FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

November 26, 2018

Honorable Ken Burke
Clerk of the Board of County Commissioners
Pinellas County Courthouse
315 Court Street, 5th Floor
Clearwater, Florida 33756

Attention: James Bachteler, Deputy Clerk

Dear Mr. Burke:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Pinellas County Ordinance No. 18-36, Part 1 which was filed in this office on November 26, 2018.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

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BOARD OF
2018 NOV 26 PM 4:10
BOARD OF COUNTY
COMMISSIONERS
PINELLAS COUNTY FLORIDA

R. A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
Telephone: (850) 245-6270
www.dos.state.fl.us

Bachteler, James J

From: Bryant, Linda C. <Linda.Bryant@DOS.MyFlorida.com>
Sent: Monday, November 26, 2018 3:32 PM
To: Bachteler, James J
Cc: County Ordinances
Subject: Pinellas20181126_Ordinance2018_18_36_Part 1_Ack.pdf
Attachments: Pinellas20181126_Ordinance2018_18_36_Part 1_Ack.pdf

Bachteler, James J

From: Bachteler, James J on behalf of BoardRecords,
Sent: Monday, November 26, 2018 3:04 PM
To: 'County Ordinances'
Subject: RE: Pinellas County Ordinance - PIN_20181126_Ordinance2018_18-36_Part 1
Attachments: PIN20181126_Ordinance2018_ORD_18-36_Part 1.pdf

Sender Full Name:	Ken Burke, Clerk of the Circuit Court and Comptroller Norman D. Loy, Deputy Clerk, Board Records Department
Sender Phone number:	(727) 464-3458
County Name:	**Pinellas**
Ordinance Number:	**PIN_20181126_Ordinance2018_18-36_Part 1**

Please Note: This File Submission Contains Pinellas County Ordinance 18-36 with Attachments A, C, D, and E only.
A Companion Submittal contains Attachment B only.

Thank You and Have A Pleasant Afternoon

James Bachteler
Deputy Clerk / ***Senior Records Specialist***
Pinellas County Board Records
Finance Division
Office of Ken Burke, Clerk of the Circuit Court and Comptroller
315 Court Street, Fifth Floor, Clearwater, Florida 33756
(727) **464-4749**
www.mypinellasclerk.org

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FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

October 25, 2018

Honorable Ken Burke
Clerk of the Board of County Commissioners
Pinellas County Courthouse
315 Court Street, 5th Floor
Clearwater, Florida 33756

Attention: James Bachteler, Deputy Clerk

Dear Mr. Burke:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Pinellas County Ordinance No. 18-36, which was filed in this office on October 25, 2018.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

RECEIVED
BOARD OF
2018 OCT 25 PM 3:39
BOARD OF COUNTY
COMMISSIONERS
PINELLAS COUNTY FLORIDA

R. A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
Telephone: (850) 245-6270
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Bachteler, James J

From: Kerce, Whitley L. <Whitley.Kerce@dos.myflorida.com>
Sent: Thursday, October 25, 2018 3:34 PM
To: Bachteler, James J
Cc: County Ordinances
Subject: Pinellas20181025_Ordinance2018_18_36_Ack.pdf
Attachments: Pinellas20181025_Ordinance2018_18_36_Ack.pdf

Bachteler, James J

From: Bachteler, James J on behalf of BoardRecords,
Sent: Thursday, October 25, 2018 3:29 PM
To: 'County Ordinances'
Subject: RE: Pinellas County Ordinance - PIN_20181025_Ordinance2018_18-36
Attachments: PIN_20181025_Ordinance2018_18-36.pdf

Sender Full Name:	Ken Burke, Clerk of the Circuit Court and Comptroller Norman D. Loy, Deputy Clerk, Board Records Department
Sender Phone number:	(727) 464-3458
County Name:	**Pinellas**
Ordinance Number:	**PIN_20181025_Ordinance2018_18-36**

Thank You and Have A Pleasant Afternoon

James Bachteler
Deputy Clerk / ***Senior Records Specialist***
Pinellas County Board Records Department
Finance Division
Office of Ken Burke, Clerk of the Circuit Court and Comptroller
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ORDINANCE 18 - 36

AN ORDINANCE OF PINELLAS COUNTY, FLORIDA AMENDING PART THREE OF THE PINELLAS COUNTY CODE, THE LAND DEVELOPMENT CODE, CHAPTER 134 GENERAL AND ADMINISTRATIVE PROVISIONS, CHAPTER 138 ZONING, CHAPTER 142 AIRPORT ZONING, CHAPTER 154 SITE DEVELOPMENT, RIGHT-OF-WAY IMPROVEMENTS, SUBDIVISIONS, AND PLATTING, CHAPTER 166 ENVIRONMENTAL AND NATURAL RESOURCE PROTECTION AND DELETING CHAPTER 162 SIGNS AND CHAPTER 170 MISCELLANEOUS PROVISIONS IN THEIR ENTIRETY; PROVIDING FOR THE AMENDMENT OF THE PINELLAS COUNTY OFFICIAL ZONING ATLAS AND GEOGRAPHIC INFORMATION SYSTEM TO REFLECT CHANGES IN ZONING DISTRICT NAMES; PROVIDING FOR PURPOSE AND INTENT, PROVIDING FOR SEVERABILITY, PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the last major update to Pinellas County's land development regulations occurred with the passage of the Land Development Code in 1990; and

WHEREAS, the landscape of Pinellas County has moved from greenfield to redevelopment and infill; and

WHEREAS, it is recognized that a modernized Land Development Code is necessary to address the changes associated with infill and redevelopment vs. greenfield development; and

WHEREAS, it is important that codes be written in a user-friendly format that takes advantage of graphics, tables and references, and is written first for the applicant and second for the regulator; and

WHEREAS, a new modernized code must support economic development efforts in the county; and

WHEREAS, the County has conducted multiple focus group and stakeholder involvement throughout the development of the updated code; and

WHEREAS, County Departments have reviewed the draft code prior to adoption; and

WHEREAS, there have been multiple presentations to the Board of County Commissioners, Local Planning Agency, and Board of Adjustments on proposed major changes to the code; and

WHEREAS, the draft Land Development Code has been made available for public comment through the County's online civic engagement platform, Open Pinellas; and

WHEREAS, through re-organization and consolidation, certain chapters of the draft Land Development Code have been removed or re-located into existing chapters elsewhere in the Pinellas County Code; and

WHEREAS, this update to the Pinellas County Land Development Code is supporting of the County's Strategic Plan goals to Foster Continual Economic Growth and Vitality and to Deliver First Class Services to the Public and Our Customers; and

WHEREAS, the Local Planning Agency held a public hearing to review the proposed updated Code on August 9, 2018, found the amendments in compliance with the Pinellas County Comprehensive Plan, and recommended adoption by the Board of County Commissioners.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pinellas County Florida:

Section 1. Findings.

The above "Whereas" clauses are hereby incorporated as findings.

Section 2. Purpose and Intent.

It is the purpose of the Board of County Commissioners of Pinellas County to establish the standards, regulations and procedures for review and approval of all proposed development of property in unincorporated Pinellas County, and to provide a development review process that will be comprehensive, consistent, and efficient in the implementation of the goals, objectives, and policies of the Pinellas County Comprehensive Plan.

In order to foster and preserve public health, safety, comfort and welfare, and to aid in the harmonious, orderly, and progressive development of the unincorporated areas of Pinellas County, it is the intent of this Code that the development process in Pinellas County be efficient, in terms of time and expense; effective, in terms of addressing the natural resource and public facility implications of proposed development; and equitable, in terms of consistency with established regulations and procedures, respect for the rights of property owners, and consideration of the interests of the citizens of Pinellas County.

The Board of County Commissioners deems it to be in the best public interest for all development to be conceived, designed, and built in accordance with good planning and design practices and the minimum standards set forth in this Code.

Section 3.

The following chapters of the Land Development Code, Part Three of the Pinellas County Code of Ordinances, are hereby amended, and renamed as required, to read as follows:

Chap 134 General and Administrative Provisions: See Attachment "A"

Chap 138 Zoning: See Attachment "B"

Chap 142 Airport Zoning: See Attachment "C"

Chap 154 Site Development, re-named Site Development, Right of Way Improvements, Subdivisions, and Platting: See Attachment "D"

Chap 166 Environmental and Natural Resource Protection: See Attachment "E"

Section 4.

Chapter 162 Signs, and Chapter 170, Miscellaneous Provisions, Part Three Land Development Code, are hereby deleted in their entirety.

Section 5.

The official zoning atlas and associated data within the Pinellas County Geographic Information System shall be amended to reflect changes in zoning district names as follows (only those districts with changes are listed) upon the effective date of this ordinance:

Current Zoning District Designation	Proposed Zoning District Designation
A-E Agriculture Estate Residential	R-A Residential Agriculture District
E-1 Estate Residential District	R-E Residential Estate District
R-6 Residential Mobile Home Park and Subdivision District	RMH Residential Mobile/Manufacture Home District
RPD-0.5, RPD-1.0, RPD-2.5, RPD-5.0, RPD-7.5, RPD-10, RPD-12.5 Residential Planned Development District	RPD Residential Planned Development District
RM-2.5, RM-5.0, RM-7.5, RM-10, RM-12.5 Residential Multiple Family District	RM Residential Multiple Family District
P-1A Limited Office District	LO Limited Office District
P-1 General Professional Office District	GO General Office
CP-1 & CP-2 Commercial Parkway District	CP Commercial Parkway District
C-3 Commercial, Wholesale, Warehousing and Industrial Support District	E-2 Employment 2 District
IL Institutional Limited District	LI Limited Institutional District
PSP Public/Semi-public District	GI General Institutional District
M-1 Light Manufacturing and Industry District	E-1 Employment 1 District
M-2 Heavy Manufacturing and Industry District	I Heavy Industry District

Section 6. Severability

If any Section, paragraph, clause, sentence, or provision of the Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgement shall affect, impair, invalidate, or nullify the remainder of this Ordinance, but the effect therefore shall be confined to the section, paragraph, clause, sentence, or provision immediately involved in the controversy in which such judgement or decree shall be rendered.

Section 7. Inclusion in Code.

The provisions of this Ordinance shall be included and incorporated in the Pinellas County Code, as an amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Pinellas County Code.

Section 8. Filing of Ordinance: Effective Date

Pursuant to Section 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within 10 (ten) days after enactment by the Board of County Commissioners. Upon filing of the Ordinance with the Department of State, this Ordinance shall become effective January 1, 2019.

APPROVED AS TO FORM

By: _____

Office of the County Attorney

STATE OF FLORIDA

COUNTY OF PINELLAS

I, KEN BURKE, Clerk of the Circuit Court and Ex-officio Clerk to the Board of County Commissioners, in and for the State and County aforesaid, DO HEREBY CERTIFY that the foregoing is a true and correct copy of an Ordinance adopted by the Board of County Commissioners of Pinellas County, Florida, on October 23, 2018 relative to:

ORDINANCE 18 - 36

AN ORDINANCE OF PINELLAS COUNTY, FLORIDA AMENDING PART THREE OF THE PINELLAS COUNTY CODE, THE LAND DEVELOPMENT CODE, CHAPTER 134 GENERAL AND ADMINISTRATIVE PROVISIONS, CHAPTER 138 ZONING, CHAPTER 142 AIRPORT ZONING, CHAPTER 154 SITE DEVELOPMENT, RIGHT-OF-WAY IMPROVEMENTS, SUBDIVISIONS, AND PLATTING, CHAPTER 166 ENVIRONMENTAL AND NATURAL RESOURCE PROTECTION AND DELETING CHAPTER 162 SIGNS AND CHAPTER 170 MISCELLANEOUS PROVISIONS IN THEIR ENTIRETY; PROVIDING FOR THE AMENDMENT OF THE PINELLAS COUNTY OFFICIAL ZONING ATLAS AND GEOGRAPHIC INFORMATION SYSTEM TO REFLECT CHANGES IN ZONING DISTRICT NAMES; PROVIDING FOR PURPOSE AND INTENT, PROVIDING FOR SEVERABILITY, PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE

IN WITNESS WHEREOF, I hereunto set my hand and official seal this October 25, 2018.

(SEAL) BOARD OF COUNTY COMMISSIONERS SEAL PINELLAS COUNTY, FLORIDA

KEN BURKE
Clerk of the Circuit Court
and Ex-officio Clerk to the
Board of County Commissioners

By: Norman D. Loy
Norman D. Loy, Deputy Clerk

STATE OF FLORIDA

COUNTY OF PINELLAS

I, KEN BURKE, Clerk of the Circuit Court and Ex-officio Clerk to the Board of County Commissioners, in and for the State and County aforesaid, DO HEREBY CERTIFY that the foregoing is a true and correct copy of an Ordinance adopted by the Board of County Commissioners of Pinellas County, Florida, on October 23, 2018 relative to:

ORDINANCE 18 - 36

AN ORDINANCE OF PINELLAS COUNTY, FLORIDA AMENDING PART THREE OF THE PINELLAS COUNTY CODE, THE LAND DEVELOPMENT CODE, CHAPTER 134 GENERAL AND ADMINISTRATIVE PROVISIONS, CHAPTER 138 ZONING, CHAPTER 142 AIRPORT ZONING, CHAPTER 154 SITE DEVELOPMENT, RIGHT-OF-WAY IMPROVEMENTS, SUBDIVISIONS, AND PLATTING, CHAPTER 166 ENVIRONMENTAL AND NATURAL RESOURCE PROTECTION AND DELETING CHAPTER 162 SIGNS AND CHAPTER 170 MISCELLANEOUS PROVISIONS IN THEIR ENTIRETY; PROVIDING FOR THE AMENDMENT OF THE PINELLAS COUNTY OFFICIAL ZONING ATLAS AND GEOGRAPHIC INFORMATION SYSTEM TO REFLECT CHANGES IN ZONING DISTRICT NAMES; PROVIDING FOR PURPOSE AND INTENT, PROVIDING FOR SEVERABILITY, PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE

IN WITNESS WHEREOF, I hereunto set my hand and official seal this November 14, 2018.

(SEAL)

BOARD OF COUNTY COMMISSIONERS SEAL PINELLAS COUNTY, FLORIDA

KEN BURKE
Clerk of the Circuit Court
and Ex-officio Clerk to the
Board of County Commissioners

By: Norman D. Loy
Norman D. Loy, Deputy Clerk

Attachment "A"

Contents

CHAPTER 134 - GENERAL AND ADMINISTRATIVE PROVISIONS

ARTICLE I. - IN GENERAL

DIVISION 1. – CODE APPLICATION

Section. 134-1. - How Code designated and cited.

The ordinances embraced in the following chapters shall constitute and be designated as the "Pinellas County Land Development Code."

(a) Chapter 134 – General and administrative provisions

(b) Chapter 138 – Zoning

(c) Chapter 142 – Airport zoning

(d) Chapter 146 – Historical preservation

(e) Chapter 150 – Impact fees

(f) Chapter 154 – Site development, right-of-way improvements, subdivisions and platting

(g) Chapter 158 – Floodplain management

(h) Chapter 166 – Environmental and natural resource protection

(i) Other chapters that may be added and/or amended in connection with the Land Development Code.

Section 134-2. – Definitions.

The terms expressed in Chapter 1, Section 1-2 of the Pinellas County Code shall be applicable to this chapter, unless otherwise defined within a specific division or section of this chapter.

Section 134-3. - The effect of history notes and references in Code.

(a) The catchlines of the several sections of this code set in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of such sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

(b) The history or source notes appearing in parentheses after sections in this code are not intended to have any legal effect but are merely intended to indicate the sources of matter contained in the section. Cross references, editor's notes and state law references which appear after sections or subsections of this code or which otherwise appear in footnote form are provided for the convenience of the user of this code and have no legal effect.

(c) All references to chapters, articles or sections are to be chapters, articles and sections of this code unless otherwise specified, but references to provisions in chapters 1—133 are to provisions in the Pinellas County Code.

Section 134-4. - Effect of repeal of ordinances.

(a) The repeal or amendment of an ordinance shall not revive any ordinance in force before or at the time the ordinance repealed or amended took effect.

(b) The repeal or amendment of any ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending

at the time of the repeal for an offense committed under the ordinance repealed or amended.

Section 134-5. - Amendments to Code; effect of new ordinances; amendatory language.

(a) All ordinances passed subsequent to this code which amend, repeal or in any way affect this code may be numbered in accordance with the numbering system of this code and printed for inclusion in this code. Repealed chapters, sections and subsections, or any part thereof, by subsequent ordinances may be excluded from this code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of these subsequent ordinances until such time that this code and subsequent ordinances are readopted as a new code.

(b) Amendments to any of the provisions of this code may be made by amending those provisions by specific reference to the section number of this code in the following language:

"Section _____ of the Pinellas County Land Development Code is hereby amended to read as follows: ...." The new provisions may then be set out in full as desired.

(c) If a new section not then existing in the code is to be added, the following language may be used:

"The Pinellas County Land Development Code is hereby amended by adding a section (or article or chapter) to be numbered _____, which section reads as follows: ...." The new section may then be set out in full as desired.

(d) All provisions desired to be repealed should be specifically repealed by section, article or chapter number, as the case may be, and/or by setting them out at length in the repealing ordinance.

Section 134-6. - Supplementation of Code.

(a) Supplements to this code shall be prepared and printed whenever authorized or directed by the county. A supplement to the code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the code. The pages of a supplement shall be so numbered that they will fit properly into the code and will, where necessary, replace pages that have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the code will be current through the date of adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this code, all portions of the code that have been repealed shall be excluded from the code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the person may:

(1) Organize the ordinance material into appropriate subdivisions.

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the code printed in the supplement, and make changes in such catchlines, headings and titles.

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the code and, where necessary to accommodate new material, change existing section or other subdivision numbers.

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the code which embody the substantive sections of the ordinance incorporated into the code).

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the code.

(d) In no case shall the person preparing the supplement make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the code.

Section 134-7. - Severability.

It is declared to be the intent of the Board of County Commissioners that if any section, subsection, sentence, clause, phrase or portion of this code or any ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this code or any ordinance, and it shall be construed to have been the legislative intent to pass this code or such ordinance without such unconstitutional, invalid or inoperative part therein, and the remainder of this code or such ordinance after the exclusion of such part or parts shall be deemed and held to be valid as if such part or parts had not been included herein. If this code or any ordinance or any provision thereof shall be held inapplicable to any person, group of persons, property or kind of property, or circumstances or set of circumstances, such holding shall not affect the applicability of this code to any other person, property or circumstance.

Section 134-8. - General penalty; continuing violations.

(a) In this section "violation of this code" means:

(1) Doing an act that is prohibited or made or declared unlawful, or an offense or a misdemeanor by ordinance or by rule or regulation authorized by ordinance;

(2) Failure to perform an act that is required to be performed by this code or by rule or regulation authorized by this code; or

(3) Failure to perform an act if the failure is declared a misdemeanor or an offense or unlawful by this code or by rule or regulation authorized by this code.

(b) In this section, "violation of this code" does not include the failure of a county officer or county employee to perform an official duty unless it is provided that failure to perform the duty is to be punished as provided in this section.

(c) Except as otherwise provided by law or ordinance, a person convicted of a violation of this code shall be punished by a fine not to exceed $500. With respect to violations of this code that are continuous with respect to time, each day the violation continues is a separate offense.

(d) The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise, the imposition of civil fines or other administrative actions, including action pursuant to F.S. ch. 162 and Article VIII of Chapter 2 of the Pinellas County Code, nor does it preclude other civil judicial remedies.

(e) The Board of County Commissioners is authorized and empowered to institute legal proceedings in the circuit court of the county for the purpose of obtaining injunctive relief and such other relief as may be proper under the law against violators of this code. This remedy is in addition to all other remedies. The imposition of a penalty does not prevent equitable relief.

(f) No applications for development permits, site plans, variances, development agreements, special events, or building permits shall be accepted, nor shall any approvals or permits be issued for a property, which has been issued a code enforcement notice of violation; or, which has a County recorded, unpaid, code enforcement lien; or which has outstanding, unpaid, development review fees that have remained unpaid after the County has notified by certified mail the party responsible for the fees and said property owner that such fees remain unpaid. These restrictions shall not apply to applications submitted to correct a code enforcement violation; a federal, state or other agency violation; a Florida Building Code violation; a Florida Fire Prevention Code violation; or, an imminent life safety, health or welfare condition as determine by the building official, fire marshal, or other applicable County official.

Section 134-9. - Certain ordinances not affected by Code.

(a) Nothing in this code shall affect any ordinance:

(1) Promising or guaranteeing the payment of money by or to the county or authorizing the issuance of any bonds of the county, or any evidence of the county's indebtedness, or any contract or obligation assumed by the county.

(2) Relating to fixing positions, classifications, benefits or salaries of county officers or employees.

(3) Granting a right or franchise.

(4) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating or prescribing the grades of any road or public way in the county.

(5) Levying or imposing taxes not codified in this code.

(6) Providing for local improvements and assessing taxes therefor.

(7) Codified in the Pinellas County Code.

(8) Rezoning specific property.

(9) Adopted for purposes which have been consummated.

(10) Which is temporary, although general in effect.

(11) Which is special, although permanent in effect.

(12) Declaring a moratorium that is not codified in this code.

(13) Creating any special district not codified in this code.

(b) All ordinances specified in subsection (a) of this section are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this code.

(c) Nothing in this code or the ordinance adopting this code repeals or modifies any exhibit, attachment or appendix to an ordinance referenced in this code if the exhibit, attachment or appendix is not published in this code.

Section 134-10. - Provisions considered as continuation of existing ordinances.

(a) The provisions appearing in this code, so far as they are the same as those of ordinances existing at the time of the adoption of this code, shall be considered as a continuation thereof and not as new enactments.

(b) The adoption of this code does not alter the effective date of any ordinance in this code, it being the intent of the Board of County Commissioners that the adoption of this code shall not be interpreted as creating any new preexisting uses or altering the date by which preexisting uses must comply with a county ordinance.

Section 134-11. - Code does not affect prior offenses, acts, penalties or rights.

Nothing in this code or the ordinance adopting this code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this code.

Sections 134-12—134-13. - Reserved.

DIVISION 2. – QUASI-JUDICIAL PROCEEDINGS

Section 134-14. - Quasi-judicial proceedings.

(a) *Purpose and intent.* The Board of County Commissioners ("Board") has prepared these rules to encourage public participation during quasi-judicial hearings in a manner consistent with the requirements of law. The board intends that these hearings be informal and not intimidating for the public, while recognizing the need for certain structure to maintain orderly hearings. Notwithstanding the procedures established in this section, these procedures may be modified by the hearing body utilizing said procedures to effectuate the effective presentation of evidence.

(b) Applicability of these procedures.

(1) *Land Development Code.* These procedures apply to all quasi-judicial proceedings held to interpret, implement, and enforce the land development code by all hearing bodies, as further defined herein. Examples of quasi-judicial proceedings include but are not limited to: site specific rezonings, variances, Type 2 and 3 uses, site plan review and approval, and administrative appeals.

(2) *Covered decision makers.* These procedures shall be utilized by the Board of County Commissioners, the Local Planning Agency, and the Board of Adjustment and Appeals (“hearing bodies”).

(3) *Applicants*. Applicants shall be limited to the property owner(s) or their representatives, as further detailed herein.

(4) *Legislative proceedings.* Utilization of these procedures by a hearing body when sitting in a legislative capacity does not change the character of the legislative proceeding nor does it confer any additional rights or remedies upon any person or party.

(c) Pre-hearing submittals.

(1) *Application.* The applicant shall submit an application as provided in the procedures established for the individual decision being requested.

(2) *Staff recommendation*. To the extent that the applicable procedure requires a staff review and written recommendation to be presented to the hearing body, that written recommendation shall be completed and available for public inspection no less than one week prior to the hearing.

(3) *Supplemental material*. No later than one week prior to the scheduled public hearing, any applicant, proponent, or opponent may submit any written arguments, evidence, explanations, studies, reports, petitions or other documentation for consideration by the hearing body in support of or in opposition of the application. Unless an oversized exhibit is absolutely essential, documentary paper or photographic exhibits should not exceed 24 inches by 36 inches and, if mounted on a backboard, shall be removable therefrom. All non-digital documentary evidence should be capable of being folded and filed. If an exhibit is presented, it becomes part of the record and will not be returned. No new materials will be accepted at

the hearing as of right; such material shall only be accepted in the hearing body's sole discretion.

(4) *Applicant representation.* Applicants may represent themselves, or choose to be represented by an attorney or non-attorney representative. In the case of a non-attorney representative, and if the applicant will not appear at the hearing, the applicant shall furnish a properly executed power of attorney or other such document authorizing such representation.

(5) *Record.* The applicant's application, staff recommendation, and properly filed supplemental material shall automatically become part of the record. In addition, properly sworn testimony during the hearing shall also automatically become part of the record. Additional materials shall only become part of the record in the hearing body's sole discretion in accordance with the terms herein.

(d) Public hearing.

(1) Generally. It is the expectation that the hearing will be as informal and non-intimidating as possible. Each person who addresses the hearing body shall utilize the speaker's lectern, if available, to allow his or her comments to be recorded and shall provide their name, address and whether they will speak on behalf of others.

a. *Recording.* All quasi-judicial hearings shall be recorded. Any party who wishes to appeal a decision shall be solely responsible for ensuring a verbatim transcript of the proceedings is created for appeal.

b. *Time limitation guidelines.* It is expected that presentations will be organized and efficiently presented. Persons in the following status should complete their presentation or comments within the prescribed time limits, unless an extension is granted by the hearing body upon a showing of good cause:

1. Staff should introduce and present the case in 20 minutes, including their response and summary.

2. The applicant should present his or her entire case in 20 minutes, including rebuttal.

3. Persons who have been authorized to represent an organization with five or more members or a group of five or more persons should limit their presentation to 10 minutes. Others in the organization or group shall waive their time. The five represented individuals must be present and waive their time.

4. All other persons may speak up to a total of three (3) minutes each.

c. *Registration of proponents or opponents.* To the extent possible, persons who desire to make presentations as proponents or opponents of an item should, prior to the meeting at which such item is to be heard, register with the hearing body's clerk on the forms provided. Five or more persons deemed by the hearing body to be associated together or otherwise represent a common point of view on an item may be requested to select a spokesperson.

d. *Organizational or group speakers.* Prior to presenting his/her case, any person representing an organization or other persons shall indicate who he/she represents and how he/she received authorization to speak on behalf of such organization or group of persons. The hearing body may make further inquiry into the represented authority of such person if necessary.

e. *Speaker's qualifications.* Persons speaking on issues requiring educational, occupational and other experience should identify those qualifications. The hearing body may further inquire as to such qualifications.

f. *Restrictions on testimony or presentation of evidence.* At any proceeding, the chair, or administrative official leading the proceedings, unless overruled by majority of the hearing body members present, may restrict or terminate presentations which in the chairman's judgment are irrelevant, frivolous, unduly repetitive, inflammatory, or otherwise out of order.

g. *Ex parte communications.* Individuals should not contact the person or entity responsible for issuing or recommending the final development order(s) about issues coming before said official or hearing body, and said officials and hearing bodies shall avoid such communication to the extent practicable. If such communication inadvertently or unavoidably takes place, such conversations should be disclosed and made part of the record before or during the hearing. Such disclosure shall include the subject of the communication and the identity of the person, group, or entity with whom the communication took place.

(2) Order and subject of appearance. The public hearing shall be conducted in the following manner:

a. Disclosure of any ex-parte communications by hearing body members.

b. Initial presentation by staff. County staff shall make the initial presentation to the hearing body regarding any item under consideration. Affected parties may ask questions of, or seek clarification from, staff by request through the chair after staff's initial presentation.

c. Applicant's presentation. After staff presentation, the applicant(s) shall be allowed to present their case.

d. Proponent's presentation. After presentation by the applicant(s), proponents of the item or request shall be allowed to speak in support of the case.

e. Opponent's presentation. After the hearing body and staff inquiry of the proponents, opponents of an item or request shall be allowed to speak.

f. Applicants' rebuttal presentation. The applicant shall be allowed an opportunity for rebuttal. Rebuttal shall only address previous testimony. Proponents, opponents or staff who believe that the rebuttal presentation includes an error of fact may ask for and may be allowed an opportunity to point out such error of fact.

g. *Inquiry by hearing body.* The hearing body shall have an opportunity to comment or ask questions of or seek clarification from staff, applicant(s), proponent(s), or opponent(s) at any time during the proceedings. After the respective parties' presentations, affected parties may ask questions of or seek clarification from the applicant(s), proponent(s), or opponent(s) by request through the chair.

h. *Closing of public comment*. For those matters in which public comment is heard by the hearing body, the chair shall close the public comment portion of the meeting on that item upon the conclusion of the last appropriate speaker's comments. No additional public comments shall be allowed, except in specific response to questions by members of the hearing body or in said body's sole discretion.

(3) *Waiver of hearing.* The applicant may waive the right to a full hearing if it agrees with the staff recommendation and no one from the audience wishes to speak for or against the application.

(4) Continued public hearings.

a. *Continuance requested by the applicant.* The applicant shall have one opportunity to continue his or her case to a future scheduled meeting date for up to 70 days, by submitting a notification to continue in writing to the county department responsible for scheduling the hearing prior to formal publication of the hearing. If the applicant notifies said department after publication, requests a continuance for more than 70 days, or seeks to continue the case after the case has previously been continued, such a request shall be decided by the responsible hearing body. All costs associated with a continuance, including but not limited to re-advertising, shall be borne by the applicant.

b. *Opportunity to be heard.* In any matter where it is known that a scheduled public hearing will be continued to a future date, public comment may be limited to those persons who state that they believe they cannot be available to speak on the date to which the public hearing is being continued. Such persons may then make their comments at the current meeting, provided, that upon making their comments, such persons shall waive the right to repeat or make substantially the same presentation at any subsequent meeting on the same subject. This waiver shall not preclude such persons from making different presentations based on new information or from offering response to other persons' presentation, if otherwise allowable, at any subsequent meeting.

(e) *Burden of proof.* The applicant has the burden of producing competent substantial evidence for the hearing body to make an informed decision and conclude that the applicable standards for the case at hand have been met. Failure to submit sufficient timely evidence or testimony, or address the relevant criteria on which the application is based, may be a sufficient basis for the hearing body to deny the application.

(f) Administrative appeals.

(1) *Scope of review*. Administrative appeals shall be held by the Board of Adjustment and Appeals or Board of County Commissioners in conformity with the provisions herein, and shall be reviewed de novo.

(2) *Right of Appeal.* Appeals may be filed by any affected party aggrieved by the application of the land development code or the Comprehensive Plan by the Development Review Committee, or aggrieved by an action that provides for an appeal to the Board of County Commissioners ("appellant").

(3) *Procedure for appeal.* An appeal shall be filed in writing with the applicable department responsible for issuing the decision, or administering the application, for which a decision has been rendered, within 15 calendar days after rendition of the final development order or determination at issue. The date of rendition shall be the date at which a written, dated instrument expressing such decision is executed by the administrative official or original hearing body.

(4) *Filing fee*. Each appeal shall be accompanied by a filing fee, as determined by the annual fee schedule adopted by the Board of County Commissioners.

(5) *Substance of appeal*. At a minimum, the appeal shall indicate the following:

a. The section(s) of the Pinellas County Land Development Code that the appellant has a reasonable basis to believe were not adhered to regarding the final decision on appeal;

b. How the appellant has been aggrieved by such noncompliance, which must include specific reasons beyond generalizations, and must be different in nature and scope to the general public or neighborhood at large; and

c. Whether a pre-hearing conference is requested.

(6) *Denial and consolidation*. The hearing body hearing the appeal shall have the right to deny the appeal if the appeal does not adhere to the requirements herein. Said hearing body also reserves the right to consolidate multiple appeals of the same decision, or multiple appeals of different decisions affecting the same project, when appropriate.

(7) *Effect of appeal*. Upon filing of an appeal, all work on the premises associated with the final development order shall be at the sole risk and cost of the applicant.

(8) *Finality of decision.* No new application for an identical request on the same parcel shall be accepted for consideration within a period of six (6) months following a final decision on an administrative appeal. An applicant may request a waiver to this provision and the responsible hearing body may waive this provision for good cause.

(9) *Judicial review of decisions*. Any affected person may appeal a final adverse administrative decision to circuit court, provided that the aggrieved party has first filed an administrative appeal, was denied relief, and has filed an appeal to circuit court within 30 calendar days of the final adverse decision.

(10) *Pre-hearing conference.* The Board of Adjustment and Appeals or Board of County Commissioners may require a preliminary hearing in its sole discretion. If the hearing body determines a prehearing conference is needed, it shall issue a notice of prehearing conference outlining the specific requirements of the hearing.

a. Minimum requirements. At a minimum, the notice shall require each party to furnish the following items in an effort to narrow the issues on appeal:

1. A list of documentary evidence and exhibits that will be offered during the hearing and brief statement explaining their purpose;
2. A list of all possible witnesses, which shall include the witnesses' name, address, phone number, and a brief summary of the substance of each witness' proposed testimony;
3. The parties must bring copies of any documents or exhibits they intend to use at the hearing, to be placed in the record for the hearing.

b. Failure to comply. Failure to comply with the terms of the Notice may result in the prehearing conference to be continued and/or the non-complying party's witnesses and/or exhibits being disallowed or such other relief as the hearing body may determine.

c. Failure to appear. Failure to appear at the scheduled pre-hearing conference may constitute grounds for the hearing body to find that the appellant has withdrawn the appeal.

Sections 134-15—134-45. - Reserved.

ARTICLE II. - COUNTYWIDE PLANNING AUTHORITY

Section 134-46. – Countywide Planning Authority.

In accordance with Chapter 2012-245, Laws of Florida, the Board of County Commissioners service as the countywide planning authority with the Pinellas Planning Council serving as its advisory board.

Section 134-47. – Process.

For applicable review procedures related to the countywide planning authority refer to Chapter 138 Article II.

Secs. 134-48—134-80. - Reserved.

ARTICLE III. - COMPREHENSIVE PLAN

Section 134-81. - Authority.

This article is adopted in compliance with and pursuant to the local government Comprehensive Planning and land development regulation act, F.S. § 163.3161 et seq.

Section 134-82. - Purpose and intent.

(a) The Comprehensive Plan is intended to function as a guiding document implemented through applicable codes, ordinances, manuals, and similar regulating documents, consistent with Chapter 163.F.S. The goals, objectives, policies and strategies of the Comprehensive Plan shall enable staff and policy-makers to:

(1) Consider long-term impacts and evaluate policy decisions to ensure that they support a sustainable future

(2) Create and enhance safe, healthy communities that attract and retain a socially and culturally diverse population

(3) Facilitate a strong local economy that supports sustainable, healthy communities and enhances employment opportunities and the quality of life for its citizens

(4) Provide a range of housing options to meet the needs of a diverse and intergenerational community

(5) Provide an interconnected, resilient multimodal transportation network that safely, efficiently and equitably addresses the mobility needs of all citizens, visitors, and businesses, while simultaneously minimizing opportunities for traffic related fatalities and injuries

(6) Protect the diverse ecosystem that makes up the county's natural resources and contributes to the county's public health, quality of life and local economy

(7) Promote the advancement of best practices and technologies that benefit the economy, healthy communities, and the public health, safety and welfare

(8) Recognize opportunities for responsible regionalism and promote inter-coordination with the county's municipalities, community organizations and regional entities.

(b) The Pinellas County Comprehensive Plan, and those elements thereto are also established with specific objectives and policies to achieve the following:

(1) to preserve, promote, protect, and improve the public health, safety, comfort, good order, appearance, convenience, law enforcement, fire prevention, and general welfare;

(2) to ensure that the existing rights of property owners be preserved in accord with the constitutions of the state and of the United States.

(c) Nothing in this article or the Comprehensive Plan adopted in this article, or in the land use regulations adopted consistent with the requirements of this article, shall be construed or applied so as to result in an unconstitutional temporary or permanent taking of private property or the abrogation of validly existing vested rights.

Section 134-83. - Adopted.

The Pinellas County Comprehensive Plan, and all amendments thereto, are hereby adopted as required by, and pursuant to, the provisions of the community planning act, F.S. § 163.3161 et seq., as the local Comprehensive Plan of the Pinellas County Board of County Commissioners.

Section 134-84. - Administration.

(a) The county administrator or designee shall be responsible for the general administration of the Comprehensive Plan.

(b) The planning director or designee shall be responsible for reviewing all ordinances pursuant to Florida State Statutes pertaining to the Comprehensive Plan.

Section 134-85. - Appeals.

(a) The Board of County Commissioners or its designee shall hear appeals relating to any administrative decision or determination concerning implementation or application of the Comprehensive Plan's provisions. The Board of County Commissioners shall establish procedures and proceedings and times for appeals to be heard.

(b) In order to prevent the taking of property pursuant to the provisions of subsection 134-82(c), the Board of County Commissioners shall establish administrative procedures which any party challenging the denial of a development order as a temporary or permanent taking of private property or an abrogation of vested rights must exhaust before any action on a request for development is deemed final by any court or quasi-judicial proceeding.

Section 134-86. - Protection of vested rights.

(a) Definitions.

(1) *Final* local *development order*. For the purpose of this article, a "final local development order" means the last approval necessary to carry out the development provided that the proposed project has been precisely defined and development has commenced and is continuing in good faith. Terms used in this definition shall be as defined in Chapter 138.

(2) *Final site plan approval*. For the purpose of this article, "final site plan approval" means that a site development plan has been reviewed and approved by all applicable county departments for compliance with all currently applicable rules, regulations, and ordinances and has subsequently been reviewed, approved, and signed by the county administrator and is the last review needed for issuance of a building permit.

(3) *Special exemptions.* For the purposes of this article, special exemptions mean exemptions granted by the county to Comprehensive Plan policies based on previous approval of development orders. The provisions of this section shall apply to those situations. However, no exemptions shall be granted to environmental/health policies set forth in the Comprehensive Plan.

(b) *Vested development order.* For the purpose of this article, a "development order" shall be the last county approval necessary to carry out the development provided that the proposed project has been precisely defined and development has commenced and is continuing in good faith.

(c) *Vesting standards.* The following standards apply to projects with a vested development order.

(1) Notwithstanding any other provisions of this Comprehensive Plan, it shall be the policy of the county to consider granting special exemption status to a development order which may be deemed inconsistent with a policy or operative provision in this Comprehensive Plan if a project phase or a project as indicated in an approved development order in its entirety is completely contained on a site for which one or more of the following development orders has received final approval by the county, and development must have commenced and is continuing in good faith,

prior to the date of adoption of this Comprehensive Plan for purposes of consistency or prior to January 1, 2019, or purposes of concurrency:

a. Final approved development orders relating to a development of regional impact (DRI) project or Florida Quality Development (FQD) pursuant to F.S. ch. 380.

b. Valid and approved final local development order.

(2) Additionally, it shall be the policy of the county to consider granting special exemption status to a proposed development order which may be deemed inconsistent with a policy or operative provision in this Comprehensive Plan if that project in its entirety or project phase as indicated in an approved development order is completely contained on a site which has one of the following determinations, provided development commences within one year of the determination and continues in good faith:

a. A development order or rights determined to be vested pursuant to any prior judicial determination or any judicial determination by an appropriate court overturning a vested right determination made through any administrative procedure subsequently established by the Board of County Commissioners

b. A development order or right determined to be vested pursuant to a vested right determination made through any administrative procedure subsequently established by the Board of County Commissioners based on the owner's establishment by the presentation, at a public hearing, of competent, substantial evidence that he acted in good faith and in reasonable reliance upon some act or omission of the county and has made such a substantial change in position or has incurred such extensive obligations and expenses that it would be highly inequitable and unjust to destroy the rights he has acquired. A land use designation in a prior Comprehensive Plan, or a zoning designation, is not sufficient to constitute an act or omission of the county. The treatment of similar cases by state courts, as reviewed by the county attorney or his designated representative, as well as recommendations of staff, shall be relevant to the determination of the extent of vested rights established, if any. Any person who claims that he has vested rights must file an application for a vested rights determination on or before June 30, 2019. Such application not filed by that date shall not be accepted or reviewed, and any such rights claimed after that date shall be irrevocably waived and abandoned. Vested rights determinations shall be deemed to be an action taken on a development order and shall be subject to challenge in the manner provided in F.S. § 163.3215.

(3) Projects with special exemptions under subsections (c)(1)a and (c)(1)b of this section shall not be required to comply with the provisions of this article as to concurrency. Development orders determined to have "vested rights" under Subsections (c)(2)a and (c)(2)b of this section shall be required to comply with the provisions of this article except to the extent provided in the vested rights determination or judicial order.

(4) To the extent that any subsequent amendment to development orders with a special exemption status established pursuant to the foregoing procedures may alter existing development rights otherwise preserved under the special exemption status, such subsequent amendments shall not qualify for the special exemption and shall be reviewed in accordance with the then-existing Comprehensive Plan.

(5) It is not the intent of this section to preclude the consideration of appropriate extensions of development orders or phasing deadlines. Special exemption status

shall, however, terminate upon expiration, repeal, or rescission of any approved development order that created the special exemption status on the project or project phase or extension thereof. Any project, or all phases thereof, that are made a special exemption under this policy, or any development that does not comply with the then-existing Comprehensive Plan, shall be considered nonconforming and shall lose such special exemption status upon the expiration of any final plan or permit, or the missing of any phasing deadline for such project.

(6) In the event that a phased project in its entirety qualifies as a special exemption, succeeding phases of that project shall retain that status so long as the following conditions are met:

a. For the first phase, no more than one year has passed since the approval of the final site plan and/or no more than six months have passed since the issuance of a building permit and the commencement of development, which must continue in good faith.

b. Each subsequent phase shall utilize the initial final site plan approval date as a base, and the approved phase number will be the date in years for required commencement of development for that phase. (Example: In a three-phased project, the third phase shall commence development within three years of the final site plan approval.) All phases must continue development in good faith to retain special exemption status.

(7) Any proposed development order considered under the exemption provisions of this section must be consistent with the development orders previously approved and issued prior to the plan adoption for the proposed project or project phase. A developer may elect to be processed under this Comprehensive Plan, in its entirety, as it exists at the time of the request for development order approval. Unless a developer indicates that the special exemption provisions, as set forth in this section, apply to a request for development order approval at the time of application for such development order, then such project shall be processed under the terms of the Comprehensive Plan in existence at the time of such application.

(8) Nothing in this section precludes review of a proposed project or project phase that has been determined to have special exemption status under this section for compliance with other applicable development regulations not contained in this Comprehensive Plan. Nothing in this section precludes review of a proposed project or project phase that has been determined to have special exemption status under this section for compliance with the provisions of this Comprehensive Plan, provided that requiring compliance with those provisions shall not substantially impair rights deemed to be vested pursuant to this section.

Section 134-87. - Reserved.

Section 134-88. - Contents.

Along with the provisions of this article, the Pinellas County Comprehensive Plan shall consist of the adopted principles, goals, objectives, policies, maps and tables, including the future land use map and the future land use map category descriptions and rules, and the monitoring and concurrency management procedures, as well as the implementation strategies, supporting data and analysis, glossary, and appendices.

Section 134-89. - Legal status.

(a) All development undertaken by and all actions taken in regard to development orders of the Board of County Commissioners shall be consistent with the Pinellas County Comprehensive Plan adopted in this article.

(b) The Board of County Commissioners shall be the sole authority for enacting or implementing the provisions of the Pinellas County Comprehensive Plan, unless otherwise delegated to a specific designee.

(c) All land development regulations enacted or amended shall be consistent with the Pinellas County Comprehensive Plan adopted by this article. No land development regulations or amendment thereto shall be adopted by the Board of County Commissioners until such regulations, code, or amendment has been referred to the county's local planning agency for review and recommendation as to the relationship of such proposal to the Pinellas County Comprehensive Plan.

Section 134-90. - Evaluation and amendment.

The Pinellas County Comprehensive Plan is subject to periodic evaluation and amendment, as allowed and required by the State of Florida, in order to ensure that the plan remains an effective long-range planning tool for the county, and at a minimum, address changes in local conditions as well as any new state planning requirements. In order to achieve this, the Comprehensive Plan, as referenced in this article, shall be the plan as originally adopted in 1989 and amended through subsequent amendment cycles, including the 2008, and any succeeding, evaluation and appraisal report-based amendments, as prescribed by the Florida States Statutes pertaining to Comprehensive Planning.

Secs. 134-91—134-120. - Reserved.

ARTICLE IV. - ADMINISTRATIVE PROCEDURES FOR REVIEW AND REMEDY OF TAKING CLAIMS

Section 134-121. - Definitions.

Final site plan shall have the specific meaning set forth in Section 134-86(a)

Landowner means an owner of a legal or equitable interest in real property, and includes the heirs, successors, and assigns of such ownership interests.

Sworn statement means the sworn statement supplied by a takings claimant as described in section 134-125(a)(2)—(a)(5), and includes all accompanying documents, witness lists and other information supporting the takings claim.

Takings administrator means the county administrator

Takings claim means any claim that falls within the scope of this article, as set forth in Section 134-2, whether claimed to be temporary or permanent in character

The following terms shall have the specific meaning as set forth in Section 134-221:

(1) *Development*

(2) *Development order*

(3) *Development permit*, except that this term shall include tree permits and grubbing permits where appropriate to further the purposes of this article.

Section 134-122. - Legislative findings and intent.

(a) Legislative findings. The Board of County Commissioners finds and declares that:

(1) The provisions of F.S. § 163.3161 et seq. establish the local government Comprehensive Planning and land development regulation act ("the act");

(2) The provisions of F.S. § 163.3202(2)(g) provide that counties shall have the power and responsibility to plan comprehensively for their future development and growth,

including the adoption and implementation of appropriate land development regulations which are necessary or desirable to implement a Comprehensive Plan;

(3) The county adopted its Comprehensive Plan (the "county plan") on August 8, 1989, through the adoption of Ordinance No. 89-32;

(4) The county plan establishes the minimum requirements necessary to maintain, through orderly growth and development, the character and stability of present and future land use and development in the unincorporated areas of the county;

(5) Section 134-82(b) provides that the Board of County Commissioners retains the power and authority to enact ordinances, rules and regulations that are more restrictive than those originally adopted in the county plan;

(6) Section 134-82(c) provides that nothing in the county plan or its subsequent land use regulations shall be construed or applied so as to result in the taking of property; and

(7) Section 134-85(b) provides that the Board of County Commissioners shall establish administrative procedures which any party challenging denial of a development order or a development permit as a taking of property must exhaust before any action on a request for development is deemed final by any court or quasi-judicial proceeding.

(b) Intent.

(1) It is the intent of the Board of County Commissioners to ensure that each and every landowner has a beneficial use of owned property in accordance with the requirements of the Fifth and 14th Amendments to the United States Constitution, and thus, to provide an administrative procedure whereby landowners believing they have been or may be subjected to a taking of their private property by application of any law or regulation promulgated by the county may obtain relief through an efficient, non-judicial procedure.

(2) The establishment of an administrative review and remedy procedure will promote the goals of the county plan in a manner which is consistent with section 2 of article I of the state constitution, guaranteeing all natural persons the inalienable right to acquire, possess and protect property.

(3) It is the specific intent of the Board of County Commissioners that no provision of its laws or ordinances be interpreted so as to take private property in an unconstitutional manner.

(4) It is the specific intent of the Board of County Commissioners that no administrative determinations made under its laws or ordinances result in either a temporary or permanent taking of private property without just compensation as required under the United States or state constitution.

(5) The Board of County Commissioners specifically intends that it shall be the duty and responsibility of the party alleging a taking of property to affirmatively demonstrate the legal requisites of the claim alleged.

(6) It is the board's specific intention that the procedures provided for in this article not be utilized routinely or frivolously, but rather, be solely limited to those extreme circumstances where a potential taking of private property or development rights would otherwise result.

(7) It is the intent of the Board of County Commissioners, consistent with the provisions of F.S. § 163.3161(10), that the provisions of this article be utilized to sensitively administer the county Comprehensive Plan and its land development regulations.

(8) It is the intent of the Board of County Commissioners, consistent with the provisions of F.S. § 163.3161(10), that the provisions of this article not be utilized as a substitute for judicial relief from takings that have already occurred but to provide an

opportunity to make a final decision regarding the applicability of certain ordinances or Comprehensive Planning provisions to prevent inadvertent takings.

(9) It is the additional intent of the Board of County Commissioners to simplify the judicial inquiry regarding the "ripeness doctrine" as enunciated in Williamson County Regional Planning Council v. Hamilton Bank, 473 U.S. 172 (1985) and its progeny by providing a final decision after which a taking claim may be instituted in court.

Section 134-123. - Authority.

(a) This article is adopted in compliance with and pursuant to the local government Comprehensive Planning and land development regulation act (F.S. § 163.3161 et seq.), and F.S. § 125.01(1)(t) and (1)(w).

(b) This article is adopted pursuant to the constitutional and home rule powers of Fla. Const. art. VIII, § 1(g) and article II of the Pinellas County Home Rule Charter.

(c) This article is specifically adopted in furtherance of the legislative intent as expressed in F.S. § 163.3161(10) that the county recognize and respect judicially acknowledged or constitutionally protected private property rights and that all regulations and programs adopted under the local government Comprehensive Planning and land development regulation act (F.S. § 163.3161 et seq.) be developed, promulgated, implemented, and applied with sensitivity for private property rights.

Section 134-124. - Scope.

(a) This article shall apply to:

(1) A landowner's or developer's claim which would otherwise arise in a court of competent jurisdiction as a taking of property without just compensation under any law applicable to the county and that arises from:

a. The denial of property or development rights sought as part of a final site plan, development permit or development order; or

b. The application of any other provision of the county plan, its implementing land development regulations, or other ordinances;

(2) Persons denied a claimed remedy sought as part of a vested rights determination under article V of this chapter; and

(3) Any aggrieved or adversely affected party meeting the standard for "standing" defined in F.S. § 163.3215(2), and alleging that the grant or issuance to another person of a final site plan, development order or development permit by the county constitutes a taking of his property.

(b) Notwithstanding the provisions set forth in subsection (a) of this section, this article shall not apply to takings claims arising as part of a condemnation or eminent domain action to which the county is, or may be, a party.

Section 134-125. - Administrative procedures for review of takings claims.

(a) Filing and documentation of takings claims.

(1) All takings claims must be filed with the takings administrator and be accompanied by such fee as the Board of County Commissioners, or its designee, may require.

(2) Any person filing a takings claim must affirmatively demonstrate the validity of the claim alleged by submitting a sworn statement setting forth the facts upon which the takings claim is based. The sworn statement should include any information the applicant considers necessary. As such, a statement may contain attachments, appendices or exhibits that substantiate those facts supporting the claim. The guide

for inclusion of information should be whether the information would constitute competent, substantial evidence in a quasi-judicial or judicial proceeding.

(3) In addition to a demonstration of a potential taking claim, the applicant's evidence should also provide that information necessary to fashion a remedy, should a potential taking claim be found to exist. As part of a typical claim package, the sworn statement required by this subsection (a) should support the claim for a remedy by including any affidavits, copies of drawings, contracts, recordings, reports, letters, appraisals, or any other form of documentation or information that may apply, including, but not limited to:

a. The transcript or record of any previous hearing where the claim is alleged to have arisen.

b. Evidence of the expenditure of funds for land, the acquisition of which provides the basis of the taking claim.

c. Evidence of expenditures of funds for planning, engineering, environmental, and other consultants for site plan preparation, site improvement or other preparation, or construction.

d. Evidence of expenditures for construction of actual buildings in accordance with an existing or prior development order or development permit issued by the county.

e. Any relevant donations or dedications of real property or any other property interest made to the county for the following purposes:

1. Roads or other transportation facilities;
2. Access (ingress/egress) or rights-of-way;
3. Drainage easements;
4. Parks or recreation/open space;
5. Retention/detention areas;
6. Conservation areas;
7. Any other purpose consistent with the provision of services for any element of the county plan; which are either on- or off-site with respect to the property involved in the claim.

f. Evidence of costs of construction of any roads, sidewalks, stormwater detention/retention or drainage facilities, sewer or water facilities, parks, etc., which would be either on- or off-site, and part of a plan permitting development on the subject property.

g. Other development orders or development permits issued by the county with respect to the property involved in the takings claim, and any related federal, state or regional permits.

(4) As part of a sworn statement, the claimant is required to provide a list of the names and addresses of any witnesses which the claimant shall present in support of the claim and a summary of the testimony of each witness.

(5) Additionally, the claimant should consider submitting as part of its sworn statement information which:

a. Demonstrates that the claimant has acted in good faith and without knowledge that changes to applicable ordinances, resolutions, or regulations might affect his development expectations.

In establishing "good faith," the claimant should consider submitting information which affirmatively states that the claimant:

1. Has not waived, abandoned, or substantially deviated from related prior county development approvals;
2. Has not, by act or failure to act, consented or assented to changes in related prior county development approvals;
3. Has, at all times relevant, conformed with the applicable laws, rules, and regulations of the state and the county.

b. If applicable, details the specific governmental act, ordinance, resolution, regulation or Comprehensive Plan provision that the claimant believes gave rise to the takings claim.

(6) The signature of the claimant, or any attorney for the claimant, upon any document submitted as part of a sworn statement shall constitute certification that the person signing has read the document and that to the best of the person's knowledge it is supported by good grounds and that it has not been submitted solely for purposes of delay. Further, the claimant and any attorney for the claimant shall have a continuing obligation to amend or correct any document submitted which is incorrect because of changed circumstances or was found to have been incorrect.

(7) If the Board of County Commissioners makes a determination and finding that the sworn statement submitted as part of a taking claim is:

a. Based on facts that the claimant or any attorney for the claimant knew or should have known was not correct or true; or

b. Frivolous or filed solely for the purposes of delay; then the Board of County Commissioners, in addition to the penalties set forth in section 134-8, may pursue any remedy or impose any penalty provided for by law or ordinance.

(b) Review, hearing and standards for takings claims.

(1) Within ten working days of filing a sworn statement (and any accompanying information) as part of a takings claim, the takings administrator or his designee shall determine whether the statement received is complete. If the statement is deficient, then the claimant shall be notified, in writing, of the deficiencies.

(2) Once a statement is complete, or the claimant has informed the takings administrator that no further information is forthcoming, the takings administrator or his designee shall timely review the application, provide requisite public notice, and schedule a public hearing before the Board of County Commissioners on the takings claim.

(3) At the scheduled public hearing, sworn testimony and evidence which meets the criteria of subsection (a) of this section should be offered into the record to support the claimant's position. The takings administrator, county staff and county attorney personnel may offer testimony and evidence relevant to the hearing.

(4) No later than 30 days after the Board of County Commissioners closes the public hearing, the board shall make and report a conclusive, final decision based upon the record presented. Nothing in this subsection shall prevent the board's decision to continue the hearing to give staff the opportunity to prepare alternatives, in consultation with the applicant, or to give staff or the applicant the opportunity to prepare responses to questions which the board may have regarding information presented at the hearing.

(5) Because the law in the area of takings is constantly changing in both substance and interpretation, the Board of County Commissioners shall be guided by advice from the office of the county attorney regarding interpretations of appropriate considerations in its deliberations. In evaluating whether a valid taking claim is

presented by the record, and what the measure of relief to be provided to the claimant should be, if any, the following factors shall be taken into consideration:

a. Whether and to what degree the challenged regulation or combination of regulations has resulted in any physical invasion of the claimant's property by the county or others;

b. Whether the challenged regulation, or combination of regulations, has resulted in a denial of all beneficial use of the claimant's property by the county and, if so, whether the logically antecedent inquiry into the nature of the owner's estate shows that the prescribed use interests were not part of his title to begin with;

c. Whether and to what degree the claimant's expectations of use were investment-backed;

d. Whether and to what degree the claimant's expectations of use were reasonable in light of the following circumstances as they may apply:

1. The logically antecedent inquiry into the nature of the owner's estate shows that the prescribed use interests were not part of his title to begin with;

2. The existing land use and zoning classification of the subject and nearby properties, as may be relevant;

3. The development history of the subject property and nearby properties;

4. The suitability of the subject property for the intended or challenged development or use;

e. Whether and to what degree the intended or challenged development or use has or would cause any diminution in value of the subject properties, or any relevant properties arising from Section 134-124(a)(3);

f. Whether and to what degree any such diminution of property values has promoted the public health, safety, morals, aesthetics or general welfare, and was consistent with the county plan; and

g. To what extent the public would gain from the intended or challenged development or use compared to any resulting hardship upon the claimant alone.

(6) Any relief to be provided a claimant shall be limited to the minimum necessary to provide a reasonable, beneficial use of the subject property and may be in the form of alternative uses of additional development intensity which may be severed and transferred, or other such nonmonetary relief as is deemed appropriate by the Board of County Commissioners. Any relief granted shall be presumed abandoned and expire if not utilized for its proper purpose within one year from the date it was granted. Subsequent applications under this article may review the expired decision for possible reinstatement, with or without modification as deemed necessary under then existing conditions.

(c) Appeal of takings claim. Any claimant aggrieved by the final decision of the Board of County Commissioners may seek judicial review of the board's decision by timely filing an action in a court of competent jurisdiction.

Section 134-126. - Exhaustion of administrative remedies required.

Any development order, permit or other governmental act of the county relating to the approval or denial of rights that pertain to the development of land shall not be deemed a final order in any court or quasi-judicial proceeding challenging the denial of a development order or permit,

or other governmental act as a temporary or permanent taking of private property, unless the administrative remedies provided for by this article have been exhausted.

Secs. 134-127—134-155. - Reserved.

ARTICLE V. - PROCEDURES FOR ADMINISTRATIVE REVIEW AND REMEDY OF CLAIMS OF VESTED DEVELOPMENT RIGHTS

Section 134-156. – Definitions

Board of adjustment and appeals (BCC) shall be as defined in Chapter 138, Division 2.

Commencement of development means the onset of construction, such that actual, on-site grade alterations or other material physical changes have been made to the appearance of land in conformance with:

(1) An approved final site plan;

(2) A habitat management permit that is consistent with an associated site plan; or

(3) Final construction plans approved by the county.

Continue in good faith means that all necessary and required development orders or permits have been applied for prior to the expiration of any previously received county development order, expressly including any development agreement, such that development and construction continue in a reasonably prudent, commercial manner that is of a real, actual and genuine nature as opposed to a sham or deception, and which meets the standards for ""good faith"" outlined in Section 134-160. A rebuttable presumption of not having continued in good faith shall arise from the lapse, expiration or abandonment of any development order or permit issued by the county, or from any other voluntary act of the claimant which has the same effect.

Development review committee (DRC) shall be as defined in Chapter 138, Division 2.

Divest means to abrogate or revoke preexisting vested rights.

Vested right means any property right that would attach to and run with a described property that authorizes the development and use of that property; and includes, but is not limited to: a special exemption status provided for in Section 134-86; an authorized land use designation or density or intensity of development; and any other specifically identified condition of development or mitigation.

Vested right determination means those administrative procedures defined in this article used for reviewing a landowner's or developer's request for a remedy under this article that would recognize and define vested rights.

Section 134-157. - Legislative findings and intent.

The Board of County Commissioners finds and declares that:

(1) The provisions of F.S. § 163.3161 et seq. establish the local government Comprehensive Planning and land development regulation act (referred to in this article as "the act").

(2) The provisions of F.S. § 163.3202(2)(g) provide that counties shall have the power and responsibility to plan comprehensively for their future development and growth, including the adoption and implementation of appropriate land development regulations which are necessary or desirable to implement a Comprehensive Plan.

(3) The county adopted its Comprehensive Plan (the "county plan") on August 8, 1989, through the adoption of Ordinance No. 89-32.

(4) The county plan establishes the minimum requirements necessary to maintain, through orderly growth and development, the character and stability of present and future land use and development in the unincorporated areas of the county.

(5) The provisions of F.S. § 163.3167) provide for statutory vesting of certain development rights as they may further be defined by local government.

(6) Section 134-82(b) provides that the Board of County Commissioners retains the power and authority to enact ordinances, rules and regulations that are more restrictive than those originally adopted in the county plan.

(7) Section 134-82(c) provides that nothing in the county plan or its subsequent land use regulations shall be construed or applied so as to result in the abrogation of validly existing vested rights.

(8) Section 134-85(b) provides that the Board of County Commissioners shall establish administrative procedures which any party challenging denial of a development order or a development permit as an abrogation of vested rights must exhaust before any action on a request for development is deemed final by any court or quasi-judicial proceeding.

(9) Section 134-86(c)(2)b. provides that a development order or right may be determined to be vested through any administrative procedure subsequently established by the Board of County Commissioners.

(10) It is necessary and desirable that administrative determinations of vested property rights be made so as to ensure reasonable certainty, stability, and fairness in the land use planning process in order to stimulate economic growth, secure the reasonable investment-backed expectations of landowners, and foster cooperation between the public and private sectors with respect to growth management.

(11) The establishment of an administrative determination procedure will promote the goals of the county plan in a manner which is consistent with Section 2 of Article I of the state constitution guaranteeing all natural persons the inalienable right to acquire, possess and protect property.

(12) It is the specific intent of the Board of County Commissioners that no provision of this article be interpreted so as to abrogate validly existing vested private property rights which would exist under the United States or state constitutions.

(13) It is the specific intent of the Board of County Commissioners that no administrative determination made under this article result in either a temporary or permanent taking of private property without just or full compensation under the United States or the state constitutions.

(14) The Board of County Commissioners specifically intends that it shall be the duty and responsibility of the party alleging vested rights to affirmatively demonstrate the legal requisites of the rights alleged.

(15) It is the Board of County Commissioners' specific intention that the procedures provided for in this article not be utilized routinely or frivolously, but rather, only in those extreme circumstances where a potential denial of private property or development rights would otherwise result.

(16) The delays attendant the full hearing process may be deemed unnecessary for applications for vested rights which are of such a limited nature and are based on clear provisions of a development order.

(17) In order to effectively administer a program of vested rights applications, it is often necessary to fashion variable forms of relief, consistent with the equitable nature of vested rights decisions. Thus it is the intent of the Board of County Commissioners for the development review committee, acting in his designated capacity on vested

rights matters, to have the authority to fashion the relief necessary to protect the legitimate vested rights of property owners while at the same time protecting the rights of the citizens of the county.

(18) Both the purpose and intent of the various land development regulations, the provisions of the Comprehensive Plan and the statutory and case law governing vested rights provide the development review committee with ample guidance in exercising his authority under this article.

Section 134-158. - Authority.

(a) This article is adopted in compliance with and pursuant to the local government Comprehensive Planning and land development regulation act (F.S. § 163.3161 et seq.), with specific reliance on F.S. §§ 163.3167(1)(a), (d), (8), and 163.3171(2).

(b) This article is adopted pursuant to the constitutional and home rule powers in Fla. Const. art. VIII, § 1(g), and article II of the Pinellas County Home Rule Charter.

Section 134-159. - Scope.

(a) This article shall apply to:

(1) Vested rights determinations sought under Article III of this chapter, and its implementing regulations, or the provisions of this article, for:

a. Final approved development orders issued pursuant to a development of regional impact (DRI) project or a Florida quality development (FQD) authorized under F.S. ch. 380 which are subjected to consistency or concurrency regardless of when issued:

1. Through application of the specific terms and conditions of a DRI's or FQD's particular development order; or

2. Through an amendment to a DRI or FQD development order but only as to those development rights that were a part of or affected by the amendment.

b. Final local development orders, as defined in Section 134-86(a)(1) regardless of when issued:

1. For any proposed development which has not, after August 10, 1989, for vested rights relating to consistency, or after December 31, 1989, for vested rights relating to concurrency:

i. Commenced development within, and then,

ii. Continued development in, good faith throughout the time periods provided for by those development permits obtained as part of a final local development order;

2. Through application of the specific terms and conditions of the final local development order; or

3. Through an amendment to the final local development order but only as to those development rights that were a part of or affected by the amendment.

(2) Amendments to development orders issued after August 11, 1989, for vested rights relating to consistency, or after December 31, 1989, for vested rights relating to concurrency, and which alter any development right within a particular development order, regardless of whether the change is a substantial or non-substantial deviation, but only to the extent of the development rights changed by the deviation.

(3) Any landowner or developer, or designee of either, who desires a vested right determination regarding rights which may exist for property which is included as part of a proposed development agreement or an amendment to an existing development agreement adopted pursuant to F.S. §§ 163.3220—163.3243.

(4) Any applicant alleging that the county plan, as applied to the applicant's proposed development order or development permit, would constitute an abrogation of his vested rights.

(5) Development orders or development permits which may otherwise be subject to a divestment of development rights as provided for in Section 134-161

(b) This article shall not apply to:

(1) Nonconforming uses, as defined in Chapter 138

(2) Issues relating primarily to development impact fees.

Section 134-160. - Procedures for vested rights determinations.

(a) Applications for vested rights determinations.

(1) All applicants for vested rights determinations must file an application for a vested rights determination with the county administrator through the county zoning department. Vested rights claims arising under Section 134-86(c)(2)b. must be filed by June 30, 2019, unless the filing date therefor has been otherwise extended.

(2) A vested rights application must meet the requirements of this section, and each application should include any information the applicant considers necessary to demonstrate compliance with the standards outlined in this section. As such, applications may contain attachments, appendices or exhibits that substantiate those facts supporting the applicant's claim. The guide for inclusion of information in an application should be whether the information would constitute competent, substantial evidence in a quasi-judicial or judicial proceeding.

(3) A typical application package might contain affidavits, drawings, contracts, recordings, or any other form of documentation or information that may apply, including, but not limited to:

a. The transcript or record of any previous hearing where action on the challenged development order or permit was taken.

b. Any donations or dedications of real property or any other property interest made to the county for the following purposes:

1. Roads or other transportation facilities;

2. Access (ingress/egress) or rights-of-way;

3. Drainage easements;

4. Parks or recreation/open space;

5. Retention/detention areas;

6. Conservation areas;

7. Any other purpose consistent with the provision of services for any element of the county plan; which are either on- or off-site with respect to the property involved in the vested rights determination.

c. Other development orders or development permits issued by the county with respect to the property involved in the vested rights determination, and any related federal, state or regional permits.

d. The construction of roads, sidewalks, stormwater detention/retention or drainage facilities, sewer or water facilities, parks, etc., which are either on- or

off-site, especially where such construction is in excess of capacity for the development seeking a vested rights determination.

e. Expenditures of funds for planning, engineering, environmental, and other consultants or projects, including site preparation or grading.

f. Construction of actual buildings in accordance with an existing or prior development order or development permit issued by the county.

g. Expenditure of funds for land acquisition made specifically for the proposed development.

(4) The information in Subsection (a)(3) of this section should be limited, however, to those actions by the applicant (or his predecessor) made in reasonable reliance upon an affirmative act or approval of the county which formally authorized, accepted, or approved a course of development on the land in question. To that extent, the applicant is encouraged to so specifically identify the acts relied upon.

(5) Additionally, the applicant should consider submitting information which:

a. Demonstrates that the applicant has acted in good faith and without knowledge that subsequent changes to applicable ordinances, resolutions, or regulations might affect his development expectations.

In establishing "good faith," the applicant should consider submitting information which affirmatively states that the applicant:

1. Has not waived, abandoned, or substantially deviated from prior related county development approvals;

2. Has not, by act or failure to act, consented or assented to changes in prior county development approvals;

3. Has, at all times relevant, conformed with the applicable laws, rules, and regulations of the state and the county;

4. Is not otherwise estopped from claiming vested rights through acts or omissions which arose in the development or marketing of preexisting county development approvals, upon which others have relied to their detriment.

b. Details the specific ordinance, resolution, regulation or Comprehensive Plan provision that the applicant alleges should not apply because of the vested rights claimed.

(b) Review, hearing and standards for vested rights determinations.

(1) Within ten working days of receipt of an application for a vested rights determination, the county administrator or his designee shall determine whether the application received is complete. If the application is deficient, then the applicant shall be notified in writing of the deficiencies.

(2) Once an application is complete, or the applicant has informed the county administrator or his designee that no further information is available, the county administrator shall schedule a public hearing on the application before the development review committee.

(3) At the public hearing sworn testimony and evidence, which meets the recommendations of Subsection (a) of this section, should be offered into the record before the development review committee to support the applicant's position. County staff and county attorney personnel may offer testimony and evidence relevant to the hearing, which shall also become part of the record along with the testimony and evidence of other interested parties.

(4) Within 30 working days of the development review committee public hearing, the development review committee shall make and report findings of fact and conclusive decisions based upon the record presented and consideration of the following standards:

a. An affirmative determination of vested rights may be made by the development review committee only upon sufficient demonstration by the applicant that:

1. A legally valid, unexpired act or omission of the county had approved or authorized the proposed development which is the subject of the determination;

2. Substantial expenditures or obligations were made or incurred in developing the subject proposal; "substantial" shall be considered relative to the total estimated cost of the project/phase being reviewed, and the applicant's typical or ordinary business practice;

3. The expenditures and obligations made in Subsection (b)(4)a.2, above were incurred in good-faith reliance on the acts or omissions of Subsection (b)(4)a.1, above;

4. A denial of the application, destroying those rights which would otherwise be acquired, would be highly unfair and unjust because there are no other reasonable uses permitted for the expenditures and obligations of Subsection (b)(4)a.2, above, under the land development regulations now in effect; to demonstrate that denial would be highly unfair and unjust, the applicant must show that the expenses or obligations incurred are unique to the proposed development such that a reasonable return on these expenses or obligations would have been made under preexisting regulations, but could not be made under the regulations now in effect; and that

5. The applicant was without actual or record knowledge of the changes made in the regulations prior to the expenditures and obligations of Subsection (b)(4)a.2, above, unless considerable doubt can be shown to have existed about the actual adoption of the regulation, or about the actual prohibition of the proposed development.

b. A negative determination would not be highly unfair or unjust if substantial, competent evidence in the record demonstrates that construction has not commenced or that the expenditures and obligations incurred are not unique to the otherwise approved development or that the public cost outweighs the private injury or that the expenses or obligations were incurred with notice of a change in regulations or that the applicant's development can make a reasonable return on the expenditures and obligations incurred under the present regulation.

c. In addition to the factors in Subsections (b)(4)a and (b)(4)b of this section, the development review committee should also consider the following factors when it appears from the plans or documents submitted by an applicant that the proposed project would or reasonably could be completed in discrete phases:

i. The extent to which the plans or documents submitted are more conceptual master plans or final site plan/construction drawings derived from detailed surveying, engineering or architectural work;

ii. The extent to which infrastructure, such as streets, sidewalks, utilities or other facilities, has been constructed for the entire project; and

iii. The extent to which infrastructure already constructed would be unsuitable for use as part of any uncompleted phases if such phases were built out in conformity with existing regulations; "unsuitable" should be considered relative to the applicant's investment loss resulting from the manner, location, or scale of constructed infrastructure which could not be utilized due to the change in regulations.

(c) Forms of relief available. The three forms of relief deemed appropriate for applications are special exemptions, conditional relief, and denial without prejudice, and are described as follows:

(1) Special exemptions. With respect to those issues which can be reasonably characterized as being clearly, completely and specifically documented provisions of a final local development order, a form of special exemption, as referenced in article III of this chapter, may be issued to the extent that such a vesting would prevent the limitation or modification of the applicant's right to complete its development. An applicant may be said to have vested rights in the provisions of its development order to the extent that no non-environmental or health related land development provisions may deprive him of those rights. This form of special exemption may be broad-based and complete, depending upon the terms of the development order and the relief necessary to protect any rights under the development order.

(2) Conditional relief. The Comprehensive Plan prohibits special exemption status against the application of environmental and health related land development regulations. The form of relief available, rather than a blanket special exemption, should be reviewed on a factually intensive basis for the possibility that conditional variances or other forms of conditional relief may be available. Any such relief must be analyzed to determine if the conditions under which it is granted are consistent with the purpose and intent of the various land development regulations, the provisions of the Comprehensive Plan and the statutory and case law governing vested rights. Conditions may be initial, after satisfaction of which the right becomes vested, or may be ongoing. Conditional variances will address the appropriateness of relief, allowing the county to fashion that form of relief necessary to equitably address the legitimate concerns of the applicant while at the same time protecting the legitimate interests of the citizens of the county.

(3) Denial without prejudice. The applicant may reserve or be entitled to reserve the right to address other land development regulations at such time as they become an issue. Such a reservation of rights is an appropriate mechanism to address future questions that may arise from the applicant's development status.

(d) Appeal of vested rights determinations.

(1) Any applicant denied any claimed vested rights must file, in writing, a request for an appeal with the board of adjustment and appeals within ten days of the applicant's notification of the development review committee's decision.

(2) Upon receipt of a timely filed appeal, the board of adjustment and appeals shall schedule and properly notice a public hearing to be held before the board of adjustment and appeals as soon as practicable.

(3) At the public hearing, the board of adjustment and appeals may consider the record developed from Subsections (a) and (b) of this section, as well as all testimony and evidence presented.

(4) The board of adjustment and appeals shall make its determination based upon this record in light of the standards and factors outlined in Subsections (b)(4)a to (b)(4)c of this section, and such other factors as the board of adjustment and appeals may deem relevant.

(5) An applicant denied claimed vested rights may seek judicial review of the board of adjustment and appeals determination by timely filing an action in a court of competent jurisdiction.

Section 134-161. - Divestiture of certain vested rights.

(a) Whenever protection of the public's health or safety from new perils may so require, or upon a showing that a holder of vested development rights has failed to continue in good faith, the county administrator or designee, upon proper showing, may divest otherwise proper development rights. Divestiture under these circumstances may also apply to any certificates of concurrency issued for development proposed within the area affected.

(b) Any change or modification to a development plan that is inconsistent with the county plan or would result in increased or greater development impacts sufficient to degrade a level of service below that provided for by the county plan creates a rebuttable presumption that the developments rights causing the impact are divested.

Notwithstanding this provision, changes or modifications to development plans, orders or permits that are consistent with the county plan, and do not increase impacts or degrade a level of service provided for by the county plan, are presumed to retain any preexisting development rights so long as all other development review requirements are complied with.

(c) Upon a finding that a holder of vested development rights has continued in good faith but has filed for an extension of time because of a failure to fully comply with time limitations associated with those rights, the county administrator or designee may grant reasonable extensions of time to exercise those development rights. Extensions of time up to six months may be issued without the need for a public hearing. Also, under circumstances where the development rights have not been timely exercised because of a bona fide legal challenge or permitting issue, the county administrator or designee may, without the need for a public hearing, issue further extensions of time commensurate with the schedule associated with the legal challenge or permitting issue. All other extensions of time are to be considered at a public hearing of the development review committee.

(d) Persons adversely affected by an alleged divestiture of development rights under subsection (a), (b) or (c) of this section may seek administrative review thereof through the procedures outlined in subsection (c), above.

Section 134-162. - Legal effect of vested rights determinations.

(a) Vested rights resulting from determinations made pursuant to this article shall have the same legal effect as rights otherwise acquired under a validly issued development order or permit that most closely resembles the governmental act the applicant relied upon as part of its vested rights determination.

(b) Vested rights determinations arising from Subsection 134-159(a)(3), pertaining to development agreements, shall be considered valid for a period of one year from the date of the determination.

Section 134-163. - Exhaustion of administrative remedies required.

Any development order, permit or agreement that provides vested rights as the result of a court or quasi-judicial proceeding challenging the denial of a development order or permit as the

abrogation of vested rights shall not be deemed a final order unless the administrative remedies provided for by this article have been exhausted.

Secs. 134-164—134-195. - Reserved.

ARTICLE VI. - CONCURRENCY SYSTEM

DIVISION 1. - GENERALLY

Secs. 134-196—134-220. - Reserved.

DIVISION 2. - CONCURRENCY MANAGEMENT

Section 134-221. – Definitions.

Acceptance of or accepted application for development means that an application for development contains sufficient information, pursuant to existing regulations, to allow continuing review under this division or other regulatory ordinances, unless otherwise provided by state law.

Application for development means any formal documentation which contains a specific plan for development, including the densities and intensities of development, where applicable, that is presented by any person for the purpose of obtaining a development order or development permit by the county. An application shall also include any and all forms and documentation created by or on behalf of the county that require completion and submittal by the applicant.

Approved final site plan means any site plan, as defined in Chapter 138 Article II Division 5, and as it may be further defined in other county regulations, that has been accepted, reviewed, and approved by the county.

Backlogged roadways means roads not designated as constrained that are operating at peak hour level of service E or F and/or a volume-to-capacity of 0.9 or higher and scheduled or planned for construction after the first three years of either the Florida Department of Transportation (FDOT) adopted work program or the six-year schedule of improvements within the county capital improvements element.

Certificate of concurrency means that document issued by the county administrator, or his designee, that is a prerequisite for the issuance of any development order or development permit, except that certificates of concurrency for re-zonings shall only be issued such that further development in the rezoned parcel is conditioned upon the availability of sufficient capacity of those public facilities and services required for any project which may be subsequently proposed for that rezoned parcel, or any portion thereof. At a minimum, the certificate of concurrency shall provide information on the following:

(1) Type of proposal;

(2) Effective date of the concurrency test statement utilized in the comparison;

(3) Date of issuance of the certificate of concurrency;

(4) Status of each public facility and service after comparison with the current concurrency test statement; and

(5) Whether or not the development proposal is subject to development limitations, pursuant to application of the transportation management plan for properties located within a concurrency management corridor and any other limitations that may be identified in an adopted concurrency test statement. "

Concurrency means that the necessary public facilities and services to maintain the adopted level of service standards are available when the impacts of development occur.

Concurrency management monitoring system means the data collection, processing and analysis performed by the county to determine levels of service for public facilities and services. Data maintained by the concurrency management monitoring system shall be the most current information available to the county.

Concurrency test statement means a public facility and service status report, approved and adopted by ordinance, which, at a minimum, establishes for each public facility and service the following:

(1) The existing and committed development in each service area;

(2) The existing levels of service for each public facility and service;

(3) Updates of items (1)—(2), above, based upon the most recently adopted six-year schedule of capital improvements from the capital improvements element; and

(4) The methods used in determining the nature of projected development impacts on public facilities and services.

Currently available revenue sources means an existing source and amount of revenue available to the County.

Deficient facility means a road operating at peak hour level of service E or F and/or a volume-to-capacity (v/c) ratio of 0.9 or higher with no mitigating improvements scheduled within three years.

Development order means any order granting, denying, or granting with conditions, an application for development.

Development permit means any approved final site plan, building permit, zoning clearance, rezoning, special exception, variance, conditional use, or any other official action of the county having the effect of permitting the development of land.

Final local development order means, for the purposes of this division, that last approval necessary to carry out the development requested, provided that the proposed project has been precisely defined. The last approval for a given type of development activity shall be as provided in article III of this chapter. Terms used in that definition shall be as further defined in this Code.

Level of service (LOS) means a measure of performance and/or of demand versus available capacity of public services and facilities.

Public facilities and services means those necessary public facilities and services covered by a Comprehensive Plan element for which level of service standards have been adopted by the county. The necessary public facilities and services are: roads, sanitary sewer, solid waste, drainage, potable water, recreation, and mass transit.

Section 134-222. - Purpose and intent.

(a) It is the purpose of this division to establish a concurrency management system to ensure that facilities and services needed to support development are available concurrent with the impacts of such development. Prior to the issuance of a development order and/or development permit, this concurrency management system shall ensure that the adopted level of service standards required for potable water, wastewater, solid waste, stormwater, recreation, and mass transit shall be maintained.

(b) The concurrency management system is intended to serve the long-term interests of the citizens of the county by implementing a managed growth perspective that preserves the capacity of important infrastructure facilities and services.

Section 134-223. - Areas embraced.

The provisions of this division shall apply to any property within the unincorporated areas of the county. The provisions of this division shall also apply to incorporated areas of the county that are

provided service by a county facility or service evaluated in this division and may apply to incorporated areas provided service by a state facility or service evaluated in this division.

Section 134-224. - Concurrency management system; procedure.

(a) Application for development. The concurrency management system is accessed by the property owner, or his/her representative, when an application for development containing the required documentation for the given development order or permit is submitted to the county. A county representative shall then ascertain the completeness of the documentation, in a timely manner, to ensure that the required information is sufficient to accept the application for development for review.

(b) Review of application for development.

(1) When the application for a development order or permit has been accepted, it shall be processed and reviewed in accordance with adopted procedures. These procedures shall include a review of the application for development for the public facilities and services identified in this division, as they may apply.

(2) If the application for development is not reviewable as submitted, then the application for development shall be returned to the property owner or representative clearly stating what the deficiencies are and why the application for development cannot be further reviewed.

(c) Concurrency test statement applied.

(1) After an application for development is accepted, it will be compared to the most recently completed concurrency test statement. The county shall compare the application for development to the public facilities and services on the current concurrency test statement, as they may apply to the location described on the application for development.

(2) If the application for development being proposed is found to be exempt from the formal concurrency review, a certificate of concurrency, or its functional equivalent, is not required.

(3) If the application for development is found by the latest concurrency test statement to fall within an area with a deficient level of service for a facility or service, then a certificate of concurrency or its functional equivalent shall state that development shall either not be authorized or be authorized with conditions to be identified in the concurrency test statement.

(4) A certificate of concurrency or its functional equivalent shall be issued concurrently with final a development order. This may be waived by the county administrator, with additional time granted, based upon the circumstances of the situation.

(d) Certificate of concurrency determination—Continued validity.

(1) The certificate of concurrency or its functional equivalent shall indicate the date of issuance and will be valid for purposes of the issuance of development orders or permits for 12 months from the date of issuance.

(2) Any development order or permit that is issued within the effective period of a validly issued certificate of concurrency or its functional equivalent shall be vested, for the purposes of concurrence, until the expiration of that development order or development permit, provided that development commences within the validity period of the development order or permit and continues in good faith, except that for purposes of a development order or development permit that authorizes construction, the validity period shall be limited to six months from the date of approval of the development order or development permit. Under no circumstances shall the validity period for a development order or permit or

application for development under an existing certificate of concurrency or its functional equivalent be extended by action on a subsequent development order or permit for the same project or proposal, except when review of the subsequent development order or permit or application for development is based upon a more recently adopted or amended concurrency test statement, or subsection (d)(3), below, applies.

(3) For those certificates of concurrency or its functional equivalent issued for a development agreement entered into by the county, the duration of such certificate of concurrency, as issued, shall be for the time period stated within the development agreement.

(e) *Same—Development order or development permit compliance.* All development orders and development permits issued and approved after the effective date of this division shall be based upon and in compliance with, the certificate of concurrency or its functional equivalent issued for that development proposal. A development order or development permit shall be in compliance with its underlying certificate of concurrency or its functional equivalent if the impacts associated with that development order or development permit are equal to or less than the allocations made in association with the underlying certificate of concurrency or its functional equivalent.

(f) *Site plan requirements; Submittal of a new site plan.* Consistent with the county's comprehensive zoning ordinance, and as accepted by the county administrator or his designee, modifications may be made to an already submitted site plan.

(1) This will constitute a revision to the existing certificate of concurrency documentation, and the county's records will reflect such revision.

(2) A revision will not result in any extension to the validity time frames associated with the certificate of concurrency or its functional equivalent issued for the initial site plan, and will not justify the issuance of a new certificate or functional equivalent.

(3) Modifications in demand on facilities will be reflected in the tracking mechanism.

(4) If the county administrator or his designee determines that such modifications constitute substantial deviation, as defined in the comprehensive zoning ordinance, from the original project proposal, submittal of a new site plan will be required.

(5) In such instances, the certificate of concurrency or its functional equivalent issued for the original site plan submittal will no longer be valid, and the site plan will be subject to a concurrency review against the most current adopted concurrency test statement and all provisions within.

Section 134-225. - Concurrency test statement and monitoring system.

(a) On a regular basis the county administrator or designee shall maintain a concurrency test statement.

(b) The county administrator or designee shall establish and maintain a concurrency management monitoring system for the purposes of monitoring the status of public facilities and services and establishing concurrency test statements.

(c) The remaining capacity reported for each public facility and service on the annual concurrency test statement should be determined by calculating the existing demand as well as the committed impacts, including those associated with multi-year, phased development proposals or projects (including developments of regional impact, development agreements, etc.). These calculations are based upon data accumulated in the concurrency monitoring system, data supplied by individual county departments, as well as a reasonable projection for the progress of each proposal or project, population

growth projections, or such other considerations as good planning practices would deem appropriate.

(d) A concurrency test statement shall be issued on a regular basis as determined by the county administrator. Nothing in this section precludes the issuance and effectiveness of amendments to the current concurrency test statement if updating or correction is deemed necessary by the Board of County Commissioners for, including, but not limited to, the following circumstances: Errors in preparation and adoption are noted; the impact of issued development orders or permits, as monitored by the planning department, indicate an unacceptable degradation to the adopted level of service; or where changes in the status of capital improvement projects, of the state or any local government, change the underlying assumptions of the current concurrency test statement.

(e) Under no circumstances will an amended concurrency test statement divest those rights acquired, pursuant to subsection 134-225(d), under the concurrency test statement as it existed prior to amendment, except where a divestiture of such rights is clearly established by the Board of County Commissioners to be essential to the health, safety or welfare of the general public.

(f) The concurrency test statement may be prepared in a format that is deemed appropriate by the county administrator; a concurrency test statement shall include, at a minimum, the following:

(1) For potable water, wastewater, solid waste, and stormwater, that the following are minimum standards that, when met, will satisfy the concurrency requirement:

a. The necessary facilities and services are in place at the time a development order or permit is issued;

b. A development order or permit is issued subject to the condition that, at the time of issuance of a certificate of occupancy or its functional equivalent, the necessary facilities and services are in place of and available to serve the new development;

c. At the time the development order, or permit is issued, the necessary facilities and services are guaranteed in an enforceable development agreement that includes the provisions of subsections (f)(1)a, and b of this section. An enforceable development agreement may include, but is not limited to, development agreements pursuant to F.S. §§ 163.3220 et seq., or an agreement or development order issued pursuant to F.S. ch. 380.

(2) For recreation, the county shall satisfy the concurrency requirement by complying with the following standards:

a. At the time the development order or permit is issued, the necessary facilities and services in place or under actual construction; or

b. A development order or permit is issued subject to the condition that, at the time of the issuance of a certificate of occupancy or its functional equivalent, the acreage for the necessary facilities and services to serve the new development is dedicated or acquired by the local government, or funds in the amount of the developer's fair-share are committed; and

c. A development order or permit is issued subject to the conditions that the necessary facilities and services needed to serve the new development are scheduled to be in place or under actual construction not more than one year after issuance of a certificate of occupancy or its functional equivalent as provided in the adopted six-year schedule of capital improvements in the Pinellas County Capital Improvements Element; or

d. At the time the development order or permit is issued, the necessary facilities and services are the subject of a binding executed agreement which requires the necessary facilities and services to serve the new development to be in place or under actual construction not more than one year after issuance of a certificate of occupancy or its functional equivalent; or

e. At the time the development order or permit is issued, the necessary facilities and services are guaranteed in an enforceable development agreement, pursuant to F.S. § 163.3220, or an agreement or development order issued pursuant to F.S. ch. 380, to be in place or under actual construction not more than one year after issuance of a certificate of occupancy or its functional equivalent.

Section 134-226. - Recognition of the establishment of levels of service in the county Comprehensive Plan.

The county shall recognize those adopted levels of service, as defined in the Comprehensive Plan.

Section 134-227. - Intergovernmental coordination.

(a) Provision of public facilities or services to other governmental entities. The county shall provide service to other local governmental entities within the county in accordance with the policies included in the Comprehensive Plan. The county shall administer this division such that development in those areas shall be consistent with the Comprehensive Plan and implementing ordinances, and actions of the county.

(b) Receipt of public facilities or services from other governmental entities. Concerning those services that are provided by other governmental entities, the county shall recognize the level of service provided by such entities in accordance with the policies of the Comprehensive Plan. The county shall ensure that all development within its area shall be in accordance with such policies as identified in the Comprehensive Plan.

Section 134-228. - Appeals, reviews, and variances.

(a) Eligibility for review of an administrative decision. Any applicant who has been aggrieved by an administrative decision in the application or interpretation of the provisions of this division to his particular application for development may apply for a concurrency review and variance.

(b) Variances to the concurrency standards may only be granted to the extent necessary to relieve the hardship. Upon granting concurrency variances, additional safeguards and conditions may be required to ensure proper compliance with the general spirit, purpose and intent of this division and of the Comprehensive Plan.

(c) Concurrency variance criteria: The reviewing authority shall consider all technical evaluations, all relevant factors, standards specified in other sections of this division or in the Comprehensive Plan, and shall utilize the following generalized guidelines and criteria:

1. That the variance, review, or decision on appeal will not confer on the applicant any special privilege that is otherwise denied by this division to other similarly situated lands;
2. That any variance, review, or decision on appeal is the minimum increase in intensity or density that will make possible the reasonable use of the land, building, or structure, consistent with the need to protect public facilities or services;
3. That the variance, review, or decision on appeal is not inconsistent with the general intent, purpose, and spirit of this division, or with the county Comprehensive Plan;

4. That the variance, review, or decision on appeal will not be injurious to the area involved or otherwise detrimental to the public welfare;
5. That the variance, review, or decision on appeal shall not authorize a development in conflict with any other county ordinance or the county Comprehensive Plan; and
6. That the variance, review, or decision on appeal is based upon evidence submitted by the applicant that factually supports the variance, review, or decision on appeal.

(d) Administrative concurrency variance review procedure.

1. The concurrency review and variance shall be reviewed as a Type 1 – Path A Department Review pursuant to Chapter 138 Article II.
2. The applicant shall submit a formal applicant and provide any supplemental information as required by the county administrator.
3. The county administrator or designee shall issue letter of the final decision. The decision shall include findings of fact and a determination to approve, approve with conditions, or deny the request.

(e) Appeals procedure. The applicant may appeal the administrative concurrency variance decision to the Board of Adjustment and Appeals as a Type 2 review pursuant to Chapter 138 Article II. Any subsequent appeals shall be conducted by the circuit court.

Secs. 134-229—134-255. - Reserved.

DIVISION 3. - ANNUAL CONCURRENCY TEST STATEMENT

Section 134-256. - Purpose and intent.

(a) The concurrency test statement is a status report on the ability of public services and facilities to meet the demands of existing and committed development and provide an acceptable level of service. For the purpose of determining the ability of a municipal service or facility to provide an acceptable level of service for unincorporated areas within a municipal service area, the county will rely upon information from the applicable jurisdiction indicating capacity availability.

(b) If the existing level of service equals or exceeds the adopted level of service standard, and all other level of service conditions are met, then that facility or service is considered to be providing an acceptable level of service.

Section 134-257. - Applicability.

(a) The provisions of this division shall apply to any property within the unincorporated areas of the county. The provisions of this division shall also apply to incorporated areas of the county that are provided service by a county facility or service evaluated in this division and may apply to incorporated areas provided service by a state facility or service evaluated in this division.

(b) This division will not divest those rights acquired under a previous approval pursuant to the previous concurrency test statement as it existed prior to repeal, unless the county can demonstrate that substantial changes in conditions underlying the approval have occurred or the approval was based on substantially inaccurate information or that divestiture is essential to the public health, safety, or welfare.

Section 134-258. - Same—for public services and facilities.

The level of service conditions for public services and facilities are those adopted in the Comprehensive Plan and/or within inter local agreements.

Section 134-259. - Methodology used to determine the level of service conditions.

(a) Since the level of service standards for recreation/open space, wastewater, potable water and solid waste/resource recovery facilities and services are partially based on per capita standards, information on the existing and projected populations for the service areas are used to evaluate existing and future impacts on services and facilities.

(b) An additional consideration in determining the existing level of service for recreation/open space, wastewater, and solid waste/resource recovery facilities and services is the impact of anticipated near term population growth. The impact of projected population growth over the next year (obtained by multiplying the projected increase in population for each service area by the existing level of service) is added to the actual demand (e.g., annual average flow) for the facilities.

(c) For potable water supply, the existing levels of service and level of service standard is based upon Tampa Bay Water being able to meet the needs of the Pinellas County Water Demand Planning Area. For informational purposes, however, estimates of the Pinellas County Water Demand Planning Area population are applied to average daily flow figures to arrive at an estimate of existing per capita use.

Secs. 134-260—134-290. - Reserved.

ARTICLE VII. - PROCEDURAL REQUIREMENTS FOR ENTERING INTO DEVELOPMENT AGREEMENTS

Section 134-291. - Statutory definitions.

For the purposes of this article, the definitions set forth in F.S. § 163.3221 shall apply and control all development agreements entered into by the county.

Section 134-292. - Legislative intent and findings of fact.

The Board of County Commissioners finds and declares that each of the following statements are true and correct, and hereby adopts these statements as the legislative findings of the board, which shall be considered as further justification and authority for the adoption of this article.

(a) The provisions of F.S. §§ 163.3220—163.3243 set forth the local government development agreement act (the "act").

(b) The provisions of F.S. § 163.3223 provide that local governments may, by ordinance, establish procedures and requirements, as provided by the act, to consider and enter into development agreements with any person having a legal or equitable interest in real property within its jurisdiction.

(c) The act recognizes that 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.

(d) The act recognizes that 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.

(e) In conformity with, in furtherance of, and in order to implement the local government Comprehensive Planning and land development regulation act (F.S. § 163.3161 et seq.)

and the state Comprehensive Planning act of 1972 (F.S. § 186.001 et seq.), it was the intent of the state legislature in adopting the act 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.

(f) The act authorizes local governments to enter into development agreements with developers, subject to the procedures and requirements of the act.

(g) The act provides that the act shall be regarded as supplemental and additional to the powers conferred upon local governments by other laws and shall not be regarded as in derogation of any powers now existing.

(h) The provisions of Ordinance No. 89-32, attachment B, adopting the county Comprehensive Plan, in b), referencing the concurrency management system, minimum requirements for concurrency, Subsections A)4. and B)2., and Section 134-225(d)(3) specifically anticipate the use of development agreements to satisfy concurrency requirements for necessary facilities and services.

(i) The provisions of F.S. § 125.01(1)(t), (11)(w), provide authority for the county to adopt ordinances which are in the common interest of the people of the county and not specifically prohibited by law.

(j) It is the intent of this article to encourage a strong commitment to comprehensive and capital facilities planning, ensure the provision of adequate public facilities for development concurrent with the impacts of development, encourage the efficient use of resources, and reduce the economic cost of development.

(k) It is the intent of this article to encourage Comprehensive Planning by developers by affording greater predictability and reducing risks in order to lessen the costs of providing major infrastructure and public benefits.

Section 134-293. - Authority.

(a) This article sets forth the procedural requirements that the county shall consider and implement in order to enter into development agreements. Specific authority for adoption of this article is found in F.S. § 163.3223. In general, the provisions of this article comply with and are authorized by the provisions set forth in the local government development agreement act.

(b) This article is adopted pursuant to the constitutional and home rules powers of Fla. Const. art. VIII, § 1(g), F.S. § 125.01(1)(t), (1)(w), and Article II of the County Charter.

(c) In approving a development agreement, the Board of County Commissioners shall have the authority to grant, without limitation, variances, special exceptions, conditional uses or other forms of approvals otherwise delegated to other authorities in the ordinary course of approvals outside of the development agreement process.

Section 134-294. - Development agreement requirements.

(a) All development agreements shall, at a minimum, include the following:

(1) A legal description of the land subject to the agreement;

(2) The duration of the agreement, which shall meet the terms set forth in section 134-295

(3) The development uses permitted on the land, including population densities, and building intensities and height;

(4) The land use designation under the future land use plan element of the Comprehensive Plan for all property included within the terms of the proposed agreement;

(5) The current zoning classification of the property;

(6) A description of public facilities that will service the development, including who shall provide such facilities;

(7) The date any new facilities, if needed, will be constructed;

(8) A schedule to assure public facilities are available concurrent with impacts of the development;

(9) A description of any reservations or dedications of land for public purposes;

(10) A description of all local development permits approved or needed to be approved for the development of the land;

(11) A finding that the development permitted or proposed is consistent with the Comprehensive Plan and land development regulation, as required by F.S. § 163.3231;

(12) A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the county for the public health, safety, or welfare of its citizens;

(13) 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 such permitting requirements, condition, term, or restriction; and

(14) A statement identifying the legal and equitable interest of all persons having any interest in the property described in Subsection (a)(1), above. The statement of ownership interests of any joint ventures, partnerships or corporations shall reveal all principals or directors and officers, as appropriate. Such statements shall be certified by a title company or an attorney-at-law licensed to practice in the state.

(b) A development agreement may provide that the entire development or any phase thereof be commenced or concluded within a specific period of time.

Section 134-295. - Duration of development agreements.

The term of a development agreement shall not exceed five years or such time as the act may provide. A development agreement may only be extended by mutual consent of the Board of County Commissioners and the developer, subject to public hearings in accordance with section 134-296. No extension shall exceed five years or such time as the act may provide.

Section 134-296. - General requirements for notices and hearings.

(a) Before entering into, amending, modifying, canceling, or revoking a development agreement, the county shall conduct at least two public hearings, one of which shall be held by the local planning agency prior to a final public hearing before the Board of County Commissioners.

(b) The day, time and place at which the next scheduled public hearing under this article will be held shall be announced at the prior public hearing.

(c) Notice of intent to consider a development agreement at a scheduled public hearing under this article shall be provided:

(1) By advertising the required notice in a newspaper of general circulation and readership in the county approximately seven days before each public hearing on the application;

(2) By mailing the required notice to all property owners of record listed in the county property appraiser's office records as abutting or lying within 250 feet of the subject property; these notices shall be mailed approximately seven calendar days prior to the first scheduled public hearing; and

(3) In writing, to adjacent or affected local governments or their agencies pursuant to the intergovernmental coordination element of the county Comprehensive Plan.

(d) Required notice of intent to consider a development agreement shall specify:

(1) The time, place, and location of the scheduled hearing(s);

(2) The location of the land subject to the development agreement;

(3) The development uses proposed on the property, including the proposed population densities and proposed building intensities and height; and

(4) Instructions for obtaining further information, including the place(s) where a copy of the proposed agreement can be obtained.

Section 134-297. - Development agreement procedures.

(a) Submission of development agreement packages; fees.

(1) Applications requesting consideration by the county of a developer's proposed or amended development agreement shall be submitted on such forms as may be provided by the county. In addition to the information required by Section 134-294 which can be provided, the county may require an applicant to submit such information as is reasonably necessary to process and fully consider the application.

(2) Application packages shall be accompanied by such fees and charges as may be imposed by the Board of County Commissioners, or its designee, for proper filing and processing.

(3) Payment of application fees, submission of applications, engineering plans, surveys, or any other expenditures shall not vest any rights to complete development or to obtain any requested zoning or land use classification amendments.

(b) Negotiation of development agreements.

(1) The county administrator and staff personnel shall review the developer's application package and negotiate such further terms and conditions as the county administrator shall deem to be appropriate and necessary to protect the public's interest, safety, health or welfare.

(2) Once a tentative agreement has been reached as to the terms and conditions of a development agreement, or further negotiations are not anticipated or will not reach a consensus on the development agreement's terms or conditions, the county administrator and staff personnel shall draft a report, including any recommendations, for consideration by the local planning agency at a properly noticed public hearing.

(3) The local planning agency shall review the proposal and make their findings and recommendations, receive public testimony, and make their recommendation at the public hearing, which will be subsequently considered by the Board of County Commissioners at a public hearing.

(4) The existence of a tentative agreement, staff report or recommendation shall not be sufficient governmental acts upon which reliance may be placed, such that further expenditures by a developer would vest any right to continue development; nor shall such actions constitute partial performance entitling the owner to a continuation or extension of the development agreement.

(c) Adoption, amendment, extension, modification, revocation and cancellation procedures.

(1) Following such notice and public hearings as may be otherwise required, the Board of County Commissioners, by majority vote, may act to adopt, amend, extend, modify, revoke, or cancel any proposed or existing development agreement.

(2) Where mutual consent is required by law, the Board of County Commissioners may act to authorize such consent prior to all other parties so doing only upon the condition that the act is not complete or official until a binding agreement is contemporaneously signed by the board's chairperson and the representatives of all other parties.

Section 134-298. - Recordation.

(a) Within 14 days after the county enters into, extends, amends, modifies, revokes, or cancels a development agreement, the clerk to the Board of County Commissioners shall have the agreement or the action on the agreement recorded with the clerk of the circuit court in the official records of the county.

Section 134-299. - Periodic review.

(a) The county administrator or designee shall review the land and development subject to the development agreement at least once every 12 months.

(b) If, as part of its review, the county administrator or designee finds that the developer has, in good faith, complied with the terms and conditions of the agreement during the period under review, the agreement shall continue in force as is, pending the next review.

(c) If as part of its review the county makes a finding on the basis of substantial competent evidence that there has been a failure to comply with the terms of the development agreement, the Board of County Commissioners, following the notice and hearing provisions of section 134-296, may:

(1) Modify the agreement as necessary to obtain and ensure compliance with the terms of the agreement; or

(2) Revoke the agreement in order to protect the public's interest, health, safety or welfare.

Section 134-300. - Amendment, modification, extension, revocation and cancellation of agreements.

(a) In addition to being extended pursuant to Section 134-295, development agreements may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest upon proper notice and hearing as set forth in Section 134-296

(b) If state or federal laws are enacted after the execution of a development agreement which are applicable to and preclude the parties' compliance with the terms or conditions of a development agreement, then such agreement shall be modified or revoked as is necessary to comply with the relevant state or federal laws upon proper notice and hearing set forth in Section 134-296

Section 134-301. - Legal status of development agreements.

(a) The burdens of a 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) The county's laws and policies governing the development of land in effect at the time of execution of a development agreement, including, but not limited to, Articles III and VI of this chapter, and all other ordinances comprising land development regulations under F.S. § 163.3202, as amended, shall govern the development of all land specified in the development agreement for its stated duration.

(c) The county may only apply subsequently adopted laws and policies to then existing development agreements if, after a duly noticed public hearing, the Board of County Commissioners:

(1) Determines that such laws and policies are specifically anticipated and provided for in a development agreement;

(2) Determines that such laws and policies are not in conflict with the prior laws and policies governing existing development agreements; and do not prevent development of the land uses, intensities, or densities set forth in existing development agreements;

(3) Determines that such laws and policies are essential to the public health, safety or welfare, and expressly state that they shall apply to existing development agreements;

(4) Determines and demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of certain development agreement; or

(5) Determines that certain development agreements were based upon substantially inaccurate information supplied by the owner/developer.

(d) The provisions set forth in subsections (b) and (c) of this section do not abrogate any development rights that may vest pursuant to common law, as such rights may be determined through application of Article V of this chapter.

Section 134-302. - Enforcement.

Any aggrieved or adversely affected person as defined in F.S. § 163.3215(2) may file an action for injunctive relief in the Circuit Court of the County to enforce the terms of a development agreement, or to challenge compliance of the agreement with the provisions of F.S. §§ 163.3220—163.3243.

Secs. 134-303—134-331. - Reserved.

ARTICLE VIII. - PROPERTIES OF COUNTYWIDE IMPORTANCE

Sec. 134-332. - Legislative findings.

(a) The Florida Constitution, Article VIII, Section 1(g) provides that the charter of charter counties "shall provide which shall prevail in the event of conflict between county and municipal ordinances"; and

(b) Section 2.04 of the Pinellas County Charter, s. 1, as adopted by the Florida Legislature and approved by a vote of the Pinellas County electorate on October 7, 1980, as amended ("Charter"), provides for all special and necessary powers of the county to provide certain enumerated services and regulatory authority; and

(c) Section 2.04 of the Charter provides, "when directly concerned with the furnishing of the services and regulatory authority [in certain specifically enumerated areas], county ordinances shall prevail over municipal ordinances when in conflict"; and

(d) Section 2.04 of the Charter provides for countywide control over the development and operation of county owned facilities and properties that relate to the provision of the following governmental services and regulatory authority:

(1) Development and operation of 911 emergency communication system.

(2) Development and operation of solid waste disposal facilities, exclusive of municipal collection systems.

(3) Development and operation of regional sewage treatment facilities in accordance with federal law, state law, and existing or future interlocal agreements, exclusive of municipal sewage systems.

(4) Acquisition, development and control of county-owned parks, buildings, and other county-owned property.

(5) Development and operation of public health or welfare services or facilities in Pinellas County.

(6) Operation, development and control of the St. Petersburg-Clearwater International Airport.

(7) Implementation of animal control regulations and programs.

(8) Development and implementation of civil preparedness programs.

(9) Production and distribution of water, exclusive of municipal water systems and in accordance with existing and future interlocal agreements.

(10) All coordination and delivery of municipal services in the unincorporated areas of the county.

(e) The Local Government Comprehensive Planning and Land Development Regulation Act ("Act"), specifically F.S. § 163.3171, reserves to charter counties authority for planning and land development regulation to the extent provided for in the county charter; and

(f) In order to limit any disruptive effects of a county exercise of this existing charter authority, the county herein declares its policy in regard to those properties of countywide importance it wishes to continue preemptively regulating and leaves other county-owned facilities to county regulation by interlocal agreement with the applicable municipality, where appropriate, or as otherwise provided by law.

Sec. 134-333. - Definitions.

Development as used in this article means shall have the meaning ascribed to it in sections 163.33164 and 380.04, Florida Statutes.

Properties of countywide importance as used in this article means county-owned parks, buildings and other properties developed and operated in furtherance of those special countywide powers enumerated in subsection 134-332.

Sec. 134-334. - County regulation of development.

The development of properties of countywide importance shall be governed by county ordinances, permits and approvals and municipal ordinances shall not control or regulate the development of properties of countywide importance, unless otherwise agreed to by the county by interlocal agreement. All permits or approvals for development, except for placement of an actual zoning or future land use designation on a particular parcel, that are related to properties of countywide importance shall be reviewed, issued, and enforced by the county. To the extent any municipal ordinance conflicts with the development policy set forth herein, this county ordinance shall prevail.

Sec. 134-335. - Intergovernmental coordination.

It is the intention of the Board of County Commissioners to coordinate consideration of the particular effects of county regulation of properties of countywide importance as provided herein upon the development and community character of affected municipalities. Prior to the review and issuance of any permit or approval, the county shall notify affected municipalities of development plans, provide said municipality an opportunity to comment, and thereafter provide copies of county permits and approvals issued for development. The county will comply with any alternate process agreed to pursuant to interlocal agreement.

Sec. 134-336. - Areas embraced.

Pursuant to Sections 2.01 and 2.04 of the Pinellas County Charter, this ordinance [Ordinance No. 11-42] shall be effective within the boundaries of Pinellas County.

Attachment "C"

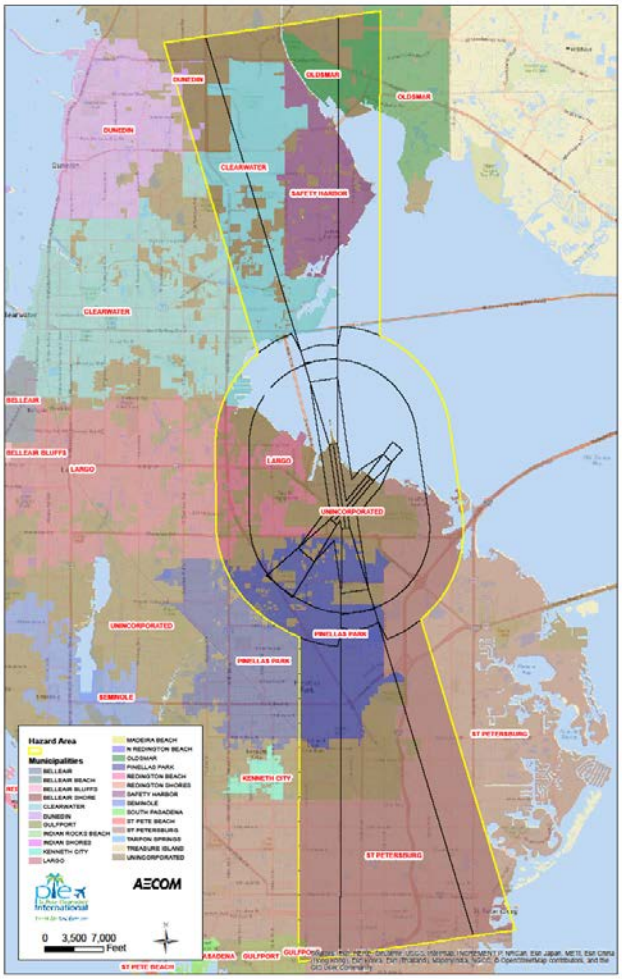
Chapter 142 - AIRPORT ZONING

ARTICLE I. - IN GENERAL

Sec 142-1 Applicability

The airport protection zoning regulations contained in this Chapter shall be applicable to the areas identified in Exhibit A, St. Petersburg-Clearwater International Airport (PIE) Airport Hazard Area. This area includes unincorporated Pinellas County and the Political Subdivisions of Dunedin, Oldsmar, Clearwater, Safety Harbor, Largo, Pinellas Park, St. Petersburg, and Gulfport. The PIE Airport Hazard Area is based upon the outermost shape, size and periphery of CFR Part 77 Civil Airport Imaginary Surfaces that overly and surround the St. Pete-Clearwater International Airport. Administration and enforcement of these regulations between local jurisdictions may be facilitated through one or more Interlocal agreements between Pinellas County and the affected political subdivision(s).

Exhibit A, PIE Airport hazard Area Map



Secs. 142-2—142-35. - Reserved.

ARTICLE II. - ST. PETERSBURG-CLEARWATER INTERNATIONAL AIRPORT[2]

Sec. 142-36. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Cross references to Florida Statutes, Chapter 333 Zoning, are provided where applicable:

Aeronautical study means a Federal Aviation Administration study, conducted in accordance with the standards of 14 C.F.R. Part 77, subpart C, and Federal Aviation Administration policy and guidance, on the effect of proposed construction or alteration upon the operation of air navigation facilities and the safe and efficient use of navigable airspace. (F.S. 333.01)

Airport means any area of land or water designed and set aside for the landing and taking off of aircraft and used or to be used in the interest of the public for such purpose (F.S. 333.01). Specific to this Chapter, Airport means the St. Pete-Clearwater International Airport.

Airport elevation means the established elevation of the highest point on the usable landing area, as measured in feet above mean sea level.

Airport hazard means an obstruction to air navigation which affects the safe and efficient use of navigable airspace or the operation of planned or existing air navigation and communication facilities and for which no person has previously obtained a permit or variance.

Airport Land Use Compatibility Zoning means airport zoning regulations governing the use of land on, adjacent to, or in the immediate vicinity of airports (F.S. 333.01)

Airport Layout Plan means a set of scaled drawings that provide a graphic representation of the existing and future development plan for the airport and demonstrate the preservation and continuity of safety, utility, and efficiency of the airport.

Airport Master Plan means a comprehensive plan of an airport which typically describes current and future plans for airport development designed to support existing and future aviation demand. (F.S. 333.01)

Airport Protection Zoning Regulations means airport zoning regulations governing airport hazards. (F.S 333.01)

Airport reference point means the point established as the approximate geographic center of the airport landing area and so designated.

Avigation easement means a covenant running with the land in which the property owner grants to the county the right to use the airspace above the owner's property and to create noise normally associated with aircraft operation without liability.

Board of Adjustment and Appeals means a board consisting of seven members of the appointed in accordance with the terms of chapter 138, to hear and decide upon variances.

Clearance determination is a determination based upon the standards herein, made by the airport director or designee in conjunction with development review services prior to the issuance of any development or use authorization, that the proposed development or use would not intrude into any airport zone as defined within this regulation. Local clearance determinations shall be based upon FAA Determinations which are issued following an FAA Obstruction Evaluation for one or more natural or manmade objects.

CFR is the Code of Federal Regulations.

Day-night average sound level (DNL) is the cumulative average sound levels in decibels (db) over a 24-hour period, and symbolized L(dn), as measured in accordance with FAR Part 150 and FAA Orders #1050.ID and #5050.4A.

Development Review Committee means the reviewing body as defined in Section 138-64 of this Code.

Educational Facility means any structure, land, or use that includes a public or private kindergarten through 12th grade school, charter school, magnet school, college campus, or university campus. The term does not include space used for educational purposes within a multi-tenant building.

FAA is the Federal Aviation Administration, a division of the U.S. Department of Transportation.

FAR is the Federal Aviation Regulations, Title 14, Code of Federal Regulations. FAR Part 77 is entitled "Objects Affecting Navigable Airspace." FAR Part 150 is entitled "Airport Noise Compatibility Planning."

Height. For the purpose of determining the height limits in all zones set forth in this article and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

Landing area means the area of the airport used for the landing, takeoff or taxiing of aircraft.

Nonconforming use means any structure, tree, or use of land which is lawfully in existence at the time the regulation is prescribed or an amendment thereto becomes effective and does not then meet the requirements of such regulation.

Obstruction means any existing or proposed manmade object or object of natural growth or terrain that violates the standards contained in14 C.F.R. part 77, subpart C. The term includes:

(a) Any object of natural growth or terrain

(b) Permanent or temporary construction or alteration, including equipment or materials used and any permanent or temporary apparatus

(c) Alteration of any permanent or temporary existing structure by a change in the structure's height, including appurtenances, lateral dimensions, and equipment of materials used in the structure.

Person means any individual, firm, copartnership, corporation, company, association, joint-stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

Runway means the paved surface of an airport landing strip.

Structure means any object, constructed or installed by man, including, but without limitation thereof, buildings, towers, smokestacks, utility poles and overhead transmission lines.

Substantial modification means any repair, reconstruction rehabilitation, or improvement of a structure when the actual cost of the repair, reconstruction, rehabilitation, or improvement of the structure equals or exceeds 50% of the market value of the structure.

TERPS means United States Standard for Terminal Instrument Procedures for arriving and departing aircraft as established by the Federal Aviation Administration.

Tree includes any plant of the vegetable kingdom.

Sec. 142-37. - Zones established.

(a) The following Civil Airport Imaginary Surfaces (Exhibit B) are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach procedure existing or planned for that runway end. The Primary, Horizontal, Conical Approach and Transitional airport surfaces are illustrated on the drawing of Civilian Airport Imaginary Surfaces as illustrated in FAA Order 7400.2K (or subsequent Changes or updates).

(b) The airport surfaces identified in Exhibit B shall be utilized to evaluate whether any existing or proposed structure or object of natural growth complies with federal obstruction standards as contained in CFR Part 77, 14 CFR §§ 77.15, 77.17, 77.19, 77.21, and 77.23; TERPS. The airport surfaces are specified for the most precise approach existing or planned for each runway and include all of the airspace lying beneath the various define Imaginary Civil Airport Surfaces as applied to St. Pete-Clearwater International Airport (KPIE, PIE).

Sec. 142-38. - Permitting and FAA Determinations (Clearances)

(a) It shall be the duty of the Development Review Services department in conjunction with the Airport Director to administer and enforce the regulations prescribed in this article. Applications required by this article shall be promptly considered and granted or denied. Applications for variances for action by the Development Review Committee (DRC) shall be promptly transmitted to the Development Review Services Department for review and action by the DRC.

(b) Within the PIE Airport Hazard Area (exhibit A), except as otherwise provided in these regulations, no existing or proposed structure, or object of natural growth may be developed, constructed, established, enlarged, substantially altered or repaired, approved for construction, planted, allowed to grow, be replanted or issued a natural resource permit or building permit at a height that would be higher that the lowest overlying CFR Part 77 or TERPS surface (Exhibit B). The heights for objects and overlying surfaces are computed using feet above Mean Sea Level (MSL) values referencing the North American Vertical Datum 1988 (NAVD 88) Vertical Datum, unless otherwise specified.

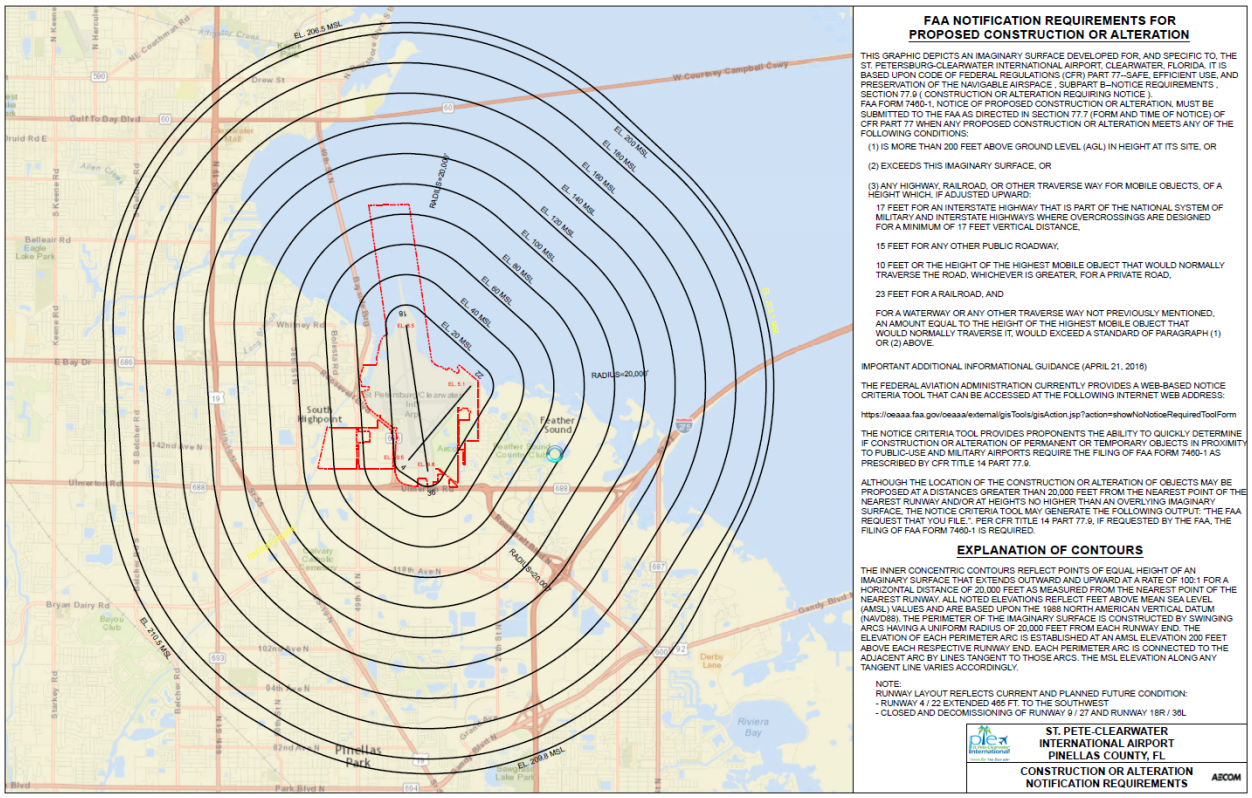
(c) Penetrations of any overlying CFR Part 77 Civil Airport Imaginary Surface or TERPS Surface will require an FAA Aeronautical Study and FAA-generated Determination.

(d) Any existing or proposed structure or object of natural growth that exceeds the standards defined in Sec. 142-37 is presumed to be a hazard to air navigation unless an Obstruction Evaluation study conducted by the FAA determines otherwise. Any structure or object of natural growth in violation of these standards shall be evaluated by the FAA to determine if the structure or object of natural growth has substantial adverse effect on navigable airspace affecting airport operations. This FAA Determination may be any one of the following FAA-issued Determinations following an FAA Obstruction Evaluation for one or more natural or man-made objects studied:

1. “Determination of Hazard To Air Navigation”,
2. “Does Not Exceed”,
3. “Exceeds But Okay”,
4. “Notice of Presumed Hazard”,
5. “Determination of No Hazard”, or
6. “Determination of Hazard”.

(e) Based upon the FAA’s determination regarding and proposed construction or alteration of structures, the Airport Director in conjunction with Development Review Services, prior to the issuance of any development or use authorization, must concur that the proposed development or use would not intrude into any airport zone as defined within this regulation.

Exhibit B Airport Imaginary Surfaces/FAA Notifications



(f) It shall be the responsibility of the applicable permitting department of each governing political subdivision to ensure that applicants applying for permitting of such objects comply with the FAA notice provisions of this section, collect documentation of such filing, and transmit notices to the Pinellas County Director of Development Review Services for additional consideration by the Airport Director.

Sec 142-39. - FAA Notice Criteria.

(a) Construction or alteration of objects located within 20,000 feet (5 nautical miles) of the end of the closest PIE Runway shall adhere to FAA guidance notification requirements as provided in Title 14: Aeronautics and Space, Code of Federal Regulations Part 77, Subpart B, Notice

Requirements. This filing notice may completed using the FAA's online Notice Criteria Tool. https://oeaaa.faa.gov/oeaaa/external/userMgmt/permissionAction.jsp?action=showLoginForm

(b) At locations within Pinellas County located beyond 20,000 (5 nautical miles) feet of the closest end of the closest runway and having above ground heights greater than 200 feet shall also be assessed for possible need for the Filing of FAA Form 7460-1 using the FAA's Notice Criteria Tool.

Sec. 142-40. - Use restrictions.

(a) *Generally.* Notwithstanding any other provisions of this article, no use may be made of land within any zone established by this article in such a manner as to create electrical interference with radio communication between the airport and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the airport, impair visibility in the vicinity of the airport, or otherwise endanger the landing, taking off, or maneuvering of aircraft.

(b) *In addition*, all uses, when located in the airport DNL noise contour areas identified on the St. Petersburg-Clearwater International Airport Noise Exposure Contours Map, as contained in the Airport Master Plan, shall conform to the following noise compatibility provisions:

Noise Exposure Contour
L(dn) Values

(1) *L(dn) 65 to 70 db.* Activities where uninterrupted communication is essential shall incorporate noise level reduction features in design. These activities and residential development, auditoriums, schools, churches, hospitals, theaters and like activities, are not considered a suitable use, unless noise level reduction features have been incorporated in building design and an avigation easement has been established. Open-air activities and outdoor living will be affected by aircraft sound.

(2) *Greater than L(dn) 70 db.* Land within this contour shall be reserved for activities that can tolerate a high level of sound exposure such as some agricultural, industrial, and commercial uses. No residential developments of any type are permitted. Sound-sensitive activities such as schools, offices, hospitals, churches, and like activities shall not be constructed within this contour unless no alternative location is possible and noise level reduction features have been incorporated in building design and an avigation easement has been established. All regularly occupied structures shall consider noise level reduction features in design.

(3) All uses identified in (1) and (2) above, requiring noise level reduction in decibels, achieved through incorporation of noise attenuation (between indoor and outdoor levels) in the design and construction of a structure, shall attain a noise level reduction of 15 db over standard construction.

(4) *Less than L(dn) 65 db.* Local needs may warrant consideration of noise level reduction and an avigation easement for locations in close proximity to established airport flight tracks.

(c) No educational facility of a public or private school, with the exception of aviation school facilities, shall be permitted within an area extending along the centerline of any runway and measured from the end of the runway and extending for a distance of five miles and having a width equal to one-half of the runway length. Exceptions approving construction of an educational facility within the delineated area shall only be granted when the board of county commissioners makes specific findings detailing how the public policy reasons for allowing the construction outweigh health and safety concerns prohibiting such a location.

Sec. 142-41. - Nonconforming uses.

(a) *Regulations not retroactive.* The regulations prescribed by this article shall not be construed to require the removal, lowering or other changes or alteration of any structure or tree not conforming to the regulations as of November 7, 1986, or otherwise interfere with the continuance of any nonconforming use, except as provided in section 142-41. Nothing contained in this article shall

require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to November 7, 1986, and has not been abandoned.

(b) *Marking and lighting.* Notwithstanding the provision of subsection (a) of this section, the owner of any nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereof of such markers and lights as shall be deemed necessary by the development review services department to indicate to the operators of aircraft in the vicinity of the airport the presence of airport hazards. Such markers and lights shall be installed, operated and maintained at the expense of the county.

Sec. 142-42. - Enforcement of article.

It shall be the duty of the Development Review Services Department in conjunction with the Airport Director to administer and enforce the regulations prescribed in this article. Additional procedures to receive and process applications, clearance determinations, and to issue or deny permits may established administratively. Similarly, administrative procedures to coordinate permitting with other affected political subdivisions may be established through Interlocal agreement(s).

Sec. 142-43. - Variances.

(a) The Pinellas County Development Review Committee (DRC) established under chapter 138, article II, division 2 shall have and exercise the following powers:

(1) To hear and decide appeals from any order, requirement, decision or determination made by the development review services department, or the airport director or designee in the enforcement of this article;

(2) To hear and decide specific variances related to the enforcement of this article.

(b) *Variances.* Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property not in accordance with the regulations prescribed in this article, may apply to the Development Review Committee for a variance from such regulations. Such variances may only be allowed where it is duly found that a literal application or enforcement of this article would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but will do substantial justice and be in accordance with the spirit of this article. In determining whether to issue or deny a variance, the board of adjustment shall consider:

(1) The nature of the terrain and height of existing structures.

(2) Public and private interests and investments.

(3) The character of flying operations and planned developments of airports.

(4) Federal airways as designated by the Federal Aviation Administration.

(5) Whether the construction of the proposed structure would cause an increase in the minimum descent altitude or the descent height at the affected airport.

(6) Technological advances.

(7) The safety of persons on the ground and in the air.

(8) Land use density.

(9) The safe and efficient use of navigable airspace.

(10) The cumulative effects on navigable airspace of all existing structures, proposed structures identified in the applicable jurisdictions' comprehensive plans, and all other known proposed structures in the area.

(11) The need for the establishment of an avigation easement.

Sec. 142-44. - Appeals.

(a) Any person aggrieved, or any taxpayer affected, by any decision of the development review services department or the airport director or designee or the Development Review Committee made

in its administration of this article, if of the opinion that a decision of the development review services department, or the airport director or designee is an improper application of these regulations, may appeal to the Board of Adjustment and Appeals.

(b) All appeals must be taken within a reasonable time as provided by the rules of the Board of Adjustment and Appeals, by filing with the agency from which the appeal is taken and the Board of Adjustment and Appeals a notice of appeal specifying the grounds thereof. The agency from which the appeal is taken shall forthwith transmit to the Board of Adjustment and Appeals all the papers constituting the record upon which the action appealed from was taken or properly certified copies thereof in lieu of originals as the agency involved may elect.

(c) An appeal shall stay all proceedings in furtherance of the action appealed from unless the agency from which the appeal is taken certifies to the Board of Adjustment and Appeals, after notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in its opinion, cause imminent peril of life or property. In such cases, proceedings shall not be stayed otherwise than by an order of the Board of Adjustment and Appeals on notice to the agency from which the appeal is taken and on due cause shown.

(d) The Board of Adjustment and Appeals shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the appeal within a reasonable time. At the appeal hearing any party may appear in person or by agent or attorney.

(e) The Board of Adjustment and Appeals may, in conformity with the provisions of this article, reverse or affirm, wholly or partly, or modify, the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the administrative agency from which the appeal is taken.

Sec. 142-45. - Judicial review.

Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment and Appeals may appeal to the circuit court as provided in F.S. § 333.11.

Sec. 142-46. - Penalty for violation of article.

Each violation of this article or any regulation, order or ruling made pursuant to this article shall constitute a misdemeanor and be punishable by a fine of not more than $500.00 or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment, and each day a violation of this article continues to exist shall constitute a separate offense.

Sec. 142-47. - Conflicting regulations.

(a) *Incorporation.* In the event that a political subdivision has adopted, or hereafter adopts, a comprehensive zoning ordinance regulating, among other things, the height of buildings, structures and natural objects, and uses of property, any airport zoning regulations applicable to the same area or portion thereof may be incorporated in and made a part of such comprehensive zoning regulations for that political subdivision, and be administered and enforced in connection therewith.

(b) *Conflict.* In the event of any conflict between the airport zoning regulations adopted under this article and any other regulations applicable to the same area, whether the conflict is with respect to the height of structures or trees, the use of land, or any other matter, and whether such regulations were adopted by the political subdivision which adopted the airport zoning regulations or by some other political subdivision, the more stringent limitation or requirement shall govern and prevail.

Sec. 142-48. - Territory embraced.

All territory within the legal boundaries of Pinellas County, Florida, including all incorporated and unincorporated areas, shall be embraced by the provisions of this division.

Attachment "D"

Contents

CHAPTER 154 - SITE DEVELOPMENT, RIGHT-OF-WAY IMPROVEMENTS, SUBDIVISIONS, AND PLATTING.

ARTICLE I. - IN GENERAL

Section 154-1. – Purpose and Intent

It is the purpose and intent of Chapter 154 to provide rules, standards, and flexibility options for general site development, right-of-way improvements, and subdivisions in a manner that will protect the general health, safety, and welfare for the people within Pinellas County. The requirements herein are intended to establish the locally-preferred and functional standards while recognizing that some flexibility and adjustments are needed to facilitate redevelopment and to respond to the surrounding context.

(a) **Standard Requirements** – It is the intent for site development, right-of-way improvements and subdivisions to occur pursuant to the standard requirements established in this Chapter for sites/lands that are free from physical encumbrances.

(b) **Redevelopment Flexibility** – It is the intent to allow certain flexibility for site development, right-of-way improvements, and subdivisions for redevelopment projects and where the surrounding context warrants adjustments to the applicable standards. It is the intent to allow a case-by-case review and adjustment to the standards herein to result in an appropriate design alternative that better responds to the surrounding context and unique site conditions. It is the intent to utilize the Waivers and Administrative Adjustments process to review, document, and approve certain design alternatives.

Section 154-2. – 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:

Arterial roads (streets) means main traffic thoroughfares, as indicated on the Pinellas County Sector Plan Right-of-Way Requirements and Traffic Corridors Plan, and defined as roads consisting of connecting links between municipalities and/or state roads. Requirements for speed and level of service are usually quite high. The arterial system should form a continuous network designed for a free flow of through traffic.

Block length means the distance between the right-of-way lines of intersecting streets, measured along the nearside right-of-way line of the through street.

Collector roads (streets) means roadways that are of relatively moderate average traffic volume, moderately average trip length, and moderately average operating speed, and allows the distribution of traffic between local streets and major traffic generations, such as highways, to provide intra-neighborhood transportation connections. The traffic characteristics generally consist of relatively short trip lengths, moderate speeds and volumes. Average daily traffic usually ranges from 1,000 to 4,000 vehicle trips per day. It is primarily a residentially oriented system which filters traffic from local streets before their capacity is exceeded and conducts it to arterial facilities or local generators such as shopping centers, schools or community centers.

County engineer or director means the county administrator if certified and licensed as a professional engineer in the State of Florida, or his or her authorized designee(s), certified and licensed as a professional engineer in the State of Florida.

Detention means the temporary storage of stormwater runoff to limit the rate of discharge into receiving water bodies. These system can also discharge into the MS4.

Easement means a nonpossessory interest in land of another that entitles the grantee to use or enjoy the other's land in a specific manner.

Elevation means the vertical distance of a point relative tothe established North American Vertical Datum of 1988 (NAVD 88

Engineer, Professional Engineer, or Licensed Engineer, or professional surveyor or mapper shall be as defined by F.S. chs. 471 and 472.

File of record means a permanent file which contains all pertinent data, correspondence, calculations, drawings, plats, etc., used to review site plans and/or plats of submitted developments.

Final stabilization means that all soil disturbing activities at the site have been completed, and that a uniform (evenly distributed, without large bare areas) perennial vegetative cover, with a density of at least 70 percent for all unpaved areas and areas not covered by permanent structure, has been established, or equivalent permanent stabilization measures have been employed.

Floodway means 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 foot. [Also defined in FBC, B, Section 1612.2.] The county has a no rise policy within the floodways.

Impervious means land surfaces that do not allow, or minimally allow the penetration of water; such as building roofs, non-porous concrete and asphalt pavements, and some fine grained or compacted soils.

Natural area means a preservation area which is to remain in its natural state.

Natural drainageways means those watercourses that are either natural or have not been substantially excavated, graded or otherwise altered or improved by man.

Plat means a map or delineated representation of the subdivision of lands, being a complete exact representation of the subdivision, and other information in compliance with the requirement of all applicable sections of this chapter, State Statutes and of any local ordinances, and may include the terms ""replat"" and ""amended plat.""

Receiving water bodies means those water bodies and drainage-ways, either natural or manmade, that lie downstream of the site in question and which are susceptible to degradation of water quality due to activity at the upstream site.

Redevelopment means any manmade material change to improved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Retention means as defined by the Pinellas County Stormwater Manual.

Right-of-way means land in which the state, a county, or a municipality owns the fee or has an easement devoted to or required for use as a transportation facility.

Site means any tract, lot or parcel or combination of lots or parcels of land where development or redevelopment can occur and which is subject to site plan requirements as defined in Chapter 138, Article II, Division 5.

Subdivision means the division of a parcel of land into three or more lots or parcels for the purpose of transfer of ownership or building development; or, if a new street is involved, any division of a parcel of land. However, division of land for agricultural purposes into lots or parcels of five acres or more, and not involving a new street, shall not be deemed a subdivision. The term includes resubdivision and, when appropriate to the context, shall relate to the process of

subdividing or to the land subdivided. The word ""subdivision"" includes the words ""resubdivision,"" ""plot,"" ""plat"" and ""replat.""

Subdivision street means a street within a subdivision defined as a local street in the county sector plan right-of-way requirements and traffic corridor plan.

Substantial site improvement means any manmade change to a site which discharges the surface water runoff from the site at a faster rate.

Transportation facility means any means for the transportation of people or property from place to place which is constructed, operated, or maintained in whole or in part from public funds. The term includes the property or property rights, both real and personal, which have been or may be established by public bodies for the transportation of people or property from place to place.

Water body means any lake, reservoir, pond or other containment of surface water occupying a bed or depression in the earth's surface and having a discernible shoreline or edge.

Section 154-3. - Enforcement and Inspection.

(a) Site development, right-of-way improvements, and subdivisions shall be conducted pursuant to the provisions of this chapter. Any person committing any act declared unlawful shall be punished as provided in Section 134-8.

(b) No certificate of occupancy will be issued for any structures within the parameter of the approved site plan and/or construction plan (including all single-family homes) unless all conditions of the plan, including any county issued right-of-way utilization permits associated therewith, have been addressed and satisfied.

(c) Inspections.

(1) The County may conduct inspections to determine compliance with the provisions of this chapter.

(2) The County may have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provisions of this chapter, including, but not limited to, the following:

a. Where it is determined that a violation of this chapter exists, the inspector shall attempt to contact the violator and direct compliance with this chapter. With or without such notice, the codes inspector may refer the matter to the county attorney for proper legal action;

b. Injunctive relief to enjoin and restrain any person from violating the provisions of this chapter;

c. An action to recover any and all damages that may result from a violation of this chapter, including an action to recover fines imposed by state law;

d. Revocation, suspension, or modification of any approvals issued under this chapter; and

e. Withholding the issuance of certificate of occupancy for structures belonging to the same person or other legal entity, either individually or through its agents, employees, or independent contractors.

The County may elect any or all of these remedies concurrently, and the pursuance of one shall not preclude the pursuance of another.

(3) Code inspectors' authority is to enforce the provisions of this chapter and to initiate enforcement proceedings. Codes inspectors shall have the authority to issue citations in accordance with F.S. § 125.69, initiate code enforcement proceedings under F.S. § 162, or pursue any other remedies authorized by law.

Section 154-4. - Areas embraced.

The areas embraced by this chapter shall be all lands within the unincorporated area of Pinellas County. The provisions within this chapter shall also apply to any Pinellas County rights-of-way within municipal boundaries.

Section 154-5. - Variances, Waivers and Administrative Adjustments.

Any deviations from the provisions in this chapter may be sought and are limited pursuant to the rules and procedures in Chapter 138, Article II, Division 7. *Variances, Waivers and Administrative Adjustments.*

Section 154-6. - Consistency with other ordinances.

It is the intent of this chapter to provide for harmonious development within the county. In addition to this chapter, development is subject to all other county ordinances and regulations, including but not limited to the following: building, zoning, water, reclaimed water, sewer, habitat, access, floodplain, flood damage prevention, stormwater, surface water, wellhead protection, water and navigation, health, air quality, as well as state and federal statutes and regulations. This chapter is intended to supersede and prevail over previous ordinances regulating the same subject matter.

Section 154-7. - Appeals.

Any person may file an appeal to the actions and decisions relating to this chapter pursuant to the rules and procedures established in Chapter 138, Article II, Division 3. *Development and Land Use Review Procedures.*

Section 154-8. - Site plan Requirements.

Uses and land development activities which require site plan review shall be in accord with the requirements of Chapter 138 Article II, Division 5. *Site Plan Requirements and Review Procedures.*

Sections. 154-9. – 154.-10. - Reserved

Section 154-11. - Easements.

(a) Conservation easements:

(1) Areas shown on site plans as preservation areas which are to remain in their natural state are to be shown on the plat as a conservation easement and dedicated to the county.

(2) Areas shown on site plans as preservation areas which are a portion of the drainage system are to be shown on the plat as drainage easements and dedicated to the county.

Section 154-12. - Construction phase.

The following standards shall apply during the construction phase and/or as part of the building permit review process.

(a) Before construction is authorized to begin, the contractor must have final site plan approval as well as approved permits for all work within the public right-of-way. If platting is required, the preliminary submittal of the record plat must be submitted for review prior to final administrative approval of the site plan.

(b) Before a certificate of occupancy will be issued, the final plat for any site development which requires platting must have been approved by staff. Also, a copy of the Notice of Termination (NOT) issued by the Florida Department of Environmental Protection (FDEP)

for activities regulated under the National Pollutant Discharge Elimination Systems (NPDES) program shall be provided to staff.

(c) After construction, the owner shall provide to the county a certification by a state of Florida licensed professional engineer that the design, intent and functionality of the project conform to the approved construction plans. If authorized field changes are made, the owner shall provide an as-built survey and/or updated plans as defined in Chapter 5J-17, Florida Administrative Code, signed and sealed by a state registered professional engineer and a certification of completion for the stormwater management system.

(d) If construction of the infrastructure needed for development ceases for a period of one year or if the infrastructure of the development has not been completely developed within five years of plan approval, the plan shall require review and re-approval. Plans submitted for review and re-approval shall comply with all then-current regulations.

(e) All lots shall be graded in accordance with drainage plans with fill of good clean acceptable material. No clay, muck, or other such materials shall be used for fill except in areas where construction is prohibited. Temporary ground cover, sod or seed and mulch will be planted and maintained on all disturbed areas.

(f) It is the developer's responsibility to keep the county informed at all times of the development's progress and it is the developer's responsibility to notify the consulting engineers so that inspection and testing can be properly performed.

(g) Expense and responsibility for testing.

(1) The expense of testing materials and construction will be paid for by the developer.

(2) Upon completion of all improvements required, the developer's engineer shall submit Certificate of Completion and a statement certifying that all work has been constructed according to the plans and specifications originally approved by the county engineer.

Accompanying this statement shall be a construction report showing where tests were made, who made them, when they were made and what the results were. Testing shall be in accordance with the Pinellas County Minimum Testing Frequency Requirements. Copies of all test reports shall be furnished to the county as soon as each test has been completed. Where test reports show noncompliance with specifications, corrective work shall be started immediately.

(h) Miscellaneous requirements for completion of site developments.

(1) Irrigation systems shall utilize low volume design such as low trajectory heads or soaker hoses to provide direct application and low evaporation and must have a rain sensor device or switch which will override the irrigation cycle of the sprinkler system when adequate rainfall has occurred. Water supply shall be piped to each individual planter island, and in no case shall any planted vegetation area required pursuant to Chapter 166, Article II or Chapter 138, Article X be more than 50 feet from a water supply hose bib. Shallow wells, open surface water bodies or reclaimed water shall be used unless unavailable as a source of irrigation water.

(2) Inspection of storm sewers is required by the county, and will be requested in writing by the owner or engineer accompanied by the required inspection fee. Such inspection shall include verification of final stabilization.

(3) Mailboxes shall be installed in conformance with the Florida Department of Transportation Roadway and Traffic Design Standards Index 532, latest edition, and as required by the U.S. Postal Service.

(4) All proposed swales needed for roadway and utilities that require excavation from existing conditions shall be graded and sodded by the developer prior to acceptance of any subdivision for platting. Swales for individual lots within a larger development may be constructed at the time the individual lot is developed.

(5) All proposed retaining walls shall be constructed by the developer prior to acceptance of the subdivision for platting. This requirement is intended for walls that are needed for roadways and utilities. Retaining walls for individual lots within a larger development may be constructed at the time the individual lot is developed.

(6) Access for fire apparatus shall be as follows:

a. All developments shall be designed and constructed to provide access for firefighting equipment in conformance with the standards of the Fire Prevention Code of the National Fire Protection Association, Inc., latest edition.

b. All premises which the fire department may be called upon to protect in case of fire and which are not readily accessible from public roads shall be provided with suitable gates, access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus.

c. Fire lanes shall be provided for all buildings which are set back more than 150 feet (45.75m) from a public road or which exceed 30 feet (9.14m) in height and are set back over 50 feet (15.25m) from a public road.

d. Fire lanes shall be at least 20 feet (6.1m) in width including a minimum of a 16 foot paved and four (4) foot stabilized surfaces. All road surfaces shall be of the all-weather type and capable of supporting the imposed loads of fire apparatus. The road edge closest to the building shall be separated by at least ten feet (3.05m) and have vertical clearance of 13 feet – six (6) inches. Any dead-end road more than 300 feet (91.5m) long shall be provided with a turnaround at the closed end at least 90 feet (27.45m) in diameter.

e. The designation, use, and maintenance of fire lanes on private property shall be accomplished as specified by the fire marshal.

f. It shall be unlawful for any person to park motor vehicles on, or otherwise obstruct, any fire lane.

g. Exception: When any combination of private fire protection facilities, including, but not limited to, fire resistive roofs, fire separation walls, space separation and automatic fire extinguishing systems, are provided and approved by the fire marshal as an acceptable alternate.

(i) Duty and authority of county.

(1) The county may inspect all construction materials, and may inspect preparation, fabrication or manufacture of supplies. The county is not authorized to revoke, alter or waive any requirements of the specifications, but is authorized to call to the attention of the developer any failure of work or materials to conform to the plans or specifications.

(2) The county shall in no case act as foreman or perform other duties for the developer, nor interfere with the management of the work, and any advice which the county may give to the developer shall in no way be construed as binding to the county or releasing the developer from carrying out the intent of the plans and specifications.

(3) The county, may stop any work within a public right-of-way at any time there is a perceived hazard or noncompliance with approved plans.

Sections 154-13—154-49. - Reserved.

ARTICLE II. - DRAINAGE REQUIREMENTS

Section 154-50. – Purpose and Intent

It is the purpose and intent of this article to plan for, to address, and to maintain drainage to protect the general health, safety, and welfare of the people of Pinellas County. Additionally, it is the purpose and intent to guard against flooding, protect hydrology, and ensure water quality. The County is a built-out urban environment and most future land activity will occur as redevelopment.

It is the intent to plan for drainage as a comprehensive approach. The following documents establish drainage standards, the approved methods, and processes:

- *County Floodplain Management Ordinance (Land Development Code, Chapter 158)* AND
- *The Pinellas County Stormwater Manual (latest edition).*

Section 154-51. - General requirements.

A complete drainage system shall be provided. All areas within the proposed development, including lots, streets and other areas, must be adequately drained. In addition, where drainage runoff from outside the development passes over or through the areas of the development, such runoff shall be included in the drainage system design and shall not increase flood stages or flow rates upstream and downstream. The system shall be designed for long life and shall be suitable for low cost maintenance by normal maintenance methods. The design standards shall be in accordance with the county's stormwater manual.

Section 154-52. – Pinellas County Stormwater Manual.

The Pinellas County Stormwater Manual is intended to provide detailed drainage requirements and guidelines for the construction of physical improvements in the unincorporated limits of the county and on Pinellas County owned infrastructure in the incorporated limits of Pinellas County. However, to the extent this article conflicts with a municipal ordinance, the more stringent criteria shall be met. The Pinellas County Stormwater Manual shall be adopted by ordinance of the county commission and kept on file in the development review services and public works departments.

Sec. 154-53. - Plans and design.

Plans showing the proposed design features and typical sections of canals, swales and all other open channels, storm sewers, all drainage structures, retention/detention ponds, other stormwater management facilities, roads and curbs and other proposed development construction shall be filed with the county. Design shall meet the requirements of this chapter.

Sections 154-54. - Connections.

Drainage connections to drainageways, and intersecting or converging drainageways, shall be suitably designed and aligned to provide effective control of erosion and siltation.

Section 154-55. - Reserved.

Section 154-56. - Compliance with other specifications.

Drainage plans, profiles, cross sections, and details, including detention facilities and underdrains, shall meet all minimum standards of this chapter, the county's stormwater manual and other ordinances and regulations with the preliminary plat. A master lot grading plan shall

be included. Drainage calculations will be furnished. Hydraulic calculations for all closed storm sewer systems shall be prepared and submitted utilizing the standard county engineering department storm sewer tabulation form.

Section 154-57. - Drainage plan.

Every application for new construction or substantial improvement to existing construction, including single-family homes, subdivided lands and unplatted lands, must include a drainage plan demonstrating that the application is in accordance with the requirements set forth in the Pinellas County Stormwater Manual.

Sections 154.58—154-99- Reserved.

ARTICLE III. – ROADWAYS AND TRANSPORTATION FACILITIES

DIVISION 1. – GENERAL PROVISIONS

Sec. 154-100. – Purpose and intent.

This article establishes the standards for roadway and other transportation facilities' service, design, and construction. The County's facilities are intended to be designed in a manner that promotes a multimodal transportation system that serves a variety of users; this includes pedestrians, bicyclists, transit, and motorists.

The road and transportation standards are also intended to respond to the surrounding context in terms of intended character, users, urban design, and other physical conditions.

Sec. 154-101. - Public roadways.

(a) Except as set forth in Section 154-102, all new roadways and other new transportation facilities shall be dedicated to the public.

(b) New public roadways and other new transportation facilities shall be constructed to county standards but may include design modifications that are approved through the waiver and administrative adjustment process as established in Chapter 138, Article II, Division 7. *Variances, Waivers and Administrative Adjustments.*

(c) Roadways and transportation facilities shall be fully improved or bonded prior to public dedication. However, sidewalk sections for residential lots may be constructed at the time the lot is developed pursuant to Sec. 154-125.

Sec. 154-102. - Private roadways.

(a) Roadways and other new transportation facilities may be private pursuant to the following:

(1) Roadways that are gated or otherwise limit access to residents and/or tenants shall be private.

(2) Private roadway designation/establishment shall be conducted as part of the platting process.

(3) The roadway may not be an arterial or collector as identified in the Pinellas County Comprehensive Plan.

(b) Private roads and transportation facilities shall be constructed to county standards but may include design modifications that are approved through the waiver and administrative adjustment process as established in Chapter 138, Article II, Division 7. *Variances, Waivers and Administrative Adjustments.*

(c) Any private roadway and transportation facility shall be indicated on the final plat and shall identify the facility owner.

(d) Private roadway and transportation facilities shall be fully improved or bonded prior to final plat approval. However, sidewalk sections for residential lots may be constructed at the time the lot is developed pursuant to Sec. 154-125.

(e) Private roadways shall include easements for utilities and emergency access.

Sec. 154-103. - Correcting or changing street names.

(a) Street names may be changed only in the following manner:

(1) Provided there are no residents presently receiving mail on a street, the name or a platted street may be corrected by the filing of an affidavit confirming error on a recorded plat in accordance with Fla. Stat. §177.141, as may be subsequently amended.

(2) By resolution of the board upon the request of sixty percent (60%) of the affected property owners, in accordance with this provision as follows:

a. Submit a request by letter along with the processing fee as established by resolution of the board, with a check to be made payable to the Board of County Commissioners.

b. The County will send a petition package to the person requesting the name change to get the owners' signatures on the street name change petition.

c. Once the 25 days have elapsed, a resolution changing the subject street name shall be prepared for review by the county attorney's office.

d. When the above steps are accomplished, the subject street is scheduled for a Board of County Commission meeting.

(3) Upon the request of the United States Postal Service or an emergency response agency, the board may, by resolution, change a street name.

(4) The Board of County Commissioners may unilaterally change the name of a street in accordance with State law.

(b) If a street name is changed by filing an affidavit confirming error on a plat, the surveyor filing the affidavit is responsible for providing written notice to all affected property owners and agencies. If changed by resolution, the county shall provide written notice to all affected property owners as all required agencies shall be notified in writing of the name change.

Sections 154-104 —154-109- Reserved.

DIVISION 2. – ROADWAY AND TRANSPORTATION DESIGN STANDARDS

Section 154-110. – Facility Functional Classification

(a) Roadways and transportation facilities within Pinellas County are identified as one of the following functional classifications:

(1) **Arterial Roadway** – A route providing service which is relatively continuous and of relatively high traffic volume, long average trip length, high operating speed, and high mobility importance. In addition, every United States numbered highway is an arterial road.

(2) **Collector Roadway** – A route providing service which is of relatively moderate average traffic volume, moderately average trip length, and moderately average operating speed. Such a route also collects and distributes traffic between local

roads or arterial roads and serves as a linkage between land access and mobility needs.

a. *Major Collector* - provides direct property access and traffic circulation in higher density residential neighborhoods and commercial and industrial areas. It may enter/pass-through residential neighborhoods for significant distances and also channel traffic from local streets onto the arterial system.

b. *Minor Collector* - provides traffic access and traffic circulation in lower density residential and commercial/industrial areas. It may enter/pass-through residential neighborhoods for only a short distance and also channel traffic from local streets to/from the arterial system.

(3) **Local Roadway** – A route providing service which is of relatively low average traffic volume, short average trip length or minimal through-traffic movements, and high land access for abutting property. Roadways include those connecting a home, work, or entertainment trip by connecting the final destination to the roads serving longer trips. Local roadways are further classified as major, minor or infill.

a. *Major Local* – provides basic access in higher density residential neighborhoods and commercial and industrial areas.

b. *Minor Local* – provides basic access in lower density residential neighborhoods and commercial and industrial areas.

c. *Infill Local* - provides basic access in lower density/intensity redevelopment and urban infill projects where space is limited and/or site constraints are present. Infill local roadways generally serve six (6) lots or less.

(4) **Alleys** – A route that provides service access behind/along-side individual properties; alleys provide very short access between the property and a higher classified roadway. Alleys also serve as a service route for utilities, parking, and trash collection.

(5) **Multimodal Trails and Pathways** – A travelway/route which is physically separated from motorized vehicle traffic by open space or barrier either within the right-of-way or within an independent area. Multimodal trails and pathways are typically used exclusively by pedestrians, bicycles, and other non-motorized users.

(6) **Auto Courts/Shared Drive-lanes** – A private, common driveway that provides indirect access from single-family dwellings to adjacent streets. Auto courts/shared drive-lanes are a street access alternative and may serve up to 6 single-family dwellings by sharing a common, vehicle accessway.

(b) The functional classification for each roadway is identified in the Pinellas County Comprehensive Plan Transportation Element. Where the Comprehensive Plan does not clearly identify the functional classification, its classification shall be determined by its intended function as described in subsection (a)

(c) Any new roadway that is not classified in the Comprehensive Plan and/or within a specific area plan shall be classified by the county based on its intended function as described in subsection (a).

Section 154-111. – Facility Context Designation

Roadways and transportation facilities shall have a context designation as being either (a) within an activity center, (b) a multimodal corridor, or (c) a typical roadway. Each roadway/transportation facility shall be designated as one of the following:

(a) **Activity Center Facilities**

Activity Center Facilities are roadways and other transportation infrastructure located within a designated activity center. Activity centers are areas of the county that have been identified and planned for in a special and detailed manner, based on their unique location, intended uses, density/intensity, and pertinent planning considerations. The activity center designation is intended to recognize/designate important, identifiable centers of business, public, and residential activity. Activity centers are the focal point of a community; they are planned for enhanced transit service, high pedestrian activity, and bicycle access.

(b) **Multimodal Corridor Facilities**

Multimodal corridor facilities are roadways and other transportation infrastructure that are designated as a multimodal corridor. Multimodal corridors are of critical importance to the movement of people and goods throughout the county and that are intended to be served by multiple modes of transport, including automobile, bus, bicycle, rail, and/or pedestrian. Multimodal corridors are intended to include those transportation corridors connecting activity centers, characterized by mixed-use development, and in particular, supported by and designed to facilitate enhanced transit, including those corridors proposed to be served by light rail transit, bus rapid transit (BRT), and/or premium bus service.

(c) **Typical Facilities**

Typical facilities are roadways and other transportation infrastructure that are neither located within an activity center nor a part of a multimodal corridor. Typical facilities are located in all other portions of the county. Typical facilities provide access and mobility to the neighborhoods and districts they serve.

Section 154-112 —154-119- Reserved.

Section 154-120. – Functional Classification Design Elements

(a) Roadways and other transportation facilities shall include the design elements as indicated in the Table 154-120.a.

(b) The roadway/transportation elements shall be based on the facility's functional classification.

(c) Design elements that are listed as 'Required' shall be included in the roadway/transportation facility design. Design elements that are listed as 'Optional' are voluntary and may be included in the developer's discretion.

(d) The following exceptions shall apply:

(1) Specific area plans and/or special planning areas may establish specific roadway designs for designated areas within the county. In those cases, the roadway/transportation facility shall be developed according to the standards in those plans.

(2) Approved development master plans, Residential Planned Developments (RPD), and/or similar development approvals may establish specific transportation facility designs within specific developments within the county. In those cases, the roadway/transportation facility shall be developed according to the standards in those approvals.

Table 154-120.a – Functional Classification Design Elements

		ROADWAY/TRANSPORTATION ELEMENTS [4]					
FUNCTIONAL CLASSIFICATION	**Travel Lanes**	**Bicycle Accommodations**	**Street Parking**	**Curbs**	**Planter Strip**	**Street Trees**	**Sidewalk**
Arterials	Required	Required [1]	Optional	Required where sidewalks abut travel lanes; Optional in all other cases	Optional [3]	Optional	Required [2]
Major Collector	Required	Required [1]	Optional		Optional [3]	Optional	Required [2]
Minor Collector	Required	Optional	Optional		Optional [3]	Optional	Required [2]
Major Local	Required	Optional	Optional		Required [3]	Required	Required [2]
Minor Local	Required	Optional	Optional		Required [3]	Required	Required [2]
Infill Local	Required	Optional	Optional		Optional [3]	Optional	Required [2]
Alley	Required	Optional	Optional	Optional	Optional [3]	Optional	Optional
Multimodal Trails and Pathways	N/A	Required [5]	N/A	Optional	Optional [3]	Optional	Required [5]
Auto Courts/Shared Drive-lanes [6]	Required	N/A	N/A	Optional	N/A	N/A	Optional

Notes:

(1) Bicycle lanes may not be required where a multimodal trail / pathway is present AND/OR when another bicycle travel facility is present.

(2) Sidewalk may not be required where a multimodal trail / pathway is present AND/OR when another pedestrian facility is present. Sidewalks may be provided as a boardwalk or similar structure to address topographic/wetland features.

(3) The planter strip shall be placed between the edge of pavement and public sidewalk. The planter strip may be replaced with additional sidewalk area. The planter strip may be omitted at intersections. Planter strips may be provided as Low Impact Development (LID) stormwater management features.

(4) Specific Area Plans and/or special planning areas may establish specific roadway/transportation facility designs for designated areas within the County.

(5) Multimodal Trails and Pathways shall include design elements that accommodate safe bicycles and pedestrian mobility and are generally developed as a single/combined paved surface.

(6) Auto Courts/Shared Drive-lanes are private, indirect paved common access drives between dwelling units and the adjacent street. Auto Courts/Shared Drive-lanes closely resemble private residential driveways but may serve up to 6 residential units. Auto Courts/Shared Drive-lanes maybe used as an alternative to standard street construction.

Sec. 154-121. – Dimensional Requirement for Design Elements

(a) The roadway/transportation facility design elements shall be developed to meet the minimum dimensional standards as required in the Table 154-121.a.

(b) The design element dimensional requirements shall be based on the facility's context designation as specified in Section 154-111.

(c) The following exceptions shall apply:

(1) Specific area plans and/or special planning areas may establish specific roadway designs for designated areas within the county. In those cases, the roadway/transportation facility shall be developed according the standards in those plans.

(2) Approved development master plans, Residential Planned Developments (RPD), and/or similar development approvals may establish specific transportation facility designs within specific developments within the county. In those cases, the roadway/transportation facility shall be developed according the standards in those approvals.

Table 154-121.a – Dimensional Standards for Design Elements

	FUNCTIONAL CONTEXT DESIGNATION		
ROADWAY ELEMENT	**Typical Facilities**	**Multimodal Corridor Facilities**	**Activity Center Facilities**
Right-of-Way	The right-of-way shall be wide enough to accommodate all of the required roadway elements **OR** as established in the Comprehensive Plan; whichever is greater		
Travel Lanes [1]	Arterials: 11-ft min. / 14-ft max. Collectors: 11-ft min. Locals: 10-ft min. Motor Courts/Shared Driveways: 23-ft combined width min,	Arterials: 11-ft min. / 13-ft max. Collectors: 11-ft min. Locals: 10-ft min. Motor Courts/Shared Driveways: 23-ft combined width min,	Arterials: 11-ft min. Collectors: 10-ft min. Locals: 10-ft Motor Courts/Shared Driveways: 23-ft combined width min,
Multimodal Trails and Pathways	12-ft preferred 10-ft min.	12-ft preferred 10-ft min.	10-ft min.
Bicycle Lanes[4]	7-ft buffered lane width	7-ft buffered lane width	5-ft lane width
Street Parking	Parallel: 8-ft min. Angled/90-degree: 19-ft min.	Parallel: 8-ft min. Angled/90-degree: 19-ft min.	Parallel: 8-ft min. Angled/90-degree: 19-ft min.
Sidewalks[3]	5-ft min. Adjacent to curb: 6-ft min.	Arterials: 6-ft min. Collectors: 6-ft min. Locals: 5-ft Adjacent to curb: 6-ft min. ***PLUS*** 8-ft min. within 25-ft of a transit stop	Arterials: 8-ft min. Collectors: 8-ft min. Locals: 5-ft ***PLUS*** 8-ft min. within 25-ft of a transit stop

Table 154-121.a – Dimensional Standards for Design Elements			
	FUNCTIONAL CONTEXT DESIGNATION		
ROADWAY ELEMENT	Typical Facilities	Multimodal Corridor Facilities	Activity Center Facilities
Curbs	Based on Pinellas County Standard Detail Manual		
Sidewalk/Pavement Edge Distance to Property Line	Arterials: 2-ft min. Collectors: 2-ft min. Locals: 1-ft	None	None
Planter Strip [5]	5-ft	5-ft	4-ft
Street Trees [2]	Trees shall be those varieties listed in the *Land Development Code, Chapter 138, Article X, Division 3 – Landscaping, Habitat, and Wetland Buffers*		

Notes:

(1) Pavement for private roads which are divided by a median aisle will be at least 16 feet in width on both sides of the median aisle. A minimum clear zone (stabilized area) of 20 feet is required for access by fire apparatus, as per NFPA 1, Fire Prevention Code (latest edition).

(2) For arterial roadways, no trees are to be planted within the required clear zone from edge of pavement. For clear zone criteria see state department of transportation standards.

(3) Sidewalk may not be required where a multimodal trail / pathway is present AND/OR when another pedestrian facility is present. Sidewalks may be provided as a boardwalk or similar structure to respond to topographic/wetland features.

(4) Bicycle lanes may not be required where a multimodal trail / pathway is present AND/OR when another bicycle travel facility is present.

(5) The planter strip shall be placed between the edge of pavement and public sidewalk. The planter strip may be replaced with additional sidewalk area. The planter strip may be omitted at intersections. Planter strips may be provided as Low Impact Development (LID) stormwater management features.

Sec. 154-122 – Auto Courts/Shared Drive-lanes Option

An Auto Court/Shared Drive-lane may be used as a site access option for single-family dwelling lots. This property access option is normally established/created as part of a new subdivision/plat process. Indirect access from a single-family (attached and/or detached) lot to a nearby street may be provided by means of a motor court/shared drive-lane pursuant to the following:

(a) Up to 6 single-family lots may share a single access way to a public street through the use of an auto court/share drive-lane

(b) Auto courts/shared drive-lanes shall be limited to 150-ft in length as measured from its street connection to its further terminus.

(c) Auto courts/shared drive-lanes shall provide a continuous paved surface of at least 20-ft in width.

(d) Auto courts/shared drive-lanes shall be established and formally recorded on a plat at the time of property subdivision. Auto courts/shared driveways may be established in separate tracts, private roadways, or on portions of the individual lots in which they serve. Access easements shall be established.

(e) Individual driveways leading from the shared drive-lane to each dwelling unit shall be at least 20 feet long, as measured between the front of the garage or carport and the closest edge of the shared drive-lane or sidewalk, if one exists.

(f) The design of the auto court/shared drive-lane shall permit a passenger vehicle to back out of an individual driveway and turn 90 degrees in either direction without any portion of the vehicle: (a) leaving the individual auto court/ shared drive-lane from which the vehicle is exiting or the shared drive-lane, or (b) entering on or over the individual auto court/ shared drive-lane of any other residence.

(g) Each auto court/shared drive-lane longer than 100 feet from the public roadway shall have a fire hydrant adjacent to the shared drive-lane at a point determined by the fire department.

(h) Auto courts/shared drive-lanes shall be private and shall remain in perpetual ownership of a homeowners association or similar entity. These facilities shall be maintained by the private entity.

(i) To ensure timely response and locating from emergency responders, each dwelling/lot shall be addressed from the nearby roadway. Addresses shall not stem from the private auto court/shared drive-lane.

Section 154-123- Reserved.

Section 154-124 - Curbs

(a) Barrier curbs are required where sidewalks are within two (2) feet of travel lanes. Mountable curbs are optional in all other cases except rural cross sections.

(b) Curbs may be used to provide drainage control and to improve delineation of the roadway pavement.

(c) Curbs shall be constructed pursuant to the curb type and as indicated in the Pinellas County Standard Details and as required in Division 3 of this article.

(d) The two (2) general classes of curbs are barrier curbs and mountable curbs. Both types of curbs shall be designed with a gutter to form a combination curb and gutter section.

(1) Barrier curbs are relatively high and steep-faced and designed to discourage vehicles from leaving the roadway.

(2) Mountable curbs are low with a flat-sloping surface designed so that vehicles can mount them when required. Where mountable curbs are used, the width may be included in the calculation of the required emergency access width.

(e) The surrounding context and character should determine the curb class for a roadway. The FDOT standards may be used for establishing additional standards for curbing.

Sec. 154-125 – Sidewalks along roadways

(a) Sidewalks shall be required along roadways pursuant to Table 154-120.a – Functional Classification Design Elements.

(b) Sidewalk widths shall be required pursuant to Table 154-121.a – Dimensional Standards for Design Elements and shall satisfy latest ADA requirements.

(c) Sidewalks shall be constructed pursuant to Pinellas County Standard Details and as required in Division 3 of this article. Sidewalk may not be required where a multimodal trail / pathway is present AND/OR when another pedestrian facility is present. Sidewalks may be provided as a boardwalk or similar structure to address topographic/wetland features.

(d) When sidewalks are provided on only one-side of local roadways, sidewalks should be placed in locations to respond to site environmental features or other site development constraints.

(e) Where sidewalks are required along a roadway but do not exist along a property's frontage, sidewalks shall be constructed at the time of site development.

(f) For new subdivisions, required sidewalks may be installed pursuant to one of the following options:

(1) Option 1: Sidewalks shall be installed at the time of roadway construction, **OR**

(2) Option 2: Common area sidewalks shall be installed at the time of roadway construction. Individual sidewalk sections may be constructed at the time the adjacent lot is developed**.** This option requires that a continuous internal sidewalk route is provided to the existing public sidewalks that are adjacent to the subdivision by the time 50 percent of the subdivision lots are developed and certificates of occupancy are issued; the developer may be required to bond these requirements as part of the platting. **OR**

(3) Option 3: Where there is benefit to the development and based upon impacts of the development, individual sidewalk sections may be provided in other locations to overcome physical constraints or to provide better pedestrian connections to the public sidewalk system. This option may be sought as part of a waiver and/or administrative adjustment pursuant to Chapter 138, Article II, Division 7.

Sec. 154-126. – Roadway layout criteria.

(a) The general layout design criteria for roadway development shall be as follows to ensure the community is interconnected and accessible to pedestrians:

(1) **Street Pattern:** The proposed street shall recognize and extend the plan and profile of suitable existing streets, and shall make possible the future extension of streets into adjacent undeveloped land where feasible.

a. New internal streets should generally be designed as an extension of the surrounding roadway pattern. New internal streets shall connect to the existing street network and allow for the continuation of an interconnected street network.

b. Adjacent roadway connections/roadway stubs shall be extended into the development and integrated into the transportation network, unless such connections would conflict with adjacent uses as determined by the county administrator or designee.

c. Exemptions shall apply to situations where natural features (e.g. wetland), access spacing, and/or platting restriction prevent such a connection.

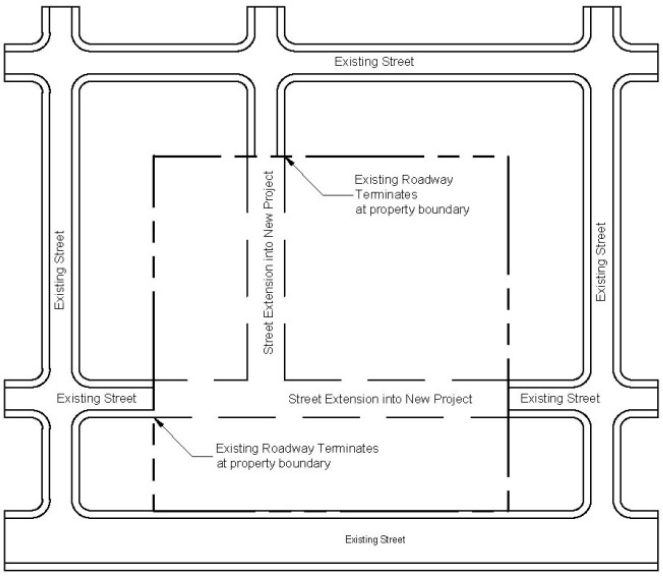


Figure 138-126.(a).1 – Site Layout – Street Extensions into New Projects/Developments

(2) **Block Pattern:** New internal blocks shall be created pursuant to the following to ensure efficient connections and pedestrian access.

a. New interior block lengths shall not exceed the maximum established for the zoning district pursuant to Table 154-126.a – *District Maximum Block Lengths*.

b. Interior block lengths shall be interrupted with a roadway connection, open space tract, and/or significant pedestrian pathway.

c. An ADA compliant pedestrian connection should be provided where a street connection cannot be made due to physical site constraints, approach spacing/access management requirements, or similar restrictions.

d. *Figure 138-126.(b).1 – Block Length Limits* establishes a graphical depiction of the preferred block pattern.

Table 154-126.a – District Maximum Block Lengths	
Zoning District	**Maximum Block Length**
R-A, R-E, R-R	1,200 linear feet
R-1, R-2, R-3, RMH	900 linear feet
R-4, R-5, RM	600 linear feet
RPD	600 linear feet **OR** as per an adopted master plan
LO, GO, C-1	600 linear feet
C-2, CP	1,200 linear feet
MXD	600 linear feet **OR** as per an adopted specific area plan/master plan
Industrial Districts	1,200 linear feet
Special Districts	600 linear feet **OR** as per an adopted specific area plan
Public/Semi Public Districts	None
Notes: (1) Where a zoning district is not listed above, the maximum block length standard may be established by the county administrator or designee based on surrounding character and average block design in the immediate vicinity.	

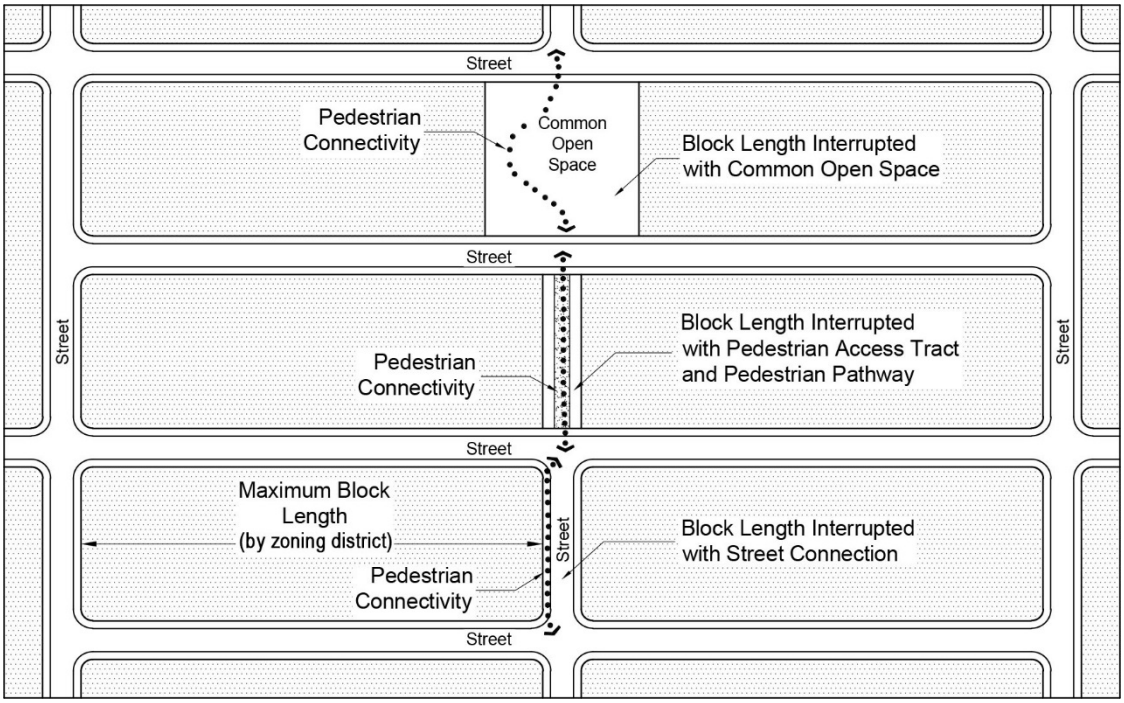


Figure 138-126.(b).1 – Block Length Limits

(3) Cul-de-sac and dead-end roadways shall have a maximum length of 600 feet.

(4) Any new subdivision that generates 555 daily trips shall have at least two vehicular access connections to nearby paved roadways. The trip generation shall be determined by a traffic report or the most current edition of the Institute of Transportation Engineers (ITE) Trip Generation manual. For multi-phased projects, this shall be determined by overall proposed development at expected buildout.

(b) Roadway intersection layout shall be as follows:

(1) Where streets on opposite sides of a common street intersect but do not align, the minimum distance between the centerline of the offset streets shall be 100 feet measured along the centerline of the common street, except where the common street is arterial, in which case offsets will not be permitted.

(2) Each corner radius shall be a minimum of 25 feet at all intersections.

(3) Intersections shall be substantially at right angles on all streets and meet all FDOT sight distance requirements.

(4) At the intersection of any arterial road or collector road and another street, additional right-of-way in the form of a triangle 15 feet long on each leg shall be provided on all corners.

(c) No gatehouses are permitted on any public road. Entrance sign locations must be in accordance with county standards.

Section 154-127. - Location and width.

(a) The location and width of all streets shall conform to the comprehensive plan or as required per this Division.

(b) New subdivision streets shall not be allowed adjacent to the rear of existing lots of record unless no other practical alternative exists as determined by the Development Review Committee.

Section 154-128. – Dead-End Roadway Turnarounds

(a) Dead-end roadways in excess of 150 feet shall provide proper turnarounds in accordance with Table 154-128.a.

(b) Cul-de-sacs shall be considered the standard turnaround method when a turnaround is required.

(c) Hammerheads and "Y" turnaround methods may be approved for infill projects and/or when physical constraints prevent a cul-de-sac. Hammerheads and "Y" turnarounds should serve a maximum of 10 or less lots.

(d) Hammerheads and "Y" Turnaround methods may be used in situations where a temporary turnaround is needed prior to a future roadway connection.

Table 154-128.a – Requirements for Dead-end Roadways

Dead-End Roadway Length	Minimum Emergency Access Width	Turn Around Required	Allowable Turn Around Methods [1, 2]
0-150-ft	20-ft	No	None required
151-500-ft	20-ft	Yes	• 96-foot diameter cul-de-sac • 120-foot Hammerhead [1, 2]

			• 60-foot "Y" [1, 2] in accordance with Figure 154-127.(a)
501-600-ft	26-ft	Yes	• 96-foot diameter cul-de-sac [1, 2] • 120-foot Hammerhead, • 60-foot "Y", [1, 2] in accordance with Figure 154-127.(a)
Over 600-ft	26-ft	Yes	Design subject to Fire Marshall approval AND Administrative Adjustment approval
Notes: (1) Hammerhead and "Y" turnarounds should only serve a maximum of 10 lots. (2) Hammerhead and "Y" turnarounds may be used as a temporary turnaround method when a future street connection is anticipated.			

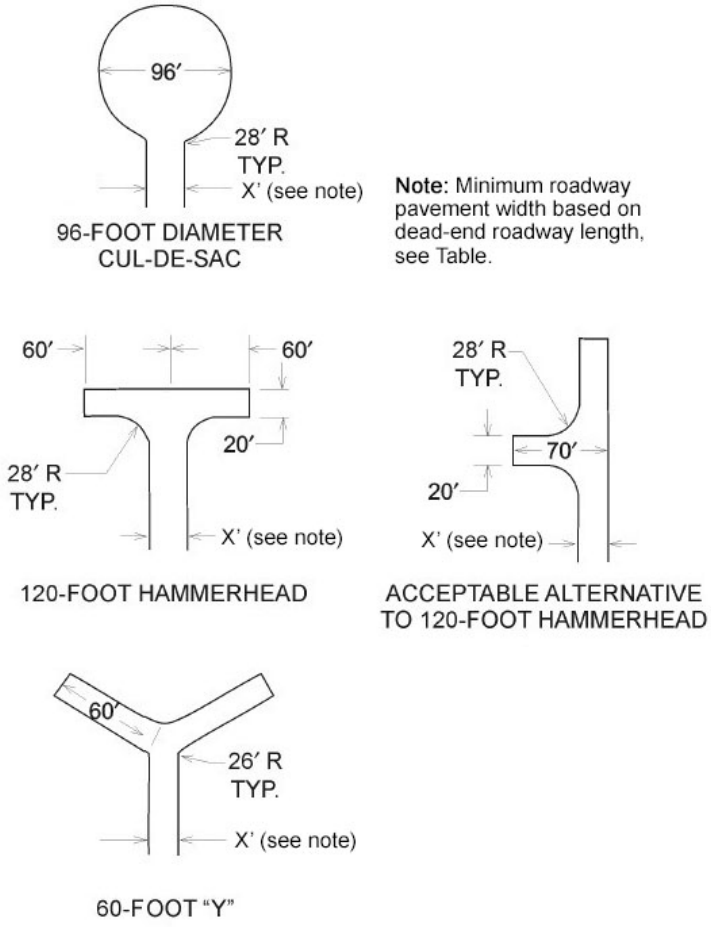


Figure 154-127.(a) – Turn Around Methods

Section 154-129. - Right-of-way requirements.

Right-of-way requirements shall be as follows:

(a) Streets shall meet the requirements for right-of-way widths as established by the comprehensive plan, a specific area plan, development approval, and/or by resolution of the Board of County Commissioners. Where these documents require different widths, the largest shall generally apply.

(b) For all other streets not specified in the Comprehensive Plan or as described above, streets and other transportation facilities shall provide right-of-way widths that will accommodate required elements as identified in the following tables:

(1) Table 154-120.a – Functional Classification Design Elements,

(2) Table 154-121.a – Dimensional Standards for Design Elements, AND

(3) Table 154-128.a – Requirements for Dead-end Roadways.

Sections 154-130 —154-141- Reserved.

DIVISION 3. – ROADWAY AND TRANSPORTATION CONSTRUCTION STANDARDS

Section 154-142. – Purpose and Intent

It is the purpose and intent of this section to establish construction standards for roadways and other transportation facilities to ensure the health, safety, and welfare for the people of Pinellas County. It is also intended to establish standards to ensure that facilities are constructed and maintained to ensure long-term durability. It is intended that the county will follow industry construction standards while also recognizing new and comparable technologies for roadway construction.

Section 154-143. - Minimum elevation.

The minimum edge of pavement elevation for road construction shall be based on the design criteria established in Chapter 158 and the Pinellas County Stormwater Manual.

Section 154-144. - Collectors and Arterials.

Collectors and Arterials shall have a minimum design speed as indicated by the Florida Department of Transportation. However, roadway design shall be customized to reflect the surrounding context. Additional consideration, including but not limited to a traffic study, may be necessary to determine where acceleration and deceleration lanes are necessary.

Section 154-145. - General paving criteria.

(a) Roadways and other transportation improvements shall comply with the Pinellas County Standard Details and latest County Standard Specifications.

(b) Pavement cross-slope for standard local, collector and arterial roadways shall be one-fourth inch per foot or greater with no inverted crowns permitted. Finish pavement shall be one-fourth inch higher than the lip of any concrete gutter.

Section 154-146. - Flexible pavement standards.

(a) Subbases shall be of good, clean, acceptable material with a limerock bearing ratio of no less than 40, compacted to 98 percent of the maximum density determined by AASHTO T-180.

(1) The subbase must extend six inches beyond the back-of-curb or, for rural road/noncurbed sections, six inches beyond the base.

(2) If utilities cuts are made after subbase stabilization, the trenches shall be backfilled, full depth, with base material compacted to 98 percent maximum density.

(b) Minimum compacted thickness of subbases for residential light-traffic streets shall be nine inches. Minimum compacted thickness of subbases for all other streets shall be 12 inches.

Section 154-147. - Base materials.

(a) Bases may be constructed of limerock, shell, cemented coquina shell, soil cement, or asphaltic concrete.

(b) Other materials may be proposed by the developer for approval by the county administrator or designee, subject to the following standards:

(1) Cement-treated limerock is not an acceptable base material.

(2) Bases of limerock, shell, or cemented coquina shell shall be compacted to 98 percent of the maximum density determined by AASHTO T-180 and have bearing ratio of no less than 100.

(3) Soil cement mixtures shall be designed by an engineering testing laboratory and approved by the director. Mixing and compaction shall be monitored by the testing laboratory. A minimum compressive strength of 300 pounds per square inch shall be achieved in seven days.

(4) Asphaltic concrete base courses shall be mixed, placed, and compacted in accordance with Pinellas County Specifications for Hot Bituminous Material, Plant Methods, Equipment and Construction Methods.

(5) For rural road sections the bases shall extend six inches beyond the surface course.

(6) Crushed Concrete Base is an acceptable base, with a structural coefficient of 0.15.

(7) Minimum thickness of finished base shall be as follows:

a. Arterial streets, 10½ inches.

b. Collector, commercial, industrial and medium traffic streets, eight inches.

c. Residential streets, six inches.

Section 154-148. - Asphaltic concrete surface course standards.

(a) Minimum thickness and types of asphaltic concrete surface courses shall be as follows:

(1) Arterial streets, three inches of Type SP-12.5 Fine, Traffic Level C.

(2) Collector, commercial, and industrial streets, two inches of Type SP-12.5 Fine, Traffic Level C.

(3) Residential and medium traffic streets, 1½ inches of Type SP-9.5 Fine, Traffic Level C.

(b) Other construction methods may be approved by the county administrator or designee as part of site plan review. In such case, engineering details and material specifications shall be provided to determine durability.

Section 154-149. - Pavement structural design.

(a) The pavement section elements specified in this article are minimums. In some areas, due to soil conditions and/or traffic density, it may be required that the pavement structural section be designed in accordance with the Florida Department of Transportation.

(b) Rigid (Portland cement concrete) pavement designs will be reviewed for approval by the county administrator or designee on a case-by-case basis.

Section 154-150. - Underdrains.

(a) Standards for underdrains are as follows:

(1) Underdrains are required on both sides of curbed roads wherever groundwater may potentially and deleteriously intrude into the roadway base.

(2) Underdrains outfalling to inlets are to have inverts at or above the treatment volume elevation of receiving retention/detention ponds and/or lakes, or, alternatively, a separate, positive and adequate outfall is to be provided.

(3) If the bottom of roadside swale ditches is less than 24 inches below the edge of the road surface, underdrains shall be installed unless it can be demonstrated that groundwater and surface waters will not adversely impact the roadway base and will drain quickly. As an example, shallow collection and treatment swales may be adequate in areas where the predominate soils are well draining Type-A Hydrologic Soil Group (HSG) soils or have been confirmed to drain well through geotechnical testing.

(4) Underdrain installation shall be per county underdrain detail. Underdrain inspection boxes are required at the end of all runs that do not terminate in structures or maximum of 300-foot intervals.

(5) If the storm sewer system is less than 30 inches below the edge of pavement, a separate underdrain system with cleanout/inspection boxes shall be installed to an outfall greater than 30 inches in depth.

(b) Other construction methods may be approved by the county administrator or designee as part of site plan review. In such case, geotechnical data, engineering details and material specifications shall be provided to demonstrate sufficient clearance between the groundwater table and the roadway base of that the roadway base material remains durable (e.g. crushed concrete and asphaltic base materials) when subjected to groundwater intrusion.

(c) Individual situations where the water table is very deep may be technically evaluated for an underdrain waiver on a case-by-case basis.

Section 154-151. – Sidewalk construction.

(a) Sidewalks shall be constructed pursuant to the following:

(1) Standard sidewalks shall be constructed with the following materials and thicknesses:

a. Sidewalks along roadways shall be constructed of 3,000 p.s.i. concrete and be four inches thick, except at driveways and along rural cross section roadways where the sidewalk can be crossed with vehicles.

b. Sidewalks through driveways and along rural cross section roadways where vehicles can cross the sidewalk shall be six inches thick. Sidewalks through driveways shall include six-inch by six-inch no. 10 wire mesh reinforcing. All concrete driveways shall be six inches thick 3,000 p.s.i. concrete with six-inch by six-inch no. 10 wire mesh reinforcement, and shall extend from back of curb to property line.

(2) Subbases for sidewalks shall be of good, clean, acceptable material compacted to 95 percent of maximum density as determined by AASHTO T-180.

(3) Driveways constructed with decorative pavers are permitted to extend over the public sidewalks; the resulting sidewalk area shall satisfy current ADA requirements.

(4) All pedestrian pathways, including all roadway crossings and sidewalk ramps, shall shall satisfy current ADA requirements, and county ordinances.

(b) Other construction methods may be approved by the county administrator or designee as part of site plan review. In such case, engineering details and material specifications shall be provided to determine durability.

Section 154-152. – Street Lighting Standards

(a) Street lighting generally.

(1) Proposed lighting improvements within dedicated or proposed rights-of-way, including private streets, shall be submitted to and approved by the county prior to construction.

(2) Proposed roadway lighting for use within the public right-of-way in the unincorporated areas of the county must meet the minimum illumination levels and spacing requirements as described below. This criterion will be applied to all proposed lighting designs to be installed in subdivisions. The lighting plan will be prepared by the applicable power provider or by an approved engineering company, and will utilize the most efficient roadway lighting system.

(3) The lighting standards in this section may be adjusted to coincide with a specific area plan's goals and standards and/or respond to the urban design character in a designated activity center or multimodal corridor.

(b) Design standards for street lighting.

(1) The street lighting design shall be consistent with the latest edition of the Florida Department of Transportation's Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (the Florida Greenbook).

(2) Luminaire type lighting will contain the necessary equipment, including refractors and reflectors, to distribute a lighting pattern over the roadway, so as to meet minimum average maintained footcandles over the class of roadway surface. This may be determined by the illumination for streets and highways in the Florida Greenbook.

(3) Mounting height of luminaire and pole setbacks will not be installed less than 20 feet above the ground and will create a lighting pattern with a uniformity ratio of not more than six-to-one. Lighting pole setbacks shall meet or exceed Florida Greenbook standards. Location shall be staked by the developer's surveyor to eliminate conflict with sidewalk and meet Florida Greenbook standards.

(4) Pedestrian scale lighting may be applied to adequately illuminate pedestrian use areas that are a part of multimodal corridors, activity centers, and/or other similar areas. Pedestrian lighting is typically positioned over the sidewalk rather than a street. Pedestrian lighting is generally positioned up to 16-ft above the sidewalk or pedestrian use area.

(5) All street lighting shall comply with the county's public works approved fixtures, luminaires, and poles.

(6) Specific area plans and/or special planning areas may establish particular street lighting design standards for defined areas of the county. This may include fixtures, luminaires, and poles.

(c) Definitions for this subsection are as follows:

(1) Luminaire: A complete lighting unit.

(2) Pole: Luminaire support.

(3) Footcandle: Equal to an incident flux density of one lumen per square foot.

(4) Uniformity ratio: The ratio (average to minimum) of various illumination levels along the lighting system.

(5) Maximum uniform ratio: Defined as one-to-one (1:1).

Section 154-153 —154-193- Reserved.

ARTICLE IV. - ACCESS MANAGEMENT

DIVISION 1. – GENERALLY

Section 154-194. - Purpose and intent.

(a) It is the purpose of this article to establish standards for the regulation and control of vehicular access to county roadways. The requirements contained in this article are designed to provide for the efficient and safe operation of the collector and arterial roadway system, to protect the public investment in the roadway facilities, to enhance the operating conditions and assist in achieving and maintaining adopted level of service standards, and to implement growth management policies relating to access management. This article will ensure that all connections to the roadway system conform to county and state standards.

(b) It is the purpose of this article to regulate and control construction in public rights-of-way, and to create uniform procedures for issuance of permits for work performed within the right-of-way in order to protect the public health, safety and general welfare of the residents of the county.

Section 154-195. - Area embraced.

(a) The areas embraced by this article shall be all county rights-of-way, whether or not within municipal boundaries.

(b) This article is not applicable to installations that are already properly placed within the rights-of-way unless they are relocated or modified, but shall apply to those to be placed within the right-of-way after the effective date of this article.

Section 154-196. - Inspections, enforcement, stop work orders.

(a) The county may conduct inspections to determine compliance with the provisions of this article.

(b) The county administrator or designee is authorized to enforce the provisions of this article in accordance with section 1-8 of this code.

(c) Work on any installation within the right-of-way that is being done contrary to the provisions of this article, or the terms and conditions of the right-of-way permit, may be ordered to be immediately stopped.

(d) Notice shall be given by the county administrator or designee in writing to the owner, agent, or the person performing the work, and shall state the conditions under which work may be resumed. Verbal notice shall be sufficient and shall be followed by written notice.

Section 154-197. - Reserved

Section 154-198. - General access standards.

(a) Direct egress from property adjacent to arterial and collector streets is discouraged and may be denied when egress to a road of lesser designation is available. When the project generates over 555 daily trips subject to the findings and recommendations from a traffic report, access from arterials/collectors as well as lesser designated roadways may be required.

(b) If a property is located such that access can be provided to either an arterial or collector facility, access to the arterial facility may be prohibited.

(c) New direct driveway access to individual Single-family, Attached, Detached, Two-family, and Three-Family dwellings shall be prohibited on arterial and collector streets, except those for which no other access can be conveniently provided.

(d) Common access facilities are encouraged when two or more contiguous sites are planned for commercial, office or industrial facilities (two access facilities maximum on property less than 200 feet frontage).

(e) Off-street parking shall be designed to ensure that all vehicles leaving or entering the public street right-of-way shall be traveling in a forward motion, except driveways serving Single-family, Attached, Detached, Two-family, and Three-Family dwellings.

(f) See the Pinellas County Transportation Design Manual for driveway and median opening spacing guidelines for county arterial and collector roadways.

(g) All criteria are to be applied, together with sound engineering judgment, to promote safety.

Section 154-199. - Design and construction criteria for access connections to county roads.

(a) See the Pinellas County Transportation Design Manual for design and construction criteria for access connections to county roads.

Section 154-200. - Relocation of installation by owner or permittee.

(a) In the event of any widening, repairs, installation, construction, or reconstruction, by or for the county, of any county facility within the right-of-way in which the permittee or owner has constructed any installation, such permittee or owner shall move, remove, or relocate such installation as may be required for the public convenience as and whenever specified by the county and at the permittee's or owner's own expense. The same duty to move, remove, or relocate shall apply if an installation is determined, in the county's sole discretion, to be unreasonably interfering in any way with the convenient, safe, or continuous use of the right-of-way.

(b) When relocation is required under this section, county owned and maintained facilities shall be given priority in establishing new utility and installation alignments within the right-of-way.

Section 154-201—154-230. - Reserved.

DIVISION 2. - RIGHT-OF-WAY PERMIT

Section 154-231. - Required.

(a) It shall be unlawful for any person to construct, install, remove, relocate, or perform other work activities for installations, or place temporary structures or make improvements, within, on, under, or above the right-of-way without first having obtained a right-of-way permit.

(b) All permits issued under this article are revocable, and nothing in this article shall operate to create a vested right or property interest in the permittee.

(c) Nothing in this article shall create a right of access at any particular location or in any configuration which, in the sole discretion of the county administrator is, or becomes, unsafe.

(d) Nothing in this article shall create rights of any nature to the opening of any median or of the right to any particular turning movements either ingressing or egressing private property.

Section 154-232. - General permitting procedures.

(a) The application and the fee for a right-of-way permit not associated with the review of a site plan will be filed as a Type 1 review; those which are so associated should be filed concurrent with the site plan review.

(b) Approval or denial of an application and conditions of the right-of-way permit shall be subject to the provisions of all current and applicable county ordinances and state and federal laws.

(c) Proposed amendments or changes to the right-of-way permit must be approved by the county administrator or designee prior to the commencement of the work.

(d) In the event of materially incorrect or false statements or information in the application on which the right-of-way permit was issued, the permit may be revoked and the fee shall not be refunded.

(e) Work for which the right-of-way permit has been issued shall begin within 90 days of the issuance of the permit and shall be completed within 180 days of the issue date unless the permittee is granted an extension of time prior to the expiration of either period, unless otherwise noted on the permit. Any permit not used within the prescribed time limit shall become void and future work shall require a new application and fee. Permits issued in conjunction with site plans will adhere to the site plan time constraints.

(f) The issuing of a right-of-way permit under this article does not abrogate any legal requirement to comply with other county ordinances or with the regulations of any other governmental agency, whether local, state, or federal, which may apply.

(g) The inspection or permitting by the county of work under this article shall not be construed as a warranty of the adequacy of performance or of the accuracy of information provided in the permit application by the applicant. The applicant retains full responsibility for information provided and the permittee retains full responsibility for work performed at all times.

(h) Right-of-way permits under this article may require the following sureties and insurance:

(1) Completion: Sureties shall be in the amount of 110 percent of the estimated cost of the installation. All sureties shall be based on a certified cost estimate prepared, signed, sealed and dated by a registered professional engineer or other documentation acceptable to the county.

(2) Maintenance surety: Minimum maintenance surety shall be 20 percent of the original surety of 110 percent of the estimated cost of the installation. A higher percentage may be required if special circumstances dictate that such is necessary to protect the public from defects. The surety shall be fully effective for a minimum of 18 months from acceptance by the Board of County Commissioners and/or its designated representative.

(3) Waiver: The surety requirement may be waived by the county administrator if special circumstances dictate that such protection is not necessary.

(4) Insurance: Prior to permit approval, the permittee shall deliver proof of insurance as determined by Pinellas County Risk Management.

Section 154-233. - Right-of-way permitting procedures.

(a) Construction requests within the public right-of-way may be conducted as a Type 1 review pursuant to Chapter 138, Article II.

(b) All applicants for a right-of-way permit shall submit the completed application forms to the appropriate department, each accompanied by relevant drawings and data, signed and sealed by a registered professional civil engineer, including:

(1) Right-of-way limits.

(2) Pertinent drainage requirements, including justification of proposed changes to existing drainage facilities.

(3) Type of construction and materials to be used.

(4) Sediment and erosion control plan.

(5) Physical location of installation.

(6) Specific design description, including all dimensions, depths, and heights, for all existing as well as proposed installations.

(7) A diagram showing all proposed and existing installations and other pertinent information within one-quarter mile of the proposed installation. For commercial or industrial properties, an indication of any adjacent parcels under the applicant's ownership of leasehold.

(8) A traffic control plan (TCP). The proposed plan shall be designed in accordance with the standards set forth in the Manual of Uniform Traffic Control Devices, the Florida Department of Transportation Roadway and Traffic Design Standards and Standard Specifications for Road and Bridge Construction. The proposed plan must address pedestrian as well as vehicular traffic. The approved plan shall be available on the job site at all times. Following approval, changes necessitated by site conditions require permission from the county traffic division and the county highway department. All TCP's shall be signed and sealed by a Florida registered engineer.

Section 154-234, 154-235. - Reserved.

Section 154-236. - Indemnity and insurance.

Each right-of-way permit will contain terms indemnifying the county from liability arising out of the performance or maintenance of the installation. Proof of insurance may be required in an amount satisfactory to the county, to cover the indemnified liabilities.

Section 154-237. - Fees.

(a) A schedule of fees for right-of-way permits shall be established by resolution of the Board of County Commissioners.

(b) The fee for a right-of-way permit shall represent the estimated cost for reviewing and processing the permit application, inspecting all work performed under the permit, and any other reasonable costs associated with the implementation of this article. Such fees may be reviewed and updated.

Sections 154-238 —154-249- Reserved.

ARTICLE V. – SUBDIVISIONS, PLATTING, AND VACATIONS

DIVISION 1. – GENERALLY

Section 154-250. – Applicability

(a) This article shall apply to all lands within unincorporated county, properties of countywide importance as defined in Chapter 134, Article VIII, and roads within the county road system.

(b) The requirements of this section shall not exempt an applicant from any other applicable local, county, state or federal requirements. Where a conflict results between this section and any applicable local, county, state or federal requirements, the stricter of the requirements shall apply.

Section 154-251. – Purpose and intent.

(a) The purpose of this section is to establish procedures and standards for the development and subdivision of land within the county. It is intended to promote the public safety, health and general welfare with the following objectives:

(1) To ensure proper legal description, identification, monumentation and recording of plats;

(2) To ensure the orderly layout and appropriate use of the land; to provide safe, convenient and economic circulation of vehicular and pedestrian traffic;

(3) To provide suitable building sites which drain properly and are readily accessible; to provide for suitable, amenable, well planned neighborhoods;

Section 154-252. - Unlawful acts.

(a) It shall be unlawful for any person to convey or mortgage land in the county by reference to any plat unless and until such plat is recorded in the office of the clerk of the circuit court.

(b) It shall also be unlawful to fail to complete required improvements, in substantial compliance with site and/or construction plans approved in compliance with this chapter, within a timely manner. Cancellation or nonrenewal of any required security shall be deemed a violation of this chapter.

Sections 154-253 —154-259- Reserved.

DIVISION 2. – LOT LINE ADJUSTMENTS AND LOT SPLITS

Section 154-260. – Lot line adjustments and lot splits defined.

(a) A *lot line* adjustment is a process involving the adjustment of the platted lot line(s) between two or more abutting platted lots of record which changes the size of the buildable lots. For the purposes of these standards, lot line adjustments do not result in additional number of lots.

(b) A *lot split* is the process involving the creation of one or more buildable lots from a platted lot of record which changes the number of buildable lots. Obtaining a separate parcel identification number from the Pinellas County Property Appraiser does not constitute a lot split or a buildable lot.

Section 154-261. – Requirements

(a) The following standards apply to lot line adjustments and lot splits:

(1) Easements for public utilities including stormwater drainage shall be relocated as necessary and subject to county approval. The applicant shall pay all costs of utility adjustments, extensions, relocations, and connections.

(2) Any unpaid outstanding liens and assessments owed to the county shall be satisfied as a condition of lot line adjustment or lot split.

(3) Consistency with the established neighborhood pattern shall generally be maintained, including lot dimensions, utility and parking functions, alley access, and sanitation services.

(4) All lots must be owned by the same entity or person and have the written consent of all property owners or someone legally able to bind the owner.

(5) Lot splits shall not result in three or more buildable lots; in such case, the proposal may not be reviewed as a lot split and shall be processed as subdivision/plat.

(6) For lot line adjustments, all lots shall meet the minimum lot size of the zoning district, unless one or more of the original lots do not meet the minimum lot size, then no lot having less area than the smallest of the lots included in the application shall be created.

(7) For lot splits, no variance to the minimum lot area requirements of the zoning district is allowed.

(b) Lot line adjustments and lot splits shall be reviewed as a Type 1 application pursuant to Chapter 138 Article II.

(c) Platting and/or replatting is required if the lot split of subject property will result in a total of three or more lots.

(d) Upon approval, the lot split/lot line adjustment shall be recorded with the clerk of the court.

DIVISION 3. – SUBDIVISION/PLATS

Section 154-262. - Platting required.

(a) Platting is required for the following conditions:

(1) Land which is intended to be subdivided to result in:

a. Three or more lots or parcels,

b. New streets and/or alleys, AND/OR

c. Additions and resubdivisions as it relates to the subdivision.

(2) Land which is being developed in such a manner that it is apparent from the documents submitted that subdivision of the land for sale will result and platting would otherwise be required.

(3) Obtaining a lot split or separate parcel identification number from the Pinellas County Property Appraiser is not a valid form of subdividing land for the purpose of creating a buildable lot.

Section 154-263. – Plat review and approval processes

(a) Plats are reviewed as a two-step process pursuant to the following:

(1) Step 1 – Preliminary Plats

a. Preliminary plats are required prior to plat approval and recording; preliminary plans illustrate the requested parcels, tracts, lots, rights-of-way, and easements.

b. Preliminary plats are reviewed as a Type 1 application pursuant to Chapter 138, Article II.

c. When the subject area includes site improvements and/or new roadways, the preliminary plat may be reviewed as part of a site plan application.

(2) Step 2 - Final plats

a. Final plats include the legally-adopted instruments that establishes the new plat. Final plats are prepared and processed after the county approves the preliminary plat and any required site improvements are completed or bonded (e.g. streets).

b. Final plats are reviewed as a Type 5 application pursuant to Chapter 138, Article II.

c. Final plats must be adopted by the Board of County Commissioners and subsequently recorded with the clerk of the court.

(b) Modifications/corrections to existing plats shall follow the applicable review processes.

Section 154-264. - Platting requirements and information.

(a) General requirements for platting are as follows:

(1) For platting purposes, the owner of the land shall cause a record plat to be made. Such plat must be prepared by professional surveyor or mapper and submitted to the county in the format required by the county administrator or designee. The plat will conform to the requirements of F.S. ch. 177, part 1.

(2) Developers must submit the required number of copies of the plat along with the check for the review fee as established by resolution of the Board of County Commissioners. Such check shall be made payable to the Board of County Commissioners.

(3) There shall be a dedication to the public on the face of the plat clearly identifying those streets, walkways, waters, easements and/or other areas being dedicated to the public. The plat shall include dedicated areas which are necessary for access, drainage and, utilities, or as established by resolution of the Board of County Commissioners. Such dedication shall be duly executed by the owner or owners, in the same manner as deeds conveying lands are required to be executed for recordation.

(4) Lots shall be numbered consecutively or, if in blocks, consecutively numbered in each block, and the blocks consecutively lettered or numbered.

(5) Plats shall include the submittal and information as established in Chapter 138 – Article II for Type 1 and Type 5 reviews.

(6) The clerk of the circuit court requires:

a. All additions after initial drafting of plat be executed in permanent black ink.

b. Every plat submitted to the Board of County Commissioners must be accompanied by a title opinion of an attorney at law licensed in Florida or a certification by an abstractor or a title company showing that record title to the land as described and shown on the plat is in the name of the person, persons, corporation, or entity executing the dedication as it is shown on the plat. The title opinion or certification shall also show all mortgages not satisfied or released of record nor otherwise terminated by law.

c. Every subdivision shall be given a name by which it shall be legally known. Such name shall not be the same or in any way similar to any name appearing on any recorded plat in the same county as to confuse the records or to mislead the public as to the identity of the subdivision, except when the subdivision is subdivided as an additional unit or section by the same developer or his succession in title. Every subdivision's name shall have legible lettering of the same size and type, including the words "section," "unit," "replat," "amended," etc. The name of the subdivision shall be shown in the dedication and shall coincide exactly with the subdivision name.

(7) The Board of County Commissioners shall establish fee schedules by board resolution for plat review, final inspection and reinspections for release of surety. Checks for these fees shall be made out to the Board of County Commissioners.

(8) The Board of County Commissioners shall establish fee schedules by board resolution for filing fees for plats and for recording consents to plat if mortgagee(s) did not sign the plat itself. Checks for these fees shall be made out to the clerk of the circuit court.

(b) The following information shall appear on the record plat:

(1) In the title: Name of subdivision (must agree with the final site plan), section, township, range and Pinellas County, Florida. If a replat, the lot and block numbers being replatted must be included in the title area.

(2) Both a numerical and bar scale and a north arrow.

(3) Each plat shall show a description of the lands subdivided, and the description shall be the same in the title certification and on the boundary survey. The description must be so complete that from it, without reference to the plat, the starting point and boundary can be determined. The description must be tied to a section corner or quarter corner either within the description or by a graphic tie on the plat.

(4) Platting Surveyor's certification, certificate of conformity review to Florida Statutes,, owners dedication and acknowledgement, homeowners association confirmation of acceptance and acknowledgement, approval of the chairman, Board of County Commissioners, county administrator or designee, and certificate of approval of county clerk, certificate of mortgagee and acknowledgement if applicable,

(5) Block corner radii dimensions shall be shown.

(6) Sufficient survey data shall be shown to positively describe the bounds of every lot, block, street easement, and all other areas shown on the plat. When any lot or portion of the subdivision is bounded by an irregular line, the major portion of that lot or subdivision shall be enclosed by a witness line showing complete data, with distances along all lines extended beyond the enclosure to the irregular boundary shown with as much certainty as can be determined or as "more or less," if variable. Lot, block, street, and all other dimensions except to irregular boundaries, shall be shown to a minimum of hundredths of feet. All measurements shall refer to horizontal plane and in accordance with the definition of the U.S. Survey foot or meter adopted by the National Institute of Standards and Technology. All measurements shall use the 39.37/12=3.28083333333 equation for conversion from a U.S. foot to a metric foot.

(7) Curvilinear lots shall show the radii, arc distances, central angles, chord, and chord bearing, or both. Radial lines will be so designated. Direction of nonradial lines shall be indicated.

(8) Sufficient angles, bearing, or azimuth to show direction of all lines shall be shown, and all bearings, angles, or azimuth shall be shown to the nearest second of arc.

(9) The centerlines of all streets shall be shown with distances, angles, bearings or azimuth, "P.C.s," "P.T.s," "P.R.C.s." "P.C.C.s." arc distance, central angles, tangents, radii, chord, and chord bearing or azimuth, or both.

(10) Name and right-of-way width of each street or other right-of-way. Location, dimensions and purposes of all easements and whether the right-of-way or easement is to be public or private. All easements must be fully dimensioned and tied to the plat or lot corner.

(11) Reference to recorded subdivision plats of adjoining platted land by record name, plat book and page and the O.R. book and page number of all existing easements and rights-of-way.

(12) All abutting property ownership lines and lot numbers to be shown by dashed or dotted lines.

(13) All land within the boundaries of the plat must be accounted for, either by blocks, lots, parks, streets, or expected parcels. Unusable strips will not be permitted.

(14) Location and description of permanent reference monuments.

(15) The plat shall include in a prominent place the following statement: NOTICE: There may be additional restrictions that are not recorded on this plat that may be found in the public records of this county.

(16) Any other information as required by the Florida Statutes 177.091.

(c) The following shall be submitted with the plat prior to recording:

(1) Required plat review fee.

(2) Proof that vacations of existing right-of-way and easements within the proposed boundaries of the development have been completed.

(3) Letter from utility companies (i.e., water, reclaimed water, sewer, power, phone, gas, etc.) stating that the easements shown are sufficient for their needs.

(4) Developer's sidewalk completion guarantee. Sidewalks adjacent to common areas must be constructed as a portion of the development construction.

(5) An engineer's certification on design.

(6) A letter from the postal service indicating that there are no duplicate street names. The street names on the plans and on the plat must be the same.

(7) The fee for installation of street signs shall be per quote from the county traffic department. If the streets are private, street signs must have been installed or a private street sign installation guaranty submitted.

(8) In the event improvements have been made prior to the plat being submitted for recording, an engineer's certification of completion, a subdivider's affidavit that all bills have been paid, a letter from the water, sewer and highway departments that all their requirements have been met and they are accepting their respective systems, and a maintenance surety are required prior to the plat being recorded.

(9) Subdivisions where the infrastructure is not to be public must be completed before the filing of the plat or a payment and escrow agreement must be submitted and approved.

(10) Each plat will show a legal description of the lands subdivided, and the legal description will be the same in the title report. The legal description must be so complete that from it, without reference to the (proposed) plat, the starting point and boundary can be determined. If the legal description shown on the plat varies

from the title report, the surveyor must provide a signed and sealed letter confirming that, in his or her professional opinion, both descriptions describe the same lands.

(11) Each plat submittal shall include a title report not more than 60 calendar days old. The title report ("report") must cover a minimum 30-year period, and must include copies of all recorded documents within the 30-year period, as well as earlier documents still binding on the plat (e.g., easements and rights of way). All documents referenced in the title report as pertinent to the platted lands must be provided with the certification, including the last deed of record.

(12) Certified copies of any active permits issued by the Florida Department of Environmental Protection or Southwest Florida Water Management District for any stormwater management system, as that term is defined in Chapter 373, Florida Statutes, reflected on the plat.

(13) Certified copies of any active sovereign submerged lands leases issued by the Florida Department of Environmental Protection pursuant to Chapter 253, Florida Statutes for any sovereign submerged lands reflected on the plat.

(d) It is the responsibility of the project engineer to request in writing to the, county administrator or designee that the final inspection of the street, drainage, and related grading improvements be made. This request should be made at the earliest possible date to allow sufficient time to complete incidental construction items prior to surety expirations or to meet deadlines mentioned.

(e) Completion and maintenance security:

(1) The Board of County Commissioners, as a condition to the approval of the plat, shall require the developer who is seeking to have the plat approved provide a completion security in the form of a surety bond, letter of credit or other acceptable guaranty as the board shall determine adequate to guarantee construction and installation of all roads, streets, sidewalks, drainage, and water and sewerage disposal facilities as are required in accordance with this chapter and other applicable ordinances, statutes and regulations. Security shall be in the amount of 110 percent of the estimated cost of required improvements based on a certificate of cost estimate prepared, signed, sealed and dated by a registered professional engineer.

(2) Upon satisfactory completion of all improvements within areas to be dedicated to the public, the Board of County Commissioners may, at its discretion, accept those dedicated areas, by resolution, on behalf of the public. As a condition of acceptance, the developer shall provide a maintenance security in the form of a surety bond, letter of credit, or other acceptable guaranty in such amount and for such duration as the board deems sufficient to indemnify the board against latent defects in the improvements within the dedicated areas. Minimum security shall be 20 percent of the estimated cost of required improvements, to be fully effective for 18 months from acceptance by the board. Upon acceptance and receipt of the maintenance surety, the board shall release the completion security. A bill for the cost of work may be used to calculate the amount for the 20 percent maintenance bond.

(3) A separate security may be required for construction to be performed and/or maintained within existing county rights-of-way and other public property.

(f) Procedure of acceptance of improvements and release of surety:

(1) Sixty days before the expiration date, the county inspector will inspect the development and prepare an inspection report. This report will be sent to the

principal of the bond (owner/developer or contractor) by certified mail, return receipt requested. Copies will also be forwarded to the project engineer, the surety agent, either the owner/developer or contractor and the director.

(2) Thirty days before the expiration date, the county shall reinspect the development to determine whether defects in the above referenced 60-day report have been corrected satisfactorily. If defects still exist within the development, the highway division shall prepare a final letter stating that the contractor or developer has failed to repair certain defects within the development. Such letter of defects shall be specific and shall give exact locations within the development.

a. Completion surety: If the inspection shows that all defects have been corrected, and a maintenance surety has been submitted and approved, the release of the completion surety will be placed on the next Board of County Commissioner's agenda.

b. Maintenance surety: If the inspection shows that all defects have been corrected, the request for release of the maintenance surety will be placed on the Board of County Commissioner's agenda.

(3) Eighteen days before the expiration date, correspondence will be prepared that will enable the county to collect on the completion surety or maintenance surety. In the case of a bond, a letter will be sent directly to the bonding company. In the case of a letter of credit, a sight draft will be prepared to be drawn upon the bank or lending institution. Necessary signatures on the sight draft will be obtained and will be sent by certified mail, return receipt requested, to the respective surety representative.

(4) A request to release a surety (completion or maintenance) must be made in writing to the county administrator or designee no later than 5:00 p.m. on Monday of the week previous to the scheduled board meeting. At this time the Board of County Commissioners must have a written release from the public works and utility departments stating that the work is accepted and a maintenance surety has been received and approved or the project has been accepted for county maintenance after the maintenance surety has expired or been released.

(5) Should a surety have to be extended beyond the expiration date, in order that requirements of the surety are met, then the time of extension shall not exceed six months. If it is deemed necessary to further extend the time of surety, a new certificate of cost estimate shall be submitted, signed, sealed and dated by a state registered engineer. The new surety shall be in the amount of the cost estimate but not less than the amount of the original surety. The new sureties shall not be extended.

Sections 154-265 —154-269- Reserved.

DIVISION 4. – RIGHT-OF-WAY VACATIONS AND EASEMENT TERMINATIONS

Section 154-270. - Applicability.

(a) Right-of-way Vacation. A right-of-way vacation is required for situations that will result in the county's vacation, abandonment, discontinuance or closure of any existing public or private street alleyway, road, highway, or other place used for travel, or any portion thereof, including associated right-of-way. The provisions of this division are applicable to requests to vacate public rights-of-way.

(b) Easement Termination. An easement termination is required for situations where the county will terminate its access and/or utilization benefits from a particular easement. The provisions of this division are applicable to easement terminations between the

county and a property owner; this section does not apply to private party easement arrangements.

Section 154-271. – Review and approval processes

(a) *Vacations.* Vacation requests for platted rights of way and easements are reviewed as a Type 5 application:

(b) *Easements other than those dedicated by plat.* Vacation of easements other than those dedicated by plat shall be a Type 1 review, approved by the county administrator or designee.

Sec. 154-272. – Criteria for consideration

(a) The following criteria shall be considered by the reviewing body:

(1) Whether there is the need for easements for public utilities including stormwater drainage and pedestrian easements to be retained or relocated as requested by the various departments or utility companies.

(2) Whether the action would cause a substantial detrimental effect upon or substantially impair or deny access to any lot of record.

(3) Whether the action would adversely impact the existing roadway network, such as creating dead-end rights-of-way, substantially alter utilized travel patterns, or undermine the integrity of historic plats of designated historic landmarks or districts.

(4) Whether the easement is needed for the purpose for which the county has a legal interest and, for rights-of-way, whether there is a present or future need for the right-of-way for public vehicular or pedestrian access, or for public utility corridors, or stormwater/environmental maintenance or improvement projects.

(5) Whether the action will restrict/eliminate public access to beaches, lakes, rivers, bays, estuaries, streams and other waterways.

(6) Whether the right-of-way/easement is a significant component of a community redevelopment plan, community plan, or equivalent.

(b) The reviewing body shall consider other factors affecting the public health, safety, or welfare.

(c) The County, at its discretion, shall determine if there is any viable use of the right-of-way or easement currently or in the future before considering approval of the request.

Sec. 154-273. – Vacation replat requirements

(a) All vacations shall also require a replat, except:

(1) Vacation of rights-of-way in residential zoning districts in which 25 percent or more of the lineal frontage of abutting lots are developed shall not require platting.

(2) Partial street vacations and vacation of walkways.

(3) Vacations associated with the assembly of land for city, county, state, federal, or other governmental institutional use.

(b) Replatting shall be required in any of the aforementioned situations if the Board of County Commissioners determine that replatting of the vacated rights-of-way and abutting properties is necessary to protect the public health, safety, or welfare.

Sec. 154-274. – Payment for required public improvements.

(a) When vacations and/or easement terminations are granted, the applicant may be required to pay the cost of relocating any public facilities associated with the land area.

The applicant may also be required to pay the cost that was originally incurred in order to acquire the land or easement.

(b) The applicant/developer shall complete all applicable improvements and payment of costs before the final vacation/easement termination is recorded. The county administrator or designee may adjust this requirement when bonds or other securities are executed.

Sec. 154-275. - Vacation of right-of-way and/or easements to publicly accessible waters.

(a) No public road, public street, public accessway, public right-of-way, or public easement capable of granting public access to any publicly accessible waters of the county shall be abandoned, released, or otherwise vacated, except as otherwise provided in subsection (b).

(b) In those instances where any party, including another governmental unit, petitions the county for abandonment, release, or vacation of a public road, public street, public accessway, public-right-of-way, or public easement capable of granting public access to any publicly accessible waters, and the board determines that it is in the best interest of the public, is not injurious to individual property owners, and satisfies any other criteria as may be provided by law, the board may, in its discretion, grant the petition, so long as the party agrees to provide, trade, convey, or dedicate to the public comparable land granting access to the same body of water, such access to be of such condition as not to work a hardship to the users thereof, the reasonableness of the distance and comparable land being left to the discretion of the board.

Section 154-276—154-299. - Reserved.

ARTICLE VI. - UTILITY WORK

Sec. 154-300. - Generally.

(a) Nothing in this article is intended to supersede or conflict with state or federal law; or existing franchise; in the case of any conflict, the provisions of such state or federal law or franchise shall prevail.

(b) It is the intent of this article to impose reasonable regulations on the placement and maintenance of facilities within the right-of-way, to promote cooperation between users thereof, to facilitate installation and relocation of facilities therein, and to create uniform procedures for issuance of permits for utility work performed within the right-of-way, in order to protect the public health, safety and general welfare of the residents of the county. This article also provides for recovery by the county of actual and projected costs from persons placing and maintaining facilities in the right-of-way.

(c) Any permit issued prior to the effective date of the ordinance from which this article derives shall be valid on the terms under which it was issued, except that such permit shall be subject to all prospective provisions of this article as they pertain to county projects, and fees that may be adopted and revised by the Board of County Commissioners.

(d) The areas embraced by this article shall be all county rights-of-way, whether or not within municipal boundaries.

(e) The issuance of a utility permit shall not confer upon the permittee any exclusive implied privileges, proprietary interests, or vested rights in the location, alignment, or priority of the utility or installation.

(f) The issuance of a utility permit under this article does not abrogate any legal requirement to comply with other county ordinances or with the regulations of any other governmental agency.

(g) If a permittee transfers, sells, or assigns its assets located in the right-of-way, the conditions of this article and any existing permits are binding on such transferee, buyer or assignee.

(h) Vertical structures, such as towers, whose primary purpose is to serve as a mounting device for antennae, are expressly prohibited from being placed in the right-of-way, except as expressly permitted by section 170-277.

Sec. *154*-301. - Definitions.

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

(1) *Abandonment* means the cessation of the use of a utility facility; provided that this term shall not include cessation of all use of a Utility facility within a physical structure where the physical structure continues to be used. By way of example, and not limitation, cessation of all use of a cable within a conduit, where the conduit, continues to be used, shall not be considered abandonment while the cessation of use of a small wireless facility collocated upon an active utility pole shall be considered abandonment of the small wireless facility but not constitute abandonment of the active utility pole. Removal of all utilities, including small wireless facilities, from a pole and leaving the pole, in whole or in part, shall constitute abandonment of the utility pole.

(2) *Annual general permit* means an annual permit issued by the county for certain routine, repetitive work not requiring a specific utilization permit, which may be issued or renewed for periods up to one year, in the discretion of the county.

(3) *Antenna* means a mounted device used for the transmission of telecommunications services or communications services, including but not limited to traditional and small cell technology.

(4) *Applicant, owner, or permittee* means any person requesting permission to place or maintain facilities in a right-of-way, or who has previously done so.

(5) *As-built survey* means a survey performed to obtain horizontal and vertical dimensional data so that constructed improvements may be located and delineated.

(6) *Co-location, co-locate or attach* means the placement or attachment of telecommunications antenna on any existing, lawfully permitted and active structure within the right-of-way. Colocation upon an existing structure not providing telecommunication services does not convert the pole structure into a Wireless Facility.

(7) *Communications services* shall have the meaning found in Florida Statutes, Section 202.11, as may be amended.

(8) *County* means Pinellas County, Florida.

(9) *County project* means work done by or for the county within public right-of-way for county purposes, not for the benefit of private developer.

(10) *Department* means the County Department of Public Works.

(11) *Director* means the Director of the County Department of Public Works.

(12) *Emergency* means a condition that poses a threat to life, health, or property, or may create an out-of-service condition.

(13) *Facilities* mean any utilities located in, over or under any right-of-way, but shall not include plantings, driveways, or other non-utility installations in the right-of-way.

(14) *FDOT* means the Florida Department of Transportation.

(15) *Micro wireless facility* means a small wireless facility having dimensions no larger than 24 inches in length, 15 inches in width, and 12 inches in height and an exterior antenna, if any, no longer than 11 inches.

(16) *Permit* means the right-of-way utilization permit which must be obtained before a person may place or maintain any facility in a right-of-way.

(17) *Permittee* means any person to whom a permit to place or maintain a facility in a right-of-way has been granted by the county.

(18) *Person* means any natural or corporate person, municipality, school, church, or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity which has or seeks to have facilities located in any right-of-way.

(19) *Place or maintain, placement and maintenance, or placing or maintaining* means to erect, construct, install, maintain, place, repair, extend, expand, remove, occupy, locate or relocate. A person that owns or exercises physical control over facilities located in the public right-of-way, such as physical control to maintain and repair, is "placing or maintaining" the facilities. A person providing service only through resale or the use of a third party's unbundled network elements is not "placing or maintaining" the facilities through which such service is provided. The transmission and receipt of radio frequency signals through the airspace of the public rights-of-way does not constitute "placing or maintaining" facilities within the public rights-of-way.

(20) *Registrant* means a person or corporation that has registered with Pinellas County as a provider of wireless communication services or infrastructure.

(21) *Right-of-way* means the surface and space above and below any real property in which the county has an interest in law or equity, devoted to or required for use as a transportation facility, including streets, easements and sidewalks, but excluding parks. Right-of-way means the public right-of-way, not private rights-of-way. Right-of-way does not include the Fred Marquis Pinellas Trail nor the Duke Energy Trail.

(22) *Small wireless facility* means a wireless facility, including a micro wireless facility, that meets the following qualifications:

a. Each antenna associated with the facility is located inside an enclosure of no more than 6 cubic feet in volume or in the case of antennas that have exposed elements, each antenna and all of its exposed elements could fit within an enclosure of no more than 6 cubic feet in volume; and

b. All other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cutoff switches, vertical cable runs for the connection of power and other services, and utility poles or other support structures.

(23) *Structural change* means activities affecting the integrity of the public road surface, road base, curb, sidewalk or shoulder.

(24) *Telecommunications* means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

(25) *Utilities* means any water, reclaimed water, sewer, gas, drainage, monitor well, sprinkler or culvert pipe and any electric power, telecommunication, signal, communication, or cable television conduit, fiber, wire, cable, or operator thereof, including utilities operated by the county.

(26) *Utility pole* means a pole or similar structure that is used in whole or in part to provide communications services or for electric distribution, lighting, traffic control, signage, or a similar function. The terms includes the vertical support structure for traffic lights but does not include a horizontal structure to which signal lights or other traffic control devices are attached and does not include a pole or similar structure 15 feet in height or less.

(27) *Wireless facility* means equipment at a fixed location which enables wireless communications between user equipment and a communications network, including radio transceivers, antennas, wires, coaxial or fiber-optic cable or other cables, regular and backup power supplies, and comparable equipment, regardless of technological configuration, and equipment associated with wireless communications. The term includes small wireless facilities, but does not include:

a. The structure or improvements on, under, within, or adjacent to the structure on which the equipment is collocated;

b. Wireline backhaul facilities; or

c. Coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

(28) *Wireless infrastructure provider* means a person who has been certificated to provide telecommunications service in the state and who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures, but in not a wireless services provider.

(29) *Wireless provider* means a wireless infrastructure provider or a wireless services provider.

(30) *Wireless services* means any services provided using spectrum using wireless facilities.

(31) *Wireless service provider* means a person who provides wireless services.

(32) *Wireless support structure* means a freestanding structure, such as a monopole, a guyed or self-supporting tower, or another existing or proposed structure designed to support or capable of supporting wireless facilities. The term does not include a utility pole.

Sec. *154*-302. – Permits and Registration required.

(a) The director, or his designee, shall be the principal county official responsible for the administration of this article, and he may delegate any or all of the duties hereunder.

(b) Permits Required. No person shall place or maintain facilities within the right-of-way prior to the issuance of a utility permit, including an annual general permit, for such work. All applications shall contain:

(1) Applicant's and local agent's name, address, e-mail address, telephone and facsimile numbers.

(2) A statement that the applicant is a utility owner or its authorized agent, if applicable.

(3) All required attachments, and scaled, dated drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities.

(4) Certification of a registered Florida professional engineer (unless permittee is using exempt employees pursuant to F.S. § 471.003(2)(b)2(d)), that the drawings, plans, and specification submitted by the applicant shall comply with applicable technical codes, rules and regulations. Certification of plans is required if a construction project:

a. Results in a significantly different traffic control plan;

b. Results in a structural change of the county road; or

c. Contains engineering plans which were developed and designed by an outside engineering firm.

(5) A maintenance of traffic plan, consistent with the Uniform Manual of Uniform Traffic Control Devices, and/or a specific FDOT 600 Series for safety of the public and employees.

(6) For underground installation, information in sufficient detail to identify:

a. The physical space currently available in applicant's existing ducts or conduits before installation of applicant's facilities;

b. The physical space, if any, that will exist in such ducts or conduits after installation of applicant's facilities;

c. The location, depth, size, material and quantity of proposed new ducts or conduits;

d. The type of the utility facility to be installed.

(7) A description of the construction methods or techniques to be used for the installation.

(8) A preliminary construction schedule and completion date.

(9) Payment of all uncontested money past due to the county for:

a. Prior and current construction permits issued to applicant;

b. Any loss, damage, or expense suffered by the county as a result of applicant's prior construction in the right-of-way or any emergency actions taken by the county; and

c. Any use agreement, license, or franchise issued to the applicant.

(c) Registration. Every person or entity that desires to place or maintain any small wireless facility in any county right-of-way shall first register with the director or his/her designee prior to applying for a permit, if required, to place or maintain such facility within the right-of-way.

(1) Every person registering pursuant to this section shall provide the following information:

a. the name of the registrant under which it will transact business in the county and, if different, in the State of Florida; and

b. the address and telephone number of the registrant's principal place of business in the State of Florida and any branch office located in the county or, if none, the name, address and telephone number of the applicant's national headquarters and its registered agent in Florida; and

c. the name, address and telephone number of the registrant's primary contact person and the person to contact in case of an emergency; and

d. the type of small wireless facility that the registrant intends to provide within or upon the county's rights-of-ways (if more than one, state all that apply); and

e. a copy of both the registrant's Florida annual resale certificate and certificate of registration issued by the Florida Department of Revenue to engage in the business of providing communications services in the State of Florida; and

f. a copy of the registrant's certificate of authorization, public convenience and necessity or other similar certification issued by the Florida Public Service Commission; and

g. the number of the registrant's certificate of authorization or license to provide communications services issued by the Florida Public Service Commission, the department, the FCC, or other federal authority, if any; and

h. evidence of the registrant's insurance coverage as required under this chapter.

(2) The director or designee shall review the information submitted by the registrant. If it is found that the registrant complied with the requirements in subsection 1 above, the registration shall be effective and the director or designee shall notify the applicant of the effectiveness of registration in writing. If the director or designee determines that the registrant is not in compliance, the director or designee shall notify the registrant in writing of the non-effectiveness and denial of registration and the reasons therefor. Denial of registration shall not preclude an applicant from reapplying or filing subsequent applications for registration under the provisions of this section.

(3) An effective registration does not, and shall not be construed to, convey equitable or legal title in the rights-of-way.

(4) A registrant may cancel a registration upon written notice to the director stating that it will no longer place or maintain a small wireless facility. A registrant cannot cancel a registration if it intends to continue placing or maintaining a small wireless facility in the rights-of-way.

(5) Registration does not establish a right to place or maintain or a priority for the placement or maintenance of any facility in the rights-of-way. However, registration is required prior to submitting an application for the placement of telecommunication antennae or towers pursuant to Section 277.

(6) A registrant shall renew its registration annually and shall remit at such time the annual fee for each antennae existing within the right-of-way.

(7) An effective registration shall be a condition of a complete permit submitted pursuant to Section 277 of this chapter.

Sec. *154*-303. - Insurance and sureties.

(a) Prior to permit approval, the permittee shall deliver proof of insurance as determined by Pinellas County Risk Management.

(b) Sureties may be in the form of surety bonds, letters of credit, or third-party escrow agreements, acceptable to the county. The following sureties are required:

(1) Completion sureties, in the amount of 110 percent of the engineer's estimated cost of the installation. The duration of this surety shall coincide with the permitted activity.

(2) Maintenance sureties shall be a minimum 20 percent of the amount of the completion surety; a higher percentage may be required if special circumstances

dictate. This surety shall be effective for a minimum of 18 months from completion of permitted activity.

(3) Removal sureties shall be required for installation of temporary facilities, intended to remain in place for no more than five years. The amount shall be based on the estimated cost of removal of the facility, or a minimum of $5,000.00 whichever is greater.

(4) Companies regulated by the public service commission, companies with a current franchise agreement with the county, and governmental entities are exempt from this surety requirement.

Sec. *154*-304. - Construction and restoration.

(a) County projects. For work done in advance of or as part of a county project, it is required that prior to the placement or maintenance of facilities in the right-of-way, a permittee shall conduct a subsurface utility engineering (SUE) study on the proposed route of construction or expansion, all at permittee's expense. A SUE study consists of, at minimum, completion of the following tasks:

(1) Secure all available "as-built" plans, plats and other location data indicating the existence and approximate location of all underground facilities along the proposed construction route.

(2) Visibly survey and record the location and dimensions of any aboveground features of all underground facilities along the proposed construction route, including but not limited to manholes, valve boxes, utility boxes, posts and visible street cut repairs.

(3) Plot and incorporate the data obtained from completion of the tasks described above on the permittee's proposed system route maps, plan sheets and computer aided drafting and design (CADD) files, or in such other electronic format as maintained by the permittee which is acceptable to the director.

(4) Determine and record the presence and approximate horizontal location of all underground facilities in the right-of-way along the proposed system route utilizing surface geophysical designating techniques such as electromagnetic, magnetic and elastic wave locating methods.

(5) Where system design and the location of underground facilities appear to conflict on the updated system route maps, plans and CADD (or acceptable alternate) files, utilize non-destructive digging methods, such as vacuum excavation, at the critical points identified to determine as precisely as possible, the horizontal, vertical and spatial position, composition, size and other specifications of the conflicting underground facilities. A permittee shall not excavate more than a 200 millimeter by 200 millimeter (eight inches × eight inches) hole in the right-of-way to complete this task.

(6) Plot, incorporate and reconcile the data obtained by completion of these tasks with the updated route maps, system plans and CADD (or acceptable alternate) files.

(7) Based on all of the data collected upon completion of these tasks, adjust the proposed system design elevations, horizontal and vertical locations to avoid the need to relocate other underground facilities.

(8) Copy to county. Upon completion of the SUE, the permittee shall record all of the data collected into a CADD file, or acceptable alternate, compatible with that used by the department and deliver a copy to the department.

(9) Qualified firm. All subsurface utility engineering studies conducted pursuant to this section shall be performed by a firm specializing in SUE work that is approved by

the director, or his designee, or may be performed by the permittee's agents or employees, if qualified.

(b) Utility projects. The director, or designee, shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way if there is insufficient space to accommodate all of the requests of permittee to occupy and use the right-of-way. In making such decisions, the director, or his designee, shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public health, safety, and welfare, the protection of existing facilities in the right-of-way, and future county plans for public improvements and development projects which are in the public interest.

(1) Coordination of work. Upon request of the county, permittee may be required to coordinate placement or maintenance activities under a permit with any other work, construction, installation or repairs that may be occurring or scheduled to occur within a reasonable timeframe in the subject public rights-of-way, and permittee may be required to reasonably alter its placement or maintenance schedule as necessary so as to minimize disruptions and disturbances in the public rights-of-way.

(2) Protection of facilities. A permittee shall not place or maintain its facilities so as to interfere with, displace, damage or destroy any facilities, including but not limited to, sewers, gas or water mains, storm drains, pipes, cables or conduits of the county or any other person's facilities lawfully occupying the rights-of-way.

(3) Least disruptive technology and undergrounding. All construction or maintenance of facilities shall be accomplished in the manner resulting in the least amount of damage and disruption of the right-of-way subject to economic and technical feasibility. Underground installation of all new public utility facilities including lines, wires and related appurtenances is required, with the exception of major transmission lines. Where public utility companies can show that underground service creates an unnecessary hardship, a variance to permit overhead installation may be granted by the county administrator.

(4) Upon completion of each permitted construction activity, the permittee shall provide the county with accurate "as-built" drawings of the facilities as installed, or a statement that no deviation from the plans exceed 12 inches. If the permittee uses exempt surveyors and engineers pursuant to Florida Statutes, or is subject to a franchise agreement with the county, drawings or statements shall be signed by an authorized agent of the company. Otherwise, such drawings or statements shall be signed by a registered professional. Where tolerances are critical, the director may require professionally certified as-builts.

(5) Right-of-way restoration.

a. In addition to its own work, the permittee must restore the general area of the work, and the surrounding areas, including the paving and its foundations, to the same or better condition that existed before the commencement of the work and must maintain the same condition for a minimum of 18 months thereafter.

b. In approving an application for a right-of-way utilization permit, the permittee must restore the right-of-way as provided by F.S. § 337.401 et seq.

c. Failure of the permittee to promptly restore the right-of-way shall constitute consent for the county to perform such restoration at the permittee's expense.

(6) The permittee is responsible for any damage resulting from placement or maintenance of its facilities. This responsibility covers not only county property, but

facilities lawfully placed or maintained by other permittees, and includes damage caused by service interruptions or failure of the permittee's facilities to function properly.

Sec. *154*-305. - Relocation.

(a) In the event of any widening, repairs, installation, construction or reconstruction by the county or on behalf of the county, of any county road within the right-of-way in which the permittee or owner has constructed any utility, the permittee or owner shall locate, move, remove, or relocate such utility or facility as may be required for the public convenience as and whenever specified by the county and at the permittee's or owner's own expense. The same duty to locate, move, remove, or relocate shall apply if a utility or facility is determined to be unreasonably interfering in any way with the convenient, safe, or continuous use of the right-of-way, or with the maintenance, improvement, extension or expansion of the public road, pursuant to F.S. § 337.403. Relocation required for private developers will be reimbursed by the developer, as such is not a county project.

(b) When relocation is required under this section, county owned and maintained facilities shall be given priority in establishing new utility alignments within the right-of-way.

(c) The term "locate" as used above in subsection (a) shall:

(1) Apply only to underground facilities.

(2) Require exposure of underground utility facility so that the location can be accurately surveyed according to applicable topographic land survey standards.

(3) In lieu of subsection (2), accurately locate by means of underground detection devices, if the same survey standards are met.

(4) Require timely performance of utility owner to supply location information within 90 days from written notice from the county.

(5) Require location data to be supplied in writing, drawings, graphic, or computer files subject to county approval. All data shall be certified by a professional land surveyor indicating location information meets land survey standards.

(d) Nothing in this article shall prohibit utility owners from contracting with other qualified firms for performance of these activities.

(e) If a person fails to commence removal or relocation of its facilities as designated by the county, within the time specified in the county's removal order, or if a person fails to timely complete such removal, including all associated restoration of the right-of-way, the county shall have all rights of action specified under F.S. § 337.403, including, but not limited to, removal of the facilities at the permittee's cost and expense, by another person, county forces or its contractor; and pursuant of all available remedies under the sureties, at law or equity.

(f) The requirements of section 170-270 shall apply to this section.

Sec. *154*-306. - Abandoned facilities.

(a) A permittee who abandons a facility in the public right-of-way shall notify the department within 90 days.

(b) The department may direct the permittee by written notice to remove all or any portion of such abandoned facility, where feasible, at the permittee's sole expense if the county determines that the abandoned facility's presence interferes with the public health, safety or welfare, which shall include, but shall not be limited to, a determination that such facility may:

(1) Compromise safety for any right-of-way user;

(2) Prevent another permittee from placing or maintaining facilities; or

(3) Create a maintenance condition disruptive to use of right-of-way.

(c) In the event that the department does not direct the removal of the abandoned facility, the permittee, by its notice of abandonment shall be deemed to consent to the alteration, use, or removal of all or any portion of the facility by another permittee or the county.

(d) If the permittee fails to remove all or any portion of an abandoned facility as directed by the department within a reasonable time period, the county may perform such removal and charge all costs of the removal against the permittee.

(e) If the director determines that a facility has been abandoned, it may take any of the steps listed above.

Sec. *154*-307. - Enforcement of permit obligations.

(a) Work done without a permit.

(1) Emergency situations.

a. Each permittee shall immediately notify the county via telephone or e-mail at the Pinellas County Public Works Department at 22211 U.S. Hwy 19 North, Clearwater, Florida, of any event regarding its facilities which it considers to be an emergency. The permittee may proceed to take whatever actions are necessary in order to respond to the emergency. The permittee may be required to obtain an "after-the-fact" permit within a reasonable time following the emergency work or submit revised "as-builts" where excavation is required.

b. In the event that the director, or his designee, becomes aware of an emergency regarding a permittee's facilities, the department shall attempt to contact the local representative of each permittee or person affected, or potentially affected by the emergency. In any event, the department may take whatever reasonable action it deems necessary in order to respond to the emergency, the cost of which shall be borne by the permittee whose facilities occasioned the emergency.

(2) *Non-emergency situations.* Except in the case of an emergency, any person who obstructs or excavates a right-of-way without a permit must subsequently obtain a permit, pay double the normal fee for said permit, pay double all the other fees required by the code, deposit with the department the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this article.

(b) *Work beyond five feet from back of curb.* Annual permits may be issued by the county for routine work beyond five feet from back of curb. Such work shall be specified on each annual permit, and reporting conditions pursuant to permit and state law.

(c) *Revocation of permits, probation.*

(1) Permittee held permits issued pursuant to the code is a privilege and not a right. The holder of a permit does not possess a vested right to maintain its facilities in a particular location, nor may the rights of the permittee be construed to be an interest in real property of a property right subject to constitutional protection.

(2) The county reserves the right, as provided herein, to revoke any permit, without refunding any fees, in the event of a substantial breach of the terms and conditions of any statute, ordinance, rule or regulations, or any condition of the

permit. A substantial breach by permittee shall include, but shall not be limited to the following:

a. The violation of any material provision of the permit.

b. Any material misrepresentation of fact in the application for a permit.

c. The failure to maintain the required sureties or insurance.

d. The failure to obey a county directive to correct a condition.

e. Suspension or revocation of a required federal or state certification or license.

(3) Except in an emergency which could endanger health or safety, the director or his designee, shall issue a written notice to the permittee of the breach, which shall include the corrective actions to be taken by the permittee and the time allowed for corrective action. In an emergency, no notice is required, and the county may take all such steps it deems necessary to safeguard the public.

(4) Failure of the permittee to promptly respond and take corrective action within a reasonable time under the circumstances shall justify immediate revocation of the permit.

(5) Two or more failures to respond or take corrective action may cause the permittee to be placed on probation.

(6) If a permittee, while on probation, commits a breach as outlined above, the permittee will be fined, and/or permittee's permit may be revoked and no further permits will be allowed for one full year, except for emergency repairs.

(d) Other remedies for violation.

(1) Any violation of any of the provisions of this article may be enforced as a local ordinance violation. Each day the violation continues shall be considered as a separate offense.

(2) In addition, the county can pursue all other lawful actions, including the filing of a complaint with the public service commission, the filing in any appropriate court for an injunction seeking enforcement of the terms of this article or the permit or to enjoin any use of the right-of-way.

(3) If the permittee fails to respond in a timely manner to remove or relocate facilities, as required under F.S. ch. 337, following notice from the county, the permittee shall fully indemnify the county against any claims, actions, or suits brought by any contractor or developer who is delayed or inconvenienced by such failure of the permittee.

Sec. *154*-308. - Inspections, enforcement, stop work orders.

(a) Inspection.

(1) Within one week prior to the time the work under any permit hereunder is to commence, the permittee shall notify the director, or his designee to ensure a mutual agreement as to the work to be done.

(2) Within one week of the time the work under any site specific permit hereunder is completed, the permittee shall notify the director, or his designee.

(3) The permittee shall make the work site available to the department inspector and to all others authorized by law for inspection at all reasonable times during the execution and upon completion of the work.

(4) The department inspector may issue an order to the permittee for correction of any work that does not conform to the applicable standards, permit conditions or codes. Failure to correct the violation may be cause for revocation of the permit.

(5) Work on any utility within the right-of-way that is being done contrary to the provisions of this article, or the terms and conditions of the utility permit, may be immediately stopped upon the following conditions:

a. In an emergency situation that may have a serious effect on health or safety; or

b. When irreversible or irreparable harm may result, in the reasonable opinion of the county administrator or his designee, and immediate cessation of the activity is necessary to protect the public and the right-of-way. Notice shall be given by the county administrator or his designee in writing to the owner, agent, or the person performing the work, which shall state the conditions under which work may be resumed. Verbal notice shall be sufficient to order an immediate cessation of the activity in emergency situations as determined by the County Administrator or their designee and shall be followed by written notice.

(6) The inspection or permitting by the county of work under this article shall not be construed as a warranty of the adequacy of performance or of the accuracy of information provided in the permit application by the applicant. The applicant retains full responsibility for information provided and the permittee retains full responsibility for work performed at all times.

(b) *Schedule of fees.* A schedule of fees for utility permits may be established by resolution of the Board of County Commissioners. The fee for a utility permit shall represent the estimated cost for reviewing and processing the permit application, all inspection of work performed under the permit, and any other reasonable costs associated with the implementation of this article. Such fees may be reviewed and updated annually. Communications services providers, as defined by F.S. ch. 202, which includes cable and telephone, will be exempt from permit fees. Permittees other than providers of communications services may be charged other fees for use of the right-of-way as allowed by state law.

Sec. *154*-309. - Appeals, waivers and variances.

(a) Any person adversely affected by a decision of the county administrator in the permitting, enforcement or interpretation of any of the terms or provisions of this article may appeal such decision to the Board of County Commissioners. Such appeal shall be taken by filing written notice with the county administrator, with a copy to the clerk of the board, within 20 days after the decision of the county administrator. Each such appeal shall be accompanied by a payment in sufficient amount to cover the cost of publishing and mailing notices of hearings. Failure to file such appeal constitutes acceptance of the permit and any conditions thereof or the denial of the application.

(b) Written request for variance from the terms of this article shall be made by the applicant to the county administrator and shall include detailed plans and written justification for the variance. If the county administrator or his designee determines that strict compliance with this article would impose an unnecessary hardship peculiar to the property of the applicant, he may vary or waive the requirements of this article, provided that such variance or waiver will be consistent with the intent and purpose of this article. In granting such variances or waivers, the county may impose such reasonable conditions as will ensure that the objectives of this article are met.

Sec. *154*-310. - Indemnification.

(a) To the fullest extent permitted by state law, permittee agrees to indemnify, defend and save harmless the county and all the members of its board, its officers and employees from and against all losses and all claims, judgments, demands, payments, suits, actions,

recoveries, and expenses of every nature and description, including claims for property damage and claims for injury to or death of persons, or on account of, any claim or amounts recovered under the "Workers' Compensation Law" or of any other laws, by-laws, ordinance, order or decree brought or recovered against it by reason of any act of negligence or omission of the permittee, its agents, contractors, or employees, except only such injury or damage as shall have been occasioned by the sole negligence of the county. The monetary limits of this indemnity shall be the limits of insurance coverage applicable to the permittee. These obligations shall survive the expiration of any permit.

Sec. *154*-311. - Small Wireless Facilities Located Within the Right-of-Way.

(a) Purpose. The purpose of this section is to adopt specific regulations relating to the use of rights-of-way for the erection of small wireless facilities and any accessory equipment supporting the same within county right-of-way, regardless of whether or not the right-of-way is in an unincorporated or incorporated area in accordance with Florida Statute §337.401. Regardless of the type of small wireless facility, a utilization permit pursuant to Article IV of this chapter shall be obtained prior to commencing any activity which impedes or alters the movement of pedestrian or vehicular traffic, or excavating, filling, or altering the right-of-way and must thereafter comply with all applicable terms therein and this section.

(b) Permit Needed. All small wireless facilities, must apply for a permit as follows:

(1) Micro wireless facilities:

a. In accordance with applicable Florida law, micro wireless facilities strung on cables between utility poles do not require an annual permit for the wireless facility but must be registered with the county and meet the appropriate insurance and bonding requirements.

b. To the extent that the installation of a micro wireless facility will require excavation, a sidewalk or multi-modal trail closure, or the closure of lane(s) for vehicular traffic, a use permit is required for those uses of the right-of-way.

c. Micro wireless facilities mounted on utility poles must comply with section B(2).

(2) Small wireless facilities:

a. With the exception of micro wireless facilities suspended on cables strung between existing utility poles, a permit must be sought and may be granted for any small wireless facilities to be installed within the county right-of-way through the submittal of a permit application as set forth in Section 170-268.

b. In accordance with Florida law, permits for small wireless facilities placed upon new poles will have a minimum term of five (5) years while permits for co-located poles will have to be permitted annually.

(c) Permit conditions. Any permit issued pursuant to this section, must contain the following conditions, in addition to any other appropriate conditions authorized by the Pinellas County Land Development Code:

(1) If necessary for the construction, maintenance, operation or alteration of the right-of-way, the antenna, tower, or utility pole, must be immediately removed or relocated from the right-of-way at the expense of the permittee unless reimbursement is authorized by the county or otherwise required by law. Unless the removal and relocation is required as a result of an emergency, the county must provide at least 90 days' written notice to the permittee and must cooperate with the permittee to relocate the antenna, tower, or utility pole, at the permittee's expense, in the right-of-way.

(2) All work, materials and equipment must meet all county codes and standards and must be subject to inspection by the county. All disturbed areas must be restored to the original condition or better and in accordance with applicable county codes.

(3) The installation, maintenance and operation of the antenna, tower, or utility pole must not interfere with the prior rights of a permittee or interfere with the convenient, safe or continuous use of the right-of-way. Interference that requires relocation or removal pursuant to Section 170-271 must be done so within 90 days of written notice and at permittee's expense or as otherwise required by section 337.403, Florida Statutes as may be amended.

(4) The County will not be responsible for damage to any structure placed within the right-of-way or any structure/vehicle outside of the right-of-way as a result of granting a permit. Normal maintenance of the right-of-way must not be impaired by the actions/omissions of the permittee.

(5) Final inspection and acceptance of work by the county must be obtained. All work is subject to the installation requirements of the county.

(6) In the case of noncompliance with any of the county's requirements, the permit will be void and the installation must be brought into compliance or removed from the right-of-way at no cost to the county.

(7) The County may issue a stop work order upon a permittee committing or creating an unsafe act which may create a public hazard, failing to comply with the permit, or not complying with applicable county requirements.

(8) The permittee is responsible for all repair costs incurred due to damage to existing Utilities in accordance with the Underground Facility Damage Prevention and Safety Act, Florida Statutes, Chapter 556, as may be amended.

(9) It is expressly stipulated that the permit represents a nonexclusive permissive use only and that the placing of a, antenna, tower, utility pole, or any equipment, or lines upon public property pursuant to the permit does not create a property right in the permittee.

(10) All antennae, towers, and utility poles must meet or exceed current standards and regulations of the Federal Aviation Administration (FAA), the FCC and any other agency of the federal government with the authority to regulate antennae, towers, and/or utility poles, as well as all requirements of the Americans with Disabilities Act (ADA) as amended and as may be amended. If such standards and regulations are changed, then the permittee must bring such facilities into compliance with such revised standards and regulations in accordance with the compliance deadline requirements of such standards and regulations. Failure to bring antennae, towers, and/or utility poles into compliance with such revised standards and regulations shall constitute grounds for the removal of the structure at the permittee's expense.

(d) Design standards: Wireless facilities and accessory equipment placed anywhere in county right-of-way is subject to the following design parameters.

(1) Micro wireless facilities must comply with the design parameters for small wireless facilities with the following exception:

a. To the extent permitted by state law, micro-wireless facilities may be suspended on cable strings between utility poles, except within historic preservation areas.

(2) Small wireless facilities:

a. Small wireless facilities may not extend more than ten (10) feet above the utility pole upon which it is mounted.

b. A new pole placed in the right-of-way upon which a small wireless facility will be mounted may not exceed the maximum height as follows:

   1. The tallest pole, as of July 1, 2017, within five hundred (500) feet of the new pole, provided the tallest pole was not issued a waiver by the county. If the tallest pole within 500 feet was installed pursuant to a waiver by the county or after July 1, 2017, the maximum height must not exceed that of the next tallest pole, if any, within 500 feet of the new pole; and

   2. If there are no existing poles within five hundred (500) feet of the new pole that were in existence as of July 1, 2017 and not issued a waiver by the county, the new pole must not extend past the maximum height of fifty (50) feet; and

   3. A utility pole upon which a small wireless facility is mounted must be of a substantially similar design, material and color as the existing utility poles.

   4. New utility poles upon which small wireless facilities are mounted must not be constructed of wood except in an area predominately comprised of wooden poles; and

c. Must not be artificially lighted except as required by the FAA. In cases where there are residential uses located within a distance that is 300% of the height of the utility pole or tower, authorization for dual mode lighting must be requested from the FAA; and

d. Must comply with any applicable local building codes in terms of design, construction and installation. All construction or maintenance of facilities must be accomplished in the manner resulting in the least amount of damage and disruption of the right-of-way, subject to economic and technical feasibility; and

e. All small wireless facilities, including the utility poles or towers installed for the purpose of mounting and accessory equipment, must be located to avoid any physical or visual obstruction to pedestrian or vehicular traffic, or to otherwise create safety hazards to pedestrians or motorists, including clear zone and sight-line requirements per Florida Department of Transportation (FDOT)'s "Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways" commonly known as "Florida Greenbook" as may be amended; and

f. Must not include signs or advertising or other form of communication unless otherwise required by law; and

g. Must not be installed upon horizontal traffic signal poles or mast arms inside the county's public right-of-way or on any county maintained traffic infrastructure; and

h. New and replacement utility poles that support antenna must match the style, design, and color of the utility poles in the surrounding area, unless otherwise approved in writing in the permit.

i. Where possible, new utility poles or towers that support small wireless facilities must be located in public utility easements within or immediately adjacent to the right-of-way; and

j. New utility poles or towers for the mounting of small wireless facilities must adhere to the following minimum setbacks:

k. must be located at least 6 feet from a driveway and at least 10 feet from the edge of existing trees 12 inches or greater in diameter;

1. distance from sidewalks and pedestrian ramps must be such so as to satisfy the requirements of the ADA, as may be amended;

2. Notwithstanding the above, the county may require greater setbacks from these and other fixtures in the right-of-way to ensure proper sight lines for public safety purposes.

3. In residential zoning districts, facilities must be located within the right-of-way where the shared property line between two residential parcels intersects the right-of way, or otherwise in a manner that demonstrates the least impact to access to private property.

4. In nonresidential districts wireless communication facilities must be located within the right-of-way between tenant spaces or adjoining properties where their shared property lines intersect the right-of-way, or otherwise in a manner that demonstrates the least impact to access to private property.

5. Must not be located in an area that will cause sight line issues.

l. Small wireless facilities, including any ground-mounted equipment supporting said facilities, must, to the greatest extent possible, use camouflaging techniques to blend in with the surrounding area. The application must include a depiction of such camouflaging for approval by the county.

(e) Accessory equipment: All equipment attached to or connected with a co-located antenna, tower, or utility pole must comply with the following standards:

(1) Equipment boxes located at grade must be located in areas with existing foliage or another aesthetic feature to obscure it from the view, to the greatest extent possible, use camouflaging techniques to blend in with the surrounding area. The application must include a depiction of such camouflaging for approval by the county.

(2) Equipment boxes at the base of the tower must not exceed 28 cubic feet of volume;

(3) Equipment mounted to the exterior of a pole must be a minimum of 12 feet above finished grade, excluding the electric meter and disconnect switch. Each pole mounted equipment component must be no more than 15 cubic feet in area. The external finish of the equipment cases must generally match the color of the pole. All mounting and banding fixtures must also match the color of the pole;

(4) No exposed wiring or conduit is permitted. Above the electric meter and disconnect switch, all conduit and wiring must be located inside the pole. Where wooden poles are allowed, wiring or conduit shall be placed in a manner consistent with the placement on adjacent poles;

(5) Electric meters and disconnect switches must not be located on the side of the pole that faces the sidewalk, or if there is not currently a sidewalk, the area identified by county staff for the preferred placement of any future sidewalk. Conduit leading to the electric meter box and disconnect switch must generally match the color of the utility pole;

(6) The grounding rod may not extend above the top of sidewalk and must be placed in a pull box; and the ground wire between the pole and ground rod must be inside an underground conduit;

(7) Where feasible, all pull boxes must be located outside of the sidewalk or pedestrian ramp. A concrete apron must be installed around all pull boxes not located in the sidewalk;

(8) All pull boxes must be vehicle load bearing, comply with FDOT Standard Specifications and be listed on the FDOT Approved Products List;

(9) Every 5 years from county permit issuance date, inspection reports must be submitted to the county by the applicant. These inspection reports must certify that the tower has not had any structural degradation and/or that any structural degradation has been rectified. Failure to submit an inspection report within 60 days after the due date will result in the revocation of the permit for noncompliance. The actual inspection must be physically performed within 6 months prior to the due date.

(f) Waiver of design and siting standards: The design and siting standards applicable to small wireless facilities may be waived by the county administrator, or designee, upon a showing as follows:

(1) If the applicant shows that the particular requirement(s) for which a waiver is sought is not reasonably compatible for the particular location of the small wireless facility. It is the burden of the applicant to demonstrate that the requirement is not reasonably compatible for the particular location; or

(2) If the applicant shows that compliance with the particular requirement(s) for which a waiver is sought would result in an excessive expense, which must be demonstrated by the applicant.

(g) Advance installation of utility poles to support small wireless facilities. Wireless infrastructure providers certificated to provide telecommunications services in the state, may apply to place poles to support collocation of small wireless facilities, separate from the placement of said facilities. Such application must additionally include an attestation that facilities will be collocated on the utility pole and used by a wireless service provider within nine (9) months of application approval. All other requirements, including fees, insurance, and bonds, relative to the placement of utility poles in the right-of-way apply.

Attachment "E"

Contents

CHAPTER 166 - ENVIRONMENTAL AND NATURAL RESOURCE PROTECTION

ARTICLE I. - IN GENERAL

Sec. 166-1. - Water preservation in new developments.

(a) All development regulations in the county shall accommodate the following provisions for water preservation or as may be specified in the County Stormwater Manual:

(1) All new development that requires irrigation shall be connected to the County's reclaimed water system if available. If reclaimed water is not available shallow wells with an adequate distribution system to serve that need for irrigation shall be installed and operated for that purpose. The distribution system for irrigation shall not be connected to the county or municipal potable water sources.

(2) With respect to the drainage system of all new developments, maximum use shall be made of lakes and retention ponds for irrigation purposes and to reduce the runoff. The stormwater runoff should not exceed the runoff from the site in the undeveloped state. .

(3) All water systems shall prohibit the installation of water meters of a size that would provide for lawn sprinkling in conjunction with domestic use.

(b) All territory within the legal boundaries of the county, including all incorporated and unincorporated areas that are served by or connected to the county water system, shall be embraced by the provisions of this section.

(c) For the purposes of this Section only the following definitions shall apply:

I*rrigation* means water used for the purpose of maintaining landscaped material such as grass, trees, shrubs and other flora.

New Development means any change to the existing state of land development on any given parcel, including new construction and substantial remodeling of existing structures.

Sec. 166-2. – Variances.

Variances and modifications to the requirements of this Article may be reviewed and processed pursuant to *Chapter 138 Article II Division 7 – Variances, Waivers, and Administrative Adjustments.*

Sec. 166-3. - Appeals.

Any persons adversely affected by a decision of the county administrator in the permitting, enforcement or interpretation of any of the terms or provisions of this article may appeal such decision as allowed and defined in Chapter 138 Article II pursuant to the required project review type.

Secs. 166-4—166-35 - Reserved.

ARTICLE II. - HABITAT MANAGEMENT AND PROTECTION

DIVISION 1. - GENERALLY

Sec. 166-36. – Definitions.

Adverse impact means any direct or indirect action likely to cause, or actually causing, a measurable decline in the stability, natural function, or natural diversity of a body of water or

floodprone lands or the quiet, peaceful, safe or healthful use of occupancy of any property. This includes, but is not limited to the quality, quantity, hydrodynamics, surface area, species composition, living resources, aesthetics or usefulness for human or natural uses which are or potentially may be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity or stability or which may unreasonably interfere with the enjoyment of life or property, including outdoor recreation. The term includes secondary and cumulative as well as direct impacts.

Approved species list means a list of tree species approved as replant or landscape trees and which is available from the department.

Caliper means trunk diameter measured six inches above the soil line. Also see Diameter Breast Height (DBH)

Compensation means measures provided to offset adverse impacts to wetlands, including one or more of the following:

(1) Mitigation;

(2) Inclusion of upland areas, beyond any required buffer zones, to maintain upland/wetland habitat diversity;

(3) Establishment of vegetated littoral zones in on-site open water bodies;

(4) Restoration of wetlands that have been previously impacted;

(5) Compensation on off-site lands; and

(6) Other reasonable measures, such as providing unlike wetland habitat.

Development or *Development Activity* means*:*

(1) The construction, installation, alteration, demolition or removal of a structure or an impervious surface.

(2) Clearing, scraping, grubbing or otherwise removing, altering or destroying the vegetation of a site.

(3) Adding, removing, exposing, excavating, leveling, grading, digging, burrowing, dumping, piling, dredging, or otherwise significantly disturbing the soils or altering the natural topographic elevations of the site.

(4) The maintenance of a lawn and its ancillary vegetation, excluding uplands as required in section 166-50 is exempted.

Diameter Breast Height (DBH) means the diameter, in inches, of a tree measured at 4½ feet above the natural grade. The diameter of multiple trunks shall be added together for this measurement.

Dripline means an imaginary, perpendicular line that extends downward from the outermost tips of the tree branches to the ground.

*Effectively remov*e means to trim or prune to the extent that a plant's natural function is severely altered.

Endangered, threatened or species of special concern means the list of plant and animal species as defined pursuant to rules 39-27.003—.005, Florida Administrative Code, or 50 CFR 17.11-12, or F.S. § 581.185.

Ground cover means low-growing plants, other than deciduous varieties, installed to form a continuous cover over the ground.

Grubbing means the effective removal of understory vegetation such as, but not limited to, palmetto from the site. As herein defined, no tree four inches dbh or greater shall be removed.

Hedge means a continuous arrangement of shrubs for the purpose of screening or dividing spaces which are planted at a minimum height of 24 inches and maintained at a minimum of 36 inches.

Historic tree means a tree which has been found by a professional forester, horticulturist, or other suitable professional to be of notable historic interest to the county because of its age, type, size, or historic association and has been so designated and that designation has been officially made and promulgated as part of the official records of the county.

Isolated wetland means any wetland as defined in this article which is not contiguous with the waters of the state as defined in the Florida Administrative Code.

Landscape tree means a tree from the approved species list which is a minimum 1½-inch caliper and six feet tall at time of planting, unless approved otherwise by the county administrator, and is a state department of agricultural nursery grade no. 1 or better.

Native vegetative communities means those plant communities naturally occurring in the county. Native vegetative communities shall include but not be limited to sandhill, xeric hammock, upland hardwood forest, pine flatwoods, sand pine scrub and wetlands.

Mangrove means any rooted trees or seedlings, of any size, including the following species: White mangrove (laguncularia racemosa), red mangrove (rhizophora mangle), black mangrove (avicennia germinans), and buttonwood (conocarpus erectus). This definition is to include all subspecies and varieties of the listed species as well as their synonyms.

Mitigation means the creation of habitat in compensation for the adverse impacts associated with a permitted activity. Includes the replacement of a wetland, type for type, to restore those specific physical and functional characteristics which will be lost as a result of the proposed activity.

Pine flatwoods consist of flat topography; sand substrate with an organic hardpan; vegetation characterized by slash pine or longleaf pine, Chapman's oak, and myrtle oak or wax myrtle with a midstory of saw palmetto, gallberry or wiregrass understory.

Plant material means plants which conform to the standards for Florida No. 1, or better, as given in the existing Grade and Standards for Nursery Plants, State of Florida, Department of Agriculture, Tallahassee, or equal thereto at the time of purchase of plant material.

Protective barrier means a physical structure limiting access to a protected area, composed of wooden and/or other suitable materials, which assures compliance with the intent of this article. Diagrams of suitable protective barriers shall be available from the department. Options and/or variations of these methods may be permitted upon written request if they satisfy the intent of this article.

Preliminary land clearing means those operations where trees and vegetation are removed within designated road rights-of-way, drainage and utility areas as depicted on a preliminary site plan and which occur previous to the construction of buildings.

Remove or removal means the actual removal of vegetation by digging up or cutting down, or damage of the vegetation or alteration of a site through the application of herbicides or other chemical agents.

Replant tree means a tree from the approved species list which is a minimum 1½-inch caliper and six feet tall at time of planting unless approved otherwise by the county administrator and is a state department of agricultural nursery grade no. 1 or better.

Sand pine scrub consists of upland plant communities found on relict dunes or present and former shorelines where the soil is composed of any well-drained, sterile sands. The community is composed of two layers with sand pine occupying the top layer and various scrub oaks and

shrub species creating a thick understory. The understory typically includes myrtle oak, Chapman's oak, sand live oak, rosemary or lyonia.

Sandhill means deep sand substrate; xeric; vegetation characterized by longleaf pine, turkey oak or bluejack oak with wiregrass understory.

Site means any tract, lot or parcel or combination of lots or parcels of land where development or redevelopment can occur and which any modification, new construction of split is subject to site plan requirements as defined in chapter 138, article II, division 5.

Site plan means a graphically drawn plan view of a site which shows all proposed or existing manmade improvements and which includes buildings, parking areas, utility lines, drives, roads, topographic changes, and natural features.

Specimen tree means:

(1) Any tree in fair or better condition which equals or exceeds the following diameter sizes:
   a. Large hardwoods, e.g., oaks, hickories, sweetgums, gum, etc., 36 inches dbh.
   b. Large softwoods, e.g., pines, cypress, cedars, etc., 20 inches dbh.

(2) A tree in fair or better condition must meet the following minimum standards:
   a. A life expectancy of greater than 15 years.
   b. A relatively sound and solid trunk with no extensive decay or hollow, and less than 20 percent radial trunk dieback.
   c. No more than one major and several minor dead limbs (hardwoods only).
   d. No major insect or pathological problem.

(3) A lesser sized tree can be considered a specimen if it is a rare or unusual species, of exceptional quality, or of historical significance.

(4) A lesser size tree can be considered a specimen if it is specifically used by a builder, developer, or design professional as a focal point in a project of landscape.

Specimen tree stands means a contiguous grouping of trees which has been determined to be of high aesthetic or ecological value by the judgment of a professional forester, horticulturalist, or other suitable professional. Determination is based upon the following criteria:

(1) A relatively mature even-aged stand; and

(2) A stand with purity of species composition or of a rare or unusual nature; or

(3) A stand of historical significance; or

(4) A stand with exceptional aesthetic quality; or

(5) A stand which provides wildlife habitat diversity which is important for species existence.

Structure means any object, constructed or installed by man, including, but without limitation thereof, buildings, towers, smokestacks, utility poles and overhead transmission lines. The term ""structure"" shall be construed as if followed by the words ""or part thereof.

Transplant means the digging up of a tree from one place on a site and the planting of the same tree in another location.

Tree survey means a maximum one inch equals 50 feet scale drawing which provides the following information: Location of all trees protected under the provisions of this article, plotted by accurate techniques; the common name of all the trees; and the dbh of each tree.

Trim or prune means to cut away or remove any portion of a plant.

Upland hardwood forest consist of rich sandy substrate; best developed where limestone or phosphate outcrops occur; mesic; rare or no fire; vegetation may be characterized by magnolia, pignut hickory, laurel oak and other hardwoods. Species composition varies. A major variation of this vegetative association includes live oak-cabbage palm hammock.

Vehicular use area means and includes all areas used for the circulation, parking, or display of any and all types of vehicles, boats or heavy construction equipment, whether self-propelled or not, and all land upon which vehicles traverse as a function of the primary use. This shall include, but is not limited to, activities of a drive-in nature.

Wetland means all those waters, fresh and saline, or areas which are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation specifically adapted to life in saturated conditions. Such wetland vegetative indicators shall be those species listed in the Florida Administrative Code. Wetlands include, but are not limited to, rivers, lakes, streams, springs, impoundments, swamps, hydric hammocks, marshes, bogs, sinkholes, estuaries, sloughs, cypress heads, mangrove forests, bayheads, bayous, bays, and open marine waters, whether on private or public lands and whether they are manmade or natural. Wetlands shall not include stormwater retention ponds.

Xeric hammock consist of deep sand substrate; xeric; vegetation characterized by sand live oak or Chapman's oak.

Sec. 166-37. - Intent.

Trees, native vegetative, and wetland communities provide and maintain beneficial public resources; therefore, it is the intent of the Board of County Commissioners to protect such environmental resources as set forth in this article. In addition, it is further the intent of the board of county commissioners to protect and maintain environmental features affected by site development and land usage.

Sec. 166-38. - Territory embraced.

This article shall be effective in the incorporated as well as unincorporated areas of the county; however, to the extent this article conflicts with a municipal ordinance, the municipal ordinance shall prevail.

Sec. 166-39. - Penalty for violation of article.

Whoever shall violate the provisions of this article, as defined pursuant to section 166-43, may be subject, upon conviction, to punishment as provided in section 134-8. In any prosecution under this article, the violation of any provision of this article may constitute a separate offense for each tree. Each separate protected plant removed or trimmed without a permit will also constitute a separate violation. Further, each day of the violation of the provision(s) of this article may constitute a separate offense. In addition to the sanctions contained in this section, the county may take any other appropriate legal action, including, but not limited to, emergency injunctive action, to enforce the provisions of this article. The county may also seek civil remedies pursuant to Laws of Fla. ch. 90-403, the "Pinellas County Environmental Enforcement Act" (compiled in ch. 58, art. II).

Sec. 166-40. – 166-41 – Reserved.

Sec. 166-42. - Emergencies.

In case of emergencies, such as hurricane, windstorm, flood, freeze or other disasters, the requirements of this article may be waived by the county administrator or designee, upon finding that such waiver is necessary so that public or private work to restore order in the county will not be impeded.

Sec. 166-43. - Liability for violation of article.

Whenever a violation of this article occurs or exists, or has occurred or existed, any person, individually or otherwise, who has a legal, beneficial or equitable interest in the facility or instrumentality causing or contributing to the violation, or who has a legal, beneficial or equitable interest in the real property upon which such violation occurs or exists, or has occurred or existed, shall be jointly and severally liable for such violation.

(1) This provision shall be construed to impose joint and several liability upon all persons, individually or otherwise, who, although such persons may no longer have any such legal, beneficial or equitable interest in such facility or instrumentality or real property, did have such an interest at any time during which such violation existed or occurred or continued to exist or to occur.

(2) This provision shall be liberally construed to protect the public health, safety, and welfare and to accomplish the purposes of this article.

Sec. 166-44. - Civil penalties.

In addition to the penalties provided in section 166-39, the board of county commissioners may institute a civil action in a court of competent jurisdiction to recover damages for any degradation, alteration, or elimination of or to the water, soil, natural resources, or animal or plant life of the county caused by a violation of this article. The computation of civil damages will incorporate the expense of restoring the damaged habitat to its pre-violation condition and function. The civil penalty for violations of this article, which consist of trees removed, damaged or killed without a permit, will be computed using the following criteria:

(1) Tree valuation. The valuation of tree(s) removed, damaged or killed without a permit will be calculated utilizing the following methods:

   a. Inch-for-inch diameter at breast height (dbh) replacement: The replacement of a tree with a tree or trees of the same or similar species in sufficient number so that the sum of the dbh of the replacement trees equals or exceeds the dbh of the tree(s) that were removed, damaged or killed without a permit. Number of inches of trees removed may be determined by surveys, field inspection, aerial interpretation, ground truthing, statistical analysis of trees on adjacent properties, and other appropriate methods and criteria.

   b. Values as established by the International Society of Arboriculture, shade tree formula.

   c. Other professionally accepted methods.

   d. Other replacement requirements pursuant to Chapter 138 Article X Division 3.

(2) Method of payment. The civil penalty for violations of this article will be paid to the county as follows:

   a. Tree replant requirements: The violator must fulfill the tree replant requirements for the subject property as specified in the guideline for tree replant requirements in section 138-3654 and 138-3655. If, as determined by the county, required tree replant requirements cannot be adequately met on site, then the violator shall contribute to the tree bank fund, per subsection b., below.

   b. Tree bank fund: Valuation of trees as computed in subsection (1) of this section shall be paid to the tree bank fund either by the planting of or transference of the appropriate number of tree replants or money, or a combination of tree replants and money.

Sec. 166-45. - Withholding of certificate of occupancy.

The county administrator may withhold the issuance of the required certificate of occupancy, or permits and inspections, on any development permitted under this article until the provisions of this article, including conditions of any permits issued under this article, have been fully met.

Sec. 166-46. – Active site plan exemptions.

Site plans which were accepted for review by the county prior to January 1, 2019, and which have an active status as determined pursuant to chapter 138, shall not be required to comply with the specific provisions of section 166-50, and section 166-51, provided that:

(a) When final site plan comments or reports defined pursuant to the zoning ordinance are provided to a site plan applicant, the applicant shall have 90 days in which to revise and resubmit a site plan, in compliance with such comments or reports, to the county for further review. Site plans not revised and received within such 90-day period shall be reviewed for compliance with all the requirements of this article in effect on the date of resubmittal. When the resubmitted site plan is received within such 90 days, the plan shall be reviewed under the requirements of this article with the exception of the specific requirements of section 166-50.

(b) The terms and conditions of subsection (2) of this section shall also apply to preliminary site plans except that the referred 90-day time frame shall be 180 days.

Sec. 166-47. - Ratification of prior regulations.

All actions previously taken by the board of county commissioners pursuant to previously enacted rules and regulations are hereby confirmed and ratified.

Sec. 166-48. - Interpretation of other laws and regulations.

Where other lawful codes, ordinances, regulations or statutory provisions are referenced within this article, such references shall include lawful revisions or amendments thereto which may occur from time to time.

Sec. 166-49. - Vegetation protection during construction.

(a) Placement of solvents, material, construction machinery, or soil. It shall be unlawful for any person engaged in development activity to place solvents, construction material, construction machinery, or temporary soil deposits within six feet or two-thirds of the dripline, whichever is greater, of any tree to be retained of four inches dbh or greater or within six feet of other protected vegetation as required under the provisions of this article.

(b) Protective barriers. Prior to land development activity, the owner or his agent shall be required to erect a suitable protective barrier(s) for all protected vegetation and placards, posted on the barricades, indicating the purpose of such barriers and the penalties for unauthorized removal. The protective barrier(s) and placards shall remain erected until such time as they are authorized to be removed by the county or upon completion of final lot grading and placement of final ground cover. Removal of vegetation within the protective barriers shall require approval by the department. Failure to obtain such approval shall be considered a violation of this article. Diagrams of suitable protective barriers and placard(s) shall be available from the department. During construction, no attachments or wires shall be attached to any protected vegetation. Wood, metal or other substantial material shall be utilized in the construction of barriers.

Sec. 166-50. - Upland buffers adjacent to wetlands.

(a) *Wetland Protection Buffers.* It is the purpose of an upland buffer to further protect wetlands, their associated wildlife and water quality from adjacent development impacts. Such impacts include siltation, eutrophication, noise, artificial light intrusion and human and domestic animal intrusion. Upland buffers will also provide for preservation of upland wildlife habitat.

(1) Upland buffer requirements.

a. Upland buffers shall be required immediately adjacent to a wetland in accordance with *Table 138-3660.a Wetland Protection Upland Buffers*, or as otherwise specified in this section.

b. The upland buffers are required to be shown on a site plan upon submittal through the County's site plan regulations and review procedures. The buffers must be preserved during site development.

(2) The upland buffer and its associated wetlands shall be recorded in the public records of the County as a conservation easement in accordance with F.S. § 704.06 or created as a conservation easement on the record plat for the development.

(3) The following exemptions shall apply to the wetland protection buffer requirements:

a. Individual single-family lots are exempt; however, replats and subdivisions are subject to the standards of this article.

b. Catwalks, boardwalks, and walkways.

(4) Where the wetland protection upland buffers conflict with any applicable buffering standards from Chapter 138, Article IX Specific Use Standards AND/OR the Design Criteria for the underlying zoning district, the wetland buffers shall prevail.

(5) Wetland Protection Upland Buffer areas may be combined with any required open space area from Chapter 138, Article IX Specific Use Standards AND/OR the Design Criteria for the underlying zoning district.

Table 166-50.a – Wetland Protection Buffers

WETLAND PROTECTION BUFFER TYPE	ADJACENT WETLAND FEATURE	MINIMUM REQUIRED WETLAND PROTECTION BUFFER
Type 1	Isolated Wetlands	15-ft
Type 2	Creeks, channels, ditches, canals or other waterways which are not designated as preservation land use areas and which are connected with waters of the state as defined in the Florida Administrative Code	15-ft outside the top of bank or contiguous wetlands, whichever is greater
Type 3	County approved retention ponds adjacent to wetlands which provide the intent as described in purpose of this section.	15-ft from edge of wetlands to top of bank of retention pond
Type 4	All other wetlands	50-ft without enhanced buffer; 25-ft with enhanced buffer
General Notes:		

1. Isolated wetland means any wetland as defined in this article which is not contiguous with the waters of the state as defined in the Florida Administrative Code.

2. Enhanced buffers include appropriate wetland plantings replicates the natural Florida environment and other physical improvements that increase protection of the wetland from upland activities such as mowing and other lawn maintenance activities.

(6) Alternative Wetland Protection: Buffer Options and Restrictions

a. Buffers may be reduced to 15 feet in width for portions along a wetland, so long as additional widths are provided in other areas to result in an overall buffer width average that complies with Table 166.50.a.

b. Wetland buffers may not be reduced through these options on properties in the R-A, R-E, and/or R-R districts with active livestock activities adjacent to wetlands.

(7) *Activities prohibited within upland buffers.* In general, the following activities within a buffer shall be prohibited:

a. Placement of a structure, road, utilities, and retention pond.

b. Planting of exotic vegetation.

c. Removal of native vegetation, to include mowing or trimming, except as might be required for health, welfare and safety purposes as determined by the county.

d. Fill with dirt, topsoil, sand, gravel or other similar material.

e. Excavation.

f. Maintaining livestock.

g. Storage of equipment, supplies, materials, machinery, portable buildings, etc.

h. Application of herbicides, pesticides, fertilizers, or chemical agents injurious to vegetation.

(b) *Wetland Vegetation.* Mangroves and other wetlands, regardless of size, are recognized to be of special ecological value. No wetland vegetation shall be removed, trimmed, pruned, chemically treated, filled upon or altered without a permit or exemption. Guidelines for trimming or pruning of mangroves shall be made available from the County.

(1) Where wetlands are approved for removal by a permit which was issued by Pinellas County Water and Navigation, a permit under the provisions of this Division pertaining to those wetlands shall not be required. However, wetlands removal not authorized by the Water and Navigation Permit, and otherwise subject to the County's jurisdiction, shall be subject to enforcement action.

(2) Due to the vegetative characteristics of these plant communities, wetlands will be exempted from the tree survey requirements, however, they shall be designated by name and have their boundary surveyed.

(3) Applicants must provide mitigation for all regulated wetland impacts and must demonstrate that the proposed mitigation measures are consistent with the County's intent to protect and manage fish, wildlife and hydrologic features. All required mitigation shall provide for equivalent habitat value to the wetland system impacted.

Sec. 166-51. - Reserved.

Sec. 166-52. - Protection of endangered, threatened, or species of special concern.

(a) Upon field review of the site plan and determination that a site contains plant or animal species which are endangered, threatened or species of special concern, the applicant shall obtain and submit to the county administrator written comments and recommendations concerning the impact of the proposed use on such species from the appropriate agency such as the Florida Fish and Wildlife Conservation Commission, the United States Fish and Wildlife Service or the state department of agriculture and consumer services. Compliance with all state and federal permit conditions must be met prior to site development.

Sec. 166-53. – Undesirable Trees/Plants.

(a) Chapter 138, Article X, Division 3 shall address undesirable trees/plant species within the unincorporated areas within the County.

(b) The protection standards in this chapter shall not apply to undesirable trees/plants as defined by this code. However, a no-cost permit may be required to remove said species.

Sec. 166-54. - Removal of trees from public right-of-way.

No trees shall be removed from a public right-of-way under the management of the county without a valid permit or the county administrator's authorization.

Sec. 166-55. – Reserved.

Sec. 166-56. - Vegetation installation and maintenance.

(a) All vegetation planted in conformance with this article shall be installed in acceptance with good planting procedures as prescribed by the American Society of Landscape Architects, or other professional horticultural and arboricultural association.

(b) Landscape or replant trees and other required plant material shall be maintained in healthy growing condition or shall be promptly replaced within 30 days.

(c) Inappropriate pruning or maintenance practices of required plant materials that result in stunted, abnormal, or other unreasonable deviation from their normal healthy growth shall be considered as the destruction of these materials and replacement may be required as described in this section.

Sec. 166-57. - Tree bank fund.

(a) Creation; purpose. There is hereby created the county tree bank fund for the purpose of:

(1) Acquiring, protecting, and maintaining native vegetative communities in the county;

(2) Acquiring, protecting, and maintaining land for the placement of trees acquired pursuant to this section;

(3) Purchasing vegetation for placement on public properties in the county and their maintenance; and

(4) Mitigating the impact of any damage from violations of this article.

(b) Maintenance of fund. Moneys of the tree bank fund may be used as a matching fund contribution towards the acquisition of native vegetative communities in the county in association with other public land acquisition programs and/or the management of

environmental lands. Such tree bank fund shall be kept, maintained and identified by the board of county commissioners solely for the purposes set forth in this section.

(c) Source of moneys. The tree bank fund shall consist of the following moneys:

(1) All moneys collected by the county administrator pursuant to the provisions of this article which are obtained through civil action and consent agreements.

(2) All moneys offered to and accepted by the county for the tree bank fund in the form of federal, state, or other governmental grants, allocations or appropriations, as well as foundation or private grants and donations.

(3) Contributions in lieu of, or in conjunction with, the replacement planting provisions of section 166-84. The county administrator shall collect funds designated for the tree bank fund when the replacement planting requirements of section 166-84 cannot be met.

(4) All county revenue generated from tree thinning or other ecologically beneficial tree removal activities occurring within Pinellas County.

(d) Interest. Unless otherwise restricted by the terms and conditions of a particular grant, gift, appropriation or allocation, all interest earned by the investment of all moneys in the tree bank fund shall accrue to the fund and shall be disbursed for any project authorized consistent with this section. Tree bank fund moneys shall be invested only in accordance with the laws pertaining to the investment of county funds.

(e) Effect on permitting. Decisions to grant or deny permits provided for by this article shall be made without consideration of the existence of the tree bank fund or offers of donations of moneys thereto.

Secs. 166-58—166-80. - Reserved.

DIVISION 2. – PERMITS.

Sec. 166-81. - General permit/application provisions.

(a) A permit is required for the following activities on developed or undeveloped property:

(1) to remove or relocate a protected tree as defined in Chapter 138, Article X, Division 3 and specifically Section 138-3654;

(2) to remove vegetation in an upland buffer or upland preservation area;

(3) to perform preliminary land clearing or grubbing;

(4) to remove, trim or prune wetlands, specimen tree(s),

(5) to remove/alter specimen tree stand(s) or historic tree(s); or

(6) to conduct any activity which may have a detrimental effect on protected vegetation as defined under the provisions of this article.

(7) to trim or prune mangroves as required with Sec 58-605

(b) Permits and applications shall be reviewed and processed pursuant to Chapter 138, Article II, Division 3.

Sec. 166-82. - Specific permit application provisions.

(a) Required landscaping and trees. Chapter 138, Article X, Division 3 establishes the required landscaping and tree standards for site development and property maintenance; the provisions of Chapter 138, Article X, Division 3 shall apply in addition to this article.

(b) Preliminary land clearing and grubbing. Upon application, review and issuance of a permit, preliminary land clearing and grubbing shall be permitted within designated road

rights-of-way, drainage and other utility areas as depicted on a site plan, as required pursuant to chapter 138 Article II, Division 5. The decision-making authority must have no objection to the issuance of such permits and must require no revisions or alterations to the site plan which would change the size or location of buildings, parking, utility lines, topographic elevations, and other relevant elements which could result in substantial changes to the remaining protected vegetation.

(c) Wetland vegetation. All mangroves and other wetlands, regardless of size, are recognized to be of special ecological value. No wetland vegetation shall be removed, trimmed, pruned, chemically treated, filled upon or altered without a permit or exemption. Guidelines for trimming or pruning of mangroves shall be available from the County.

(1) Where wetlands are approved for removal by a permit which was issued by the county water and navigation control authority, a permit under the provisions of this article pertaining to those wetlands shall not be required. However, wetlands removal not authorized by the water and navigation control authority permit, and otherwise subject to the county's jurisdiction, shall be subject to enforcement action under the provisions of this article.

(2) Due to the vegetative characteristics of these plant communities, wetlands will be exempted from the tree survey requirements, except that they shall be designated by name and their boundary surveyed.

(3) Applicants must provide compensation for all regulated wetland impacts and must demonstrate that the proposed compensation measures are consistent with the county's intent to protect and manage fish, wildlife and hydrologic features. All compensation required shall provide for equivalent habitat value to the wetland system destroyed.

(d) Historic/Specimen trees. It shall be unlawful to remove, trim, prune or alter a specimen tree, specimen tree stand or historic tree (as defined in this article) except as allowed in Chapter 138, Article X, Division 3.

Sec. 166-83. - Applications.

(a) Procedure. Applications for permits may be reviewed as a Type 1 review pursuant to Chapter 138, Article II. An application for a permit under this article shall be made by filing a written permit application with the County and paying such fee as is established by the board of county commissioners as necessary to cover the costs of processing the application.

(b) The following information may be required as part of the permit application in order to conduct a thorough review and finding:

(1) The shape and dimensions of the lot or parcel, together with the existing and proposed locations of structures and improvements, if any.

(2) If existing trees are to be transplanted, the proposed new location for such trees, together with a statement as to how such trees are to be protected during land clearing and construction.

(3) A statement and drawing showing how vegetation not proposed for removal or relocation is to be protected during land clearing and construction, i.e., a diagram and notation of a protective barrier as defined in this article.

(4) Locations and dimensions of all setbacks and easements required by chapter 138.

(5) A topographical survey sealed by a registered engineer or surveyor indicating grade changes proposed for the site, except when the grade changes are limited to beneath the floor area of the dwelling unit.

(6) The location of all trees, historic trees, specimen trees, specimen tree stands, wetlands, native vegetative communities, buffers or upland preservation areas which are on or within ten feet of the site being developed. Vegetation proposed to remain, to be transplanted or to be removed shall be identified. Areas designated as preservation on the comprehensive land use plan which are within 50 feet of the site must also be shown where applicable.

(7) All proposed replants of trees or other vegetation, by species and size, along with the type of ground cover to be installed.

(c) Additional application requirements for site plans. Development projects and land use activity that require a site plan as determined by Chapter 138, Article II, Division 5, shall provide the plan sheets as defined by said division. This shall include a tabulation of existing protected vegetation, proposed vegetation to be impacted, and proposed replacement vegetation.

(d) Application information waiver. In the event that there are no trees or vegetation located on or within ten feet of preservation areas within 50 feet of the site to be developed which are required to be protected under the provisions of this article, the applicant shall so state in his application for a permit.

(e) Permit/application evaluation criteria. The county administrator or designee shall consider the potential for significant adverse impacts in the following areas on the urban and natural environment in granting a permit and meeting the other provisions of this article:

(1) Groundwater and surface water stabilization: Whether the removal of trees or other protected vegetation will substantially alter the water table adversely or water assimilation and transpiration by vegetation or the interception of solar radiation as it affects the evaporation potential of associated soils and bodies of water.

(2) Water quality and/or aquifer recharge: Whether the removal of trees or other protected vegetation will lessen the ability for the natural assimilation of nutrients, chemical pollutants, heavy metals, silt and other noxious substances from groundwaters and surface waters.

(3) Ecological impacts: Whether the removal of trees or other protected vegetation will have an adverse impact upon existing biological and ecological systems, microclimatic conditions which directly affect these systems, or whether such removals will create conditions which may adversely affect the interrelationships of ecological systems.

(4) Noise pollution: Whether the removal of trees or other protected vegetation will significantly increase ambient noise levels to the degree that a nuisance is anticipated to occur or that a violation of chapter 58, article XII is anticipated to occur.

(5) Air movement: Whether the removal of trees or other protected vegetation will significantly reduce the ability of the remaining vegetation to reduce wind velocities to the degree that a nuisance is anticipated to occur.

(6) Air quality: Whether the removal of trees or other protected vegetation will significantly affect the natural cleaning of the atmosphere by vegetation through particulate matter interception or the release of oxygen to the atmosphere as a byproduct of photosynthesis.

(7) Wildlife habitat: Whether the removal of trees or other protected vegetation will significantly reduce available habitat for wildlife existence and reproduction, or result in the emigration of wildlife from adjacent or associated ecosystems.

(8) Aesthetic degradation: Whether the removal of trees or other protected vegetation will have an adverse effect on property values in the neighborhood where the applicant's property is located and other existing vegetation in the vicinity.

(9) Endangered, threatened and species of special concern: Whether the removal of trees or other protected vegetation will significantly affect endangered, threatened, or species of special concern when reasonable scientific judgment indicates that the trees or vegetation provide a function including but not limited to nesting, reproduction, critical food source, critical habitat or cover for such species or whether the vegetation itself is endangered, threatened, or a species of special concern.

(10) Soil stabilization: Whether the removal of trees or other protected vegetation will result in uncontrollable erosion of soils into surface waters, or adjacent properties.

(f) Exceptions: The above evaluation criteria may be waived by the county administrator if one or more of the following conditions exist:,

(1) The vegetation is located in an area where a structure or improvements may be placed according to an approved site plan and to preserve the vegetation would unreasonably restrict the economic enjoyment of the property or the site is recognized as a redevelopment or infill site;

(2) The vegetation is diseased, injured, too close to existing or proposed structures, interferes with existing utility service, creates unsafe vision clearance, or conflicts with other ordinances or regulations; or

(3) It is in the welfare of the general public or citizens that the vegetation be removed for a reasons other than set forth above.

(g) Permit/application denial. The county administrator or designee, upon a determination that an application for a permit under this article is to be denied, shall state the basis for such denial specifically and shall notify the applicant of the criteria outlined in subsections (e) and (f) of this section upon which such denial is predicated.

Sec. 166-84. - Permit conditions.

(a) Conditions. The decision making authority may assign special conditions to any approved permits based on the findings of the evaluation criteria in Section 166.83. The following standards may apply.

(b) Special design criteria. As a condition of granting a permit, the applicant may be required to provide special construction techniques and designs to increase oxygen exchange and water and nutrient availability to a tree such as but not limited to tree wells, turf or paving block, aeration systems and stem walls.

(c) Tree donation. Where a tree is to be removed under the provisions of this article, the county shall have the option, with the owner's permission, of relocating the tree at the county's expense and at no liability to the owner to county-owned property for replanting, either for permanent utilization at a new location or for future use at other county property. Such relocation shall be accomplished in accordance with a schedule agreed upon by all parties. If the county does not elect to relocate any such tree, it may give to any city within the county the right to acquire any such tree at the city's expense and at no liability to the owner for relocation within the city's incorporated area for public use.

(d) Erosion control. Silt barriers, hay bales, or similar erosion control barriers will be required in any area where erosion or siltation may cause protected vegetation to be damaged.

Sec. 166-85. - Reserved.

Sec. 166-86. - Expiration.

Permits under this article shall be declared expired if commencement of work so permitted is not started within 90 days. In no case will the permit remain valid unless construction activity is continuous and uninterrupted for no more than 60 days. Permits not used within this period will expire, and future work will require a new application and permit. Permit extensions may be granted at the County's discretion based on wildlife activity, extreme weather, natural disaster, declared emergencies or similar circumstances.

Sec. 166-87. - Revocation.

(a) The county administrator or designee may revoke any permit issued pursuant to this article for fraud, misrepresentation or violation of conditions imposed pursuant to the permit, or other good cause. In the event the county administrator chooses to revoke a permit, written notice of the intent of the county administrator to revoke such permit shall be provided to the applicant, setting forth the specific reasons for the revocation. The applicant shall have the right to appear before the county administrator at a time and date specified in such notice to show cause why the permit issued to the applicant should not be revoked.

(b) If the county administrator or designee determines to revoke a permit issued pursuant to this article, after the notice procedure as provided in subsection (a) of this section, the applicant shall immediately cease all exterior work on the site. The applicant shall have the right to appear before the board of county commissioners, in accordance with section 166-40, to show cause why the permit issued to the applicant should be reinstated.

Sec. 166-88. - Cease and desist orders.

The county administrator or designee may issue a cease and desist order for any permit issued pursuant to this article for fraud, misrepresentation, or violation of conditions imposed pursuant to the permit, or other good cause, or for any site where work has commenced and a permit has not been obtained but is required pursuant to this article. Any person receiving such an order for cessation of operations shall immediately comply with the requirements thereof. It shall be a violation of this article for any person to fail to or refuse to comply with a cease and desist order issued and served under the provisions of this section.

Secs. 166-89—166-110. - Reserved.

ARTICLE III. - RESERVED.

Secs. 166-111—166-160. - Reserved.

ARTICLE IV. - WELLHEAD PROTECTION.

Sec. 166-161. - Definitions.

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

Aquifer means a groundwater bearing geologic formation, or formations, that contains enough saturated permeable material to yield a minimum of 100 gallons per minute quantities of water.

Classification of groundwater, usage, reclassification. All groundwater of the county is classified by the board of county commissioners according to designated uses as follows:

(1) *Class G-1:* Potable water use, groundwater in aquifers which has a total dissolved solids content of less than 3,000 mg/l in an unconfined or leaky confined aquifer and is restricted to zones of protection around major public community drinking water supplies, and has been classified as G-1 by the board of county commissioners.

(2) *Class G-II:* Potable water use, groundwater in aquifers which has a total dissolved solids content of less than 10,000 mg/l, unless otherwise classified by the board.

(3) *Class G-III:* Nonpotable water use, groundwater in unconfined aquifers which has a total dissolved solids content of 10,000 mg/l or greater, or which has total dissolved solids of 3,000—10,000 mg/l and which has been classified by the board as having no reasonable potential as a future source of drinking water, or has been designated by the county water system as an exempted aquifer using the standards contained in section 17-28.130(C), Florida Administrative Code (F.A.C.).

(4) *Class G-IV:* Nonpotable water use, groundwater in confined aquifers which has a total dissolved solids content of 10,000 mg/l or greater.

Closure permit means that permit required by activities which must cease operation pursuant to the provisions of section 166-165 of this article, the criteria for which are set forth under section 166-166 of this article.

Completed application means an application which includes all materials and documents which are necessary to support the application and which has been accepted as complete by the county water system.

County administrator means the county administrator of Pinellas County or the administrator's designee.

Designated public utility means that public utility which has been designated by federal, state, regional or local law, regulation, resolution, rule, ordinance or requirement as having jurisdiction to provide potable water or residential wastewater service to the property on which the nonresidential activity is located.

Discharge to groundwater means treated or untreated wastewater, stormwater leachate, leachate from a solid waste facility, or leaked product generated by the construction or operation of an installation and discharging directly or indirectly to groundwater.

Emergency hazardous situation means a situation which exists whenever there is an immediate and substantial danger to human health, safety, or welfare or to the environment.

EPA means the United States Environmental Protection Agency.

Facility means main structures, accessory structures and activities which store, handle, use or produce regulated substances. Where contiguous facilities exist and such facilities are separate in the nature of the businesses, they shall remain separate under this article.

FDEP means the Florida Department of Environmental Protection.

Generic substance list means those general categories of substances set forth in appendix A to Ordinance No. 90-2 and incorporated herein by reference. This list is equivalent to the regulated substances.

Groundwater means water that fills all the unblocked voids of underlying material below the ground surface, which is the upper limit of saturation, or water which is held in the unsaturated zone by capillarity.

Laboratory means a designated area or areas used for testing, research, experimentation, quality control, or prototype construction, but not used for repair or maintenance activities (excluding laboratory equipment), the manufacturing of products for sale, or pilot plant testing.

Major public community drinking water supply means those community water systems as defined in section 17-550.200(7), F.A.C., that are permitted by consumptive use permit to withdraw an average daily amount of 100,000 gallons or greater of groundwater.

New discharge means, for the purpose of the zone of protection, a discharge from a new installation, or a discharge for which a permit is required which is significantly different and causing a negative impact on groundwater, from the permit conditions as of the effective date of the zone of protection classification for the chemical, microbiological, physical quality, quantity, or point of discharge.

New installation means, for the purpose of the zone of protection, facilities located in areas receiving protection through classification by the board of county commissioners within the zone of protection that have neither filed a complete permit application nor received an appropriate permit prior to the effective date of classification.

Nonresidential activity means any activity which occurs in any building, structure or open area which is not used primarily as a private residence or dwelling.

Open interval of a well means the uncased or screened length of the well within the saturated zone of an aquifer.

Operating permit means the permit required of certain activities under section 166-165 to operate, the criteria for which are set forth under section 166-166.

Person means any natural person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer, owner, lessee, tenant or any other entity whatsoever or any combination of such, jointly or severally.

Potable water means water that is intended for drinking, culinary or domestic purposes, subject to compliance with county, state or federal drinking water standards.

Public utility means any privately owned, municipally owned, county-owned, special district-owned, or state-owned system providing water or resident wastewater service to the public which has at least 15 service connections or regularly serves at least 25 individuals daily for at least 60 days of the year.

Regulated substances means those deleterious substances, contaminants, priority pollutants (in accordance with chapter 17-22, F.A.C.), and potable water quality primary and secondary standards parameters (in accordance with chapter 3, part 4, F.A.C., and appendices A and E), which, because of quality, concentration, or physical, chemical, including ignitability, corrosivity, reactiveness, synergistic, and toxicity; or infectious characteristics, radioactivity, mutagenicity, carcinogenicity, teratogenicity, bioaccumulative effect, persistence, or nondegradability in nature, or any other characteristic, may cause significant harm to human health and the environment, including surface water and groundwater, plants, and animals.

Spill means the unpermitted release or escape of a regulated substance directly or indirectly to soils, surface waters or groundwaters.

Underground facilities for transportation of wastewater of industrial chemical products means underground facilities for transportation of waste effluent of industrial chemical products, including piping, sewer lines, and ducts or other conveyances designed to transport industrial pollutants as defined in F.S. § 376.301(12), and contaminants as defined in F.S. § 403.031(1).

Underground storage facility means and includes any enclosed structure, container, tank or other enclosed stationary devices used for storage or containment of pollutants as defined in F.S. § 376.301(18) or any contaminant as defined in F.S. § 403.031(1). Nothing in this definition is intended to include septic tanks, enclosed transformers or other similar enclosed underground facilities.

Utility means a public utility (power company or telephone company) which serves the general public.

Variance means a grant of relief to a person or entity from the requirements of this article, which permits construction in a manner otherwise prohibited by this article where specific enforcement would result in inequitable hardship. The county administrator shall have the authority to grant variances.

Water table means the surface between the vadose zone and the groundwater, that surface of a body of unconfined groundwater at which the pressure is equal to that of the atmosphere.

Well means a pit or hole sunk into the earth to reach a resource of potable supply, such as water, to be used for domestic purposes by municipalities. Irrigation wells and privately owned wells for domestic consumption are not included in the scope of this article.

Wellfield means an area of land which contains more than one well for obtaining water.

Zone of protection means the total area contributing water to a well under a given set of circumstances. This area changes over time in response to changes in the water table or potentiometric surface, well pumpage, and other withdrawals in the vicinity. It is determined by the construction of a flow net, based on potentiometric surface contours.

Zone of protection map means the map at the scale determined by the county administrator showing the location on the ground of the outer limits of the zone of protection for present and future public potable water supply wells and wellfields of 100,000 gallons per day or more. This zone is described in section 166-164.

Sec. 166-162. - Authority.

(a) This article is adopted in compliance with, and pursuant to, the local government comprehensive planning and land development regulation act, F.S. § 163.3161 et seq. This article is adopted pursuant to the constitutional and home rule powers of article VIII, Florida Constitution, F.S. ch. 125, and article II of the Pinellas County Home Rule Charter.

(b) All provisions of this article shall be effective within the incorporated and unincorporated areas of the county, as delineated by a zone of protection map, and shall set restrictions, constraints and prohibitions to protect present and future public potable water supply wells and wellfields from degradation by contamination from regulated substances.

Sec. 166-163. - Purpose and intent.

(a) In order to properly protect existing and future potable water supply sources within the zone of protection area, the board of county commissioners declares that the storage, handling, use, disposal, or production of hazardous or toxic substances in close proximity to public potable water supply wells is potentially harmful to the drinking water of the

county, and that certain land uses and activities involving regulated or generic substances are hereby prohibited or regulated within the defined zone of protection area.

Therefore, the intent of this article is to protect and safeguard the health, safety, and welfare of the residents and visitors of the county by providing criteria for regulating and prohibiting the use, handling, production, disposal, and storage of certain regulated substances which may impair present and future public potable water supply wells and wellfields.

It is the intent of the board of county commissioners to augment the policies within the adopted comprehensive plan that protect the wells and wellfields through land use controls and environmental regulations. It is essential to protect the environmentally sensitive area adjacent to wells and wellfields from disruption and encroachment in order to preserve vital natural functions relating to water quality, water quantity and other elements of aquatic ecosystems.

(b) It is the intent of the county to enter into interlocal agreements with Pasco County and Hillsborough County to exercise jointly any power, privilege or authority to protect from degradation all potable water wells within the zone of protection. The agreements shall be construed as accomplishing a joint use of powers subject to the terms and conditions stated in this article, in addition to any ordinance and regulations of Pasco County and/or Hillsborough County if the development proposal lies within their jurisdiction.

The agreement shall at a minimum include provisions for administration and enforcement of label development regulations within any area of the zone of protection and shall be undertaken by the jurisdiction within whose boundaries that area is located. With respect to the issuance of any development order or development permit within the zone of protection, the nonjurisdictional counties shall receive notice prior to any decision or determination on an application for development with adequate time for the nonjurisdictional counties to review and comment on the development permit application.

(c) The generic substance list attached to Ordinance No. 90-2 and incorporated in this article as appendix A is provided for informational and regulatory purposes and may be amended from time to time by the board of county commissioners. Persons using, handling, producing or storing a substance on the generic list may be using, handling, producing or storing a regulated substance as defined by this article. Persons unsure as to whether they are subject to this article may wish to consult with the county water system.

Sec. 166-164. - Maps delineating zone of protection.

(a) The zone of protection maps developed as described in subsection (b) are incorporated herein and made a part of this article. These maps shall be on file and maintained by the county administrator's designated departments. Any amendments, additions or deletions to such maps shall be approved by amendment to this article pursuant to the provisions established by F.S. § 125.66(5).

(b) The zone of protection map is developed by the following procedure:

(1) The historic water level data is obtained for each of the U.S. Geological Survey and county water system Floridan monitor wells shown on the zone of protection map and listed in appendix I.

(2) The average water level is calculated for each well for the period of record available for each well.

(3) Potentiometric surface contours are then constructed based on these average water levels.

(4) A flow net is then constructed across the potentiometric contours by constructing flow lines perpendicular to potentiometric contours.

(5) The zone of protection is delineated by extending a line along the convergence of those flow lines that enter the wells or wellfields (flow lines converge in areas of discharge and diverge in areas of recharge).

(6) As additional Floridan monitor wells are constructed in the map area, this additional water level data will be incorporated into the zone of protection map. Accumulated annual water level data may be evaluated annually and adjustments to the zone of protection will be made as the data dictates.

(7) Measurement of the zone around a wellfield will be established for the entire wellfield by calculating the zone of protection for the wellfield as a whole. In the case of unclustered wells, individual zones of protection around each well will be calculated.

(8) Rebuttable presumption: Affected parties wanting to challenge the county's determination of the zone of protection may do so during the public hearings by generating more precise site-specific data concerning potentiometric levels that would allow more accurate calculations of the zone.

(9) The county administrator may change the zone of protection based on reconfiguration of a wellhead or wellfield, changes in open interval, proper abandonment of a well pursuant to rule 17-522, F.A.C., or permitted increase in the permitted average daily pumping rate. Such changes in the zone of protection shall follow the requirements as described in subsection (c) of this section. The zone of protection may be established for newly approved/permitted well(s) or wellfield(s), after the appropriate hydrogeologic testing and impact analyses have been performed in accordance with Southwest Florida Water Management District permitting consumptive use from the wells or wellfields.

(c) The zone of protection maps may be reviewed at least on an annual basis. However, failure to conduct such review shall not affect the validity of the existing approved map. The basis for updating such map may include, but is not limited to, the following:

(1) Changes in the technical knowledge concerning the applicable aquifer.

(2) Changes in pumping rates of wellfields.

(3) Wellfield reconfiguration.

(4) Designation of new wellfields.

(d) In determining the location of properties and facilities within the zones depicted on the zone of protection map, the following rules shall apply:

(1) Properties located partially within the zone of protection reflected on the applicable zone of protection maps shall be governed by the restrictions applicable to that zone.

(2) Where a zone of protection contour passes through a facility, the entire facility shall be considered to be in the more restrictive zone.

(e) The legal description of the area of the county zone of protection is as follows:

Commence at the intersection of the centerline at East Lake Road (C.R. 77) and the northern boundary line of Pinellas County; thence run easterly along said northern boundary line of Pinellas County to its intersection with the eastern boundary line of Pinellas County; thence run southerly along said eastern boundary line of Pinellas County to its intersection with the easterly extension of the Florida Power Corporation right-of-

way, said intersection being 1290'+ north of the southeast corner of Section 12, Township 28 South, Range 16 East; thence westerly along the easterly extension of the centerline and the centerline of said Florida Power Corporation right-of-way to its intersection with the centerline of Tampa Road (S.R. 584); thence northwesterly along the centerline of Tampa Road (S.R. 584) to its intersection with the centerline of the aforementioned East Lake Road (C.R. 77); thence northerly along the centerline of East Lake Road (C.R. 77) to the point of beginning.

Sec. 166-165. - Conditions of permitting, planning, and zoning within zone of protection.

(a) The use, handling, production, disposal, and storage of regulated substances associated with nonresidential activities is prohibited in the zone of protection, except as provided under the general exemptions and special exemptions provisions of this article (sections 166-170 and 166-171). All existing nonresidential activities within the zone of protection which store, handle, use, dispose of, or produce any regulated substance are prohibited from doing so unless they qualify as a general exemption, obtain a special exemption, or receive an operating permit from the county administrator. The owners or operators of such activities within the zone of protection shall be notified in writing, by certified mail, or hand delivery, within 90 days of the effective date of this article, as to the requirements to cease the use, handling, storage, disposal, and production of regulated substances. All existing nonresidential activities within the zone of protection which store, use, handle, or produce regulated substances shall file an application for an operating permit, or an operating permit with a general exemption application, or an operating permit with special exemption application, or a closure permit, within 90 days of receipt of notice from the county administrator. Such permit application shall be prepared and signed by a professional registered engineer and a geologist certified in the state, or either if the applicant can demonstrate to the county administrator that conditions will only require an engineer or a geologist. Within 30 days of receipt of such notice, the owner or operator shall file with the county administrator proof of retention of such engineer and geologist, or submit to the county administrator a written notice to obtain either an engineer or geologist.

(b) Any nonresidential activity in the zone of protection which is allowed to continue or commence in accordance with the general exemptions or special exemptions set forth in sections 166-170 and 166-171 shall obtain an operating permit which shall indicate the special conditions to be instituted and the dates on which such conditions shall be instituted. No expansions, modifications or alterations which would increase the storage, handling, use or production of regulated substances shall be permitted in the zone of protection. An owner or operator that is denied a special exemption shall be issued a closure permit as part of the denial process. Any operating permit required in this article shall be filed with the applications for general exemption or special exemption.

(c) All new nonresidential discharges, new nonresidential activities, and installations shall be prohibited subject to conditions including but not limited to the following:

(1) No nonresidential installation shall discharge into groundwater, either directly or indirectly, any contaminant that causes a violation in the water quality standards and criteria for the receiving groundwater as established in chapter 17-3, part IV, F.A.C.

(2) Discharges through natural or manmade conduits, such as wells and sinkholes, that allow direct contact with class G-1 and class G-2 groundwater are prohibited, except for projects designed to recharge aquifers with surface water of comparable quality, or projects designed to transfer water across or between aquifers of comparable quality for the purpose of storage or conservation, or residential stormwater discharging through wet retention/detention ponds.

(3) Industrial stormwater discharges to retention/detention ponds are prohibited.

(4) New discharge to groundwater of industrial waste that contains hazardous constituents listed in the department of environmental protection's publication, G-1, Modified Hazardous Constituents List (December 1, 1986), which is hereby adopted and incorporated by reference, shall be prohibited.

(5) There will be no new industrial land use zoning within the zone of protection.

(6) Construction and operation of new sanitary landfills as defined by applicable state rules shall be prohibited. Operation of all existing sanitary landfills will be terminated within one year and a permanent leachate monitoring system installed to monitor movement of leachate.

(7) Commercial or industrial septic tank disposal systems are prohibited in the zone of protection.

(8) Construction of interstate highway system is prohibited for construction within one-half mile of public supply wells, unless stormwater drainage is collected and piped beyond the half-mile radius of the wellhead. There will be no stormwater retention within this half-mile radius around the zone of the wellhead.

(d) New and existing nonresidential discharge to groundwater within the zone of protection shall comply with the primary and secondary standards at the end of the discharge pipe. Additionally, more stringent monitoring requirements than the existing state law may be implemented. More stringent monitoring requirements may include increased monitoring frequency, increased number of parameters, or increased number of monitoring wells. Such determinations will be made by the county on a case-by-case basis by considering soil conditions, quality and volume of the waste stream, and the point of discharge.

(1) Stormwater discharge within the zone of protection: Direct and indirect discharge from new stormwater facilities serving an area ten acres or larger with a 40 percent impervious surface excluding building tops shall be required to monitor the discharge to groundwater according to section 17-28.700(6), F.A.C. Such facilities may be required to implement more stringent monitoring requirements which may include increased monitoring frequency, increased number of parameters, or increased number of wells. Such determination will be made by the county administrator on a case-by-case basis by considering soil conditions, quality and volume of the waste stream, and the point of discharge.

(2) Commercial stormwater runoff will be required to have a double pond detention/retention system for new facilities. The first pond will be off line and lined to prevent leakage and be designed to hold the first inch of runoff. Sludge from the first pond will be disposed of in accordance with FDEP rules and regulations. The second retention pond will accept overflow from the detention pond. Existing facilities will be required to obtain an operating permit and perform groundwater quality monitoring for groundwater pollution.

Variance. In order to authorize any variance to the stormwater runoff requirements of this subsection (d)(2), the county administrator shall consider the following criteria:

a. *Special conditions:* That special conditions and circumstances exist which are peculiar to the land, structure, or building involved, including the nature of and to what extent these special conditions and circumstances may exist as direct results from actions by the applicant.

b. *No special privilege:* That granting the variance requested will not confer on the applicant any special privilege that is denied by this article to other similar lands, buildings, or structures in the zone of protection.

c. *Unnecessary hardship:* That literal interpretation of the provisions of this article would deprive the applicant of rights commonly enjoyed by other properties under the terms of this article.

d. *Minimum variance necessary:* That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.

e. *Purpose and intent compliance:* That the grant of the variance will be in harmony with the general intent, purpose, and spirit of this article, and with the comprehensive plan adopted pursuant to state law.

f. *No detriment to public welfare:* That such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

g. *Establishing conditions or safeguards:* That in granting any variance, the county administrator may prescribe appropriate conditions and safeguards to ensure proper compliance with the general spirit, purpose, and intent of this article. Noncompliance with such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this article.

h. *Expiration:* All variances granted by the County Administrator shall be deemed to automatically expire in the event a structure or use of land which is the subject of the variance has been discontinued.

(3) New underground storage facilities within the zone of protection shall meet the following requirements:

a. Double-walled tank and piping with a continuous leak detection system in between the walls; or

b. An impervious secondary containment having monitoring well(s) or detector located therein; and

c. For each of the above options, it is required that the facility install, maintain, and monitor a groundwater program approved by the County.

(4) Existing underground storage facilities within the zone of protection not meeting the construction retrofit requirements of chapter 17-61, F.A.C., on the effective date of aquifer classification as class G-1 by the Board of County Commissioners shall be retrofitted in accordance with chapter 17-61, F.A.C., and shall also meet the requirements for new facilities under subsection (d)(3) of this section.

(5) Existing underground storage facilities within the zone of protection meeting the construction retrofit requirements of chapter 17-61, F.A.C., on the effective date of aquifer classification within the zone of protection by the Board of County Commissioners are exempt from the requirements above, with the exception of being required to increase their groundwater monitoring programs. Nothing herein shall be construed to relieve facilities subject to chapter 17-61, F.A.C., requirements from complying with the requirements of that chapter.

(6) New underground facilities for transportation of domestic raw wastewater within the zone of protection shall be constructed not to allow leakage of more than 25 gallons per inch of pipe diameter per mile per day into the soil or groundwater. These facilities, however, shall not cause violations of groundwater quality standards (as referenced in applicable state rules).

(7) New underground facilities for transportation of chemical products within the zone of protection shall be constructed to ensure no leakage into the soil or groundwater.

(8) Discharge to groundwater from the state department of environmental protection approved remedial corrective actions for contaminated sites located within the zone of protection shall not be subject to the G-1 discharge criteria.

(9) New discharge to groundwater of treated domestic waste effluent meeting domestic wastewater plant class I reliability; daily monitoring to assure proper treatment plant process control; and 24-hour-a-day attendance by a wastewater operator as required by chapter 17-16, F.A.C., and under the general supervision of a class A certified wastewater operator, shall be allowed to operate provided that the discharge from such plant shall meet the groundwater criteria as specified in section 17-520.420, F.A.C., prior to contact with groundwater (end of pipe). Treated domestic waste effluent discharge employing land application shall be restricted to slow-rate infiltration methods. At no time will an effluent disposal area be within 500 feet of potable supply wells.

(10) New single-family residential septic tanks will be exempt from this article, provided they meet the minimum criteria of one unit per two acres.

(e) A notice to cease, or a permit or an exemption issued under this article shall not relieve the owner or operator of the obligation to comply with any other applicable federal, state, regional or local regulation, rule, ordinance or requirement, nor shall such notice, permit, or exemption relieve any owner or operator of any liability for violation of such regulations, rules, ordinances or requirements.

Sec. 166-166. - Permits.

(a) *Compliance with article required.* The permit conditions shall ensure compliance with all the prohibitions, restrictions, and requirements as set forth in this article. Such conditions may include, but are not limited to, monitoring wells, periodic groundwater analysis reports, and compliance schedules. Such conditions may also include requirements in a closure permit to reduce the risk in the interim of contamination of the groundwaters, taking into account cost, likely effectiveness and degree of risk to the groundwater.

(b) Requirements for issuance of other permits:

(1) No site plan approval, building permit, or certificate of occupancy for any nonresidential activity shall be issued by the County or any city located within the County that would allow development or construction in the zone of protection, that is contrary to the restrictions and provisions provided in this article. Permits issued in violation of this section confirm no right or privilege on the grantee.

(2) The requirements and provisions of this article shall apply immediately on February 17, 1990, to all new nonresidential activities.

(3) An existing activity is one for which a building permit had been issued by the appropriate jurisdiction prior to February 17, 1990, and which had not expired on or before February 17, 1990, or for which a completed building permit application had been filed and accepted with the appropriate jurisdiction prior to February 17, 1990. All other activities shall be deemed new.

(4) Any application for a nonresidential or residential development greater than 25 units for a site plan approval, building permit or nonresidential development subject to review by an advisory planning body and approval by the local governing authority or Zoning Board of Appeals that includes property wholly or partially within the zone of protection of a wellfield shall include the following:

a. Notification by the local governing authority of the location of the property in the zone of protection and a notarized letter from the applicant admitting acceptance of notification; notification shall be prepared by the County

Administrator providing details of zones, prohibitions, and measures required for compliance; or

b. Any application submitted for site plan approval or certification of occupancy for any use within the zone of protection shall require certification by the County Administrator that the use meets the applicable requirements of this article.

(5) It shall be the duty of each local agency to screen all applications for the zone of protection site plans.

(6) The County Administrator shall provide a list to all local agencies of potentially prohibited operations in the zone of protection.

(7) Copies of building permits of residential activities larger than 25 units, all nonresidential projects, and all site plans, or nonresidential certificates of occupancy issued for the zone of protection shall be submitted to the County Administrator on a weekly basis.

(c) *Change of ownership.* In the event there is a change of ownership, a new lease, or an assignment of a lease, a sublease or any other change in regard to the person conducting the operation regulated, the County Administrator shall be notified by the property owner upon payment of the appropriate application fee and completion of processing of an application. In the event of leasing of space, the lessee will obtain the permit, but the property owner will be liable for the on-site activities relative to the conditions of the permit. The property owner will be notified by the County Administrator regarding the permit application or condition.

(d) Issuance, fees, inspections.

(1) An application which satisfied the requirements of the applicable zone of protection, section 166-165, and this section and, if applicable, section 166-164, shall be approved and a permit issued. In addition to the failure to satisfy these requirements, the County Administrator may deny a permit based on repeated violations of this article.

(2) An operating permit shall remain valid provided the permittee is in compliance with the terms and conditions of the permit.

(3) Permittees shall not be required to pay annual renewal fees until March 1, 1991. Beginning March 1, 1991, all current and future permittees are subject to an annual renewal license fee as adopted by the Board of County Commissioners.

(4) The County Administrator shall have the right to make inspections of facilities at reasonable times to determine compliance with this article.

(5) All of the facilities owned and/or operated by one person, when these structures and activities are located on contiguous parcels of property, even where there are intervening public or private roads, may be covered under one permit.

(e) Requirements and liabilities.

(1) Leakproof trays under containers, floor curbing or other containment systems to provide secondary liquid containment shall be installed. The containment shall be of adequate size and design (no less than 150 percent of container volume) to handle all spills, leaks, overflows, and precipitation until appropriate action can be taken. The specific design and selection of materials shall be sufficient to preclude any regulated substance loss to the external environment. Containment systems shall be sheltered so that the intrusion of precipitation is effectively prevented. The owner/operator may choose to provide adequate and appropriate liquid collection methods rather than sheltering only after approval of the design by the

County Administrator. These requirements shall apply to all areas of use, production, and handling, to all storage areas, to loading and off-loading areas, and to aboveground and underground storage areas. The containment devices and liquid collection systems shall be certified in the operating permit application by a professional engineer certified in the State.

(2) Vacuum suction devices, absorbent scavenger materials or other devices approved by the County Administrator shall be present on-site or available within four hours in the zone of protection 24 hours per day and seven days per week by contract with a cleanup company approved by the County Administrator, in sufficient magnitude so as to control and collect the total quantity of regulated substances present. To the degree feasible, emergency containers shall be present and of such capacity as to hold the total quantity of regulated substances plus absorbent material. The presence of such emergency collection devices shall be certified annually in the operating permit applications for existing activities. Such certification for new activities shall be provided to the County water system prior to the presence of regulated substances on the site. Certification shall be provided by a professional registered engineer certified in the State.

(3) An emergency plan shall be prepared and filed with the operating permit application indicating the procedures which will be followed in the event of spillage of a regulated substance so as to control and collect all such spilled material in such a manner as to prevent it from reaching any storm or sanitary drains or the ground.

(4) A responsible person designated by the permittee who stores, handles, uses or produces the regulated substances shall check, on every day of operation, for breakage or leakage or any container holding the regulated substances. Electronic sensing devices may be employed as part of the inspection process, if approved by the County Administrator, and provided the sensing system is checked daily for malfunctions. The manner of daily inspection shall not necessarily require physical inspection of each container provided the location of the containers can be inspected to a degree which reasonably assures the County Administrator that breakage or leakage can be de-tected by the inspection. Monitoring records shall be kept, submitted quarterly, and made available to the County Administrator within 24 hours, upon request. Quarterly, each facility will be inspected, its monitoring procedures reviewed, and quality water samples taken.

(5) Procedures shall be established for the quarterly in-house inspection and maintenance of containment and emergency equipment. Such procedures shall be in writing, a regular checklist and schedule of maintenance shall be established, and a log shall be kept of inspections and maintenance. Such logs and records shall be available for inspection by the County Administrator.

(6) Any spill of a regulated substance shall be reported by telephone to the County health unit and designated public utility within one hour, and the County Administrator within one hour of discovery of the spill. Cleanup shall commence immediately upon discovery of the spill. A full written report including the steps taken to contain and clean up the spill shall be submitted to the County Administrator within 15 days of discovery of the spill.

(7) The County water system will establish a schedule of raw water analysis if inspection of a facility indicates signs of contamination, in which case the County Administrator shall require a sampling schedule. The analysis shall be for all substances which are listed on the operating permit. The analytical reports shall be prepared by a state certified laboratory, certified for the applicable analyses. The analytical reports shall be reviewed by the County water system.

(8) Groundwater monitoring wells shall be provided at the expense of the permittee in a manner, number and location approved by the County Administrator as shown in appendix G, exhibit A. Except for existing wells found by the County Administrator to be adequate for this provision, the required well or wells shall be designed by a professional registered engineer or a state certified geologist, and installed by a state-licensed water well contractor under the supervision of a professional registered engineer or a state certified geologist. On completion of well construction, a report will be submitted by the geologist or engineer to the County Administrator detailing final well construction geology and a map of the facility showing well location. Quarterly, water quality samples shall be taken by a state certified laboratory during the quarterly inspection of each facility. Analytical reports prepared by a certified laboratory of the quantity present in each monitoring well of the regulated substances listed in the activity's operating permit shall be filed at least annually, or more frequently as determined by the County Administrator, based upon site conditions and operations.

(9) The County Administrator shall be notified in writing prior to the expansion, alteration or modification of a business or individual holding an operating permit. Such expansion, alteration, or modification may result from increased square footage of production or storage capacity, or increased quantities of regulated substances, or changes in types of regulated substances beyond those square footages, quantities, and types upon which the permit was issued. Excluded from notification prior to alteration or modification are changes in types of regulated substances used in a laboratory or laboratories designed as such in the currently valid permit and which are within the generic substances listed in such permit based upon the generic substance list incorporated in this article as exhibit A. Should a facility add new regulated substances, it shall notify the County Administrator on a quarterly basis of the types and quantities of such substances added and the location of the use, handling, storage, and production of such substances. Any such expansion, alteration or modification shall be in strict conformity with this article. Further, except as provided in this article, any existing operating permit shall be amended to reflect the introduction of any new regulated substances resulting from the change. However, the introduction of any new regulated substance shall not prevent the revocation or revision of any existing operating permit if, in the opinion of the County Administrator, such introduction substantially or materially modifies, alters or affects the conditions upon which the existing operating permit was granted or the ability to remain qualified as a general exemption, if applicable, or to continue to satisfy any conditions that have been imposed as part of a special exemption, if applicable. The County Administrator shall notify the permittee in writing within 60 days of receipt of the permittee's notice that the County Administrator proposes to revoke or revise the permit and stating the grounds therefor.

(10) Reconstruction of any portion of a structure or building in which there is any substance or facility subject to the provisions of this article which is damaged by fire, vandalism, flood, explosion, collapse, wind, war or other catastrophe shall be in strict conformity with this article.

(11) All existing nonresidential activities in the zone of protection which use, handle, store, dispose, or produce regulated substances shall file an application for an operating permit within 90 days or a closure permit, general exemption application or special exemption application within 90 days of the receipt of written notice from the County Administrator. Such permit application shall be prepared and signed by a professional registered engineer and a geologist certified in the State, or either at the option of the County Administrator if conditions dictate. Within 30

days of receipt of such notice, the owner or operator shall file with the County Administrator proof of retention of such engineer and geologist or submit to the County Administrator a written notice to obtain either an engineer or geologist, in accordance with FDEP statutes. If application is made for an operating permit, such a permit shall be issued or denied within 60 days of the filing of the completed application. If the application for an operating permit is denied, then the activity shall cease within one year of the denial and an application for a closure permit shall be filed within 120 days of the denial of the operating permit.

(f) *Operating permit applications.* Operating permit applications, as a minimum, shall provide the following information:

(1) A list of all regulated substances and substances on the generic substance list which are to be stored, handled, used, disposed of, or produced in the nonresidential activity being permitted, including their quantities.

(2) A detailed description of the nonresidential activities that involve the storage, handling, use, disposal, or production of the regulated substances indicating the unit quantities in which substances are contained or manipulated.

(3) A description of the containment, the emergency collection devices and containers and copy of the emergency plan that will be employed to comply with the restrictions required for the zone of protection.

(4) A description of the daily monitoring activities that have been or will be instituted to comply with the restrictions for the zone of protection.

(5) A description of the maintenance that will be provided for the containment facility, monitoring system, and emergency equipment required to comply with the restrictions of the zone of protection.

(6) A description of the groundwater monitoring wells, including the latitude and longitude, location map, construction design, geology log and water quality analysis that have been or will be installed and the arrangements made or which will be made for certified quarterly analyses for specified regulated substances in the zone of protection.

(7) Evidence of arrangements made with the appropriate designated public utility for sampling analysis of the raw water from the potable water well.

(8) An agreement to indemnify and hold the County harmless from any and all claims, liabilities, causes of action, or damages arising out of the issuance of the permit. The County shall provide reasonable notice to the permittee of any such claims.

(9) The application for the operating permit shall be filed with the County Administrator within 90 days of receipt of written notification from the County Administrator of the requirement for the facility to obtain an operating permit. In the event of verification of groundwater contamination at a facility within the zone of protection, the Board of County Commissioners will have the option of requiring the bond or letter of credit with a corporate surety in the amount required by appendix B, incorporated in this article, to ensure that:

a. The permittee will operate its nonresidential activities and/or closure of such nonresidential activities, as applicable, in accordance with the conditions and requirements of this article and permits issued under this article.

b. Before a bond or letter of credit is accepted by the County Administrator as being in compliance with this section, the bond or letter of credit shall be reviewed and approved by the County Insurance and Risk Management Department and the County Attorney's Office and shall be filed with the Clerk of the Board of County Commissioners. A corporate bond shall be

executed by a corporation authorized to do business in the State as a surety. A cash bond shall be deposited with the Clerk of the Board of County Commissioners, who shall give receipt therefor.

c. Any person subject to regulation under this article shall be liable with respect to regulated substances emanating on or from the person's property for all costs of removal or remedial action incurred by the County and damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction or loss resulting from the release or threatened release of a regulated substance as defined in this article. Such removal or remedial action by the County may include, but is not limited to, the prevention of further contamination of groundwater, monitoring, containment, and cleanup or disposal of regulated substances resulting from the spilling, leaking, pumping, pouring, emitting or dumping of any regulated substance or material which creates an emergency hazardous situation or is expected to create an emergency hazardous situation.

(g) *Closure permit applications.* Closure permit applications shall provide the following information:

(1) A schedule of events to complete the closure of a facility that does or did store, handle, use, dispose, or produce regulated substances. At a minimum, the following actions shall be addressed:

a. Disposition of all regulated substances and contaminated containers.

b. Cleanup of the activity and environs to preclude leaching of unacceptable levels or residual regulated substances into the aquifer.

c. Certification by a professional registered engineer or a geologist certified in the State that disposal and cleanup have been completed in a technically acceptable manner.

d. An appointment for an inspection by the County Administrator.

e. An agreement to indemnify and hold the County harmless from any and all claims, liabilities, causes of action, or damages arising out of the issuance of the permit. The County shall provide reasonable notice to the permittee of any such claims.

(2) The issue of well reconfiguration shall be evaluated by the County Administrator and the affected public utility as an alternative to a closure permit during the permit application process.

(3) The County water system shall be advised in writing of each closure permit application.

(h) Fee schedule.

(1) The fee for an operating permit under this article shall be as shown in appendix C, incorporated in this article. A late fee shall be charged if the application for a permit or renewal is late. The operating permit fee shall be used to defray the cost of monitoring compliance with this article.

(2) The fee for a closure permit under this article regulation shall be as shown in appendix C.

(3) The fee for a transfer of an operating permit or closure permit shall be in accordance with the fee schedule set out in appendix C to defray the cost of processing the transfer. Application for transfer permit is to be made within 60 days of transfer of ownership of the activity.

(4) The fee schedule may be revised from time to time by resolution of the Board of County Commissioners.

(i) Revocation or revision of permits, general exemption or special exemption.

(1) Any permit issued under the provisions of this article shall not become vested in the permittee. The County Administrator will revoke any permit by first issuing a written notice of intent to revoke by certified mail, return receipt requested, or hand delivery, if he finds that the permit holder:

a. Has failed or refused to comply with any of the provisions of this article, including but not limited to permit conditions and bond requirements in this article;

b. Has submitted false or inaccurate information in his application;

c. Has failed to submit operational reports or other information required by this article;

d. Has refused lawful inspection; or

e. Is subject to revocation.

(2) The County Administrator may revise any permit by first issuing a written notice of intent to revise, sent by certified mail, return receipt requested, or hand delivery.

(3) In addition to the provisions of subsections (i)(1) and (i)(2) of this section, within 30 days of any spill of a regulated substance in the zone of protection, the County Administrator shall consider revocation or revision of the permit or revise the bond amount. Upon such consideration the County Administrator may issue a notice of intent to revoke or revise which shall be subject to the provisions of section 166-169, or elect not to issue such notice. In consideration of whether to revoke or revise the permit, the County Administrator may consider the intentional nature or degree of negligence, if any, associated with the spill, and the extent to which containment or cleanup is possible, the nature, number and frequency of previous spills by the permittee, and the potential degree of harm to the groundwater and surrounding wells due to such spill.

(4) For any revocation or revision by the County Administrator of a special exemption or general exemption that requires an operating permit as provided under the terms of this article, the County Administrator shall issue a notice of intent to revoke or revise which shall contain the intent to revoke or revise both the applicable exemption and the accompanying operating permit.

(5) The written notice of intent to revoke or revise shall contain the following information:

a. The name and address of the permittee, if any, and property owner, if different.

b. A description of the facility which is the subject of the proposed revocation or revision.

c. Location of the spill, if any.

d. Concise explanation and specific reasons for the proposed revocation or revision.

e. A statement that "Failure to file a petition within 30 days after the date upon which permittee receives written notice by certified or registered letter to the lessor and landowner of the intent to revoke or revise shall render the proposed revocation or revision final and in full force and effect."

(6) Failure of the permittee to file a petition shall render the proposed revocation or revision final and in full force and effect.

(7) Nothing in this section shall preclude or be deemed a condition precedent to the County Administrator seeking a temporary or permanent injunction.

Sec. 166-167. - Powers and duties of county administrator.

(a) The County Administrator or the administrator's designee shall have the power and duty to:

(1) Administer and enforce the provisions of this article.

(2) Investigate complaints, study and observe pollution conditions, and make recommendations as to the institution of action necessary to abate nuisances caused by pollution, and as to prosecution of any violation of this article.

(3) Make appropriate surveys, tests, and inspections of property, facilities, equipment, and processes operating under the provisions of this article to determine whether the provisions of this article are being complied with; interact with the state department of environmental protection, and make recommendations for methods by which pollution may be reduced or eliminated. Inspections shall be conducted in accordance with subsection (b) of this section.

(4) Maintain, review, and supervise all operating records required to be filed with the county administrator by persons operating facilities subject to the provisions of this article.

(5) Render all possible assistance and technical advice to persons owning and/or operating regulated facilities, except that the county administrator and/or his employees shall not design the facility systems for any person.

(6) Perform such other administrative duties as may be assigned by the board of county commissioners.

(7) Issue or deny permits.

(b) Inspections shall be conducted as follows:

(1) Any duly authorized representative of the county administrator may, at any reasonable time, enter and inspect for the purpose of ascertaining the state of compliance with this article, any property, premises, or place, except a building which is used exclusively for a private residence, on or at which a regulated facility is located or is being constructed or installed or where records which are required under this article are kept.

(2) Any duly authorized representative may, at reasonable times, have access to and copy any records required under this article; inspect any monitoring equipment or method; sample for any hazardous material which the owner or operator of such source may be discharging or which may otherwise be located on or underlying the owner's or operator's property; and obtain any other information necessary to determine compliance with permit conditions or other requirements of this article.

(3) No person shall refuse reasonable entry or access to any authorized representative of the county administrator who requests entry for purposes of inspection and who presents appropriate credentials; nor shall any person obstruct, hamper, or interfere with any such inspection. The owner or operator of the premises shall receive a report, if requested, setting forth all facts found which relate to compliance status.

(4) Install and sample monitor wells in facilities suspected of causing groundwater pollution. All costs associated with these activities will be borne by the facility if they are proved to be the source of pollution, or the facility is in noncompliance with its operating permit.

Sec. 166-168. - Protection of future wellfields.

The prohibitions and restrictions set forth in this article and in regulations promulgated pursuant hereto shall apply to any sites officially designated by the board of county commissioners as future wellfields. Such prohibitions and restrictions shall become effective upon approval by the board of county commissioners of the zone of protection maps for the designated future wellfield. Prior to final action by the board of county commissioners in designating a future wellfield or approving the zone of protection map for those wellfields, all property owners and discernable operating activities within the area affected shall receive notice pursuant to the provisions established by F.S. § 125.66(5).

Sec. 166-169. - Appeals.

(a) Any applicant or permittee affected by a decision of the county administrator in the enforcement or interpretation of any of the terms or provisions of this article may appeal such decision to the board of county commissioners. Such appeal shall be taken by filing written notice thereof with the clerk of the board of county commissioners, within ten days after notice of the decision of the county administrator.

(1) Upon receipt of a timely filed appeal, the clerk to the board of county commissioners shall schedule and properly notice a public hearing to be held before the board of county commissioners as soon as practicable.

(2) At the public hearing, the board of county commissioners may consider the record developed in proceedings before the county administrator, as well as all testimony and evidence presented at the public hearing.

(3) The board of county commissioners shall make its determination based upon this record in light of the standards and factors outlined in this article and such other factors as the board of county commissioners may deem relevant.

(4) An applicant or permittee denied relief may seek judicial review of the board of county commissioners' determination by the timely filing of an action in a court of competent jurisdiction.

(b) Any person may appeal to the board of county commissioners for the following reasons:

(1) To appeal the county administrator's permit conditions, denial of a permit, general exemption or nondisclosure of a trade secret.

(2) To appeal an intent to revoke or revise an operating permit and a general or special exemption.

(3) To request a special exemption. When requesting special exemption, written petitions for relief shall be filed with the clerk of the board of county commissioners and the factual basis for the relief requested. Such petitions shall include all materials and documents which are necessary to support the specific relief requested. Except in the case of an application for special exemption, a written request for relief shall be filed with the clerk of the board of county commissioners within 20 days after the date upon which the petitioner receives a permit, or written notice of an intent to revoke or revise his permit, general exemption, or that trade secret protection has been denied. Failure to file within 20 days shall constitute a waiver of the person's right to an administrative hearing. The filing of a petition authorized by this section shall stay all proceedings with respect to the matters that are contained in the petition until there is a final decision of the board of county commissioners as provided in this section.

(c) Hearing date:

(1) All appeals and applications shall be heard within 45 days of the date from which the petition and supporting data are filed with the clerk of the board of county commissioners. An extension of time for the hearing may be granted by the board for good cause shown.

(2) Notice of hearing shall be served upon the applicant or permittee and property owner, if different, by hand delivery or by certified mail, return receipt requested, no less than ten days prior to the hearing. When the owner or responsible individuals are not present or are avoiding service of the notice of hearing, service shall be accomplished by posting copies of the notice of hearing in a conspicuous place on the premises of the facility that is the subject of the appeal.

(d) The notice of hearing provided for in this section shall contain the following information:

(1) Name and address of the petitioner and property owner, if different;

(2) Description of the facility;

(3) Ordinance section (of this article) or regulation section alleged to have been the basis of the denial or proposed revocation or revision;

(4) Time, date and place of the hearing;

(5) A statement that "Failure to attend may result in an order being issued adverse to your interest";

(6) A statement that all parties shall be given the opportunity to present witnesses and evidence in support of their position; and

(7) A statement reflecting the requirements of F.S. ch. 286, regarding a verbatim record of the proceedings.

(e) In computing the period of time within which an appeal must be taken from the permit conditions, denial of a permit, general exemption or application for nondisclosure or from intent to revoke or revise a permit, general exemption or special exemption, the day of receipt of notice of such denial or intent to revoke or revise shall not be included. In computing the period of time in which the board of county commissioners must set a hearing date, the date on which the clerk of the board receives the written petition and accompanying information shall not be included. In computing the period within which notice shall be provided prior to the hearing, the date of the hearing shall not be included. The last day of any period of time provided in this article shall be counted, unless it is a Saturday, Sunday or a legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or a legal holiday. Intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation when any period of time prescribed in this article is less than ten days; where such period is ten days or greater, Saturday, Sunday and legal holidays shall be included.

(f) Hearing procedure. The procedure for hearing of appeals under this article shall be as follows:

(1) All testimony shall be under oath and shall be recorded.

(2) If there is a proper notice of hearing as provided in subsection (c)(2) of this section, the hearing may proceed in the absence of the alleged petitioner and property owner, if different.

(3) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence shall be admissible in a trial in the courts of the state. Any part of the evidence may be received in written form. Hearsay evidence may be used for the purpose of

supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

(4) Documentary evidence may be received in the form of a copy or excerpt if the original is not readily available.

(5) The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions.

(6) Each party shall have the following rights:

a. To be represented by counsel;

b. To call and examine witnesses;

c. To introduce exhibits;

d. To cross examine opposing witnesses on any relevant matter, even though the matter was not covered under direct examination;

e. To impeach any witness, regardless of which party called the witness to testify;

f. To rebut the evidence.

(7) Any interested party or person whose substantial interests are affected may make application, and upon good cause shown, may be allowed by the board of county commissioners to intervene in a pending proceeding.

(8) In an appeal of an intent to revoke or revise a special exemption or general exemption that also requires an operating permit under the terms of this article, the appeal of both the intent to revoke or revise the applicable exemption and the accompanying permit shall be consolidated into one hearing.

(g) At all hearings under this article, the board of county commissioners shall hear and consider all facts material to the appeal or application for special exemption and shall thereafter issue a decision based on the competent and substantial evidence presented at the hearing. Such decision may affirm, reverse or modify the action or proposed action of the county administrator.

(h) The decision of the board of county commissioners, as applicable, shall be the final administrative action on behalf of the county administrator and the county. Any person who is a party to the proceeding before the board of county commissioners, if applicable, may appeal to the circuit court of the county in accordance with applicable Florida Appellate Rules.

Sec. 166-170. - General exemptions.

(a) Facilities and activities qualifying for a general exemption include public utilities, commercial lawn maintenance businesses that use regulated substances, parks, maintenance of office facilities, and retail sales.

(1) A general exemption application and operating permit in compliance with the provisions of section 166-165(d) shall be required for any nonresidential activity claiming a general exemption under this section and shall be filed with the county administrator.

(2) Such application shall contain a concise statement by the applicant detailing the circumstances upon which the applicant believes would entitle him to an exemption.

(3) A fee as listed in exhibit C shall be filed with the application to defray the costs of processing such application.

(4) Within 30 working days of receipt of an application for general exemption, the county administrator shall inform the applicant whether such application contains

sufficient information for a proper determination to be made. If the application is found to be insufficient, then the county administrator shall provide to the applicant a written statement by certified mail or hand delivery requesting the additional information required. The applicant shall inform the county administrator within ten working days of the date of the written statement of his intent to furnish the information. The applicant has 30 days to furnish the required information after so informing the county administrator. The county administrator shall have 90 working days from either the rendering of a sufficiency determination or receipt of additional information making an application sufficient to make a decision.

(b) Existing fire, police, emergency medical services and county emergency management center facilities are required to obtain an operating permit and general exemption.

(c) Utilities as defined in this article shall be exempt from the zone of protection prohibitions as set forth in section 166-165(c). However, an operating permit and special exemption shall be obtained pursuant to section 166-165(d) for the refueling facilities within the zone of protection.

(d) The transportation of any regulated substance through the zone of protection shall be exempt from the provisions of this article, provided the transporting motor vehicle is in continuous transit. The transport of such substances through existing permanent pipelines is also exempt, provided that the currently authorized use or uses are not changed and provided that leak detection and monitoring as approved by the county administrator are employed. No general exemption or operating permit application is required except that an operating permit is required to establish the leak detection and monitoring requirements for such existing pipelines.

(e) The use in a residential vehicle, commercial lawn service vehicle or residential lawn maintenance equipment of any regulated substance solely as fuel in that vehicle or equipment fuel tank or as lubricant in that vehicle or equipment shall be exempt from the provisions of this article. No general exemption or operating permit application is required.

(f) The commercial or residential application on residential lawn or commercial landscaping of those regulated substances used as pesticides, herbicides, fungicides, and rodenticides in recreation, agriculture, pest control and aquatic weed control activities shall be exempt from the provisions of this article, provided that:

(1) In the zone of protection, the application is in strict conformity with the use requirement as set forth in the substances' EPA registries and as indicated on the containers in which the substances are sold.

(2) In the zone of protection, the application is in strict conformity with the requirements as set forth in F.S. chs. 482 and 487, and chapters 5E-2 and 5E-9, Florida Administrative Code.

(3) In the zone of protection, the application of any of the pesticides, herbicides, fungicides, and rodenticides shall be flagged in the records of the certified operator supervising the use. The certified operator shall provide specific notification in writing to the applicators under his supervision that they are working at a site located in the zone of protection for which particular care is required. Records shall be kept of the date and amount of these substances applied at each location and such records shall be available for inspection at reasonable times by the county administrator.

(4) In the zone of protection, the pesticides, herbicides, fungicides, and rodenticides for lawn, golf courses or agricultural application shall not be handled during application in a quantity exceeding 700 gallons of formulation.

(5) All nonresidential applicators of pesticides, herbicides, fungicides, and rodenticides who apply those substances within the zones of protection shall obtain an operating permit covering all application operations under one permit using these materials and shall comply with all the requirements of section 166-165.

This exemption applies only to the application of pesticides, herbicides, fungicides, and rodenticides.

(g) Retail sales establishments in the zone of protection that store and handle regulated substances for resale in their original unopened containers shall be exempt from the prohibition in the zone of protection provided that those establishments obtain an operating permit pursuant to the provisions of section 166-165.

(h) Office uses, including the use of regulated substances for the maintenance and cleaning of office buildings in volumes less that ten gallons, shall be exempt from the provisions of this article. No general exemption or operating permit applications are required.

(i) The activities of constructing, repairing or maintaining any facility or improvement on lands within the zone of protection shall be exempt from the provisions of this article, provided that all contractors, subcontractors, laborers, material men and their employees when using, handling, storing or producing regulated substances in the zone of protection use those applicable best management practices set forth in appendix D, incorporated in this article. No general exemption or operating permit applications are required.

(j) Residential development greater than 25 units shall be required to file a general exemption application and an operating permit application with the county administrator; however, the annual renewal application is not required.

Sec. 166-171. - Special exemptions.

(a) An affected person in the zone of protection may petition the board of county commissioners for a special exemption from the prohibitions and monitoring requirements set out in section 166-165. In order to obtain such an exemption such person must demonstrate by a preponderance of competent, substantial evidence that:

(1) Special or unusual circumstances and adequate technology exist to isolate the facility or activity from the potable water supply.

(2) In granting the special exemption, the board of county commissioners may prescribe any additional appropriate conditions and safeguards which are necessary to protect the wellfield.

(b) Activities claiming special exemption with adequate technology to isolate the facility or activity from the potable water supply and protect the wellfield must submit:

(1) A special exemption application claiming special or unusual circumstances and adequate protection technology shall be filed with the county administrator. It shall be signed by the applicant and by a professional engineer and certified geologist registered in the state.

(2) Such application shall contain a concise statement by the applicant detailing the circumstances which the applicant feels would entitle him to an exemption pursuant to subsection (b)(1) of this section.

(3) A nonrefundable fee as listed in exhibit C shall be filed with the application to defray the costs of processing such application.

(4) The application for special exemption shall contain but not be limited to the following elements:

a. A description of the situation at the site requiring isolation from the wellfield, including:
    1. A list of the regulated substances in use at the site;
    2. A site plan of the facility including all storage, piping, dispensing, shipping, etc., facilities;
    3. What operations at the facility involve regulated substances which must be isolated from the wellfields;
    4. The location of all operations involving regulated substances;
    5. A sampling and analysis of the groundwater on the site of the activity seeking a special exemption shall be performed to the satisfaction of the county to determine if any regulated substances are already present which constitute a threat to the water supply;
    6. An analysis of the affected well showing whether or not such well is already contaminated by any regulated substances and the extent of such contamination;
    7. A hydrogeologic assessment of the site which shall address, at a minimum, soil characteristics and groundwater levels, directional flow, and water quality and which shall be performed by a registered geologist, certified by the state.
b. A technical proposal to achieve the required isolation, including:
    1. Components to be used and their individual functions;
    2. Systems tying the components together;
    3. A discussion and documentation, such as published technical articles, substantiating the performance and reliability of the components individually and the system as a whole; if the system has not been field tested, a discussion and laboratory test documentation to substantiate the proposed performance and reliability of the system;
    4. Details of the specific plans to install the system at the site.
c. Testing procedures: If the proposed system does not have a proven history of successful in-field operation, it may still be proposed using proven components. A test plan for the system as installed shall be provided to prove that the proposed system works in the field.
d. A technical proposal for backup detection of regulated substances that may elude the isolation system and escape to outside a perimeter to be established by the county administrator. Such proposal shall include emergency measures to be initiated in case of escape of regulated substances.
e. Criteria for success: Site-specific, system performance criteria shall be proposed to ascertain the success of the system. Such criteria shall include but shall not be limited to:
    1. Performance;
    2. Reliability;
    3. Level of maintenance;
    4. Level of sensitivity to regulated substances;
    5. Effect of rain, flood, power failure or other natural disaster.
f. Precautions in event of failure: The applicant shall provide information on the on-site availability of substance removal technologies sufficient to remediate

any introduction of regulated substances into the water table at the site. Where water is removed from on-site wells during the remedial process, a plan shall be proposed for the disposal of such water.

g. A closure plan shall be provided in the event the system does not prove successful in the testing required by subsection (b)(4)c of this section.

h. Any other reasonable information deemed necessary by the county water system due to site-specific circumstances.

(5) Within 30 working days of receipt of an application for special exemption, the county administrator shall inform the applicant whether such application contains sufficient information for a proper determination to be made. If the application is found to be insufficient, then the county administrator shall provide to the applicant a written statement by certified mail or hand delivery requesting the additional information required. The applicant shall inform the county administrator within ten working days of the date of the written statement of his intent to furnish the information. The applicant has 30 days to furnish the required information or have the application processed as it stands. At the end of such 30-day period, the county administrator shall have 14 days to inform the board of county commissioners of such application and shall transfer all information accompanying the application to the board of county commissioners, who shall then proceed with the hearing procedures as provided under section 166-169.

(c) Granting special exemptions:

(1) Any special exemption to this article granted by the board of county commissioners shall be subject to the applicable conditions of sections 166-165 and 166-166 and any other reasonable and necessary special conditions imposed by the board of county commissioners. An operating permit shall be issued by the department with the applicable conditions of sections 166-165 and 166-166 and any other reasonable and necessary special conditions imposed by the board of county commissioners. Such special exemptions shall be subject to revocation or revision by the department for violation of any condition of such special exemption by first issuing a written notice of intent to revoke or revise by certified mail, return receipt requested, or hand delivery. Upon revocation or revision, the activity will immediately be subject to the enforcement provisions of this article.

(2) Special exemptions for the zone of protection are for existing nonresidential facilities only. No new nonresidential activity shall be permitted into the zone of protection after February 17, 1990, if the new nonresidential facility stores, handles, produces, disposes of, or uses any regulated substance.

Sec. 166-172. - Trade secrets.

The department shall not disclose any trade secrets of the permittee under this article that are exempted from such disclosure by federal or state law; provided, however, that the burden shall be on the permittee to demonstrate entitlement to such nondisclosure. Decisions by the county administrator as to such entitlement shall be subject to challenge by the permittee by filing a petition with the county administrator pursuant to section 166-169.

Secs. 166-173—166-210. - Reserved.

ARTICLE V. - RESERVED.

ARTICLE VI. - RESERVED.