

## **ORDINANCE NUMBER 19-38**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF EUSTIS, FLORIDA; AMENDING, CHAPTER 82, EUSTIS CODE OF ORDINANCES; PROVIDING FOR CONFLICT WITH EXISTING ORDINANCES, AND PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the majority of the provisions regarding Street, Sidewalks and Certain Other Public Places within Chapter 82 were adopted in 1959, and;

**WHEREAS**, Chapter 82 was repealed and replaced with adoption of Ordinance Number 16-12 on May 19, 2016, and;

**WHEREAS**, the City Commission finds periodic review and revision of codes is necessary to reflect current administrative practices; and

**WHEREAS**, the City of Eustis is committed to assuring a living environment of the highest quality for the citizens of the City and protecting the general health, safety and welfare;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF EUSTIS, FLORIDA AS FOLLOWS:**

### **SECTION 1.**

That the following sections of Chapter 82 are amended to read as follows:

#### **Chapter 82 - STREETS, SIDEWALKS AND CERTAIN OTHER PUBLIC PLACES**

FOOTNOTE(S):--- (1) ---Cross reference— Any ordinance dedicating, naming, renaming, establishing, locating, relocating, opening, improving, vacating an easement or otherwise affecting any specific street, public way easement or public improvement saved from repeal, § 1-9(7); any ordinance prescribing the street grades of any street of the city saved from repeal, § 1-9(9); any ordinance providing for local improvements or making assessments for such improvements saved from repeal, § 1-9(10); possession of open container of alcoholic beverages in public places, § 6-8; cemeteries, chapter 22; environment, chapter 34; housing, buildings and other structures, chapter 50; library, chapter 58; parks and recreation, chapter 66; traffic and vehicles, chapter 90; utilities, chapter 94; City of Eustis Engineering & Design Standards.

#### **Section 82-1. - Definitions.**

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

Driveway apron means the paved driveway approach between the paved portion of public right-of-way and the property line.

Driveway means the improved area between a public street and private property intended to provide ingress and egress of vehicular traffic from the public street or thoroughfare to a definite area, such as a carport, garage or house, on private property.

Public right-of-way-(R.O.W.) means lands covered or dedicated to the public to be used as a public street, alley, walkway, drainage facility, along with associated infrastructure, and/or facilities designed for other public purpose.

Sidewalk means an area of public or private property where pedestrians walk or stand, generally parallel to the edge of a street, roadway or curb.

Public street includes avenue, alley, boulevard, expressway, parkway, court, highway, lane, roadway, terrace, place or causeway which is dedicated to the public to be used for access.

#### Section 82-2. - Protecting public from injury.

Whenever any person shall do or undertake to do any of the things set forth in this chapter, it shall be the duty of such persons to protect from harm and damage all persons who may be using any public street or sidewalk or other public place where such activity is in progress; and to that end such persons shall erect and maintain suitable barricades, signs, lights, flares and other appropriate warning devices at the proper locations where such work is in progress. (Code 1959, § 19-13.16)

#### Section 82-3. - Owner to trim shade trees and vegetation.

The owner of property abutting upon the streets of the city shall keep all trees, vines, and shrubs or any other vegetation on his/her property trimmed so their branches do not protrude or overhang beyond the property line lower than 14 feet above the street and do not protrude or overhang into the sidewalk or the adjacent public right-of-way lower than eight feet from grade.

#### Section 82-56. - City may require and regulate.

The city shall have the power to require and regulate the grading, construction and repair of all public right-of-way, including but not limited to drainage facilities, streets, sidewalks and curbing in the city.

#### Section 82-57. - Liability for damage to public right-of-way, public streets and sidewalks.

Whoever damages any public right-of-way, including but not limited to curbing, drainage facilities, public streets or sidewalk in the city through negligence, through intentional acts including but not limited to using the public right-of-way for vehicle parking or similar uses, and/or failure to maintain trees or vegetation, shall:

- (a) Restore the affected area in accordance with Section 82-130.
- (b) Be civilly liable, in addition to any other penalties or requirement, to the city for the amount of such damage, which amount may be recovered in a suit by the city in the

courts of the state having jurisdiction. Any such amount so recovered shall be placed in the city treasury to the credit of the general fund. In the event no such amounts are recovered, the City shall place a lien on the property.(Code 1959, § 19-17)

Section 82-58. – Repairs to public right of way, public streets and sidewalks.

Whenever the city manager requires any area to be repaired in association with damages described in Section 82-57, and the owner of the property neglects or refuses to make such repairs within the time allotted, the city manager shall have such repairs made, and the cost shall be assessed against the property. Such assessment shall create and be a lien and charge against the property, which may be enforced as other liens of the city.

Section 82-59. - City to have a lien on abutting property.

When work provided for in Section 82-57 and 82-58 shall have been completed by the city, it shall have a lien of superior dignity to all other liens for the cost upon property fronting or abutting such public right-of way, including but not limited to drainage facilities, public streets, sidewalk or curb, according to the number of lineal feet of such property.

Section 82-60. - Enforcement of lien.

The lien provided in Section 82-59 may be enforced and the amount recovered from the owners of the property fronting or abutting the public right-of-way so constructed, graded, paved, altered or repaired, either by suit at law or in equity; or the amounts may be assessed against the property so fronting or abutting on that portion of the public right-of-way so constructed, graded, paved, altered or repaired, and collected in like manner as taxes.

Section 82-91. - Compliance required.

All driveway aprons constructed or removed within the city limits shall be constructed or removed as provided for in this division and the Standard Transportation Construction Specifications, City of Eustis Engineering & Design Standards of this Code. No person shall cut any drop curb for a driveway, walkway or for any other purpose without first obtaining a permit from the city.

Section 82-92. - Private driveway aprons connected with paved streets to be hard surfaced.

- (a) As of February 15, 2001, it shall be unlawful for any person to use, or cause to be used, any portion of the public right-of-way to access private property unless a permitted driveway apron of concrete or other hard surface material, is constructed in accordance with the City of Eustis Engineering & Design Standards. However, occasional use of the public right-of-way to access private property without an improved driveway apron; if such use intensifies to the extent that the public right-of-way is damaged, a permitted driveway apron will be required, or the use abandoned and the affected area restored in accordance with Section 82-130 of this Code.

- (b) Properties with new access or use initiated no earlier than February 15, 2001, are ordered and required to pave driveway aprons with concrete or other hard surface material in accordance with the City of Eustis Engineering & Design Standards, within the allotted time after being served with a written notice requiring and ordering such construction, which notice shall be ordered served via established code enforcement procedure. If the owner fails or refuses to construct or hard surface the private driveway apron, the city shall cause the driveway apron to be so constructed, paying the expense, which expense shall be a lien upon the real estate abutting upon or adjoining the improvement or private driveway and paved street, and shall be enforced in the same manner as other liens.

Section 82-93. - Construction requirements.

- (a) Driveway aprons constructed in the city on paved public streets shall be constructed in conformance with Standard Transportation Construction Specifications, City of Eustis Engineering & Design Standards.
- (b) It shall be unlawful for any person to construct, cut, break out or remove any curb along a street or alley except as authorized by the provisions of Standard Transportation Construction Specifications, City of Eustis Engineering & Design Standards.
- (c) All driveway aprons constructed in the city on paved public streets shall be reviewed and approved by the city engineer or designee prior to the issuance of any building permit for the erection, construction, reconstruction or change in the use of the building, structure or land.

Section 82-94. - Permits required; fees; posting permit.

- (a) No person shall remove, alter or construct any curb, driveway, driveway apron, gutter, pavement or perform any other improvement on any public street or designated public right-of-way without obtaining a permit authorizing such improvements. Driveways and driveway aprons shall not be relocated, altered or reconstructed without a permit approving the relocation, alterations or reconstruction and such driveways shall be subject to the provisions of this section, and the City of Eustis Engineering & Design Standards.
- (b) Fees for permits shall be according to the schedule on file in the city clerk's office and shall be paid to the city at the time the permit is issued.
- (c) The driveway permit shall be posted at the construction site.

Section 82-95. - Submission of plans; information required.

- (a) No driveway apron or driveway permit shall be issued until there is filed with the city building department two copies of the plans showing the location and dimensions of all proposed improvements.
- (b) State and/or county driveway connection permits shall be obtained for driveway aprons on state department of transportation and county maintained streets within the corporate limits.

(c) Information required on plans submitted shall include the following:

- (1) A complete plot plan showing all proposed buildings and parking layouts, including north arrow and date.
- (2) Existing and proposed driveway apron and driveway locations and widths.
- (3) Street pavement types and widths and public right-of-way widths.
- (4) Proposed location of off-street loading and unloading facilities, interior parking arrangements, and traffic circulating patterns.
- (5) Retaining walls, drainage, utility poles, trees and other physical features which affect the driveway location.

Section 82-97. Replacements required.

- (a) When any driveway is altered, modified or removed, making any portion or all of the driveway apron unnecessary, the owner of the property on which driveway apron connection is located shall, at his expense, replace all necessary curbs, gutters, sidewalks and grass areas.

Section 82-127. - Sale of merchandise on public property.

Except as may be permitted by the city manager, it shall be unlawful for any huckster, peddler, storekeeper, merchant or any other person to use or occupy any portion of any public square, park, street or sidewalk for the purpose of selling or offering for sale any goods, wares or merchandise.

(Code 1959, § 19-6)

Section 82-128. - Building materials in streets; permit required.

(a) It shall be unlawful for any person to place or cause or allow to be placed any construction and demolition debris, dumpster, trash, lumber, brick, stone, glass or any other obstruction or material in any public right of way, street, sidewalk or public ground of the city which may obstruct or hinder vehicle or pedestrian traffic except as provided in this section.

(b) Exceptions:

1. Commercial solid waste dumpsters provided by the City or its franchisee, when no on site dumpster enclosure or pad is available on the commercial property receiving solid waste and collection services when it is determined that the dumpster placement will not be detrimental to the health, safety and welfare of the public. The business utilizing such dumpster shall be responsible for keeping the public right-of-way clean and free of trash, garbage, rubbish or other materials, etc. At no time shall any loose bags or any other type solid waste, included yard waste be placed in the public right-of-way beside the dumpster.

2. (2) In addition of keep the area clean, the business is responsible for repairing any damage to the public right-of-way caused by trucks servicing the dumpster.

3. Construction dumpsters may be permitted under certain conditions with a right-of-way permit approved by the city engineer.

(Code 1959, § 19-7; Ord. No. 02-56, § 1, 8-1-2002)

Section 82-129. - Placing alternate materials, structures or plants in city public right-of-way, permit required.

Any person wishing to erect any building or structure, plant any tree or bush, install pavers, rain gardens, stone or other material alternative to sod in the city public right-of-way adjoining any lot or parcel of land may request a public right-of-way permit from the city engineer. Upon determination that the proposed improvements meet all applicable city standards and will not be detrimental to the health, safety and welfare of the public, the city engineer may issue a public right-of-way permit for such improvements with the condition that, (1) whenever necessary for construction, maintenance, operation or alteration of the public right-of-way or utilities contain therein, any or all appurtenances authorized by this permit shall be immediately removed from the public right-of-way at the expense of the applicant, and (2) the city shall not be responsible for damages to any structure placed within the public right-of-way. .

Section 82-130. Restoration.

Any person, who alters, changes or damages any public right-of-way by performing any acts listed in Articles I, II and III without approval by the city engineer shall be required to restore the affected area back to good condition, including the installation of sod, or other approved material as determined by the city engineer, regardless of its original condition. Any person who alters, changes or damages any drainage facility without approval by the city engineer shall be required to restore the drainage facility to a condition where the facility operates in the manner for which it was originally designed and constructed.

Section 82-131. Enforcement.

Unless otherwise noted herein, any violation of Articles I, II and III shall be subject to enforcement pursuant to code enforcement procedures as set forth in Chapter 2, or when deemed necessary by the City, in accordance with the nuisance abatement procedures listed in Sections 34-98 through 34-101 of this Code.

Section 82-156. - Initiation of public right-of-way vacation.

An application to abandon or vacate a public right-of-way, public street, public alleyway or public road (hereinafter jointly and severally "public right-of-way") may be initiated by:

- (1) The city manager or designee where it deems the public right-of-way vacation is in the public interest or when the public right-of-way no longer serves a public purpose; or
- (2) At least two-thirds of all owners abutting the portion of the public right-of-way proposed to be vacated.

## ARTICLE V. - PUBLIC RIGHT-OF-WAY VACATION

Section 82-157. - Procedures for public right-of-way vacation.

Vacation of a public right-of-way shall be considered by the city commission at a public hearing, notice of which shall be placed in a newspaper of general circulation in the City at least ten days before the hearing. Where the city manager has initiated consideration of the vacation, all owners of the property abutting the portion to be abandoned shall be notified by mail at least ten days before the hearing. For this purpose, the owners shall be deemed to be those persons shown as owners upon the city's tax rolls. Where at least two thirds of all owners abutting the portion of the public right-of-way proposed to be vacated initiated consideration of the vacation, they shall (i) pay to the city the fee for processing the vacation application proscribed by the city commission and (ii) submit to the city the completed vacation application approved by city staff and signed by at least two-thirds of all owners abutting the portion of the public right-of-way proposed to be vacated.

Section 82-158. - Criteria for public right-of-way vacation.

At the public hearing, the city commission shall consider the following criteria in determining whether the vacation is in the public interest.

- (1) Whether the public benefits from the use of the subject public right-of-way as part of the city street system;

Section 82-159. - Required findings for vacation.

In order to vacate any public right-of-way, the city commission must determine that:

- (1) The public right-of-way no longer serves a public purpose; or
- (2) The public right-of-way vacation is in the public interest.

#### ARTICLE VII. - OUTDOOR SEATING AREAS, OUTDOOR PLANTERS SIDEWALK SALES/DISPLAY OF MERCHANDISE AND/OR ADDITIONAL SIGNAGE IN THE CENTRAL BUSINESS DISTRICT

Section 82-226. - Definitions.

Outdoor seating area . A specified area within the city right-of-way (sidewalk area) which may be used as a seating area with tables and chairs for the contiguous business. This seating may be in addition to the allowable indoor seating or it may be the only seating available for the business.

Sidewalk sales/display of merchandise . A specified area within the city right-of-way (sidewalk area) which may be used to stage merchandise for the purpose of sales or display for the contiguous retail business.

Section 82-227. - Where permitted.

Outdoor seating areas, sidewalk sales/display of merchandise on sidewalks (within the public right-of-way), outdoor planters, and additional signage permitted in this article shall only be permitted within the central business district as designated on the land use map of the comprehensive plan. (Note: Outdoor display of merchandise is allowed for commercial operations outside the central business district subject to the limitations in Section 110-5.10 of the Land Development Regulations.

Section 82-228. - Standards and criteria.

(a) Outdoor seating areas and sidewalk sales/display of merchandise are only permitted as an accessory use to a business holding an active business tax receipt on the site abutting the public right-of-way.

(f) No permit shall be issued for either outdoor seating areas, sidewalk sales/display of merchandise , outdoor planters and/or additional signage unless the permittee executes an application which contains a hold harmless agreement which releases the city from liability and which indemnifies the city for any claims, loss, damages, expenses, attorney's fees, or costs associated with use of the right-of-way by any one.

Section 82-230. - Procedures for approval for outdoor seating areas, outdoor planters and/or additional signage.

(b) The applicant shall submit an application which includes a scaled, dimensioned and legible drawing of:

(1) The area proposed for use as an outdoor seating/sales and display area; sales/display areas shall be limited to the size and scope specified in Section 110-5-10 (c), and may be further limited to comply with the standards herein, including but not limited to accessible path.

(2) The location of the proposed items (tables, chairs, merchandise , et cetera) in the right-of-way area which the applicant desires to use; and

**SECTION 2.**

Provisions of Chapter 82 not modified herein shall remain in full force and effect; Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

**SECTION 3.**

This Ordinance shall become effective immediately upon passing.

**SECTION 4.**

The provisions of this Ordinance are intended to be incorporated into the Code of Ordinances of the City of Eustis, Florida, and the sections of this Ordinance may be renumbered, re-lettered, and the word "ordinance" may be changed to "section," "article," or such other word or phrase in order to accomplish such intention.

**SECTION 5.**

That should any section, phrase, sentence, provision or portion of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

**PASSED, ORDAINED AND APPROVED** in Regular Session of the City Commission of the City of Eustis, Florida, this 5<sup>th</sup> day of December, 2019.

**CITY OF EUSTIS, FLORIDA**

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Michael L. Holland  
Mayor/Commissioner

**ATTEST:**

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Mary C. Montez, City Clerk

**CITY OF EUSTIS CERTIFICATION**

**STATE OF FLORIDA  
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this \_\_\_\_ day of December, 2019, by Michael L. Holland, Mayor, and Mary C. Montez, City Clerk, who are personally known to me.

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Notary Public - State of Florida  
My Commission Expires:  
Notary Serial No:

**CITY ATTORNEY'S OFFICE**

This document is approved as to form and legal content, but I have not performed an independent Title examination as to the accuracy of the Legal Description.

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City Attorney's Office                      Date

**CERTIFICATE OF POSTING**

The foregoing Ordinance Number 19-38 is hereby approved, and I certify that I published the same by posting one copy hereof at City Hall, one copy hereof at the Eustis Memorial Library, and one copy hereof at the Eustis Parks and Recreation Office, all within the corporate limits of the City of Eustis, Lake County, Florida.

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Mary C. Montez, City Clerk



## Chapter 82 - STREETS, SIDEWALKS AND CERTAIN OTHER PUBLIC PLACES

### FOOTNOTE(S):

--- (1) ---

### ARTICLE I. - IN GENERAL

#### Sec. 82-1. - Definitions.

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

Driveway apron means the paved driveway approach between the paved portion of public right-of-way and the property line.

Driveway means the improved area between a public street and private property intended to provide ingress and egress of vehicular traffic from the public street or thoroughfare to a definite area, such as a carport, garage or house, on private property.

Public right-of-way-(R.O.W.) means lands covered or dedicated to the public to be used as a public street, alley, walkway, drainage facility, along with associated infrastructure, and/or facilities designed for other public purpose.

Sidewalk means an area of public or private property where pedestrians walk or stand, generally parallel to the edge of a street, roadway or curb.

Public street includes avenue, alley, boulevard, expressway, parkway, court, highway, lane, roadway, terrace, place or causeway which is dedicated to the public to be used for access.

(Code 1959, § 19-13.02)

Cross reference— Definitions generally, § 1-2.

Sec. 82-2. - Protecting public from injury.

Whenever any person shall do or undertake to do any of the things set forth in this chapter, it shall be the duty of such persons to protect from harm and damage all persons who may be using any public street or sidewalk or other public place where such activity is in progress; and to that end such persons shall erect and maintain suitable barricades, signs, lights, flares and other appropriate warning devices at the proper locations where such work is in progress. (Code 1959, § 19-13.16)

Sec. 82-3. - Owner to trim shade trees and vegetation.

The owner of property abutting upon the streets of the city shall keep all trees, vines, and shrubs or any other vegetation on his/her property trimmed so their branches do not protrude or overhang beyond the property line lower than 14 feet above the street and do not protrude or overhang into the sidewalk or the adjacent public right-of-way lower than eight feet from grade.

(Code 1959, § 19-15)

Sec. 82-4. - Schedule of services and fees.

The city manager shall establish a schedule of services and fees and a collection procedure for all matters pertaining to this chapter. The schedule of services and fees shall be brought before the city commission to be added to, deleted from or amended by the city commission by affirmative vote of the commission during any scheduled commission meeting to reflect the actual services provided and the cost to the city for performance of the services, and the schedule shall be posted at the public works department and kept on file in the City Clerk's Office. The city shall provide (but is not limited to) the following services and materials:

Service

Fees Based Upon

- |     |                                                                                    |                                                      |
|-----|------------------------------------------------------------------------------------|------------------------------------------------------|
| (1) | Lot mowing                                                                         | \$75.00 minimum or actual cost, whichever is greater |
| (2) | Cleanup                                                                            | Manpower + equipment + landfill tipping fee          |
| (3) | Sign installation                                                                  | Manpower + materials                                 |
| (4) | Street striping                                                                    | Manpower + materials (thermoplastic)                 |
| (5) | Street closing                                                                     | Manpower + equipment                                 |
| (6) | Barricades                                                                         | Manpower + equipment (per barricade charge)          |
| (8) | Other services (as may be authorized and posted by the city manager) Cost recovery |                                                      |

(Code 1959, § 19-25)

Secs. 82-5—82-30. - Reserved.

## ARTICLE II. - CONSTRUCTION AND REPAIR

### DIVISION 1. - GENERALLY

Secs. 82-31—82-55. - Reserved.

### DIVISION 2. - STREETS AND SIDEWALKS

Sec. 82-56. - City may require and regulate.

The city shall have the power to require and regulate the grading, construction and repair of all public right-of-way, including but not limited to drainage facilities, streets, sidewalks and curbing in the city.

(Code 1959, § 19-9)

Sec. 82-57. - Liability for damage to public right-of-way, public streets and sidewalks.

Whoever damages any public right-of-way, including but not limited to curbing, drainage facilities, public streets or sidewalk in the city through negligence, through intentional acts including but not limited to using the public right-of-way for vehicle parking or similar uses, and/or failure to maintain trees or vegetation, shall:

- (a) Restore the affected area in accordance with Section 82-130.
- (b) Be civilly liable, in addition to any other penalties or requirement, to the city for the amount of such damage, which amount may be recovered in a suit by the city

in the courts of the state having jurisdiction. Any such amount so recovered shall be placed in the city treasury to the credit of the general fund. In the event no such amounts are recovered, the City shall place a lien on the property.(Code 1959, § 19-17)

Sec. 82-58. – Repairs to public right of way, public streets and sidewalks.

Whenever the city manager requires any area to be repaired in association with damages described in Section 82-57, and the owner of the property neglects or refuses to make such repairs within the time allotted, the city manager shall have such repairs made, and the cost shall be assessed against the property. Such assessment shall create and be a lien and charge against the property, which may be enforced as other liens of the city.

(Code 1959, § 19-23)

Sec. 82-59. - City to have a lien on abutting property.

When work provided for in Section 82-57 and 82-58 shall have been completed by the city, it shall have a lien of superior dignity to all other liens for the cost upon property fronting or abutting such public right-of way, including but not limited to drainage facilities, public streets, sidewalk or curb, according to the number of lineal feet of such property.

(Code 1959, § 19-11)

Sec. 82-60. - Enforcement of lien.

The lien provided in Section 82-59 may be enforced and the amount recovered from the owners of the property fronting or abutting the public right-of-way so constructed, graded, paved, altered or repaired, either by suit at law or in equity; or the amounts may be assessed against the property so fronting or abutting on that portion of the public right-of-way so constructed, graded, paved, altered or repaired, and collected in like manner as taxes.

(Code 1959, § 19-12)

Sec. 82-61. - Financing of private street improvements.

If paving, widening or improvement of an unimproved or substandard private street, road, avenue, etc. is requested by 51 percent or more of the abutting property owners, the city manager shall advertise a resolution proposing city commission approval of such improvements, to include a requirement that the cost shall be borne by the adjacent, abutting and benefited real property owners, and that the work may be on special assessment should it be necessary to effectuate this policy.

(Code 1959, § 19-24)

Secs. 82-62—82-90. - Reserved.

### DIVISION 3. - DRIVEWAYS

Sec. 82-91. - Compliance required.

All driveway aprons constructed or removed within the city limits shall be constructed or removed as provided for in this division and the Standard Transportation Construction Specifications, City of Eustis Engineering & Design Standards of this Code. No person shall cut any drop curb for a driveway, walkway or for any other purpose without first obtaining a permit from the city.

(Code 1959, § 19-13.01)

Sec. 82-92. - Private driveway aprons connected with paved streets to be hard surfaced.

- (a) As of February 15, 2001, it shall be unlawful for any person to use, or cause to be used, any portion of the public right-of-way to access private property unless a permitted driveway apron of concrete or other hard surface material, is constructed in accordance with the City of Eustis Engineering & Design Standards. However, occasional use of the public right-of-way to access private property without an improved driveway apron; if such use intensifies to the extent that the public right-of-way is damaged, a permitted driveway apron will be required, or the use abandoned and the affected area restored in accordance with Section 82-130 of this Code.

- (b) Properties with new access or use initiated no earlier than February 15, 2001, are ordered and required to pave driveway aprons with concrete or other hard

surface material in accordance with the City of Eustis Engineering & Design Standards, within the allotted time after being served with a written notice requiring and ordering such construction, which notice shall be ordered served via established code enforcement procedure. If the owner fails or refuses to construct or hard surface the private driveway apron, the city shall cause the driveway apron to be so constructed, paying the expense, which expense shall be a lien upon the real estate abutting upon or adjoining the improvement or private driveway and paved street, and shall be enforced in the same manner as other liens.

(Code 1959, § 19-13)

Sec. 82-93. - Construction requirements.

- (a) Driveway aprons constructed in the city on paved public streets shall be constructed in conformance with Standard Transportation Construction Specifications, City of Eustis Engineering & Design Standards.
- (b) It shall be unlawful for any person to construct, cut, break out or remove any curb along a street or alley except as authorized by the provisions of Standard Transportation Construction Specifications, City of Eustis Engineering & Design Standards.
- (c) All driveway aprons constructed in the city on paved public streets shall be reviewed and approved by the city engineer or designee prior to the issuance of any building permit for the erection, construction, reconstruction or change in the use of the building, structure or land.

Sec. 82-94. - Permits required; fees; posting permit.

- (a) No person shall remove, alter or construct any curb, driveway, driveway apron, gutter, pavement or perform any other improvement on any public street or designated public right-of-way without obtaining a permit authorizing such improvements. Driveways and driveway aprons shall not be relocated, altered or reconstructed without a permit approving the relocation, alterations or reconstruction and such driveways shall be subject to the provisions of this section, and the City of Eustis Engineering & Design Standards.
- (b) Fees for permits shall be according to the schedule on file in the city clerk's office and shall be paid to the city at the time the permit is issued.
- (c) The driveway permit shall be posted at the construction site.

(Code 1959, § 19-13.06)

(Code 1959, § 19-13.12)

Sec. 82-95. - Submission of plans; information required.

- (a) No driveway apron or driveway permit shall be issued until there is filed with the city building department two copies of the plans showing the location and dimensions of all proposed improvements.
- (b) State and/or county driveway connection permits shall be obtained for driveway aprons on state department of transportation and county maintained streets within the corporate limits.
- (c) Information required on plans submitted shall include the following:
  - (1) A complete plot plan showing all proposed buildings and parking layouts, including north arrow and date.
  - (2) Existing and proposed driveway apron and driveway locations and widths.
  - (3) Street pavement types and widths and public right-of-way widths.
  - (4) Proposed location of off-street loading and unloading facilities, interior parking arrangements, and traffic circulating patterns.
  - (5) Retaining walls, drainage, utility poles, trees and other physical features which affect the driveway location.

(Code 1959, § 19-13.04)

(Code 1959, § 19-13.03)

Sec. 82-97. Replacements required.

- (a) When any driveway is altered, modified or removed, making any portion or all of the driveway apron unnecessary, the owner of the property on which driveway apron connection is located shall, at his expense, replace all necessary curbs, gutters, sidewalks and grass areas.

(Code 1959, § 19-13.15)

Secs. 82-98—82-125. - Reserved.

### ARTICLE III. - OBSTRUCTIONS, ENCROACHMENTS

Sec. 82-126. - Regulated.

Except as may be permitted by the city manager or designee it shall be unlawful for any person to erect, construct, place or maintain any obstructions or encroachments whatsoever on the streets, sidewalks or public grounds of the city except as permitted in this code. Such prohibited obstructions shall include merchandise, goods, show cases, fixtures, signs, advertisements and other articles placed in front of places of business.  
(Code 1959, § 19-5; Ord. No. 02-39, § 4, 5-2-2002)

Sec. 82-127. - Sale of merchandise on public property.

Except as may be permitted by the city manager, it shall be unlawful for any huckster, peddler, storekeeper, merchant or any other person to use or occupy any portion of any public square, park, street or sidewalk for the purpose of selling or offering for sale any goods, wares or merchandise.

(Code 1959, § 19-6)

Sec. 82-128. - Building materials in streets; permit required.

(a) It shall be unlawful for any person to place or cause or allow to be placed any construction and demolition debris, dumpster, trash, lumber, brick, stone, glass or any other obstruction or material in any public right of way, street, sidewalk or public ground of the city which may obstruct or hinder vehicle or pedestrian traffic except as provided in this section.

(b) Exceptions:

1. Commercial solid waste dumpsters provided by the City or its franchisee, when no on site dumpster enclosure or pad is available on the commercial property receiving solid waste and collection services when it is determined that the dumpster placement will not be detrimental to the health, safety and welfare of the public. The business utilizing such dumpster shall be responsible for keeping the public right-of-way clean and free of trash, garbage, rubbish or other materials, etc. At no time shall any loose bags or any other type solid waste, including yard waste be placed in the public right-of-way beside the dumpster.
2. (2) In addition of keep the area clean, the business is responsible for repairing any damage to the public right-of-way caused by trucks servicing the dumpster.
3. Construction dumpsters may be permitted under certain conditions with a right-of-way permit approved by the city engineer.

(Code 1959, § 19-7; Ord. No. 02-56, § 1, 8-1-2002)

Sec. 82-129. - Placing alternate materials, structures or plants in city public right-of-way, permit required.

Any person wishing to erect any building or structure, plant any tree or bush, install pavers, rain gardens, stone or other material alternative to sod in the city public right-of-way adjoining any lot or parcel of land may request a public right-of-way permit from the city engineer. Upon determination that the proposed improvements meet all applicable city standards and will not be detrimental to the health, safety and welfare of the public, the city engineer may issue a public right-of-way permit for such improvements with the condition that, (1) whenever necessary for construction, maintenance, operation or alteration of the public right-of-way or utilities contain therein, any or all appurtenances authorized by this permit shall be immediately removed from the public right-of-way at

the expense of the applicant, and (2) the city shall not be responsible for damages to any structure placed within the public right-of-way. .

(Code 1959, § 19-8)

#### ARTICLE IV. - ENFORCEMENT

##### 82-130 Restoration.

Any person, who alters, changes or damages any public right-of-way by performing any acts listed in Articles I, II and III without approval by the city engineer shall be required to restore the affected area back to good condition, including the installation of sod, or other approved material as determined by the city engineer, regardless of its original condition. Any person who alters, changes or damages any drainage facility without approval by the city engineer shall be required to restore the drainage facility to a condition where the facility operates in the manner for which it was originally designed and constructed.

##### Sec. 82-131.Enforcement

Unless otherwise noted herein, any violation of Articles I, II and III shall be subject to enforcement pursuant to code enforcement procedures as set forth in Chapter 2, or when deemed necessary by the City, in accordance with the nuisance abatement procedures listed in Sections 34-98 through 34-101 of this Code.

Secs. 82-132—82-155. - Reserved.

#### ARTICLE V. - PUBLIC RIGHT-OF-WAY VACATION

##### FOOTNOTE(S):

--- (2) ---

Editor's note— Ord. No. 12-08, § 1, adopted May 17, 2012, repealed the former Art. IV, §§ 82-156—82-160, and enacted a new Art. IV as set out herein. The former Art. IV pertained to street vacation and derived from the Code of 1959, § 19-14(A)(1)—(6).

##### Sec. 82-156. - Initiation of public right-of-way vacation.

An application to abandon or vacate a public right-of-way, public street, public alleyway or public road (hereinafter jointly and severally "public right-of-way") may be initiated by:

- (1) The city manager or designee where it deems the public right-of-way vacation is in the public interest or when the public right-of-way no longer serves a public purpose; or

- (2) At least two-thirds of all owners abutting the portion of the public right-of-way proposed to be vacated.

(Ord. No. 12-08, § 1, 5-17-2012)

Sec. 82-157. - Procedures for public right-of-way vacation.

Vacation of a public right-of-way shall be considered by the city commission at a public hearing, notice of which shall be placed in a newspaper of general circulation in the City at least ten days before the hearing. Where the city manager has initiated consideration of the vacation, all owners of the property abutting the portion to be abandoned shall be notified by mail at least ten days before the hearing. For this purpose, the owners shall be deemed to be those persons shown as owners upon the city's tax rolls. Where at least two thirds of all owners abutting the portion of the public right-of-way proposed to be vacated initiated consideration of the vacation, they shall (i) pay to the city the fee for processing the vacation application proscribed by the city commission and (ii) submit to the city the completed vacation application approved by city staff and signed by at least two-thirds of all owners abutting the portion of the public right-of-way proposed to be vacated.

(Ord. No. 12-08, § 1, 5-17-2012)

Sec. 82-158. - Criteria for public right-of-way vacation.

At the public hearing, the city commission shall consider the following criteria in determining whether the vacation is in the public interest.

- (1) Whether the public benefits from the use of the subject public right-of-way as part of the city street system;
- (2) Whether the proposed action is consistent with the comprehensive plan;
- (3) Whether the proposed action would deny the only legal access to private property;
- (4) The effect of the proposed action upon public safety;
- (5) The effect of the proposed action upon the safety of pedestrians and vehicular traffic;
- (6) The effect of the proposed action upon the provision of municipal services including, but not limited to, emergency service and waste removal;
- (7) The necessity to relocate utilities both public and private, if any; and
- (8) The effect of the proposed action on the design and character of the area.

(Ord. No. 12-08, § 1, 5-17-2012)

Sec. 82-159. - Required findings for vacation.

In order to vacate any public right-of-way, the city commission must determine that:

- (1) The public right-of-way no longer serves a public purpose; or

(2) The public right-of-way vacation is in the public interest.

(Ord. No. 12-08, § 1, 5-17-2012)

Secs. 82-160—82-185. - Reserved.

## ARTICLE VI. - PUBLIC PLACES

### DIVISION 1. - GENERALLY

Secs. 82-186—82-210. - Reserved.

### DIVISION 2. - HISTORIC MUSEUM

Sec. 82-211. - Established.

There shall be established in the city a public museum for the use and enjoyment of the citizens and residents of the city, which shall be known as the Eustis Historic Museum and which is presently located at 536 North Bay Street, Eustis, Florida, the Clifford-Taylor House, which is listed on the National Register of Historic Places.

(Code 1959, § 14-50.0; Ord. No. 97-34, § 1(14-50.0), 12-4-1997)

Sec. 82-212. - Donations, gifts and payments.

All cash or financial gifts and donations to the city for the maintenance and support of the historic museum shall be deposited to the appropriate account of the sales tax fund of the city. The city shall provide in-kind services as they relate to the buildings and the grounds as detailed in the lease agreement between the City and the Eustis Historic Museum.(Ord. No. 97-34, § 1(14-51.0), 12-4-1997)

Secs. 82-213—82-225. - Reserved.

## **ARTICLE VII. - OUTDOOR SEATING AREAS, OUTDOOR PLANTERS SIDEWALK SALES/DISPLAY OF MERCHANDISE AND/OR ADDITIONAL SIGNAGE IN THE CENTRAL BUSINESS DISTRICT**

### **Sec. 82-226. - Definitions.**

*Outdoor seating area* . A specified area within the city right-of-way (sidewalk area) which may be used as a seating area with tables and chairs for the contiguous business. This seating may be in addition to the allowable indoor seating or it may be the only seating available for the business.

*Sidewalk sales/display of merchandise* . *A specified area within the city right-of-way (sidewalk area) which may be used to stage merchandise for the purpose of sales or display for the contiguous retail business.*

*Outdoor planters*. Any temporary containers or displays of plant material located outside the business.

*Additional signage*. Section 115-11 of the land development regulations addresses additional signage permitted in the central business district for businesses with an approved right-of-way utilization permit for outdoor seating areas, outdoor planters and/or additional signage.

**Sec. 82-227. - Where permitted.**

Outdoor seating areas, sidewalk sales/display of merchandise on sidewalks (within the public right-of-way), outdoor planters, and additional signage permitted in this article shall only be permitted within the central business district as designated on the land use map of the comprehensive plan. (Note: Outdoor display of merchandise is allowed for commercial operations outside the central business district subject to the limitations in Section 110-5.10 of the Land Development Regulations.

**Sec. 82-228. - Standards and criteria.**

(a) Outdoor seating areas and sidewalk sales/display of merchandise are only permitted as an accessory use to a business holding an active business tax receipt on the site abutting the public right-of-way.

(b) A 60-inch wide path for ingress and egress shall remain unobstructed and accessible for pedestrian traffic. Overhead obstructions (i.e. planters, signs, awnings, and other items placed in the air) must be at least 80 inches from the ground.

(c) Signs that may be permitted to be displayed on the sidewalk adjacent to a business shall be of quality design, materials and workmanship both to ensure the safety and convenience of users, and to enhance the visual and aesthetic quality of the urban environment. Limitations on the number, placement and square footage of signs are addressed in section 115-11 of the land development regulations.

(d) Tables, chairs, umbrellas and any other objects associated with the tables, chairs or benches shall be of quality design, materials and workmanship, both to ensure the safety and convenience of users, and to enhance the visual and aesthetic quality of the urban environment. Plastic tables and chairs shall not be permitted. Design, materials and colors shall be sympathetic and harmonious with the urban environment and compliment the design and paint colors on the building.

(e) Tables and chairs and any other item in the right-of-way shall be removed from the right-of-way in the event of an emergency as determined by the city fire chief, police chief, or city manager.

(f) No permit shall be issued for either outdoor seating areas, sidewalk sales/display of merchandise, outdoor planters and/or additional signage unless the permittee executes

an application which contains a hold harmless agreement which releases the city from liability and which indemnifies the city for any claims, loss, damages, expenses, attorney's fees, or costs associated with use of the right-of-way by any one.

**Sec. 82-230. - Procedures for approval for outdoor seating areas, outdoor planters and/or additional signage.**

(a) Permission to utilize portions of public right-of-way for uses defined under this article shall be provided under the terms of a right-of-way utilization permit approved by the city manager or designee.

(b) The applicant shall submit an application which includes a scaled, dimensioned and legible drawing of:

(1) The area proposed for use as an outdoor seating/sales and display area; sales/display areas shall be limited to the size and scope specified in Section 110-5-10 (c), and may be further limited to comply with the standards herein, including but not limited to accessible path.

(2) The location of the proposed items (tables, chairs, merchandise , et cetera) in the right-of-way area which the applicant desires to use; and

(3) The color and material of any signs, or planters.

The drawing and necessary supporting documentation shall provide all information needed to verify compliance with the minimum criteria, design standards, and the operating standards set forth in this article.

(c) Once the application is complete, city staff shall forward the permit application for the city manager or designee's review and consideration. If the permit is granted, staff shall prepare a permit agreement for signature by the city manager or his designee.

(d) The permit shall be valid for 30 days and renew automatically each 30 days unless terminated by the city manager. The city manager has total discretion to terminate the permit for any reason. Each sidewalk seating area permit is nontransferable and is considered temporary in nature. No permanent approval is granted for any improvement or use and no vesting of any type is accorded.

(Ord. No. [16-07](#), § 2, 4-7-2016)

**Sec. 82-231. - Public's right of use.**

The outdoor seating area shall be open for use by the public and such use shall not be restricted to patrons of the licensee. Neither the use of the permittee's seating area nor the tables and chairs the permittee places on the right-of-way shall be limited to the exclusive use of the permittee's patrons. All members of the public shall have the right

to use the outdoor seating area and the tables and chairs that the permittee places on the right-of-way without charge.

(Ord. No. [16-07](#), § 2, 4-7-2016)

Sec. 82-232. - Insurance requirements.

Permittee shall maintain the following insurance coverage and provide evidence of same to the city:

- (1) Worker's compensation. Coverage to apply for all employees for statutory limits in compliance with the applicable state and federal laws. The policy must include employers' liability with a limit of \$100,000.00 each accident.
- (2) Comprehensive general liability. Minimum limits of \$300,000.00 per occurrence. Combined single limit for bodily injury liability and property damage liability. This shall include premises and/or operations, independent contractors and products and/or completed operations, and a contractual liability endorsement.
- (3) Certificate of insurance. The city is to be specifically included as an additional insured. This does not pertain to worker's compensation. The policy shall provide a notification clause in the event of cancellation or modification to the policy. Certificates of insurance must be on file with and approved by the city.

(Ord. No. [16-07](#), § 2, 4-7-2016)