OF STRAW BALE BARRIER IN DRAINAGE WAY

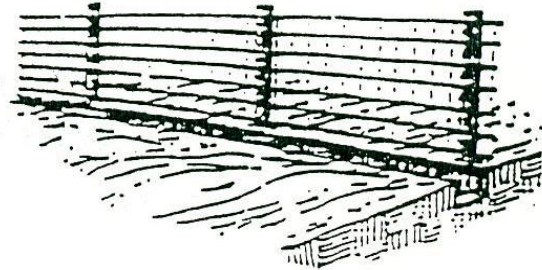
Source: Adapted from Installation of Straw and Fabric Filter Barriers for Sediment Control.  
Sherwood and Wyant



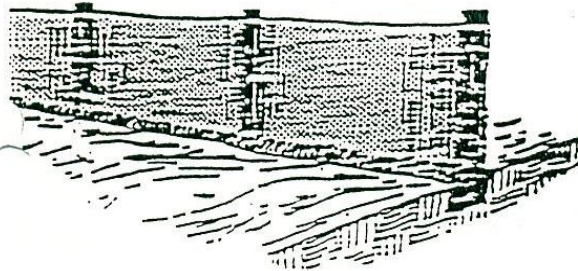
1. Set posts and excavate a 4" x 4" trench upslope along the line of posts.



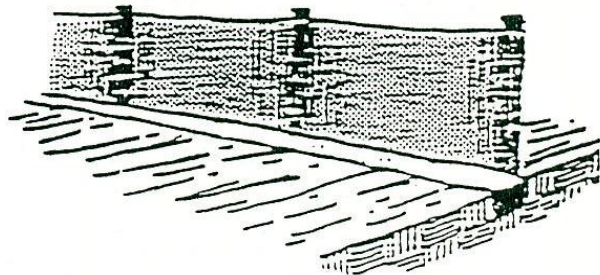
2. Staple wire fencing to the posts.



3. Attach the filter fabric to the wire fence and extend it into the trench.



4. Backfill and compact the excavated soil.



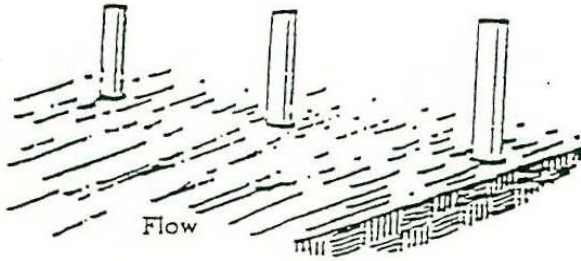
Extension of fabric and wire into the trench.



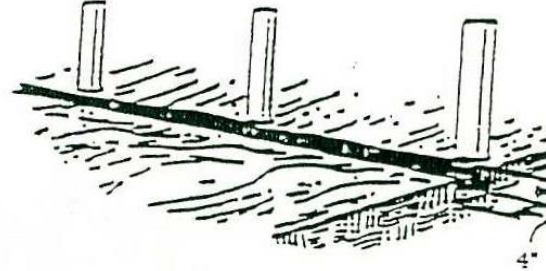
### CONSTRUCTION OF A SILT FENCE

Source: Adapted from Installation of Straw and Fabric Filter Barriers for Sediment Control.  
Sherwood and Wyant

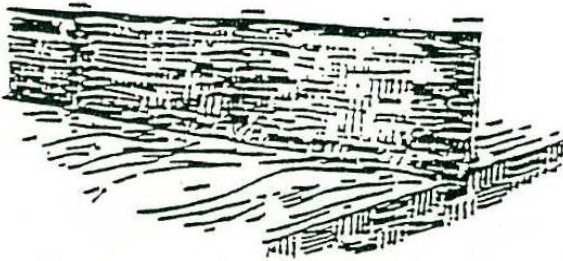
1. Set the Stakes.



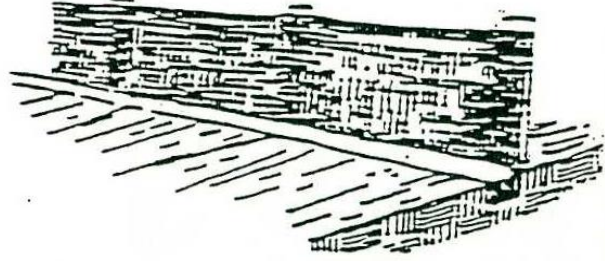
2. Excavate a 4" x 4" trench upslope along the line of stakes.



3. Staple filter material to stakes and extend it into the trench



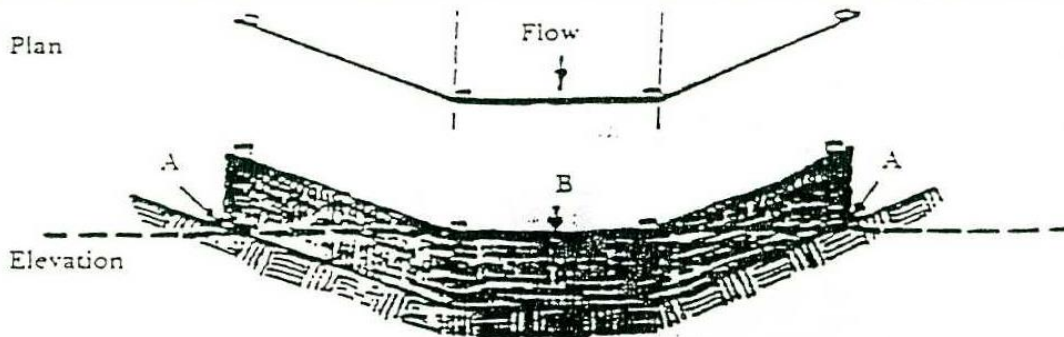
4. Backfill and compact the excavated soil



### CONSTRUCTION OF A FILTER BARRIER

Source: Adapted from Installation of Straw and Fabric Filter Barriers for Sediment Control.  
Sherwood and Wyant

Plan



Points A should be higher than Point B

### PROPER PLACEMENT OF A FILTER BARRIER IN DRAINAGE WAY

Source: Adapted from Installation of Straw and Fabric Filter Barriers for Sediment Control.  
Sherwood and Wyant

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