

- (6) On legal non-conforming lots or parcels of one acre or less in size or lots up to nine and nine-tenths acres in size, the density per acre limitation for horses, mules, donkeys, sheep, cattle, goats, swine, beefalo and other large farm animals is as follows:
 - (a) The minimum square footage of contiguous open pasture area, not including the dwelling and the garage (either attached or detached) shall be 9,000 square feet for the first animal and 6,000 square feet for each additional animal.
 - (b) The total number of such animals that may be kept shall not exceed four per acre except offspring, which may be kept until weaned.
- (7) Requirements of the Storage of Manure:
 - (a) Manure shall not be allowed to accumulate causing a nuisance or hazard to the health, welfare, or safety of humans or animals.
 - (b) The outside storage of manure in piles (two cubic yards or greater) shall not be permitted within 100 feet of any lot line and/or any residence.
 - (c) Compliance with Article 5 Springs Protection Zone standards.

D. Permitted Uses:

Accessory use aircraft hangars in approved fly-in communities shall be permitted and include a maximum height of 30 feet.

Beekeeping Operations

Pigeon lofts meeting the requirements of Sec. 4.3.20

Pot-bellied pigs as pets

Silos, not exceeding 100 feet in height

Single-family guest cottage/apartment Refer to Sec. 4.3.18

Yard sales (up to three per year)

- E. Owners of properties located on waterbodies considered "non-ESQZ" waterbodies may elect to designate the yard fronting on the waterbody as the new front or rear yard of the property.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.2.3. - General Agriculture (A-1) classification.

- A. Intent of classification. The General Agriculture classification is intended to preserve agriculture as the primary use. This classification in the Urban Area may be used for agriculture until it is rezoned to another permitted classification.

B. Permitted Uses:

Single-family dwellings

Manufactured buildings (DCA approved residential units)

Manufactured homes

Commercial vehicles utilized for transporting agricultural products raised or produced on the A-1 property of the vehicle owner may be parked on the A-1 zoned property; otherwise see Section 4.3.21.A. and B. for additional options on properties consisting of 5 acres or greater.

General farming, agricultural uses such as aquaculture, fish hatcheries, agricultural crop production including sod farms, agricultural production of livestock and forestry, including horses, cattle or the keeping and raising of ratites such as ostriches and emus

Greenhouse and plant nursery including both retail and wholesale, provided the products sold are raised on premises

Hay sales, refer to Sec. 4.2.2.C (4)

Single family, guest cottage, apartment. Refer to Sec. 4.3.18

Ornamental horticulture, floriculture, and nursery products retail, wholesale

Poultry farms, hatcheries

Public park, or other public recreational use or building

Racetrack, non-motorized, non-commercial for training only

Silviculture

Veterinary office, clinic, or hospital, no outside kennels permitted

C. Special Uses (requiring permit):

Airport, private

Aviaries

Bed and breakfast inn

Cemetery, mausoleum (private)

Church, Places of worship

Dude ranch, riding academy

Feedlots, cattle, hog, lamb, etc.

Gas meter facility and supply lines, high-pressure, except where such permits are pre-empted by state and federal regulations

Kennel

Landfill, construction, and demolition

Motorized Vehicle Racetrack or Practice Facilities shall be defined as: Motorized Vehicle Racetrack or Practice Facility: a place where ATV's, Motocross Bikes, Go Carts, Off Road Vehicles, or any similar vehicles, gather to compete against each other or against time on a tract of land or course constructed or designed for such purpose; A place to train, develop form, techniques or other skills related to competition

Nursery school

Parking of commercial vehicles, see Sec. 4.3.21

Shooting range

School, accredited public, private, parochial

Sewage treatment plants with an inflow exceeding 5,000 gallons per day

Specialty animals

Sprayfields or other type of effluent disposal area when application rate exceeds 5,000 gallons per day, if allowed by law

Storage of explosives

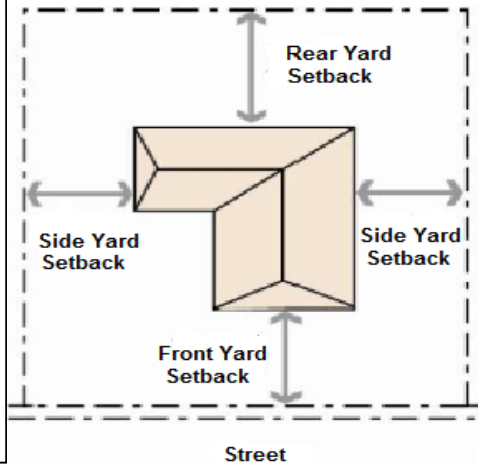
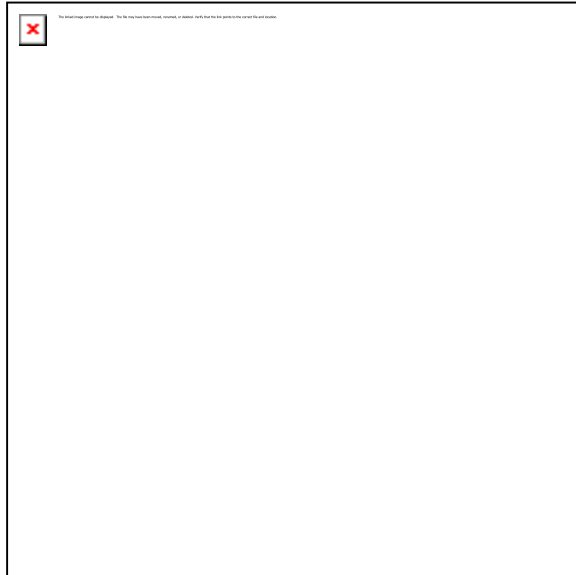
Transportation services solely related to the transport of horses and livestock

Treatment facility for wastewater residuals

Veterinary office, clinic, or hospital, outside kennels permitted

Water wellfields

D. Development Standards:



Maximum Density Permitted: 1 du/10 acres, unless qualifies for the density exceptions provisions in Sec. 4.3.2.

Minimum Lot Area: 10 acres

Minimum Lot Width: 150 feet

Maximum Building Height: 50 feet

Maximum Floor Area Ratio: None

E. Setbacks Minimums:

Front Setback: 25 feet

Side Setback: 25 feet

Rear Setback: 25 feet

F. Accessory Buildings:

Front Setback: 25 feet

Side Setback: 25 feet

Rear Setback: 25 feet

G. Accessory Building Housing for Livestock:

Front Setback: 75 feet

Side Setback: 25 feet

Rear Setback: 25 feet

H. Accessory Building Housing for Poultry:

Front Setback: 100 feet

Side Setback: 25 feet

Rear Setback: 25 feet

I. Pool Enclosures:

Front Setback: 25 feet

Side Setback: 25 feet

Rear Setback: 10 feet

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

DIVISION 3. - SPECIAL REQUIREMENTS⁽³⁾

No land in the unincorporated area of Marion County shall be used or occupied, and no building, structure or part thereof shall be erected, constructed, reconstructed, moved or structurally altered unless in full compliance with the regulations specified in this Code.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Footnotes:

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Editor's note— Ord. No. 17-08, § 2(Exh. A), adopted April 11, 2017, amended Art. 4, Div. 3 in its entirety to read as herein set out. Former Art. 4, Div. 3, §§ 4.3.1—4.3.26, pertained to similar subject matter, and derived from Ord. No. 13-20, § 2, adopted July 11, 2013.

Sec. 4.3.1. - Home occupation.

A. A home occupation shall be defined as any business or commercial activity that is:

- (1) Conducted within a single family residential dwelling unit in a residential zoning classification and is clearly incidental to the principal residential use of the premises, or
- (2) Conducted on the same tract with the principal structure in an agricultural zoning classification, and
- (3) Which is a permitted use within the agricultural zoning classification and conducted without significantly adverse impact on the surrounding area.
 - A. The use shall not generate more traffic than would be associated with the allowable residential use.
 - B. Non-inclusive examples of enterprises that may be considered as Home Occupations if they meet the forgoing definitional criteria are: the office or studio of an artist, musician, lawyer, architect engineer, teacher, accountant or similar professional; workshop for pottery; tailoring and dressmaking; single chair or station barber or beauty shop, computer programming, telephone answering service and gun dealers.

B. Residential—General requirements:

- (1) A Home Occupation Permit requires the approval of the Growth Services Director on an application form confirming the following requirements:

- (a) The area used for the Home Occupation shall not exceed 20 percent of the gross floor area of the dwelling unit or 400 square feet, whichever is less, and shall conform to all applicable codes.
- (b) No part of the proposed activity or use shall be conducted in an accessory building or structure.
- (c) No goods, stock-in-trade or other commodities shall be displayed on the exterior.
- (d) No on-premises sales shall occur.
- (e) Only bona fide members of the family lawfully occupying the dwelling unit shall be employed in, or work at, the Home Occupation.
- (f) The proposed activity shall not create objectionable noise, fumes, odor, dust, vibration, electrical interference or hazardous wastes.
- (g) If the garage portion of the dwelling unit or one bay of a two bay garage is committed to Home Occupation use, an additional parking space on the lot shall be provided in order to meet the residential parking requirements.
- (h) Signage is limited to a non-illuminated wall sign having no moving parts or flashing lights, does not exceed two square feet and is compatible with the neighborhood architectural character. There shall be no off-site advertising signs.

C. Agricultural—General requirements:

- (1) A Home Occupation permit requires the approval of the Growth Services Director on an application form confirming the following requirements:
 - (a) The Home Occupation may be conducted within the dwelling unit or in an accessory building.
 - 1. Within the dwelling unit, the area used for the Home Occupation shall not exceed 20 percent of the gross floor area of the dwelling unit or 400 square feet, whichever is less, and shall conform to all applicable codes.
 - 2. Within an accessory building, the area used for the Home Occupation shall not exceed 600 square feet and shall conform to all applicable codes.
 - (b) No goods, stock-in-trade or other commodities shall be displayed on the exterior.
 - (c) No on-premises sales shall occur.
 - (d) Only one person, in addition to members of the family lawfully occupying the dwelling unit, may be employed in, or work at, the Home Occupation.
 - (e) The required number of parking spaces for a dwelling unit shall be maintained if a portion of the garage is used for the Home Occupation plus one space per employee.
 - (f) Accessory building parking spaces shall be provided in the ratio of one space per 300 square feet of gross floor area or fraction thereof.
 - (g) Signage. One sign, either single or double faced non-illuminated, not exceeding six square feet in size and not higher than four feet, may be located no closer than five feet to the front tract line of the tract on which the Home Occupation is conducted.

D. Permit revocation. Upon the complaint of the County or any person, the County's Board of Adjustment may revoke a permit authorizing a Home Occupation, after notice to the holder of the permit and public hearing, for noncompliance with or violation of the requirements of this section.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.3.2. - Density exceptions and aggregation of contiguous lots.

- A. The following definitions apply to this subsection:
- (1) Contiguous parcels are those parcels of land with at least one common property line.
 - (2) Non-contiguous parcels are those parcels that do not have any common property lines, or which are separated by platted or unplatted roads, streets or alleys which have been dedicated for public use, or prescriptive easements for road right-of-way purposes.
 - (3) Parcels or Tracts of Record:
 - (a) Recorded or registered parcels or tracts and those parcels or tracts shown on all other unrecorded subdivisions, plats or surveys existing as of August 14, 1970; or
 - (b) Lots, parcels or tracts which were created and recorded in the public records of Marion County on or before January 1, 1992; or
 - (c) Parcels in subdivisions approved by the Board of County Commissioners and recorded in the public records of Marion County prior to January 1, 1992; or
 - (d) Parcels located in unrecorded subdivisions or registered divisions of land into "flag lots," as that term is commonly known in Marion County, which were filed and accepted by Marion County and existed as of January 1, 1992.
 - (4) For definitions of subdivision, plat, recorded subdivision, unrecorded subdivision and registered divisions of land see Article 2.
- B. An exception to the densities prescribed in the Marion County Comprehensive Plan, Future Land Use Element, shall be allowed for all non-contiguous parcels of record, under one ownership, created on or before January 1, 1992, and evidenced by a properly executed deed or contract for deed held by the purchasing party, as of August 11, 1993, for the purpose of constructing one single-family residential unit.

The deed or contract for deed shall be recorded in the public records of Marion County on or before August 11, 1993, or proven by clear and convincing evidence to have been in existence on or before August 11, 1993. Clear and convincing evidence shall require a copy of the document, properly executed, and copies of cancelled checks or other proof of payments having been made prior to August 11, 1993.

- C. Recorded and unrecorded subdivisions that are allowed density exceptions or that will be required to aggregate contiguous lots are as follows:
- (1) Parcels within that phase of a recorded or unrecorded subdivision which met the applicable conditions set forth below prior to January 1, 1992, shall be permitted to develop at the density established for that subdivision provided that all Ch. 10D-6 FAC requirements and all other requirements of the Comprehensive Plan as amended, the Land Development Code as amended, and all other applicable codes are met.
- Those recorded or unrecorded subdivisions not meeting the requirements listed below will be required to aggregate parcels to meet the density requirements of the Comprehensive Plan as amended.
- (a) Subdivisions that have direct access to a county paved road and in which all parcels front on a continually maintained paved or stabilized road that meets the standards established by Marion County; and
 - (b) Parcels within subdivisions in which all parcels are served by a stormwater management system that functions at the standards established by Marion County; and
 - (c) Parcels within subdivisions in which the sale of individual lots to persons by the original subdivider has occurred at the following rates prior to August 11, 1993:
 1. At least 85 percent of the total number of lots are sold if the subdivision was created in 1982 or before;

2. At least 60 percent of the total number of lots are sold if the subdivision was created from 1983 to 1987 inclusive;
 3. At least 50 percent of the total number of lots are sold by 1997 if the subdivision was created in 1988 through 1992.
- (d) Where existing parcels or tracts of record do not abut for at least 40 feet on a street; or where the setback requirements set forth herein preclude development of the parcel or tract; and where the parcel or tract could be developed in conformance with the zoning code in effect prior to the adoption of this Code the prior requirements shall prevail.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.3.3. - 4-H and FFA exemptions from Code requirements.

- [A.] The student requesting an exemption shall file an application with the Growth Services Director on a prescribed form which may be obtained from the Growth Services Department. The completed form must be returned to the Director after certification from the appropriate school official of the student's school or by the County Extension Agent (4-H Program Leader).
- B. All animals for 4-H Club and FFA projects shall be kept in a fenced area. Large animals, for purposes of this section are defined as horses, cattle, llamas, ostriches, sheep, swine, and goats. All other animals shall be defined as small animals. The total number of animals and location of structures are limited as follows:
- (1) Large Animals. The size of the fenced area and any covered stall shall be determined by the County Extension Agent (4-H Program Leader) or the FFA School Advisor. A plan drawn to scale showing the location of the fenced area and all existing improvements shall be submitted with the form.
 - (2) All pasture and structures used for 4-H Club and FFA projects shall be located on the side or the rear of the main building and if in the Environmentally Sensitive Overlay Zone shall meet the requirements of Article 5.
- C. Exemption from use and other requirements of this Code may be temporarily allowed by the Growth Services Director for 4-H Club or FFA projects.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.3.4. - Alcoholic beverages.

- A. No commercial establishment used for the on premises sale and consumption of beer, wine, liquor or other intoxicating beverages shall be permitted to locate within 1,000 feet of any church, school or public park in existence on the date the alcoholic beverage permit is issued.
- B. No establishment used for the sale of liquor or other intoxicating beverages for off premises consumption shall be located within 500 feet of any church, school, or public park in existence on the date the alcoholic beverage permit is issued. Exempted from this subsection is the sale of beer and wine for off premises consumption.
- C. The term "public park" as used in this section shall mean a park open to the general public owned either by Federal, State, County or City Governmental Agencies or church parks adjacent to churches.
- D. Establishments existing on the effective date of this Code which do not meet the above requirements shall be deemed non-conforming uses.
- E. For the purposes of this section, a church, school or establishment shall be deemed to be existing if all necessary permits for construction have been acquired and remain active.

- F. For purposes of distance limitations, the measurement shall be made by extending a straight line from the nearest building line point of the regulated establishment to the nearest property line point of improved school or church grounds used as part of the school or church; or the nearest property line point of the park grounds.
- G. If a school, church or park is located within the limits of an incorporated city or town or within another county, the requirements specified in Sections 4.3.4.A, 4.3.4.B and 4.3.4.F above shall apply.
- H. On premises sale and consumption of beer, wine, liquor or other intoxicating beverages may be permitted by right in golf course clubhouses, subject to the requirements of this section and the State of Florida.
- I. On premises sale and consumption of beer, wine, liquor or other intoxicating beverages may be permitted by right and exempt from spacing requirements in a restaurant establishment where the requirements of the State of Florida License include a majority of the sales to be food items and the restaurant floor space is a minimum of 2,500 square feet in size with at least 150 seats.
- J. Special events requiring a temporary one-, two-, or three-day permit from the State of Florida for on premises alcohol consumption and Churches or other Houses of Worship holding celebrations requiring the same State of Florida permit shall be exempt from the spacing requirements above.
- K. An applicant may request a SUP for an establishment proposing sales of alcohol where the above referenced spacing requirements cannot be met. Notification of all church, school, or public park facilities within the prescribed spacing distances above is required.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.3.5. - Manufactured buildings and manufactured homes.

- A. **Manufactured Buildings.** Manufactured Buildings, as defined in this Code and Chapter 553, Part IV, Florida Statutes, which are used for residential structures and approved by the Department of Economic Opportunity with proper insignia attached, will be allowed as a matter of right in all zoning classifications, which allow residential structures.
- B. **Manufactured Homes and Mobile Homes.** Manufactured Homes and Mobile Homes, as defined in this Code and Chapter 553, Part IV, Florida Statutes, which are used for residential structures, will be allowed as a matter of right in the following zoning classifications: A-1, A-2, A-3, RR-1, and R-4.
- C. **Special Use Permit (SUP).** The Board may approve the installation of manufactured homes in the R-2, R-3, and R-E zoning classifications by SUP, subject to the following requirements.
 - (1) **Compatibility.** The applicant shall demonstrate that the installation of the manufactured home is compatible with existing uses in the surrounding area and meets all requirements for issuance of a SUP.
 - (2) **Construction.** The manufactured home must be new (never previously titled or occupied).
 - (3) **Main Body.** The main body of the manufactured home, as located on the site, shall be a minimum width of 20 feet.
 - (4) **Roof Pitch, Overhang and Materials.** The main roof of the manufactured home shall have a nominal roof pitch of at least one foot rise for each four feet of horizontal run and the minimum roof overhang shall be one foot. All roofing material shall be consistent on such roof and shall be compatible with site built houses in adjacent or nearby locations.
 - (5) **Exterior Finish.** Exterior finish shall be consistent with site built homes in adjacent or nearby locations, provided however, that reflection from such exterior finish shall not be greater than from siding coated with clean white gloss exterior enamel.
 - (6) **Skirting.** All manufactured homes shall have stucco skirting on all sides of simulated or real block, brick, stone or equivalent.

- (7) Foundations. All manufactured homes shall be located on approved foundations similar and compatible in appearance to foundations of adjacent or nearby site built residences.
 - (8) Site Orientation. All manufactured homes shall be placed on lots in such a manner as to be compatible with and reasonably similar in orientation to the site built housing which has been constructed in adjacent or nearby locations.
 - (9) Garages, Carports and Driveways. A manufactured home shall be required to have a garage or carport compatible with adjacent or nearby site built garages or carports. Driveways and the floors of garages or carports shall be paved compatible with adjacent or nearby site built residences.
 - (10) Steps. Front and back steps to manufactured homes shall be concrete with hand rails, as required by the Building Code. Wooden steps with an attached deck may be allowed if compatible with adjacent or nearby sites.
 - (11) Underground Utilities. Underground electric service shall be required.
 - (12) Additional Conditions. The Board may include additional conditions or modify these required conditions to assure similarity in exterior appearance and compatibility between manufactured housing and site built dwellings in adjacent or nearby locations.
- D. Recreational vehicle (RV) and manufactured home park permitted accessory structures.
- (1) The following structures shall be permitted as an accessory structure in a recreational, park trailer, or manufactured home park , provided that written approval is received from the park HOA or property owner if the lots within the park are not under individual ownership;
 - (a) A storage shed shall be permitted provided it does not exceed 100 square feet in area.
 - (b) Temporary structures such as canvas awnings, screened enclosures, or platforms may be erected but must be removed when the recreational vehicle or manufactured home space is vacated.
 - (2) All accessory structures must meet the setbacks under the standards set forth for each classification under Sec. 4.2 of the Land Development Code

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.3.6. - Manufactured home, park trailer, and recreational vehicle regulations.

A. Temporary Use.

- (1) A manufactured home, park trailer or travel trailer may be used as a temporary residence incidental to construction on or development of property for a residential use on which the manufactured home, park trailer or travel trailer is located only during the time in which construction or development is actively underway with an active building permit, and in no case for more than six months, subject to renewal. Except that a manufactured home is prohibited from use as temporary residence on R-1 zoned property. Such use is subject to the approval of the Growth Services Director
- (2) A single recreational vehicle which has a self-contained disposal system shall be permitted to be occupied in any residential zoning as a non-commercial guest of the resident of the property involved, for a period not to exceed 21 days in any 60-day period by a Temporary Use Permit through the Growth Services Planning and Zoning Division.
- (3) Recreational vehicles which have a self-contained disposal system shall be permitted to be occupied in any agriculture zoning as a non-commercial guest of the owner or resident of the property involved, for a period not to exceed 60 days in any 365-day period. A limit of five travel trailers or recreation vehicles is permitted at one time by a Temporary Use Permit through the Growth Services Planning and Zoning Division, six or more by Special Event Permit with the approval of the Marion County Department of Health and the County Administrator.

- B. Parking of recreational vehicles. Recreational vehicles and trailers may be permitted to be parked within the front yard provided that the vehicle shall be setback a minimum of 10 feet from the edge of the adjacent public right-of-way, easement, or sidewalk and shall not obstruct or interfere with the maintenance or use of such right-of-way or sidewalk, and shall not obstruct the neighboring property owner's view of oncoming vehicular traffic, pedestrians, or bicyclists.

Use of manufactured homes and recreational vehicles.

- (1) Manufactured homes, recreational vehicles, park trailers, boats, and vans, shall only be used for their designed and intended purpose as evidenced by the manufacturer's certification.
- (2) It shall be a violation of the County's Land Development Code for any person, firm or corporation to keep, dump, store, place or deposit abandoned, unlicensed, inoperable, junked, disabled, wrecked, discarded or otherwise unused recreational vehicles, park trailers, or manufactured homes on any property, street, or highway, except;
 - (a) When such property is located upon the premises of a lawfully established and maintained junkyard, vehicle repair business, or other similar facility as allowable by law.
 - (b) For the storage, service or repair of such property, when located within the confines of a completely enclosed permitted structure, not to include open carports.
- (3) Unoccupied recreational vehicles, park trailers, manufactured homes shall not be used for storage or any other non-residential use for which it was not designed and manufactured as evidenced by the manufacturer's certification.
- (4) A recreational vehicle that is not occupied must be owned or leased by the property owner or tenant

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.3.7. - Junk yards.

- A. All junk yards shall comply with the following standards:
- (1) Minimum lot size. No junk yard shall be located upon any lot or tract of land consisting of less than 20 acres, except those junk yards in existence on the adoption date of this Code.
 - (2) Adjacent zoning. No junk yard shall be located within 300 feet of property zoned for residential, commercial, A-2 or A-3, excluding those junk yards in existence on the adoption date of this Code.
 - (3) Screening and Buffering. All junk yards shall be completely enclosed by an opaque screening device with a minimum height of eight feet. The device may have no more than two gates, which gates shall be non-transparent when closed. The screening device may be constructed of vegetation, wood, metal, chain link fencing, masonry or other similar material, provided that the device must be designed, constructed and maintained to obscure the view of the interior of the junk yard from the outside. Further, the screening device shall be constructed of the same material and be of relatively uniform height or slope along the entire length of a property line; however, different screening devices may be used on different property lines. Except for vegetation, no screening device shall exceed a height of 20 feet. Except as provided in Section 4.3.7.F below, all screening devices shall comply with minimum required structure setbacks; provided, however, that a screening device of vegetation may be located within the required front yard setback as long as all junk is stored behind the setback line. Screening devices shall be properly maintained.
- B. Site Plan Submittal. All applicants shall submit a site plan drawing and a topographical map (including elevations to the centerline of the nearest roads) of the site, showing the proposed screening method and materials to be used on all lot lines.

- C. Approval of junk yard. The Board shall not approve the location of a junk yard upon any parcel if the topography of the parcel is such that the interior of the junk yard cannot be screened from view from the outside of the junk yard.
- D. Deletion of screening device. The Board may, after proper application and public hearing, authorize deletion of a screening device along one or more property lines if the Board finds that the view of the interior of the junk yard will be adequately screened without requiring a screening device.
- E. Storage of junk. No junk, vehicles, or other material may be piled up or stored at an elevation higher than the top of the screening device at its lowest point. In approving the screening devices for existing junk yards under Section 4.3.7.F below, the Board may authorize higher storage limitations to the extent reasonably necessary, because of the size and topography of the lot or tract on which the junk yard is located. Such authorization for higher storage limitations may be rescinded by the Board upon notice to the affected junk yard owner and an opportunity to be heard.
- F. Existing Junk Yards. All legal junk yards existing on June 18, 1992 were required to file a screening plan showing the topography of the junk yard, the location of the proposed screening device, the nature of the proposed screening device, and the location and type of proposed gates by December 18, 1992. Any above referenced junkyard existing on July 11, 2013 which does not have an approved screening device constructed in accordance with an approved plan shall be deemed to be a non-conforming use and a public nuisance, and must comply with current buffering and screening requirements, the County may take appropriate steps to abate such a non-conformity and/or public nuisance.
- G. See Springs Protection Overlay Zone for specific requirements within that zone.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.3.8. - Nursery schools, day schools and kindergartens.

Nursery schools, day schools, child day care centers, and kindergartens shall comply with the following requirements.

- A. Total tract area shall not be less than 15,000 square feet and tract width shall not be less than 100 feet.
- B. A fenced play area must meet State Regulations.
- C. No portion of the fenced play area shall be closer than 20 feet to any residential tract line.
- D. A noise buffer such as a solid masonry wall, or vegetative screening shall be required between fenced play areas and residential tract lines.
- E. All outdoor play activities shall be conducted within the fenced play area, and no outdoor play activity shall be conducted before 8:00 a.m. or after 8:00 p.m.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.3.9. - Performance standards for commercial and industrial zoning classifications.

- A. Application. All uses in the B-3, B-5, IC, RAC, M-1, and M-2 zoning classifications shall comply with the performance standards set forth below:
- B. Methods for Measurement. In determining compliance with the requirements herein, standard instruments which have been accepted by the particular industry involved shall be used. Listed below are the instruments and manuals which shall be used, except that suitable substitutes as determined by the Growth Services Director may also be used. The initials listed before the particular instruments or manuals are symbols which will be used elsewhere in these regulations. The manuals, codes, and description of measuring devices cited below, are hereby adopted by reference as if the works

appeared in this Code in their entirety. The most recent amendment or revision of each code or manual shall be used.

C. Standard Manuals and Measuring Devices:

- (1) The following devices and instruments standardized by the American Standards Association shall be used:

A.D.I. ATMOSPHERIC DUST IMPINGER

- (2) One of the following devices or its equivalent for measuring cup flash points shall be used:

PENSKY-MARTENS

TAGLIABUE

- (3) The following charts and manuals are hereby adopted by reference as they may apply to the regulations set forth herein:

BMI 6888 THE RINGELMANN CHART DESCRIBED IN US BUREAU OF MINES INFORMATION CIRCULAR 6888.

APAM "AIR POLLUTION ABATEMENT MANUAL" OF THE MANUFACTURING CHEMIST ASSOCIATION.

PHR 47 US PUBLIC HEALTH REPORT 47, NO 12. "MEASUREMENT OF DENSITY OF MINERAL DUSTS"

ICR 12 INDUSTRIAL CODE RULE NO. 12 ADOPTED BY THE BOARD OF STANDARDS AND APPEALS OF THE NEW YORK STATE DEPARTMENT OF LABOR

CFR 10 TITLE 10, CHAPTER 1, PART 20 CODE OF FEDERAL REGULATIONS, "STANDARDS FOR PROTECTION AGAINST RADIATION"

- D. Smoke. For the purpose of determining smoke units, the Ringelmann Chart shall be employed (BMI 6888). Each reading (Ringelmann Number) shall be multiplied by the time in minutes for which it was observed, and the products added together to give the total number of smoke units observed during the total period of observation. This total shall then be converted into units per hour. The emission of more than ten smoke units per hour per stack, and smoke with a density in excess of Ringelmann No. 2 is prohibited except as indicated below. For special operations, the following limitations apply:

MAXIMUM FREQUENCY AND PERMITTED SMOKE UNITS AND DENSITIES FOR SPECIAL OPERATIONS

MAXIMUM FREQUENCY PERMITTED:

- (1) For rebuilding fires within 24-hour periodOnce
(2) For banking or cleaning fires, soot blowing, or process purgingOnce in 6 hours

MAXIMUM SMOKE UNITS PERMITTED PER HOUR PER STACK DURING SPECIAL OPERATIONS:

RINGELMANN NO. 120

RINGELMANN NO. 210

RINGELMANN NO. 33

- E. Odor. No odor shall be permitted at any facility property line exceeding the lowest amount set forth in the Table III, "Odor Thresholds" of Chapter 5 APAM. For compounds not described in the table, odor

thresholds shall be described in Chapter 5 of APAM, and no odor shall be permitted at any facility property line exceeding the amount determined by such method.

- F. Toxic or Noxious Matter. The concentration of toxic or noxious odors shall not exceed, at any point on or beyond any facility property line, one-tenth of the maximum allowable concentration set forth in Section 12.29 of ICR12 measured with the A.D.I.
- G. Radiation. No operation, whether or not licensed by the atomic energy commission, shall be conducted in a manner which exceeds the standards set forth in CFR10.
- H. Fire and Explosive Hazards:
 - (1) Storage and utilization of solid materials or products which are incombustible or which in themselves support combustion and are consumed slowly as they burn is permitted.
 - (2) Storage, utilization or manufacture of solid materials or products including free burning and intense burning is permitted provided that said material or products shall be stored, utilized or manufactured within completely enclosed buildings having incombustible walls and protected throughout by an automatic fire extinguishing system.
 - (3) Storage, utilization, or manufacture of flammable liquids, or materials which produce flammable or explosive vapors or gases shall be permitted in accordance with the following table, exclusive of storage of finished products in original sealed containers which shall be unrestricted. The quantity in cubic feet (S.T.P.) permitted shall not exceed 300 times the quantities listed below where the factor is the volume in cubic feet occupied by one gallon of the liquid. Cap flash points shall be measured by the Pensky-Martens, Tagliabue or other standard test equipment. Closed cup flash point is the temperature at which a liquid sample produces sufficient vapor to flash, but not to ignite, when in contact with a flame in a closed cup tester.

**Table 4.3-1
Total Capacity of Flammable Materials Permitted
(In Gallons)**

M-1 Classification		
Industries Engaged in Storage Only	Above Ground	Under Ground
Materials with Closed Cup Flash Point Over 187 Degrees F.	Prohibited	100,000
Flash Point 105 Degrees F.	Prohibited	40,000
Flash Point Under 105 Degrees F.	Prohibited	20,000
Industries Engaged in Utilization and Manufacture of Flammable Materials	Above Ground	Under Ground
Materials with Closed Cup Flash Point Over 187 Degrees F.	50,000	100,000
Flash Point 105 Degrees F.—187 Degrees F.	20,000	40,000

Flash Point Under 105 Degrees F.	5,000	10,000
M-2 Classification		
Unrestricted, provided, that storage, handling and use shall be in accordance with "Standards of National Board of Fire Underwriters for Storage, Handling, and use of Flammable Liquids," National Board of Fire Underwriters Pamphlet No. 30, June, 1959.		

- I. Electromagnetic Interference. No use, activity, or process shall be conducted which produces electromagnetic interference with normal radio or television reception in residential or business districts.
- J. Violation of standards:
 - (1) If in the opinion of the Growth Services Director a violation of these performance standards has occurred, the Director shall send a written notice of said violation to the owner of the property by certified mail. The owner shall have 30 days to correct the violation unless, in the opinion of the Director, there is an imminent peril to the life and property of persons adjacent to the alleged violation, in which case the violation shall be corrected within ten calendar days.
 - (2) Where determinations of a violation can be made by the Director using equipment normally available to the County or obtainable without extraordinary expense, such determination shall be made before notice of violation is issued.
 - (3) Where technical complexity or extraordinary expense makes it unreasonable for the County to maintain the personnel or equipment necessary to make the determination of violation, then the County shall call in properly qualified experts to make the determination. If expert findings indicate a violation of the performance standards, the costs of the determination shall be assessed against the properties or persons responsible for the violation in addition to the other penalties prescribed by this Code. If no violation is found, cost of the determination shall be paid entirely by the County.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.3.10. - Sales offices in residential subdivisions.

- A. A single sales office will be allowed by right, located on a platted and recorded residential subdivision lot, in a model home, subject to the provisions of parking, water and sewage facilities meeting the requirements of this Code.
- B. Sales of land or homes or property not located within the subdivision is prohibited. Upon the cessation of sales, the model home shall be removed or converted for use as a private home.
- C. A single non-illuminated on-site advertising sign may be permitted. The maximum size of the sign is 32 square feet and maximum height shall be 10 feet.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.3.11. - Mining and excavation.

- A. Existing mines which are permitted in conformance with the requirements of the Florida Statutes and the Florida Administrative Code will be allowed to continue operation in rural and urban areas wherein the excavation, screening, crushing, processing, storing or distributing of limerock, phosphate, sand, gravel, clay or other mineral resources, within the same ownership or leasehold, has been actively pursued within the three-year period prior to June 11, 1992.
- B. Resource extraction from sites other than existing mines will be allowed in any zoning classification by SUP. Buffers and screening will be provided within a minimum setback of 25 feet in accordance with Article 6. Resource extraction shall be conducted in accordance with federal and state statutes.
 - (1) Exceptions. A SUP is not required for the following activities:
 - a. Existing mines covered by Section 4.3.11.A above.
 - b. Expansion of existing, on-going aquaculture operations.
 - c. Removal of excess material resulting from commercial, industrial and residential site improvements, except fish ponds.
 - d. Any size pond, providing excavated material remains on site.
 - e. Road construction projects wherein materials are reused or excess materials must be removed.
- C. New and expanding mining projects which include: (a) at least 35 percent of the proposed excavated area is located in a MCAVA category of "more" or "most" vulnerable, or (b) the operations will excavate within 15 feet of predicted height of potentiometric surface, or lime rock, whichever is higher, shall meet the requirements of the Springs Protection Overlay Zone in Article 5.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.3.12. - Roadside vendors.

- A. Roadside vendors as used herein shall mean a person who sells goods as follows:
 - (1) From a roadside stand: fruit, vegetables, produce, peanuts, fireworks, Christmas trees, firewood; and
 - (2) From a Florida Department of Business Regulation, Division of Hotels and Restaurants approved cart: food such as but not limited to hot dogs or sausages, barbecued meat and uncooked seafood.
- B. Sale of the above listed merchandise shall be conducted from a flame retardant tent or pole-barn type facility with the exception of peanuts, food vendors and Christmas trees, which are not required to have a structure on the land. This facility shall be located on private property which is either owned or leased by the vendor. Sales are prohibited within the County right-of-way.
- C. Roadside vendors are intended to function independently. Services such as electric, water, and sewer shall not be permitted on vacant land. Permanent structures such as, but not limited to, sheds, carports, modular buildings, etc., shall be prohibited.
- D. Permitted Zoning Classifications. Sale of listed merchandise will be allowed by right in the following zoning classifications: A-1, A-2, A-3, B-1, B-2, B-4, B-5, M-1, and RAC, upon meeting the following conditions:
 - (1) Driveway access shall be controlled and permits obtained from the appropriate permitting agency.
 - (2) Adequate parking area shall be provided on site for customers including handicapped persons, who shall be provided service without leaving their vehicle if requested.
 - (3) Parking areas shall be covered with a layer (minimum 1½" thick) of bark chips, sawdust, shavings or combination thereof, or construct a stabilized base parking area or pave the parking area.

- (4) On site rest room facilities are to be provided when more than two persons are employed on the site.
- (5) Water and soap for the washing of hands shall be available on site.
- (6) A covered trash or garbage receptacle with a plastic liner will be kept on site.
- (7) Products to be sold will be covered overnight or removed from the site and if required by State law, refrigeration will be provided.
- (8) A roadside stand for the sale of farm products raised or produced on the premises shall be permitted provided such stands are located not less than 30 feet from any street, highway or right-of-way. A site plan will be submitted as part of the building permit process for a permanent structure or for the installation of electrical, water or rest room facilities. The applicable site plan shall be submitted as set forth in Article 2 of this Code.

All advertising signs shall be removed when the roadside vendor ceases business for the day. The maximum number of signs shall not exceed four signs per vendor and shall be no larger than six square feet in size.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.3.13. - Model home sales lot or model home complex.

- A. This commercial development shall provide a paved parking lot with five parking spaces per model home. One parking space for the handicapped per model home or complex is required. The unit(s) must be handicapped accessible, have all utilities including telephone installed and shall be fully functional as a commercial development.
- B. Upon cessation of use as a model home sales lot or model home complex, the model homes may be torn down and removed or the structures converted to office use. Signage shall meet the requirements for an on-site sign in accordance with Division 4 of the Land Development Code.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.3.14. - Existing businesses in rural land area.

- A. Industrial and commercial uses which were in existence as of April 7, 1994, shall be considered conforming uses. Expansion shall be allowed on property, with the same ownership, properly zoned and contiguous to the existing industrial or commercial use as of April 7, 1994.
- B. Clear and convincing evidence proving the business to have been in existence on the specific site on or before April 7, 1994, shall be submitted to the Growth Services Director. Such evidence shall include but not be limited to copies of the following: copy of deed, occupational license, bills of sale for merchandise, invoices for services rendered, business tax returns, power company history of service in name of company, or other similar documentation.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.3.15. - Well permits.

- A. All new and expansion of existing wells and/or wellfields that supply water for qualified Community Water Systems (CWS), as defined in FAC Chapter 62-521.200(1) and operated by local governments, community or special districts, or private utility providers regulated by the Florida Public Service Commission (PSC), are required to obtain a Special Use Permit (SUP) from Marion County.

- B. The SUP request shall include public notice that the establishment of the well/wellfield and its concurring Well/Wellfield Protection Area, as defined in Article 5, "Well Head Protection".
- C. This provision shall not be implemented in a manner that conflicts with the exclusive jurisdiction of the water management districts to regulate the consumptive use of water under FS Chapter 373. Upon approval of the SUP, the well and/or wellfield shall be added to the FLUM Series Map #2, Well and Wellhead Protection Areas, with the next available administrative Comprehensive Plan Amendment Cycle.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.3.16. - Sale of goods outside of a building (temporary use).

The sale of goods or merchandise associated with a commercially zoned development by merchants in that development may be permitted as a temporary sales event for a limited period of time. A Temporary Use Permit shall be issued by the Growth Services Director upon receipt of a complete application and payment of a fee set by the Board of County Commissioners.

- A. The Growth Services Director may issue temporary use permits for off-premises locations subject to the applicable restrictions set forth in this section.
 - (1) Temporary use permits for off-premises locations shall be restricted to those zoning districts in which the sale of the items would normally be permitted.
 - (2) Written permission from the property owner shall be provided.
 - (3) No more than one temporary use permit per applicant and per site shall be issued in any 90-day period of time and shall not exceed a period of seven days.
 - (4) The Growth Services Director may stipulate any special conditions or restrictions consistent with the preservation of the public health, safety or welfare.
 - (5) The driveway apron must be permitted and constructed to the appropriate agencies specification.
 - (6) The provisions of this section shall not apply to roadside vendors meeting the provisions of Section 4.3.12.
 - (7) A violation of this section may be punished by a fine not to exceed \$500.00 or by imprisonment in the County Jail not to exceed 60 days or by both such fine and imprisonment. Each day any violation of any provision of the Code shall continue shall constitute a separate offense.
 - (8) All sales of motorized vehicles shall be titled and registered in Marion County.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.3.17. - Landfills.

Construction and demolition landfills must be approved by a Comprehensive Plan Amendment and shown on the Future Land Use Map. See Springs Protection Overlay Zone for specific requirements within that zone.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.3.18. - Family/guest cottage/apartment.

- A. The family/guest cottage/apartment is an accessory non-commercial dwelling unit designed as an independent living unit smaller than the primary structure, which may be connected to the utility systems of the primary dwelling.
- B. The family/guest cottage/apartment may be constructed on a concrete foundation or slab, and shall be located in the rear or side yard of a principal dwelling.
- C. Family/guest cottage/apartment units may be located in the front yard and/or forward of the principal single-family dwelling when located within the A-1 "General Agriculture" Zoning Classification.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.3.19. - Temporary storage of construction materials.

Temporary storage of road construction materials, surplus material or clean fill from a county or state permitted roadway construction project may be allowed by a Temporary Use Permit issued by the Growth Services Director under the following conditions which are to be a part of the permit:

- A. Written permission of the property owner,
- B. Submittal of a sketch showing access to the storage site and location of storage area with photos attached,
- C. Setback of storage area shall be a minimum of 50 feet from all property lines or the setbacks of the property's zoning classification, whichever is the greatest, and
- D. The property shall be restored substantially to original condition within 90 days after completion of the project.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.3.20. - Homing pigeons.

- A. The term "homing pigeons" shall include those pigeons which have been trained to return home including racing or carrier pigeons. Such pigeons and pigeon lofts in existence as of April 6, 2000, shall be considered conforming uses in the respective zoning classifications.
- B. Pigeon lofts shall be used for the breeding and husbandry of pigeons. All pigeons shall be confined in a loft, except for limited periods necessary for exercise, training and competitions. Pigeons shall be fed within the confines of the loft.
- C. Pigeon lofts are permitted uses in the A-1, General Agriculture, A-2, Improved Agriculture, or A-3, Residential Agricultural Estate zoning classification.
- D. Pigeon's lofts are allowed by right in residential zoning classifications on parcels of one acre or greater.
- E. Pigeon lofts may be located in all other zoning classifications by SUP.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.3.21. - Parking of commercial vehicles.

- A. All Commercial vehicles in excess of 16,000 pounds (GVW) shall be prohibited from parking or being stored in any public or private right-of-way, or any in residentially or agriculturally zoned classifications (including a manufactured home or recreational vehicle park) for more than 1 hour, except:
 - (1) Those properties located within a residential or agricultural zoning classification consisting of less than five acres which may permit one commercial vehicle through the Special Use permit

review and permitting process, and only when the following conditions can be met, unless otherwise approved by the Board of County Commissioners;

- (a) The commercial vehicle must be engaged in an approved commercial use; and
 - (b) No proposed parking of a commercial vehicle shall be allowed in an established front yard and must be parked within the side or rear yard in a location that is a minimum of 100 feet from the nearest neighboring residential structure; and
 - (c) The commercial vehicle must be stored within an enclosed structure, or behind an opaque wall or fence high enough to screen the vehicle from the neighboring properties and the right-of-way serving the property (walls and fences may require a building permit from the County); existing vegetation as a screening method may be considered if the Growth Services Director determines that the existing vegetation provides an adequate buffer for screening purposes; and
 - (d) Vehicles of any size with actively operating (running) cab or refrigerating cooling units are prohibited on any residentially or agriculturally-zoned property.
 - (e) No mechanical repairs/maintenance on the commercial vehicle shall take place.
 - (f) The owner and operator must reside onsite and applications for the Special Use permit shall run with the owner of the property; and
 - (g) The parcel where the commercial vehicle will be parked must meet the minimum tract width along the paved and maintained Marion County right-of-way providing the access to the property; and
 - (h) The roadway providing access to the property shall be adequately rated to accommodate the heavy vehicle/truck traffic as per the Office of the County Engineer; and
 - (i) Access to property shall not include a road which has been improved by an MSTU project; and
 - (j) Only one truck per lot of record may be permitted.
- (2) Those agriculturally-zoned properties;
- (a) Consisting of five acres or greater, one commercial vehicle (with or without associated trailer) may be parked onsite and processed administratively as a Temporary Use Permit for a period not to exceed three years, provided the same conditions under Section A(1)(a)—(i) above can be met; The Temporary Use Permit may be renewed provided no objections to the use have been filed in relation to the use; in such circumstances, any request for renewal must proceed as a Special Use Permit request.
 - (b) Consisting of 10 acres or greater and not being used in connection with a bona fide agricultural use onsite as set forth under Florida Statute 193.461(3)(b)(1)(a)—(g) shall be permitted to park one commercial vehicle onsite(with or without associated trailer), and processed administratively as a Temporary Use Permit for a period not to exceed three years, with the following conditions:
 - (1) The commercial vehicle must be utilized in an active employment status; and
 - (2) No proposed parking of a commercial vehicle or trailer shall be allowed to be parked within the established front yard or within 100 feet from the nearest neighboring residential structure; and
 - (3) Up to one additional detachable trailers (semi-trailers) shall be permitted to be parked on-site, provided that they are used for active employment purposes and not used for storage onsite; and
 - (4) No mechanical repairs/maintenance on the commercial vehicle shall take place on-site; and

- (5) The owner must reside onsite; and
 - (6) The roadway providing access to the property shall be adequately rated to accommodate the heavy vehicle/truck traffic as per the Office of the County Engineer; and
 - (7) Access to property shall not include a road which has been improved by an MSTU project; and
 - (8) Only one truck per lot of record may be permitted.
- (3) Those vehicles engaged in the commercial delivery or pickup of goods not exceeding 30 minutes; vehicles engaged in commercial moving services; the delivery of materials to be used in bona fide repair, alteration, remodeling, or the construction of any building or structure for which a building permit has previously been obtained when required; lawn care services being performed onsite; or for the purpose of public works projects; or
 - (4) When the vehicle is parked in connection with and is owned or leased by an approved business in a non-residential zoning classification, or when the vehicle is loading or unloading goods in connection with such a business and is parked adjacent to a loading dock or loading area for a period of time not to exceed 48 hours; or
 - (5) Utility company vehicles that are used for 24 hour emergency on-call.
- B. Cars, motorcycles, passenger vans and pick-up trucks utilized for commercial purposes are exempt, provided that the vehicle and/or any equipment attached to the vehicle such as racks or utility beds, cannot exceed 16,000 pounds, and only one such vehicle shall be permitted within a residential zoning classification and parked within a garage, on a driveway, or in the side or rear yard.
 - C. No provision of this section shall exempt any vehicle from complying with the weight limitations of a roadway as specified by federal or state regulatory agencies.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.3.22. - Non-conforming uses.

- A. Intent. Within the County there exist uses of land which were lawful before this Code was passed, but which have been prohibited or restricted under terms of this Code.

It is the intent of this Code to permit these non-conforming uses to continue until they are removed or cease to exist, but not to encourage their survival. Non-conforming uses are declared by this Code to be incompatible with permitted uses in the zoning classification involved. It is further the intent of this Code that non-conforming uses shall not be enlarged, extended, or reconstructed to continue their use after major damage. Exceptions to this intent may be allowed for the restoration of historic structures or for the replacement of an existing dwelling that is the primary residence of the property owner.

- B. Non-conforming use—Extension. Any non-conforming uses, which occupied a conforming building, or land or portion of a building or land shall not be extended to occupy any other part of the same conforming building or land within the same zoning classification. This section shall not apply to the excavation, screening, crushing, processing, storing or distributing of lime rock, phosphate, sand, gravel or clay within the same ownership or leasehold, where such activities were actively pursued within the three-year period prior to June 11, 1992.
- C. Repair, alteration, enlargement. A conforming structure or a portion of a conforming structure occupied by a non-conforming use may be:
 - (1) Improved and repaired in such a manner so as the improvements and repair shall not increase the cubical content or the floor area of the building or the portion of the building devoted to the non-conforming use.

- (2) Enlarged or expanded if the enlargement or expansion is necessary to bring the structure into conformance with the Building Code and the enlargement or expansion cost does not exceed 50 percent of the assessed value of the structure.
 - (3) Nothing in this section shall prevent compliance with applicable laws relative to the safety and sanitation of a conforming building or portion of a conforming building occupied by a non-conforming use.
- D. Reconstruction after catastrophe. Any building or portion of a building occupied by a non-conforming use, which is damaged by fire, flood, explosion, collapse, wind, war or other catastrophe to the extent that the cost of rebuilding, repair or reconstruction will exceed 120 percent of its assessed value at the time of the damage, shall not again be reconstructed for use by a non-conforming use. If the repair or reconstruction cost is less than one 120 percent of the assessed value, the building may be repaired or reconstructed for use by the existing non-conforming use.
- E. Change of non-conforming use.
- (1) There may be a change of tenancy, ownership or management of a non-conforming use provided there is no change in the nature or character of such non-conforming use except as may be permitted by this section.
 - (2) The change from a non-conforming use of land, to a conforming use of land is encouraged.
- F. Discontinuance or abandonment of a non-conforming use.
- (1) This restriction shall not apply to temporary cessation or discontinuance of uses involving excavation, screening, crushing, storing and distributing of lime rock, phosphates, sand or gravel or other rock or minerals within the same leasehold or ownership, where such uses were actively pursued within three years prior to June 11, 1992 and where such temporary cessation or discontinuance does not exceed a period of three years.
 - (2) If for any reason the occupancy of a building, part of a building, or use of land by a non-conforming use, ceases or is discontinued for a period of 12 months or more, the building or portion thereof shall not thereafter be occupied by a non-conforming use.
 - (3) Any building, structure or land, or portion thereof, occupied by a non-conforming use which is changed to or occupied by a conforming use shall not thereafter be used or occupied by a non-conforming use.
 - (4) Any non-conforming junk yard shall be brought into conformity with all of the applicable provisions of Section 4.3.7 herein, except area and dimension requirements, where conformity is impossible (a) because of the size and dimensions of the parcel upon which the non-conforming use is located, or (b) without relocation of the principal building containing such non-conforming use.
- G. Special uses not non-conforming uses. Any use which is permissible in a zoning classification as a special use under the terms of this Code shall not be deemed a non-conforming use in such classification, but shall without further action be considered to be a conforming use.
- H. Casual or temporary use. The casual, temporary, or illegal use of land or a structure shall not be sufficient to establish the existence of a non-conforming use or to create any rights in the continuance of such a use. The legal change of a zoning classification or classification regulations is the only way to create a non-conforming use or to create any rights in the continuance of a non-conforming use of land.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.3.23. - Non-conforming structures.

Where a lawful structure exists at the effective date of adoption or amendment of this Code that could not be built under the terms of this Code by reason of restrictions on area, lot coverage, height,

yards, setbacks, or other characteristics of the structure or its location on the lot, such structures may be continued so long as they remain otherwise lawful, subject to the following provisions:

- A. Such structures may be enlarged or altered provided the enlargement and alteration meets the requirements of this Code and does not increase the non-conformity.
- B. Such structures existing as of the adoption of this Code, shall be permitted to be rebuilt and repaired in the event of destruction or damage by accident, fire, flood, explosion, collapse, wind, war or other catastrophe, provided the reconstruction does not increase the gross density or intensity of the property, shall meet other applicable codes, and does not increase the non-conformity.
- C. Should such structure be moved for any reason for any distance whatever, it shall be required to conform to the regulations for the zoning classification and overlay zone in which it is located after it is moved.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.3.24. - Adult entertainment business.

A. The Board hereby finds as follows:

- (1) The possession, display, exhibition, production, distribution and sale of books, magazines, motion pictures, video tapes, prints, photographs, periodicals, records, novelties and similar devices which depict, illustrate, describe or relate to specified sexual activities is a business that exists within the State of Florida.
- (2) The operating and maintaining of places presenting dancers displaying or exposing specified anatomical areas are businesses that exist within the State of Florida.
- (3) When the activities detailed in Sections 4.3.24.A(1) and 4.3.24.A(2) are present in an area, other activities tend to accompany them which are illegal, immoral or unhealthful, such as prostitution; lewd and lascivious behavior; exposing minors to harmful materials; possession, distribution and transportation of obscene materials; sale or possession of controlled substances; and violent crimes against persons and property; and these illegal, immoral or unhealthful activities tend to concentrate around and be aggravated by the presence of the activities detailed in Sections 4.3.24.A(1) and 4.3.24.A(2) above.
- (4) Based upon evidence and testimony from the County's professional planners, the grouping together of the activities described above lowers property values, detracts from the aesthetic beauty of residential, commercial and institutional neighborhoods and is harmful to juveniles who congregate in such residential and institutional areas.
- (5) Based upon evidence and testimony from the County's professional law enforcement officers, the grouping together of the activities described above creates an inordinate amount of concentrated crime in such areas.
- (6) Also based upon evidence and testimony from the County's professional law enforcement officers, many of the types of establishments at which the activities described above occur are likely to attempt to locate in this County.
- (7) Also based upon evidence and testimony from the County's professional law enforcement officers and the County's professional planners, the location of the activities described above near residential, institutional or other areas where juveniles often congregate lowers property values in such areas and exposes juveniles to the activities described in [Section] 4.3.24.A(3) above.
- (8) Based upon evidence and testimony received from the County's professional planners, there will be free and reasonable access for and to the regulated uses, and the limitations imposed herein will not preclude robust competition with other regulated uses.

- (9) Based upon the experiences of other localities statewide and nationwide, the evidence and testimony of the County's professional planners and law enforcement officers appear to be correct.
- B. Spacing requirements.
- (1) A regulated use may not be established or continued in any permitted zoning classification unless all other requirements of this Code pertaining to such zoning classification and to buildings generally are met and unless the regulated use is at least:
- (a) One thousand five hundred feet from any other regulated use;
 - (b) One thousand five hundred feet from any established church, public or private school, public and private playground or park; and
 - (c) One thousand five hundred feet from any area with a residential zoning classification.
- (2) For purposes of the distance limitations, the measurement shall be made by extending a straight line from the property line of the "regulated use" to the nearest property line occupied by any other regulated use or to the nearest property line of property owned by any church or school or to the nearest property line of any residential area, playground, or park.
- C. Obscenity not permitted. Nothing in this section shall be construed as permitting or allowing a violation of any state or federal law, including Ch. 847 FS relating to obscenity.
- D. Other uses "moving to" regulated use. Any use herein defined as a "regulated use" or an "adult and sexually-oriented business" which is established in conformity with this section and other applicable laws and ordinances shall not be made unlawful if, subsequent to the establishment and operation of such "regulated use," a church, or school acquires property or a playground, park or residential area is created or established within the distance limitations for the "regulated use" specified in this section.
- E. Zoning classifications. All regulated uses and adult and sexually-oriented businesses shall be a permissible use in a B-5 and M-1 districts only, and only upon issuance of a SUP.
- F. Adult theaters. The following special requirements shall apply to adult theaters, adult mini-motion picture theater or adult motion picture theater.
- (1) If the adult theater contains a hall or auditorium area, the area shall comply with each of the following provisions:
- (a) Have individual or separate seats, not couches, benches, beds, or the like, to accommodate the maximum number of persons who may occupy the area; and
 - (b) Have a continuous main aisle alongside of the seating areas in order that each person seated in the areas shall be visible from the aisle at all times; and
 - (c) Premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one foot-candle as measured at floor level.
 - (d) It shall be the duty of the licensee, the owners, and operator and it shall also be the duty of any agents and employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present on the premises.
- (2) If the adult theater contains adult booths, each adult booth shall comply with each of the following provisions:
- (a) Have a sign posted in a conspicuous place at or near the entrance way which states that only one person may occupy the booth; and
 - (b) Have a permanently open entrance way for each booth not less than two feet eight inches wide and not less than seven feet high, which will never be closed or partially closed by a curtain, door, or other partition which would be capable of wholly or partially obscuring a

person situated in the booth; no curtains, doors, or other partitions shall be affixed, attached, or connected to the permanently open entrance way of a booth; and

- (c) Have one individual seat, not a couch, bench, or the like; and
 - (d) Except for the open entrance way of each booth, each booth shall have walls or partitions of solid construction without holes or openings in such walls or partitions; and
 - (e) Premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one foot-candle as measured at floor level.
 - (f) It shall be the duty of the licensee, the owners, and operator and it shall also be the duty of any agents and employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present on the premises.
- (3) If the theater has an area in which a private performance occurs, it shall:
- (a) Have a permanently open entrance way not less than seven feet wide and not less than seven feet high, which entrance way will never be closed or partially closed by a curtain, door or other partition which would be capable of wholly or partially obscuring a person situated in the area; and
 - (b) Have a wall-to-wall, floor-to-ceiling partition of solid construction without holes or openings which partition may be completely or partially transparent and which partition separates the employee from the person viewing the display; and
 - (c) Have, except for the entrance way, walls or partitions of solid construction without holes or openings in such walls or partitions; and
 - (d) Have individual or separate seats, not couches, benches, beds, or the like, to accommodate the maximum number of persons who may occupy the area; and
 - (e) Premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one foot-candle as measured at floor level.
 - (f) It shall be the duty of the licensee, the owners, and operator and it shall also be the duty of any agents and employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present on the premises.
- G. Signage. Notwithstanding any provision of this Code, the Building Code or any County ordinance or regulation to the contrary, it shall be unlawful for any owner or operator of any regulated use or adult or sexually-oriented business or any other person to erect, construct, or maintain any sign for the regulated establishment other than one "primary sign" and one "secondary sign," as provided herein:
- (1) Primary signs shall have no more than two display surfaces. Each such display surface shall:
 - (a) Not contain any flashing lights, moving parts or be constructed to simulate movement;
 - (b) Be a flat plane, rectangular in shape;
 - (c) Not exceed 75 square feet in area; and
 - (d) Not exceed ten feet in height or ten feet in length.
 - (2) Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations of any manner, and may contain only:
 - (a) The name of the regulated establishment; and
 - (b) One or more of the following phrases:
 - 1. Adult Bookstore
 - 2. Adult Movie Theater

3. Adult Encounter Parlor
 4. Adult Cabaret
 5. Adult Lounge
 6. Adult Novelties
 7. Adult Entertainment
 8. Adult Modeling Studio
- (c) Primary signs for Adult Movie Theaters may contain the additional phrase, "Movie Titles Posted on Premises."
- (3) Each letter forming a word on a primary sign shall be of a solid color, and each such letter shall be the same print-type, size and color. The background behind such letter on the display surface of a primary sign shall be of a uniform and solid color.
- (4) Secondary signs shall have only one display surface. Such display surface shall:
- (a) Be a flat plane, rectangular in shape;
 - (b) Not exceed 20 square feet in area;
 - (c) Not exceed five feet in height and four in width; and
 - (d) Be affixed or attached to any wall or door of the establishment.
 - (e) The provisions of Sections 4.3.24.G(1)(a), 4.3.24.G(2), and 4.3.24.G(3) above shall also apply to secondary signs.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.3.25. - Telecommunications towers and antennas.

- A. Purpose and intent. The intent of this section is to provide standards and regulations for the location of telecommunication antennas and towers in the unincorporated area of Marion County. These regulations and requirements are adopted with the intent and purpose of protecting the health, safety, and welfare of the public; of encouraging users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal; of protecting residential areas, scenic roads, historical sites and other land uses from potential adverse impact of antennas and towers; to minimize adverse visual impact of antennas and towers through careful design, siting, and landscaping; to encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas; to promote and strongly encourage shared use (collocation) of existing towers and antenna support structures as a primary option rather than construction of additional single-use towers; to avoid potential damage to property caused by antennas and towers by ensuring such structures are soundly and carefully designed, constructed, modified and maintained; to ensure that antennas and towers are compatible with surrounding land uses; and to enhance the ability of the providers of telecommunication services to provide such services to the community quickly, effectively and efficiently.
- B. Location priority:
- (1) It is recognized that different wireless telecommunication services and providers have distinct geographical areas in which they must be located to provide their service, but it is also recognized that there is usually some flexibility in the type of antenna and type of support structure on which the antenna is to be located. Therefore, all antennas and towers subject to this section shall to the extent possible be located in accordance with the following prioritization of types of facilities and sites:
 - (a) Antennas on existing towers.

- (b) Antennas on existing antenna support structures.
 - (c) Antennas on modified or reconstructed towers designed to accommodate the collocation of additional carriers as set forth in Section 4.3.25.G(4) and (5).
 - (d) Towers and antennas on limited replacement/modified light standards, power poles, or other such Antenna Support Structures in a non-residential zoning district (zoning districts other than R-1, R-2, R-3, R-4, RE and Residential PUD).
 - (e) Towers on property controlled and used by a governmental or quasi-governmental entity.
 - (f) New construction and new towers.
- C. Permitted use. A communication tower meeting the requirements of this section and Sections 4.3.25.E and 4.3.25.G shall be a permitted use of land requiring administrative review and administrative permit only. A communication tower allowed as a permitted use under this section shall be limited to a maximum of 150 feet in height and shall be a monopole tower. A communication tower which fails to meet the requirements of this section as a permitted use may be permitted by SUP issued by the Board.
- (1) On designated County property.
 - (2) On Federal, State, or municipal property.
 - (3) On school sites as designated by the School Board.
 - (4) On property with an industrially or commercially designated land use.
 - (5) On property within an urban commerce district or specialized commerce district.
 - (6) On new structures and replacement structures on electrical substation properties as long as the new structure is setback at least 75 percent of the height away from an existing residential structure and the new structure is no more than 150 feet in height.
- D. Special Use Permit (SUP). No person shall erect or modify an antenna or an antenna support structure, construct a new tower, or modify an existing tower without first obtaining a SUP pursuant to this section, or an administrative permit as set forth herein. The Board is under no obligation to approve a SUP application unless and until the applicant meets their burden of demonstrating that the proposed use will not adversely affect the public interest, the proposed use is consistent with the Comprehensive Plan and the proposed use is compatible with land uses in the surrounding area. The Board's determination shall be based on substantial and competent evidence, documentation and testimony received at the public hearing including but not limited to the recommendation of the County Growth Services staff, the recommendation of the Planning and Zoning Commission, information and recommendation of County engineering consultants, information from the applicant and any party in support or opposition, or their respective representatives. In addition, the Board shall consider the following factors in determining whether to issue a SUP for a new tower, although the Board may waive or reduce the burden on the applicant of one or more of these criteria if the Board concludes that the goals of this section are better served thereby.
- (1) Height of the proposed tower; surrounding topography; surrounding tree coverage and foliage; nature of uses on adjacent and nearby properties; proposed ingress and egress; and availability of suitable existing towers and other structures as set forth in this section.
 - (2) Proximity of the tower to residential structures and residential subdivision boundaries, including the amount of the tower that can be viewed from surrounding residential zones in conjunction with its proximity (distance) to the residential zone, mitigation landscaping, existing character of surrounding area, or other visual options proposed by the applicant;
 - (3) Proximity of the tower to public and private airports, including but not limited to the effect on the airport traffic pattern and visual and instrument approaches, orientation to the runway heading and type and volume of aircraft traffic operating at the airport.
 - (4) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness, including the extent to which the tower is designed

and located to be compatible with the nature and character of other land uses and/or with the environment within which the tower proposes to locate, the tower may be placed, designed or camouflaged to assist with mitigating the overall aesthetic impact of a tower;

- (5) No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Board that no existing tower or antenna support structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or antenna support structure can accommodate the applicant's proposed antenna must be submitted with the application and may consist of any of the following:
 - (a) No existing towers or antenna support structures are located within the geographic area required to meet applicant's engineering requirements.
 - (b) Existing towers or antenna support structures are not of sufficient height to meet applicant's engineering requirements.
 - (c) Existing towers or antenna support structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - (d) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or antenna support structure, or the antenna on the existing towers or antenna support structures would cause interference with the applicant's proposed antenna.
 - (e) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or antenna support structure or to adapt an existing tower or antenna support structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - (f) The applicant demonstrates that there are other limiting factors that render existing towers and antenna support structures unsuitable.
- E. Development standards. The following development standards shall govern the application, consideration and issuance of administrative and SUPs. The applicant shall comply with the following conditions, unless the applicant can demonstrate that the goals of this section are better served by the waiver of these requirements.
 - (1) Setbacks and Locational Requirements. The following requirements shall apply to all towers including towers allowed as a permitted use under Section 4.3.25.C; provided, however, that the Board may reduce the requirements if the goals of this section would be better served thereby.
 - (a) Setbacks from Parent Property Lines. Tower setbacks shall be measured from the base of the tower to the property lines of the parent parcel. The tower owner shall provide a lease or deed or recorded fall zone easement covering the certified fall radius, and all towers shall be located on a parcel in such a manner that in the event of collapse, the tower structure and its supporting devices shall be contained within the confines of the property lines of the parent parcel. The fall radius of the tower shall be determined and certified by a Florida Licensed Engineer. Structural Support devices such as peripheral anchors, guy wires or other supporting devices shall be located no closer than 25 feet from any property line of the parent parcel.
 - (b) Locational Requirements Relative to Off-Site Uses and Zoning. Towers shall meet the locational requirements set forth in the table below from adjacent and surrounding properties of the parent tract.
 - (c) If the owner of the property where the tower is to be located owns residential units thereon or on surrounding properties (or if such properties are owned by his or her parents or children and they have consented in writing), those units shall not be taken into consideration when calculating the setback and locational requirements in this section.

Table 4.3-2 Tower Locational Requirements

Separation From	Distance
Any adjacent or surrounding residential dwelling	150% of tower height
Any adjacent or surrounding residentially zoned land	100% of tower height
Any off-site agriculturally zoned land	100% of tower height
Public road rights-of-way	100% of tower height
Designated scenic roadways	100% of tower height

- (2) Collocation. All new towers shall be designed and constructed to allow collocation of a minimum of two antennas for monopoles and four antennas for other towers. The tower owner/operator shall submit executed collocation agreements or binding letters of intent for each collocation as support for granting the permit to locate the tower, if any. Collocation agreements or binding letters of intent shall be in a form acceptable to the Growth Services Director that shall provide that each of the additional users will be utilizing the tower upon its completion.
- (3) Tower Clustering. Application for tower clustering shall be filed with the Growth Services Department and shall include a site plan showing the location and fall zone radius of each tower. The Growth Services Department shall prepare and forward a recommendation and supporting documents to the Board. The Board may approve or deny such site for tower clustering by adoption of a resolution, provided however, if one or more of the towers require a SUP, the resolution of approval shall be subject to issuance of the necessary SUP. Unless otherwise approved by the Board, towers shall be separated from each other a minimum distance equal to the certified fall radius.
- (4) Landscaping and buffers. Landscaping of tower electrical control equipment facilities shall apply to those sites which are adjacent to or within 330 feet (straight line distance) of a residence or development. A planting area a minimum of four feet wide, around the outside perimeter of the fence around the tower compound shall be established. The area shall be planted with a hedge of native or ornamental evergreen shrubs at least 30 inches in height at planting and capable of growing to at least 40 inches in height within the first growing season. Plants shall be mulched using two inches of material. A drip or low volume/pressure irrigation system or other alternative means of insuring hearty growth of vegetation shall be utilized. These plant materials shall be designed and placed to effectively screen the view of the tower compound from adjacent property. Ornamental trees may be included in the design to achieve this goal. Landscape buffering on the parent parcel shall be installed along the portion of the parent parcel boundaries between the tower and off-site residentially zoned property as necessary to buffer residential property when vegetative buffers are non-existent or provide insufficient screening. Plant materials shall be designed and placed to screen the view of the tower compound. Ornamental trees may be included in the design to achieve this goal. Existing mature tree growth and natural land forms on the property shall be protected and preserved to the maximum extent possible. New trees shall be a minimum of two inches DBH and shall be container grown. Shrubs shall be a minimum of 18—24 inches in height. Plants shall be mulched using two inches of material. All plant material shall be maintained in perpetuity following final inspection and approval. Replacements shall be made annually and coordinated with the Growth Services Director or his designee. The Board

may require a greater buffer where appropriate or waive or modify any or all of these requirements if the goals of this section would be better served thereby.

- (5) Lighting. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA) or other applicable authority. If lighting is required, the County shall review the available lighting alternatives and approve the design that will cause the least disturbance to the surrounding views, including but not limited to installation of bottom shielding on all lights.
- (6) Color. Towers shall either maintain a galvanized steel finish, or concrete, or be painted a color so as to reduce visual obtrusiveness, subject to any applicable standards of the FAA, except for camouflage towers. The wiring conduit and coaxial cable shall be designed or painted to reduce visual obtrusiveness.
- (7) Buildings. At the tower site, the design of the building and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment. Outdoor storage is not permitted at a tower site.
- (8) Antenna. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- (9) Signage. No signage shall be allowed on any tower, except as required for public safety purposes, or by the Federal Communication Commission (FCC).
- (10) Security fencing. Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the Board may waive such requirements, as it deems appropriate.
- (11) Inventory of existing sites. In order to encourage collocation of facilities, the Growth Services Department shall maintain a current map of all existing towers and all antenna support structures on which an antenna has been located. To prepare and maintain such a map, at the time of its first application after the effective date of this ordinance, each applicant for an antenna and or new tower shall provide to the Growth Services Department an update of the inventory of the communications company's existing towers and antennas and approved towers that are either within Marion County or within one-quarter mile of the border thereof including municipal boundaries, including specific information about the location (including longitude, latitude, and State Plane Coordinates), height, and design of each tower. The Growth Services Department may share such information with other applicants applying for administrative approvals or SUPs under this ordinance or other organizations seeking to locate towers or antennas within the jurisdiction of the Board, provided, however, that the Growth Services Department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- (12) Federal requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If, upon inspection, the Board concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within said 30 days, the Board may remove such tower at the expense of the owner and/or landowner.
- (13) Building Codes; Safety Standards. To ensure the structural integrity of towers, the owner of a tower constructed after April 28, 1998 shall ensure that it is constructed and maintained in compliance with EIA/TIA 222-E Standard, as published by the Electronic Industries Association, which may be amended from time to time, and all standards contained in the County building code and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Board concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property,

then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within said 30 days, the Board may remove such tower at the expense of the owner and/or landowner.

- (14) Public notice. For purposes of this section, any SUP for a tower shall require public notice to all abutting property owners and all owners of property that are located within 500 feet of the perimeter of the parent parcel upon which the proposed communication tower is located, including municipalities within one mile of the proposed site and notice to owners of private and public airports within a two-mile radius of the proposed site. Failure of a municipality to respond within 30 days after notification shall be interpreted as no objection.
- F. Permit application. An applicant requesting a new tower permit, a permit to modify an existing tower, or a permit for a new antenna on an antenna support structure or a tower shall include the following:
- (1) Information Required. Each applicant requesting a SUP shall submit a complete application as set forth herein, including a scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals, showing the location (including longitude, latitude and State Plane Coordinates) and dimensions of all improvements, including information concerning topography, radio frequency coverage, geographical area required to meet applicant's engineering requirements (applicant's search ring), tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, and other information deemed by the Board to be necessary to assess compliance with this section. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical shall be certified by a licensed professional engineer. For new towers only, a site plan (20 copies) drawn to scale. The Growth Services Director shall provide a checklist of items required for the site plan. The site plan shall also include the criteria pursuant to this section;
 - (2) The height of the proposed or modified tower or antenna support structure (including the antenna);
 - (3) For new towers only, the location of the proposed new tower, antenna support structure or modified tower, placed upon an aerial photograph possessing a scale of not more than one inch equals 660 feet (1" = 660'), indicating all adjacent land uses within a radius of 3,000 feet from all property lines of the proposed tower location site. For a permit to modify an existing tower, written documentation that the modified tower can accommodate collocation and will not exceed 40 feet over the tower's existing height. For a new antenna on an antenna support structure or tower, a description of the antenna and antenna support structure with technical reasons concerning its design.
 - (4) For new towers only, the names, addresses and telephone numbers of all owners of the proposed tower and the location of other towers or usable antenna support structures within a one-half mile radius of the proposed new tower site, and within the geographic area required to meet applicant's engineering requirements (applicant's search ring), including property zoned GU and property that is owned by a government entity within one mile radius of the proposed site, which meets the requirements of Section 4.3.25.C.
 - (5) For new towers only, written approval or a statement of no objection from the FCC, FAA and other state and federal government agencies that regulate towers. In addition, all applications for new towers within a two mile radius of a public or private airport shall demonstrate that the tower location will not interfere with or obstruct the flight path of the airport.
 - (6) For new towers only, written documentation demonstrating that the applicant made diligent efforts for permission to collocate on towers, or usable antenna support structures or locate on County owned property located within the applicant's search ring and within a one mile radius of the proposed site, which meets the requirements of Section 4.3.25.C.
 - (7) A description of the tower, or antenna and antenna support structure with technical reasons concerning its design.

- (8) For new and replacement towers only, written documentation from a qualified radio frequency engineer that the construction and placement of the tower will not interfere with public safety communication and the usual and customary transmission or reception of radio, television, or other communication service.
 - (9) Written, technical evidence from an engineer(s) that the proposed antenna tower or structure meets the structural requirements standards as defined in this section. The applicant is required to submit the necessary building plans to the building department.
 - (10) For new towers only, if volatile, flammable, explosive or hazardous material (such as LP gas, propane, gasoline, natural gas, corrosive or other dangerous chemicals) except standard battery backup systems typically used in the telecommunication industry, are present on the site or in proximity thereto, written technical evidence from a qualified engineer(s) acceptable to the fire marshal and the building official that such material is properly stored consistent with applicable Codes and does not pose an unreasonable risk of explosion, fire or other danger to life or property.
 - (11) For new towers only, 20 copies of the final written report of all experts which the applicant will rely upon to support its application. The applicant may supplement such reports during the public hearing process to address additional issues raised at the public hearings.
 - (12) Payment of all permit fees, as well as other fees and charges assessed by the County (e.g. fees for building permits, site plan review, etc.). The applicant shall pay any reasonable additional costs incurred by the County in processing the application including, without limitation, compensation for engineers (including radio frequency engineers) or other technical consultants retained by the County.
- G. Administrative permit. No person shall erect or modify an antenna on an antenna support structure, construct a new tower as a permitted use, or modify an existing tower without first obtaining an administrative permit pursuant to this section. The Growth Services Director shall issue administrative permits consistent with the requirements of this section, and Sections 4.3.25.B, 4.3.25.C, 4.3.25.E, and 4.3.25.F. An application for an administrative permit shall be in writing and in such form and content necessary to justify the permit. Within 15 days of receiving an application or a supplement to a pending application, the Growth Services Director shall determine and notify the applicant whether the information in the application is sufficient or shall request any additional information needed. The applicant shall either provide the additional information requested or shall notify the Growth Services Director in writing that the information will not be supplied and the reasons therefore. If the applicant does not respond to the request for additional information within 60 days, the application shall be deemed to be withdrawn. Within 30 days after acknowledging receipt of a sufficient application, or of receiving notification that the information will not be supplied, the Growth Services Director shall grant or deny the application. If the Growth Services Director denies the application for an administrative permit, the applicant may appeal such denial to the Board of Adjustment. The following uses may be approved in writing by the Growth Services Director or his designee after submission of a complete application, an administrative review and issuance of an administrative permit:
- (1) Towers allowed as a Permitted Use.
 - (2) Installing an antenna on an existing structure other than a tower (such as a building, light pole, water tower, or other free-standing nonresidential structure) that is 50 feet in height or greater, so long as said additional antenna adds no more than 40 feet to the height of the originally approved structure.
 - (3) Installing an antenna on any existing tower of any height, including the placement of additional equipment buildings or other supporting equipment used in connection with said antenna, so long as the addition of said antenna adds no more than 40 feet to the height of the originally approved tower.
 - (4) Replacement Towers, Antenna Support Structures or Tower Modifications meeting the requirements of this section. A communication tower may be modified or reconstructed to

accommodate the collocation of an additional communication antenna by administrative permit and shall be subject to the following provisions:

- (a) The modified or replacement structure shall be either of the same tower type as the existing communication tower or a monopole tower that is replacing an existing lattice or guyed tower, not to exceed 40 feet above the original structure height.
 - (b) An existing communication tower may be modified or rebuilt to a taller height, not to exceed 40 feet over the tower's original height, to accommodate the collocation of additional communication antennas.
 - (c) The modified or replacement structure shall be exempt from any of the separation requirements set forth in Section 4.3.25.E(1).
- (5) An existing transmission line tower or pole-type Antenna Support Structure (such as utility structure/pole) may be modified or replaced by administrative permit to allow for the collocation of additional antenna(s), providing the following criteria are met. If the following criteria cannot be met, an existing pole-type Antenna Support Structure may be modified or replaced by SUP.
- (a) The communication antenna attached to the existing electrical transmission tower or pole-type structure or replacement monopole shall not extend above the highest point of the pole-type structure or replacement monopole more than 40 feet, as measured from the height of the original pole-type structure and the modified or replaced structure shall not exceed a height of 150 feet.
 - (b) If the resulting structure/tower adds additional height over the original pole-type structure, the closest residential structure shall be located a distance of at least 150 percent the height of the structure/tower from the base of the pole-type structure or replacement tower.
 - (c) If no additional height over the height of the original pole-type structure is added by either:
 - 1. The attachment of the communication antenna to the existing pole-type structure, or
 - 2. The replacement tower including the communication antenna, then the structure/tower is permitted with no additional distance separation or setback from residential structures over that which was provided by the original pole-type structure.
 - (d) The communication antenna and support structure comply with all applicable FCC and FAA regulations.
 - (e) The communication antenna, pole-type structure, and/or replacement monopole tower comply with all applicable building codes.
 - (f) Pole-type structures (i) within public road rights-of-way, or (ii) if used for power distribution shall be eligible for use under this subsection. Notwithstanding the foregoing sentence, pole-type structures within front yard, side yard or rear yard residential subdivision easements are not eligible for use under this subsection.
 - (g) In the event that the utility pole or structure is abandoned for its initial/primary use as a utility pole, the secondary use as a communication tower shall also cease to operate and the structure and communication antenna removed.

H. Abandonment of communication towers:

- (1) Compelling public interest. The Board finds and declares that, because of the national public policy of ensuring that the wireless communications industry and its evolving new technologies are accommodated notwithstanding the undesirable effects that communication towers may have on the aesthetics of communities and neighborhoods, there is a compelling public interest in ensuring that communication towers are promptly disassembled, dismantled, and removed once they are no longer being used. Further, the Board finds that there is substantial risk that towers may cease being used in large numbers if there is a concentration or consolidation of competitors within the industry or if even newer technologies arise, obviating the need for towers.

- (2) Abandonment. In the event the use of any communication tower has been discontinued for a period of 180 consecutive days, the tower shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the Growth Services Director, who shall have the right to request documentation and/or affidavits from the communication tower owner/operator regarding the issue of tower usage. Failure or refusal for any reason by the owner/operator to respond within 20 days to such a request shall constitute prima facie evidence that the communication tower has been abandoned. Upon a determination of abandonment and notice thereof to the owner/operator, the owner/operator of the tower shall have an additional 180 days within which to:
- (a) Reactivate the use of the tower or transfer the tower to another owner/operator who makes actual use of the tower within the 180-day period, or
 - (b) Dismantle and remove the tower. At the earlier of 181 days from the date of abandonment without reactivation or upon completion of dismantling and removal, any approval for the tower shall automatically expire.
- (3) Duty to Remove Abandoned Towers. Notwithstanding the provisions of Section 4.3.25.H(2), upon abandonment of a communication tower as determined under Section 4.3.25.H(2) by the Growth Services Director and the failure or refusal by the owner/operator of the tower to either reactivate the tower or dismantle and remove it within 180 days as required by Section 4.3.25.H(2), the following persons or entities (the "responsible parties") shall have the duty jointly and severally to remove the abandoned tower.
- (a) The owner of the abandoned tower (and, if different, the operator of the abandoned tower);
 - (b) The owner of the land upon which the abandoned tower is located;
 - (c) The lessee, if any, of the land upon which the tower is located;
 - (d) The sublessee or sublessees; if any, of the land upon which the tower is located;
 - (e) Any communication service provider who or which by ceasing to utilize the tower or otherwise failing to operate any of its transmitters or antennas on the tower for which it leased space or purchased the right to space on the tower for its transmitters or antennas and such ceasing or failure to utilize the tower in fact caused the tower to become abandoned;
 - (f) Any persons to whom or entity to which there has been transferred or assigned any license issued by the Federal Communications Commission and under which the tower owner/operator operated the tower.
 - (g) Any person or entity which has purchased all or a substantial portion of the assets of the tower owner or operator;
 - (h) Any entity which has merged with, or which has arisen or resulted from a merger with, the tower owner or operator;
 - (i) Any person or entity which as acquired the owner or the operator of the abandoned tower;
 - (j) Any parent or subsidiary of any of the foregoing which happens to be a corporation;
 - (k) Any managing partner of any of the foregoing which happens to be a limited partnership; and
 - (l) Any partner of any of the foregoing which happens to be a general partnership. The abandoned tower shall be removed on or before the ninetieth day after receipt by the responsible party or parties of a notice from the Growth Services Director ordering its removal. The duty imposed by this paragraph shall supersede and otherwise override any conflicting provision of any contract, agreement, lease, sublease, license, franchise or other instrument entered into or issued on and after May 3, 1998.

Sec. 4.3.26. - Electrical substations.

- A. Prior to, or at a minimum along with submittal of an application to locate a new distribution electric substation in residential areas, the utility shall provide to the Development Review Committee (DRC) information regarding the utility's preferred site together with a minimum of three alternative available sites, including sites within nonresidential areas, that are technically and electrically reasonable for the load to be served. Nonresidential areas are considered proposed sites which are bounded on all sides by other than residential lands. Residential areas are considered proposed sites which are bounded on any one side by residential lands.
- B. DRC shall make the final determination on the site application as to the preferred and alternative sites within 90 days of presentation of all the necessary and required information on the preferred site and on the alternative sites.
- C. In the event the utility and DRC are unable to reach agreement on an appropriate location, the substation site selection and all additional information provided shall be submitted to the Board for review and determination of the site selection.
- D. In the event the utility and the Board are unable to reach agreement on an appropriate location, the substation site selection shall be submitted to mediation in accordance with the provisions of § 163.3208(6)(a) FS.
- E. Electrical substation in residential areas.
 - (1) Electric substations in residential areas shall provide for year-round visual screening and buffering which will minimize adverse impacts on neighboring properties. A landscape and buffering site plan prepared by a registered landscape architect shall be provided which addresses visual, light and sound intrusion into the neighboring properties.
 - (2) Setbacks from the substation property boundary to any permanent equipment or structure located on the substation property shall be a minimum of 100 feet. Within the 80 feet immediately adjacent to the substation property boundary, the setback shall be an open green space and shall include at a minimum native landscaping material and five medium trees (30-40 feet in height at maturity) per each 100 linear feet of property boundary. The remainder of the setback area, being a minimum of 20 feet lying immediately adjacent to the permanent equipment/structure area of the substation property, shall be an open green space buffer, and shall include at a minimum, native landscaping and a continuous hedge. Trees shall be planted so as to provide a visual screen and may be staggered to present a more natural setting. Vegetated buffers or screening beneath aerial access points to the substation equipment shall not be required to have a mature height in excess of 14 feet. A security fence or wall, eight feet in height and surrounding the substation equipment/structure area shall be constructed between the permanent equipment/structure area and the continuous hedge.
 - (3) In the event the substation parcel of land is of a size in which the buffer area along one or more boundaries would exceed the 100-foot minimum, the equipment/structure area shall be shifted to provide the maximum separation between the equipment area and property boundaries adjacent to residential uses.
 - (4) Ground and building lighting, if any, shall be limited to the permanent equipment/structure area, and shall be shielded to cast light down on the substation property and not onto adjacent properties. The maximum height of a light pole shall be 20 feet.
 - (5) Electric substations shall be prohibited in the conservation and natural reservation land use categories.
- F. Electrical substations in non-residential areas.
 - (1) Electric substations in non-residential areas shall provide for year-round visual screening and buffering which will minimize adverse impacts on neighboring properties. A landscape and buffering site plan prepared by a registered landscape architect shall be provided which addresses visual, light and sound intrusion into the neighboring properties.

- (2) Buffer areas from the substation property boundary to any permanent equipment or structure located on the substation property shall be a minimum of 25 feet and shall include a Land Development Code, Type B buffer (currently a minimum width of 25 feet, with a minimum of 5 trees and 30 shrubs per 100 linear feet with a wall). Trees shall be planted so as to provide a visual screen and may be staggered to present a more natural setting. Vegetated buffers or screening beneath aerial access points to the substation equipment shall not be required to have a mature height in excess of 14 feet. The permanent equipment/structure area shall be surrounded by an eight-foot high security fence or wall.
- (3) Ground and building lighting, if any, shall be limited to the permanent equipment/structure area, and shall be shielded to cast light down on the substation property and not onto adjacent properties. The maximum height of a light pole shall be 20 feet.
- (4) Electric substations shall be prohibited in the conservation and natural reservation land use categories.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.3.27. - Accessory structures.

Sheds, storage buildings, and detached carports, not exceeding 12' x 12' in size, may be exempted from side or rear setbacks subject to the following:

- A. The adjacent property owner and subject property owner must provide a signed and notarized statement agreeing to the reduction in setback. A site plan indicating the proposed location of the structure, with setback dimensions, shall be included in the agreement. The agreement shall include statements from both parties acknowledging that placement of accessory structure less than required setbacks shall be equally recognized for both parties involved. This agreement must be submitted to the Growth Services Department prior to placement of structure.
- B. Residentially-zoned properties, and agriculturally-zoned properties less than 1 (one) acre in size are eligible for this exemption. This exemption shall not apply, when streets or rights-of-way are adjacent to side or rear property lines.
- C. No structure may be erected, placed upon, or extend over any easement unless approved in writing by the person or entity holding the said easement.
- D. A principal structure must be located on subject property.

(Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.3.28. - Reserved.

Editor's note— ; Ord. No. 17-25, § 1(Exh. A), adopted Oct. 3, 2017, repealed § 4.3.28, which pertained to Medical Marijuana Treatment Center Dispensaries and derived from Ord. No. 17-08, § 2(Exh. A), adopted April 11, 2017; Ord. No. 17-11, §§ 2, 3, adopted May 16, 2017.

DIVISION 4. - ADVERTISING SIGNS

Sec. 4.4.1. - General provisions.

- A. Relationship to building and electrical codes. These sign regulations are intended to complement the requirements of the building and electrical codes adopted by the Board. Wherever there is inconsistency between these regulations and the building or electrical code, the more stringent requirement shall apply.

B. No defense to nuisance action. Compliance with the requirements of these regulations shall not constitute a defense to an action brought to abate a nuisance under the common law.

C. Maintenance.

- (1) All signs, including their supports, braces, guys and anchors, electrical parts and lighting fixtures, and all painted and display areas, shall be maintained in accordance with the building and electrical codes adopted by Marion County.
- (2) Exposed surfaces shall be cleaned and finished. Defective parts shall be replaced. The Planning/Zoning Manager shall have the right under Section 4.4.1.E, to order the repair or removal of any sign which is defective, damaged or substantially deteriorated. All decisions of the Planning/Zoning Manager are appealable to the Board of Adjustment.
- (3) The vegetation around, in front of, behind, and underneath the base of ground signs for a distance of ten feet shall be neatly trimmed. No rubbish or debris that would constitute a fire or health hazard shall be permitted under or near the sign.

D. Permitting:

- (1) No person may engage in the business of erecting, altering, relocating, or constructing a sign, without a valid Contractor's License and all required State or Federal licenses.
- (2) A sign company wishing to install, either or both, on-site or off-site signs shall submit an application to the Planning/Zoning Manager and the Building Manager on a form supplied by the County.
- (3) The application form shall be accompanied by a site plan conforming to the requirements set forth in Articles 2 and 6 for a Minor Site Plan or building permit site plan. The applicant shall also provide construction and installation details meeting the requirements of the Florida Building and Electrical Codes.

Upon review and approval by the Growth Services Department and the Building Department, a permit shall be issued. The permit number shall be attached to the sign structure using the following size letters and numbers in a location where it is readily visible for inspection:

Table 4.4-1 Sign Lettering

Wall signs	1 inch
Under canopy signs	$\frac{3}{4}$ inch
On-site signs	$1\frac{1}{2}$ inch
Off-site signs	3 inch

E. Inspection and removal of signs:

- (1) Any sign which is located on or adjacent to the right-of-way of any county road, which was erected without the permit required in this section after adoption of this Code, is declared illegal and shall be properly permitted or removed as provided herein.
- (2) Any sign which is determined by the Planning/Zoning Manager to be defective, damaged, unsafe, or substantially deteriorated or abandoned, shall be repaired or removed as provided herein.

- (3) Upon a determination by the Planning/Zoning Manager that a sign is in violation of this Code, the Code Enforcement Division shall prominently post on the sign face a notice stating that the sign is illegal, defective, damaged, unsafe or substantially deteriorated or abandoned and must either be brought into conformity with this Code or must be removed within 30 days after the date on which the notice was posted. If the sign bears the name of the licensee or the name and address or the telephone number of the sign owner, the Code Enforcement Division shall, concurrently with and in addition to posting the notice on the sign, provide a written notice to the owner stating the sign is illegal, defective, damaged, unsafe or substantially deteriorated and must be brought into conformance with the Code or permanently removed within the 30-day period specified on the posted notice or a permit obtained for the sign and payment of twice the stipulated fee as penalty. The written notice shall further state that the sign owner has a right to request a hearing before the Code Enforcement Board. Said request must be filed with the Planning/Zoning Manager within 30 days after the date of the written notice. The filing of the request for a hearing will stop the removal of the sign until a decision is reached by the Code Enforcement Board. Should the notice for removal be upheld by the Code Enforcement Board, the owner shall remove the sign within 30 days after the hearing or the County may remove the sign without further notice and without incurring any liability as a result of such removal. The cost of removing the sign may be assessed against the owner of the sign by the Code Enforcement Division.
- (4) If, pursuant to the notice provided, a permit for the sign is not obtained, or a hearing is not requested by the sign owner, or the sign is not removed by the sign owner within the prescribed period, the Code Enforcement Board shall refer the matter to the Board. At its option, the Board may either:
 - (a) Accept the findings and order of the Code Enforcement Board, and direct the County Administrator to cause the abandoned sign to be removed; or
 - (b) After giving Due Public Notice to intended parties, hold an additional hearing. At the conclusion of said additional hearing, the Board may either:
 1. Quash the order of the Code Enforcement Board; or
 2. Grant up to 60 days additional time for the performance of remedial acts; or
 3. Direct the County Administrator to cause the sign to be removed. The decision as to whether to hold such an additional hearing rests solely with the Board. Nothing contained herein shall be deemed to give any interested party a right to any hearing in addition to that held by the Code Enforcement Board.
- (5) A notice to the sign owner shall constitute sufficient notice and additional notice is not required to be provided to the lessee, advertiser, or the owner of the real property on which the sign is located.

F. Signage requirements for adult and sexually oriented businesses: These requirements are located in Section 4.3.24.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 4.4.2. - Exempt signs.

The following signs are exempt from the regulatory and permitting requirements of this Code. Exempt signs shall not be located or constructed so that they create a hazard of any kind.

- (1) Signs that are designed or located to be invisible from any street or adjoining property.
- (2) Signs necessary to promote health, safety and welfare, and other regulatory, statutory, traffic control or directional signs erected on public property with permission of the State of Florida, the Federal government, or the County of Marion.

- (3) Legal notices and official instruments of governmental agencies.
- (4) Decorative flags and bunting for a ceremonial purpose when authorized by the Planning/Zoning Manager for a prescribed period of time, not to exceed 30 days.
- (5) Holiday lights and decorations.
- (6) Merchandise displays behind storefront windows.
- (7) Memorial signs or tablets, names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials and attached to the surface of a building.
- (8) Signs incorporated into machinery or customarily affixed to machinery or equipment such as vending machines, newspaper racks, telephone booths, and gasoline pumps.
- (9) Advertising and identification signs located on taxicabs, buses, trailers, trucks, or vehicle bumpers. Refer to Section 4.4.3.B.(17) below.
- (10) Public warning signs to indicate the dangers of trespassing, swimming, animals or similar hazards.
- (11) Signs carried by a person.
- (12) Political signs. Political signs proposed to be located in a residential zoning classification shall not exceed eight square feet and shall be located behind the property line. Political signs proposed to be located in all other zoning classifications shall not exceed 32 square feet and shall be located behind the property line. Said signs may be placed or erected on private property with the permission of the owner, except in the sight triangle which occurs on the corners of intersecting streets or on the corners of driveways. Refer to Section 7.3.1 for construction details. Signs exceeding 32 square feet in size shall obtain a sign permit.

Signs shall not be placed or erected in the public right-of-way or on utility poles located on public right-of-way. When edge of right-of-way is questionable, signs shall be located behind power poles or fence lines.

County shall have the right to immediately remove any and all signs in the sight triangle, in the right-of-way and on utility poles located in the right-of-way in order to protect the life and safety of the traveling public and utility company employees.

All signs shall be removed within two weeks after the final election date of each candidate or issue.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 4.4.3. - Prohibited signs.

- A. Generally. It shall be unlawful to erect, cause to be erected, or maintain any sign not specifically authorized by, or exempted from, this Code.
- B. Specifically. The following signs are prohibited unless exempted by Section 4.4.2 of this Code or expressly authorized by Sections 4.4.4 and 4.4.5 of this Code:
 - (1) Any sign that, in the opinion of the Planning/Zoning Manager and the Building Safety Director, does or will constitute a safety hazard.
 - (2) Blank temporary signs.
 - (3) Signs with lights or illuminations that flash, move, rotate, scintillate, blink, flicker, or vary in intensity or color except for time-temperature date signs and electronic message boards. Refer to Section 4.4.4.C(3).

- (4) Signs, commonly referred to as wind signs, consisting of one or more banners, pennants, ribbons, spinners, streamers or captive balloons, or other objects or material fastened in such a manner as to move by force of wind. These signs may be permitted under Section 4.4.4.B(6) as temporary signs for special sales events and shall be securely anchored.
- (5) Signs that incorporate projected images (movies, slides, etc.), emit any sound that is intended to attract attention, or involve the use of live animals.
- (6) Signs or sign structures that interfere in any way with free use of any fire escape, emergency exit, or standpipe.
- (7) Signs that obstruct any window to such an extent that light or ventilation is reduced to a point below that required by the Building Code or that obstructs the vision of the cashier from the exterior of a building by a Sheriff's Deputy or Code Enforcement Officer.
- (8) Signs that resemble any official sign, flag, or marker erected by any governmental agency, or that by reason of position, shape or color, would conflict with the proper functioning of any traffic sign or signal, or be of a size, location, movement, content, color, or illumination that may conceal or be reasonably confused with or construed as a traffic-control device.
- (9) Signs that obstruct the vision of pedestrians, cyclists, or motorists traveling on or entering public streets.
- (10) Non-governmental signs adjacent to the right-of-way of any county road that use only the words "stop," "look," "danger," or any similar word, phrase, or symbol which implies the need or requirement of stopping or the existence of danger.
- (11) Signs, within ten feet of public right-of-way or 100 feet of traffic-control lights, that contain red or green lights which might be confused with traffic control lights.
- (12) Signs of such intensity or brilliance to cause glare or impair the vision of any motorist, cyclist, or pedestrian using or entering a public way, or that are a hazard or nuisance to occupants of adjacent property because of height and glare.
- (13) Signs that contain any lighting or control mechanism that causes unreasonable interference with radio, television or other communication signals.
- (14) Signs that are painted, pasted, or printed on any curbstone, flagstone, pavement, or any portion of any sidewalk or street, except house numbers and traffic control signs.
- (15) Signs erected on public property or right-of-way or on private utility poles located on public right-of-way except signs erected by governmental entities for public purposes.
- (16) Signs erected over or across any public street except those expressly authorized by this Code.
- (17) Vehicle signs with a total sign area on any vehicle in excess of 12 square feet, when the vehicle:
 - (a) Is visible from the street right-of-way and is parked for more than one hour within 100 feet of any street right-of-way; and
 - (b) Is not regularly used (cannot be started and used once a week) in the conduct of the business advertised on the vehicle. A vehicle used primarily for the purpose of providing transportation for owners or employees of the business concern advertised on the vehicle, on the site of the business, shall be considered a vehicle used in the conduct of the business.
- (18) Portable signs as defined by this Code except as allowed in Section 4.4.4.B of this Code.
- (19) Signs which are not placed by the property owner and are nailed, fastened or affixed to any tree, stone, fence, stump, utility pole, mile board, danger sign, guide sign, guide post, highway sign, historical marker, fence post, or other object or structure adjacent to a public right-of-way or within 50 feet of a public right-of-way excluding trespassing signs and markers.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 4.4.4. - On-site signs.

A. Signs not requiring permits.

- (1) Construction signs of 64 square feet or less.
- (2) Direction or information signs of six square feet or less.
- (3) Name plates of four square feet or less.
- (4) Public signs or notices, or any sign relating to an emergency.
- (5) Real estate signs of 64 square feet or less.
- (6) Temporary window signs placed on inside of windows which do not cover more than 50 percent of the window area.
- (7) Posted notices, No Trespassing signs or markers.

B. Temporary signs.

- (1) Except as indicated above, no temporary signs shall be erected without obtaining a permit. Signs failing to comply with the requirements of this section are illegal and subject to immediate removal.
- (2) A temporary sign may be a ground or building sign.
- (3) Real estate signs indicating that a property owner is actively attempting to sell, rent or lease the property on which the sign is located. (Refer to Section 4.4.4.D(2)(a), for size, height and number of signs allowed.)
- (4) Signs indicating the grand opening of a business. This signage may be displayed for a period not exceeding ten days within the first three months the business is open.
- (5) Signage indicating the existence of a new business, or a business in a new location, pending installation of permanent signs. Such signage may be displayed for a period of not more than 60 days or until installation of permanent signs, whichever shall first occur.
- (6) Signage indicating the opening of a new business or a special sales event including but not limited to search lights, banners exceeding 36 square feet in size, and portable signs. This signage shall be granted a temporary permit not exceeding 30 days within the first three months the business is open or for a period not to exceed 21 consecutive days per event for temporary sales events. This type of signage is limited to four events per year. When more than one portable sign is placed on a property they shall be spaced 100 feet apart.
- (7) Construction signage shall not be displayed more than 60 days prior to the beginning of actual construction of a project and shall be removed when construction is completed. Should construction be discontinued for any reason, for a period of more than 60 days, the signage shall be removed pending resumption and continuation of construction activities.
- (8) Signage announcing or advertising such temporary uses as fairs, carnivals, circuses, revivals, sporting events, flea markets, or any charitable, educational, public or religious event or function. The Planning/Zoning Manager shall maintain a record of each applicant's performance in obtaining permits and removing signs as a basis for issuing future permits. Such signage shall be professionally made and shall be removed within five days after the conclusion of the special event. The construction and installation shall meet the wind load requirements of the Building Code. Maximum size shall not exceed 64 square feet.

C. Permanent signs.

- (1) Permanent signs may be a ground or building sign.
- (2) No person shall erect or place any commercial sign upon benches, transit shelters or waste receptacles of 55 gallons or less, or be placed on the County road right-of-way without obtaining approval from the Board.

- (3) Electronic message signs and Time Temperature Date Signs are permitted on commercially developed parcels. These signs shall display information in an easily comprehensible way. The information shall be visible for a minimum of three seconds and shall be kept accurate. They may be ground or building signs, and are subject to the regulations applicable to such signs. They shall be counted as part of an occupant's allowable sign area.
- (4) Directional signs are limited in area to six square feet, giving directions to motorists regarding the location of parking areas and access drives. They shall be allowed as permanent signs on all parcels and shall not be counted as part of an occupant's allowable sign area.
- (5) Entrance signs. A permanent accessory sign may be displayed at the entrance to residential developments, farms and ranches. Refer to Section 4.4.4.E for residential development sign setbacks.
 - (a) Restrictions.
 1. An entrance sign is permitted at only one entrance into the development, farm or ranch from each abutting street. The sign may be a single sign with two faces of equal size or may be a single face sign located on each side of the entrance. No single face of the sign shall exceed 64 square feet in size with a maximum total size of 128 square feet and may be illuminated by a steady light source only.
 2. When considering the placement of such signs, the Planning/Zoning Manager shall consider the location of public utilities, sidewalks and future street widening.
 3. The Planning/Zoning Manager shall ensure that such signs shall be maintained perpetually by the developer, the owner of the sign, a pertinent owner's association, or some other person who is legally accountable under a maintenance arrangement approved by the Planning/Zoning Manager. If no accountable person accepts legal responsibility to maintain the signs and no other provision has been made for the maintenance of them, the signs shall be removed by the developer or owner.
- (6) Flags.
 - (a) Number. No more than three flags or insignias of, religious, charitable, fraternal or other organizations may be displayed on any one parcel of land. Cemeteries are exempt from this provision.
 - (b) Size. The maximum distance from top to bottom of any flag shall be 20 percent of the total height of the flag pole, or in the absence of a flag pole, 20 percent of the distance from the top of the flag or insignia to the ground.
- (7) Utility signs. Public utility signs that provide information or identify the location of underground utility lines and facilities, high voltage lines and facilities, and other utility facilities and appurtenances are permitted along utility easements and rights-of-way so long as they do not exceed three square feet in size.
- (8) Blocking exits, fire escapes, etc. No sign or sign structure shall be erected that impedes use of any fire escape, emergency exit, or standpipe.
- (9) Clearance standards. All signs over pedestrian ways shall provide a minimum of 7 feet 6 inches of clearance. All signs over vehicular ways shall provide a minimum of 13 feet 6 inches of clearance.
- (10) Relationship to building features. A building sign shall not extend beyond any edge of the building or the building surface to which it is attached, nor disrupt a major architectural feature of the building such as windows or doors.
- (11) Signs painted on building walls or innovative signs which meet the requirements of this article may be issued a permit in accordance with Section 4.4.1.D. Applications for these type signs shall include information on layout, graphics, color and any additional information requested by the Planning/Zoning Manager or provided by the applicant to support his application for the construction permit.

- (a) Signs painted on building walls shall be located in B-4, IC, M-1 and M-2 zoning classifications. The size of the sign face shall not exceed 675 square feet.
- (12) Maximum projection. A building sign shall project no more than four feet perpendicularly from the surface to which it is attached.
- (13) Maximum window coverage. The combined area of permanent and temporary signs placed on the exterior of or attached to windows of retail stores shall not exceed 50 percent of the total window area at the same floor level on the side of the building or unit upon which the signs are displayed. Window signage on convenience store windows shall be installed and maintained so that there is a clear and unobstructed view of the cash register and transaction area from the exterior of the store.
- (14) Multiple occupancy complexes. Signage for multiple occupancy complexes such as an office building, shopping plaza, shopping center or any commercial or industrial building having more than one tenant, constructed or remodeled after the effective date of this Code shall conform to an approved sign format. The sign format shall be included as a submittal for authorization to erect such a sign and shall be maintained on file in the Growth Services Department. The format shall be presented as a master signage plan or sketch, together with written specifications in sufficient detail to enable the Planning/Zoning Manager to authorize signs based on the specifications. As a minimum, the sign format shall specify the types of signs and dimensions (not to exceed the size limits contained in this article) which will be permitted each occupant within the complex. The sign format shall also contain common design elements, such as placement, color, shape, or style of lettering, which lend a unified appearance to the signs of the occupants within the complex. The sign format may only be modified with the approval of the Planning/Zoning Manager upon submission of a revised master signage plan and specifications detailing the revised format.

D. Location and design criteria.

(1) General Requirements.

- (a) Where a sign is composed of letters or pictures attached directly to a wall or facade, window, door, or marquee, and the letters or pictures are not enclosed by a border or trimming, the sign area shall be the area within the smallest rectangle, parallelogram, triangle, circle or semicircle, the sides of which touch the extreme points of the letters or pictures.
- (b) The signable wall or facade area is a continuous portion of a building unbroken by doors or windows and shall be measured by determining the area within an imaginary rectangle drawn around the area. The area shall include roof slopes of less than 45 degrees as measured from the vertical plane, that form a side of a building or unit.
- (c) Where four sign faces are arranged in a square, rectangle, or diamond, the area of the sign shall be the area of the two largest faces.
- (d) Where a sign is in the form of a three-dimensional object, the area shall be determined by drawing a square, rectangle, parallelogram, triangle, circle or semicircle, the sides of which touch the extreme points or edges of the projected image of the sign and multiplying that area by two. The "projected image" is that image created by tracing the largest possible two dimensional outline of the sign.

(2) Temporary Signs.

- (a) Real Estate Signs - Residential shall comply with the following table:

Table 4.4-2 Real Estate Signs—Residential Standards

Dwelling Type	Maximum Number	Maximum Size Each (square feet)	Maximum Height (feet)

Single Family	1 sign	6	3
Two Family	For 2 signs	6	3
	For 1 sign	10	8
Three Family	For 2 signs	6	3
	For 1 sign	15	8
Four Family	For 4 signs	6	3
	For 1 sign	20	8
Over Four Family	1 sign	32	8

(b) Real Estate Signs - Commercial or Industrial and Construction Signs shall comply with the following:

1. Number - maximum of two signs per parcel. Refer to Section 4.4.4.H(2) for large parcels and corner parcels.
2. Size - one square foot of signage per ten feet of frontage up to a maximum of 96 square feet. An individual sign shall not exceed 64 square feet.
3. Height - maximum of 16 feet.
4. Spacing - minimum of 100 feet apart.

(c) All other temporary signs:

Number, size, height and spacing to be specified in special permit to be issued by the Planning/Zoning Manager.

E. Signs permitted in residential zoning classifications:

(1) Signs allowed in residential zoning classifications are as follows:

- (a) Two subdivision identification signs per neighborhood, subdivision, or development, not to exceed 64 square feet in sign area per sign.
- (b) Two identification signs per apartment or condominium complex, not to exceed 64 square feet in sign area per sign.
- (c) For permitted non-residential uses, including places of worship, one freestanding sign, not to exceed one square foot in sign area for every two lineal feet of street frontage and one wall sign not to exceed 24 square feet in sign area. Total aggregate sign area shall not exceed 200 square feet.

(2) Special sign regulations for residential zoning classifications are as follows:

- (a) All allowed freestanding signs shall have a maximum height limit of ten feet and shall have a setback of five feet from the front and side property line.

F. Signs permitted in commercial and office zoning classifications:

- (1) Signs allowed in commercial and office zoning classifications and in the R-O, P-MH and P-RV zoning classifications are as follows:
 - (a) Single Occupancy Uses, P-MH and P-RV Zoning Classifications: One freestanding on site sign per premises, not to exceed two square feet in sign area for each linear foot of main street frontage up to a maximum of 130 square feet per sign face.
 - (b) Multiple Occupancy Usages - one freestanding, on-site directory sign, not to exceed the maximums in the following table:

Table 4.4-3 Multiple Occupancy Usage Sign Standards

Zoning Classification	Maximum Size
B-1, Neighborhood Business	200 square feet per sign face
B-2, Community Business	300 square feet per sign face
B-4, Regional Business	350 square feet per sign face
RAC, Rural Activity Center	200 square feet per sign face

- (c) Wall Signage:
 - 1. Single occupancy. Three wall signs, not to exceed two square feet in sign area for each linear foot of that occupancy's building frontage up to a maximum of 96 square feet in aggregate sign area. One of the allowed wall signs above may be placed on the side of the occupancy.
 - 2. Shopping centers. Wall signage shall not exceed one and three-quarters square feet in sign area for each linear foot of each occupancy's building frontage.
- (d) Surface area of the on-site sign structure supporting the sign face may not exceed the allowable sign area.
- (e) One under-canopy sign per occupancy, not to exceed four square feet in sign area.
- (f) Incidental signs, not to exceed six square feet in aggregate sign area per occupancy.
- (g) On-site identification signs located within 2,000 feet of all intersections located on I-75, shall not exceed 55 feet in overall height.
- (h) Outdoor Menu Boards for fast food or drive-thru restaurants shall not exceed 60 square feet in aggregate sign face area.
- (2) Location, Setbacks and Height:
 - (a) The onsite identification or directory sign shall be located in the area between the structure and the access street and shall be set back a minimum of five feet from the front property line.
 - (b) On-site signs shall not exceed a height of 30 feet.

(3) Special regulations and allowances for commercial and office zoning classifications are as follows:

- (a) Where occupancy is on a corner or through lot, or has more than one main street frontage, two wall signs and one additional freestanding sign will be allowed on the additional frontage, not to exceed the size of other allowed wall and freestanding signs.
- (b) Freestanding and under-canopy signs shall have a setback of five feet from any public vehicular right-of-way and a minimum clearance of 12 feet over any vehicular use area and seven feet over any pedestrian use area.
- (c) Auto dealerships, furniture stores, boat sales and similar retail sales facilities are allowed to combine the freestanding on-site signage and the building signage, not to exceed two square feet in sign area for each linear foot of main street frontage. The freestanding signage shall not exceed 130 square feet per sign face. Multiple freestanding signs are allowed and shall be spaced a minimum of 150 feet apart.

G. Signs permitted in agricultural zoning classifications:

(1) Signs allowed in agricultural zoning classifications are as follows:

- (a) Farm Entrance Signs. One double faced sign or two single faced signs not exceeding a total of 128 square feet of sign area. The allowed sign area per sign face is 64 square feet.
- (b) Signs for Home Occupations. One sign, either single or double faced, non-illuminated, not exceeding six square feet in size and not higher than four feet, may be located no closer than five feet to the front property line.
- (c) For permitted and SUP authorized agriculturally related non-residential uses or community facilities uses, including places of worship, one freestanding sign, not to exceed one square foot in sign area for every two lineal feet of street frontage and one wall sign not to exceed 24 square feet in sign area. Total aggregate sign area shall not exceed 200 square feet.

H. Signs permitted in heavy commercial and industrial zoning classifications:

(1) Signs allowed in heavy commercial and industrial zoning classifications: B-3, B-5, IC, M-1, M-2 are as follows:

- (a) One freestanding on site sign per premises, not to exceed two square feet in sign area for each linear foot of main street frontage up to a maximum of 400 square feet per sign face.
- (b) One wall sign per occupancy, not to exceed one and three-quarters square feet in sign area for each linear foot of that occupancy's building frontage up to a maximum of 200 square feet; or

Two roof signs per premises, not to exceed two square feet in sign area for each linear foot of that occupant's building frontage up to a maximum of 200 square feet; or

Three awning signs per occupancy not to exceed 30 percent of the surface area of an awning, or three marquee signs, not to exceed 50 square feet in sign area for each marquee.

- (c) Two under-canopy signs per occupancy, not to exceed eight square feet in aggregate sign area.
- (d) Incidental signs not to exceed six square feet in aggregate sign area per occupancy.
- (e) On-site identification signs located within 2,000 feet of all intersections located on I-75, shall not exceed 55 feet in overall height.
- (f) The freestanding on-site signage or directory signage shall be located in the area between the structure and the local commercial access street and shall be set back a minimum of five feet from the front property line.

- (g) On-site signs shall not exceed a height of 30 feet.
- (2) Truck stop signage:
 - (a) One free standing on-site identification sign per lot or parcel, not to exceed two square feet in sign area for each lineal foot of main street frontage up to a maximum of 600 square feet per sign face: Such signs shall not exceed a height of 55 feet.
 - (b) Wall signage or roof signage or combination thereof per occupancy, not to exceed two and three-quarters square feet in sign area for each linear foot of that occupancy's building frontage up to a maximum of 520 square feet: Signage may be placed on the front or side of the building.
 - (c) Direction signs not to exceed 16 square feet of sign area per face: Such signs shall not exceed a height of ten feet.
 - (d) Menu boards, either single faced or double faced, for drive-thru restaurants shall not exceed 60 square feet in sign face area, measured on one face of the sign.
 - (e) Truck scale signs shall not exceed 80 square feet per sign face and shall not exceed 20 feet in height.
 - (f) On-site identification signs located within 2,000 feet of all intersections located on I-75, shall not exceed 55 feet in overall height.
 - (g) The on-site identification sign(s) shall be set back a minimum of five feet from the front property line.
 - (h) All signage shall conform to the requirements of Section 5.5.16 sight triangle (corner vision clearance) requirement at all access and egress points.
- (3) Special Regulations and Allowances for Heavy Commercial and Industrial Zoning Classifications are as follows:
 - (a) Where a lot has in excess of 300 feet of main street frontage, one additional freestanding sign will be allowed for each additional 150 feet of main street frontage. Such signs shall be subject to the size and height limitations of the first allowed freestanding sign and may be placed no closer than 150 feet to any other freestanding sign on the same premises.
 - (b) A projecting sign may be used instead of any allowed wall or freestanding sign, not to exceed a sign area of two square feet for each linear foot of occupancy's building frontage up to a maximum of 64 square feet.
 - (c) All freestanding, projecting, awning, marquee, and under-canopy signs shall have a minimum setback of five feet from any vehicular public right-of-way, and a minimum clearance of 13 feet, six inches over any vehicular use area and seven feet over any pedestrian use area.

(Ord. No. 13-20, § 2, 7-11-2013)

Sec. 4.4.5. - Off-site signs.

- A. Permitted Signs. Off-site advertising signs are allowed in the B-2, B-3, B-4, B-5, IC, M-1, M-2, RC-1, RAC, RI, A-1 and PUD zoning classifications.
- B. Allowances:
 - (1) For permitting purposes only, the number of signs will be based upon the number of supporting structures. For example, two sign faces placed back to back mounted on a single supporting structure will be considered as a single, double faced sign. The supporting structure may consist of a single metal post structure or a set of wooden poles placed together which constitute a single supporting structure.

- (2) Within the A-1 Classification. Off-premise signs are permitted within the A-1 Classification when the determination as to zoning by the local government for the parcel meets all of the following criteria:
 - (a) The parcel is comprehensively zoned and includes commercial or industrial uses as allowable uses, and
 - (b) The parcel reasonably accommodates a commercial or industrial use under the Future Land Use Map of the comprehensive plan and land use development regulations.
- C. Double and triple decker signs are prohibited.
- D. Location and Design Criteria:
 - (1) Maximum Size. No off-site advertising sign face shall exceed 675 square feet in size of message area except for temporary (not to exceed 12 months) additions which shall not exceed ten percent of the base size.
 - (2) Number of Signs. For permitting purposes only, the number of signs will be based upon the number of supporting structures. For example, two sign faces placed back to back mounted on a single supporting structure will be considered as a single, double faced sign. The supporting structure may consist of a single metal post structure or a set of wooden poles placed together which constitute a single supporting structure. Where two sign faces are placed back to back on two separate supporting structures to form a V, and which are at the point no more than five feet apart and at the apex less than 20 feet apart shall be counted as a single sign.
 - (3) Sign Area. The area of a sign shall be the area within the smallest square, rectangle, parallelogram, triangle, circle or semicircle, the sides of which touch the extreme points or edges of the sign face excluding temporary additions or extensions. Where two sign faces are placed back to back on a single sign structure and the faces are no more than five feet apart at any point, the allowable area of the sign shall be counted as the area of both faces. The exception for V-structures as defined in Section 4.4.5.C(2) shall also apply.
 - (4) Spacing and Location:
 - (a) Locations for off-site advertising signs shall be spaced at 1,000-foot intervals measured from center to center along the same side of a common right-of-way. No other off-site sign shall be located within the 1,000-foot interval and to a property depth of 600 feet along the side of the thoroughfare to which the sign is directed. Spacing shall be determined based on signs that have received the necessary county permit pursuant to this Code as well as those signs existing prior to the adoption of this Code. Signs having received prior authorization shall have priority over a later applicant in determining compliance with the spacing restrictions.
 - (b) Permitting:
 - (1) County Roadways. Where two or more applications from different persons or companies conflict with each other, only one of the applications may be approved. The first application received by the Growth Service Department will be the first considered for approval. The second application shall remain pending until resolution of the first application. The second applicant shall be advised in writing of the first application and that the first application is being acted upon. If the first application considered is granted, the second application shall be denied. If the first application is denied, the second application shall be considered for approval.
 - (2) State Highways. Replacement signs are signs which do not meet the required spacing without the removal of an existing sign. Applicants submitting an application for a sign replacement may be issued Letters of Intent in the order they are received by the Growth Services Department. The first applicant to present the required State Permit and a copy of the state tags will receive the permit for the sign construction.
 - (c) Placement Standards:

- (1) Signs shall not be located within a clear visibility triangle, at intersections of driveway and street or street and street, as said triangle is defined in Division 6.11 Traffic Management.
 - (2) Supports for signs or sign structures shall not be placed in or upon a private right-of-way or private easement without demonstrating permission from the private land owner.
 - (3) No sign shall project over or be placed in or upon a public right-of-way.
 - (5) Maximum Height. No off-site advertising sign, or combination of signs, shall exceed the height of 50 feet.
 - (6) Maximum Width. No off-site advertising sign, or combination of signs, shall exceed 50 feet in width.
 - (7) Minimum Setbacks are as follows:
 - (a) Fifteen feet from street right-of-way or property line.
 - (b) No sign shall be erected within 300 feet of a residential zoning classification, or within 150 feet of a church, public or private school, Public Park or playground, civic, historical or designated scenic area or a cemetery located along a common right-of-way.
 - (c) No advertising sign shall be located nearer than the height of the sign plus ten feet to any existing residence.
 - (8) Illumination Standards are as follows:
 - (a) Sign lighting shall not be designed or located to cause confusion with traffic lights.
 - (b) Illumination by floodlights or spotlights is permissible and shall be directed so that the light shall not shine directly onto an adjoining property or into the eyes of motorists or pedestrians using or entering public thoroughfares.
 - (c) Illuminated signs shall not have lighting mechanisms that project more than three feet perpendicularly from any surface of the sign over public right-of-way.
- E. General Requirements. All permanent signs, and the illumination thereof, shall be designed, constructed and maintained in conformity with applicable provisions of the building and electrical codes adopted by Marion County.

(Ord. No. 13-20, § 2, 7-11-2013; Ord. No. 17-08, § 2(Exh. A), 4-11-2017)

Sec. 4.4.6. - Non-conforming advertising signs.

- A. Continuation of Existence. Non-conforming permanent signs, both on-site and off-site may continue until they are removed or relocated. Non-conforming signs are declared by this Code to be incompatible with permitted uses in the zoning classification where located. Non-conforming signs shall not be enlarged or reconstructed to continue their nonconformity after relocation or major damage. Major damage is defined to have occurred when the cost of repair exceeds 90 percent of the tangible tax value of the sign for the latest tax year.
- B. Repair, Alteration, Enlargement. A non-conforming sign may be repaired in any one year in an amount not exceeding 25 percent of the tangible tax value of the sign for that year. Any repair or refurbishing of the sign that enlarges the dimensions of the sign face, or that raises the height above ground level of the sign so as to enhance the signs visibility or the period of time that the sign is visible shall be considered erection of a new sign and not reasonable repair or maintenance and shall be prohibited. Nothing in this section shall be deemed to prevent compliance with applicable laws relative to the safety of a non-conforming sign.

- C. Reconstruction after a Catastrophe. A sign which is destroyed by an Act of God or by fire, explosion, war or other catastrophe shall not be reconstructed. Destroyed is defined as the cost to reconstruct the sign when that cost exceeds 90 percent of the tangible tax value of the sign immediately prior to destruction.

(Ord. No. 13-20, § 2, 7-11-2013)