DESOTO COUNTY, FLORIDA

LAND DEVELOPMENT REGULATIONS

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TABLE OF CONTENTS

ARTICLE 1 GENERAL PROVISIONS

Section 1000 TITLE 1-2

Section 1100 AUTHORITY 1-2

Section 1300 PURPOSE AND INTENT 1-2

Section 1400 GENERAL RULES OF INTERPRETATION 1-2
Section 1410 Interpretation 1-2
Section 1420 Abrogation 1-3

Section 1500 APPLICABILITY 1-3
Section 1510 General Applicability 1-3
Section 1520 Exceptions 1-3

Section 1600 REPEAL OF PRIOR PROVISIONS 1-4

Section 1700 SEVERABILITY 1-5

Section 1800 EFFECTIVE DATE 1-5

ARTICLE 2 ZONING DISTRICTS AND REQUIREMENTS

Section 2000 ESTABLISHMENT OF ZONING DISTRICTS, OFFICIAL ZONING DISTRICT ATLAS 2-3
Section 2001 Establishment of Zoning Districts 2-3
Section 2002 Amendments to Zoning District Boundaries 2-3
Section 2003 Unauthorized Changes Prohibited. 2-3
Section 2004 Retention of Earlier Zoning District Atlases 2-3
Section 2005 Extent of District Regulations 2-3
Section 2006 Rules of Interpretation 2-3
Section 2007 Continuity of Land Use Regulations 2-4

Section 2100 APPLICATION OF DISTRICT REGULATIONS 2-4
Section 2101 Use or Occupancy 2-4
Section 2102 Multiple Use of Required Open Space Prohibited 2-4
Section 2103 Reduction of Lot Area Prohibited 2-4
Section 2104 Submerged Land 2-4
Section 2105 Designation of “E” Established as Related to Zoning District Maps 2-5

Section 2200 ESSENTIAL SERVICES AND PARKING 2-5
Section 2201 Essential Services 2-5
Section 2202 Parking or Storage of Vehicles in Residential Districts 2-5
Section 2203 Parking and Storage of Certain Vehicles and Trailers 2-8
Section 2204 Parking or Storage of Commercial Vehicles in A-10 & A-5 Districts 2-8

Section 2300 ZONING DISTRICTS 2-9
Section 2301 Zoning Districts Designated 2-9
Section 2304 Agricultural 10 District (A-10) 2-9
Section 2305 Agricultural 5 District (A-5) 2-13
Section 2306 Residential Single-Family District (RSF) 2-17
Section 2307 Residential Mixed District (RM) 2-19
Section 2308 Residential Multi-Family District (RMF) 2-21
Section 2309 Residential Multi-Family Mixed District (RMF-M) 2-23
Section 2310 Mobile Home Subdivision District (MHS) 2-25
Section 2311 Mobile Home Park District (MHP) 2-27
Section 2312 Travel Trailer Recreational Vehicle Campground District (TTRVC) 2-29
Section 2313 Residential-Office-Institutional District (ROI) 2-34
Section 2314 Commercial Neighborhood District (CN) 2-36
Section 2315 Commercial General District (CG) 2-38
Section 2316 Commercial Established District (CE) 2-40
Section 2317 Industrial Light District (IL) 2-42
Section 2318 Industrial Heavy District (IH) 2-45
Section 2319 Phosphate Mining-Industrial District (PM-I) 2-49
Section 2320 Public/Institutional (P/I) 2-50
Section 2321 Recreational Vehicle Campground District (RVC) 2-52
Section 2322 Planned Unit Development District (PUD) 2-55

Section 2400 OVERLAY ZONES 2-67
Section 2401 Historic Districts and Landmarks 2-67

Section 2500 CLUSTERING OF RESIDENTIAL UNITS 2-75

Section 2600 SCHEDULE OF USES IN ZONING DISTRICTS 2-77

ARTICLE 3 RESERVED

ARTICLE 4 SUBDIVISION PROCEDURES

Section 4000 GENERAL 4-2

Section 4100 SUBDIVISION APPROVAL PROCEDURE 4-2
Section 4110 Pre-Application Conference 4-2
Section 4130 Improvement Plan 4-2
Section 4140 Subdivision Plat 4-3

ARTICLE 5 CONCURRENCY DETERMINATION

Section 5000 CONCURRENCY MANAGEMENT SYSTEM 5-2

Section 5100 DETERMINATION OF AVAILABLE CAPACITY 5-2
Section 5101 Available Capacity 5-2
Section 5102 Determination of Project Impact 5-3
Section 5103 Action Upon Failure to Show Available Capacity 5-3

Section 5200 BURDEN OF SHOWING COMPLIANCE ON DEVELOPER 5-4

Section 5300 INITIAL DETERMINATION OF CONCURRENCY 5-4

Section 5400 ADOPTED LEVELS OF SERVICE 5-4

ARTICLE 6 RESOURCE PROTECTION STANDARDS

Section 6000 PURPOSE 6-2

Section 6100 WETLAND PROTECTION 6-2
Section 6101 Relationship to Other Requirements Relating to the Protection of Wetlands ... 6-2
Section 6102 Activities Presumed to Have an Insignificant Effect on Wetlands 6-2
Section 6103 Development Adjacent to Wetland Areas 6-3
Section 6104 Wetland Protective Measures 6-3

Section 6200 GROUNDWATER AND SURFACE WATER PROTECTION 6-4
Section 6201 Purpose and Intent 6-4
Section 6202 Restrictions On Development 6-4

Section 6300 HABITAT OF ENDANGERED OR THREATENED SPECIES 6-4
Section 6301 Generally 6-4
Section 6302 Habitat Management Plan 6-4

ARTICLE 7 DEVELOPMENT DESIGN AND IMPROVEMENT STANDARDS

Section 7000 GENERAL PROVISIONS 7-2
Section 7001 Purpose 7-2
Section 7002 Responsibility for Improvements 7-2
Section 7003 Principles of Development Design 7-2

Section 7100 LOT AREA, LOT COVERAGE, SETBACKS AND BUILDING HEIGHT 7-2
Section 7101 Setbacks 7-2
Section 7102 Height Limit Exclusions 7-3

Section 7200 TRANSPORTATION SYSTEMS 7-3
Section 7201 General Provisions 7-3
Section 7202 Streets 7-3
Section 7203 Rights-of-Way 7-4
Section 7204 Right of Way Standards 7-4

Section 7205 Street Design Standards 7-4
Section 7206 Access 7-9
Section 7207 Standards for Drive-up Facilities 7-11

Section 7300 OFF-STREET PARKING AND LOADING 7-12

Section 7400 STORMWATER MANAGEMENT 7-13
Section 7401 Relationship to Other Stormwater Management Requirements 7-13
Section 7402 Exemptions 7-13
Section 7403 Stormwater Protection Requirements 7-14
Section 7404 Stormwater Management Requirements 7-14
Section 7405 Dedication or Maintenance Of Stormwater Management Systems 7-17

Section 7500 LANDSCAPING 7-17
Section 7501 Intent 7-17
Section 7502 General Landscape Requirements 7-17
Section 7503 Required Buffers 7-19
Section 7504 Determination of Buffer Requirements 7-19
Section 7505 Types of Buffers 7-20
Section 7506 Use and Location of Buffers 7-20
Section 7507 Alternative Buffer Proposals 7-22
Section 7508 Off-Street Parking Areas 7-22

ARTICLE 8 ACCESSORY USES, TEMPORARY USES, NONCONFORMITIES AND ADDITIONAL REQUIREMENTS

Section 8000 ACCESSORY STRUCTURES AND USES 8-2
Section 8001 General Standards and Requirements 8-2
Section 8002 Storage Buildings, Utility Buildings, Greenhouses 8-3
Section 8003 Swimming Pools, Hot Tubs, and Similar Structures 8-3
Section 8004 Fences and Walls 8-3
Section 8005 Guest House (or Cottage) 8-4
Section 8006 Accessory Dwelling Units 8-4
Section 8007 Home Occupations 8-5
Section 8008 Dining Rooms, Recreation Centers, and Other Amenities 8-7
Section 8009 Agricultural Support Housing 8-8
Section 8010 Industrial Support Housing 8-8

Section 8100 CEMETERIES 8-9

Section 8200 JUNKYARDS 8-9

Section 8300 TEMPORARY USES 8-10

Section 8400 NONCONFORMITIES 8-15
Section 8401 Purpose and Intent 8-15

Section 8402 Nonconforming Lots of Record 8-15
Section 8403 Requirements for Designation as a Lot of Record (Pre-requisites to qualify for issuance of a Building Permit) 8-15
Section 8404 Nonconforming Uses 8-18
Section 8405 Nonconforming Structures and Uses of Structures 8-18
Section 8406 Special Provisions For Specific Nonconformities 8-19
Section 8407 Nonconforming Vehicle Use Areas 8-20
Section 8410 Nonconformities Resulting from Eminent Domain 8-21

ARTICLE 9 SIGN STANDARDS

Section 9000 PURPOSE AND INTENT 9-2

Section 9100 GENERAL PROVISIONS 9-3
Section 9101 Relationship to Building and Electrical Codes 9-3
Section 9102 Permit Required 9-3
Section 9103 Maintenance 9-3

Section 9200 MEASUREMENT DETERMINATIONS 9-3
Section 9201 Distance Between Signs 9-3
Section 9202 Freestanding (Ground) and Projecting Signs: Sign Area 9-3
Section 9203 Window Signs: Sign Area 9-4
Section 9204 Canopy Signs: Sign Area 9-4
Section 9205 Wall Sign/Building Mounted: Sign Area 9-4
Section 9206 Other Signs: Sign Area 9-4
Section 9207 Sign Height 9-4
Section 9208 Number of Signs 9-4

Section 9300 EXEMPT SIGNS 9-5

Section 9400 PROHIBITED SIGNS 9-7

Section 9500 PERMITTED SIGNS 9-8
Section 9501 General Location and Design Standards 9-8
Section 9502 Temporary Signs/Portable Signs 9-9
Section 9503 Signs in Residential Areas 9-11
Section 9504 Signs in Commercial and Industrial Zoning Districts 9-12
Section 9505 Off-Site Signs 9-14
Section 9506 Off-Site Directional Signs 9-15

Section 9600 CONTRACTOR, SUB-CONTRACTOR OR BUSINESS ORGANIZATION IDENTIFICATION SIGNS 9-15
Section 9601 Required Signs 9-15

ARTICLE 10 ANCILLARY REGULATIONS

Section 10000 RESERVED 10-3

Section 10100 PHOSPHATE MINING AND RECLAMATION ACTIVITIES 10-3
Section 10110 General Provisions 10-3
Section 10120 Phosphate Mining Master Plan 10-5
Section 10130 Operating Permit 10-15
Section 10140 Procedures for Processing Applications 10-31
Section 10150 Enforcement 10-36

Section 10200 EXCAVATION MANAGEMENT 10-41
Section 10201 Findings 10-41
Section 10202 Definitions 10-41
Section 10203 General Provisions 10-44
Section 10210 Type I Excavation Operation Permitting Process 10-48
Section 10211 Type I Application Submittal 10-48
Section 10212 Type I Minimum Design Standards and Requirements 10-49
Section 10220 Type II, III & IV Excavation Operation Permitting Process 10-51
Section 10221 Type II, III & IV Preliminary Application Submittal 10-52
Section 10222 Type IV Bonus Excavation Areas 10-57
Section 10223 Type IV Special Exception Review Criteria 10-59
Section 10224 Type II, III & IV Construction Plan Submittal 10-59
Section 10225 Type II, III & IV Minimum Design Standards and Requirements 10-61
Section 10230 Post-Excavation Requirements (Cessation of Excavation) 10-67
Section 10240 Reporting Requirements 10-67
Section 10250 Extensions/Revisions/Transfers to Existing Excavation Permits 10-69
Section 10260 Violations, Fines, and Penalties 10-70
Section 10270 Fees 10-72
Section 10280 Miscellaneous Provisions 10-73

Section 10300 LAND SPREADING AND HAULING OF BIOSOLIDS 10-74
Section 10301 Intent 10-74
Section 10302 Definitions 10-74
Section 10310 General Provisions – Land Spreading 10-74
Section 10320 Prohibited Acts – Land Spreading 10-76
Section 10330 Land Spreading Permit 10-77
Section 10340 Reporting and Additional Data Requirements 10-79
Section 10350 Enforcement – Land Spreading 10-79
Section 10360 General Provisions – Biosolids Hauling 10-81
Section 10370 Prohibited Acts – Biosolids Hauling 10-82
Section 10380 Biosolids Hauling Permit Required 10-82
Section 10390 Biosolids Hauling Permit Issuance and Conditions 10-84

Section 10400 FLOODPLAIN MANAGEMENT 10-86
Policy Determination: Flood Plain Permitting And Approval 10-86
Section 10400.100 Chapter 1 Administration 10-88
Section 10400.101 General 10-88
Section 10400.102 Applicability 10-89
Section 10400.103 Duties and Powers of the Floodplain Administrator 10-90
Section 10400.104 Permits 10-93
Section 10400.105 Site Plans and Construction Documents 10-96
Section 10400.106 Inspections 10-98
Section 10400.107 Variances and Appeals 10-99
Section 10400.108 Violations 10-102
Section 10400.200 Chapter 2 Definitions 10-102
Section 10400.201 General 10-102
Section 10400.202 Definitions 10-103
Section 10400.300 Chapter 3 Flood Resistant Development 10-109
Section 10400.301 Buildings and Structures 10-109
Section 10400.302 Subdivisions 10-109
Section 10400.303 Site Improvements, Utilities and Limitations 10-109
Section 10400.304 Manufactured Homes 10-110
Section 10400.305 Recreational Vehicles and Park Trailers 10-112
Section 10400.306 Tanks 10-112
Section 10400.307 Other Development 10-113

ARTICLE 11 BOARDS AND AGENCIES

Section 11000 GENERALLY 11-2
Section 11100 PLANNING COMMISSION 11-2
Section 11101 Establishment and Composition 11-2
Section 11102 Proceedings 11-3
Section 11103 Functions, Powers, and Duties 11-4
Section 11200 BOARD OF ADJUSTMENT 11-5
Section 11201 Establishment and Composition 11-5
Section 11202 Proceedings 11-5
Section 11203 Functions, Powers and Duties 11-6
Section 11300 BOARD OF COUNTY COMMISSIONERS 11-6

ARTICLE 12 ADMINISTRATION AND ENFORCEMENT

Section 12000 DEVELOPMENT REVIEW AND APPROVAL 12-3
Section 12001 Purpose 12-3
Section 12002 A Development Permit Required Prior to Undertaking Any Development Activity 12-3
Section 12003 Prerequisites To Issuance of Development Permit 12-3

Section 12004 Exceptions To Requirement For A Development Order 12-4
Section 12005 Procedure for Obtaining Development Permits 12-4
Section 12006 Post-Permit Changes 12-7
Section 12007 Fees and Charges 12-7
Section 12100 PROCEDURES FOR REVIEW OF MINOR DEVELOPMENTS AND MAJOR DEVELOPMENTS 12-8
Section 12101 Designation of Plans As Minor or Major Developments 12-8
Section 12102 Procedures for Review of Minor Developments 12-9
Section 12103 Procedures for Review of Major Developments 12-9
Section 12104 Project Phasing 12-10
Section 12200 QUASI JUDICIAL HEARING PROCEDURES 12-11
Section 12201 Scope and Applicability 12-11
Section 12202 Preliminary Matters 12-11
Section 12203 Presentation and Hearing 12-12
Section 12300 PROCEDURES FOR APPLICATIONS FOR SPECIAL EXCEPTIONS 12-12
Section 12301 Generally 12-12
Section 12302 Applications 12-12
Section 12303 Staff Review 12-13
Section 12304 Findings by the Planning Commission 12-14
Section 12305 Conditions and Safeguards 12-15
Section 12306 Denial 12-15
Section 12307 Status of the Planning Commission Report and Recommendations 12-16
Section 12308 Board Action on Planning Commission Report 12-16
Section 12309 Changes and Amendments 12-16
Section 12310 Public Hearings 12-16
Section 12400 PROCEDURES FOR APPLICATIONS FOR VARIANCES 12-17
Section 12401 Generally 12-17
Section 12402 Applications 12-18
Section 12403 Staff Review 12-18
Section 12404 Initial Determination and Required Findings by the Board of Adjustment 12-18
Section 12405 Conditions and Safeguard 12-19
Section 12406 Variances To Be Considered As Part Of Development Review 12-19
Section 12407 Special Provisions Where Variance is Sought to Requirements to Floodplain Management Requirements 12-19
Section 12408 Special Requirements for Variances for Historic Properties 12-20
Section 12409 Public Hearings 12-20
Section 12500 PROCEDURES FOR APPLICATIONS FOR REZONING AND LDR AMENDMENTS 12-21
Section 12501 Generally 12-21
Section 12502 Applications 12-21
Section 12503 Staff Review 12-21
Section 12504 Nature and Requirements of Planning Commission Report 12-22
Section 12505 Conditions and Safeguards 12-23

Section 12506 Status of Planning Commission Report and Recommendations..... 12-23
Section 12507 Board of County Commissioners Action on Planning Commission Report 12-23
Section 12508 Public Hearings 12-24
Section 12600 OTHER PROCEDURES BEFORE THE BOARD OF ADJUSTMENT. 12-25
Section 12601 Appeals of Decisions of the Development Director 12-25
Section 12602 Special Authority of Board of Adjustment in Relation to Certain Nonconforming Uses 12-26
Section 12603 Appeals from Decisions of Board of Adjustment 12-26
Section 12700 VESTING OF DEVELOPMENT RIGHTS..... 12-26
Section 12701 Intent 12-26
Section 12702 Vesting of Development Rights 12-26
Section 12703 Property Not Vested..... 12-27
Section 12704 Procedures to Determine Vested Rights 12-28
Section 12705 Developments of Regional Impact..... 12-33
Section 12706 Concurrency 12-34
Section 12800 ENFORCEMENT OF THE LDRs..... 12-34
Section 12801 General 12-34
Section 12802 Enforcement of Codes by Other Means 12-34
Section 12803 Prosecution Under Previous Regulations..... 12-35
Section 12804 Special Master Proceedings 12-35
Section 12805 Creation of Special Masters 12-35
Section 12806 Notice and Initiation of Special Master Hearings 12-36
Section 12807 Conduct of Hearing Before Special Masters 12-38
Section 12808 Subpoena Procedures 12-39
Section 12809 Administrative Penalties 12-39
Section 12810 Rehearing 12-41
Section 12811 Appeals 12-41
Section 12900 ABATEMENT OF PUBLIC NUISANCES 12-41
Section 12901 Public Nuisance Defined..... 12-41
Section 12902 Public Nuisances Prohibited 12-44

ARTICLE 13 DEFINITIONS

Section 13000 PURPOSE AND INTENT 13-2
Section 13100 Interpretation of Terms 13-2
Section 13200 Definitions 13-2

ARTICLE 14 SUPPLEMENTARY REQUIREMENTS

Section 14000 DRIVEWAY DEVELOPMENT PROCEDURES..... 14-2
Section 14001 Construction Requirements..... 14-3
Section 14002 Driveway Maintenance 14-7

Section 14003 Minimum Standards 14-8
Section 14100 PUBLIC RIGHT-OF-WAY SUBDIVISION IMPROVEMENTS 14-8
Section 14101 General Requirements 14-8
Section 14102 Applicable Documents 14-10
Section 14103 Clearing, Grubbing and Earthwork 14-11
Section 14104 Road Construction 14-12
Section 14105 Road Shoulder Construction 14-13
Section 14106 Drainage Facilities and Piping Systems 14-13
Section 14107 Drainage and Piping System Construction 14-15
Section 14108 Grading 14-16
Section 14109 Signs 14-16
Section 14110 Sign Construction 14-18
Section 14111 Grassing 14-18
Section 14112 Concrete Construction 14-19
Section 14113 Quality Control 14-20
Section 14114 Inspection Services 14-24
Section 14200 VACATION OF PLATS OR RIGHTS-OF-WAY BY OWNER OR BOARD OF COUNTY COMMISSIONERS 14-24
Section 14201 Vacation of Plats by Owner 14-24
Section 14202 Vacation of Plats by Board of County Commissioners 14-25
Section 14203 Vacation of Rights-of-Way 14-25
Section 14400 SEXUALLY ORIENTED ENTERTAINMENT ESTABLISHMENTS 14-27
Section 14500 IMPROVEMENT PLAN 14-45

ARTICLE 1 GENERAL PROVISIONS

Section 1000 TITLE 1-2
Section 1100 AUTHORITY 1-2
Section 1300 PURPOSE AND INTENT 1-2
Section 1400 GENERAL RULES OF INTERPRETATION 1-2
Section 1410 Interpretation 1-2
Section 1420 Abrogation 1-3
Section 1500 APPLICABILITY 1-3
Section 1510 General Applicability 1-3
Section 1520 Exceptions 1-3
Section 1600 REPEAL OF PRIOR PROVISIONS 1-4
Section 1700 SEVERABILITY 1-5
Section 1800 EFFECTIVE DATE 1-5

ARTICLE 1 GENERAL PROVISIONS

Section 1000 TITLE

These regulations shall be known as, cited as, and referred to as the DeSoto County Land Development Regulations ("LDR" or "LDRs"). It may, in subsequent sections, be referred to as the LDR or these regulations.

Section 1100 AUTHORITY

The DeSoto County Land Development Regulations are adopted pursuant to Chapter 163, Part II, Florida Statutes, and Chapter 125, Florida Statutes ("F.S.").

Section 1300 PURPOSE AND INTENT

The primary purpose of the LDR is implementation of the DeSoto County Comprehensive Plan, as adopted pursuant to Chapter 163, Part II, F.S. The Board of County Commissioners deems it necessary to adopt these LDRs for the purposes set forth in Section 163.3202 (2) and (3), F.S.

The requirements of the LDR apply to all development occurring after the effective date of the LDR unless otherwise exempted by the LDR, the DeSoto County Comprehensive Plan, or other ordinances. If there is a conflict between the LDR and the DeSoto County Comprehensive Plan, the provisions of the Comprehensive Plan shall prevail and take precedence.

Section 1400 GENERAL RULES OF INTERPRETATION

Section 1410 Interpretation

A. In the interpretation and application of the LDR, all standards, criteria, and requirements shall be liberally interpreted in favor of the purposes and goals, objectives and policies of the DeSoto County Comprehensive Plan and deemed neither to limit nor repeal any other lawful regulatory powers of the County.

B. Where the LDR conflicts with or overlaps other regulations, whichever imposes the more stringent restrictions shall prevail.

C. In the event that any questions arise concerning application of regulations, performance standards, definitions of this LDR, the Director of Development shall be responsible for interpretation. Responsibility for interpretation by the Director shall be limited to standards, regulations, and requirements of the LDR; such responsibility shall not be construed to include interpretation of any technical codes adopted by reference. Interpretations must be based on and be consistent with the LDRs, and do not include waivers of specific LDR

requirements, standards or regulations, unless specifically authorized in these LDRs. Further, responsibility for interpretation shall not be construed to substitute for any rights or responsibilities assigned to any commission, board, or official named in other sections of the LDR. The officials shall rely upon policies adopted in the DeSoto County Comprehensive Plan in making any such interpretation.

D. It is the intent of the Board of County Commissioners that this LDR be interpreted and applied in a manner which respects the property rights of owners and developers in the County, does not place an inordinate burden on any owner or developer, is consistent with the Right to Farm Act (Section 823.14, F.S.) as it may be subsequently amended; recognizes and protects the building code exemption for nonresidential farm buildings provided by Sections 553.73 and 604.50, F.S., as those provisions may be subsequently amended; complies with Section 163.3162, F.S., concerning agricultural lands and practices, Section 163.3163, F.S., the agricultural acknowledgment act, and Section 633.226, F.S., farm building exemptions, as those provisions may be subsequently amended; and protects the public health, safety and welfare.

E. The LDR shall not be affected by deed restrictions or private restrictive covenants, recorded with any deed, plat or other document. No person or agency, in the capacity of enforcing and administrating the LDR shall be responsible for enforcing any deed restrictions.

F. More specific provisions of the LDRs shall take precedence over more general provisions that may be in conflict with the more specific provisions.

Section 1420 Abrogation

These LDRs are not intended to repeal, abrogate, or interfere with any existing easements, covenants, or deed restrictions duly recorded in the public records of DeSoto County. The LDR is not intended to repeal any lawful approval by official County action of any planned development, planned unit development, or subdivision.

Section 1500 APPLICABILITY

Section 1510 General Applicability

Except as specifically provided below, the provisions of the LDR shall apply to all development in DeSoto County, and no development shall be undertaken which is in conflict with the requirements of these LDRs.

Section 1520 Exceptions

A. Previously Issued Development Permits

The provisions of the LDR and any amendments thereto shall not affect the validity of any lawfully issued and effective development permit if:

1. The development activity authorized by the permit has been commenced prior to the effective date of the LDR or any amendment thereto, or will be commenced after the effective date of the LDR but within six (6) months of issuance of the Development Permit; and

2. The development activity continues without interruption (except because of an Act of God, war, natural disaster, or other force majeure) until the development is complete. If the Development Permit expires, any further development on that site shall occur only in conformance with the requirements of the LDR or amendment thereto.

B. Previously Approved Development Orders

Projects with Development Orders that have not expired at the time the LDR or an amendment thereto is adopted, shall be required to meet the requirements of the LDR and amendments thereto, unless the developer has in good faith relied upon the Development Order which caused him to make such a substantial change in position or incur such extensive obligations and expenses that it would be highly unjust and inequitable to enforce specific provisions of the LDR or an amendment thereto. In such a circumstance the developer will be excepted from those specific provisions of the LDR and amendments thereto, for which enforcement would be unjust and inequitable. All other provisions of the LDR and amendments thereto shall be enforced. In no event shall a project be permitted to continue that is in conflict with State law or other County ordinances or with standards less than those required by the County Ordinances in effect when the Development Order was approved. If the Development Order expires or is otherwise invalidated, further development on that site shall occur only in conformance with the requirements of the LDR or amendment thereto.

C. Consistency With Plan

Nothing in this Section shall be construed to authorize development that is inconsistent with the DeSoto County Comprehensive Plan.

Section 1600 REPEAL OF PRIOR PROVISIONS

The Land Development Regulations that became effective on May 25, 1993, and all subsequent amendments thereto as well as Ordinances in conflict herewith are hereby repealed and replaced with these LDRs on the effective date stated in Section 1800. However, any matters, subjects or issues addressed in ordinances which are not included in these LDRs and which are not in conflict with these LDRs, including but not limited to

ordinances regulating phosphate mining and the spreading of sludge, are not repealed or superseded by enactment of these LDRs and continue in full force and effect.

Section 1700 SEVERABILITY

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

Section 1800 EFFECTIVE DATE

These Land Development Regulations were adopted by Ordinance Number 2012-01, effective July 2, 2012, and were amended by Ordinance Number 2014-05, effective December 1, 2014.

ARTICLE 2 ZONING DISTRICTS AND REQUIREMENTS

Section 2000 ESTABLISHMENT OF ZONING DISTRICTS, OFFICIAL ZONING DISTRICT ATLAS 2-3
Section 2001 Establishment of Zoning Districts 2-3
Section 2002 Amendments to Zoning District Boundaries 2-3
Section 2003 Unauthorized Changes Prohibited. 2-3
Section 2004 Retention of Earlier Zoning District Atlases 2-3
Section 2005 Extent of District Regulations 2-3
Section 2006 Rules of Interpretation 2-3
Section 2007 Continuity of Land Use Regulations 2-4
Section 2100 APPLICATION OF DISTRICT REGULATIONS 2-4
Section 2101 Use or Occupancy 2-4
Section 2102 Multiple Use of Required Open Space Prohibited 2-4
Section 2103 Reduction of Lot Area Prohibited 2-4
Section 2104 Submerged Land 2-4
Section 2106 Agricultural Building 2-5
Section 2200 ESSENTIAL SERVICES AND PARKING 2-5
Section 2201 Essential Services 2-5
Section 2202 Parking or Storage of Vehicles in Residential Districts (Amended June 22, 2009 Ord 2009-19) 2-5
Section 2203 Parking and Storage of Certain Vehicles and Trailers 2-8
Section 2204 Parking or Storage of Commercial Vehicles in A-10 & A-5 Districts 2-8
Section 2300 ZONING DISTRICTS 2-9
Section 2301 Zoning Districts Designated 2-9
Section 2304 Agricultural 10 District (A-10) 2-9
Section 2305 Agricultural 5 District (A-5) 2-13
Section 2306 Residential Single-Family District (RSF) 2-17
Section 2307 Residential Mixed District (RM) 2-19
Section 2308 Residential Multi-Family District (RMF) 2-21
Section 2309 Residential Multi-Family Mixed District (RMF-M) 2-23
Section 2310 Mobile Home Subdivision District (MHS) 2-25
Section 2311 Mobile Home Park District (MHP) 2-27
Section 2312 Travel Trailer Recreational Vehicle Campground District (TTRVC) 2-29
Section 2313 Residential-Office-Institutional District (ROI) 2-34

Section 2314 Commercial Neighborhood District (CN)
(Amended June 22, 2009 Ord 2009-20) 2-36
Section 2315 Commercial General District (CG) 2-38
Section 2316 Commercial Established District (CE) 2-40
Section 2317 Industrial Light District (IL) 2-42
Section 2318 Industrial Heavy District (IH) 2-45
Section 2319 Phosphate Mining-Industrial District (PM-I) 2-49
Section 2320 Public/Institutional (P/I) 2-50
Section 2321 Recreational Vehicle Campground District (RVC) 2-52
Section 2322 Planned Unit Development District (PUD) 2-55
Section 2400 OVERLAY ZONES 2-67
Section 2401 Historic Districts and Landmarks 2-67
Section 2500 CLUSTERING OF RESIDENTIAL UNITS 2-75
Section 2600 SCHEDULE OF USES IN ZONING DISTRICTS 2-77

ARTICLE 2 ZONING DISTRICTS AND REQUIREMENTS

Section 2000 ESTABLISHMENT OF ZONING DISTRICTS, OFFICIAL ZONING DISTRICT ATLAS

Section 2001 Establishment of Zoning Districts

The unincorporated area of DeSoto County is hereby divided into districts as set out in Section 2300 of these Regulations and as shown in the Official Zoning District Atlas which is hereby adopted by reference and declared to be part of the LDRs.

Section 2002 Amendments to Zoning District Boundaries

Amendments, approved in accordance with the provisions of the LDRs and Florida Law, shall be entered promptly on the Official Zoning District Atlas.

Section 2003 Unauthorized Changes Prohibited.

No changes of any nature shall be made to the Atlas except in conformity with the procedures set out in the LDRs.

Section 2004 Retention of Earlier Zoning District Atlases

If the Official Zoning District Atlas becomes damaged, lost, destroyed or difficult to interpret by reason of the nature or number of changes, the Board of County Commissioners may, by resolution, adopt a new Official Zoning District Atlas.

Section 2005 Extent of District Regulations

A district symbol or name shown within district boundaries on the Official Zoning District Atlas indicates the district regulations pertaining to the district extend throughout the entire area surrounded by the boundary line.

Section 2006 Rules of Interpretation

Boundaries appearing to follow the center line of rights-of-way approximately shall be interpreted as being such center lines. Boundaries indicated as approximately following City or County limits shall be construed as following such City or County limits. Boundaries indicated as following railroad tracks shall be construed as being midway between the main tracks. Boundaries indicated as following mean high water lines or center lines of streams, canals, lakes or other bodies of water shall be construed as following such mean high water lines or center lines. Boundaries indicated as entering any body of water shall be construed as extending in the direction in which they enter the body water to intersect with district boundaries or following physical features other than those listed above shall be construed as being parallel to or extensions of such features.

Distances not specifically indicated on the Official Zoning District Atlas shall be determined by scale of the map on the sheet of the Atlas showing the property in questions.

Section 2007 Continuity of Land Use Regulations

In the event any unincorporated territory within DeSoto County shall hereafter become incorporated, all regulations administered by DeSoto County shall remain in full force and effect until municipal Land Use Regulations within such territory shall be adopted and take effect.

Section 2100 APPLICATION OF DISTRICT REGULATIONS

The regulations herein set out within each district shall apply uniformly to each class or kind of structure, or land or water use, except as hereinafter provided.

Section 2101 Use or Occupancy

No building, structure use, or part thereof shall hereafter be erected, constructed, reconstructed, located, moved or structurally altered except in conformity with the regulations for the district in which it is located.

Section 2102 Multiple Use of Required Open Space Prohibited

No part of a required yard or open space provided in connection with one building, structure, or use shall be included as meeting the requirements for any other building, structure, or use.

Section 2103 Reduction of Lot Area Prohibited

No lot or yard existing at the effective date of these regulations shall be reduced in size, dimension or area below the minimum requirements set out herein, except by reason of a portion being acquired for public use in any manner including dedication, condemnation, purchase and the like. Lots or yards created after the effective date of these regulations shall meet at least the minimum requirements established herein.

Section 2104 Submerged Land

Land which is normally under water during the dry season shall be calculated as a part of a lot in determining the minimum lot or yard required. When reasonable and appropriate given the configuration of the lot and the submerged portion thereof, the Development Director may set setbacks at the edge of the submerged portion of the lot rather than measuring from the lot boundary.

Section 2106 Agricultural Building

A structure that meets the definition of non-residential farm building under Section 604.50(2), Florida Statutes, that is used to support agricultural activities and which may include, but not be limited to, a barn, greenhouse, shade house, poultry house, farm office, storage shed and storage building, may not be converted to allow sleeping, cooking or recreation without proper inspections and permitting.

Section 2200 ESSENTIAL SERVICES AND PARKING

Section 2201 Essential Services

Essential services, as approved by the Board of County Commissioners, may be located in any zoning district, as follows:

A. Permitted Uses

1. Sewer, water, and gas collection/distribution lines;

2. Electric, telephone and television cables;

3. Public buildings.

B. Special Exception Uses

1. Electric, coal, and gas generating plants;

2. Automatic substations and switch stations necessary for operation of authorized utility systems that cover more than eighty (80) square feet in size of land area and more than five (5) feet in height.

Section 2202 Parking or Storage of Vehicles in Residential Districts

A. Residential District Commercial Vehicle Parking Prohibited

Except as provided in Sections 2202B, C and D below, parking, storing, repairing or keeping of one or more commercial vehicle(s) and equipment regulated by this Section on any lot or parcel within a residential district (RSF, RM, RMF, RMFM and ROI zoning districts) is prohibited.

B. Residential District Commercial Vehicle Parking Allowed for Lots Meeting Minimum Lot Size

The following shall be allowed to be parked or stored in a residential district on property meeting the minimum lot size as follows:

1. The temporary parking or storage of construction equipment, vehicles or shipping containers, which are not affixed to the ground on private land in residential districts where construction is underway, and for which a current and valid Building permit or other development permit has been issued by the County and is displayed on the premises, or involves improvements allowed by the LDR.

2. Any vehicle owned by a public or private utility provider when used in the event of emergencies requiring immediate attention.

3. The parking or storage of agricultural equipment and vehicles on private land used for bona fide agricultural purposes by the property owner or lessee.

4. The parking or storage of one commercial vehicle, one piece of equipment or one shipping container**.**

5. The parking or storage and routine maintenance of one commercial vehicle where the commercial vehicle is used by a resident of the premises if the commercial vehicle has a load capacity of less than two tons, is less than 9 feet high (including the load, bed and box) and is less than 30 feet long.

6. For RM zoning districts whose principal use is residential, two commercial vehicles may be parked or stored on the property, and routine maintenance performed, if they are used by a resident of the premises, if each commercial vehicle is parked a minimum of 20 feet from all property boundaries and if the commercial vehicles each have a load capacity of less than two tons, are each less than 9 feet high (including the load, bed and box) and are each less than 30 feet long. Upgrades to the culvert, driveway and apron may be required at the discretion of the County Engineer.

C. Special Exceptions for Lots Not Meeting Minimum Lot Size

The parking of a commercial vehicle with a load capacity of less than two tons, less than 9 feet high (including the load, bed and box) and less than 30 feet long, in residential zoning districts on property not meeting minimum lot size may be approved as a special exception provided the requirements listed below are met. Applications for a special exception pursuant to this Section are to be reviewed in accordance with the criteria and procedures for special exceptions set forth in Article 12.

1. Only one commercial vehicle, one piece of equipment or one shipping container, as regulated by this Section, shall be parked on any residential lot or parcel.

2. Commercial vehicles shall be currently registered or licensed.

3. The parking of said vehicle does not have a negative impact to the health, safety or welfare of adjacent properties.

4. Commercial vehicles must be parked on the same property occupied by the owner or operator of the vehicle.

5. The vehicle shall not be parked in the front yard of the residence.

6. The parking area shall be at least 20 feet from all property boundaries.

7. The vehicle shall park in a manner so that the minimum amount of vehicle surface is facing the road adjacent to the property.

8. All driveway improvements are the responsibility of the property owner. A commercial driveway, apron, and culvert upgrades may be required at the discretion of the County Engineer.

9. Refrigerator units on vehicles shall not be operated on the site.

10. For RM zoning districts whose principal use is residential, two commercial vehicles may be parked or stored on the property, and routine maintenance performed, if they are used by a resident of the premises, if each commercial vehicle is parked a minimum of 20 feet from all property boundaries and if the commercial vehicles each have a load capacity of less than two tons, are each less than 9 feet high (including the load, bed and box) and are each less than 30 feet long. Upgrades to the culvert, driveway and apron may be required at the discretion of the County Engineer.

11. Approvals shall be valid for one year, or for a shorter period as specified by the Board of County Commissioners. Approvals may be administratively renewed, with proper application, following notice provided to the Development Director no less than 30 days prior to the expiration date, if the commercial vehicle location is consistent with the Land Development Regulations and conditions of approval. The applicant shall bear the burden in demonstrating that the vehicle parking still meets the criteria of the approved special exception and this Section.

D. Special Exceptions for Larger Commercial Vehicles

1. Commercial vehicles with a load capacity of more than two tons, and/or are more than 9 feet high (including the load, bed and box), and/or are more than 30 feet long, may be allowed in residential zoning districts by special exception provided that they meet the criteria and follow the procedure for special exception approval provided in Article 12.

2. Approvals shall be valid for one year, or for a shorter period as specified by the Board of County Commissioners. Approvals may be administratively renewed, with proper application, following notice provided to the Development Director no less than 30 days prior to the expiration date, if the commercial vehicle location is consistent with the Land Development Regulations and conditions of approval. The applicant shall bear the burden in demonstrating that the vehicle parking still meets the criteria of the approved Special Exception and this Section.

Section 2203 Parking and Storage of Certain Vehicles and Trailers

A. Motor vehicles, recreational vehicles or trailers, of any type, without current license plates, or which appear to be abandoned or in significant disrepair, shall not be parked or stored outdoors in any district that allows residential use.

B. Other than as authorized in zoning districts TTRVC and RVC, or for medical hardship under Section 8300E, a recreational vehicle, trailer or travel trailer is prohibited unless it is parked on property with a dwelling or is stored in an enclosed structure, and is owned by the owner or occupant of that property; provided, however, that other than as authorized in zoning districts TTRVC and RVC, or for medical hardship under Section 8300E, said recreational vehicle, trailer or travel trailer may not be connected to any water utility or well, wastewater utility or septic tank, occupied or used for storage.

Section 2204 Parking or Storage of Commercial Vehicles in A-10 & A-5 Districts

A. Parcels that Meet Minimum Lot Size - The parking or storage of no more than two commercial vehicles in the A-10 zoning district and no more than one commercial vehicle in the A-5 zoning district is permitted on parcels that meet the minimum lot size, provided that the vehicle is parked a minimum of 20 feet from all property boundaries and on the same property occupied by, or on adjacent property owned by, the owner or operator of the vehicle(s). Additional commercial vehicles may be allowed by special exception on said A-10 and A-5 parcels that meet minimum lot size, provided the criteria for special exceptions in Article 12 are met. Upgrades to the culvert, driveway and apron will be at the discretion of the Public Works Director or County Engineer.

B. Parcels that Do Not Meet Minimum Lot Size - Parking or storage of commercial vehicles in A-10 and A-5 zoning districts on parcels that do not meet minimum lot size may only be allowed by special exception, provided that the vehicles are parked a minimum of 20 feet from all property boundaries and on the same property occupied by, or on adjacent property owned by, the owner or operator of the vehicle(s), and the criteria in Article 12 for special exceptions are met. Upgrades to the culvert, driveway and apron will be at the discretion of the Public Works Director or County Engineer.

C. This section does not apply to or limit the number vehicles or amount of equipment parked in A-10 or A-5 districts that are engaged in bona fide agricultural operations.

Section 2300 ZONING DISTRICTS

Section 2301 Zoning Districts Designated

The following zoning districts are designated as delineated on the Official Zoning District Atlas:

A-10	AGRICULTURAL 10
A-5	AGRICULTURAL 5
RSF	RESIDENTIAL SINGLE-FAMILY
RM	RESIDENTIAL MIXED
RMF	RESIDENTIAL MULTI-FAMILY
RMFM	RESIDENTIAL MULTI-FAMILY MIXED
MHS	MOBILE HOME SUBDIVISION
MHP	MOBILE HOME PARK
TTRVC	TRAVEL TRAILER RECREATIONAL VEHICLE CAMPGROUND
ROI	RESIDENTIAL-OFFICE-INSTITUTIONAL
CN	COMMERCIAL NEIGHBORHOOD
CG	COMMERCIAL GENERAL
CE	COMMERCIAL ESTABLISHED
IL	INDUSTRIAL LIGHT
IH	INDUSTRIAL HEAVY
PM-I	PHOSPHATE MINING - INDUSTRIAL
P/I	PUBLIC INSTITUTIONAL
RVC	RECREATIONAL VEHICLE CAMPGROUND
PUD	PLANNED UNIT DEVELOPMENT

Section 2304 Agricultural 10 District (A-10)

The intent of the Agricultural 10 District (A-10) is primarily agricultural, pastoral, the extraction or processing of non-phosphate minerals, and low-density residential development. This district is designed to accommodate traditional agricultural uses and

conservatory measures, where appropriate, while protecting the rural areas of the County. The regulations in this District are intended to permit a reasonable use of the property, at a gross density of one dwelling per 10 acres. At the same time, the intent is to prevent the creation of conditions which would endanger damage or destroy the agricultural base of the County, the environmental resources of the County, the potable water supply and the wildlife resources. The first priority of this district is agricultural uses.

A. USES AND STRUCTURES: No building or structure, or part thereof, shall be erected, altered or used, or land used, in whole or in part, for other than the following:

1. Permitted Uses and Structures (allowable without the need for any other use or structure):

a. One (1) single-family dwelling or Residentially Designed Manufactured Home per parcel; family day care home.

b. Agricultural uses and related uses such as but not limited to: animal breeding, training, stabling; bee keeping; livestock grazing; field crops; fruit and nut production; forestry; gardening; aqua culture and commercial fisheries; aviary; egg and milk production; poultry production; citrus packing; feed lots; livestock sales facilities.

c. Wildlife management areas, plant and wildlife conservancies, refuges and sanctuaries for domestic or non-exotic animals; botanical gardens.

d. Wholesale plant nurseries, greenhouses, and accessory of garden supplies.

e. Sale of Agricultural products, roadside produce stands.

f. Utility grade solar power plant.

g. Agricultural buildings such as but not limited to: barns, feed storage sheds, animal storage buildings, and agricultural equipment storage buildings.

h. Agricultural Support Mobile Home (one only) on a parcel of land no smaller than 40 acres, having an agricultural classification for ad valorem tax purposes, and occupied by a family supporting the agricultural operation.

i. Bed and Breakfast, agri-tourism related development.

j. Veterinary hospital and clinic.

k. Wholesale agricultural produce transfer stations (temporary use or permanent).

l. Hunting cabin on a parcel of land no smaller than 40 acres.

m. Private docks.

n. Primitive tent camping for recreational, non-commercial purposes, that is provided to the general public (1) without a fee; (2) without any associated water and/or sanitary facilities or improvements; (3) has a maximum of 2 primitive camping sites per acre; and (4) is limited to no more than seven days per calendar month per campsite.

o. The parking or storage of agricultural equipment and vehicles used for bona fide agricultural purposes by the property owner or lessee.

2. Accessory Uses and Structures:

a. Accessory uses and structures which are incidental to and customarily associated with uses permitted in the district.

b. Home occupations.

c. Country clubs, tennis courts.

d. Temporary occupancy of Mobile Home, R.V., or Accessory Structure (see Section 8300C).

e. Guest house (see Section 8005).

f. Medical Hardship Mobile Home (see Section 8300E).

g. Cemeteries, as an accessory use to a Place of Worship (see Section 8100).

3. Special Exception Uses and Structures:

a. Agriculturally related processing, canning or packing plant; wineries that sell wine that is fermented on site; slaughter houses;

sawmills; headquarters for off-site agricultural operations; agricultural support housing (see Section 8009).

b. Aviation facilities.

c. Communication transmitting and receiving facilities, non-occupied - minimum setback from any property boundary line equal to 100% of proposed tower height.

d. Drag Strips and Race Tracks.

e. Oil and gas exploration, extraction, production and processing, sanitary landfills.

f. Firing Range (indoor or outdoor).

g. Kenneling.

h. Place of Worship.

i. Recreation and Leisure such as but not limited to parks and playgrounds; sports arenas; community and recreation centers; libraries; museums; marinas and/or boat rental facilities; zoo; sale of alcoholic beverages in connection with a restaurant in a golf course clubhouse.

j. Accessory apartment.

k. Golf Course.

l. Excavation (other than phosphate) and related processes, earthmoving.

m. Other similar uses which are comparable in nature with the foregoing.

4. Prohibited Uses and Structures:

Any use or structure not specifically or by reasonable implication allowed herein.

B. Development Standards:

1. Minimum Lot Area: 10 acres, unless otherwise specified.

2. Minimum Lot Width: 300 feet.

3. Minimum Yard Requirements:

   a. Front Yard: 50 feet

   b. Side Yard: 30 feet

   c. Rear Yard: 50 feet

4. Accessory Structure Setback Requirements:

   a. Side Yard: 5 feet

   b. Rear Yard: 5 feet

   c. Front Yard: Accessory structures not permitted in front yard

5. Maximum Density: One (1) dwelling unit per 10 acres.

6. Maximum Impervious Lot Coverage: Unrestricted

Section 2305 Agricultural 5 District (A-5)

The intent of the Agricultural 5 District (A-5) is primarily agricultural, pastoral, the extraction and processing of non-phosphate minerals and low-density residential development. This district is designed to accommodate traditional agricultural uses and conservatory measures, where appropriate, while protecting the rural areas of the County. The regulations in this District are intended to permit a reasonable use of the property, at a gross density of one unit per five acres. At the same time, the intent is to prevent the creation of conditions which would endanger, damage, or destroy the agricultural base of the County, the environmental resources of the County, the potable water supply and the wild life resources. The first priority of this District is agricultural uses.

A. USES AND STRUCTURES: No building or structure, or part thereof, shall be erected, altered or used, or land used, in whole or in part, for other than the following:

   1. Permitted Uses and Structures (allowable without the need for any other use or structure):

      a. One (1) single-family dwelling or Residentially Designed Manufactured Home per parcel; family day care home.

b. Agricultural uses and related uses such as but not limited to: animal breeding, training, stabling; bee keeping; livestock grazing; field crops; fruit and nut production; forestry; gardening; aqua culture and commercial fisheries; aviary; egg and milk production; poultry production.

c. Wildlife management areas, plant and wildlife conservancies, refuges and sanctuaries for domestic or non-exotic animals; botanical gardens.

d. Wholesale plant nurseries, greenhouses, and accessory of garden supplies.

e. Sale of Agricultural products, roadside produce stands

f. Utility grade solar power plant.

g. Agricultural buildings such as but not limited to: barns, feed storage sheds, animal storage buildings, and agricultural equipment storage buildings.

h. Agricultural Support Mobile Home (one only) on a parcel of land no smaller than forty (40) acres, having an agricultural classification for ad valorem tax purposes, and will be occupied by a family supporting the agricultural operation.

i. Bed and Breakfast, agri-tourism related development.

j. Veterinary hospital and clinic.

k. Wholesale agricultural produce transfer station (temporary use or permanent).

l. Hunting cabin on a parcel of land no smaller than 40 acres.

m. Private docks.

n. Primitive tent camping for recreational, non-commercial purposes, that is provided to the general public (1) without a fee; (2) without any associated water and/or sanitary facilities or improvements; (3) has a maximum of 2 primitive camping sites per acre; and (4) is limited to no more than seven days per calendar month per campsite.

o. The parking or storage of agricultural equipment and vehicles used for bona fide agricultural purposes by the property owner or lessee.

2. Accessory Uses and Structures:

a. Accessory uses and structures which are incidental to and customarily associated with the uses permitted in the district.

b. Home occupations (See Section 8007).

c. Country clubs, tennis courts.

d. Temporary Occupancy of Mobile Home, R.V., or Accessory Structure (See Section 8300C).

e. Guest house (Section 8005).

f. Medical Hardship Mobile Home (Section 8300E).

g. Cemeteries, as an accessory use to a Place of Worship (see Section 8100).

3. Special Exception Uses and Structures:

a. Agriculturally related processing, canning or packing plant; wineries that sell wine that is fermented on site; slaughter houses; citrus packing; feed lots; sawmills; headquarters for off-site agricultural operations; livestock sales facilities; agricultural support housing (see Section 8009).

b. Aviation facilities.

c. Communication transmitting and receiving facilities, non-occupied - minimum setback from any property boundary line equal to 100% of proposed tower height.

d. Drag strips and race tracks.

e. Oil and gas exploration, extraction, production and processing; sanitary landfills; earthmoving.

f. Firing range (indoor or outdoor).

g. Kenneling.

h. Place of Worship.

i. Recreation and Leisure uses such as but not limited to: parks and playgrounds; sports arenas; community and recreation centers; libraries; museums; marinas and/or boat rental facilities; zoo, sale of alcoholic beverages in connection with a restaurant in a golf course clubhouse.

j. Accessory apartment.

k. Golf Course.

l. Excavation (other than phosphate) and related processes; earthmoving.

m. Other similar uses which are comparable in nature with the foregoing.

4. Prohibited Uses and Structures: Any use or structure not specifically or by reasonable implication allowed herein.

B. DEVELOPMENT STANDARDS:

1. Minimum Lot Areas: 5 acres unless otherwise specified.

2. Minimum Lot Width: 165 feet

3. Minimum Yard Requirements:

a. Front Yard: 50 feet.

b. Side Yard: 30 feet.

c. Rear Yard: 50 feet.

4. Accessory Structure Setback Requirements:

a. Side Yard: 5 feet.

b. Rear Yard: 5 feet.

c. Front Yard: Accessory structures not permitted in front yard.

5. Maximum Density: 1 dwelling unit per 5 acres.

6. Maximum Impervious Lot Coverage: Unrestricted

Section 2306 Residential Single-Family District (RSF)

The intent of the Residential Single-Family District (RSF) is to create five (5) distinct low to moderate residential density zoning districts, subject to restrictions and requirements necessary to preserve and protect these low to moderate residential density activities from high density urban uses and the intrusion of intense agricultural uses.

A. USES AND STRUCTURES: No building or structure, or part thereof, shall be erected, altered, or used, or land used, in whole or in part, for other than the following:

1. Permitted Uses and Structures (allowable without the need for any other use or structure):

   a. One (1) single-family dwelling per lot.

   b. Bed and Breakfast (in RSF-1 only)

   c. Family day care home

2. Accessory Uses and Structures:

   a. Private boat houses and docks, with or without boat hoists, on a lake, canal or waterway lots.

   b. Customary accessory uses and structures, including private garages.

   c. Gardening and greenhouses.

   d. Community and Recreation Centers.

   e. Country Clubs, Swimming Pools, Golf Courses.

   f. Tennis courts.

   g. Group Home, Small (in RSF-1 only).

   h. Home occupations (see Section 8007).

   i. Medical Hardship Mobile Home (see Section 8300E).

j. Guest House (in RSF-1 only) (see Section 8005).

3. Special Exception Uses and Structures:

a. Non-commercial boat launching facilities and multiple docking areas.

b. Recreational facilities not accessory to principal use.

c. Place of Worship, private or parochial schools.
d. Parks and playgrounds.

e. Libraries.

4. Prohibited Uses and Structures:

Any use or structure not specifically or by reasonable implication allowed herein.

B. DEVELOPMENT STANDARDS:

1. Minimum Lot Area:

RSF-1	43,560	square feet.
RSF-2	21,780	square feet.
RSF-3	14,520	square feet.
RSF-4	10,890	square feet.
RSF-5	8,712	square feet

2. Minimum Lot Width:

District	**Interior Lot**	**Corner Lot**
RSF-1	100 feet	115 feet
RSF-2	85 feet	100 feet
RSF-3	75 feet	90 feet
RSF-4	70 feet	85 feet
RSF-5	60 feet	75 feet

3. Maximum Density:

RSF-1	1 unit per acre
RSF 2	2 units per acre
RSF 3	3 units per acre
RSF 4	4 units per acre
RSF 5	5 units per acre

4. Minimum Yard Requirements:

District	Front	Side	Rear
RSF-1	40 feet	15 feet	40 feet
RSF-2	35 feet	15 feet	30 feet
RSF-3	25 feet	10 feet	25 feet
RSF-4	20 feet	7 ½ feet	15 feet
RSF-5	20 feet	7 ½ feet	10 feet

5. Maximum Impervious Lot Coverage:

All RSF Districts: 35%

6. Setbacks for Accessory Structures:

a. Side Yard: 5 feet

b. Rear Yard: 5 feet

c. Front Yard: Accessory structures not permitted in front yard.

Section 2307 Residential Mixed District (RM)

The intent of the Residential Mixed District is to provide for mobile homes, manufactured homes, and conventional housing occupied as single-family structures in an environment of residential character, designed to enhance living conditions. No new RM Districts are intended to be created.

A. USES AND STRUCTURES: No building or structure, or part thereof, shall be erected, altered or used, or land used, in whole or in part, for other than the following:

1. Permitted Uses and Structures (allowable without the need for any other use or structure):

a. One (1) Mobile Home or Manufactured Home per lot.

b. One (1) single-family dwelling unit per lot.

c. Community and recreation center.

d. Grazing of livestock.

e. Agricultural buildings such as but not limited to: barns, feed storage sheds, animal storage buildings, and agricultural equipment storage buildings.

f. Family day care home.

2. Accessory Uses and Structures:

a. Customary accessory uses and structures for permitted principal uses and structures in this district.

b. Detached private garage and utility building.

c. Hobby or craft shop, not for commercial use.

d. Swimming pool and golf courses.

e. Boat docks and tennis courts.

f. Gardening and greenhouses.

g. Temporary occupancy of mobile home, R.V., or accessory structure (see Section 8300C).

h. Home occupations (see Section 8007).

i. Guest house (see Section 8005)

j. Medical Hardship Mobile Home (see Section 8300E)

3. Special Exception Uses and Structures:

a. Place of Worship.

b. Child care center.

c. Parks and playgrounds.

d. Schools and libraries.

4. Prohibited Uses and Structures:

Any use or structure not specifically or by reasonable implication allowed herein.

B. DEVELOPMENT STANDARDS:

1. Minimum Lot Area: 5 acres.

2. Minimum Lot Width: 165 feet.

3. Minimum Yards:

a. Front Yard: 50 feet.

b. Side Yard: 30 feet.

c. Rear Yard: 50 feet.

4. Maximum Density: One (1) unit per 5 acres.

5. Maximum Impervious Lot Coverage: 30%.

6. Accessory Structure Setback Requirements:

a. Side Yard: 5 feet.

b. Rear Yard: 5 feet.

c. Front Yard: Accessory structures not permitted in front yard.

Section 2308 Residential Multi-Family District (RMF)

The intent of Residential Multi-Family District (RMF) is to permit a variety of residential structure types.

A. USES AND STRUCTURES: No building or structure, or part thereof, shall be erected, altered or used, or land used, in whole or in part, for other than the following:

1. Permitted Uses and Structures (allowable without the need for any other use or structure):

a. One (1) single-family dwelling unit.

b. One (1) two-family dwelling per lot.

c. Multi-family dwellings

d. Adult Congregate Living Facility

e. Family day care home

f. Rest homes, homes for the aged, adult foster homes, hospice, children's homes, rehabilitation centers

2. Accessory Uses and Structures:

a. Customary accessory uses and structures.

b. Gardening, greenhouses.

c. Community and recreation centers, golf courses, tennis courts, country clubs, swimming pools.

d. Home occupations

3. Special Exceptions:

a. Place of Worship, public, private, parochial schools and child care centers.

b. Civic and cultural facilities, libraries.

c. Recreational facilities not accessory to principal use.

d. Parks and playgrounds.

4. Prohibited Uses and Structures: Any use or structure not specifically or by reasonable implication allowed herein.

B. DEVELOPMENT STANDARDS:

1. Minimum Lot Requirements:

District	**Minimum Lot Width**	**Minimum Land Area Per Unit**
RMF- 6	100 feet	7,260 Sq.Ft.
RMF- 8	100 feet	5,445 Sq.Ft.
RMF-12	100 feet	3,630 Sq.Ft.

2. Minimum Yards:

District	Front	Side	Rear
RMF- 6	25'	7 1/2'	20'
RMF- 8	35'	20'	30'
RMF-12	40'	20'	40'

3. Maximum Density:

District	Density
RMF-6	6 units per acre
RMF-8	8 units per acre
RMF-12	12 units per acre

4. Maximum Impervious Lot Coverage: All RMF districts: 50%.

5. Separation between structures: 10 feet or 1/2 height of the tallest adjacent structure.

6. Accessory Structure Setback Requirements:

   a. Side Yard: 5 feet

   b. Rear Yard: 5 feet

   c. Front Yard: Accessory structures not permitted in front yard.

Section 2309 Residential Multi-Family Mixed District (RMF-M)

The intent of the Residential Multi-Family Mixed District (RMF-M) is to permit Mobile Homes and Manufactured Homes in addition to those residential uses allowed in the RMF District. This recognizes that mobile homes are part of the fabric and personality of the district. No new RMF-M Districts are to be created.

A. USES AND STRUCTURES: No building or structure, or part thereof, shall be erected, altered or used, or land used, in whole or in part, for other than the following:

1. Permitted Uses and Structures (allowable without the need for any other use or structure):

   a. One (1) single-family dwelling unit.

   b. One (1) two-family dwelling per lot.

c. One (1) single mobile home or manufactured home.

d. Multi-family dwellings.

e. Adult Congregate Living Facility.

f. Family day care home.

g. Rest homes, homes for the aged, hospices, children's homes and rehabilitation centers

2. Accessory Uses and Structures:

a. Customary accessory uses and structures.

b. Gardening and greenhouses.

c. Community and recreation centers, golf courses, tennis courts, country clubs, swimming pools.

d. Home Occupations.

3. Special Exceptions:

a. Place of Worship, public, private, parochial schools and child care centers.

b. Civic and cultural facilities, libraries.

c. Recreational facilities not accessory to principal use.

d. Parks and playgrounds.

4. Prohibited Uses and Structures: Any use or structure not specifically or by reasonable implication allowed herein.

B. DEVELOPMENT STANDARDS:

1. Minimum Lot Requirements:

District	**Minimum Lot Width**	**Minimum Land Area Per Unit**
RMF-M	100 feet	7,260 Sq.Ft.

2. Minimum Yards:

District	Front	Side	Rear
Single Family and Duplex	25'	7 1/2'	20'
Multi-Family	35'	20'	30'

3. Maximum Impervious Lot Coverage: 50%.

4. Minimum separation between structures: 10 feet or 1/2 height of tallest adjacent structure.

5. Accessory Structure Setback Requirements:

   a. Side Yard: 5 feet.

   b. Rear Yard: 5 feet.

   c. Front Yard: Accessory structures not permitted in front yard.

Section 2310 Mobile Home Subdivision District (MHS)

The intent of the Mobile Home Subdivision District (MHS) is to permit mobile homes on lots in a platted subdivision up to the maximum density allowed in the Comprehensive Plan.

A. USES AND STRUCTURES: No building or structure, or part thereof, shall be erected, altered or used, or land used, in whole or in part, for other than the following:

1. Permitted Uses and Structures (allowable without the need for any other use or structure):

   a. One (1) Mobile Home or Manufactured Home per lot.

   b. One (1) single family dwelling unit per lot.

   c. Recreation and community center.

2. Accessory Uses and Structures:

   a. Accessory uses and structures customarily associated with single family development.

   b. Gardening, greenhouses, golf courses, tennis courts.

c. Guest house (see Section 8005).

d. Medical Hardship Mobile Home (see Section 8300E).

3. Special Exception Uses and Structures:

a. Schools, private and parochial.

b. Civic and cultural facilities.

c. Place of worship.

d. Child care center.

e. Accessory apartment.

f. Libraries.

4. Prohibited Uses and Structures: Any use or structure not specifically or by reasonable implication allowed herein.

B. DEVELOPMENT STANDARDS:

1. Minimum Lot Area: 7500 square feet

2. Minimum Width: 75 feet

3. Minimum Yards:

a. Front Yard: 20 feet

b. Side Yard: 7 1/2 feet

c. Rear Yard: 10 feet

4. Maximum Density: 6 units per acre

5. Minimum Size for Rezoning Application: 20 acres

6. Accessory Structure Setback Requirements:

a. Side Yard: 5 feet

b. Rear Yard: 5 feet

c. Front Yard: Accessory structures not permitted in front yard.

7. Maximum Impervious Surface Lot Coverage: 50%

Section 2311 Mobile Home Park District (MHP)

The intent of the Mobile Home Park District (MHP) is to permit mobile homes in a park on approved spaces rented to individuals. The park shall be under one ownership and provide onsite management of the park.

A. USES AND STRUCTURES: No building or structure, or part thereof, shall be erected, altered, used, or land used, in whole or in part, for other than the following:

1. Permitted Uses and Structures (allowable without the need for any other use or structure):

a. Mobile Homes and Manufactured Homes.

b. Recreation facilities.

c. One (1) single-family conventional structure in conjunction with the operation of the MHP.

d. Parks and playgrounds

2. Accessory Uses and Structures:

a. Accessory uses and structures customarily associated with mobile home parks, including patios, recreation facilities, administration buildings, service buildings and utilities.

b. Country clubs.

3. Special Exception Uses and Structures:

a. Civic or cultural facilities.

b. Place of worship.

c. Upon completion and occupancy of 50% or more of the designed lot capacity of the mobile home park, convenience establishments of a commercial nature, including but not limited to stores, laundry and dry cleaners, beauty shops and barber shops, may be

permitted in mobile home parks provided that such establishments and the parking area primarily related to their operation shall not occupy more than 10% of the park area; shall be located, designed and intended to serve the needs of persons residing in the park; and shall present no visible evidence of commercial character from outside the park.

d. Mobile homes sales, providing following restrictions be met:

(1) Such uses shall not occupy more than 10% of the area of the park or 2 acres, whichever is smaller.

(2) A visual buffer shall be provided around the area of outside display adjacent to residential zoning districts.

e. Child care center (in separate building).

4. Prohibited Uses and Structures:

Any use or structure not specifically or by reasonable implication allowed herein.

B. DEVELOPMENT STANDARDS:

1. Minimum Park Size: 20 acres

2. Minimum Yard Requirements:

a. Front Yard: 25 feet

b. Side Yard: 25 feet

c. Rear Yard: 25 feet

3. Maximum Density: 9 units per acre

4. Minimum Separation between Structures: 10 feet

5. Maximum Impervious Lot Coverage: 50%

6. Required Recreation Area: 5% of the total project site shall be developed for recreational use of park residents.

a. Required recreation area may include lands for buildings for assembly, meeting and game rooms and similar sheltered uses.

b. Half the required area shall be useable and improved land and half may be water surface area (excluding retention pond) if such area is available and appropriate for recreational use.

5. Internal Park Street System Required:

All spaces within a mobile home rental park shall have direct access from an internal private paved street which provides safe and convenient access to a public street. Direct lot access to a public street is not permitted.

6. Minimum Off-Street Parking:

a. Two (2) spaces per mobile home shall be provided and located within the boundaries of the mobile home rental park.

b. All commercial uses and other uses accessory to the park shall provide parking in compliance with Section 7300.

7. Required Buffers:

a. The Mobile Home Park shall provide and maintain a clear buffer area not less than twenty-five (25) feet in width abutting all property lines (except for roadway access).

b. In addition to the landscape and buffer requirements in Article 7, a 5-foot high ornamental screening composed of structural or plant material shall be provided within the buffer area to provide a reasonable degree of visual screening between the Mobile Home Park and adjoining properties. Such screening shall be maintained in good condition at all times.

8. Emergency Shelter:

Each Mobile Home Park shall provide an onsite structure to accommodate mobile home park occupants during an emergency. The shelter shall provide 40 square feet of floor space for each mobile home space located in the park. Alternate cooking fuel sources and electrical generation for emergency lighting shall be provided and maintained.

Section 2312 Travel Trailer Recreational Vehicle Campground District (TTRVC)

The intent of the Travel Trailer Recreational Vehicle Campground District (TTRVC) is to permit travel trailers, recreational vehicles, campgrounds (tents), campers, and park

trailers. Park Trailers shall be considered permanent structures unlike travel trailers, fifth-wheel trailers, motor homes or recreational vehicles.

A. USES AND STRUCTURES:

No building or structure, or part thereof, shall be erected, altered or used, or land used, in whole or in part, for other than the following:

1. Permitted Uses and Structures (allowable without the need for any other use or structure):

   a. Travel trailers, pick-up coaches, motor homes, park trailers and other recreational vehicles: One (1) per rental space

   b. Campsite facilities for tent camping and camping trailers.

   c. A maximum of 2 single family dwelling units (including mobile homes) for management.

2. Accessory Uses and Structures:

   a. Accessory uses and structures customarily associated with travel trailer recreational vehicle parks, including open patios, carports, recreation facilities, administration buildings, service buildings and utilities.

   b. Travel trailer or recreational vehicle sales, which occupy not more than 5% of the area of the park or one (1) acre, whichever is smaller.

   c. Dead storage area subject to the following requirements:

      (1) Such use shall not occupy more than 2 1/2% of the project or 1 acre, whichever is more.

      (2) The area shall be screened from adjacent residentially zoned property by a visual buffer.

   d. Community and recreation centers, country clubs, golf courses, tennis courts.

   e. Parks and Playgrounds.

   f. Commercial facilities, limited to and designed for convenience services to park occupants, located in the interior of the park and

presenting no visible evidence of the commercial character from any public street outside the park.

g. Individual Storage Shed.

3. Prohibited Uses and Structures:

Any use or structure not specifically or by reasonable implication allowed herein.

4. Exemption for Enclosures:

Each park trailer or recreational vehicle which has a vehicular body length not less than 18 feet may have one enclosure with insect screening when the awning is designed and installed in accordance with the following requirements:

a. The enclosure's attachment to recreational vehicle body shall be designed and installed so as to allow non-destructive disassembly into its component parts or placed into a legal travel mode. All fasteners shall be corrosion resistant screws, bolts or similar reusable devices which will allow assemble/disassembly of the attachment.

b. Any enclosure installed so as to be free standing from the recreational vehicle shell be designed and permitted in a manner that does not meet the Florida Building Code definition for a habitable unit. This provision is intended to avoid enclosures that include all primary components, which are kitchen, bathroom, and living space.

c. The enclosure may be enclosed with insect screening and screen door, vinyl fabric, or similar enclosing material shall be allowed.

d. Upon removal of a recreational vehicle or park trailer from an individual site, any awning shall be simultaneously disassembled and removed from the site.

e. No enclosure or addition shall be located within any setback requirements from the exterior boundary of the park or any required buffer area, the public street, separation between structures or utility or drainage easement.

f. This section does not preclude the installation of factory made enclosures designed for individual windows or to be constructed of

wood, aluminum, or other similar materials not designed to be removed.

g. No enclosure shall be used for the storage of automobiles.

B. DEVELOPMENT STANDARDS:

1. Minimum Park Size: 20 acres.

2. Minimum Yards:

a. Within rental spaces (except or provided below): No required minimum.

b. From exterior boundary of the park or any required buffer area: 10 feet

c. From public Right-of-Way: 25 feet

d. Separation between structures: 10 feet

3. Maximum Impervious Lot Coverage: 50%

4. Required Recreation Areas:

Space within the TTRVC park shall be developed for recreational uses. Such area shall not be less than 15% of the project area and not more than half of that requirement may be water surface area, excluding retention ponds.

5. Standards for Operation:

a. All rental spaces within a TTRVC park shall have direct access to an internal street for safe and convenient access to a public street.

b. Campsites shall be set back a minimum of 300 feet from any street or highway right-of-way and a minimum of 10 feet from the exterior boundary lines of the campground area or from any required buffer area.

c. Each campsite shall contain a level area of at least 600 square feet for erecting camping equipment.

d. No camping equipment shall be used for human habitation for a period exceeding 30 consecutive days. The intent of this provision

is to prohibit the use of camping areas for permanent or semi-permanent use as a dwelling.

6. Required Facilities for Tent Campsites:

   a. Lighted sanitary facilities, to include flush toilets and showers within 400 feet walking distance from every campsite.

   b. Potable water supply (source and distribution).

   c. Refuse collection, storage and disposal shall be in accordance with State Law with at least one (1) garbage or trash receptacle for every 2 campsites or daily refuse on-site collection.

   d. One (1) automobile parking space per campsite.

7. Access:

   TTRVC parks must have direct access to a dedicated County or State maintained right-of-way.

8. Minimum Off-Street Parking:

   a. One (1) automobile parking space per TTRVC space shall be provided within the boundaries of the TTRVC park.

   b. All commercial uses and other uses accessory to the park shall comply with Section 7300.

9. Buffers:

   TTRVC parks shall provide and maintain a clear buffer area not less than 25 feet in width abutting all property lines (except for roadway access).

   In addition to the landscape and buffer requirements in Article 7, a 5-foot high ornamental screening composed of structural or plant material shall be provided within the buffer area to provide a reasonable degree of visual screening between the TTRVC park and adjoining properties. Such screening shall be maintained in good condition at all times.

10. Emergency Shelter:

    Each TTRVC shall provide and maintain appropriate shelter space at a rate of not less than 40 square feet of habitable floor area per rental space.

Alternative cooking fuel sources and electrical generation for emergency lighting shall be provided and maintained.

Section 2313 Residential-Office-Institutional District (ROI)

The intent of the Residential-Office-Institutional District (ROI) is to provide a transitional zone between residential districts and commercial or industrial uses.

A. USES AND STRUCTURES:

No building or structure, or part thereof, shall be erected, altered or used, or land used, in whole or in part, for other than the following:

1. Permitted Uses and Structures (allowable without the need for any other use or structure):

   a. Single family residence, duplexes, and multi-family residences.

   b. Adult Congregate Living Facility.

   c. Hotels and motels.

   d. Nursing, convalescent and extended care facilities; rehabilitative clinic.

   e. Medical offices, medical and dental lab or clinics, hospitals.

   f. Professional offices.

   g. Financial institutions, personnel and management services, computer and data processing services, employment agencies.

   h. Funeral homes.

   i. Service Clubs, such as Lions, Elks, American Legion; libraries, museums.

   j. Hospice.

   k. Large group home.

   l. Family day care home.

2. Accessory Uses and Structures:

a. Customary accessory uses and structures.

b. Guest house (see Section 8005).

c. Medical Hardship Mobile Home (see Section 8300E).

3. Special Exceptions:

a. Animal Hospitals and Veterinary Clinics (excluding kennels).

b. Child Care Centers.

c. Parks and playgrounds.

d. Place of Worship.

e. Private Schools.

4. Prohibited Uses and Structures: Any use or structure not specifically or by reasonable implication allowed herein.

B. DEVELOPMENT STANDARDS:

1. Minimum Lot Area: 8000 square feet.

2. Minimum Lot Width: 100 feet.

3. Minimum Yard Requirements:

a. Front Yard: 40 feet

b. Side Yard: 20 feet

c. Rear Yard: 40 feet

4. Maximum Density: 12 dwelling units per acre.

5. Maximum Impervious Lot Coverage: 70%

6. Accessory Structure Setback Requirements:

a. Side Yard: 5 feet

b. Rear Yard: 5 feet

c. Front Yard: Accessory structures not permitted in front yard.

7. Minimum Off-Street Parking: See Section 7300.

Section 2314 Commercial Neighborhood District (CN)

The intent of the Commercial Neighborhood (CN) District is to permit the lowest order of commercial goods and services which meet the daily needs of nearby residents. Commercial Neighborhood uses will be limited to within 500 feet of the intersection of an arterial or a collector and another public roadway and be buffered from adjacent residential zoning districts.

A. USES AND STRUCTURES: No building or structure, or part thereof, shall be erected, altered or used, or land used, in whole or in part, for other than the following:

1. Permitted Uses and Structures (allowable without the need for any other use or structure):

a. Retail sale of Agricultural supplies; lawn and garden supplies.

b. Automobile service stations; car washes.

c. Neighborhood oriented retail uses such as delicatessens, food stores, hardware stores, etc.

d. Restaurant - including drive-ins or drive through.

e. Repair shop - radio, TV, small appliance, shoes, tack shop or other repair shops that are similar in nature, size and intensity.

f. Medical and dental offices.

g. Financial institutions.

h. Professional Offices.

i. Animal hospitals and veterinary clinics (no outdoor kennels).

j. Child care centers.

2. Accessory Uses and Structures:

a. Accessory uses and structures customarily associated with the uses permitted in this district.

b. Tennis courts, parks and playgrounds.

3. Special Exception Uses and Structures:

a. Recreational facilities not accessory to principal uses; Marina (does not have to be located within 500 feet of the intersection of an arterial or collector street and another roadway).

b. Private clubs; bar, cocktail lounge or other establishments which sell alcoholic beverages for consumption on the premises; sale of alcoholic beverages in conjunction with eating establishments.

c. Place of Worship.

d. Libraries.

e. Museums.

f. Medical laboratories.

g. Any other professional or commercial use which is comparable in nature with the foregoing uses and which the Development Director determines to be compatible in the district.

4. Prohibited Uses and Structures: Any use or structure not specifically or by reasonable implication allowed herein.

B. DEVELOPMENT STANDARDS:

1. Minimum Lot Area: 20,000 square feet.

2. Minimum Lot Width: 100 feet.

3. Minimum Yard Requirements:

a. Front Yard: 40 feet.

b. Side Yard: 15 feet.

c. Rear Yard: 25 feet.

d. Any yard abutting a residentially or agricultural zoned parcel must be a minimum of 25 feet.

4. Maximum Zoned Area: 5 acres.

5. Minimum Floor Area of Principal Structure: 1000 square feet per building on the ground floor.

6. Maximum Impervious Lot Coverage: 70%

7. Minimum Off-Street Parking: See Section 7300.

8. Lighting is to be arranged so that no source of light reflects on or shines into any residentially zoned property.

C. UTILITY AREAS:

Utility areas, including trash receptacles, shall be completely screened from the view of customers and adjacent property owners and shall be located in the rear yard of interior lots and in the side yard of corner or through lots.

Section 2315 Commercial General District (CG)

The intent of the Commercial General District (CG) is to permit a greater variety of commercial services and scale than the Commercial Neighborhood District (CN) and is intended to serve a large trade area of the community. The intent is to accommodate the motoring public as well as the local pedestrian traffic.

A. USES AND STRUCTURES: No building or structure, or part thereof, shall be erected, altered or used, or land used, in whole or in part, for other than the following:

1. Permitted Uses and Structures (allowable without the need for any other use or structure):

a. Single-Family Residence (must be in same structure occupied by commercial use).

b. Any use permitted in the Commercial Neighborhood District (CN).

c. Indoor Retail Sales, indoor or outdoor auto sales and boat sales, and indoor or outdoor produce sales.

d. Child care centers.

e. Animal hospitals and veterinary clinic (no outside kennels).

f. Service clubs.

2. Accessory Uses and Structures:

a. Accessory uses and structures customarily associated with the uses permitted in this district.

b. Tennis courts, parks and playgrounds.

3. Special Exception Uses and Structures:

a. Agricultural activities, provided that the property owner agrees not to apply to the Property Appraiser for an agricultural classification under Section 193.461, Florida Statutes.

b. Auto body repair and painting; Go Cart track.

c. Flea Markets.

d. Indoor firing ranges.

e. Place of Worship.

f. Bar, cocktail lounge or other establishment which sells alcoholic beverages for consumption on premises.

g. A bottle club or like establishment which sells ice, mixers or other alcoholic beverage accompaniments for consumption on premises.

4. Prohibited Uses and Structures:

Any use or structure not specifically or by reasonable implication allowed herein.

B. DEVELOPMENT STANDARDS:

1. Minimum Lot Area: 20,000 square feet

2. Minimum Lot Width: 100 feet.

3. Minimum Yard Requirements:

a. Front Yard: 40 feet

b. Side Yard: 10 feet with unobstructed passage from front to rear yard.

c. Rear Yard: 25 feet

d. From railroad right of way: None

e. From waterfront: 25 feet for all uses except marinas.

4. Maximum Impervious Lot Coverage: 70%

5. Minimum Off-Street Parking: See Section 7300.

Section 2316 Commercial Established District (CE)

The intent of the Commercial Established District (CE) is to recognize those commercial land uses which have developed under previous DeSoto County Regulations, but are located in areas of the County in which the commercial zoning district shall not be expanded in accordance with the Comprehensive Plan. The intent is to zone these properties to a Commercial Established District (CE) to continue to allow the property to be used for any permitted CE District uses. Expansion of the CE District is not permitted, unless the Board of County Commissioners determines an adjacent property cannot be developed for residential purposes.

A. USES AND STRUCTURES: No building or structure, or part thereof, shall be erected, altered or used, or land used, in whole or in part, for other than the following:

1. Permitted Uses and Structures (allowable without the need for any other use or structure):

a. Retail stores such as drug stores, food stores, delicatessens, pet stores, hardware stores, building supply, lawn and garden supplies, green houses and nurseries, car dealership etc.

b. Services such as restaurants, banks, commercial schools, hotels and motels, theaters, barber and beauty shops, coin operated laundry.

c. Automobile service and repair, car wash, car rental, contractors.

d. Service clubs.

e. Indoor commercial recreation.

f. Rehabilitation centers, rest homes, hospices.

g. Parking lot

h. Child care center.

i. All permitted uses in the CN district.

2. Accessory Uses and Structures:

Accessory uses and structures customarily associated with the uses permitted in this district.

a. Tennis courts, parks and playgrounds.

b. Outside storage as accessory use enclosed by opaque fence not visible from the street.

3. Special Exception Uses and Structures:

a. Detached residence in conjunction with a business; one (1) per business.

b. Light equipment rentals.

c. Place of Worship.

d. Light manufacturing, processing, packaging, or fabricating in a completely enclosed building.

e. Wholesale, warehousing, and mini-warehousing.

f. Any other use which is comparable in nature with the foregoing uses and which the Development Director determines to be compatible with the district.

4. Prohibited Uses and Structures: Any use or structure not specifically or by reasonable implication allowed herein.

B. DEVELOPMENT STANDARDS:

1. Minimum Lot Area: 20,000 square feet.

2. Minimum Lot Width: 100 feet directly upon the highway which generated the CE zoning.

3. Minimum Yard Requirements:

a. Front Yard: 40 feet

b. Side Yard: 10 feet with unobstructed passage from front to rear yard.

c. Rear Yard: 25 feet

d. From railroad right of way: None

e. Waterfront: 25 feet for all uses except marinas.

4. Maximum Impervious Lot Coverage: 70%

5. Minimum Off-Street Parking: See Section 7300.

Section 2317 Industrial Light District (IL)

The intent of this District is to permit light manufacturing, processing, storage and warehousing, wholesaling and distribution. Residential uses are prohibited except for the limited purpose of supporting an on-premises operation.

Service and commercial activities relating to the character of the District and in support of activities conducted in the District are permitted. Certain commercial uses related to automotive and heavy equipment sales and repair are permitted.

A. PERMITTED USES AND STRUCTURES: No building or structure, or part thereof, shall be erected, altered or used, or land used, in whole or in part, for other than the following:

1. Permitted Uses and Structures (allowable without the need for any other use or structure):

a. Bulk storage yards, not including bulk storage of flammable liquids.

b. Light manufacturing, processing (including food processing, but not slaughter house), packaging or fabricating in a building that is capable of being completely enclosed.

c. Medical clinic, miscellaneous uses such as express office, telephone exchange, motor bus, truck, railroad or other transportation terminal and related uses; railroad siding.

d. Outdoor storage yards and lots, provided such outdoor storage yard shall not be located closer than 25 feet to any public right-of-way and that such yard shall be completely enclosed, except for necessary ingress and egress, by a fence or wall not less than 6 feet high which, to a reasonable extent under the circumstances, shields from view materials, products or other items that are stored or placed therein; and provided further that this provision shall not permit wrecking yards (including automobile wrecking yard), junkyards, or yards used in whole or in part for scrap or salvage operations or for processing, storage, display or sales of any scrap, salvage or second-hand automotive vehicle parts.

e. Printing, lithographing, publishing or similar establishments.

f. Retail sale, rental or repair of automobiles, motorcycles, trucks and tractors, mobile homes, boats, automotive parts and accessories (but not junk yards or automotive vehicle wrecking yards), heavy machinery and equipment, farm equipment; car wash; retail establishments for sale of farm supplies, lumber and building supplies, monuments and similar uses; marinas, boat yards and ways; parking lot.

g. Vocational, technical, trade or industrial schools and similar uses; services establishments catering to commerce and industry including linen supply, laundry or dry clean processing, coin operated laundries, freight movers, building trades contractors, communication services, business machine services, canteen services, restaurant (including drive-in restaurant), hiring and union halls, employment agency, sign company and similar uses.

h. Wholesaling, warehousing, storage or distribution establishments and similar uses.

i. Construction office, including one within a mobile home or similar structure.

j. Restaurants.

k. Commercial radio and TV receiving facilities.

l. Sexually Oriented Entertainment Establishment (with permit required according to Section 14400).

m. All permitted uses in the CG District and any other light industrial, manufacturing or commercial uses which are comparable in nature with the foregoing uses.

2. Accessory Uses and Structures:

a. Accessory uses and structures customarily associated with the uses permitted in this district.

b. Industrial Support Housing (see Section 8010)

3. Special Exception Uses and Structures:

a. Agricultural activities, provided that the property owner agrees not to apply to the Property Appraiser for an agricultural classification under Section 193.461, Florida Statutes.

b. All permitted principal uses and structures in the IH District.

c. Place of Worship.

d. Flea market, drag strips and race tracks.

e. Indoor and outdoor firing range.

f. Saw mills.

g. Sales and repair or heavy trucks and equipment.

h. Storage of agricultural vehicles not used on site.

i. Organic fertilizer manufacture.

j. Any use comparable in nature with the foregoing uses and which the Development Director determines to be compatible with the district.

4. Prohibited Uses and Structures: Any uses or structures not specifically or by reasonable implication allowed herein, including the following which are listed for emphasis:

a. Chemical and fertilizer manufacture.

b. Dwelling units (including motel and hotel) except as a permitted accessory use.

c. Explosives manufacturing or storage.

d. Paper and pulp manufacture, petroleum refining.

e. Slaughter of animals, stockyards or feeding pens.

f. Tannery or the curing or storage of raw hides.

g. Yards or lots for scrap or salvage operations or for processing, storage, display or sale of any scrap, salvage, or second-hand building materials and automotive vehicle parts, including wrecking yard and junk yards.

B. DEVELOPMENT STANDARDS:

1. Minimum Lot Area: 20,000 square feet.

2. Minimum Lot Width: 100 feet.

3. Minimum Yard Requirements (including accessory structures):

a. Front Yard: 40 feet

b. Side Yard:

(1) 35 feet (adjacent to residential and agricultural districts).

(2) 25 feet (adjacent to commercial and industrial districts).

c. Rear Yard: 35 feet

4. Maximum Impervious Lot Coverage: 70%

5. Minimum Off-Street Parking: See Section 7300

Section 2318 Industrial Heavy District (IH)

The intent of the Industrial Heavy District (IH) is to provide areas for intensive manufacturing, processing and assembly uses. Residential uses are prohibited except for the limited purpose of supporting an on-premises operation.

A. USES AND STRUCTURES: No building or structure, or part thereof, shall be erected, altered or used, or land used, in whole or in part, for other than the following:

1. Permitted Uses and Structures (allowable without the need for any other use or structure):

   a. Body shops, mechanical repairs, building supply.

   b. Clothing fabrication, commercial and private parking lots and parking garages, contractors' equipment storage yards, coal and wood yards, heavy equipment, truck and recreational vehicle storage yards.

   c. Gasoline service stations including those engaged in mechanical work.

   d. Kenneling, stabling, animal clinics, veterinary hospitals.

   e. All permitted uses in the IL and CG Districts.

   f. Manufacturing, warehousing, storing, fabrication, processing, canning, packing, marinas, commercial boat houses, commercial boat storage, boat building, boat yards and commercial fisheries; medical clinics; miscellaneous uses, such as express office, telephone exchange, motor bus, truck, railroad or other transportation terminal and related uses.

   g. Railroad siding, repair shops, research and design labs, food stores and restaurants including drive-in and fast foods.

   h. Agricultural produce transfer station and packing facility (non-livestock).

   i. Car and truck wash.

   j. Construction office, including one within a mobile home or similar structure.

   k. Marinas, boat yards and ways marine construction yards, boat sales, service and repairs.

   l. Asphalt, concrete, stone, paver, tile and cement plants and facilities, saw mills.

   m. Sales, storage, repair and service of vehicles, trucks, heavy equipment and aircraft; wrecker and towing services; service

establishments catering to commerce and industry including linen supply, freight movers, building trades contractors, communication services, business machine warehousing and services, canteen services, storage yards, truck terminals.

n. Wholesale establishments, warehousing, bulk storage, distribution facilities.

o. Junk yards, sheet metal shops, garbage disposal service, boat storage, scrap metal and recycling centers and facilities, power plants, chemical plants, plastics plants, fertilizer plants; foundries and smelters, solid waste transfer stations.

p. Radio and TV stations transmitting and receiving facilities, communication towers and related installation and repair services.

q. Sexually Oriented Entertainment Establishment (with permit required according to Section 14400).

r. Any other intensive commercial, industrial or manufacturing use which is comparable in nature with the foregoing uses.

2. Accessory Uses and Structures:

a. Accessory uses and structures customarily associated with the uses permitted in this district, including offices, retail sales, and structures which are customarily accessory and clearly incidental and subordinate to permitted principal uses and structures.

b. Industrial Support Housing (see Section 8010)

3. Special Exception Uses and Structures:

a. Agricultural activities, provided that the property owner agrees not to apply to the Property Appraiser for an agricultural classification under Section 193.461, Florida Statutes.

b. Manufacturing: Involving primary production of the following products from raw materials: gelatin, animal glue and size, gas manufacturing; unless incidental to a principal use, turpentine, matches, rubber, soaps, fat rendering.

c. Processing: Involving the following: curing or tanning or raw green or salt hides or skins; stockyards, slaughter houses, slag piles, ammonia, and storage of fireworks or explosives.

d. Wholesale storage of gasoline, liquefied petroleum gas, oil, or other flammable liquids or gases, but not located within five hundred (500) feet of the nearest residential district.

e. Recreational facilities not accessory to principal uses.

f. Drag strips and race tracks.

g. Indoor and outdoor firing ranges, airports and landing fields, public utility transmission facilities.

h. Storage of agricultural vehicles not used on site.

i. Any use comparable in nature with the foregoing uses and which the Development Director determines to be compatible with the district.

B. PROHIBITED USES AND STRUCTURES:

Any uses or structures not specifically or by reasonable implication allowed herein.

C. DEVELOPMENT STANDARDS:

1. Minimum Lot Area: 40,000 square feet.

2. Minimum Lot Width: 100 feet.

3. Minimum Yard Requirements (including accessory structures):

a. Front Yard: 50 feet

b. Side Yard:

(1) 50 feet (adjacent to residential and agricultural districts).

(2) 25 feet (adjacent to commercial and industrial districts).

c. Rear Yard: 50 feet

d. From railroad right of way: None

4. Maximum Impervious Lot Coverage: 70%

5. Minimum Off-Street Parking: See Section 7300

Section 2319 Phosphate Mining-Industrial District (PM-I)

It is the intent of the Phosphate Mining - Industrial District (PM-I) to permit the extraction of phosphate minerals in accordance with applicable ordinances and associated practices. In addition, this District will allow for industrial uses associated with and complementary to phosphate operations. This District will also allow for the productive use of land until such time as mining operations commence.

A. USES AND STRUCTURES: No building or structure, or part thereof, shall be erected, altered or used, or land or water used in whole or in part for other than the following:

1. Permitted Uses and Structures (allowable without the need for any other use or structure):

   a. Phosphate mining and related activities and structures.

   b. Mining support systems such as rail transport and transmission line corridors.

   c. Agricultural uses activities such as but not limited to field crops horticulture, fruit and nut production, forestry, ranching, bee-keeping, poultry and egg production, milk production, animal breeding, raising, training, stabling, kenneling or aquaculture, gardening, animal hospitals, veterinary clinics, roadside produce stands, wholesale greenhouses and nurseries, agricultural produce transfer stations, light manufacturing (machine shops) in enclosed buildings.

2. Accessory Uses and Structures:

   a. Accessory uses and structures which are incidental to and customarily associated with uses permitted in this district.

   b. Mine administrative office building.

   c. Research and development facilities such as a pilot processing plant.

   d. Mobile home or trailer as a temporary office structure while permanent mine facilities are being constructed.

   e. Residential radio and TV receiving antennas/dishes.

f. Sales and repair of heavy equipment.

g. Truck terminals, wholesale and warehousing.

h. Sheet metal shop.

i. Industrial Support Housing (see Section 8010)

3. Special Exception Uses and Structures:

a. Single-family dwellings (solely as support of agriculture or mining).

b. Hunting cabins.

c. Mobile homes or trailers as temporary residences during mine construction.

d. Sanitary landfills, feed lots, livestock sales, mining (other than phosphate), citrus packing, community recreation centers, indoor and outdoor firing ranges, bulk storage yards of non-flammable liquids, saw mills.

4. Prohibited Uses and Structures: Any use or structure not specifically or by reasonable implication allowed herein.

B. DEVELOPMENT STANDARDS:

Development standards shall be as provided in the DeSoto County Code of Ordinances.

C. MINIMUM OFF-STREET PARKING:

See Section 7300.

Section 2320 Public/Institutional (P/I)

The intent of the Public/Institutional District is to regulate the location of a broad range of public service facilities, government facilities and institutions. This district will provide a wide range of services, facilities and institutions and therefore shall be located in appropriate areas accessible to the public or in areas with demonstrated demand or need for such.

A. USES AND STRUCTURES: No building or structure, or part thereof, shall be erected, altered or used, or land used, in whole or in part, for other than the following:

1. Permitted Uses And Structures (allowable without the need for any other use or structure):

   a. Colleges, Universities and Public and Private Schools, Vocational or Technical Schools.

   b. Museums, Performing Arts Center, Convention Centers, Cultural Centers and similar uses.

   c. Hospitals.

   d. Parks, Playgrounds and similar uses.

   e. Governmental facilities such as City Hall, Courthouse, Post Office, Public Safety Facility, Library, Government Office and similar public service and government oriented uses.

2. Accessory Uses and Structures:

   a. Sale of alcoholic beverages for consumption on premises at the Turner Agri-Civic Center.

   b. Cemeteries (See Section 8100)

   c. Accessory uses and structures which are incidental to and customarily associated with uses permitted in this district.

3. Special Exception Uses and Structures:

   a. Utility substations, such as electric power substations, water treatment, wastewater treatment and similar utility uses.

   b. Government buildings and public uses other than those listed in the permitted uses such as military installations, airports, penal facilities and similar uses.

4. Prohibited Uses:

   Any use or structure not specifically or by reasonable implication allowed herein.

B. DEVELOPMENT STANDARDS

1. Minimum Lot Area: One (1) acre, unless otherwise specified.

2. Minimum Lot Width: 100 feet

3. Minimum Yard Requirements:

   a. Front Yard: 25 feet

   b. Side Yard: 20 feet

   c. Rear Yard: 20 feet

4. Maximum Lot Coverage: Unrestricted

5. Off-Street Parking: See Section 7300

6. Accessory Structure Setbacks:

   a. Front yard: accessory structures not permitted in front yard.

   b. Side yard: 5 feet

   c. Rear yard: 5 feet

Section 2321 Recreational Vehicle Campground District (RVC)

The intent of the Recreational Vehicle Campground District (RVC) is to permit recreational vehicles, and campgrounds. Park Trailers and other types of permanent dwelling units that do not meet the Florida Building Code are not allowed.

A. USES AND STRUCTURES:

No building or structure, or part thereof, shall be erected, altered or used, or Land used, in whole or in part, for other than the following:

1. Permitted Uses and Structures (allowable without the need for any other use or structure):

   a. Campsite facilities for Pick-up coaches, motor homes, and other recreational vehicles: One (1) per rental space.

   b. Campsite facilities for tent camping.

c. A maximum of 2 single family housing units, including mobile homes, but not Park Trailers, for management.

2. Accessory Uses and Structures:

a. Accessory uses and structures, customarily associated with recreational vehicle parks, including open patios, and recreation facilities, administration buildings, service buildings and utilities.

b. Parks and Playgrounds.

c. Commercial facilities, limited to and designed for convenience services to park occupants, located in the interior of the park and presenting no visible evidence of the commercial character from any public street outside the park.

3. Prohibited Uses and Structures:

Any use or structure not specifically or by reasonable implication allowed herein.

B. DEVELOPMENT STANDARDS:

1. Minimum Park Size: 20 acres.

2. Minimum Yards:

a. Within rental spaces (except as provided below): No required minimum.

b. From exterior boundary of the park or any required buffer area: 10 feet

c. From public Right-of-Way: 25 feet

d. Separation between habitable structures: 10 feet

3. Required Recreation Areas:

Space within the RVC park shall be developed for recreational uses. Such area shall not be less than 15% of the project area and not more than half of that requirement may be water surface area, excluding retention ponds.

4. Standards for operation:

a. All rental spaces within a RVC park shall have direct access to an internal street for safe and convenient access to a public street.

b. Campsites shall be set back a minimum of 300 feet from any street or highway right-of-way and a minimum of 10 feet from the exterior boundary lines of the campground area or from any required buffer area.

c. Each campsite shall contain a level area of at least 600 square feet for erecting camping equipment.

d. No pick-up coach, motor home, other recreational vehicles or tent shall use areas within a campground for a period exceeding 180 days in a 12 month period. The intent of this provision is to prohibit the use of camping areas for permanent or semi-permanent use as a dwelling.

e. All towable campers must have the tow vehicle available within 24 hours to remove the camper from the campground when the area is threatened by natural disaster.

5. Required Facilities for Tent Campsites:

a. Lighted sanitary facilities, to include flush toilets and showers within 400 feet walking distance from every campsite shall be provided.

b. Potable water supply, source and distribution, shall be provided.

c. Refuse collection, storage and disposal shall be in accordance with State Law with at least one (1) garbage or trash receptacle for every two (2) campsites or daily refuse on site collection.

d. One (1) automobile parking space per campsite.

6. Access:

Recreational vehicle campground parks must have direct access to a dedicated County or State maintained right-of-way.

7. Minimum Off-Street Parking:

a. One (1) automobile parking space per RVC space shall be provided, located within the boundaries of the RVC park.

b. Parking for all commercial uses accessory to the park shall comply with Section 7300.

8. RVC parks shall provide and maintain a clear buffer area not less than 25 feet in width abutting all property lines (except for roadway access).

In addition to the landscape and buffer requirements in Article 7, a 5-foot high ornamental screening composed of structural or plant material shall be provided within the buffer area to provide a reasonable degree of visual screening between the RVC park and adjoining properties. Such screening shall be maintained in good condition at all times.

Section 2322 Planned Unit Development District (PUD)

A. INTENT AND PURPOSE

The intent and purpose of establishing the Planned Unit Development District (PUD) is to provide an optional alternative zoning procedure so that planned developments may be instituted at appropriate locations in the County consistent with the planning and development objectives of the County. It is the intent and purpose of these PUD regulations to encourage, as well as permit land planners, architects, engineers, builders and developers to exercise ingenuity and imagination in the planning and development or redevelopment of relatively large tracts of land under unified ownership or control. Although planned unit developments produced in compliance with the terms and provisions of this Ordinance may depart from the strict application of use, setback, height and minimum lot requirements of conventional zoning regulations, the intent is to provide standards by which flexibility may be accomplished, while maintaining and protecting the public interest so that:

1. A more creative approach may be taken to the development of contiguous tracts of land.

2. A more desirable environment may be accomplished than would be possible through strict application of the minimum requirements of this zoning ordinance.

3. Land may be used more efficiently, resulting in smaller networks of utilities and streets with consequent lower construction and future maintenance costs.

4. The impact of a particular planned unit development on the present and projected population, land use -pattern, system and public facility network(s) of the County may be carefully evaluated relative to the various costs and benefits that may be associated with such development.

5. Application of Planned Unit Development techniques to a given tract will permit large scale development which features amenities and excellence in the form of variations in siting, mixed land uses and/or varied dwelling types, as well as adaptation to and conservation of the topography and other natural characteristics of the land involved.

B. PLANNED UNIT DEVELOPMENT: DEFINED

A planned unit development is hereby defined as a contiguous tract of land not less than two (2) acres for commercial or industrial and/or -five (5) acres for residential (including recreational vehicles) in size under unified control which is planned and improved:

1. To function as a readily identifiable district, section or neighborhood of the County.

2. To accommodate a variety of dwelling types together with appropriate commercial, institutional, industrial and public uses and activities as deemed necessary to properly serve prescribed density and population levels for the development as a whole, or for any designated component thereof, and/or for commercial or industrial projects.

3. To provide in a single development operation or programmed series of development operations over an extended period of time according to an officially adopted Concept Development Plan and related programs for the provision, operation and maintenance of such areas, improvements, facilities and services for the common use of all residents and/or users of the planned community.

C. RELATION OF PLANNED UNIT DEVELOPMENT REGULATIONS TO GENERAL ZONING, SUBDIVISION OR OTHER APPLICABLE REGULATIONS

The provisions which follow shall apply generally to the creation and regulation of all PUD Districts and to the issuance of building- permits and certificates of occupancy in such districts. Where there are conflicts between these special PUD provisions and general zoning, subdivision or other applicable regulations, these special regulations shall apply.

D. PLANNED UNIT DEVELOPMENT DISTRICTS: HOW ESTABLISHED, WHERE PERMITTED

PUD Districts may hereafter be established from designated pre-existing zoning districts by amendment of the Official Zoning Atlas where tracts of land suitable

in location, extent and character for the structures and uses proposed are-to be planned and developed according to the procedures and requirements herein set forth. A PUD District may be located in any future land use category.

E. PLANNED UNIT DEVELOPMENT DISTRICTS: GENERAL REQUIREMENTS AND LIMITATIONS

The following general requirements and limitations shall apply in PUD Districts approved under the terms and provisions of these regulations.

1. Unified Control: All land included for purpose of development within PUD District shall be owned or under the control of the applicant for such zoning designation, whether that applicant be an individual, partnership or corporation, or a group of individuals, partnerships or corporations. The applicant shall present firm evidence of the unified control of the entire area within the proposed development. The applicant shall:

   a. Agree to be bound by:

      (1) The Concept Development plan officially adopted as the PUD district; and

      (2) Such other conditions or modifications as may be attached to the rezoning of land to the PUD classification.

   b. Provide agreements, contracts, deed restrictions or sureties acceptable to the County for completion of undertaking in accord with the adopted Concept Development Plan as well as for the continuous operation and maintenance of such areas, functions and facilities that are not to be provided, operated or maintained at general public expense, and

   c. All conditions shall run with the land.

F. PLANNED UNIT DEVELOPMENT: SPECIFIC REQUIREMENTS, LIMITATIONS AND STANDARDS

In addition to all general provisions and procedures set out in this subsection, the following specific requirements, limitations and standards shall apply:

1. Location: PUD districts shall be located so as to maintain adopted level of service on all impacted public rights-of-way.

2. Minimum Area Required: The minimum area required for a planned unit development district containing only residential uses shall be 5 acres:

containing only commercial or industrial uses shall be 2 acres, and containing a mix of residential, commercial or industrial uses shall be 5 acres.

3. Character of the Site: The condition of soil, ground water level, drainage and topography shall all be appropriate to both kind and pattern of use or uses intended. The site shall also contain sufficient width and depth to adequately accommodate its proposed use and design.

4. Uses Permitted: An applicant may propose any use or combination of uses within a proposed PUD subject to the minimum area requirements contained herein.

5. Density: The overall, gross density of the proposed PUD Concept Development Plan shall be calculated by dividing the total number of units proposed by the gross acreage of the PUD. In no event shall the gross density exceed the maximum density permitted by the Comprehensive Plan. In the event of multiple Future Land Use Map categories, no project may be authorized to utilize density averaging or blending techniques.

6. Minimum Open Space: Planned Unit Developments shall set aside at least 25% of the gross area as open space. Usable open space shall include active and passive recreation areas such as playgrounds, golf courses, water frontage, waterways, lagoons, flood plains, nature trails and other similar open spaces. Open water area beyond the perimeter of the site and street rights-of-way, driveways, off-street parking areas and off-street loading areas, or private yards shall not be counted in determining usable open space.

7. Minimum Lot Area and Frontage Requirements within a PUD: No minimum lot size or yards shall be required within a PUD, except that peripheral yards abutting the exterior limits of the PUD boundary (except for boundaries limited in or by water) shall observe yard requirements in accordance with the zoning classification the use most closely resembles. Every dwelling unit or other use must be served directly or via an approved private road, pedestrian way, court, or other area dedicated to public use or reserved for private use, or common element guaranteeing access. Permitted uses are not required to front on a publicly dedicated road or street.

8. Off-Street Parking and Off-Street Loading Requirements: Off-street parking and off-street loading requirements shall be as for comparable uses set out in the Land Development Regulations. Shared parking facilities may be approved as part of the request upon review of an acceptable alternative parking strategy study.

9. Development Planning - External Relationships: Development planning within a PUD district shall provide protection of the development from adverse surrounding influences and protection of surrounding areas from adverse influences generated by or within the district.

   a. Principal vehicular access points shall be designed to encourage smooth traffic flow and minimum hazards to vehicular or pedestrian traffic. Merging and turnout lanes and/or traffic dividers shall be required where existing or anticipated heavy traffic flows indicate need. Where streets within the district intersect adjoining streets, appropriate visibility. triangles shall be maintained.

   b. Fences, walls or vegetative screening at edges of PUD districts shall be provided where needed to protect residents from lighting, noise or other adverse off-site influences, or to protect residents of adjoining districts from similar possible influences from within the PUD district. In all cases, screening shall, at a minimum, be designed to protect existing or potential first-floor residential occupant window levels. In particular, off-street parking areas for five (5) or more cars, service areas for loading or unloading vehicles other than passengers, and areas for storage and collection of trash and garbage shall be so screened.

10. Phasing of Development: It is the intent of DeSoto County that to the extent possible, each approved PUD development be carried through to completion in essentially the form in which it is approved at the Concept Development Plan level. Therefore, each phase of the development will be expected to adhere closely to the design principals of the Concept Development Plan. However, the County recognizes as a practical matter, that the long term nature of the proposed buildout of the PUD will likely justify changes based on changing economic or other factors. Therefore, provision is made for the submission of individual phases or sub units of the entire PUD. All such phases shall, in their timing, nature, intensity and location, be determined to be consistent with the larger PUD and to contribute to its completion in a unified fashion. Where such consistency is not feasible, it is assumed that the overall PUD Concept Development Plan will be modified to reflect changed conditions or factors.

    These phases shall be so located and related that should for any reason the full PUD not be developed, the completed portion will be self contained.

If the PUD is to be phased and more than one (1) final plat is required, successive plats must be filed so that development activity shall be of a reasonable continuous nature, and shall adhere to the following:

a. All public service facilities, major recreation facility or facilities, including open space, parks, nature areas or environmentally sensitive areas to serve the designated phase shall be platted prior to the platting of more than the first twenty-five (25%) percent of the total permitted dwelling units or recreational vehicles. The above may be accomplished by phases. As each phase is approved, the public service facilities, recreation and environmentally sensitive areas within the proposed phase shall be dedicated to such public or private entity for such use.

b. Internal commercial areas shall not be platted prior to, but may be platted concurrent with, the platting of at least twenty-five (25%) percent of the total permitted dwelling units or recreational vehicles.

c. After rezoning to PUD district, no plat or building permit shall be issued by the County, and no development shall commence unless in conformance with the approved Concept Development Plan.

d. If no significant construction has begun or no use is established in the PUD within five (5) years from the time of rezoning the site to PUD, the Concept Development Plan shall lapse and be of no further effect. If a Concept Development Plan lapses under the provisions of this section, the County Commissioners may initiate a petition to rezone the said PUD to an appropriate zoning classification. No rezoning petition may be initiated until the County has provided the applicant with notice of its intent to rezone and further provided a sixty (60) day period during which the applicant may begin construction and thereby cure the lapse. The Board may extend the PUD for two (2) years provided the applicant can show good cause why said development cannot proceed. There shall be no limit to the number of extensions that may be granted by the Board.

e. After the original phase(s) containing twenty-five 25%) percent of the total permitted dwelling units is approved and platted, subsequent phases containing areas of residential development shall not be approved for final plat until a minimum of twenty-five percent (25%) percent of the residential units have been developed and certificates of occupancy issued. Provided, however, that the

developer of the PUD shall be exempt from this provision if the developer:

(1) Enters into a long term road and drainage maintenance agreement with the County, or

(2) Creates a Community Development District, special taxing district, Property Owners Association or other acceptable legal entity that will assume ownership and maintenance responsibility of the road and drainage system.

11. Preservation and Protection of Natural Historic or Archeological Features: Every effort shall be made in the planning and development of the PUD District to preserve and protect desirable natural, historic or archaeological features of the site, including trees and other vegetation of consequence. Preliminary evidence from the appropriate agency shall be submitted with the application indicating potential impacts or areas to consider for more detailed study.

12. Utilities: It is intended that within the developed portions of a PUD District, all utilities, including telephone, television cable and electrical systems shall be installed underground, within approved utility easements, except that:

a. Appurtenances to these systems more than four (4') feet in height and two (2') feet in diameter must be effectively screened;

b. Main or feeder lines may require overhead installation based on environmental or technical problems;

c. Primary facilities providing service to the site of development or necessary to service areas outside the development shall be exempt from this requirement; and

d. In cases of overhead main or feeder lines, service laterals from the point of connection shall be underground to the structure or dwelling.

13. Connectivity: All proposed development shall consider internal and external connectivity. Connectivity is intended to provide alternative routes between uses and neighborhoods, and in turn, reducing travel time. All applications shall provide at least a minimum:

a. Sidewalks along both sides of all arterial and collector roads and a minimum of one side along all local roads located within and

adjacent to the proposed development. Proper connections (i.e. handicap accessibility) at intersections shall be included.

b. Stub-outs to vacant land of similar development designation (future urban areas) shall be provided. Requests for waiver to this requirement may be considered based on agreements that internal roadways will remain private and portions of development are gated.

c. Internal connections between uses to allow proper internal traffic flow shall be required.

G. PROCEDURE FOR APPLYING FOR PLANNED UNIT DEVELOPMENT ZONING

1. Concept Development Plan: Any application for rezoning to PUD shall be accompanied by a Concept Development Plan of the development. The purpose of the Concept Development Plan is to provide the County with information about the type, character, scale and intensity of development as well as the time phasing o the proposed planned unit development in order for the County to evaluate the impact of the proposed development.

a. The following information shall be submitted with the application:

(1) Location and size of the site including its legal description.

(2) An ownership and encumbrance report showing recorded ownership interests including liens and encumbrances. If the applicant is not the owner, a statement of the developer's interest if the property and authorization from the owner for the PUD rezoning.

(3) Relationship of the site to existing development in the area, including streets, utilities, residential, commercial and industrial development, and physical features of the land including pertinent ecological features.

(4) Density or intensity of land use to be allocated to all parts of the site to be developed together with tabulations by acreage and percentages thereof.

(5) Location, size and character of any common open space or preservation areas and the form of organization proposed to own and maintain any common open space.

(6) Use and type of buildings, i.e., single-family detached, townhouses, garden apartments, medium rise or high rise, proposed for each portion of the area included within the Concept Development Plan.

(7) Proposed method of providing required improvements such as streets, water supply, storm water management and sewage collection.

(8) Provisions for the parking of vehicles and the function and location of vehicular and pedestrian system facilities

(9) A plan for pedestrian and vehicular circulation showing the general locations, widths and recommended surface treatment of all major internal thoroughfares and pedestrian access ways, and diagrammatic traffic movement to, within and through the planned development unit

(10) Information about existing vegetative cover and soil conditions in sufficient detail to indicate suitability for proposed structures and uses.

(11) In case of plans which call for development over a period of years or in phases, a schedule showing the times within which application for final approval of all sections of the planned unit development are intended to be filed.

(12) Any additional data, plans or specifications as the applicant may believe is pertinent to the proposed planned unit development.

(13) A list of deviations with appropriate justifications or support evidence, which may include design safety standards, independent studies, professionally acceptable alternative design(s),

(14) Data and analysis demonstrating preliminary compliance with designated level-of-service.

2. The applicant shall submit a supportive report which shall include:

A statement describing the character and intended use of the planned unit development, and indicating how and why the proposed project complies with the Comprehensive Plan of the County and the statement of purposes on planned unit development.

a. A general description of the proposed development, including information as to:

(1) Total acreage involved in the project. The number of acres devoted to the various uses shown on the development plan, together with the respective percentage of total project acreage represented by each category of use.

(2) The number and type of dwelling units involved and the corresponding overall project density in dwelling units per gross acre. For purposes of this paragraph, proposed recreational vehicle spaces or lots shall be expressed in terms of dwelling units per .gross acre. However, recreational vehicles may not be used as permanent dwelling units and do not constitute residential density.

(3) A list of proposed uses, both residential and non-residential.

(4) The minimum design standards reflected by the site plan for such features as lot shape and size, setbacks, internal streets and pedestrian ways, open space provisions, off-street parking, signs and landscaping.

b. A proposed schedule of development which identifies the anticipated phase start and completion date, and the area and location of common open space to be provided at, or by said stage; and

c. A statement indicating whether streets or roads (and pedestrian ways) shall be of private ownership and maintenance, public ownership and maintenance, or some other form of ownership.

H. CONCEPT DEVELOPMENT PLAN APPROVAL

1. Definition. The purpose of Concept Development Plan Approval is to approve the density and intensity of land use prior to proceeding to Improvement Plan Approval. All PUD projects must receive Concept Development Plan Approval of the entire PUD project prior to any phase receiving Improvement Plan Approval. Approval of the Concept Development Plan shall constitute an amendment to the official zoning map, and the subject parcel shall be labeled with the description "PUD." The granting of Concept Development Plan Approval shall not authorize any development activity to take place on the newly designated PUD site.

2. Approval process. Applications for Concept Development Plan Approval shall include an application, supportive materials and a Concept Development Plan as set forth herein.

a. Development Review Committee (DRC): The DRC will review the application for technical compliance to the County codes and may recommend appropriate conditions as it deems necessary. The DRC recommendation will be forwarded in writing to the Planning Commission for their consideration and review.

b. Planning Commission Review: The Planning Commission will review, in a public hearing, the application for Concept Plan Approval upon review and consideration of the planning department staff report and the recommendation of the DRC. At the public hearing, the Planning Commission will consider the application in accordance with the LDR requirements for the Planning Commission's consideration of applications for rezoning. In addition, the Planning Commission will consider whether the following criteria can be satisfied:

(1) The proposed use or mix of uses is appropriate at the subject location.

(2) The recommended conditions to the Concept Plan and other applicable regulations provide sufficient safeguards to the public interest.

(3) The recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.

If the Planning Commission determines that the recommended conditions are insufficient, it may recommend alternate conditions for consideration by the Board of County Commissioners.

c. Board of County Commissioners (BOCC) review. After the Planning Commission hearing, an application for a planned unit development, together with all attendant information and staff reports, will be forwarded to the Board of County Commissioners. The BOCC will consider the application in a public hearing. The BOCC shall grant approval or disapproval based upon the same criteria used by the Planning Commission. In approving the Concept Development Plan, the BOCC may adopt any special conditions necessary to address unique aspects of the subject

property in the interest of protecting the public health, safety and welfare. If any recommended special condition is found to be insufficient, the BOCC may substitute its own language for such special condition in the final resolution. All terms, conditions, safeguards and stipulations made at the time of the approval of a Concept Development Plan are binding upon the applicant or any successor in title or interest to all or part of the planned unit development.

I. IMPROVEMENT PLAN APPROVAL.

Application for Improvement Plan Approval shall be submitted with detailed plans and copies of all necessary permits from other reviewing agencies in accordance with Article 12. Applications will be accepted prior to final approval(s) of other agencies, but a Notice to Proceed will not be issued until evidence of permits are submitted to the County.

1. Development Review Committee (DRC) review. The DRC will review the application for technical compliance to County codes and consistency with the approved Concept Development Plan and any conditions included as part of the PUD Approval. A Notice to Proceed with construction of the project will be issued by the Development Director upon satisfaction of all technical requirements and compliance with the PUD approval and conditions. The applicant may apply for and be granted Improvement Plan Approval for the entire PUD or any phase of the project, subject to final concurrency determination and level-of-service availability.

J. AMENDMENTS TO AN APPROVED CONCEPT DEVELOPMENT PLAN OR IMPROVEMENT PLAN

Amendments to an approved Concept Development Plan or Improvement Plan or its attendant documentation may be requested at any time during the development of or useful life of a planned unit development.

1. The Development Director may approve any change to the interior of the development that does not increase height, density or intensity (i.e., number of dwelling units or recreational vehicles or quantity of commercial or industrial floor area). The Development Director may not approve a change that:

   a. Will result in a reduction of more than five (5) percent of total open space, buffering, landscaping and/or preservation areas.

b. Change of uses which fall within fifty (50) feet of the boundary of the PUD or which results in increases in intensity to off-site connections.

2. All other requests for amendments to a Concept Development Plan or a Final Detailed Plan will be treated procedurally as a new application for Planned Unit Development.

Section 2400 OVERLAY ZONES

The purpose of this part is to describe certain overlay zones used to impose special development restrictions on identified areas. The location of an overlay zone is established by the County, based on the need for special protective measures in that area. The underlying zoning districts remain undisturbed by the creation of the overlay zone. The overlay zone merely imposes additional or different development standards than those that would otherwise apply.

Section 2401 Historic Districts and Landmarks

A. Creation of Local Register of Historic Places

A Local Register of Historic Places is hereby created as a means of identifying and classifying various sites, buildings, structures, objects, and districts as historic and/or architecturally significant. The Local Register will be kept by the Development Director.

B. Initiation of Placement on The Local Register

Placement of sites, buildings, structures, objects or districts on the Local Register may be initiated by the Board of County Commissioners. In addition, placement may be initiated by the owner of the site, building, structure, object, or area; or, in the case of a district, by the owner of a site, building, structure, object, or area within the proposed district.

C. Placement on The Local Register

The following procedure shall be followed for placement of sites, buildings, structures, objects, areas, and districts on the Local Register.

1. A nomination form, available from the Development Department, shall be completed by the applicant and returned to the Development Department.

2. Upon receipt of a completed nomination form, including necessary documentation, the Development Director shall place the nomination on the agenda of the next regularly scheduled meeting of the Board of County

Commissioners. If the next regularly scheduled meeting of the Board is too close at hand to allow for the required notice to be given, the nomination shall be placed on the agenda of the succeeding regularly scheduled meeting.

3. Adequate notice of the Board's consideration of the nomination shall be provided to the public at large, and to the owner(s) of the nominated property(ies), at least fifteen (15) days in advance of the meeting at which the nomination will be considered by the Board.

4. The Development Director shall, within 90 days from the date of the meeting at which the nomination is first on the Board's agenda, review the nomination and write a recommendation thereon. The recommendation shall include specific findings and conclusions as to why the nomination does or does not meet the appropriate criteria for listing on the Local Register. The recommendation shall also include any owner's objection to the listing. If the nomination is in a Historic district, the recommendation shall also clearly specify, through the use of maps, lists, or other means, those buildings, objects, or structures which are classified as contributing to the historical significance of the district.

5. The nomination form and the Development Director’s recommendation shall be sent to the Board of County Commissioners. The nomination shall then be handled in the same manner as a rezoning application.

D. Criteria For Listing On The Local Register

1. A site, building, or district must meet the following criteria before it may be listed on the Local Register:

   a. The site, building, or district possesses integrity of location, design setting, materials, workmanship, feeling and association.

   b. The site, building or district is associated with events that are significant to local, state or national history; or the district site, building, structure, or object embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction.

2. A site or building located in a local register of historic places district shall be designated as contributing to that district if it meets the following criteria:

a. The property is one which, by its location, design, setting, materials, workmanship, feeling and association adds to the district's sense of time and place and historical development.

b. A property should not be considered contributing if the property's integrity of location, design, setting, materials, workmanship, feeling and association have been so altered that the overall integrity of the property has been irretrievably lost.

c. Structures that have been built within the past fifty (50) years shall not be considered to contribute to the significance of a district, unless a strong justification concerning their historical or architectural merit is given to the historical attributes of the district are considered to be less than fifty (50) years old.

E. Effect of Listing on Local Register

1. The Board of County Commissioners may issue an official certificate of historic significance to the owner of properties listed individually on the Local Register or judged as contributing to the character of a district listed on the Local register. The County Administrator is authorized to place official signs denoting the geographic boundaries of each district listed on the Local Register.

2. Structures and buildings listed individually on the Local Register or judged as contributing to the character of a district listed on the Local Register shall be deemed historic and entitled to modified enforcement of the Florida Building Code.

3. No demolition, alteration, relocation or construction activities may take place except as provided below.

F. Certificates Of Appropriateness

1. When Required

a. A Certificate of Appropriateness must be obtained before making certain alterations, described below as regulated work items, to contributing structures and structures listed individually on the Local Register.

b. For each of the regulated work items listed below, the following applies:

(1) Ordinary Maintenance: If the work constitutes "ordinary maintenance" as defined in the LDR, the work may be done without a Certificate of Appropriateness.

(2) Staff Approval: If the work is not "ordinary maintenance", but will result in the "original appearance" as defined in the LDR, the Certificate of Appropriateness may be issued by the Development Director.

(3) Board Approval: If the work is not "ordinary maintenance" and will not result in the "original appearance", a Certificate of Appropriateness must be obtained from the Board of County Commissioners before the work may be done.

c. The following are regulated work items:

(1) Installation or removal of metal awnings or metal canopies.

(2) Installation of all decks above the first-floor level and/or on the front of the structure.

(3) Installation of an exterior door or door frame, or the infill of an existing exterior door opening.

(4) Installation or removal of any exterior wall, including the enclosure of any porch or other outdoor area with any material other than insect screening.

(5) The installation, relocation, or removal of wood, chain-link, masonry (garden walls) or wrought iron fencing.

(6) The installation or removal of all fire escapes, exterior stairs or ramps for handicapped.

(7) Painting unpainted masonry including stone, brick, terra-cotta and concrete.

(8) Installation or removal of railings or other wood, wrought iron or masonry detailing.

(9) Abrasive cleaning of exterior walls.

(10) Installation of new roofing materials, or removal of existing roofing materials.

(11) Installation or removal of security grilles, except that in no case shall permission to install such grilles be completely denied.

(12) Installation of new exterior siding materials, or removal of existing exterior siding materials.

(13) Installation or removal of exterior skylights.

(14) Installation of exterior screen windows or exterior screen doors.

(15) Installation of an exterior window or window frame or the infill of an existing exterior window opening.

d. A Certificate of Appropriateness must be obtained from the Board of County Commissioners to erect a new building or parking lot within a district listed on the Local Register.

e. A Certificate of Appropriateness must be obtained from the Board of County Commissioners to demolish a building, structure, or object listed individually on the Local Register, or designated as contributing to a district listed on the Local Register.

f. A Certificate of Appropriateness must be obtained from the Board of County Commissioners to relocate a building, structure, or object listed individually on the Local Register, or designated as contributing to a district listed on the Local Register.

2. Criteria For Issuing:

a. The decision on all Certificates of Appropriateness, except those for demolition, shall be guided by the Secretary of the Interior's Standards For Rehabilitation and Guidelines for Rehabilitating Historic Buildings and the following visual compatibility standards:

(1) Height -- Height shall be visually compatible with adjacent buildings.

(2) Proportion of building, structure or object's front facade -- The width of building, structure or object to the height of the front elevation shall be visually compatible to buildings and places to which it is visually related.

(3) Proportion of openings within the facility -- The relationship of the width of the windows in a building, structure, or object shall be visually compatible with buildings and places to which the building, structure or object is visually related.

(4) Rhythm of solids to voids in front facades -- The relationship of solids to voids in the front facade of a building, structure or object shall be visually compatible with buildings and places to which it is visually related.

(5) Rhythm of buildings, structures, or objects on streets -- The relationship of the buildings, structures or objects to open space between it and adjoining buildings and places shall be visually compatible to the buildings and places to which it is visually related.

(6) Rhythm of entrance and/or porch projection -- The relationship of entrances and projections to sidewalks of a building, structure, or object shall be visually compatible to the buildings and places to which it is visually related.

(7) Relationship of materials, texture and color -- The relationship of materials, texture and color of the facade of a building, structure or object shall be visually compatible with the predominant materials used in the buildings to which it is visually related.

(8) Roof shapes -- The roof shape of the building, structure, or object shall be visually compatible with the buildings to which it is visually related.

(9) Walls of continuity -- Appurtenances of a building, structure, or object such as walls, fences, landscape masses shall, if necessary, form cohesive walls of enclosure along a street, to insure visual compatibility of the building, structure, or object to the building and places to which it is visually related.

(10) Scale of a building -- The size of the building, structure, or object, the building mass of the building, structure or object in relation to open space, the windows, door openings, porches, and balconies shall be visually compatible with the buildings and places to which it is visually related.

(11) Directional expression of front elevation -- A building, structure, or object shall be visually compatible with the buildings and places to which it is visually related in its directional character.

b. In addition to the guidelines provided in paragraph 1 above, issuance of Certificates of Appropriateness for relocations shall be guided by the following factors:

(1) The historic character and aesthetic interest of the building, structure, or object contributes to its present setting.

(2) Whether there are definite plans for the area to be vacated and the effect of those plans on the character of the surrounding area.

(3) Whether the building, structure, or object can be moved without significant damage to its physical integrity.\

(4) Whether the proposed relocation area is compatible with the historical and architectural character of the building, structure or object.

c. Issuance of Certificates of Appropriateness for demolitions shall be guided by the following factors:

(1) the historic or architectural significance of the building, structure, or object;

(2) the importance of the building, structure, or object to the ambience of a district;

(3) the difficulty or the impossibility of reproducing such a building, structure or object because of its design, texture, material, detail, or unique locations;

(4) whether the building, structure, or object is one of the last remaining examples of its kind in the neighborhood, the county, or the region;

(5) whether there are definite plans for reuse of the property if the proposed demolition is carried out, and what effect those plans will have on the character of the surrounding area;

(6) whether reasonable measures can be taken to save the building, structure, or object from collapse; and

(7) whether the building, structure, or object is capable of earning reasonable economic return on its value.

3. Procedure

a. A person wishing to undertake any of the actions specified in Section 2401F1 shall file an application for a certificate of appropriateness, and supporting documents, with the Development Director.

b. The prospective applicant shall confer with the Development Director concerning the nature of the proposed action and requirements related to it. The Development Director shall advise the applicant of the nature and detail of the plans, designs, photographs, reports or other exhibits required to be submitted with the application. Such advice shall not preclude the Board of County Commissioners from requiring additional material prior to making its determination in the case.

c. Upon receipt of a completed application and all required submittals and fees, the Development Director shall place the application on a scheduled meeting of the Board of County Commissioners allowing for notice as required herein or at a later date with the agreement of the applicant.

d. At least 15 days, but not more than 30 days, prior to the meeting at which the application is to be heard, the Director shall give the following notice:

(1) Written notice of the time and place of the meeting shall be sent to the applicant and all persons or organizations filing written requests with the Department.

(2) One advertised notice in a newspaper of general circulation.

e. The hearing shall be held at the time and place indicated in the notice. The decision of the Board of County Commissioners shall be made at the hearing.

f. The Board of County Commissioners shall use the criteria set forth in Section 2401F2 of this article to review the completed application and accompanying submittals. After completing the review of the application and fulfilling the public notice hearing requirements set forth above, the Board of County Commissioners shall take one of the following actions:

(1) grant the certificate of appropriateness with an immediate effective date;

(2) grant the certificate of appropriateness with special modifications and conditions;

(3) deny the certificate of appropriateness.

g. The Board of County Commissioners shall make written findings and conclusions that specifically relate to the criteria for granting certificates of appropriateness. All parties shall be given the opportunity to provide evidence.

h. The Board of County Commissioners shall record and keep records of all actions it takes pertaining to the Historic Districts and Landmarks Overlay. The records shall include the vote, absence, or abstention of each member upon each question, all official actions, and findings and conclusions.

i. No work for which a certificate of appropriateness is required may be undertaken unless a certificate of appropriateness authorizing the work is conspicuously posted on the property where the work is to be performed.

Section 2500 CLUSTERING OF RESIDENTIAL UNITS

A. Intent: It is the intent of this Section to encourage the clustering of residential units in order to protect agriculture lands that are being used for farming, provide for natural areas, provide for water resources, provide for environmentally important areas, and achieve land preservation goals through clustering in conjunction with acquisition, conservation, mitigation banking of non-developed land, or incentivize property owners to work with public agencies on large public works projects.

B. Procedure: Cluster Parcels shall be created through the creation of a Cluster Agreement Resolution. The resolution shall set out the general parameters for development, consistent with the development standards defined in Section (3) below, general uses and the location of both the areas for preservation and the areas for the clustering of units. The Cluster Agreement Resolution shall delineate

and identify the general location of both the Cluster Parcel and the Preservation Parcel through a land use map adopted with the Cluster Agreement Resolution. The proposed land use map must contain the general locations of the Cluster Area(s) and Preservation Area(s) as well as the access point(s) for the Cluster Area(s).

C. Criteria for Approval: The Board of County Commissioners will approve a Cluster Agreement Resolution only when it meets one or more of the following criteria:

1. The area proposed for "Preservation" will be used for a public works project.

2. The area proposed for "Preservation" will be set aside as preservation and is either currently or in a restored state valuable environmental habitat, and will allow for public access.

3. The area proposed for "Preservation" will be permitted as a mitigation bank.

4. The area proposed for "Preservation" will be use for the preservation of agricultural activities.

D. Standards of Development: Cluster Parcels created under this section are subject to the following requirements:

1. All residential development must meet the standards of the RSF-2 zoning district unless a PUD is approved that includes a different set of property development regulations and uses.

2. The areas of residential development must provide a minimum of 100 feet buffer and building setback from any property line between an adjacent agriculture use and any non-agriculture use proposed on the property.

3. The proposal must conform to all other requirements of the adopted land development regulations (including platting requirements and minimum yard requirements of the RSF-2 zoning district or approved PUD), zoning code, and comprehensive plan.

4. The areas designated for residential development, the Cluster Parcel, must be located outside of the Conservation Overlay areas as determined by field analysis. The Cluster Parcel may contain within it areas designated within the Conservation Overlay as long as no residential units are placed within the Conservation Overlay.

5. A minimum of 20% of the cluster area shall be used for common open space. For the purpose of this policy, open space shall include commonly maintained water management lakes (not more than 25% of open space requirement), recreational facilities, parks, nature trails, natural preserve areas, rural boundary setbacks and buffer areas and other commonly owned or maintained areas of pervious surface. Private yards shall not be included within the open space requirement.

6. Recreational uses and limited commercial uses to serve the residential community are permitted within the cluster area in order to promote the internalization of activities and trips. Commercial shall be limited to only those uses that are allowed in the A-10 zoning district and intended to provide for daily needs of the cluster area.

7. Use of the undeveloped portion, the Preservation Parcel, of the property must be restricted by either an agriculture, open space, conservation, or other form of restrictive easement, or the property must be sold, conveyed or restricted in favor of a public agency for preservation, public works projects or any similar use. Sale, Conveyance or recording of the restrictive easement or covenant must occur following the final approval.

8. The location of the property's density in the Cluster Area and approval of the Cluster Agreement Resolution vests the right to the units without making a final determination as to the final layout and design. Approval of the Cluster Agreement Resolution by DeSoto County must occur prior to sale, conveyance or restriction of any Preservation Parcel lands to a public agency for natural resource uses. No future changes to the land development regulations or comprehensive plan can take away the vested units within the Cluster Area once the Preservation Parcel is sold or encumbered.

The Cluster Parcel may use the "Preservation" Area for mitigation of environmental impacts (wetlands, wildlife, water resource, or other environmental mitigation), and for passive recreation, subject to any necessary approval from environmental agencies with jurisdiction or ownership.

Section 2600 SCHEDULE OF USES IN ZONING DISTRICTS

The following chart shows the uses allowed in each zoning district. This chart is for illustrative purposes only and should be consulted together with the regulations specific to each zoning district. In some cases zoning districts may contain additional limitations or restrictions on a use that are not shown in this chart. In the event of any conflict between this chart and the regulations specific to each zoning district, the regulations specific to each zoning district shall control.

Schedule of Uses in Zoning Districts

Land Use	Zoning Districts																		
	A-10	A-5	CN	CG	CE	IL	IH	MHP	MHS	P/I	PM-I	RM	RMF	RMFM	ROI	RSF-1	RSF2-5	RVC	TTRVC
Adult congregate living facilities													P	P	P				
Agricultural related processing, canning or packing	S	S				P	P				S								
Agriculture and related activities, structures	P	P		S		S	S												
Agricultural support housing	S	S																	
Airport or landing field							S			S									
Asphalt plant						S	P												
Bed and breakfast	P	P														P			
Boat building						S	P												
Boat yard						P	P												
Body shop						S	P												
Bottle club				S															
Bulk storage yards						P	P				S								
Campsite, tents, pick-up coaches																		P	P
Car wash			P	P		P	P												
Cement plant						S	P												
Cemeteries	A	A								A									

P = Permitted Use; A = Accessory Use; S=Special Exception; A-10 = Agricultural 10; A-5 = Agricultural 5; CN=Commercial Neighborhood; CG=Commercial General; CE=Commercial Established; IL=Industrial Light; IH=Industrial Heavy; MHP=Mobile Home Park; MHS=Mobile Home Subdivision; P/I=Public/Institutional; PM-I=Phosphate Mining-Industrial; RM=Residential Mixed; RMF= Residential Multi-Family; RMFM= Residential Multi-Family Mixed; ROI=Residential-Office-Institutional; RSF=Residential Single Family; RVC=Recreational Vehicle Campground; TTRVC= Travel Trailer Recreational Vehicle Campground

Schedule of Uses in Zoning Districts

Land Use	Zoning Districts																		
	A-10	A-5	CN	CG	CE	IL	IH	MHP	MHS	P/I	PM-I	RM	RMF	RMFM	ROI	RSF-1	RSF2-5	RVC	TTRVC
Chemical plant						S	P												
Chemical storage, blending and manufacturing							S												
Child care center			P	P	P			S	S			S	S	S	S				
Children's homes													P	P					
Civic and cultural facilities								S	S	P			S	S					
Coal and wood yards						S	P												
College, University										P									
Commercial fisheries	P	P				S	P												
Communication transmitting and receiving facilities	S	S				P	P												
Community and recreation centers	S	S						A	P		S	P	A	A		A,S	A,S		A
Construction office						P	P												
Convention center										P									
Country clubs	A	A						A					A	A		A	A		A
Delicatessen			P	P	P	P	P												

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Drag strips, race tracks and ATV tracks	S	S				S	S												
Dwelling unit, multi-family													P	P	P				
Dwelling unit, single-family	P	P		P	S			P	P		S	P	P	P	P	P	P	P	P
Excavation other than Phosphate mining	S	S																	
Family day care home	P	P										P	P	P	P	P	P		
Feed lots	S	S									S								
Financial institutions			P	P	P	P	P								P				
Firing range	S	S				S	S				S								
Flea market				S		S	S												
Food stores			P	P	P	P	P												
Forestry	P	P									P								
Garbage disposal service						S	P												
Golf course	S	S							A			A	A	A		A	A		A
Governmental facilities										P,S									
Greenhouse	P	P			P				A	P		A	A	A		A	A		
Group home, small											P					A			
Group homes, large															P				

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	A-10	A-5	CN	CG	CE	IL	IH	MHP	MHS	P/I	PM-I	RM	RMF	RMFM	ROI	RSF-1	RSF2-5	RVC	TTRVC
Guest house	A	A							A			A			A	A			
Heavy equipment repair and sales						P	P				A								
Hospice					P								P	P	P				
Hospital										P									
Hotel/Motel					P										P				
Hunting cabin	P	P									S								
Industrial support housing						A	A				A								
Junk yards						S	P												
Kenneling	S	S				S	P				P								
Lab, medical or dental			S																
Lab, research and design						S	P												
Laundry						P	P												
Lawn and garden supplies			P	P		P	P												
Library	S	S	S						S	P		S	S	S	P	S	S		
Light manufacturing, processing, packaging or fabrication					S	P	P				P								
Livestock sales	S	S									S								
Manufacturing						S	P,S												
Marina	S	S	S			S	P												

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Mechanical repairs						S	P												
Medical/Dental office			P	P		P	P												
Medical clinic			P	P		P	P												
Mobile home or manufactured home	A	A						P	P		A	P		P				P	P
Mobile home sales								S											
Motor homes																		P	P
Museums	S	S	S							P					P				
Oil and gas exploration, extraction, production & processing	S	S																	
Organic fertilizer manufacturer						S	P												
Park trailers																		P	P
Parking garage						S	P												
Parking lot					P	P	P												
Parks and playgrounds	S	S	A	A	A			P		P		S	S	S	S	S	S	A	A
Phosphate mining											P								
Place of worship	S	S	S	S	S	S			S			S	S	S	S	S	S		
Power plant						S	P												

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Printing, lithographing or publishing						P	P												
Private clubs, bar or cocktail lounge			S	S															
Private docks	P	P										A				A	A		
Professional office			P	P	P	P	P								P				
Railroad siding spur						S	P												
Recycling center						S	P												
Rehabilitation centers					P								P	P	P				
Repair shop			P	P	P	P	P												
Research and development facilities											A								
Rest homes or home for the aged					P								P	P	P				
Restaurant, including drive through			P	P	P	P	P												
Sales and repair of heavy trucks and equipment						S	P												
Sales, auto					P	P	P												

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Sales, general retail				P	P	P	P												
Sanitary landfill	S	S									S								
Sawmills	S	S				S	P				S								
School, vocational or technical						P	P			P									
Schools, private or parochial									S	P			S	S	S	S	S		
Schools, public										P		S	S	S					
Service clubs				P	P										P				
Service station, automobile			P	P	P	P	P								P				
Sexually oriented entertainment establishment						P	P												
Sheet metal shops						S	P				A								
Slaughter house	S	S					S												
Sports arenas	S	S								P									
Stabling	P	P				S	P				P								
Storage of agricultural vehicles not used onsite						S	S												
Storage yard, contractor's equipment						S	P												

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	A-10	A-5	CN	CG	CE	IL	IH	MHP	MHS	P/I	PM-I	RM	RMF	RMFM	ROI	RSF-1	RSF2-5	RVC	TTRVC
Telephone exchange						P	P												
Tennis courts	A	A	A	A	A				A			A	A	A	A	A	A		A
Transfer station, agricultural produce	P	P				S	P				P								
Transportation terminal						P	P				P								
Travel trailers																			P
Utility grade solar power plant	P	P																	
Utility substations or treatment plants										S									
Veterinary hospital or clinic (with outside kennels)						S	P				P								
Veterinary hospital or clinic (without outside kennels)			P	P		P	P				P								
Warehousing					S	P	P												
Wholesale facilities					S	P	P				P								
Wholesale plant nurseries, greenhouses	P	P			S	P	P				P								

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Land Use	Zoning Districts																		
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Wildlife conservancies, refuges and sanctuaries for domestic or non-exotic animals, wildlife management areas	P	P																	
Wineries	S	S																	
Zoo	S	S																	

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Article 3 (RESERVED)

ARTICLE 4 SUBDIVISION PROCEDURES

Section 4000 GENERAL 4-2

Section 4100 SUBDIVISION APPROVAL PROCEDURE 4-2

Section 4110 Pre-Application Conference 4-2

Section 4130 Improvement Plan 4-2

Section 4140 Subdivision Plat 4-3

ARTICLE 4 SUBDIVISION PROCEDURES

Section 4000 GENERAL

A. The minimum requirements and procedures for subdividing land are set forth in Chapter 177, F.S., which shall govern the subdividing of land in DeSoto County, except as otherwise provided herein.

B. Owners or developers that want to subdivide a tract, parcel or lot must establish that their application is in compliance with and will not create a violation of the LDRs, the Comprehensive Plan, and/or the DeSoto County Code of Ordinances. In addition, such owners or developers must establish that they have sufficient legal right or interest in the tract, parcel or lot which authorizes them to proceed with the subdivision.

C. A Minor Subdivision means the division of a tract, parcel or lot into no more than six (6) lots, where each lot meets the minimum lot size and dimensional standards for its zoning district and the Comprehensive Plan, does not interfere with or obstruct the county right-of-way, does not create new streets, and which clearly indicates on any plat, survey, easement and/or deed conveying property within the minor subdivision that roads within the minor subdivision are private and are not the County's responsibility to maintain, does not change the length or alignment of an existing road, and no drainage or surface water permit is required from the Southwest Florida Water Management District or the Florida Department of Environmental Protection. A Major Subdivision means every division of a tract, parcel or lot that does not qualify as a Minor Subdivision.

Section 4100 SUBDIVISION APPROVAL PROCEDURE

Section 4110 Pre-Application Conference

Prior to the submission of an application to subdivide land, the owner or developer are encouraged to request a pre-application conference with the Development Director, or designee, in order to become familiar with the relevant requirements of the Land Development Regulations, the applicable portions of the Code of Ordinances, and any provisions of the Comprehensive Plan affecting the land in which the proposed subdivision is located. Master Plans for an entire project may be presented for layout approval in advance of the submittal of any Subdivision Plat of the project.

Section 4130 Improvement Plan

An Improvement Plan shall be submitted to the Development Director for review by the County Engineer for Major Subdivisions.

Section 4140 Subdivision Plat

A. Content and Purpose

The Subdivision Plat is for the purpose of providing a record of the subdivision and all data necessary for parcels identification.

B. Preparation of Subdivision Plat

All Major Subdivision Plats and those Minor Subdivision Plats offered for recording shall be prepared in compliance with the requirements for recording of plats found at Section 177.091, Florida Statutes, and in all other respects in conformance with the requirements of Chapters 177 and 472, Florida Statutes, and administrative rules adopted pursuant thereto.

C. Submittal

For Major Subdivisions, after approval of the Improvement Plan, six (6) prints of the Subdivision Plat shall be presented to the Development Director for consideration. For Minor Subdivisions, two (2) prints of the Subdivision Plat shall be submitted to the Development Director for consideration. For Major Subdivisions, the prints of the Subdivision Plat must be accompanied by the original tracing or tracings, and all required exhibits including Improvement Agreements, Estimate of Cost for Subdivision Improvements, an attorney Opinion of Title or title company certificate and recording fees. If the owner or developer of a Major Subdivision elects to construct all required Subdivision Improvements prior to submittal of the Subdivision Plat, the Improvement Agreement will not be required; but the Certificate of Satisfactory Completion (complete with as-built plans), Estimate of Cost for Subdivision Improvements, and Maintenance Agreement are required. Submittals for Major and Minor Subdivisions shall be accompanied by a check payable to the Board of County Commissioners of DeSoto County, Florida, in the amount determined by the Board. A fee shall also be required for resubmittals. All exhibits accompanying the Subdivision Plat must conform to Standard Forms as applicable. The recording fees must be in the form of a check or checks payable to the Clerk of the Circuit Court.

For Major Subdivisions, upon favorable recommendation by the Development Review Committee, the Development Director will notify the Project Surveyor and the Subdivision Plat shall be submitted to the Planning Commission and Board of County Commissioners for their approval. Upon approval by the Board of County Commissioners, the original tracing of the Subdivision Plat will be returned to the owner or developer who will be responsible for completing the recording process and delivering the following to the Development Director:

1. The original final plat tracing or tracing.

2. Two (2) Mylar copies of the original Subdivision Plat.

3. Two (2) blue line prints of the approved Subdivision Plat.

4. A check made out to the DeSoto County Clerk of the Circuit Court for the amount of the recording fee.

5. A copy of the recorded Subdivision Plat.

For Minor Subdivisions with a Plat offered for recording, the Development Director shall approve, disapprove or request additional information concerning an application for a Minor Subdivision within thirty (30) days of submittal. Upon favorable recommendation by the Development Director, the Subdivision Plat shall be submitted to the Board of County Commissioners for approval. Upon approval by the Board of County Commissioners, the Minor Subdivision Plat shall be recorded. It is the responsibility of the owner or developer to complete the recording process and to provide the Development Director with a copy of the recorded Subdivision Plat.

In the event a Minor Subdivision is created without a recorded Plat, then in that event a survey of each lot and easement in the Minor Subdivision shall be submitted to the Board of County Commissioners for review, and upon review shall be recorded by the owner or developer with deed(s) of conveyance. All easements in Minor Subdivisions shall be accompanied by an affidavit for maintenance which shall be recorded and which shall eliminate any County responsibility for maintenance of said easement, and provide that if in the future the resident wishes the County to take over the maintenance of the easement it is the resident's responsibility to create a public street built to the County's standards prior to take-over by the County.

ARTICLE 5 CONCURRENCY DETERMINATION

Section 5000 CONCURRENCY MANAGEMENT SYSTEM 5-2
Section 5100 DETERMINATION OF AVAILABLE CAPACITY 5-2
Section 5101 Available Capacity 5-2
Section 5102 Determination of Project Impact 5-3
Section 5103 Action Upon Failure to Show Available Capacity 5-3
Section 5200 BURDEN OF SHOWING COMPLIANCE ON DEVELOPER 5-4
Section 5300 INITIAL DETERMINATION OF CONCURRENCY 5-4
Section 5400 ADOPTED LEVELS OF SERVICE 5-4

ARTICLE 5 CONCURRENCY DETERMINATION

Section 5000 CONCURRENCY MANAGEMENT SYSTEM

A. Concurrency Management shall be in accordance with Section 163.3180, F.S., and based upon the County Comprehensive Plan Capital Improvements Element, Future Land Use Element, Traffic Circulation Element, Sanitary Sewer Element, Solid Waste Element, Potable Water Element, and the applicable adopted levels of service (LOS). The Concurrency Management System is designed to ensure the issuance of a Final Development Order will not result in a degradation of the adopted level of service.

B. All applications for development orders or permits shall demonstrate that the proposed development satisfies adopted levels of service in the County as set forth in the County Comprehensive Plan. A level of service may be lowered during a period of construction of new facilities if upon completion of the new facilities the adopted levels of service will be met.

Section 5100 DETERMINATION OF AVAILABLE CAPACITY

Section 5101 Available Capacity

For purposes of these regulations the available capacity of a facility shall be demonstrated by the developer and determined by the following provisions:

A. Add together the following items:

1. The total capacity of existing infrastructure operating at the required level of service; and

2. The total capacity of new infrastructure, if any, that will become available on or before the date of occupancy of the development. The capacity of new facilities may be counted only if one or more of the following is shown:

a. Construction of the new infrastructure is under way at the time of issuance of the final development order or is a recognized project included in the first three years of FDOT 5 year work program.

b. The new infrastructure is the subject of a binding executed contract for the construction of the infrastructure or the provision of services at the time of issuance of the final development order.

c. The new infrastructure is guaranteed in an enforceable development agreement. An enforceable development agreement

may include, but not be limited to, development agreements pursuant to the Local Government Agreement Act (Sections 163.3220 through 163.3243, Florida Statutes) or an agreement or development order pursuant to Chapter 380, Florida Statutes. Such infrastructure shall be consistent with the Capital Improvements Element of the County Comprehensive Plan. The agreement must guarantee that the necessary infrastructure and services will be in place when the impacts of the development occur.

B. Subtract from the sum of Section 5101A the sum of the following items:

1. The demand for the service or facility created by existing development as documented in the County Comprehensive Plan; and

2. The demand for the service or facility created by the anticipated completion of other approved developments, re-development, or other development activity.

Section 5102 Determination of Project Impact

The impact of proposed development activity on available capacity shall be determined as follows:

A. The area of impact of the development (a traffic shed) shall be determined. The traffic shed shall be that area where the primary impact of traffic to and from the site occurs. If the County has designated sectors of the jurisdiction for determining development impacts and planning capital improvements, such sectors or planning area may be used.

B. The project's level of service for roads within the traffic shed shall be calculated based upon estimated trips to be generated by the project. Where the development will have access to more than one (1) road the calculations shall show the split in generated traffic and state the assumptions used in the assignment of traffic to each facility.

Section 5103 Action Upon Failure to Show Available Capacity

Where available capacity cannot be shown, one of the following methods shall be used to maintain the adopted level of service:

A. The project owner or developer may provide the necessary improvements to maintain the adopted level of service. In such case, the application shall include appropriate plans for improvements, documentation that such improvements are designed to provide the capacity necessary to achieve or maintain the level of

service, and recordable instruments guaranteeing the construction, consistent with calculations of capacity.

B. The proposed project may be altered, provided that the projected level of service is no less than the adopted level of service.

C. For roads and mass transit designated in the adopted plan, concurrency may be satisfied by complying with the standards in Section 163.3180, F.S., and the DeSoto County Comprehensive Plan.

Section 5200 BURDEN OF SHOWING COMPLIANCE ON DEVELOPER

The burden of showing compliance with these levels of service requirements shall be upon the developer. In order to be approved, applications for development approval shall provide sufficient information showing compliance with these standards.

Section 5300 INITIAL DETERMINATION OF CONCURRENCY

The initial notification of determination of concurrency occurs during the review of the Preliminary Development Plan, and shall include compliance with the levels of service standards adopted by the County in the Comprehensive Plan.

Reservations for LOS may be requested as part of the submission of the Development Plan. Such reservations may be granted by the Board of County Commissioners only upon its approval of a preliminary plan and submission of evidence that the developer has applied for necessary state, federal and local permits.

Section 5400 ADOPTED LEVELS OF SERVICE

Development activities shall not be approved unless they meet the applicable levels of service established in the DeSoto County Comprehensive Plan

ARTICLE 6 RESOURCE PROTECTION STANDARDS

Section 6000 PURPOSE 6-2

Section 6100 WETLAND PROTECTION 6-2
Section 6101 Relationship to Other Requirements Relating to the Protection of Wetlands ... 6-2
Section 6102 Activities Presumed to Have an Insignificant Effect on Wetlands 6-2
Section 6103 Development Adjacent to Wetland Areas 6-3
Section 6104 Wetland Protective Measures 6-3

Section 6200 GROUNDWATER AND SURFACE WATER PROTECTION 6-4
Section 6201 Purpose and Intent 6-4
Section 6202 Restrictions On Development 6-4

Section 6300 HABITAT OF ENDANGERED OR THREATENED SPECIES 6-4
Section 6301 Generally 6-4
Section 6302 Habitat Management Plan 6-4

ARTICLE 6 RESOURCE PROTECTION STANDARDS

Section 6000 PURPOSE

The purpose of this Article is to protect a development site from harmful impacts resulting from development. A developer should apply the provisions of this Article to a proposed development site before any other development design work is done. Application of the provisions of this Article will identify those areas of a proposed development site that may be developed and areas that must generally be left free of development activity. The proposed development must be designed to fit within the areas that may be developed.

Section 6100 WETLAND PROTECTION

Section 6101 Relationship to Other Requirements Relating to the Protection of Wetlands

All development and development plans shall comply with applicable provisions of the County Comprehensive Plan, Federal, State and water management district regulations and permitting requirements. All development for which permits required by Federal, State and the Southwest Florida Water Management District regulations concerning wetland protection have been issued and which is in compliance with such permits and permit conditions, is presumed to be in compliance with the requirements of these LDRs.

The County shall not issue any approvals for development unless it is demonstrated by the developer to the County's satisfaction that such development will be, or is, in full compliance with the County Comprehensive Plan and all State, Federal and Southwest Florida Water Management District regulations and requirements concerning wetland protection.

Section 6102 Activities Presumed to Have an Insignificant Effect on Wetlands

The following uses and activities are presumed to have an insignificant adverse effect on wetlands unless there is substantial evidence to the contrary:

A. Scenic, historic, wildlife or scientific preserves.

B. Minor maintenance or emergency repair to existing structures or improved areas.

C. Timber catwalks and docks four (4) feet or less in width, elevated to not affect vegetation.

D. Commercial or recreational fishing, hunting or trapping, and creation and maintenance of temporary blinds.

Section 6103 Development Adjacent to Wetland Areas

All development adjacent to a wetland area shall be designed, constructed, and maintained to avoid significant adverse effects on wetlands and be set back as required by the County Comprehensive Plan and State, Federal, or Southwest Florida Water Management District regulations.

Section 6104 Wetland Protective Measures

Reasonable protective measures necessary to prevent significant adverse effects to wetlands may be required including, but not limited to:

A. Maintaining natural drainage patterns.

B. Limiting the removal of vegetation to the minimum necessary to carry out the development activity.

C. Expeditiously replanting denuded areas.

D. Stabilizing banks and other unvegetated areas by siltation and erosion control measures.

E. Minimizing the amount of fill used in the development activity.

F. Disposing of dredged spoil at specified locations in a manner causing minimal environmental damage.

G. Constructing channels at the minimum depth and width necessary to achieve their intended purposes, and designing them to prevent slumping and erosion and allow revegetation of banks.

H. Dredging wetlands at times of minimum biological activity to avoid periods of fish migration and spawning.

I. Designing, locating, constructing, and maintaining all development in a manner that minimizes environmental damage.

J. Using legal mechanisms to require the developer and successors to protect the wetlands and environmentally sensitive areas and maintain the development in compliance with the protective measures.

Section 6200 GROUNDWATER AND SURFACE WATER PROTECTION

Section 6201 Purpose and Intent

The purpose of groundwater and surface water protection is to safeguard the health, safety and welfare of the citizens of the County. This is accomplished through ensuring the protection of the principle source of water for domestic, agricultural, and industrial use. The availability of adequate and dependable supplies of good quality water is of primary importance to the future of the County. Therefore it is the intent of this section to insure that development in and adjacent to groundwater and surface water supply sources does not adversely impact the quality or quantity of those sources.

Section 6202 Restrictions On Development

No development shall take place which adversely impacts the quality or quantity of groundwater or surface water supply sources unless it is in compliance with the County Comprehensive Plan and a permit or other authorization regulating such impacts on ground or surface waters for such development has been issued by State or Federal regulatory agencies or the Southwest Florida Water Management District. All development for which permits required by Federal, State and the Southwest Florida Water Management District regulations concerning ground and surface water protection have been issued and which is in compliance with such permits and permit conditions, is presumed to be in compliance with the requirements of these LDRs.

The County shall not issue any approvals for development which impacts ground or surface waters unless it is demonstrated by the developer to the County's satisfaction that such development will be, or is, in compliance with the County Comprehensive Plan and all State, Federal and Southwest Florida Water Management District regulations and requirements concerning groundwater and surface water protection.

Section 6300 HABITAT OF ENDANGERED OR THREATENED SPECIES

Section 6301 Generally

It is the purpose of this Section to assure that development provides required levels of protection of the habitats of species, both flora and fauna, of endangered, threatened, or special concern status in the County.

Section 6302 Habitat Management Plan

A. When Required

If required by the County Comprehensive Plan, or State or Federal regulatory agencies, a Habitat Management Plan shall be prepared and submitted to the County as a prerequisite to the approval of any proposed development.

B. Contents

Unless otherwise required by the County Comprehensive Plan, or State or Federal regulatory agencies, the Habitat Management Plan shall document the presence of threatened, endangered or special concern species, the land needs of the species that may be met on the development site, and shall recommend appropriate habitat management plans and other measures to protect the subject species.

C. Conformity of Final Development Plan

The Final Development Plan approved for a development shall substantially conform to the recommendations in the Habitat Management Plan.

D. Fee in Lieu

As an alternative to preservation of land on a development site for threatened, endangered or special concern species, the County may establish a fee-in-lieu-of-land program, whereby the County can use such “fees in lieu” to purchase land which will provide a habitat which the county deems serves the public purpose of preserving or protecting such species.

ARTICLE 7 DEVELOPMENT DESIGN AND IMPROVEMENT STANDARDS

Section 7000 GENERAL PROVISIONS 7-2
Section 7001 Purpose 7-2
Section 7002 Responsibility for Improvements 7-2
Section 7003 Principles of Development Design 7-2
Section 7100 LOT AREA, LOT COVERAGE, SETBACKS AND BUILDING HEIGHT 7-2
Section 7101 Setbacks 7-2
Section 7102 Height Limit Exclusions 7-3
Section 7200 TRANSPORTATION SYSTEMS 7-3
Section 7201 General Provisions 7-3
Section 7202 Streets 7-3
Section 7203 Rights-of-Way 7-4
Section 7204 Right of Way Standards 7-4
Section 7205 Street Design Standards 7-4
Section 7206 Access 7-9
Section 7207 Standards for Drive-up Facilities 7-11
Section 7300 OFF-STREET PARKING AND LOADING 7-12
Section 7400 STORMWATER MANAGEMENT 7-13
Section 7401 Relationship to Other Stormwater Management Requirements 7-13
Section 7402 Exemptions 7-13
Section 7403 Stormwater Protection Requirements 7-14
Section 7404 Stormwater Management Requirements 7-14
Section 7405 Dedication or Maintenance Of Stormwater Management Systems 7-17
Section 7500 LANDSCAPING 7-17
Section 7501 Intent 7-17
Section 7502 General Landscape Requirements 7-17
Section 7503 Required Buffers 7-19
Section 7504 Determination of Buffer Requirements 7-19
Section 7505 Types of Buffers 7-20
Section 7506 Use and Location of Buffers 7-20
Section 7507 Alternative Buffer Proposals 7-22
Section 7508 Off-Street Parking Areas 7-22

ARTICLE 7 DEVELOPMENT DESIGN AND IMPROVEMENT STANDARDS

Section 7000 GENERAL PROVISIONS

Section 7001 Purpose

The purpose of this Article is to provide development design and improvement standards applicable to all development activity within the County.

Section 7002 Responsibility for Improvements

All improvements required by this Article shall be designed, installed, and paid for by the Developer.

Section 7003 Principles of Development Design

The provisions of this Article are intended to ensure functional and attractive development. Development design shall first take into account the protection of natural resources as prescribed in Article 6 of the LDR. All development shall be designed to avoid unnecessary impervious surface cover; to provide adequate access to lots and sites; and to avoid adverse effects of shadow, glare, noise, odor, traffic, drainage, and utilities on surrounding properties.

Section 7100 LOT AREA, LOT COVERAGE, SETBACKS AND BUILDING HEIGHT

Section 7101 Setbacks

A. Minimum Distance Between Buildings

1. The minimum distance between adjacent buildings shall be 10 feet.

2. Distance shall be measured at the narrowest space between structures, whether a main living unit, principal structure, an allowable attachment, or an accessory use, and shall not include roof overhang (eave).

B. Minimum Setbacks for Buildings Exceeding 25 Feet In Height

Except for non-residential uses, when a building exceeds 25 feet in height, the minimum distance from an adjacent building or property line shall be increased by 2 feet for each story above 2.

C. Exception to Required Front Yard Setbacks

In all zoning districts, corner lots of record which do not meet minimum area requirements shall be required to meet only one (1) full depth front yard and all other front yards may be reduced by 50%.

Section 7102 Height Limit Exclusions

Height limits imposed by zoning district regulations shall not apply to customary building appurtenances (spires, ventilators, chimneys, rooftop equipment and like) or to antennas, water tanks, silos, windmills and similar structures not intended for human occupancy, provided such heights shall not violate standards prescribed by the Federal Aviation Authority.

Section 7200 TRANSPORTATION SYSTEMS

Section 7201 General Provisions

A. Purpose

This section establishes minimum requirements applicable to the development of transportation systems, including public and private streets, parking and loading areas, and access control to and from public streets. These standards are intended to minimize the traffic impacts of development and to assure that all developments adequately and safely provide for the storage and movement of vehicles consistent with good engineering and development design practices.

B. Compliance with Construction Standards

The transportation system, work in the public rights-of-way and all required subdivision improvements shall be constructed in accordance with applicable provisions of the LDRs and the DeSoto County Engineering Standard Details.

Section 7202 Streets

A. Street Classification System Established

Streets in the County are classified and mapped according to function served in order to allow for regulation of access, road and right-of-way widths, circulation patterns, design speed, and construction standards.

Section 7203 Rights-of-Way

A. Right-of-Way Widths

Right-of-Way requirements for road construction shall be as specified in Section 7204 unless otherwise required by the DeSoto County Comprehensive Plan. The Right-of-Way shall be measured from property line to property line.

B. Future Rights-of-Way

Future right-of-way requirements are identified in the Traffic Circulation Element of the County Comprehensive Plan.

C. Protection and Use of Rights-of-Way

1. No encroachment shall be permitted into existing rights-of-way, except for temporary use authorized by the County.

2. Use of the right-of-way for public or private utilities including, but not limited to, sanitary sewer, potable water, telephone wires, cable television wires, gas lines, or electricity transmission, shall be allowed subject to the placement specifications in Section 14100, and other applicable county regulations.

3. Sidewalks and bicycle ways may be placed within the right-of-way.

Section 7204 Right of Way Standards

STREET TYPE	R.O.W. WIDTH	CENTERLINE RADII
Residential	60’	180’
Collector	80’	500’
Arterial	100’	800’

Section 7205 Street Design Standards

A. General Design Standards

1. All streets in a new development shall be designed and constructed pursuant to the standards in Section 14100.

2. The street system of the proposed development shall to the extent practicable, conform to the natural topography of the site, preserving existing hydrological and vegetative patterns, and minimizing erosion

potential, runoff, and the need for site alteration. Particular effort should be directed toward securing the flattest possible grade near intersections.

3. Streets shall be laid out to avoid wetlands and environmentally sensitive areas.

4. Private streets may be allowed within developments that will remain under common ownership, provided they are designed and constructed pursuant to the standards in Sections 14100 & 14200 and the DeSoto County Engineering Standard Details Manual.

5. The street layout in all new development may be coordinated with and interconnected to the street system of the surrounding area.

6. Streets in proposed subdivisions may be connected to rights-of-way in adjacent areas to allow for proper inter-neighborhood traffic flow. If adjacent lands are unplatted, stub outs in the new development may be provided for future connection to the adjacent unplatted land.

7. Residential streets shall be arranged to discourage through traffic.

8. Streets shall intersect as nearly as possible at right angles and in no case shall be less than 60 degrees.

9. New intersections along one side on an existing street shall, where possible, coincide with existing intersections. Where an offset (jog) is necessary at an intersection, the distance between centerline of the intersecting streets shall be no less than 150 feet.

10. No two streets may intersect with any other street on the same side at a distance of less than 400 feet measured from centerline to centerline of the intersecting street. When the intersected street is an arterial, the distance between intersecting streets shall be no less than 1,000 feet.

11. Block corners shall have a Right-of-Way radius of not less than 25 feet. Edge of pavement radius at intersection shall not be less than 35 feet.

B. Paving Widths

Paving widths for each street classification shall be as shown in the DeSoto County Engineering Standard Details Manual.

C. Shoulders

Shoulders, where required, shall measure at least 4 feet in width and shall be required on each side of streets and shall be located within the Right-of-Way. Shoulders shall consist of stabilized turf or other material permitted by the DeSoto County Engineering Standard Details Manual. Shoulders and/or drainage swales are required as follows:

1. All residential streets shall provide 2 shoulders. Shoulders shall be grass surfaced except in circumstances where grass cannot be expected to survive.

2. When required by the Florida Department of Transportation.

3. Collector streets where curbing is not required.

4. Arterial streets where curbing is not required.

5. Grassing shall be required in areas of Rights-of-Way not paved; storm drainage swales and Rights-of-Way; berms of drainage basins, and slopes of drainage basins to bottom of slope or to water level.

D. Acceleration, Deceleration, and Turning Lanes

1. Deceleration or turning lanes may be required by the County along existing and proposed streets as determined by a traffic impact study that may be required by the County Engineer.

2. Acceleration, deceleration and turning lanes shall be designed according to the following standards: State of Florida Manual of Uniform Minimum Standards For Design, Construction & Maintenance for Streets & Highways, prepared by FDOT.

3. Acceleration lanes are only required when indicated as needed by a traffic impact study. The design shall be as per the recommendation of the County Engineer. Where needed, a paved taper shall be provided for right hand turns.

E. Dead End Streets

Only dead end rights-of-way, one (1) lot depth in length, which will provide future access to adjacent unplatted land, will be permitted.

F. Cul-de-sacs

Right-of-way diameter to the cul-de-sac shall not be less than one hundred (100) feet.

G. Stub Streets

1. Residential access and subcollector stub streets may be permitted only within subsections of a phased development for which the proposed street in its entirety has received final site plan approval.

2. Residential collector and higher order stub streets may be permitted or required by the County provided that the future extension of the street is deemed desirable by the County or conforms to an adopted County Transportation Plan.

3. Temporary cul-de-sacs shall be provided for all stub streets providing access to five or more lots or housing units.

H. Driveways

1. Driveways to be created or altered within the right-of-way of any DeSoto County Road System shall be constructed in accordance with the requirements set forth in the LDR

2. Permit Required - Applications for driveway permits are available at the Department of Development. The requirements and procedures for driveway construction are contained in Article 14 and the DeSoto County Engineering Standard Details Manual.

I. Clear Visibility Triangle

In order to provide a clear view of intersecting streets to the motorist, there shall be a triangular area of clear visibility formed by 2 intersecting streets or the intersection of a driveway and a street. The following standards shall be met:

1. Nothing shall be erected, placed, parked, planted, or allowed to grow within the clear visibility triangle, in such a manner as to materially impede vision between a height of 2 feet and 10 feet above the grade, measured at the centerline of the intersection.

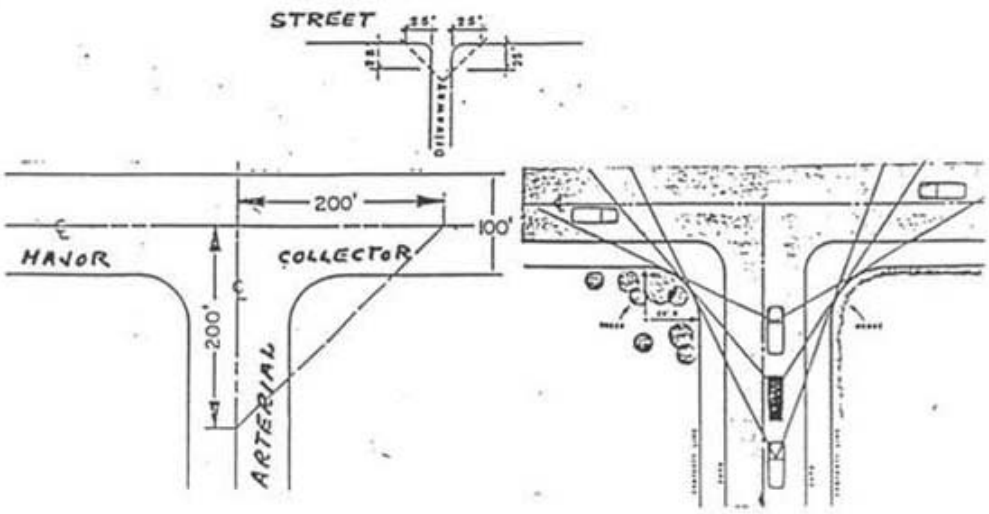
2. The clear visibility triangle shall be formed by connecting a point on each street center line, to be located at the distance from the intersection of the street center lines indicated below, and a third line connecting the two points (see below).

3. Intersections of driveways with streets (see below) shall be provided beginning at the intersection of the driveway edge with rounded, thence along the street straight line across the property to a point on the edge of the driveway 25 feet from the point of beginning. Where driveways are curved or intersect with the street at other than right angles, a visibility triangle shall be provided giving equivalent visibility to drivers of cars on and entering the street. The visibility triangle shall be provided on each side of a driveway.

CLEAR VISIBILITY TRIANGLE
MINIMUM DISTANCES REQUIRED

Road Classification	Distance From Street Center Line Intersection
Local Street	100 Feet
Minor Collector	160 Feet
Major Collector	100 Feet
Arterial	200 Feet

DRIVEWAY CLEAR VISIBILITY TRIANGLE STREET



J. Signage and Signalization

The developer shall erect all necessary roadway signs and traffic signalization as may be required by the County, based upon County or state traffic standards. At least two street name signs shall be placed at each four-way street intersection,

and one at each "T" intersection. Signs shall be installed under light standards and free of visual obstruction. The design of street name signs shall be consistent, of a style appropriate to the community, and of a uniform size and color. Dead end signs shall be erected at the beginning intersection of all discontinuous streets.

K. Blocks

1. Where a tract of land is bounded by streets forming a block, the block shall have sufficient width to provide for 2 tiers of lots of appropriate depths.

2. The lengths, widths, and shapes of blocks shall be consistent with adjacent areas. Block length may be exceeded when adjacent to restored or artificial features such as lakes, rivers, and golf courses.

Section 7206 Access

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

A. Number of Access Points

1. All projects shall have access to a public right-of-way. The number of access points shall be as follows:

Type of Development	Number of * Access Points	Preferred Type of Access
Residential, 1-50 units	1	Residential or Minor collector
Residential, 51 & over units	2	Minor Collector
Non-Residential, less than 300 required parking spaces	1	Collector
Non-Residential, 300 – 999 required parking spaces	2	Major Collector or Arterial
Non-Residential, 1,000+ required parking spaces	2 or more	Major Collector or Arterial

*Under unusual situations additional access points may be approved by the Planning Commission.

2. Notwithstanding the provisions above:

a. A non-residential development or a multifamily residential development on a corner lot may be allowed 2 points of access. However, no more than one (1) access shall be onto each arterial.

b. Schools may have one additional access, provided that the additional access drive is limited to school bus use only.

B. Separation Between Access Points and Between Access Points and Intersections

1. The minimum separation between access points onto arterial and collector roadways, or between an access point and an intersection of an arterial or collector with another road, shall be as shown in the following table:

Functional Class of Roadway	**Separation Between Access Points**
Major Arterial	300 Feet
Minor Arterial	250 Feet
Major Collector	185 Feet
Minor Collector	140 Feet

2. The distance between access points or between an access point and an intersection of an arterial or collector with another road shall be measured from the centerline of the proposed driveway or roadway to the centerline of the nearest adjacent roadway or driveway.

C. Frontage On Parallel Access Roads and Driveways

1. Parallel access shall be provided to all lots platted with frontage on State Highways or County Highways. The access may be provided by an approved dedicated Right-of-Way or by an access easement across the lots served by the easement. The plat shall restrict direct access to the lots from the State Highway or County Highway. The access Right-of-Way or easement may be immediately adjacent to or one tier of lots removed from the Right-of-Way of the State Highway or County Highway. The acceptability of dedicated Right-of-Way for access shall be determined in each instance as based upon consideration of resulting public safety and convenience. Driveway connections between the parallel access and the State Highway or County Highway will be limited in number and location. Parallel access is required in order to minimize direct access to State Highways and County Highways for the safety and convenience of the public. This access requirement may be met through the use of interconnecting parking lots which abut the arterial or major collector facility. The maximum number of parking lots that may be so interconnected, however, is three. County Highways are C-660, C-661, C-

760, C-760A, C-761, C-763, C-769 (Kings Highway), Turner Avenue, Airport Avenue, and Hillsborough Avenue (South Arcadia Avenue).

2. Adjacent uses may share a common driveway provided that appropriate access easements are granted between or among the property owners.

D. Alternative Designs

Where natural features or spacing of existing driveways and roadways cause the forgoing access requirements to be physically infeasible, alternate designs may be approved.

E. Access To Residential Lots

1. Access to non-residential uses shall not be through an area designed, approved, or developed for residential use.

2. All lots in a proposed residential subdivision shall have frontage on and access from an existing street meeting the requirements of the LDRs.

3. Access to all lots in a proposed residential subdivision shall be by way of a residential access or residential sub-collector street.

Section 7207 Standards for Drive-up Facilities

A. Generally

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

B. Standards

1. The facilities and stacking lanes shall be located and designed to minimize turning movements in relation to the driveway access to streets and intersection.

2. The facilities and stacking lanes shall be located and designed to minimize or avoid conflicts between vehicular traffic and pedestrian areas such as sidewalks, crosswalks, or other pedestrian access ways.

3. A by-pass lane shall be provided.

4. Stacking lane distance shall be measured from the service window to the property line bordering the furthest street providing access to the facility.

5. Proposed development with a drive-up facility may have to be substantiated by an engineering report.

6. Minimum stacking lane distance shall be as follows:

   a. Financial institutions shall have a minimum distance of 200 feet. Two or more stacking lanes may be provided which together total 200 feet.

   b. All other uses shall have a minimum distance of 120 feet.

7. Alleys or driveways in or abutting areas designed, approved, or developed for residential use shall not be used for circulation of traffic for drive-up facilities.

8. Where turns are required in the exit lane, the minimum distance from any drive-up station to the beginning point of the curve shall be 34 feet. The minimum inside turning radius shall be 25 feet.

9. Construction of stacking lanes shall conform to the specifications as set forth in the LDR.

Section 7300 OFF-STREET PARKING AND LOADING

The intent of this section is to provide the minimum off-street parking and loading standards to avoid undue congestion and/or overflow to adjacent properties or roads, as well as to provide good traffic movement and avoid conflicts between vehicles and pedestrians.

In all districts every structure or land use that is constructed, enlarged, increased in density or intensity shall provide the minimum off-street parking spaces in accordance with the requirements in this Section. Uses existing on the effective date of the LDRs that do not conform may be continued, but shall not enlarge their structure and/or increase their density or intensify their use until they comply with these requirements.

A. General Requirements

1. Parking spaces shall not be designed to back into or use the road right-of-way.

2. Joint use or shared parking shall not be permitted between land uses to meet the minimum parking requirements, unless approved by the Development Director. A parking study justifying the joint use or shared parking arrangement shall be submitted for review.

3. Parking spaces shall be a minimum of 10 feet in width and 20 feet in length. The minimum square foot per parking space, including the space, aisles, access ways, and maneuvering areas, shall be 300 square feet. The minimum parking area shall be divided by the required parking spaces, resulting in a minimum of 300 square feet.

4. All off-street parking areas shall be designed to provide safe and convenient circulation, in accordance with commonly accepted traffic engineering practices and subject to review of the County Engineer.

B. Parking and Loading Spaces Required

Use	**Parking Spaces**	**Loading Spaces**
Single-Family/Duplex	2 per D.U.	None
Multi-Family	1.5 per D.U.	1 per 20 D.U.
Hotel/Motel	1 per unit	1 per 50 units
Health Care	0.5 per bed	1 per 30 beds
Churches	0.5 per seat	None
Public Assembly	0.5 per seat	1 per 100 seats
Office	1 per 200 Sq. Ft.	1 per 1,000 Sq. Ft.
Retail Sales	1 per 300 Sq. Ft.	1 per 10,000 Sq. Ft.
Restaurants	1 per 3 seat	1 per 1,000 Sq. Ft.
Industrial	1 per 1,000 Sq. Ft.	1 per 5,000 Sq. Ft.

Section 7400 STORMWATER MANAGEMENT

Section 7401 Relationship to Other Stormwater Management Requirements

In addition to meeting the requirements of the LDRs, the design and performance of all stormwater management systems shall comply with applicable State or Federal regulations, or rules of the Florida Department of Environmental Protection or the Southwest Florida Water Management District. In all cases the strictest of the applicable standards shall apply.

Section 7402 Exemptions

The following development activities are exempt from these stormwater management requirements, except that steps to control erosion and sedimentation must be taken for all development.

A. The construction of a single family or duplex residential dwelling unit and accessory structures.

B. Any development within a subdivision if each of the following conditions have been met:

1. Stormwater management provisions for the subdivision were previously approved and remain valid as part of a final plat or development plan; and

2. The development is conducted in accordance with the stormwater management provisions submitted with the final plat or development plan.

C. Bona fide agricultural activity which has a permit or is exempt from permitting from SWFWMD or FDEP.

D. Maintenance activity that does not change or affect the quality, rate, volume or location of stormwater flows on the site or of stormwater runoff.

E. Action taken under emergency conditions to prevent imminent harm or danger to persons, or to protect property from imminent fire, violent storms, hurricanes or other hazards. A report of the emergency action shall be made to the Department of Development as soon as practical.

F. Any development for which stormwater management permits are required by Federal, State, or Southwest Florida Water Management District regulations to the extent that such permits include review and consideration of impacts on adjacent property and/or County drainage.

Section 7403 Stormwater Protection Requirements

All Development Plans shall provide that any additional stormwater generated by improvements will not run-off on adjacent properties. The first floor elevation of principal structures located in planned subdivisions shall be located at least 18 inches above the average height of the street crown.

Section 7404 Stormwater Management Requirements

A. Performance Standards

All development must be designed, constructed and maintained to meet the following performance standards:

1. While development activity is underway and after it is completed, the characteristics of stormwater runoff shall approximate the rate, volume, quality, and timing of stormwater runoff that occurred under the site's

natural unimproved or existing state, except that the first one inch of stormwater runoff shall be treated in an off line retention system or according to other best management practices as required by the County Engineer.

2. The proposed development and development activity shall not violate the water quality standards as set forth in the applicable provisions of the Florida Administrative Code.

B. Design Standards

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

1. The design and construction of the proposed stormwater management system shall be certified as meeting the requirements of the LDR by a professional engineer registered in the State of Florida.

2. The hydrograph for the developed or redeveloped site shall not exceed the peak rate of flow and volume of runoff produced by conditions existing before development or redevelopment.

3. Channeling runoff directly into natural water bodies shall be prohibited, unless permitted by appropriate regulatory agencies. Runoff shall be routed through swales and other systems designed to increase time of concentration, decrease velocity, increase infiltration, allow suspended solids to settle, and otherwise remove pollutants.

4. The area of land disturbed by development shall be as small as practicable. Those areas which are not to be disturbed shall be protected by an adequate barrier from construction activity. Whenever possible, natural vegetation shall be retained and protected.

5. No grading, cutting, or filling shall be commenced until erosion and sedimentation control devices have been installed between the disturbed area and water bodies, water courses, and wetlands.

6. Land which has been cleared for development and upon which construction has not been commenced shall be protected from erosion by appropriate techniques designed to revegetate the area.

7. The system shall be designed so that sediment shall be retained on the site of the development.

8. Wetlands and other water bodies shall not be used as sediment traps.

9. Erosion and sedimentation facilities shall receive regular maintenance to insure that they continue to function properly.

10. Artificial water courses shall be designed, considering soil type and side bank stabilization, so that the velocity flow is low enough to prevent erosion.

11. Vegetated buffer strips shall be provided or, where practicable, retained in their natural state along the banks of all water courses, water bodies, or wetlands.

12. Intermittent water courses, such as swales, should be vegetated except where flows exceed 5 feet per second, then they shall be concreted, or otherwise sufficiently stabilized.

13. The runoff shall be retained or detained on site in accordance with the applicable SWFWMD rules.

14. Runoff from streets and parking lots shall be treated to reduce the quantity of oil and sediment entering receiving waters.

15. The banks of detention and retention areas shall slope at a gentle grade into the waters in accordance with the applicable SWFWMD rules as a safeguard against drowning, personal injury or other accidents, to encourage the growth of vegetation and to allow the alternate flooding and exposure of areas along the shore as water levels periodically rise and fall.

16. The use of drainage detention and retention facilities and vegetated buffer zones as open space, recreation, and conservation areas shall be encouraged.

17. The developer shall be responsible for obtaining any necessary permits for the stormwater management system required by local, State, of Federal agencies.

Section 7405 Dedication or Maintenance of Stormwater Management Systems

The County may maintain the Stormwater System only in subdivisions where there are single ownerships of lots and where the roads are dedicated to and accepted by the County. In all other developments, the developers or owners shall maintain the Stormwater System.

Section 7500 LANDSCAPING

Section 7501 Intent

The intent of this section is to provide for required landscaping in certain developments for the purpose of enhancing the appearance of developed areas of the County. Buffers provide spacing and vegetative barriers that reduce potentially adverse impacts such as noise, odor, light or appearance. Landscaping is required in off-street parking areas in order to promote safe and efficient use of the facilities.

This section contains standards for required buffers between adjacent uses, landscape requirements for off-street parking areas, and general maintenance requirements that apply to all landscaped areas.

Section 7502 General Landscape Requirements

All proposed landscaping shall meet the following minimum requirements:

A. Preservation and protection of existing native species of plant material is strongly encouraged. Existing native species and natural cover should be retained wherever possible. The use of drought resistant plants and horticultural methods are encouraged.

B. Where it is not possible to retain existing natural ground cover, landscaping areas shall be seeded and/or sodded, or provided with other acceptable ground cover.

C. Installation of all plant materials shall conform to standard acceptable horticultural practice.

D. Where berms or mounds are used within a landscaped area, slopes shall not exceed 30 degrees and shall be completely covered with vegetation.

E. Maintenance of all landscaped areas shall be the responsibility of the property owner.

F. Landscaping materials shall meet the requirements of the Clear Visibility Triangle provided for in the LDRs.

G. The following trees and shrubs are recommended for use in all landscaped areas:

TREES		
Mature Size	**Common Name**	**Scientific Name**
M*	River Birch	Betula nigra
M	Weeping Elm	Ulmus parvifolia
M*	Blue beech (hornbeam)	Carpinus caroliniana
S	Bottlebrush	Callistemon rigidus
M*	Southern red cedar	Junipprus silicicola
M*	Cherry laurel	Prunus caroliniana
S	Crape myrtle	Lagerstroemia indica
L	Camphor tree	Cinnamomum camphora
L*	Bald cypress	Taxodium distichum
S*	Flowering dogwood	Cornus florida
M*	Florida elm	Ulmus americana var. floridana
L*	Winged elm	Ulmus alata
M	Golden rain tree	Koelreuteria elegans
M*	"East Palatka" holly	Ilex opaca "East Palatka"
M*	American holly	Ilex opaca
M*	Dahoon holly	Ilex cassine
M*	Loblolly bay	Gordonia lasianthus
L*	Southern magnolia	Magnolia grandiflora
L*	Red maple	Acer rubrum
L*	Water oak	Quercus nigra
S*	Wax myrtle	Myrica cerifera
L*	Laurel oak	Quercus laurifolia
L*	Live oak	Quercus viriniana
M*	Cabbage palm	Sabal palmetto
M	Pindo palm	Butia capitata
L*	Washington palm	Washingtonia robusta
L*	North Fl. slash pine	Pinus elliotii var. elliotii
M*	Redbud	Cercis canadensis
L*	Sweet Gum	Liquidambar styraciflua
L*	Sycamore	Platanus occidentalis
M*	Sweetbay magnolia	Magnolia virginiana
S	Ligustrum	Ligustrum lucidium
L*	Red oak	Quercus shummardii
L	Willow oak	Quercus phellos
M*	Queen palm	Arecastrum romamzoffianum

* - Indigenous
S - Small Mature Size - up to 20 feet in height
M - Medium Mature Size - 20 feet to 60 feet in height
L - Large Mature Size - 60 feet to 100 feet in height

SHRUBS	
Common Name	**Scientific Name**
India hybrid azalea	Rhododendron sp.
Kurume hybrid az	Rhododendron sp.
Cherry laurel*	Prunus caroliniana
Crape myrtle	Lagerstoemia indica
Elaeagnus, silverberry	Elaeagnus pungerns
Ink gallberry*	Ilex glabra
Japanese privet	Ligustrum sinensis
Camellia	Camellia japonica
Chinese holly	Ilex cornuta
Burford holly	Ilex cornuta "burfordii"
"Schelling" holly	Ilex vomitoria "schelling"
Yaupon holly*	Ilex vomitoria
Anise*	Illicium sp.
Junipers	Juniperus sp.
Nandina	Nandina domestica
Native azalea*	Rhododendron viscosum
Pampas grass	Cordateria selloana
Photina (red-tip)	Photina sp.

The following harmful nuisance trees shall be excluded from any landscaping plan:

Common Name	**Scientific Name**
Brazilian Pepper	Schinus teregbinthifolius
Australian Pine	Casuarina equisetifolia
Punk Tree	Melaleuca leucadendron

Section 7503 Required Buffers

A buffer is a specified land area together with its planting and landscaping requirements. A buffer may also contain a barrier such as a fence, wall, hedge, or berm where such additional screening is necessary to achieve the desired degree of buffering between adjacent uses.

Section 7504 Determination of Buffer Requirements

Buffers shall be required for all new development and redevelopment on lands in DeSoto County. The Buffer Matrix describes the type of buffer required as determined by the type of proposed use and the type of use which is designated, approved, or existing on lands adjacent to the proposed project. In order to determine the type of buffer required, the following procedures shall be followed:

A. Identify the type of use for the proposed project.

B. Identify the type of use for all properties abutting the proposed project and based upon designated, approved, or developed use of the property.

C. Where an abutting property has a lawful nonconforming use of less intensity than the allowable use of the property, buffering shall be based upon the allowable use.

D. Refer to the Buffer Matrix for buffer requirements on each property boundary or portion thereof and select the desired buffer option for the specified type of buffer from those shown in Figures 7-4 through 7-7 of the LDR.

BUFFER MATRIX							
ADJACENT LAND USE							
Proposed Use	**Agricultural**	**Single Duplex**	**Multi Family**	**Residential Office Institutional**	**Commercial**	**Industrial**	**Extractive**
AGRICULTURAL	NA	NA	NA	NA	NA	NA	NA
RESIDENTIAL*	A	B	A	C	B	D	D
COMMERCIAL	NA	B	B	A	NA	B	D
INDUSTRIAL	B	D	D	B	B	NA	D
EXTRACTIVE	D	D	D	D	D	D	NA

* Multi-family developments, mobile home developments, subdivisions, but not undivided single family or duplex.

Section 7505 Types of Buffers

Unless specified elsewhere in the LDRs, any buffer yard shown for a type of buffer (A, B, C, or D; Figures 7-4 through 7-7) shall satisfy the buffer requirement. Trees in buffers of more than 10 feet may be small, medium, or large (as described above) provided, however, at least one-half of the required trees shall be large.

Section 7506 Use and Location of Buffers

A. Areas set aside as required buffers may also be used as follows:

1. Satisfaction of minimum setback requirements, if any.

2. Satisfaction of minimum open space requirements, if any.

3. May contain stormwater retention or detention areas, so long as the required buffer plantings are provided and the design and landscaping of the buffer does not interfere with proper functioning of the drainage

system and the design water depth does not harm the viability of the plantings.

4. Passive recreation such as pedestrian, bicycle, or equestrian trails subject to the following limitations:

   a. The total width of the buffer is maintained.

   b. All other requirements of the LDR are met.

5. Installation of underground utilities, so long as the location and use of the utility lines does not interfere with required buffer plantings.

B. The following uses shall not be allowed in a required buffer: play fields, stables, swimming pools, tennis courts, or similar active recreational uses; storage facilities, or parking facilities.

C. General location and design requirements:

1. Buffers shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line.

2. Buffers shall not be located on any portion of an existing, dedicated, proposed right-of-way, road easement, or private street.

3. Where an existing utility easement is partially or wholly within a required buffer, the developer should design the buffer to eliminate or minimize plantings within the easement. Such design may necessitate choosing a buffer with more land area and fewer required plantings.

4. Where a proposed development is a mixed use project, buffers shall not be required between various constituent parts except that any nonresidential use shall be separated from residential use by the minimum required buffer. It is the intent to allow flexibility of design within the confines of a mixed use development, but to nevertheless require buffering of a proposed residential portion of the project from potential negative impact of a proposed nonresidential portion of the project.

5. Except for property zoned IH or IL, buffers may be reduced in height or density in order to avoid obstructing the view from the right of way of commercial, professional, retail or other similar uses, or of equipment, produce or other commercial or retail products displayed outside of such businesses or offices.

Section 7507 Alternative Buffer Proposals

An applicant may submit a detailed alternative plan and specifications for landscaping and screening to the Board of County Commissioners for review and approval.

The Board of County Commissioners may approve the alternative buffering and screening proposal, in writing, upon finding the proposal will afford a degree of buffering and screening, in terms of height, opacity and separation, that is suitable to the property and its surroundings, or equivalent to or exceeding that provided by the above requirements.

Section 7508 Off-Street Parking Areas

All off-street parking areas, except single-family and duplex structures, shall meet the following landscape requirements:

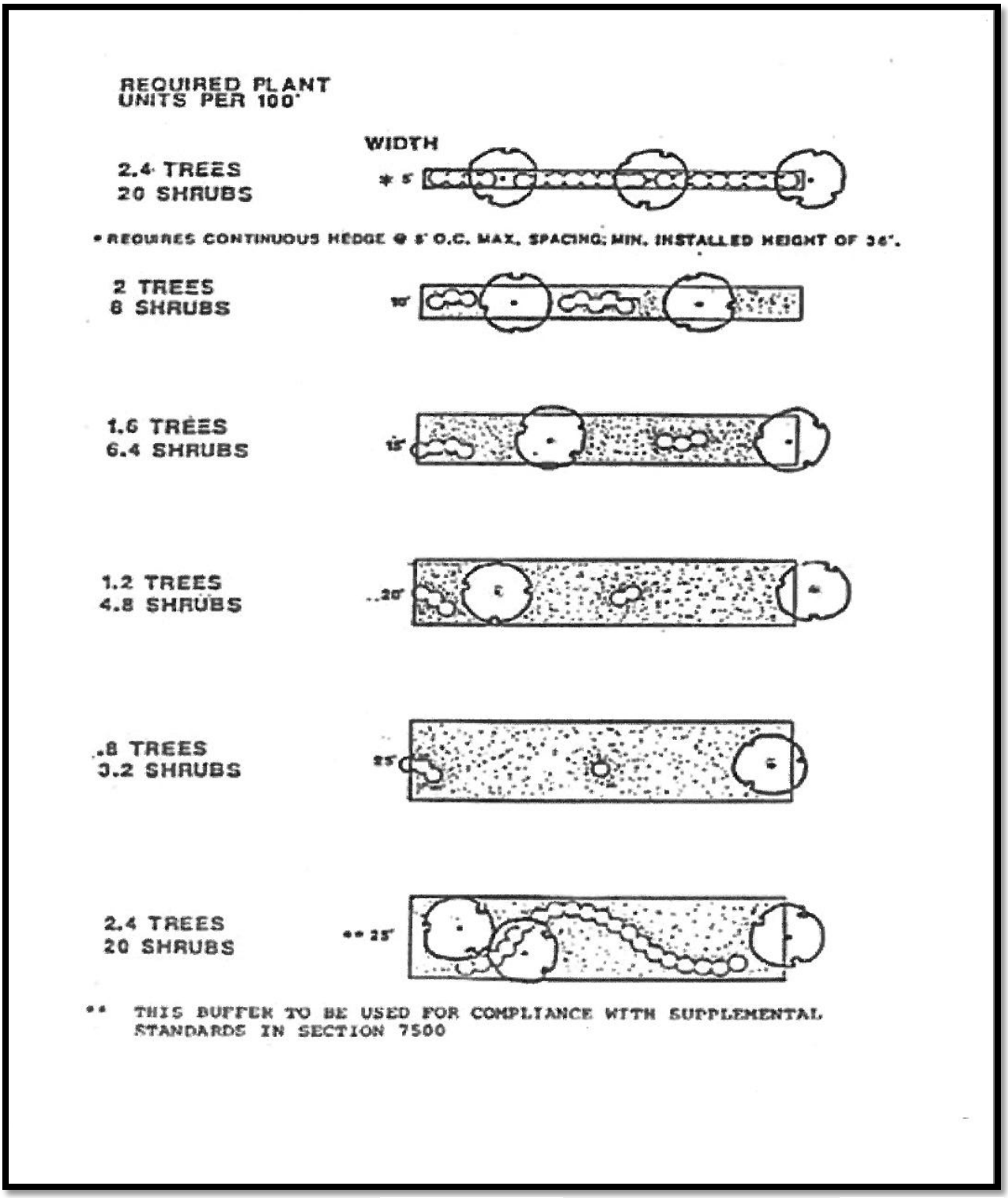
A. A permit shall be required for development or redevelopment of any off-street parking area to serve an existing use. Such permit is required when the parking area is redeveloped separately from the existing use, or is not part of a development order application process.

B. An off-street parking area that abuts a public right-of-way shall include a landscaped strip on the perimeter of the parking area adjacent to the right-of-way. This landscaped strip shall be the same as Buffer "A" as provided for in Figure 7-4; provided, however, that except for property zoned IH or IL, such buffer may be reduced in height to avoid obstructing the view from the right of way of commercial, professional, retail or other similar uses, or of equipment, produce or other commercial or retail products displayed outside of such businesses or offices.

C. Off-street parking areas that abut an area designated, approved, or developed for residential use shall provide a landscaped strip along the perimeter of the parking area adjacent to the residential area. This landscaped strip shall be the same as Buffer “B” provided for in Figure 7-5 of the LDRs.

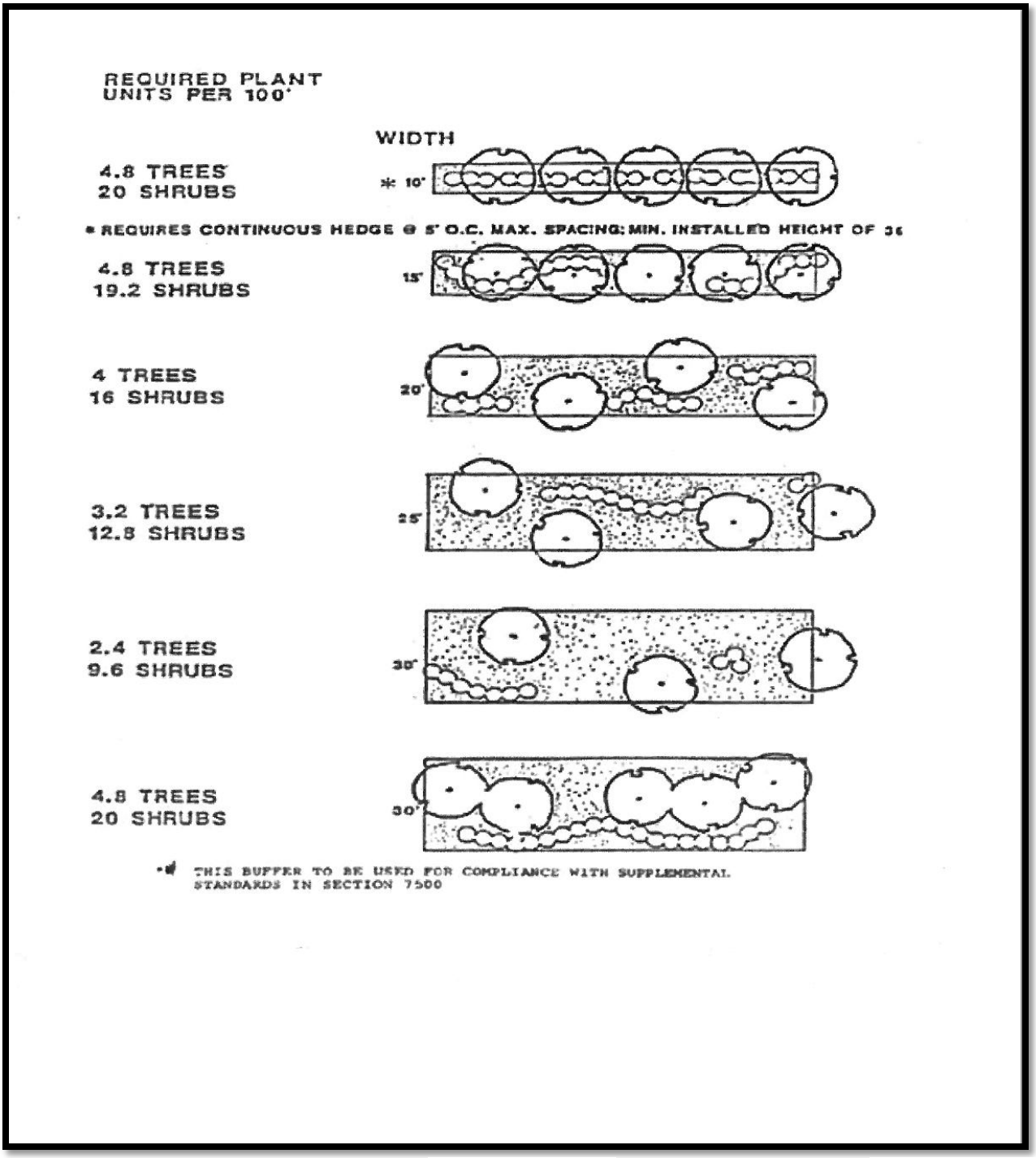
D. All landscaped areas required in this section shall be protected from encroachment by a barrier such as curbs, wheel stops, or similar devices.

E. All parking spaces adjacent to any structures shall be separated from that structure by a minimum five-foot buffer.



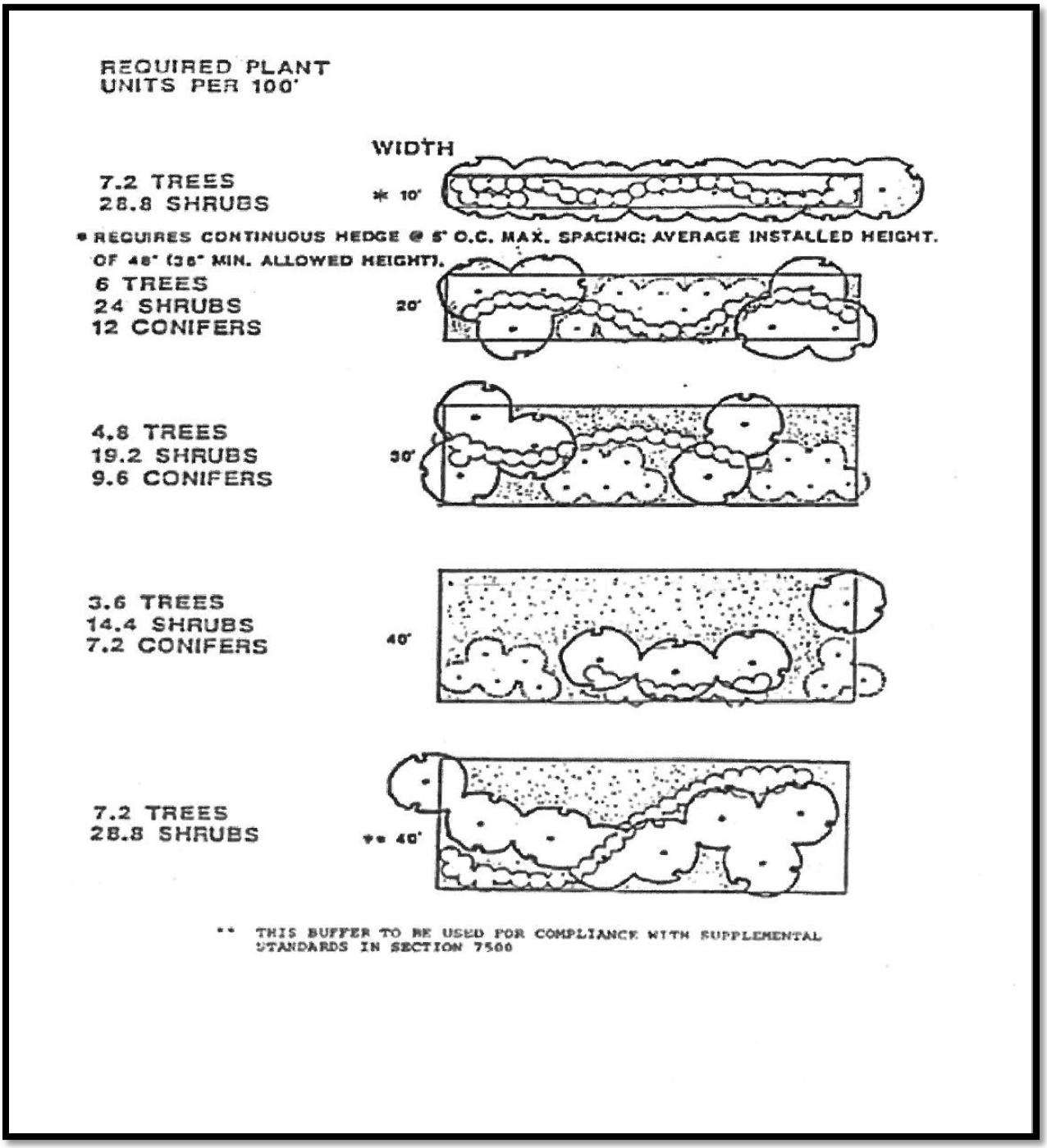
BUFFER A

Figure 7 - 4



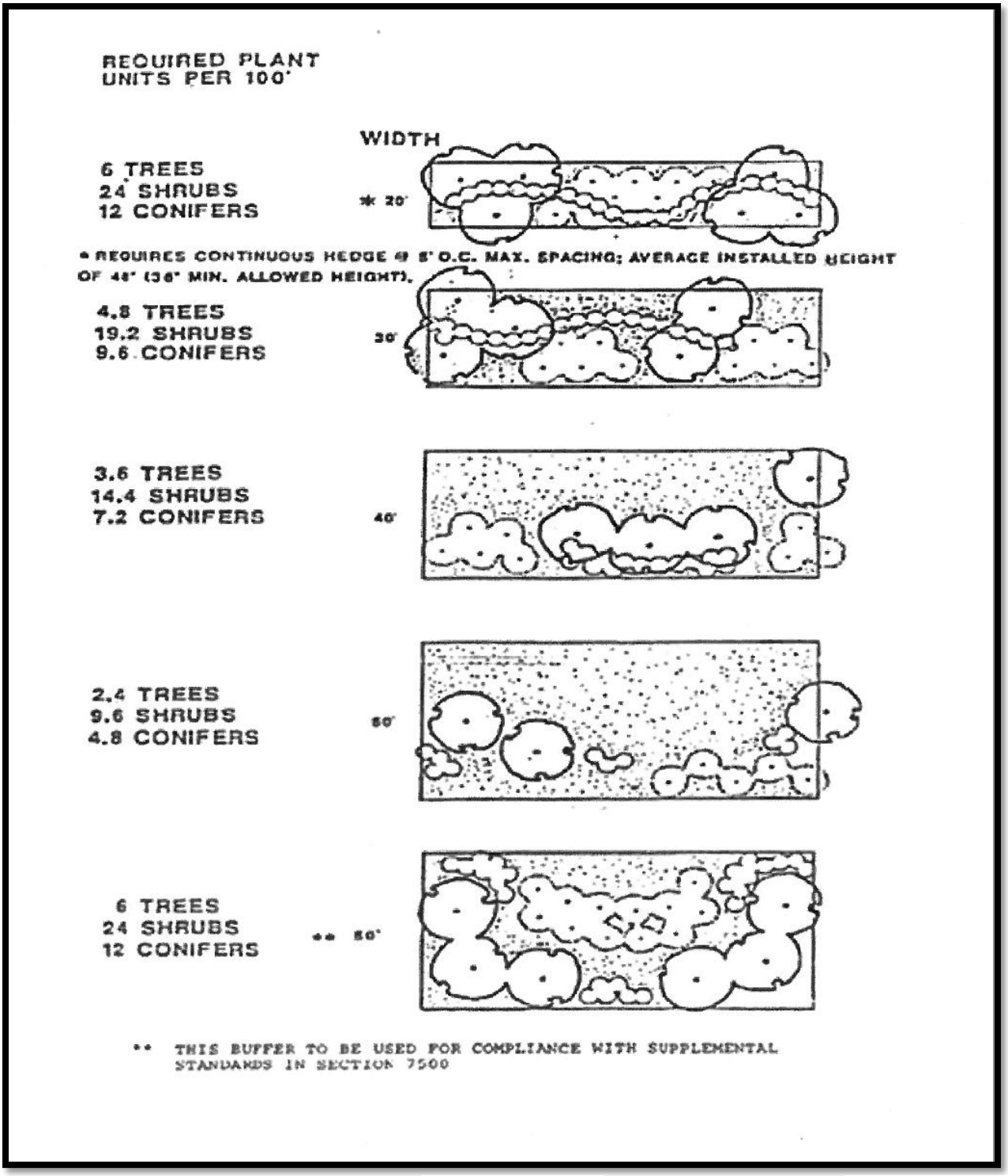
BUFFER B

Figure 7 - 5



BUFFER C

Figure 7 - 6



BUFFER D

Figure 7 - 7

ARTICLE 8 ACCESSORY USES, TEMPORARY USES, NONCONFORMITIES AND ADDITIONAL REQUIREMENTS

Section 8000 ACCESSORY STRUCTURES AND USES 8-2

Section 8001 General Standards and Requirements 8-2

Section 8002 Storage Buildings, Utility Buildings, Greenhouses 8-3

Section 8003 Swimming Pools, Hot Tubs, and Similar Structures

(Amended March 22, 2010 Ord. 2010-16) 8-3

Section 8004 Fences and Walls 8-3

Section 8005 Guest House (or Cottage) 8-4

Section 8006 Accessory Dwelling Units 8-5

Section 8007 Home Occupations 8-6

Section 8008 Dining Rooms, Recreation Centers, and Other Amenities 8-7

Section 8009 Agricultural Support Housing 8-8

Section 8010 Industrial Support Housing 8-8

Section 8100 CEMETERIES 8-9

Section 8200 JUNKYARDS 8-9

Section 8300 TEMPORARY USES 8-10

Section 8400 NONCONFORMITIES 8-15

Section 8401 Purpose and Intent 8-15

Section 8402 Non-Conforming Lots of Record 8-15

Section 8403 Requirements for Designation as a Lot of Record

(Pre-requisites to qualify for issuance of a Building Permit) 8-15

Section 8404 Non-Conforming Uses 8-18

Section 8405 Non-Conforming Structures and Uses of Structures

(Amended Aug 25, 2009 Ord 2009-25) 8-18

Section 8406 Special Provisions For Specific Nonconformities 8-19

Section 8407 Nonconforming Vehicle Use Areas 8-20

Section 8410 Nonconformities Resulting from Eminent Domain 8-21

ARTICLE 8 ACCESSORY USES, TEMPORARY USES, NONCONFORMITIES AND ADDITIONAL REQUIREMENTS

Section 8000 ACCESSORY STRUCTURES AND USES

Section 8001 General Standards and Requirements

A. Accessory structures are permitted, as specified in the applicable zoning district regulations, provided that the following requirements are met:

1. There shall be a permitted principal development on the parcel, located in full compliance with all standards and requirements of the LDR.

2. All accessory structures shall comply with standards pertaining to the principal use, unless exempted or superseded elsewhere in the LDR.

3. Accessory structures shall not be located in a required buffer, landscape area, or minimum building setback area, unless otherwise stated in the LDR.

4. Accessory structures shall be included in all calculations of impervious surface and stormwater runoff.

5. Accessory structures shall be shown on plans required for development approval

B. An accessory structure shall not be permitted if it would result in the expansion of a nonconformity.

C. Permits for accessory structures shall be issued in accordance with the following regulations:

1. No permit for an accessory structure may be issued unless there is an existing principal structure on the property or unless the permits are issued concurrently.

2. An accessory structure attached or connected to a principal structure shall be deemed to be an addition to such structure and subject to the setbacks for the principal structure.

3. An accessory structure shall be located on the same lot as the principal structure or, if multiple contiguous lots are used as a single building site, those lots shall be considered as one lot.

Section 8002 Storage Buildings, Utility Buildings, Greenhouses

A. No accessory buildings used for industrial storage of hazardous, incendiary, noxious, or dangerous materials shall be located nearer than 100 feet from any property line.

B. Storage buildings, greenhouses, and the like shall be permitted only in compliance with standards for distance between buildings, and setbacks, if any, from property lines, unless otherwise stated elsewhere in the LDR.

C. Storage and other buildings regulated by this section shall be permitted only in side and rear yards, and shall not encroach into the front yard building setback area, except for pump sheds.

D. Storage and other buildings regulated by this section shall be included in calculations for impervious surface, floor area ratio, or any other site design requirements applying to the principal use of the lot.

E. Vehicles, including manufactured housing and mobile homes, shall not be used as storage buildings, utility buildings, or other such uses, except for bonafide agricultural uses.

Section 8003 Swimming Pools, Hot Tubs, and Similar Structures

A. Swimming pools more than 24 inches in depth shall not encroach into any required yard setback area.

B. Enclosures for pools shall be considered a part of the principal structure and shall comply with standards for minimum distance between buildings, setback requirements, and other building location requirements of the LDR and when attached to the principal structure, shall be considered a part of the principal structure.

C. No overhead electric power lines shall pass over any pool unless enclosed in conduit and rigidly supported, nor shall any power line be nearer than 10 feet horizontally or vertically from the pool's water edge.

D. All new swimming pools more than 24 inches in depth, spas and hot tubs shall comply with the Florida Building Code and the Residential Swimming Pool Safety Act (Chapter 515, F. S.).

Section 8004 Fences and Walls

A. All fences and walls to be built shall comply with the Florida Building Code. Fences, walls or hedges may be located in any district in all front, side and rear yards.

B. Except in agricultural, commercial and industrial zoning districts, no fences, walls or hedges may exceed 4 feet in height when placed in the front setback and no fence, wall or hedge located in the side and rear yard setbacks may exceed the height of 8 feet.

C. In areas where the property faces 2 roadways or is located in any other area construed to be a corner lot, no fence, wall or hedge shall be located in the vision triangle.

D. A fence or wall required for safety and protection of hazard by another public agency may not be subject to height limitations above. Approval to exceed height standards may be given by the Director of Development upon receipt of satisfactory evidence of the need to exceed height standards.

E. No fence, wall or hedge shall be constructed or installed in such a manner as to interfere with drainage on or adjacent the site.

F. The design and construction material of fences and walls shall be in keeping with neighborhood appearance and the use of the property.

Section 8005 Guest House (or Cottage)

A. Location

If stated in the zoning district regulations, one guest house per residential lot is permitted in provided the following requirements are met:

1. The guest house is accessory to a principal single-family detached dwelling;

2. The guest house complies with all setback requirements for accessory structures;

3. The guest house is physically separated from the principal structure;

4. The lot is at least 43,560 square feet;

5. There is a minimum separation between structures of 10 feet; and

6. The guest house is no larger than 50% of the principal structure.

Section 8006 Accessory Dwelling Units

A. Purpose

The purpose of this section is to provide for inexpensive housing units to meet the needs of households, making housing available to persons who might otherwise have difficulty finding homes. This section is also intended to protect the property values and residential character of neighborhoods where accessory dwelling units are located. No more than one accessory dwelling unit, including guest houses, may be permitted on any property.

B. Accessory Apartments

Accessory apartments may be allowed in single-family homes provided that all of the following requirements are met:

1. No more than one (1) accessory apartment shall be permitted on any residential lot.

2. Any accessory apartment shall be located within the principal structure or connected by a breezeway, roofed passage, or similar structure.

3. An accessory apartment shall not exceed 25% of the gross floor area of the principal structure within which it is located.

4. An accessory apartment shall be located and designed so not to interfere with the appearance of the principal structure as a one-family dwelling unit.

5. No variations, adjustments, or waivers to the requirements of the LDR shall be allowed in order to accommodate an accessory apartment.

C. Garage Apartment

1. A garage apartment is a dwelling unit located in an accessory building where a portion of the building contains a dwelling unit for one family only, and the enclosed space for at least one automobile is attached to such dwelling unit.

2. The living space of the garage apartment shall be no more than 25% of the principal single-family dwelling unit located on the lot.

3. A garage apartment shall be permitted as accessory to single-family units only.

Section 8007 Home Occupations

A. Purpose

The purpose of this section is to permit the occupation or profession conducted by members of a family residing on the premises and conducted entirely within the dwelling. Home occupations are limited to those uses which may be conducted within a residential dwelling without in any way changing the appearance or condition of the residence. These provisions are also intended to guard against change in neighborhood character, nuisance to neighbors, and to ensure equal protection.

B. Consideration by the Development Director

The following criteria shall be employed by the Development Director to determine a valid home occupation.

1. No employment of help other than the members of the resident family.

2. No use of material or equipment not recognized as being part of the normal practices in the residential district.

3. No direct sales of products or merchandise from the home.

4. The use shall not generate pedestrian or vehicular traffic beyond those normal to the residential district.

5. The use of a commercial vehicle for delivery of materials to or from the premises owned by the home occupation permit holder

6. Only one (1) nameplate shall be allowed. It may display the name of the occupant and/or the name of the home occupation (i.e. John Jones, Artist). It shall not exceed one (1) square foot in area, shall be non-illuminated, and attached flat to the main structure or visible through a window. The limitation to one nameplate is intended to apply to all lots, including corner lots.

7. No more than 25% of a dwelling shall be utilized for the home occupation.

8. No outside area shall be used for Home Occupation purpose or storage.

9. In no way shall the appearance of the structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use

of colors, materials, construction, lighting, signs, or the emission of sounds, noises, vibrations.

10. There shall be no use of utilities or community facilities beyond that normal to the use of the property for residential purposes.

11. Where deemed appropriate and feasible by the Development Director, one additional parking space shall be provided to accommodate the Home Occupation.

Section 8008 Dining Rooms, Recreation Centers, and Other Amenities

A. Generally

Residential and non-residential development projects may provide amenities for the exclusive use of the employees and/or residents of the project. Such amenities shall be allowed only as provided below.

B. Dining Rooms, Cafeterias, Snack Shops, and Similar Uses.

A development may provide a central dining facility to serve the employees and/or residents of the project subject to the following restrictions:

1. The facility shall not be open to the general public.

2. There shall be no off-site signs advertising the presence of the facility.

C. Community Centers and Recreation Centers

A development may provide a central facility to provide a meeting place and indoor recreation opportunities for residents subject to the following restrictions:

1. Such facilities shall not include health clubs, gyms, and the like, offering services to the general public.

2. Parking to serve the building shall be provided as required by Article 7 of the LDR.

3. There shall be no identification signs, other than directional signs pursuant to Article 9 of the LDR.

D. Employee Fitness Centers

Non-residential development projects may provide a fitness or exercise center for the use of employees subject to the following restrictions:

1. Such facilities shall not be open to the general public.

2. There shall be no signs, other than directional or occupant signs, identifying the facility.

Section 8009 Agricultural Support Housing

A. Agricultural Support Housing, including Mobile Homes or Manufactured Homes for farm, grove, or ranch labor is permitted in specified zoning districts, provided that such housing shall not be located within 250 feet of any other property under separate ownership and the land has a greenbelt classification.

B. One Mobile Home or Manufactured Home is permitted for Agricultural Support Housing on a parcel of land no smaller than 40 acres occupied by a family supporting the Agricultural operation.

C. Permanent housing is permitted provided that the following development standards are met:

1. Minimum parcel area: 40 acres

2. Maximum density: 5 units per acre

3. Minimum distance between buildings: 20 feet

4. Maximum occupancy per dwelling unit: 8 persons

5. Minimum off-street parking: 2 spaces per unit

Section 8010 Industrial Support Housing

A. Industrial Support Housing, including Mobile Homes or Manufactured Homes for security guards, watchmen, caretakers or other employees of an on-premises operation whose work requires residence on the premises is permitted in specified zoning districts.

B. One Mobile Home or Manufactured Home is permitted for Industrial Support Housing on a parcel of land no smaller than 5 acres.

C. Permanent housing is permitted provided that the following development standards are met:

1. Minimum parcel area: 5 acres

2. Maximum dwelling units per parcel: 2

3. Minimum distance between buildings: 20 feet

4. Maximum occupancy per dwelling unit: 2 persons

5. Minimum off- street parking: 2 spaces per unit

Section 8100 CEMETERIES

A. General

Cemeteries are permitted only as accessory to Religious Institutions or Places of Worship. Establishment of new cemeteries as a principal use is not permitted. Existing cemeteries are authorized to continue as a legal, nonconforming use and subject to applicable regulations regarding that status. As an accessory use, the following development standards apply:

1. Located on parcels no smaller than one (1) acre in size, including lots of record.

2. Meet minimum lot width as required of RSF1 zoning district.

B. Cemeteries as part of, in conjunction with or associated with a Religious Institution or Place of Worship, shall be reviewed pursuant to regulations for "Place of Worship" and shall be required to be part of any application for approval. Existing Places of Worship may submit application to amend an existing Special Exception approval to include cemetery as an accessory use on or adjacent to their property.

C. All outside regulations (State and/or Federal) shall be adhered to and are the responsibility of the property owner and cemetery operator. This section is not intended to replace or repeal any outside agency requirements or laws governing the development and/or operation of cemeteries.

Section 8200 JUNKYARDS

A. Storage of Materials

1. Material that is not salvageable shall not be permitted to accumulate, except in bins or containers, and shall be disposed of in an approved sanitary landfill.

2. In no case shall material that is not salvageable be buried or used as fill.

3. Recyclable material which cannot be stored in bins or containers may be stored in the open.

4. Junkyard operators shall be responsible for compliance with all applicable Federal and State regulations pertaining to the handling, storage, and disposal of tires, waste fluids permitted on site.

5. In any open storage area, it shall be prohibited to keep any ice box, refrigerator, deep-freeze locker, clothes washer, clothes dryer, or similar airtight unit having an interior storage capacity of 1½ cubic feet or more from which the door has not been removed.

B. Screening

All junkyards shall comply with the following screening requirements:

1. All outdoor storage facilities shall be surrounded by a substantial continuous opaque masonry, wooden or metal fence (not including chain link fences) or a wall, any of which shall be a minimum of 8 feet in height.

2. Gates at entrance or exit shall be of a material without openings.

3. The screen shall be constructed of the same type of material throughout.

4. No screen shall be constructed of metal that will rust.

5. Screens shall be maintained and in good repair at all times.

C. Buffer in Lieu of Screening

Where an outdoor storage facility does not abut a public street or highway, a vegetative buffer may be permitted in lieu of screening. A Buffer "D" as described in Section 7500 of the LDR shall be required.

Section 8300 TEMPORARY USES

A. General

1. Certain uses are temporary in character. They vary in type and degree, as well as in length of time involved. Such uses may have little impact on surrounding and nearby properties or they may present serious questions involving potential incompatibility of the temporary use with existing and projected permitted or permissible uses. The intent is to classify temporary uses and to provide for permitting, administration and control of such uses according to the several classifications set out below.

2. Applicants for the temporary use permit shall submit a completed application and plans to the Development Director indicating the area in which the temporary use permit is to be located, the nature of the use and activities requested and time period requested. Other information may be required for the application as described in the temporary use classifications below.

3. The Director of Development may grant or deny a Temporary Use Permit, and in addition, may also require conditions and safeguards including, but not limited to, the following:

   a. Traffic safety measures;

   b. Additional parking requirements;

   c. Limited activity hours.

   d. Additional landscaping for temporary permit area.

   e. Additional on-premise safeguards, which may include, but not be limited to watchman, fencing and lighting.

   f. Sanitary measures.

4. The developer may request an extension of the Temporary Use Permit and shall provide the reason for extension and the time required. The Director may extend the permit, on a year-to-year basis for the development life of the project. If the temporary use is not discontinued upon expiration of the permit, it shall be deemed a violation of the LDR and may be subject to penalties.

B. Real Estate Development

1. In the case of real estate development projects in any district, the developer may request a Temporary Use Permit for a period not to exceed 12 months to allow promotional, storage and fabrication activities which are needed during construction and sale of the project. The following uses may be allowed under the terms of such a temporary permit:

   a. Temporary on-premises real estate sales offices.

   b. Equipment and construction materials storage, processing and fabrication facilities.

c. Temporary office space for persons engaged in the development.

d. Temporary signs in conformity with all current sign regulations.

e. Mobile radio or television equipment and antenna.

f. Temporary mobile home as office or storage, but not for residency other than for a watchman or caretaker.

g. Temporary structures and equipment for road building, public utility construction and public government projects.

h. Model Homes.

i. Other temporary uses comparable in nature to those listed above.

C. Temporary Occupancy of Mobile Home, Recreational Vehicle or Accessory Structure at Residential Construction Site

1. A Mobile Home, accessory structure, or recreational vehicle may be permitted to locate on a residential construction site as a temporary use while a permanent principal structure is under construction. The Development Director may issue a temporary permit after a development permit is issued for the principal uses.

2. The duration of a temporary permit shall not exceed one year, or extend beyond the expiration date of the development permit, or completion of the principal structure(s). No temporary use permit shall be issued prior to the installation of water, sewage treatment, and electrical services.

3. The Mobile Home shall be removed from the property within 10 days and the recreational vehicle or accessory structure shall be vacated upon issuance of the certificate of occupancy of the principal structure(s).

D. Temporary Sales, Sports, Religious, and Community Events

1. The Development Director may grant a non-renewable one-month permit for special events upon property properly zoned and developed for such use and events as seasonal products sales, sales of motor vehicles by dealers permanently licensed pursuant to Chapter 320, Florida Statutes for location within Desoto County, sporting events, car-washes and other promotional or fund-raising events. Such permits may include the placement of temporary signs, merchandise, temporary structures and equipment, and temporary mobile home as an office, not for residency. If

the temporary use is not discontinued on expiration of the permit, it shall be deemed a violation of the LDR and may be subject to penalties.

2. Garage or yard sales are permitted in any district two times per year, not to exceed three (3) days for each sale period. No application fee is required for a garage sale or yard sale.

E. Medical Hardship

1. For the purpose of this subsection, "Medical Hardship" shall be used to refer to a situation in which the application of the LDR would cause unique hardship and delays.

2. In the case of a medical hardship, the applicant may request a Medical Hardship Permit to locate and occupy a Mobile Home, Travel Trailer, or Recreational Vehicle for a period not to exceed 12 months.

3. Applicants for the Medical Hardship Permit shall submit plans to the Development Director indicating, on an appropriately scaled and notated site plan, the area in which the Mobile Home, Travel Trailer, or Recreational Vehicle is to be located, including all separation distances and setback measurements, the nature of the use, time period requested, and shall submit the following:

   a. A property owner's statement describing the need; identifying the person requiring the health care and the person to provide care; and relationship of the persons.

   b. A certificate of need and necessity from a medical doctor, describing the medical problem, and offering a professional opinion of the need, shall be filed in support of the application.

4. Mobile home must be a minimum of 12 feet wide, but not greater than 14 feet wide and will require the same permits and facilities as a permanent installation.

5. The property must be large enough for installation of the mobile home, travel trailer, or recreational vehicle in compliance with all primary principal structure setback and building separation requirements of the zoning district.

6. If the use is not discontinued upon expiration of the permit, it shall be deemed a violation of the LDR, and may be subject to penalties. Upon termination of the permit, if the applicant desires to continue, another application may be made in the same manner as the original application.

The burden is upon the applicant to file for an extension prior to expiration.

7. The mobile home, travel trailer, or recreational vehicle must be removed from the property within 90 days after the expiration of the Medical Hardship Permit.

F. Temporary agriculture support uses, roadside produce stands, and temporary wholesale produce transfer stations.

1. Temporary agriculture support uses, roadside produce stands and temporary wholesale produce transfer stations may be permitted through the Temporary Use Permit process for up to 4 months. Other aspects of the LDRs still apply including but not limited to:

a. Installation of a commercial/bi-directional driveway and culvert. Existing driveways will be inspected for compliance. An approved right-of-way permit shall be posted during any work.

b. Compliance with setbacks of the applicable zoning district.

c. A development plan of sufficient scale that shows proposed uses and/or structures.

2. All facilities must be temporary and no permanent structures, impervious surfaces, or site improvements may be permitted under this Temporary Use Permit process.

3. Permanent structures may only be permitted through the regular development review process.

G. Agricultural Education Opportunity

A Temporary Use Permit may be issued to allow for temporary breeding and care of animals and temporary placement of agriculture structures, in association with 4-H or Future Farmers of America (FFA) programs, and which are monitored and administered by local or regional offices. An applicant for a Temporary Use Permit under this section must submit the following:

1. Documentation indicating membership in an identified program.

2. Documentation indicating the duration of time specified animals and temporary agriculture support structures are to be housed on the property.

3. Notarized letter of support from adjacent property. Authorization shall only be granted by the Board of County Commissioners through a review as a regular agenda item.

H. Other temporary uses or activities, with appropriate safeguards and conditions, as determined by the Development Director.

Section 8400 NONCONFORMITIES

Section 8401 Purpose and Intent

A. There may exist lots, structures, uses of land or water, and characteristics of use which were lawful before the LDRs were adopted or amended, but which would be prohibited, regulated or restricted under the terms of the current LDRs or future amendments. It is the intent of the LDRs to permit these nonconformities to continue until they are removed but not to encourage their survival. It is further the intent of the LDRs that nonconformities shall not be enlarged upon, expanded, intensified, or extended, except as specifically provided by this Article, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

B. Nonconforming uses and structures are declared to be incompatible with permitted uses in the districts involved.

C. To avoid undue hardship, nothing in the LDRs shall be deemed to require a change in the plans, construction, or designated use of any structure or land on which actual construction was lawfully begun prior to the effective date of the LDRs and upon which actual construction has been started and carried on without interruption, except for just cause. Such plans, construction, or use shall be deemed vested. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation, demolition, or removal shall be deemed to be actual construction, provided that work shall be carried on without interruption, except for just cause, until the completion of the new construction involved.

Section 8402 Nonconforming Lots of Record

In any zoning district, any permitted or permissible structure may be erected, expanded, or altered on any lot of record. The development standards shall be as for the most similar district to which the lot of record most closely conforms in area.

Section 8403 Requirements for Designation as a Lot of Record (Pre-requisites to qualify for issuance of a Building Permit)

A. Parcels less than 2 ½ acres in size:

A building permit shall be issued on a parcel of land less than 2½ acres in size if:

1. The parcel of land is indicated on a recorded plat either independently or as a combination of lots or tracts and portions of adjacent lots or tracts.

2. It can be conclusively demonstrated that title to, or contract for deed for, the parcel of land was recorded in its same configuration prior to March 1, 1982.

3. The parcel of land resulted from the division into four (4) or fewer parcels of a parent tract of land the deed in which, or contract for deed for, was recorded prior to March 1, 1982. The parent tract of land shall not be a part of a recorded or unrecorded plat.

B. A building permit shall be issued for any size parcel of land if one of the following conditions are satisfied:

1. The parcel of land has frontage on either:

a. A Right-of-Way of the State Road System, or

b. A perpetual easement recorded prior to March 1, 1982, which connects the parcel of land with any of the various other types of Rights-of-Way described in (a),(e),(g) or (h)(3) of this subsection, or

c. An exclusive and perpetual easement, approved by the Board, which is no less than sixty (60) feet in width, unless a lesser width is approved, and which connects the parcel of land with any of the various types of Rights-of-Way described in (a),(e),(g), or (h)(1) or (h)(3) of this subsection and which is recorded after March 1, 1982.

d. Private platted easements within the 25 year flood plain as permitted by Board or

e. A Right-of-Way claimed by maintenance under the provisions of Section 95.361, Florida Statutes, or

f. An easement or Right-of-Way for access entered by order of a Court of competent jurisdiction, or

g. A Right-of-Way the deed for which is accepted by vote of the Board.

h. A Right-of-Way shown on a recorded plat, or on a recognized unrecorded plat, where there is acceptable evidence of either formal or an implied offer to dedicate the Right-of-Way and where acceptance of such offer is evidenced by one of the following:

(1) Acceptance by formal action of the Board of County Commissioners;

(2) Acceptance evidenced by continued open and notorious vehicular use by the public;

(3) Acceptance evidenced by the expenditure of public funds for construction or maintenance;

i. A road for which there is no formal Right-of-Way but where there is evidence that a public prescriptive use is established. Recognition of such roads for building permit purposes shall require the following:

(1) Evidence available to the Director of Development that the road has been open and available for continuous public use for a period of twenty years prior to application for the building permit, or

(2) Two (2) notarized and recordable affidavits executed by separate parties each of which contain the following information:

(a) The location and approximate width of the subject road;

(b) the parcels of land through which the road passes;

(c) the parcel of land served by the road on which the building permit will be requested;

(d) statement that for a period of not less than twenty years from the date of affidavit road has been in continuous open and notorious use providing access to the parcel of land on which the building permit will be requested;

(e) age of affiant;

(f) number of years affiant has resided in DeSoto County, Florida; and

(g) address of affiant.

Section 8404 Nonconforming Uses

Where, at the effective date of adoption of the LDRs, lawful use of lands or waters exists which would not be permitted under the LDRs, the use may be continued, provided that:

A. No nonconforming use shall be enlarged, intensified, or extended to occupy a greater area of land or water than was occupied at the effective date or relevant amendment to the LDRs.

B. No nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date or relevant amendment to the LDRs.

C. If any nonconforming use ceases for any reason (except when governmental action impedes access to the premises) for a period of more than ninety (90) consecutive days, except as otherwise determined by the Board for good cause shown, any subsequent use of land shall conform to the LDRs.

Section 8405 Nonconforming Structures and Uses of Structures

Where an existing structure could not be built under the LDRs by reason of restrictions on lot area, lot coverage, height, yards, location on the lot, or requirements other than use concerning the structure, such structure may be continued, subject to the following provisions:

A. Nonconforming structures may not be enlarged or altered in a way which increases their nonconformity, but may be altered to decrease their nonconformity.

B. Any structure, or structure and premises in combination, in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use shall not thereafter be resumed nor shall any other nonconforming use be permitted.

C. If any nonconforming use of a structure, or structure and premises in combination, is abandoned, discontinued, or ceases for any reason (except when governmental action impedes access to the premises) for a period of 12 (twelve) consecutive

months, the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

D. Where a nonconforming structure is destroyed or removed to the extent of more than 50% of the structure as determined by the Development Director, the structure shall thereafter conform to the LDRs.

E. If a nonconforming structure or portion of a structure, or any structure containing a nonconforming use, becomes physically unsafe or unlawful due to lack of repairs or maintenance, and is declared by the duly authorized official of DeSoto County to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuild except in conformity with the LDRs.

F. Any use which is approved by Special Exception shall not be deemed a nonconforming use.

G. A nonconforming use may be changed to a different nonconforming use in accordance with the provisions of Section 11203 C.

Section 8406 Special Provisions For Specific Nonconformities

A. Nonconformity with the Stormwater Management Requirements of the LDRs.

An existing development that does not comply with the stormwater management requirements of the LDRs must be brought into full compliance when the use of the development is intensified, resulting in an increase in stormwater runoff or added concentration of pollution in the runoff.

B. Nonconformity with the Parking and Loading Requirements of the LDRs.

Full compliance with the LDRs shall be required when the seating capacity or any other factor controlling the number of parking or loading spaces required by the LDRs is increased by 10% or more.

C. Nonconforming Signs

1. Defined

Any sign within DeSoto County on the effective date of the LDRs which is prohibited by, or does not conform to the requirements of, the LDRs is nonconforming.

2. Continuation of Nonconforming Signs

A nonconforming sign may be continued and shall be maintained in good condition as required by the LDR, but it shall not be:

a. Structurally changed to another nonconforming sign, but its pictorial content may be changed.

b. Altered in any manner that increases the degree of nonconformity.

c. Expanded.

d. Re-established after damage or destruction if the estimated cost of reconstruction exceeds 50% of the appraised replacement cost as determined by the Development Director.

e. Continued in use when a conforming sign or sign structure is erected on the same parcel or unit.

f. Continued in use when the structure is demolished or requires renovations the cost of which exceeds 50% of the assessed value of the structure.

g. Continued in use after the structure has been vacant for 6 months or longer.

Section 8407 Nonconforming Vehicle Use Areas

A. A vehicle use area is any portion of a development site used for circulation, parking, and/or display of motorized vehicles, except junk or automobile salvage yards.

B. An existing vehicle use area that does not comply with the requirements of the LDR must be brought into full compliance when 25% percent or more of the paving of the vehicle use area is replaced.

C. When the square footage of a vehicle use area is increased, compliance with the LDR is required as follows:

1. Expansion By 10% or Less

When a vehicle use area is expanded by 10% or less, only the expansion area must be brought into compliance with the LDR.

2. Expansion By More Than 10%

When a vehicle use area is expanded by more than 10%, the entire vehicle use area shall be brought into compliance with the LDR.

3. Repeated Expansions

Repeated expansions, or resurfacing or replacement of paving, of a vehicle use area over a period of time commencing with the effective date of the LDR shall be combined in determining whether the above threshold has been reached.

D. Any vehicle use area in existence on the date of enactment of the LDR which must be brought into conformity with the LDR, and which has more than the number of parking spaces required by the LDR, shall be treated as follows:

1. The area shall be reconfigured to comply with requirements in the LDR.

2. If, after the reconfiguration, a paved area or areas that are not needed to comply with the requirements of the LDR remain, the developer may do any one or combination of the following:

a. Conform the area(s) to comply with the LDR and continue to use them for parking.

b. Remove the paving and use as grassed overflow parking, as additional landscaped transitional one, or for any other purpose consistent with the LDRs and approved by the Development Director.

Section 8410 Nonconformities Resulting from Eminent Domain

A. If, as a result of a governmental taking, either by negotiation or condemnation, existing lots, parcels, or structure become nonconforming, the following provisions shall apply:

1. Existing buildings or site characteristics which become nonconforming or increase in nonconformity as a result of a taking, including but not limited to minimum lot size, setbacks, open space, off-street parking, landscape requirements, signs, and stormwater management, may be granted a waiver of LDR requirements by the Development Director. Any further expansion or enlargement of a nonconformity shall be in accordance with all LDR requirements.

2. In granting any waiver to the LDRs, the Development Director shall:

a. Determine that the requested waiver will not adversely affect visual, safety, aesthetic or environmental concerns of neighboring properties;

b. Determine that the requested waiver does not adversely affect the safety of pedestrians or operators and passengers of motor vehicles; and

c. Preserve required off-street parking requirements to the greatest extent practicable. The reconfiguration, reduction, or removal of landscape or open space requirements may be considered to preserve off-street parking.

3. Any alteration, repairs, or rehabilitation work necessitated by a governmental taking may be made to any existing structure, building, electrical, gas, mechanical or plumbing system without requiring the entire building, structure, plumbing, electrical, mechanical or gas system to comply with all the current requirements provided that the work conforms to the requirements of the applicable codes for new construction.

4. The condemning authority or the property owner may apply for waiver or variances necessary to replace the structure or site improvements affected by the eminent domain action.

5. Nothing in this section precludes the owner or the condemning authority from applying for a variance to the appropriate board where a waiver is denied or is not applicable.

B. This section shall not be used as a basis for granting a waiver or variance for a nonconforming use.

ARTICLE 9 SIGN STANDARDS

Section 9000 PURPOSE AND INTENT 9-2

Section 9100 GENERAL PROVISIONS 9-3
Section 9101 Relationship to Building and Electrical Codes 9-3
Section 9102 Permit Required 9-3
Section 9103 Maintenance 9-3

Section 9200 MEASUREMENT DETERMINATIONS 9-3
Section 9201 Distance Between Signs 9-3
Section 9202 Freestanding (Ground) and Projecting Signs: Sign Area 9-3
Section 9203 Window Signs: Sign Area 9-4
Section 9204 Canopy Signs: Sign Area 9-4
Section 9205 Wall Sign/Building Mounted: Sign Area 9-4
Section 9206 Other Signs: Sign Area 9-4
Section 9207 Sign Height 9-4
Section 9208 Number of Signs 9-4

Section 9300 EXEMPT SIGNS 9-5

Section 9400 PROHIBITED SIGNS 9-7

Section 9500 PERMITTED SIGNS 9-8
Section 9501 General Location and Design Standards 9-8
Section 9502 Temporary Signs/Portable Signs 9-9
Section 9503 Signs in Residential Areas 9-11
Section 9504 Signs in Commercial and Industrial Zoning Districts 9-12
Section 9505 Off-Site Signs 9-14
Section 9506 Off-Site Directional Signs 9-15

Section 9600 CONTRACTOR, SUB-CONTRACTOR OR BUSINESS ORGANIZATION IDENTIFICATION SIGNS 9-15
Section 9601 Required Signs 9-15

ARTICLE 9 SIGN STANDARDS

Section 9000 PURPOSE AND INTENT

A. This Article is intended to be construed and applied in harmony with Chapter 479, F.S., which regulates outdoor advertising, in a manner that accommodates both the need for a well maintained, safe, and attractive community and for effective business identification, advertising, and communication. The intent is to authorize the use of signs which are:

1. Compatible with their surroundings.

2. Designed, constructed, installed and maintained in a manner that does not endanger public safety.

3. Appropriate to the type of activity to which they pertain.

4. Large enough to convey sufficient information about the owners or occupants, the products or services available, or the activities conducted on the property and small enough to protect the character of the County.

5. Reflective of the identity and creativity of individual owners or occupants.

B. The standards and regulations are designed to protect the County against:

1. Unlimited proliferation in number and location of off-site and on-site signs, including mobile signs.

2. Construction and placement of oversized, unsightly, animated, and other aesthetically unpleasant signs that dominate and detract from the surrounding visual environment.

3. Commercial and other signs being placed in residential or rural neighborhoods which commercialize and clutter such neighborhoods for residents and travelers.

4. Signs being constructed and placed without first obtaining proper permits as well as permission of the owner of the property on which the signs are placed.

5. Signs failing to be properly maintained once erected and placed.

6. Signs placed dangerously in or near street intersections and rights-of-way so as to pose actual or potential hazards to traffic and pedestrians.

Section 9100 GENERAL PROVISIONS

Section 9101 Relationship to Building and Electrical Codes

These regulations are intended to complement requirements of the building and electrical codes adopted by DeSoto County. The more stringent requirement shall apply.

Section 9102 Permit Required

All signs, except signs exempt under Section 9300, shall require a sign permit.

Section 9103 Maintenance

All signs for which a permit is required by the LDR including their supports, braces, guys and anchors, electrical parts and lighting fixtures and display areas shall be maintained in accordance with the building and electrical codes adopted by DeSoto County.

Section 9200 MEASUREMENT DETERMINATIONS

Section 9201 Distance Between Signs

The minimum required distance between signs shall be measured along street rights-of-way from the leading edge of any two signs.

Section 9202 Freestanding (Ground) and Projecting Signs: Sign Area

A. The sign area is a regular geometric shape that contains the area within a single continuous perimeter. The sign area encloses the extreme limits of writing, representation, emblem, or any figure of similar character together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed. This excludes the necessary supports or uprights on which the sign is placed. Where a sign has two (2) display faces, placed back to back and at no point more than two (2) feet from one another, the area of the sign shall be taken as the area of one face if the two faces are of equal area or as the area of the larger face if the two faces are of unequal area. Where a sign has more than one display face, all areas that can be viewed simultaneously shall be considered as the sign area.

B. In the case of three dimensional product displays, the area shall be determined by drawing a geometric figure around the projected image of the sign. The "projected image" is that image created by tracing the largest possible two dimensional outline of the sign.

Section 9203 Window Signs: Sign Area

The area of any sign painted directly on a window shall be the area within a continuous geometric figure formed by extending lines around the extreme limits or writing, representation, or any figure of similar character depicted on the surface of the window.

Section 9204 Canopy Signs: Sign Area

The area of signs applied directly to the fabric of a canopy shall be the total of all signs on all faces of the structure. All sign copy of each face shall be computed within one geometric figure formed by extending lines around the extreme limits of writing, representation, or any figure or similar character depicted on the surface of the face of the canopy.

Section 9205 Wall Sign/Building Mounted: Sign Area

The area of any sign painted or affixed on a wall shall be the area within a continuous geometric figure formed by extending lines around the extreme limits of writing or affixation, representation, or any figure of similar character depicted on the surface of the wall.

Section 9206 Other Signs: Sign Area

In the case of a sign (other than freestanding, projecting, or canopy) whose message is fabricated together with a background that borders or frames the message, the sign face area shall be the total area of the entire background.

In the case of a sign (other than freestanding, projecting, or marquee) whose message is applied to a background with no border or frame, the sign face area shall be the smallest regular geometric shape that can encompass all words, letters, figures, emblems, and other elements of the sign message.

Section 9207 Sign Height

The vertical distance from the finished grade at the base of the supporting structure to the top of the sign or its frame or supporting structure, whichever is higher, depending on construction material.

Section 9208 Number of Signs

For the purpose of determining the number of signs, a sign shall be construed to be a single display surface, effect, or device containing elements organized, related and composed to form a single unit. In cases where material is displayed in a random or unconnected manner or where there is a reasonable doubt as to the intended relationship of such components, each unrelated component or element shall be considered to be a

single sign. Where a sign has two faces placed back to back and at no point more than two feet from one another, it shall be counted as one sign. If a sign has four faces arranged in a square, rectangle, or diamond it shall be counted as two signs.

Section 9300 EXEMPT SIGNS

In addition to those signs identified in Section 479.16, F.S., for which permits are not required, the following types of signs are exempt from permit requirements, provided that each sign is placed and constructed so as not to create a hazard, is not electrified, and provided that the location requirements of Section 9501 of the LDR are met:

A. Signs necessary to promote health, safety and welfare and other regulatory, statutory, traffic control, or directional signs erected on public property with permission as appropriate from the State of Florida, the United States (i.e., government signs), or DeSoto County.

B. Public utility signs that identify the location of underground utility lines and facilities, high voltage lines and facilities, and other utility facilities and appurtenances.

C. Decorative flags and bunting for a celebration, convention, or commemoration of significance for the entire community when authorized by the County for a prescribed period of time.

D. Memorial signs or tablets that name buildings and dates of erection when cut into any masonry surface or when constructed of bronze or other noncombustible materials and attached to the surface of a building.

E. Signs incorporated into machinery or equipment by a manufacturer or distributor which identify or advertise only the product or service dispensed by the machine or equipment, such as signs customarily affixed to vending machines, newspaper trucks, telephone booths, and gasoline pumps.

F. Advertising and identifying signs located on taxicabs, buses, trailers, trucks, or vehicle bumpers provided such sign does not violate Section 9400 of the LDR.

G. Warning signs may be permitted provided that they do not exceed two square feet and are located within the property lines. Warning signs may include, but shall not be limited to: "No Trespassing", "Beware of Dog", "No Dumping", "No Loitering", and "No Parking" signs. Signs intended for the purpose of meeting the definition of posted lands as defined in Section 810.011 (5) (a), F.S., are not subject to separation requirements.

H. Signs in residential areas may be allowed for occupant identification if the sign designates the occupant or a lawful home occupation.

I. Where a house of worship, academic school, public assembly facility, or hospital/emergency room is located on a local street, one or more directional signs may be allowed.

1. A directional sign shall not be located in the public right-of-way.

2. A directional sign shall not exceed three square feet in area.

3. One sign shall be allowed for each arterial or collector providing access; however, a total of no more than three signs shall be allowed for each qualifying use.

J. Legal notices and official instruments.

K. Holiday lights and decorations.

L. Signs carried by a person and not set on or affixed to the ground.

M. On-site religious displays.

N. Signs that are not visible from any street or adjoining property.

O. Signs announcing the candidacy of any person or persons for elective public office, provided that:

1. The total area of any such sign proposed to be located in a residential district shall not exceed thirty-two (32) square feet in area and shall be located at least five feet from all property lines.

2. All such signs relating to any individual who is unsuccessful in the primary election shall be removed within seven days following such primary.

3. All other political signs shall be removed within seven days following the date of the general election.

P. Special events signs, to be removed within seven days after the event.

Q. For sale, rent or lease signs, or "Open House" signs by owner or agent.

1. One residential sign not to exceed six square feet per residential lot.

2. One nonresidential sign not to exceed 32 square feet per residential lot.

3. Sign removed seven days after title transfer.

R. Time, temperature, date signs.

S. Traditional barber poles.

T. Residential name plates (soft and muted light) (see Section 9300-H of the LDR).

U. Street address signs (soft and muted light)

V. Signs placed pursuant to Section 337.407, F.S. (Signs and Lights in the Right-of-Way.)

W. Traffic control signs.

X. Signs erected, used or maintained on a farm by the owner or lessee of such farm and relating solely to farm produce, merchandise, service, or equipment sold, produced, manufactured or furnished on such farm as provided in Section 479.16(2), F.S.

Section 9400 PROHIBITED SIGNS

The following signs are expressly prohibited:

A. Signs which are in violation of the building code or electrical code adopted by DeSoto County.

B. Signs or sign structures that interfere in any way with free use of any fire escape, emergency exit, standpipe, or which obstruct any window to such an extent that light or ventilation is reduced to a point below that required by any provision of the LDR or other ordinance of the County.

C. Signs which resemble any official sign or marker erected by any governmental agency or which 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 which may be reasonably confused with or construed as or conceal a traffic control device.

D. Signs which obstruct the vision of pedestrians, cyclists, or motorists while using roadway.

E. Signs that are of such intensity or brilliance so as to cause glare or impair the vision of any motorist, cyclist, or pedestrian or which are a hazard or a nuisance to occupants of any property because of glare or other characteristics.

F. Illuminated signs in any residential area except residential name plates and street address signs that are illuminated by soft and muted light.

G. Signs placed upon benches, bus shelters, or waste receptacles in the Public Rights-of-Way that do not comply with Sections 337.407 or 337.408, F.S.

H. Signs made of any material whatsoever and attached in any way to a utility pole, tree, fence post, stake, stick, or any other similar object located or situated on public or private property except as otherwise expressly allowed by, or exempted from this section.

I. Signs erected on public property, including rights-of-way, other than signs erected by public authority for public purposes, in violation of Section 337.407, F.S., Signs and Lights Within Rights-of-Way.

J. Signs on any vehicle with a total sign area in excess of 10 square feet when the vehicle is:

1. Parked for more than 60 consecutive minutes within 25 feet of any street right-of-way.

2. Within 25 feet of and visible from a street right-of-way.

3. Not used in the conduct of the business advertised on the vehicle. A vehicle used primarily for advertising or for the purpose of providing transportation for owners or employees of the occupancy advertised on the vehicle shall not be considered to be a vehicle used in conduct of the business. The vehicle must be licensed and in operable condition.

K. Signs which are painted, pasted, or printed on any curbstone, pavement, or any portion of any sidewalk or street except house numbers and traffic control signs.

L. Portable signs, except when permitted as a temporary sign as stated in Section 9502 of the LDR.

M. Search lights, except as approved by the Board of County Commissioners.

Section 9500 PERMITTED SIGNS

Section 9501 General Location and Design Standards

The following requirements shall apply to all signs permitted in DeSoto County.

A. No sign shall be erected at the intersection of any streets, highways, or driveways in such a manner so as to obstruct free and clear vision of operators of motor vehicles.

B. Illumination used in connecting with any permitted sign shall be located and installed in such a manner that it will not result in a nuisance as a result of direct undue glare upon a public street or upon any adjacent property.

C. Signs and supporting structures shall not exceed a height of 35 feet above grade as measured at the base of the sign at natural grade.

D. All signs and illumination thereof shall be designed, constructed, and maintained in conformity with applicable provisions of the building and electrical codes adopted by DeSoto County.

E. The following illumination standards shall apply to all signs:

1. Only white light is permitted within 500 feet of residential areas. Colored lights are permitted in other areas except that the lights may not be designed or located so as to cause confusion with traffic lights (see Section 9400 D and F).

2. Floodlight illumination is permissible except that none of the light emitted may shine directly onto an adjoining property or into the eyes of motorists or pedestrians (see Section 9400 F).

3. Searchlights shall not be permitted to illuminate signs or properties to advertise or promote a business or to attract customers to a property except as approved by the Board of County Commissioners.

4. Illuminated signs shall not have lighting reflectors that project more than 18 inches perpendicularly from any surface of the sign over public space and no projection may be less than 10 feet above a sidewalk and 15 feet above a vehicular driveway.

Section 9502 Temporary Signs/Portable Signs

Unless otherwise specified, temporary signs/portable signs shall not exceed 40 square feet and shall be removed within seven (7) days of the event being advertised. In addition to the general standards of Section 9501 of the LDR, the following standards shall be met by any temporary sign:

A. A permitted temporary sign shall be placed on private property only with the permission of the property owner and shall be located outside any required buffer, landscaping, or detention/retention area, and no closer than five feet from

a property line, and in full compliance with any and all provisions of the LDR regarding location of structures.

B. Each sign shall bear a permit card/label containing the name and telephone number of a person responsible for said sign(s), and the name and phone number of the property owner.

C. Each sign shall be in full compliance with building and electrical codes adopted by DeSoto County.

D. The maximum height shall not exceed five feet.

E. There shall not be more than two temporary signs on any one parcel.

F. Certain restrictions apply to the content or message on a temporary sign. A temporary sign shall not contain advertising except as follows:

1. To indicate that an owner, either personally or through an agent, is actively attempting to sell, rent, lease, or conduct an open house on the property on which the sign is located. No permit is required for such sign.

    a. A residential for sale, rent, lease, or open house sign shall not exceed six square feet in size.

    b. A nonresidential for sale, rent, lease, or open house sign shall not exceed 32 square feet in size.

    c. Such signs shall be removed within seven days after the sale, rental, lease, or open house.

2. To indicate the grand opening of a business or other activity. A permit is required for such sign, which shall not exceed 32 square feet in size.

3. To identify construction in progress. Such sign shall be limited to 32 square feet in size and shall be removed when construction is completed.

4. To indicate the existence of a new business or a business in a new location if such business has no permanent signs. Such sign may be displayed for a period of not more than 60 days or until installation of permanent signs, whichever shall occur first. A permit is required for such sign which shall be limited to 40 square feet in size.

5. To announce or advertise "Yard Sale" or "Garage Sale" on the parcel where the "Sale" is to be held. Such signs shall not exceed eight square

feet in area and shall be set back from any property line a minimum of five feet.

G. The area of the sign face shall be included in any computation of total sign face area permitted on the parcel.

Section 9503 Signs in Residential Areas

Signs located in areas developed and used for residential purposes shall be limited to subdivision and multifamily development identification signs and signs for model home centers. Signs permitted in residential areas shall conform to the following requirements:

A. Residential development identification signs shall conform to the following standards:

1. Signs may be located at each principal entrance to a development up to a total of three. Signs to be at those locations involving the intersection of a subdivision or a private multifamily development street with a collector or arterial roadway.

2. Signs shall be set back at least five feet from any property line. Signs shall not exceed 32 square feet in area.

3. Signs shall not obstruct clear visibility triangles described in Section 7205 I. However, ground mounted signs not exceeding two and one-half feet in height above natural grade shall be allowed and shall not be considered to impede clear visibility.

B. Model home center signs shall conform to the following requirements:

1. A model home center shall be eligible for identification signs according to the following requirements:

a. One sign may be permitted per model home.

b. Each permitted sign shall be located on the same lot as the model home.

c. Signs shall not exceed 32 square feet in area.

d. Signs shall be set back from any property line a minimum of five feet.

e. Identification signs shall not be illuminated between 10:00 p.m. to sunrise.

2. Additional signs in residential developments may be permitted subject to the following requirements:

   a. A model home center may be permitted to have an identification sign at the entrance. The maximum sign area is 16 square feet.

   b. Up to four single-pole flags per street frontage may be permitted. Flagpoles shall be separated by a minimum distance of 20 feet. Flags shall not be illuminated between 10:00 p.m. and sunrise.

Section 9504 Signs in Commercial and Industrial Zoning Districts

A. Each parcel of land developed after the enactment of the LDR, may be permitted on-site signs subject to the following requirements:

1. Each parcel shall be allowed one freestanding sign. Each business on the parcel shall be allowed one of the following sign types: projecting, wall or marquee subject to the standards stated in this section.

2. A parcel with a minimum of one acre may be permitted a freestanding sign.

3. The maximum area per sign face for a freestanding sign shall be two square feet of sign area for each linear foot of building facing the lot front, up to the maximum requirements outlined below. The table below establishes sign face areas as a function of setback and clearance.

Sign Face In Square Feet	Minimum Setback From Right-of-Way	Clearance Requirements
0 to 96	10 Feet	8 Feet or More**
97 to 128	15 Feet	8 Feet or More**
129 to 160	20 Feet	8 Feet or More**
161 to 200	25 Feet	8 Feet or More**

**Measured from natural grade to the bottom of sign and maintained without obstruction except for structural pylon supports.

4. Directional signs such as entrance, exit, parking, and other similar information shall not exceed three square feet. Such signs may be permitted up to the property line and shall not be considered a freestanding sign for the purpose of the LDR.

5. The top of a freestanding (ground) sign constructed on steel or its functional equivalent shall not exceed 35 feet when measured from the natural grade at the sign base.

6. No freestanding sign shall be erected within the minimum buffer area.

7. Wall or projecting signs shall conform to the following requirements:

   a. Sign area shall not exceed the equivalent of one and one-half square feet for each linear foot of building width. (Building width, for the purpose of this calculation, shall be that dimension parallel to the abutting roadway).

   b. Signs shall not extend more than three feet above the intersection of the roof and the vertical wall.

   c. A wall sign shall not project beyond the top or edge of any parapet wall to which it is attached.

   d. The bottom of a projecting sign shall be a minimum of eight feet above grade.

8. Canopy signs shall conform to the following requirements:

   a. Canopy signs shall not be larger than 80% of the canopy sign face area.

   b. Canopy signs may be on the vertical faces of canopies and may project no more than 12 inches below the lower edge of the canopy. The bottom of canopy signs shall be no less than eight feet above the sidewalk or grade at any point. No part of the sign shall project above the vertical canopy face or beyond the canopy itself. This does not prohibit placement of the sign message on the sloping portion of the awning.

9. The support structure(s) for any freestanding sign shall not exceed 20% in area of the total clearance area.

10. When a parcel is developed as a shopping center, the parcel shall be allowed one secondary freestanding sign. Such signs shall not exceed 80% of the total area for the primary sign and shall be a minimum of 300 feet from the primary sign.

    a. The Board of County Commissioners may authorize local business directory signs for the purpose of providing direction to the public.

b. Wall signs shall not extend more than three feet above the intersection of the roof and the vertical wall.

c. A wall sign shall not project beyond the top or edge of any parapet wall to which it is attached.

d. The bottom of a projecting sign shall be a minimum of eight feet above grade.

Section 9505 Off-Site Signs

One sign not to exceed 382 square feet in area on any one face is permitted in the TTRVC, CG, CE, IL, and IH zoning districts subject to Section 9501, and the following:

A. Any such sign may be single-faced, doubled-faced, or v-shaped. The square footage may be increased by an additional ten percent for the purpose of enhancements and embellishments.

B. Any such permitted sign structure shall be located on a lot or parcel that is no smaller than 50 feet by 100 feet in size except for preexisting lots of record and that which is otherwise vacant.

C. Development permits may be issued for the construction of any other structure on property so occupied if the off-site sign and other structures comply with all other requirements of the LDRs.

D. No such sign structure shall be located within 100 feet of any side or rear lot line of any adjoining lot not in the CG, CE, IL, and IH districts.

E. No such structure shall exceed outside dimensions of 12 feet by 40 feet exclusive of supports.

F. All such structures shall be located in compliance with the front, side, and rear yard requirements applicable to the zoning districts in which the property is located.

G. No structure carrying advertising shall be permitted to exceed 35 feet in height, measured from the natural ground elevation.

H. Off-site signs shall be separated from each other by the following distance along the same side of a highway in areas predominately designated as follows:

Rural Major Collector	2,000 feet
Minor Arterial	1,200 feet
Principal Arterial	1,000 feet

I. Off-site signs are permitted as specified in this section only along highways described as follows: Rural major collector, minor arterial, and principal arterial as defined in the definitions section of the DeSoto County Comprehensive Plan.

J. Off-site signs advertising commercial or industrial uses shall be removed within 30 days after cessation of the business or use so advertised, provided the sign structure is not rented or leased by a commercial advertising firm.

Section 9506 Off-Site Directional Signs

Off-site directional signs to activities are permitted or permissible in the A-10 and A-5 districts, provided no such sign (a) shall exceed thirty-two (32) sq. ft. in area; (b) shall contain any matter beyond the name of the facility and the directions to it; (c) shall be closer than two thousand (2,000) feet to any other off-site sign, and (d) no business or entity shall provide more than two such signs advertising the same location within the County limits.

Section 9600 CONTRACTOR, SUB-CONTRACTOR OR BUSINESS ORGANIZATION IDENTIFICATION SIGNS

Section 9601 Required Signs

All contractors, sub-contractors, and business organizations performing work at any job site are required to post a sign, measuring 2 feet by 2 feet, identifying its name and certification number in at least two inch (2") letters. Such signs shall be made of rigid material and water proof. Such signs shall be affixed to the job site prior to commencement of work and remain until completion of same.

ARTICLE 10 ANCILLARY REGULATIONS

Section 10000 RESERVED 10-3

Section 10100 PHOSPHATE MINING AND RECLAMATION ACTIVITIES 10-3
Section 10110 General Provisions 10-3
Section 10120 Phosphate Mining Master Plan 10-5
Section 10130 Operating Permit 10-15
Section 10140 Procedures for Processing Applications 10-31
Section 10150 Enforcement 10-36

Section 10200 EXCAVATION MANAGEMENT 10-41
Section 10201 Findings 10-41
Section 10202 Definitions 10-41
Section 10203 General Provisions 10-44
Section 10210 Type I Excavation Operation Permitting Process 10-48
Section 10211 Type I Application Submittal 10-48
Section 10212 Type I Minimum Design Standards and Requirements 10-49
Section 10220 Type II, III & IV Excavation Operation Permitting Process 10-51
Section 10221 Type II, III & IV Preliminary Application Submittal 10-52
Section 10222 Type IV Bonus Excavation Areas 10-57
Section 10223 Type IV Special Exception Review Criteria 10-59
Section 10224 Type II, III & IV Construction Plan Submittal 10-59
Section 10225 Type II, III & IV Minimum Design Standards and Requirements 10-61
Section 10230 Post-Excavation Requirements (Cessation of Excavation) 10-67
Section 10240 Reporting Requirements 10-67
Section 10250 Extensions/Revisions/Transfers to Existing Excavation Permits 10-69
Section 10260 Violations, Fines, and Penalties 10-70
Section 10270 Fees 10-72
Section 10280 Miscellaneous Provisions 10-73

Section 10300 LAND SPREADING AND HAULING OF BIOSOLIDS 10-74
Section 10301 Intent 10-74
Section 10302 Definitions 10-74
Section 10310 General Provisions – Land Spreading 10-74
Section 10320 Prohibited Acts – Land Spreading 10-76
Section 10330 Land Spreading Permit 10-77
Section 10340 Reporting and Additional Data Requirements 10-79
Section 10350 Enforcement – Land Spreading 10-79
Section 10360 General Provisions – Biosolids Hauling 10-81
Section 10370 Prohibited Acts – Biosolids Hauling 10-82
Section 10380 Biosolids Hauling Permit Required 10-82
Section 10390 Biosolids Hauling Permit Issuance and Conditions 10-84

Section 10400 FLOODPLAIN MANAGEMENT 10-86
Policy Determination: Flood Plain Permitting And Approval 10-86
Section 10400.100 Chapter 1 Administration 10-88
Section 10400.101 General 10-88

Section 10400.102 Applicability 10-89
Section 10400.103 Duties and Powers of the Floodplain Administrator 10-90
Section 10400.104 Permits 10-93
Section 10400.105 Site Plans and Construction Documents 10-96
Section 10400.106 Inspections 10-98
Section 10400.107 Variances and Appeals 10-99
Section 10400.108 Violations 10-102
Section 10400.200 Chapter 2 Definitions 10-102
Section 10400.201 General 10-102
Section 10400.202 Definitions 10-103
Section 10400.300 Chapter 3 Flood Resistant Development 10-109
Section 10400.301 Buildings and Structures 10-109
Section 10400.302 Subdivisions 10-109
Section 10400.303 Site Improvements, Utilities and Limitations 10-109
Section 10400.304 Manufactured Homes 10-110
Section 10400.305 Recreational Vehicles and Park Trailers 10-112
Section 10400.306 Tanks 10-112
Section 10400.307 Other Development 10-113

ARTICLE 10 ANCILLARY REGULATIONS

Section 10000 RESERVED

Section 10100 PHOSPHATE MINING AND RECLAMATION ACTIVITIES

Section 10110 General Provisions

A. Purpose and Intent.

The purpose of the provisions of the Phosphate Mining regulations is to protect the health, safety and general welfare of the citizens of the county. These provisions are intended to:

1. Implement the goals, policies and objectives of the county comprehensive plan;

2. Ensure the orderly development of mineral resources in a manner compatible with the overall development of the county;

3. Ensure consideration of the cumulative effects of phosphate mining activities;

4. Protect and conserve natural resources and the environment for present and future generations;

5. Assure the use of best management practices and the development of technology for maximum control of the adverse effects of phosphate mining activities;

6. Ensure that phosphate mining activities and reclamation will not preclude future beneficial uses of mined-out lands;

7. Ensure that land reclamation promotes economic development and enhances recreational opportunities for the benefit of County residents and visitors;

8. Protect and preserve legally existing vested rights; and

9. To the extent necessary to give meaning an effect to this ordinance, the definitions in Article 13 of the Land Development Regulations apply to the terms used in the Phosphate Mining regulations unless the context clearly indicates otherwise.

B. Applicability.

The Phosphate Mining regulations regulate phosphate mining activities in DeSoto County and compliance with the provisions of the Phosphate Mining regulations shall satisfy all County regulatory requirements; provided, however, that Article 2 (Zoning Districts and Requirements), Article 6 (Resource Protection Standards), Sections 12702 and 12704 (Vesting of Development Rights and Procedures to Determine Vested Rights) and Section 10400 (Floodplain Management) of the Land Development Regulations shall apply to, govern, and regulate phosphate mining in the County. The provisions of the Phosphate Mining regulations shall apply to all applications for Phosphate Mining Master Plans or Operating Permits for phosphate mining activities conducted within the boundaries of DeSoto County. All requirements of the Phosphate Mining regulations shall apply to applications for amendments or transfers, whether or not such amendments or transfers apply to a Phosphate Mining Master Plan or Operating Permit issued before the effective date of Ordinance # (to come). To the extent allowed by law, the requirements of the Phosphate Mining regulations shall apply to phosphate mining activities conducted by applicants under valid Operating Permits issued before the effective date of Ordinance # 2012-06.

C. Administration.

Except as hereinafter provided, the provisions of the Phosphate Mining regulations shall be administered, implemented and enforced by the County Administrator, or his designee, who shall coordinate the activities of all appropriate County agencies concerning the processing, review, monitoring and inspection of phosphate mining activities within the boundaries of the County. Wherever the term County Administrator is used in the Phosphate Mining regulations it is meant to include his designee. The provisions of the Phosphate Mining regulations shall not limit the lawful authority of the Board or any County agency to enforce or monitor compliance with other applicable statutes, ordinances, resolutions, regulations or permit conditions. In order to ensure compliance with the Phosphate Mining Master Plan, the operating permit, and the reclamation plans for various phases, the County Administrator shall contract with or employ qualified professional engineers and scientists to inspect and review compliance with the Master Plan, the operating permit, and the progress on the various reclamation plans.

D. Review and Approval.

An applicant shall obtain separate approvals for a Phosphate Mining Master Plan and an Operating Permit from the Board prior to commencement of phosphate mining activities. An Operating Permit may not be issued until approval of a Phosphate Mining Master Plan. The Operating Permit may be issued contingent upon receipt of necessary federal, state and appropriate local development

approvals. No phosphate mining activities may be conducted within the County except those for which Phosphate Mining Master Plan and Operating Permit approvals have been issued by the Board. Where these regulations conflict or overlap with other regulations, whichever imposes the more stringent restrictions shall prevail.

E. Fee Requirements for Phosphate Mining Master Plan, Operating Permit, Annual Review, Inspection.

The Board of County Commissioners shall by resolution adopt, and may amend from time to time as deemed necessary by the Board, a fee schedule setting forth fees for review of applications for Phosphate Mining Master Plan, Operating Permits, Annual Reviews, Inspections and all other fees and cost provided for in this Ordinance. The fees established hereunder shall be sufficient to support the County's regulatory and enforcement costs under this Ordinance such that these costs will not be borne by the County's taxpayers to the greatest extent possible.

F. Waivers.

Except where the provision of the Phosphate Mining regulations expressly provide otherwise, the Board may, by express written instrument, waive any of the requirements of the Phosphate Mining regulations if the applicant demonstrates that:

1. The strict enforcement of such requirement or requirements would impose an unreasonable restriction on the use of the property.

2. Such waiver will not adversely affect the health, safety and welfare of the public.

3. Such waiver is consistent with the County's Comprehensive Plan.

In order to obtain such a waiver, the applicant shall apply in writing to the Administrator, describing the requirement sought to be waived, the environmental impacts of the requested waiver, and any proposed innovative techniques or alternative procedures. The Board's decision on the application for waiver shall be made after receiving recommendations from appropriate County departments, and after notice and public hearing. Notice of request, hearings and waivers shall also be sent to the appropriate regulatory state agencies.

Section 10120 Phosphate Mining Master Plan

A. Application for Approval.

An applicant shall submit an original and five (5) copies plus an electronic copy of a Phosphate Mining Master Plan application to the County Administrator. In preparing the Phosphate Mining Master Plan application, the applicant shall be mindful that a final decision on the Operating Permit will be based upon the information contained in the Phosphate Mining Master Plan, and the criteria for Operating Permits in Section 10120 referred to in preparing the Phosphate Mining Master Plan application.

B. Required Content.

The Phosphate Mining Master Plan shall include the following information:

1. The name, address and telephone number of the authorized agent of the applicant and, if different, of the owner of the property within the area of the Phosphate Mining Master Plan. If the applicant and/or property owner are not individual natural persons or individual business entities, the application shall fully identify each person or entity having any interest in the mining activities or ownership of the land, and shall specifically identify the nature of such interests.

2. The name, address and telephone number of the applicant's agent upon whom service of legal papers may be made and who may be contacted in case of need.

3. The legal description of all lands in or contiguous to the phosphate mine site upon which any phosphate mining activities are proposed, indicating whether owned, leased or under option by the applicant; and where ownership is not held by the applicant, a letter of agreement to mine, between the owner and applicant, shall be provided.

4. If the applicant requests to undertake construction of a beneficiation plant or water reticulation facility, the applicant shall also provide a conceptual flow diagram of beneficiation plant processes illustrating the general material flow between major equipment components, and a conceptual site plan and flow diagram showing the relationship between the beneficiation plant and water reticulation facilities.

5. The materials to be mined; estimated yearly production of ore, product and by-product; and a map of the locations of the proposed units to be mined.

6. The mining sequence of the mining units for the life of the mine shown on a year-by-year basis;

7. The schedule of mining operation and completion of each mining unit for the life of the mine shown on a year-by-year basis;

8. An abstract and interpretation of the results of exploratory drilling showing the elevation of the top and base of the ore zone, the geologic nature of the confining bed and overlying materials, and the preoperational water levels encountered in exploratory drilling (where exploratory drilling does not characterize the geologic nature of the confining bed, other available sources may be substituted);

9. A description of the beneficiation process used in the mine, including a schematic description of the process and process reagents to be used, along with their chemical composition and estimated application rate;

10. The purpose and location of any beneficiation plant, building, structure, permanent pipeline or any other nonmobile object constructed as part of the proposed phosphate mining activities;

11. The location and dimension of proposed clay settling ponds, water reticulation facilities, and other impoundments, including the heights of dams and minimum freeboard;

12. An inventory of all existing wells on the property, including locations, estimated annual extraction rates, water use and proposed disposition of wells;

13. An assessment of the impact of the proposed phosphate mining activities on surface and groundwater hydrology, including effects on peak and average stream base flow;

14. Engineering estimates certified by a registered professional engineer of the quantity, temperature, chemical and physical properties (including radiological), frequency and duration, points and methods of disposal (whether on or off the applicant's property) of discharges of water, liquid wastes, effluents, or sewage to be created. The applicant shall also specify the proposed time schedule for such disposal and estimates of the flow rates in receiving streams at the times of wastewater discharges. Such estimates shall separately and specifically identify and quantify discharges of all substances that could be generated by phosphate mining activities for which the state has promulgated water quality standards. In addition, estimates of the amounts (volume and weight) of tailings and phosphatic clays to be created, plans for their storage or disposal, and the proposed time schedule for disposal, together with the location drawings of any treatment facilities shall be provided.

15. A copy of all applications to, or permits issued by the appropriate water management authority(s) for water use permits, waivers, denials, and any

special conditions and, if issued, a copy of the permit(s). The applicant shall also provide the County a copy of the Environmental Resource Permit application to, or permit issued by the Florida Department of Environmental Protection.

16. Copy of application to, or permit issued by FDEP (Florida Department of Environmental Protection) for any air sources on the property. The permittee shall take reasonable precautions to prevent and minimize fugitive dust emissions.

17. An effective program for controlling nonpoint sources of water pollution that may originate from any areas disturbed by mining activities, the runoff from which is external to catchment areas of the water reticulation facilities.

18. An environmental monitoring program, to be developed by the applicant in accordance with Section 10130(C)(6), which shall include baseline data for at least one year preceding commencement of development. The applicant shall develop the monitoring program in conjunction with the County Administrator. If environmental monitoring is required as a condition of a state and/or federal permit, and if the applicant is in compliance with that condition, the applicant may comply with this requirement by submitting copies of all state and/or federal monitoring reports to the County.

19. A transportation analysis, to include estimates of vehicular and rail traffic and any other mode of transportation of materials and products leaving the applicant's property, and of raw materials entering the applicant's property, with emphasis given to any disruption of normal traffic movements caused by, and any increase in rail movements, vehicular traffic and road deterioration resulting from, the proposed phosphate mining activities.

20. Composite aerial photographs of the Phosphate Mining Master Plan area that, through overlays or other graphical depictions, clearly show:

    a. Ownership limits;

    b. Any designated special treatment overlay districts;

    c. Locations of units to be mined;

    d. Locations of clay settling ponds and other impoundments and their construction schedules;

    e. Locations of permanent pipelines, beneficiation plants, and other

permanent structures;

f. The name, location and limits of all existing wetlands, lakes, rivers, reservoirs, streams, creeks, and other water bodies within the Phosphate Mining Master Plan area up to the one hundred-year floodplain associated with these features including a general delineation of all waters of the state as defined under Chapter 403, Florida Statutes.

g. The location of drainage and flood control features, including topographic contours at one (1)-foot intervals before, mining and after reclamation activities;

h. The location of all proposed storage and transportation means, for products and raw materials shipped to and from the site; and

i. A depiction of the final FLUCFCS (Florida Land Use Cover and Forms Classification Code System) upon completion of reclamation.

Such composites and all overlays shall be provided at a scale acceptable to the County with a minimum eight hundred (800) foot overlap and extending at least one quarter mile (1,320) feet beyond the property boundary;

21. A phosphate mine reclamation plan that shall be consistent with Chapter 378, Part II, Florida Statutes (F.S.), and administrative rules adopted thereunder, and any amendments to Chapter 378, Part II, Florida Statutes and administrative rules adopted thereunder, promulgated after adoption of the Phosphate Mining regulations and the provisions contained in the Phosphate Mining regulations.

a. The Board may require a more expeditious reclamation schedule than required by Chapter 378, Part II, Florida Statutes, and administrative rules adopted thereunder in order to minimize impacts to neighbors, wetlands, offsite drainage, or flood plains. Reclamation land types shall be defined by Florida Land Use Classification Code System (FLUCFCS) or Florida Department of Environmental Protection (FDEP) habitat types.

b. Agricultural lands. Land reclaimed for agricultural use shall meet the following standards:

(1) Topography. The land shall be sufficiently level and free of holes, gullies and washouts to permit safe operation of

conventional farm and agricultural equipment.

(2) Stability. The land shall have settled and firmed to the extent that it will support conventional farm and agricultural equipment and that livestock will be able to walk on the surface of the land.

(3) Slope. The land surface shall be returned to the elevations approved by the County and the slope of all land, except dikes and low profile berms, shall not be steeper than 4:1.

c. South Florida flatwoods. South Florida flatwoods areas disturbed by phosphate mining shall be reclaimed with native species of trees, shrubs, forbs and grasses to re-establish the general distribution of native flora necessary to ensure suitable wildlife habitat, giving consideration to plant diversity, edge-effect and escape cover. The goal will be to achieve suitable livestock carrying capacity by utilization of low management native forages while secondary benefits such as wildlife, timber and aesthetics are maintained.

d. Wetlands. Existing wetlands subject to mining shall generally be reclaimed at an acre for acre and additional land may be reclaimed to a wetland area. However, where deemed appropriate by the County Administrator, it shall be acceptable to reclaim wetlands with smaller, high quality wetland systems and/or off-site mitigation. Consideration should be given to locating any off-site mitigation within DeSoto County where practical and appropriate. If off-site mitigation is required by any state or federal permit, then the requirements of that permit shall prevail. Reclamation or creation of a wetland shall be in accordance with the following:

(1) Soil moisture. The land area designated as recreated wetlands shall maintain the necessary soil moisture, frequency and duration of saturation as correlated to water year, rainfall occurrence, and antecedent conditions without the artificial manipulation of available water quantities.

(2) Soil stability. All banks and slopes shall be stabilized with self-sustaining vegetation. No evidence of excessive erosion shall exist. No evidence of unplanned channel development shall exist.

(3) Native species. The applicant shall demonstrate, using generally accepted scientific methodology, that healthy and

self-propagating native wetland grasses and forbs within the recreated wetland shall be established and that the reforestation of native wetland trees shall be accomplished.

e. Lakes and other water bodies. Lands reclaimed as lakes and other water bodies shall meet the following standards, in addition to Sections 10120 (B)21(d)2 and 3:

(1) Littoral zones. For the purposes of establishing an area that will sustain fish and wildlife, and to provide a measure of nonstructural water quality maintenance, the applicant shall establish a littoral zone below the mean water level along the shoreline and within a central area of the lake. The applicant may provide for alternative littoral zone placement for meeting requirements herein which would result in more beneficial environmental and wildlife impacts than strict adherence to the requirements of Section 10130 (C) would provide. Such alternative methodology shall follow generally accepted scientific principles and must be approved in writing by the County Administrator.

(2) Perimeter berms and swales. For the purposes of ensuring water quality control and to provide for a measure of long-term water quality maintenance, the applicant shall construct a low profile perimeter berm and swale system designed to intercept and filter overland runoff before allowing it to discharge into the lake. In addition to this requirement, applicant shall provide alternative nonstructural means for meeting requirements herein which would result in more beneficial environmental and wildlife impacts than strict adherence to the requirements of Section 10130 (C) would provide. Such alternative methodology shall follow generally accepted U.S. Department of Agriculture Best Management Practices for Riparian/Lacustrine Buffers and must be approved by the Director of Public Works.

(3) Lake depth. The requirements in the Chapter 62C-16.0051, Florida Administrative Code (F.A.C.), as it may be amended, Mandatory Phosphate Mine Reclamation Rule shall apply to lake depths.

f. Revegetation. To ensure timely and successful establishment of ground cover and suitable habitat diversity, the applicant shall comply with the following criteria:

(1) Diversity:

(a) Improved pasture: Not applicable.

(b) South Florida flatwoods: Timber species should consist of longleaf pine, slash pine and oak. No more than ninety (90) percent of these tree species should be planted to pines. Emphasis shall be directed toward restoration of native grasses, legumes and forbs conducive to the site for maximum soil stability with food and fiber production.

(c) Wooded wetlands: Minimum of three (3) species of trees. No more than eighty (80) percent of the total planted density in one species.

(d) Marsh: Mulch from an approved donor site or other approved techniques.

(2) Density/cover:

(a) Improved pasture: Eighty (80) percent ground cover of perennial vegetation following one complete growing season. Bare areas shall not exceed one-fourth acre.

(b) South Florida flatwoods: Twenty (20) trees per acre with adequate native vegetative ground cover to prevent erosion after one complete growing season. Fifteen (15) trees per acre with a minimum height of one (1) meter after five (5) years. Fifty (50) percent ground cover of herbaceous flatwoods species after one complete growing season shall be established.

(c) Wooded wetlands: Two hundred (200) trees per acre after one complete growing season. One hundred (100) trees per acre with a minimum height of one meter after five (5) years.

(d) Marsh: Fifty (50) percent ground cover of herbaceous wetland species after one growing season. Growing seasons shall be species-specific.

(3) Other protections:

(a) Improved pasture: Not applicable.

(b) South Florida flatwoods: Protection from grazing, mowing or other land uses to allow establishment for a minimum of three (3) years following planting.

(c) Wooded wetlands: Protection from grazing, mowing or other land uses to allow establishment for a minimum of five (5) years following planting.

(d) Marsh: Protection from grazing, mowing or other adverse land uses for a minimum of three (3) years after planting.

(4) Measurement:

a. Improved pasture: Point intercept method on ten-acre units with total number of points submitted to County Administrator for prior review and approval.

b. South Florida flatwoods: Point intercept method according to acceptable practices.

c. Wooded wetlands: Point quarter method. Shall not be planted in rows, but rather randomly.

d. Marsh: Point intercept method according to acceptable practices.

22. The signature and seal of a registered professional engineer(s) responsible for the preparation of the Phosphate Mining Master Plan and an express certification by said engineer(s) that he or she is personally familiar with the proposed mining activities, that he or she has personally reviewed all elements of the Phosphate Mining Master Plan or such elements which said engineer is certifying, and that all engineering methods, estimates or computations comport with generally accepted engineering practices;

23. The fee required for review of a Phosphate Mining Master Plan application, as prescribed in a schedule of fees established by the Board; and

24. Each item of information in the Phosphate Mining Master Plan that the applicant is unable to furnish in detail, and upon which greater detail will be available at a later date, shall be identified by the applicant and may at the discretion of the Board and for good cause shown be furnished no later than ninety (90) days prior to final approval of Phosphate Mining Master Plan in accordance with the requirements of this Ordinance.

C. Standards for Phosphate Mining Master Plan Approval.

Prior to issuance of Phosphate Mining Master Plan approval, the Board must determine that the phosphate mining activities reflected in the Phosphate Mining Master Plan application:

1. Are consistent with the DeSoto County Comprehensive Plan;

2. Would provide for the orderly development of mineral resources in a manner compatible with the overall development of the County; considering the cumulative effects of other mining activities;

3. Would provide reasonable protection and conservation of natural and environmental resources; infrastructure, and right-of-ways.

4. Would provide for the use of best management practices and the development of technology for maximum control of adverse effects of mining activities; and

5. Would not preclude future uses of mined-out lands for residential, commercial, industrial, agricultural, preservation, public, utility facilities and other uses identified in the DeSoto County Comprehensive Plan.

6. Meets the requirements of DeSoto County flood control and management ordinances, and Section 10130(C)(5) herein.

D. Effect of Phosphate Mining Master Plan Approval.

Upon approval of a Phosphate Mining Master Plan, the Board may consider approval of an Operating Permit. Approval of the Phosphate Mining Master Plan constitutes notice that the applicant has provided reasonable assurance that DeSoto County's standards for approval of the Phosphate Mining Master Plan have been satisfied and that an Operating Permit may be subsequently issued provided the applicant satisfies all requirements for an Operating Permit as set forth in Section 10130. Approval of the Phosphate Mining Master Plan shall not vest the applicant with any rights to issuance of said Operating Permit, nor shall it entitle him to initiate mining activities except as hereinafter provided.

1. Expiration of Phosphate Mining Master Plan. If an Operating Permit application has not been submitted after a three (3) year period following approval of the Phosphate Mining Master Plan, the Phosphate Mining Master Plan approval shall automatically terminate unless the Board at its discretion extends the time limit.

2. No pre-mining construction activities. No pre-mining construction activities preparatory to actual mining or beneficiation may be undertaken prior to the issuance of an Operating Permit.

Section 10130 Operating Permit

A. Application.

Any person contemplating phosphate mining activities in the County shall submit an original and five (5) copies plus an electronic copy of an Operating Permit application to the County Administrator. The Operating Permit application may be filed concurrently with the Phosphate Mining Master Plan.

B. Required Content.

An application for an Operating Permit shall consist of:

1. All new or additional information obtained by the applicant since submission of the Phosphate Mining Master Plan application that is reasonably necessary for the evaluation of an Operating Permit application under the provisions of the ordinance in effect at the time the Operating Permit application is submitted.

2. Copies of necessary applications to, and all legally required permits and approvals (including waivers, denials, and any special conditions) from, federal, state and regional agencies.

3. A detailed description of changes, if any, to the environmental monitoring program of the approved Phosphate Mining Master Plan submitted in accordance with Section 10130 C(6).

4. Effective plans for a spill notification, containment, and safety plan for the clay settling ponds, water reticulation systems, and reagent storage areas addressing such issues as inspection schedules, spill notification procedures, maintenance of warning systems, auxiliary water supply sources, water treatment procedures, hurricane preparedness procedures, and clean-up responsibilities. A site security plan including necessary

access restrictions shall also be provided.

5. Evidence of financial responsibility meeting the requirements of Section 10130 C(19).

6. Information, documentation or studies necessary to affirmatively show compliance with the Operating Permit criteria of this section (as listed in Section C. Criteria for Operating Permit Issuance).

7. The fee required for review of an Operating Permit application, as prescribed in a schedule of fees established by the Board.

8. The applicant shall have a continuing obligation to supplement its permit application with all new pertinent information until permit issuance.

C. Criteria for Operating Permit Issuance.

1. Minimum protection. The applicant shall use best management practices and shall conduct mining activities in a manner that will minimize undesirable effects of mining activities and maximize protection of public facilities, natural resources and the environment.

2. Setback requirements. All mining activities shall be subject to the following setback limitations. Reductions of these setback restrictions may be requested by the applicant under subsection (d), below.

a. Setback for excavation activities. No excavation activities, except as hereinafter provided, shall be performed within:

(1) Five Hundred (500) feet from the property line of a church, public park boundary, or cemetery.

(2) One thousand (1,000) feet from the property line of any school, unless a greater distance is required due to the particular location of a school and surrounding topography.

(3) One thousand (1,000) feet from the closest portion of a permitted dwelling unit existing at the time of the Phosphate Mining Master Plan approval, or two hundred (200) feet from the property line of that portion of the adjacent property whose property tax folio number's legal description contains the dwelling unit, whichever is the greater setback distance.

(4) Two hundred (200) feet from any existing public right-of-

way, or public easement for drainage, utility or public road purposes.

(5) Five hundred (500) feet from the boundary or survey line of an officially designated historical site which is not located within the mine boundary.

(6) Two hundred (200) feet from the property line in areas not controlled by C.2.a.1-5 above, including agricultural use.

b. Setback for settling ponds and beneficiation facilities. No settling pond or beneficiation facility shall be constructed or operated within:

(1) No settling ponds shall be constructed within five hundred (500) feet of the property of a church, public park boundary or cemetery.

(2) No settling ponds shall be constructed within one thousand (1,000) feet from the property line of any school.

(3) No settling ponds shall be constructed within one thousand (1,000) feet from the closest portion of a permitted dwelling unit existing at the time of the Phosphate Mining Master Plan approval, or two hundred (200) feet from the property line of that portion of the adjacent property whose property tax folio number's legal description contains the dwelling unit, whichever is the greater setback distance.

(4) No settling pond shall be constructed within five hundred (500) feet from any existing public right-of-way, or public easement for drainage, utility or public road purposes.

(5) No settling pond shall be constructed within five hundred (500) feet from the boundary or survey line of an officially designated historical site, which is not located within the mine boundary.

(6) No settling pond shall be constructed within two hundred (200) feet from the property line in areas not controlled by C.2.b.1-5 above, including agricultural use.

(7) No beneficiation plant shall be constructed within one thousand (1,000) feet of the applicant's property line.

c. Setback for stockpiles. No excavated material or stockpile shall be left on applicant's property longer than sixty (60) days within:

(1) Five hundred (500) feet of the property of a church, public park boundary or cemetery.

(2) One thousand (1,000) feet from the property line of any school, unless a greater distance is required due to the particular location of a school and surrounding topography.

(3) One thousand (1,000) feet from the closest portion of a permitted dwelling unit existing at the time of the Phosphate Mining Master Plan approval, or two hundred (200) feet from the property line of that portion of the adjacent property whose property tax folio number's legal description contains the dwelling unit, whichever is the greater setback distance.

(4) Two hundred (200) feet from any existing public right-of-way, or public easement for drainage, utility or public road purposes.

(5) Five hundred (500) feet from the boundary or survey line of an officially designated historical site which is not located within the mine boundary.

(6) Two hundred (200) feet from the property line in areas not controlled by C.2.c.1-5 above, including agricultural use.

d. Reduction to setbacks authorized.

(1) Consent of adjoining owners. The above setback requirements shall not apply where owners of the land protected by said restrictions have expressly consented to a reduction thereof by written instrument executed with the formality of a deed and recorded in the public records of the County. Such consent and recordation must occur prior to any mining activities by applicant in areas protected by this setback provision. Certified copies of said recorded instrument shall be furnished to the County Administrator, who shall acknowledge receipt in writing.

(2) Reduction of setbacks may be granted by the Board in the following cases:

(a) With consent of owners of properties within the setbacks specified in Section 10130. The above setback requirements shall not apply where all owners of the land protected by said restrictions have expressly consented to a reduction thereof by written instrument executed with the formality of a deed and recorded in the Public Records of DeSoto County, Florida. Such consent and recordation must occur prior to any mining activities within the setback areas within the mining unit. Certified copies of the recorded instrument shall be furnished to the County Administrator. If the Board determines that the applicant has provided competent and substantial evidence that the requested setback will not adversely affect offsite wetlands, drainage and floodplains, then a waiver may be granted by the Board.

(b) Without consent of owners of properties within the setbacks listed in Section 10130. If the Board determines that the applicant has demonstrated that the applicable setback requirements are unreasonable, and has provided competent and substantial evidence that a lesser requirement would not adversely affect the public health, safety and welfare, then a waiver may be granted by the Board. The applicant shall provide competent and substantial evidence that:

(3) A lesser setback would not adversely affect the public health, safety and welfare, and:

(4) The waiver, if granted, would not affect off-site properties with respect to impacts on water quality, water quantity, air quality, vibration, noise, esthetics, environmental impacts to wetlands (including secondary impacts to the habitat functions of wetlands), offsite drainage, and floodplains [“reduction” would not reduce groundwater levels in the intermediate aquifer on adjoining private property by more than three (3) feet and would not reduce the groundwater levels in the surficial aquifer on adjoining private property by more than one (1) foot].

3. Variance. If the applicant affirmatively demonstrates that any applicable setback requirement is unreasonable under the circumstances and would

create undue hardship, and that a lesser requirement would not adversely affect the public health, safety, and welfare in the particular circumstances, the Board of County Commissioners may allow a lesser setback requirement after notice and public hearing. Such notice and hearing shall be held as part of the public hearing for Operating Permit or Phosphate Mining Master Plan approval. Notices for such combined public hearings shall be by individual and separate publication.

4. Height Requirements of stockpiles, excavated materials, but not overburden. No excavated material (ore) sand tailings or stockpile shall be higher than a slope-line of 35' vertical to 500' horizontal projected from the nearest point on the permittee's property line, except as approved by the Board at a duly noticed public hearing. Overburden is excluded from the requirements of this section. Overburden may be stockpiled in setback areas upon approval of the Board. Such approval will be based on the applicant's submission of proposed mitigation measures or competent and substantial evidence that the placement of overburden in setback areas will not adversely affect the adjacent property based on slope of overburden stockpile, height of overburden stockpile, duration of placement of overburden stockpile, distance of overburden stockpile from property line of adjacent property, and adjacent land use.

5. Floodplain – As set forth in and in accordance with the approved Mining Master Plan:

   a. No mining or construction of permanent buildings or other structures will be permitted below the 25-year floodplain elevation. Flood elevations will be those established by the County, the Southwest Florida Water Management District, and the U.S. Geological Survey.

   b. No mining, placement of fill, construction of permanent buildings or other structures inside the 100-year floodplain elevation shall be permitted unless the applicant can demonstrate, in accordance with the Environmental Resource Permit (ERP) Rules of the Southwest Florida Water Management District and the Florida Department of Environmental Protection, that subject activities will cause no net encroachment of the floodplain resulting in adverse impacts to conveyance, storage, water quality, or adjacent lands. In addition, conveyance restriction of historical flow regimes which will adversely affect adjacent land owners, are prohibited. Dragline crossings will be approved pursuant to the Master Mining Plan and appropriate state and federal permits.

   c. Nothing herein is intended to prevent or preclude temporary

crossings to access mine infrastructure.

6. Environmental monitoring program. The monitoring program shall be developed in accordance with the following:

a. Monitoring programs for mining activities in the County shall be used to establish baseline conditions prior to mining activities, and subsequently shall be used to continually evaluate compliance with applicable standards established by local, regional, state and federal agencies over the life of the mine until reclamation approval has been received from the County Administrator. The program shall consist of monitoring the following areas:

(1) Surface water quality

(2) Surface water quantity;

(3) Groundwater quality;

(4) Groundwater quantity monitoring shall be in accordance with the laws governing and the rules and regulations of the water management agency regulating such withdrawals;

(5) Rainfall. The permittee shall monitor rainfall on his property on a daily basis. Historical data shall be made available to the county upon request, and shall be provided in the annual report.

(6) Air quality. Mitigated wetlands in coordination with monitoring requirements of FDEP Specific requirements of the above-mentioned components of the monitoring program shall be developed by the applicant, and approved by the County Administrator in conjunction with the Board of County Commissioners, on a site-specific basis according to the features of the site and the projected environmental impacts of mining activities.

b. Each component of the environmental monitoring program shall consist of the following descriptive elements:

(1) Sampling location;

(2) Parameters and standards;

(3) Sampling schedule;

(4) Sampling and analysis methods;

(5) Quality assurance; and

(6) Data reduction and reporting.

The program shall additionally contain an introductory section describing the site and the proposed activities.

c. The applicant shall submit copies of all environmental monitoring reports and data required by outside agencies for the permitted mine (including reports for those portions of the permitted mine that occur in adjacent counties). The data reports shall be submitted concurrently with the submission to the requiring agency.

d. Modification of monitoring requirements may be made during the annual progress report process. The purpose of such modification is to add or delete sampling to reflect new developments in mining and sampling technology, which may improve both sampling and environmental quality.

(1) Requests by the applicant for changes in the monitoring program shall be submitted to the County Administrator not less than ninety (90) days prior to the twelve-month period to which they apply. Proposed changes must be approved or denied by the County Administrator in conjunction with the Board of County Commissioners within thirty (30) days from the date of submission.

(2) Changes in the monitoring program may be proposed by the County not less than ninety (90) days prior to the twelve-month period to which they apply. The applicant shall comment on said changes in writing within thirty (30) days after receipt of said proposed changes. Final decision on proposed changes shall be made by the County Administrator in conjunction with the Board of County Commissioners within thirty (30) days of receiving the comments. If written comments by the applicant are not received on time, the proposed changes will automatically take effect at the beginning of the next monitoring year.

(3) In the event of either a natural or man-made disaster or accident the County reserves the right to declare an

emergency and may require immediate changes or additions to the environmental monitoring program.

(4) Changes in the monitoring program as required by state or federal agencies shall be implemented according to schedules prescribed by law or agency permit.

7. Radiation.

a. Standards. The applicant shall conduct mining and reclamation activities in such a manner as to ensure that upon completion of reclamation, all disturbed lands within the Operating Permit area have radiation levels that do not exceed applicable state requirements.

8. Reclamation. The applicant shall affirmatively demonstrate by generally accepted scientific methodology that reclamation will proceed in accordance with the approved Phosphate Mining Master Plan and the following criteria:

a. Revegetation site plans. A revegetation plan shall be provided identifying the planting density, species, general planting site plan, and maintenance provisions required to ensure successful revegetation of disturbed lands in accordance with the requirements of Section 10120 (B)21(f).

b. Revegetation monitoring. The applicant shall be responsible for monitoring the reclamation program for the period of time specified within the Phosphate Mining regulations for successful establishment of vegetation by land use type. This monitoring shall ensure that at the end of the specified time period the diversity, density and other protections for the revegetated plant species are at least as proposed in the approved reclamation plan.

If after the specified time period the density and/or diversity are not as proposed, additional plantings will be required and a monitoring program shall be reinstituted so that the reclaimed land will meet the minimum standards set forth in the revegetation program. Deviations from the approved revegetation plan which are the result of natural disasters or catastrophic events not resulting from the action or negligence of the applicant, will not retrigger a planting and monitoring program.

c. Lake design.

(1) Littoral zones. Littoral zones provided to meet the requirements of Section 10120 (B)21(e)1 shall meet the following design criteria:

(a) The total area of the zones shall be equivalent to a minimum of fifteen (15) percent of the total surface area at the mean water level. Not more than sixty (60) percent of the total area requirement shall be met along the shoreline.

(b) The littoral zone along the shoreline shall be clustered over areas not exceeding fifty (50) percent of the shoreline perimeter to ensure adequate access for maintenance and other land use purposes. The littoral zone(s) shall be sloped at a 4:1 ratio or greater below the water line to a depth not to exceed six (6) feet.

(c) The littoral zones within a central area of the lake, not connected to any shoreline littoral area, shall be constructed at depths below the mean low water line not to exceed three (3) feet with side slopes at the perimeter of the littoral zone of approximately 4:1.

(d) All other portions of the lake perimeter not sloped to meet littoral zone requirements shall be shaped to 4:1 slope from water edge to a minimum depth of six (6) feet.

(2) Perimeter berms and swales. Perimeter berms and swales provided to meet the requirements of Section 10120 (B)21(e)2 shall be constructed to meet the following requirements, unless otherwise agreed to by the County Administrator or his designee and the permittee based on particular facts and circumstances concerning a specific reclamation site.

(a) The perimeter swale shall have a minimum slope of three (3) percent.

(b) Side slopes on the swale shall be no less than 4:1.

(c) Spreader spillways to the lake from the berm and swale system shall be provided at regular intervals

not to exceed two hundred (200) feet and shall be protected against erosion.

(d) Perimeter berm and swale systems need not be required along shorelines where such lake systems adjoin wetland areas and where the unrestricted water movement from one water body to another is necessary to promote proper hydroperiods and biological integrity.

(e) A perimeter greenbelt of vegetation consisting of tree and shrub species indigenous to the area may be constructed in addition to ground cover. The greenbelt shall be at least one hundred twenty (120) feet wide and shall have a slope no steeper than thirty (30) feet horizontal to one (1) foot vertical.

(f) Sequence and Schedule of Reclamation. The Reclamation Plan shall include:

i. The reclamation sequence of the reclamation units for the life of the mine shown on a year-by-year basis;

ii. The schedule of reclamation operation and completion of the reclamation units for the life of the mine shown on a year-by-year basis.

9. Nonpoint source pollution control. The applicant shall control nonpoint sources of pollution of air and water resources in accordance with applicable state and local requirements.

10. Settling pond disposal. Waste materials or other materials with high contents of clay shall be disposed of only within settling ponds or sand/clay reclamation sites. The sand/clay reclamation sites shall be posted and enclosed within a fence unless otherwise approved by the County Administrator or his designee.

11. Settling ponds. All dams containing settling and thickening ponds will be located, designed, constructed, and maintained in compliance with the applicable rules and regulations of the Department of Environmental Protection of the State of Florida, and in accordance with sound engineering practice. Outlet structures from settling ponds will be

designed and constructed according to accepted, sound engineering practice.

12. Pipelines. The applicant shall provide positive protection, such as alarms and containment systems, against any significant discharge, leak or other release of materials from pipelines that are external to the rainfall catchment area of the water reticulation system.

13. Roadway impacts, improvements and repairs. Where the transportation analysis of the applicant's approved Phosphate Mining Master Plan indicates that the safety, circulation capacity or stability of county-maintained roads or rights-of-way must be improved to allow utilization of such roads or rights-of-way by an Operating Permit, such applicant(s) shall reimburse the County for the actual cost of the improvements necessary to allow utilization of such roads or right-of-way by the applicant. Such reimbursement shall not exceed the applicant's proportionate share of the improvement necessary to allow utilization by the applicant. An applicant shall not be required to pay for improvements relating to preexisting conditions as established in said transportation analysis or conditions unrelated to its activities, except when such improvements are an integral part of the work necessary to ensure the safety, circulation capacity or stability of the affected roads or rights-of-way. The County Administrator shall administer any construction required under this section. The applicant shall reimburse the County for the actual cost of all necessary improvements as said improvements are constructed. Prior to any construction required under this section, the applicant shall furnish a performance bond sufficient to indemnify the County against failure of the applicant to reimburse the County. All monies received by the County under this provision shall be segregated in separate accounts and disbursed only for improvements necessitated by the particular applicant's utilization of County-maintained roads or rights-of-way. In the alternative the applicant may propose to undertake and complete the required road or right-of-way improvements with County reimbursing the applicant for any costs that exceed the applicant’s proportionate share of the improvements that are necessary to allow utilization by the applicant.

14. Roadway crossings. No crossings of County roads, easements or rights-of-way by mining equipment, which by crossing could damage same, shall be permitted without the prior written approval of the County Administrator.

15. Sale of borrow material. If any material other than that proposed to be mined in the Phosphate Mining Master Plan is excavated on the property and is to be marketed for use off the mine site, the applicant shall apply for

approval of all required earth moving or mining permits prior to the hauling of any such material on county right-of-way.

16. Noise. Increases to ambient noise resulting from mining activities shall not exceed the levels established by the County, as measured at the applicant's property line, nor shall mining activities generate noise in excess of that allowed by regulations of federal, state or local agencies.

17. Blasting. No blasting or other use of explosives shall be performed without the prior written approval of the County Administrator, who may issue appropriate orders for the public safety and control of nuisances. There shall be notice to the public in the newspaper one (1) week prior to the blasting and notice shall be mailed to property owners within 2,400 feet of the blasting site.

18. Vibrations. All mining activities shall be performed in a manner that will prevent vibrations of the soil from reaching a magnitude sufficient to cause damage to a person's property outside the applicant's property.

19. Financial Responsibility.

    a. Prior to the commencement of actual mining operations, every Applicant shall furnish to the Board evidence of financial responsibility in an amount based upon the total number of acres to be mined or excavated and utilized as settling pond areas during the first year of actual mining operations under the approved mining and reclamation plan according to the following schedules:

        (1) For each acre of land to be mined or excavated, five thousand dollars ($5,000);

        (2) For each acre-foot of the maximum above grade storage of the largest settling pond, sand/clay mix settling area or thickening pond approved during the first year of actual mining one thousand dollars ($1,000).

    b. Such evidence of financial responsibility shall be by:

        1. Evidence of insurance, surety bonds, letters of credit, or other financial instruments acceptable to DeSoto County, where a payee is required it shall be payable to DeSoto County to cover all costs and expenses of completion of reclamation of any areas which are not reclaimed as required by the approved Master Mining and Reclamation Plan and the costs of cleanups of any pollutants released by

failure of any settling or thickening pond, dam, spillway or other outlet structure and damages to public lands and waters caused thereby; or

2. A financial statement which has been audited and certified without qualification by a certified public accountant giving indication of ability to respond to liability in the amounts determined according to the above schedule. If the statement reflects the financial position of the Applicant as of a date more than sixty (60) days prior to the date of filing of the application it shall be accompanied by copies of all interim balance sheets, if any, of the Applicant certified by the chief financial officer to be true and correct; and if the latest interim balance sheet reflects the Applicant's financial position as of a date more than sixty (60) days prior to filing of the application, by a certification of the chief financial officer of the Applicant dated no earlier than sixty (60) days prior to filing that no material adverse changes have occurred to the Applicant's financial condition in the interim. Applicant shall be responsible for payment of all reasonable costs incurred by the County, including but not limited to the fees of any accountant or financial consultant, in the review of such financial statement. The above notwithstanding, if at any time the Board should determine that the Applicant is of doubtful ability to respond to liability in the amount determined according to the schedule in subsection a. above, the Board may require the Applicant to provide evidence of financial responsibility in the manner provided in subsection b(1).

3. Subsequent Proofs: At the time of submission of the Annual Report the Applicant shall provide updated financial information and proof of financial responsibility applicable to each prospective unit.

20. Financial Responsibility; Annual Review

a. Each year at the time of Annual Review the Applicant shall furnish to the Board evidence of financial responsibility updated to the anniversary date. The amount shall be based upon the following schedule:

(1) For each acre of land to be mined in the year following the anniversary date, five thousand dollars ($5,000);

(2) For each acre of land mined or previously covered by a settling pond, sand clay mix area, or thickening pond but not reclaimed in compliance with this Ordinance and the Operating Permit as of the anniversary date, five thousand dollars ($5,000), which amount shall be reduced to two thousand dollars ($2,000) per acre upon completion of the initial revegetation;

(3) For each acre-foot of the maximum above grade storage of the largest settling pond, sand/clay mix settling area or thickening pond in the year following the anniversary date, one thousand dollars ($1,000);

b. At the Annual Review when the last mining unit of the Master Mining Plan is presented, the Operator shall demonstrate to the Board adequate financial ability to ensure the completion of all land reclamation in adherence to the Master Mining Plan. Such evidence shall be by:

(1) Evidence of insurance, surety bonds, letters of credit, or other financial instruments acceptable by DeSoto County, where a payee is required it shall be payable to DeSoto County, to cover all costs and expenses of completion of reclamation of any areas which are not reclaimed as required by the approved Master Mining and Reclamation Plan and the costs of cleanups of any pollutants released by failure of any settling or thickening pond, dam, spillway or other outlet structure and damages to public lands and waters caused hereby; or

(2) A financial statement which has been audited and certified without qualification by a certified public accountant giving indication of ability to respond to liability in the amounts determined according to the above schedule. If the statement reflects the financial position of the Applicant as of a date more than sixty (60) days prior to the date of submission of the Annual Unit Review and the Annual Operating Report it shall be accompanied by copies of all interim balance sheets if any, of the Applicant certified by the chief financial officer to be true and correct: and if the latest interim balance sheet reflects the Applicant's financial position as of a date more than sixty (60) days prior to submission of the Annual Unit Review and Annual Operating Report, by a certification of the chief financial officer of the Applicant dated no earlier than sixty (60)

days prior to filing that no material adverse changes have occurred to the Applicant's financial condition in the interim. Applicant shall be responsible for payment of all reasonable costs incurred by the County, including but not limited to the fees of any accountant or financial consultant, in the review of such financial statement. The above notwithstanding, if at any time the Board should determine that the Applicant is of doubtful ability to respond to liability in the amount determined according to schedule in subsection a. above, the Board may require the Applicant to provide evidence of financial responsibility in the manner provided in subsection b(1).

c. Insurance. The applicant shall provide certificates of insurance showing that the applicant has liability insurance policies issued by an insurance company authorized to do business in the state covering:

(1) Personal injury, including death, in an amount not less than five million dollars ($5,000,000.00) per occurrence;

(2) Property damage in an amount not less than five million dollars ($5,000,000.00) per occurrence and

(3) Environmental damage, for the removal, neutralizing or cleaning up outside the mine site of any substance released or escaped which caused environmental impairment, or which could cause environmental impairment if not removed, neutralized, or cleaned up, in an amount not less than twenty million dollars ($20,000,000.00) Such coverage shall be applicable over the term of the Operating Permit.

D. Standards for Operating Permit Issuance. If review of the Operating Permit application shows that the proposed mining activities will not result in substantial, adverse environmental impacts, the applicant shall affirmatively demonstrate that it has met all requirements for Operating Permits, and that the proposed mining activities are consistent with the purposes of the Phosphate Mining regulations and with the approved Phosphate Mining Master Plan.

E. Effect of Operating Permit Issuance.

Issuance of an Operating Permit shall entitle the applicant to begin mining activities. An operating permit shall be valid for a period of five years unless suspended or revoked prior to that time. If the annual reviews demonstrate

compliance with the terms of the Phosphate Mining Master Plan and the Operating Permit then the Board may at its discretion extend the term of the Operating Permit for an additional five year period without requiring a new application by the applicant. An applicant shall have five (5) years from the date the Operating Permit is issued to commence mining activities; if mining activities are not commenced within said time, the Operating Permit, shall be void, unless the Board in its discretion grants an extension for good cause.

Section 10140 Procedures for Processing Applications

A. Initial Application.

1. Completeness. Within thirty (30) days after receipt of an application, the County Administrator shall examine the application and notify the applicant in writing that the application is complete or alternatively notify the applicant in writing of any apparent errors or omissions, and request any required additional information. If additional information is required, the applicant shall provide it within thirty (30) days, except that additional time may be allowed in writing if the applicant demonstrates that such extension is necessary to prepare the requested information. The County Administrator shall have fifteen (15) days to review the additional information to determine completeness and shall advise the applicant in writing of such determination. If an applicant decides that the additional information cannot be furnished, the applicant shall advise the County Administrator of its position and reasons therefore in writing; and the application shall then be processed as if it were complete. The Board may, by resolution, deny an application if the applicant, after receiving timely notice, fails to correct the errors or omissions or to supply additional information, if such failure results in the requirements of this chapter not being met. Applications that are denied shall be returned to the applicant, who may reapply ninety (90) days thereafter.

2. Compliance.

a. After the County Administrator has determined the application is complete, the applicant shall be notified of such in writing. The application shall be reviewed by appropriate County departments and shall be referred to the Board as expeditiously as possible. The compliance review shall be completed, and notice of public hearing regarding the application shall be issued, within ninety (90) days after notification of application completeness, except that a larger period of time may be allowed upon written agreement of the applicant and the County Administrator.

b. Because of the extensive time requirements for reviewing mining permits, if two (2) or more applications for permits or approvals have been submitted to the County so that simultaneous processing and review are necessary, the Board may enlarge the time limits set for compliance determination by a reasonable period of time, not to exceed ninety (90) days.

3. Notice and public hearing. Upon completion of the compliance review, the county shall cause notice of a public hearing concerning the application to be issued as soon as practical. In addition, notice of the time and place of the public hearings by the Board of County Commissioners shall be sent at least fifteen days in advance of the first hearing by mail to all owners of property within two hundred (200) feet of the land for which the operating permit is sought. For the purposes of this requirement, the names and addresses of property owners shall be deemed those appearing on the latest tax rolls of DeSoto County. The applicant will pay for the cost of this notice.

4. Final decision. Final decision shall be rendered by the Board within fifteen (15) days of termination of the public hearing. Said final decision shall be supported by specific factual findings and shall be in one of the following forms:

a. Approval of the application as filed;

b. Approval of the application with conditions; or

c. Denial of the application, which denial shall include the factual and legal bases for such denial. No permit shall be issued by the Board if there is found information set forth in the application or otherwise that the applicant cannot comply with the requirements of the Phosphate Mining regulations; or that the applicant has had any other permit issued hereunder revoked, or instrument of financial security posted to comply with this chapter forfeited, and the conditions causing the permit to be revoked or the bond to be forfeited have not been corrected to the satisfaction of the Board.

B. Amendment.

1. If an applicant proposes to change, or actually changes, its mining activities from those approved in a Phosphate Mining Master Plan or Operating Permit, it shall promptly file with the County Administrator a written request for an amendment thereto, signed by the applicant's authorized agent. Upon receipt of a request for amendment, the County Administrator shall determine whether or not the requested amendment is

significant. Significant changes require notice and a public hearing before the Board. Significant changes shall also include, but are not limited to, any change in the location or manner of construction of a settling pond, water reticulation structures, or discharge points; permanent roads or other transportation facilities; and any other change that might reasonably result in substantially increased adverse impacts.

2. Any request for approval of a significant amendment shall comply with the procedures outlined for the original application as to the specific item(s) to be amended.

3. Changes determined not to be significant shall be reviewed by the County Administrator. The time schedule for the review will be the same as that given in Section 10140 (A)(1). Procedures for processing new applications shall apply, except that no Board action is required.

4. Final Decision. A final decision on changes not determined significant under this section shall be rendered by the County Administrator within fifteen (15) days of completion of review of the proposed amendment and shall be in one of the following forms:

   a. Approval of the amendment application as filed.

   b. Approval of the amendment application with conditions.

   c. Denial of the amendment application, which denial shall include the factual and legal basis for such denial.

5. Amendment applications denied by the County Administrator may be appealed to the Board of County Commissioners.

C. Transfer.

1. An Operating Permit (or rights acquired thereby), may be wholly or partially transferred if, prior to such transfer, the transferee furnishes satisfactory evidence of financial responsibility as is then required to be maintained on account of the lands or interest therein to be transferred. The transfer shall be accomplished by the issuance of a transfer permit (or partial transfer permit) to the transferee. Upon approval by the Board, the County Administrator shall issue such transfer permit at the request of the transferee or his authorized agent. Upon acceptance of the transfer permit, the transferee assumes the responsibility of compliance with all requirements of the Phosphate Mining regulations effective on the date of transfer, with all terms and conditions of the approve Phosphate Mining Master Plan, and if applicable, the operating permit.

2. An application for transfer shall be approved by the Board, unless it determines that the prospective transferee has not fulfilled the above requirements. Failure to comply with the terms of this section shall be grounds for suspension or revocation of the Phosphate Mining Master Plan and/or Operating Permit and will result in both the original applicant and the transferee being liable for performance in accordance with the Phosphate Mining regulations until full compliance is established.

D. Subsequent Permit Procedures.

At least six (6) months prior to the expiration of the Operating Permit, the applicant shall apply for a new Operating Permit under the provisions of the ordinance that was in effect at the time of the original Operating Permit approval. The procedures for processing an application for a new Operating Permit shall follow those prescribed for obtaining an original Operating Permit. The then-current Operating Permit shall continue in existence until final decision on the new permit is rendered by the Board. Upon issuance, new permits shall be valid for a period of five (5) years; except that the Board may prescribe a shorter permit term if a previous permit was revoked or suspended. The application for obtaining new Operating Permits shall be accompanied by an appropriate fee, as prescribed in a schedule of fees established by the Board.

E. Annual Progress Reports and Reclamation Approval.

1. Progress report. Operators holding an approved Phosphate Mining Master Plan shall file with the Board within forty-five (45) days after each anniversary date of Phosphate Mining Master Plan approval, a written report with five (5) copies and an electronic copy, which shall include the following information:

a. The schedule of mining operation and completion of the mining unit, including identification of lands mined during the preceding year and lands expected to be mined during the current year;

b. The schedule of reclamation operation and completion at the reclamation unit, including a discussion of the reclamation progress in each previously mined parcel except those for which reclamation has been released, and discussion of reclamation planned for the current year in said parcels;

c. Aerial photographs at a scale acceptable to the County of all areas disturbed by mining activities throughout the life of the mine, excluding those reclaimed areas which have been approved in accordance with Section 10140 (E)4.

d. A summary of results of the previous year's environmental monitoring program indicating the magnitude and frequency of air and water quality parameters and mass loading of same exceeded applicable ambient or effluent emissions standards. Any significant trends in degradation of ambient air and water quality shall also be discussed along with any measures being taken to correct or improve the performance of pollution control systems;

e. A review and update of the applicant's financial responsibility in accordance with the provisions of Section 10130 C(19); and

f. The applicant shall also furnish the County Administrator with copies of all inspection reports not previously furnished, which are required by state or federal regulatory agencies.

g. Emergency Response Plans: The Operator shall prepare emergency response plans to be followed in the event of a dam failure for each settling pond, sand clay mix area or thickening pond currently active or to become active in the following operational year. Each plan shall include mapping showing areas subject to downstream flooding and a notification of local and state officials. All appropriate operator employees shall be trained in the implementation of the emergency response plans. The operator shall maintain records documenting such training.

2. Certification by engineer or geologist. A Florida-registered professional engineer or geologist employed by the applicant, commissioned by the applicant and familiar with the applicant's mining activities, shall certify in the annual progress report that the project is being developed and operated in strict accordance with the conditions set forth in the approved Phosphate Mining Master Plan and Operating Permit and in accordance with generally accepted engineering practices.

3. Failure to file. Failure to file the required annual progress report shall be grounds for suspension of the Operating Permit. An extension of time for filing may be granted by the County Administrator upon request and for good cause shown.

4. Reclamation approval. Release of reclaimed areas shall be requested in the annual progress report by identifying the specific parcels for which approval is sought. Reclamation of disturbed lands shall be deemed completed after the applicant has demonstrated to the County Administrator that the specific parcels have been reclaimed in accordance with the approved Phosphate Mining Master Plan and Operating Permit.

Certification shall only be given for completion of an entire reclamation unit after the permittee has demonstrated that viable vegetative cover has been attained at the approved densities. Specific parcels shall be approved or denied in writing by the County Administrator within sixty (60) days of receipt of the annual progress report. Specific reasons shall be cited for denial of any parcels. Upon approval of reclaimed parcels by the County Administrator, the reclamation bond(s) shall be released or applied to parcels to be disturbed in the ensuing year, as appropriate.

5. Fees. Submission of the annual progress report shall be accompanied by an appropriate fee, as prescribed in a schedule of fees established by the Board.

Section 10150 Enforcement

A. Absolute Liability.

As a condition of the issuance of any Operating Permit under the Phosphate Mining regulations, the applicant shall be subject to absolute liability, without necessity of proof of negligence in any form or manner, to any injured party for damages resulting from failure of any dam, spillway, or other outlet structure of a settling pond, or from failure of the applicant to complete any reclamation of lands as required.

B. Inspection.

A representative of the County is authorized to enter and remain upon the premises of the applicant's mine for the purpose of inspection at any reasonable time in accordance with applicable safety guidelines, to ensure compliance with the terms and conditions of the Operating Permit, the Phosphate Mining regulations and the approved Phosphate Mining Master Plan. Inspectors shall give the applicant reasonable notice of the proposed inspection and shall allow the applicant an opportunity to provide appropriate personnel to accompany the inspector while on the applicant's premises. A copy of the inspection report will be provided to the applicant at its request.

C. Violations.

In addition to those violations otherwise enumerated in prior sections of the Phosphate Mining regulations, it shall be a violation of the Phosphate Mining regulations, and it shall be prohibited:

1. To fail to fulfill any of the terms, criteria, standards or requirements of the Phosphate Mining regulations;

2. To fail to obtain any permit or approval required by the Phosphate Mining regulations or to violate or fail to comply with the terms of any approved Phosphate Mining Master Plan or any Operating Permit condition, or any other approval adopted or issued by the Board or Director of Public Works pursuant to lawful authority;

3. To fail to comply with the approved mining operation and completion schedule of each mining unit and/or fail to comply with the approved reclamation operation and completion schedule of each reclamation unit provided that violation of this subsection (3) shall not result in criminal sanctioned penalties as provided in Section 10150 (F)(1) ;

4. To fail or refuse to comply with a notice of violation as described in Section 10150 (D) unless an appeal is filed and the Board withdraws such notice of violation. Each day of continuing violation shall constitute a separate violation;

5. To knowingly make any false statement, representation or certification in any application, record, report, plan, map or other document filed or required to be maintained under the Phosphate Mining regulations or to falsify, tamper with, or knowingly render inaccurate any monitoring device required to be maintained by the Phosphate Mining regulations or by any permit or approval issued under the Phosphate Mining regulations;

6. To fail to notify the County Administrator within five (5) business days of any changes from the approved Phosphate Mining Master Plan or Operating Permit, or changes ordered or required by federal or state agencies;

7. To fail to provide the County Administrator with copies of any notice of violation, noncompliance order, stop-work order or other written notification by any state or federal agency of any alleged violation of or failure to comply with any law, ordinance, regulation, or order, within forty-eight (48) hours of receipt of such notification by the applicant; and

8. All otherwise applicable statutes or regulatory requirements of federal, state, and local agencies are made a part of the Phosphate Mining regulations, and a violation of any such requirement relating to the regulation of phosphate mining shall constitute a violation of the Phosphate Mining regulations.

D. Administrative Enforcement Procedures.

1. Notice of violation. If at any time during the term of the permit the

permittee fails to comply with Phosphate Mining Master Plan or the Operating Permit or the appropriate rules and regulations of other departments or agencies of the County, the County Administrator shall immediately notify the permittee in writing by certified mail and shall order corrective action. Written notification may be dispensed with in the event that circumstances establish that irreparable harm may occur if immediate action is not taken. However, the County shall make a reasonable attempt to notify the permittee by telephone or oral communication when a Board action is essential for the public health, safety, and welfare. Unless the County determines that a shorter period of time is required due to the nature of the violation, the permittee shall generally have ten (10) days to correct the violation. If the permittee has commenced corrective action but requires additional time to complete such actions, the County may allow additional time to correct the violation.

2. Appeal. The applicant may request the Board to review and withdraw a notice of violation not later than ten (10) days after receipt thereof. An appeal does not authorize the noticed activities to continue or recommence and does not stay the effect of the notice of violation. The Board will expedite the scheduling of a hearing on the appeal to the extent possible.

3. Compliance. Compliance with a notice of violation shall be reported to the Board by written confirmation from the County Administrator. Should the violation activity not be corrected within the prescribed time or any extension thereto, or should an appeal be unsuccessful or not be filed within the prescribed time, the Operating Permit shall be suspended pending proof of compliance by the applicant. Under appropriate circumstances if the public health, safety or welfare, is threatened, the Operating Permit may be revoked by the Board.

4. In addition, the Board may require the Operator to provide evidence of financial responsibility in the manner provided for in Section 10130 (C)(20)(b)(1), to ensure that a violation of this Ordinance, the rules and regulations adopted hereunder, including approved mining operations and completion schedule of each mining unit and/or approved reclamation operation and completion schedule of each reclamation unit, is corrected or cured. The Board may, at any time, take such actions as it deems necessary to cure a violation. The Operator shall be liable for all costs of the County in curing a violation or completing reclamation, and the County shall have the right to proceed against any financial responsibility in order to recover such cost. The remedies provided for in this section are cumulative to remedies and penalties otherwise set forth in Section 10150 (F).

E. Suspension or Revocation of Permits and Approvals.

1. The Board, by resolution, may suspend a previously issued phosphate mining approval or permit as herein provided if it determines that the applicant is in violation of the terms of the Phosphate Mining regulations, the Phosphate Mining Master Plan or the Operating Permit.

2. The Board, by resolution, may revoke a previously issued phosphate mining approval or permit as provided herein only if it determines that the permitted activity has become a present, immediate danger to the public health, safety or welfare.

3. Prior to any suspension or revocation, the Board shall give not less than fifteen (15) days written notification thereof by certified mail to the applicant. Such notification shall contain a statement of the reasons why the approval or permit may be suspended or revoked and references to applicable ordinance provisions or permit conditions.

4. The applicant may file a written explanation no later than ten (10) days after notice of the proposed suspension or revocation is served upon it, and in such submission may request a public hearing before the Board.

5. No permit shall be suspended or revoked before the applicant is afforded notice and an opportunity for hearing before the Board, unless the Board determines that danger to the public is imminent, in which case it may order temporary suspension of specifically described activities until such time as a hearing is held.

F. Judicial Enforcement Procedures

1. Criminal penalties. Violation of the Phosphate Mining regulations shall constitute a criminal misdemeanor offense and shall be punishable as provided by general law for misdemeanors. Each day of continued violation shall be considered a separate offense.

2. Civil remedies. In its discretion, the Board is authorized to commence the following actions:

a. The Board may institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any injury to the air, waters or property, including animal, plant and aquatic life of the County caused by such violation. If it prevails, the County shall be entitled to the award of costs and reasonable attorney's fees.

b. The Board may institute a civil action in a court of competent jurisdiction to impose and recover a civil penalty for each violation including a violation of the approved mining operations and completion schedules for each mining unit, and/or approved reclamation operations or completion schedules for each reclamation unit in an amount not to exceed one hundred thousand dollars ($100,000) per offense. Each day of continuing violation shall be deemed a separate offense for purposes of penalty assessment. In determining the severity of the penalty, the court should consider the applicant's history of permit violations; the appropriateness of such penalty to the business of the applicant; the seriousness of the violation, including any irreparable injury to the environment and any hazards to the health or safety of the public; whether the violation was willful; and the demonstrated good faith of the applicant in attempting to achieve rapid compliance after notice of the violation. If it prevails, the County shall be entitled to the award of costs and reasonable attorney's fees.

c. The Board may institute a civil action in a court of competent jurisdiction to seek injunctive relief to enforce compliance with the Phosphate Mining regulations, or any regulation, permit or approval there under; to enjoin any violation of the Phosphate Mining regulations, including a violation of the approved mining operations and completion schedules for each mining unit, and/or approved reclamation operations or completion schedules for each reclamation unit and to seek injunctive relief to prevent irreparable injury to the air, waters and property of the County and to protect human health, safety and welfare caused or threatened by any violation. If it prevails, the County shall be entitled to the award of costs and reasonable attorney's fees.

d. In addition, failure of any dam, spillway or other outlet structure or settling pond or any other cause attributable to the applicant's mining activities resulting in degradation of the existing quality of any waters outside the applicant's property which the applicant has failed to remedy, shall subject the applicant to a civil penalty to be paid to the County in an amount equal to the cost of restoration of water quality in the affected area, all costs of clean up, and administrative costs, legal costs and reasonable attorney's fees.

3. County environmental restoration fund. Any monies recovered by the Board in an action against any person who has caused damage to natural resources or the environment of the County in violation of the Phosphate Mining regulations shall be used to restore the damaged area which was the subject of suit to its former condition. There is hereby created the

County environmental restoration fund, which is to be supervised and used by the Board to restore damaged areas of the County. This fund shall consist of all monies recovered as described above. The monies shall be disbursed first to pay all amounts necessary to restore the respective damaged areas that were the subjects of County actions. Any monies remaining in the fund shall then be used by the Board, as it deems appropriate, to pay for any work needed to restore areas that required more money than the County was able to obtain by court action or otherwise, or to restore areas in which the County brought suit but was unable to recover any monies from the alleged violators.

Section 10200 EXCAVATION MANAGEMENT

Section 10201 Findings

A. The Board of County Commissioners finds that properly designed Excavations can provide important resources for DeSoto County by supplying vital building materials, supporting agricultural operations, controlling stormwater run-off, enhancing wildlife habitat and creating scenic beauty; but in order to minimize any detrimental effects of Excavation and mining upon the citizens and environment of DeSoto County, it is necessary to adopt Land Development Regulations governing Excavation activities.

B. The Board of County Commissioners also finds that while Excavation Sites may be beneficial to the citizens of DeSoto County in certain instances, an excessive number of Excavation Sites and unlimited classifications of unregulated Excavation Operations in close proximity cause unsafe road conditions, excessive noise, cumulative environmental and infrastructure damage and diminish the quality of life of the citizenry such that limits on the number, proximity and characteristics of specific classes of Excavation Operations must be implemented to protect the public health, safety and welfare of the citizens as well as the environment and infrastructure within the County.

Section 10202 Definitions

For the purpose of the Excavation Management regulations, the following terms shall have the meanings set forth hereafter. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory:

A. Assurance Agreement - means the contact between the Operator and the County for the Operator to undertake Reclamation of an Excavation Site as provided in this ordinance.

B. County - means DeSoto County, a political subdivision of the State of Florida.

C. County Administrator - means the chief executive of the County.

D. County Development Director or Development Director - means the County Administrator or his/her designee.

E. County Engineer - means the individual designated by the Public Works Director or the County Administrator to represent the County's engineering interests. This individual is to be a licensed engineer in the State of Florida.

F. Comprehensive Plan - means all local plans, maps, elements or portions thereof, meeting the requirements of sections 163.3177 and 163.3178 of the Florida Statutes, as such may be amended from time to time, and approved by the Florida Department of Community Affairs, which have been adopted or amended by the County and intended to control and direct the use and development of property within the County by dividing it into districts according to the present and potential use of the properties.

G. DEP - means the Florida Department of Environmental Protection.

H. Development Department - means a branch of County government that accepts, reviews, recommends approval or denial and/or approves or denies applications for development within the County.

I. Development Plan - means a drawing pictorially representing the land use elements proposed for a parcel of land within the County, either scaled or schematically illustrated and supported by documentation where warranted or required pursuant to this ordinance or other governmental laws, ordinances, rules or regulations.

J. Dewatering Pump - means a device powered by fuel or electricity used to lower existing ground water levels to facilitate Excavation.

K. Effective Date·- means the date Ordinance Number 2007-10 became effective.

L. Environmental Assessment - means a study produced to determine the presence of jurisdictional wetlands, protected wildlife species, protected species habitat and/or hazardous material.

M. Excavate or Excavation·- means the creation of any manmade cut, cavity, trench or depression in the earth's surface formed by removal of earth, intended to change the grade or level of land, or intended to penetrate or disturb the surface of the earth, including land beneath the waters of the state, but does not include soil tilling for farming purposes, phosphate mining, or any other type of mining preempted as being subject to the jurisdiction of the state.

N. Excavated Area·- means the actual hole or pit in the earth's surface created by Excavation.

O. Excavation Limits - means the boundary of the Excavation Operations, including the haul route, permitted within the Excavation Site. If the Excavation Limits are different than the Owner's property boundary, it is to be described by metes and bounds.

P. Excavation Operations·- means all of the Operator's planned and/or ongoing activities involved in or connected with Excavation within the Excavation Limits, including but not limited to crushing, screening, containerizing, transport of materials, shop operations, dewatering, Excavation Site preparation, maintenance and the stockpiling and loading of materials.

Q. Excavation Permit·- means a document, signed by the Development Director or his/her designee, permitting excavated material to be hauled off the Excavation Site. The Excavation Permit is also sometimes referred to as a notice to commence.

R. Excavation Plan Sheet - means construction drawings, signed and sealed by a licensed professional engineer in the State of Florida, that illustrate how a proposed Excavation conforms to the standards outlined in this ordinance.

S. Excavation Site - means the parcel of property upon which the Operator intends to conduct, or is conducting, Excavation Operations.

T. FDOT - means the Florida Department of Transportation.

U. Future Land Use - means the Comprehensive Plan designation of the use to which a parcel may be put, as assigned by the County, to promote the most advantageous development of the community as designated on the Future Land Use map and the goals, policies and objectives listed in the Future Land Use element of the Comprehensive Plan.

V. ITE - means Institute of Transportation Engineers.

W. Land Development Regulations (or LDRs) - means all the adopted regulations of the County that govern the development and use of property within the County.

X. Notice to Proceed - means a document signed by the Development Director or his/her designee that signifies the approval of construction plans and allows improvements to be made to the Excavation Site in preparation for excavated material to be hauled from the Excavation Site. This may be issued with limitations. This is <u>not</u> an Excavation Permit or notice to commence.

Y. Operator - means the Person authorized, in accordance with an approved application, to be in charge of and responsible for the conduct of Excavation Operations at an Excavation Site.

Z. Owner - means the Person holding title to the Excavation Site.

AA. Person·- means any individual, firm, joint venture, partnership, corporation, association, municipality, or other political subdivisions, governmental unit, department or agency, and includes any trustee, receiver, assignee or personal representative of a Person.

BB. Public Works Department - means a branch of County government that conducts or oversees all construction projects undertaken by the County.

CC. Reclamation·- means the reshaping and revegetation of land and water bodies disturbed or affected by Excavation Operations.

DD. Reclamation Plan Sheet - means the plan for the Reclamation, per Chapter 378 of the Florida Statutes, of land that has been disturbed or affected by Excavation Operations.

EE. Rural Agricultural and Rural Residential - means Future Land Use categories that apply to land in the County as depicted on the Future Land Use map and further defined in the Future Land Use element in the Comprehensive Plan.

FF. Seasonal High Water Table - means the annual high elevation of the ground water table under ordinary rainfall conditions.

GG. Special Exception - means a land use which would not be appropriate generally or without special study throughout a zoning district, but which, if controlled as to number, size, location or other relation to a neighborhood, would promote the public health, safety and welfare, and as defined in Section 12300 of the County's LDRs.

HH. SWFWMD - means the Southwest Florida Water Management District.

II. Top of Slope - means the upper limit of an inclined surface where the transition occurs to a general horizontal plane.

JJ. Traffic Study - means a document prepared by a licensed professional engineer in the State of Florida that reports anticipated traffic generated by a proposed development, existing traffic conditions, affect of proposed traffic on existing roadways and details mitigation of any impacts.

Section 10203 General Provisions

A. Title. The regulations in Section 10200 shall be known as the Excavation Management regulations.

B. Reserved.

C. Purposes.

The primary purposes of the Excavation Management regulations are to:

1. Define Excavation applicability, which is the subject of these provisions;

2. Require that an Excavation Permit be obtained prior to any Excavation except where specifically exempt from the provisions of the Excavation Management regulations;

3. Establish minimum standards for Excavation and Excavation Operations;

4. Establish minimum standards for Reclamation and post-Excavation uses;

5. Provide for allowing the extraction of valuable resources while still providing for the protection of the public health, safety and welfare, the protection of the County's environment, and the subsequent beneficial use of the disturbed and reclaimed land;

6. Provide for the proper enforcement of these regulations; and

7. Ensure compliance with the Desoto County Comprehensive Plan.

D. Excavation Permit Required. Unless otherwise exempt from the provisions of this ordinance, no Excavation or Excavation Operations shall be conducted unless a valid Excavation Permit has been issued by the County. Permits from other governmental authorities may also be required.

E. Applicability/Exemptions:

1. The provisions of the Excavation Management regulations shall also apply to any Excavation or Excavation Operations regardless of extent, but only if material is removed from the Excavation Site and. all Excavations shall be size-classified and permitted as follows:

a. Permitted Minor (Type I Application) - Applications indicating intent to Excavate and remove from the Excavation Site no more than 8,000 cubic yards cumulatively in less than a 6 month period shall be a permitted use in all land uses and districts.

b. Special Exception Minor (Type II Application) - Applications indicating intent to Excavate and remove from the Excavation Site at least 8,000 but not more than 80,000 cubic yards cumulatively in less than an 18 month period, shall be considered and permitted only as a Special Exception,

allowed in the Rural Agricultural or Rural Residential Future Land Uses if located in either the A-5 or A-IO zoning districts, or in a Future Land Use other than Rural Agricultural or Rural Residential meeting the following criteria:

i. is part of a pre-existing development plan for a project that has been issued a notice to proceed by the Development Department and

ii. can demonstrate that, in order to complete the development project, it is physically impossible to retain the dirt within the Excavation Site and still complete the minimum development requirements for stormwater retention/detention required.

c. Special Exception Major (Type III Application) - Applications indicating intent to Excavate and remove from the Excavation Site at least 80,000 but not more than 500,00.0 cubic yards cumulatively, in less than a 42 month period, shall be considered and permitted only as a Special Exception, only allowed in the Rural Agricultural or Rural Residential Future Land Uses and must be in either the A-5 or A-to zoning districts.

d. Special Exception Maximum (Type IV Application) - Applications indicating intent to excavate and remove from the Excavation Site at least 500,000 cubic yards cumulatively, in less than a 60 month period, shall be considered and permitted only as a Special Exception, only allowed in the Rural Agricultural Future Land Use and A-10 zoning district and a prohibited use in all other Future Land Uses and zoning districts.

2. In addition to any Special Exception requirements listed herein, the Special Exception requirements within Section 12300 of the Land Development Regulations (LDRs) shall apply to Type II, III and IV Excavation Permits, specifically, but not limited to applicable advertising and notification requirements.

3. The Board of County Commissioners has determined that Excavation Sites that cannot be classified in the four classification types listed above will result in such excessive duration, excessive Excavation Operation density or excessive Excavation Operations in incompatible areas of the County that such Excavation Sites and Excavation Operations should not be permitted in the County.

F. Determination of Applicability. For purposes of determining total Excavation from an Excavation Site, the cumulative cubic yardage proposed to be taken from an Excavation Site shall be calculated by including any amount excavated from the Excavation Site in any 10-year period prior to the application for Excavation Permit. Said calculation shall include any property subdivided from a larger parent tract. Cumulative excavated

yardage shall not be determined solely by any individual Excavation Area but shall be considered in the context of all other Excavation Areas on the property (or former property if contiguous ownership or split off in the past 20 years), Excavation Areas in contiguous ownership or control, existing permitted Excavation Operations or similar factual considerations shall be considered in the context of making such a determination. Any attempts to circumvent the Excavation Site dispersion intent of the Excavation Management regulations shall be rejected. The County Engineer shall make this determination and his/her determination shall be final.

G. Expansions of existing or previously permitted facilities. Expansions shall be considered completely new applications subject to all requirements herein, except that cumulative yardage previously excavated shall be considered in determining the appropriate application classification (i.e. Type 1, Type II etc.) as provided in subsection D above. The cumulative yardage excavated shall be determined in the same manner as above for purposes of determining application type and permitting process. For example, if an earlier permit for 300,000 cubic yards was issued and an additional 300,000 cubic yards are proposed in an expansion application, the expansion would be considered a Type IV Special Exception and would be required to meet the requirements for a Type IV Excavation Permit.

H. The following Excavations are exempt from these provisions regardless of size or the removal of materials as provided below:

1. Excavation approved under other County regulations if excavated material is used on the same Excavation Site and all other applicable permits from other regulatory agencies are obtained. In this instance, the term Excavation Site shall also include interconnected sites where no public or private roads are utilized. The necessity to cross a road shall mean the parcels on either side of the road are not interconnected unless it is a local road, such road is steel plated (or other method of protection approved by the County Engineer) and the crossing is properly signed. The road section crossed must also be bonded in the amount of 150% of the applicant's engineer's estimate to repair the crossing, as approved by the County Engineer.

2. Excavation by the County, Florida Department of Transportation (FDOT) and the Southwest Florida Water Management District in connection with the construction or maintenance of public facilities or for public purposes. This shall include the Excavation of drainage ditches and basins by these entities for valid surface water management purposes. This shall not include stormwater facilities for private development or operations.

I. It shall be the responsibility of the Owner to submit an application to the County Development Director to determine whether an exemption applies prior to any Excavation for which an Excavation Permit has not been issued. Failure to do so shall be

considered a violation of the Excavation Management regulations, subjecting the Owner to penalties outlined herein.

Section 10210 Type I Excavation Operation Permitting Process

A. Application Submittal. The applicant shall submit a complete application with all required submittals as listed herein.

B. Application Review. Initially the application will be reviewed for sufficiency. This shall be done within ten (10) working days after receiving the application to see if the application is complete. If the application is not complete, the application shall be returned and not reaccepted until the deficiencies are corrected. Once the application is determined sufficient it shall be routed and reviewed by County staff. Review comments made by County staff will be presented to the applicant and corrected by the applicant's engineer and resubmitted. This process shall be repeated until the application is properly completed. However, if the applicant fails to resubmit the corrected application within ninety (90) calendar days of the County staff's request for application correction, the application shall be considered rejected and the applicant must begin the process again from the start with a new application.

C. Application Approval and Notice to Commence. The Development Director shall issue the Type I Excavation Permit (notice to commence) once all requirements are met and comments have been satisfactorily addressed. These requirements shall include but shall not be limited to the following: All design requirements or special conditions are met within the plans, all bonds posted, all SWFWMD, FDOT, DEP, Army Corps of Engineers, U.S. Fish and Wildlife and any other applicable outside agency permits have been acquired.

Section 10211 Type I Application Submittal

A. Application for Type I Excavation Permit Approval. The following application submittals shall be made to the Development Department. When the Development Director and County Engineer determine that the application and all submittals have sufficiently met all standards herein and satisfactory addressed all concerns related to the application, an Excavation Permit (notice to commence) shall be issued by the Development Director. No preliminary application or Notice to Proceed is required for Type I Excavation Permits.

B. Application Forms and Submittals. Incomplete applications shall not be accepted or shall be later returned upon discovery of incompleteness. A complete application shall consist of the requested number of copy sets as requested on the application. Each set shall include the following:

1. A fully completed Type I Excavation Permit application form signed by both the Owner and any contractor/hauling Operator;

2. Proof of ownership;

3. An aerial photo showing the Excavation Limits proposed, property boundary, and surrounding property within 500ft;

4. Plans, drawings, and other submittals demonstrating compliance with the design requirements (engineered construction drawings for any required improvements, where determined necessary by the County Engineer.);

5. Any outside agency applications submitted and permits received, if applicable;

6. Payment of all applicable application and review fees and all enforcement fees;

7. Posting of all required sureties satisfactory to the County, for any Excavation Site Reclamation (This shall include an executed Assurance Agreement for Reclamation but this requirement shall not apply for a SWFWMD Facilitating Agricultural Resource Management Systems ("FARMS") project.) and

8. Other supplemental submittals necessary to fully explain the application as determined by the County Engineer.

Section 10212 Type I Minimum Design Standards and Requirements

A. Minimum Standards and Requirements. The following standards and requirements shall be considered minimum standards for Type I Excavation Operations. The Board of County Commissioners hereby delegates authority to the County staff to require additional or stricter standards and requirements in their sole discretion, when a higher standard is necessary to protect the public interest, health, safety, welfare and infrastructure due to the specific facts surrounding a particular application. These facts shall include but not be limited to information regarding locations, affected properties and their uses, and other relevant factors. Similarly County staff in its sole discretion may waive requirements where such standards are not applicable and serve no valid public purpose as indicated by the specific facts related to a particular application. This delegated discretion shall be used on a limited basis and shall be justified in writing on or attached to the permit thereto.

B. Excavation Setbacks. The Top of Slope of any Excavated Area, all materials stockpiles, dewatering ponds and all facilities in connection with Excavation Operations shall be setback fifty (50) feet from all Excavation Site property lines. This shall not include required buffers and approved entrances/exits, which may be within setbacks. For minor excavations for a pool or footer, this setback shall not apply.

C. Operational Hours. Hours of operation, including all activities associated with construction, preparation, and operation or closing the Excavation Site and the Excavation Operations, shall be limited to Monday through Friday between the hours of 8 A.M. and 5 P.M.

D. Fencing. Silt screen fencing shall be required around the perimeter of the Excavation Site.

E. Dewatering Pump. No Dewatering Pumps or similar type pump shall be permitted.

F. Stormwater Management System. All permits from SWFWMD and/or DEP, as well as any other reviewing agency, shall be provided to the County for review prior to final approval of the Excavation Permit. The Board of County Commissioners hereby delegates authority to the County staff the right to implement more restrictive requirements than State agencies when deemed appropriate to protect the public health, safety and welfare. The system shall be subject to the approval of the County Engineer. Turbidity screens and silt barriers shall be used if required to protect the quality of any discharge outside the Excavation Site as required by the County Engineer.

G. Bank Slopes. Slopes of the bank of any Excavated Area shall be one (1) foot vertically to four (4) feet horizontally measured from the final proposed grade of the surrounding Excavation Site, all the way to the toe of the slope of the Excavated Area, excluding Excavations for specific construction purposes that will be rapidly backfilled such as pools, footers, etc.

H. Time Limits of Excavation Operations. Excavation Operations may be permitted for a Type I permit for a period of up to 6 months from the date the Excavation Permit (Notice of Commencement) is issued. If Excavation has not begun within three (3) months after the date the Excavation Permit is issued, the Excavation Permit shall expire and a new application is required.

I. Routes. County staff may determine a required haul route to the nearest collector or arterial road. Staff will consider safety, condition of the route, impact to surrounding properties (specifically residences), and other relevant factors in determining this route.

J. Maximum Size and Depth. The maximum size of any permitted Type I Excavation Limit shall be 15% of the total Excavation Site square footage (less jurisdictional wetlands) or 4 acres, whichever is less. Note that any jurisdictional wetlands must be subtracted from the total Excavation Site square footage before the percentage is calculated. For example a Type I Excavation Limit on a 150,000 square foot Excavation Site with 50,000 square feet of jurisdictional wetlands would be (150,000 - 50,000) x 15% = 12,500 square feet. The maximum depth of any Type I Excavation shall be 20ft, but in no case shall the Excavation penetrate the aquifer-confining layer.

K. Administration/Enforcement Fees. Type I permittees are exempt from payment of enforcement fees.

Section 10220 Type II, III & IV Excavation Operation Permitting Process

A. Preliminary Application Submittal. Type II, III and IV applicants shall submit a preliminary application with all required submittals as set forth herein. Although not specifically described or required, the applicant is encouraged to meet with County staff to go over specific Excavation Site issues, ask questions, and seek input prior to formally submitting an application.

B. Preliminary Application Sufficiency Review. The County staff shall complete the preliminary application sufficiency review of the application within ten (10) working days after receiving the application to determine if the application is complete. If the application is not complete, the application shall be returned and not reaccepted until the deficiencies are corrected.

C. Preliminary Application Review. Once the application is determined sufficient, it shall be routed and reviewed. Review comments made by County staff will be presented to the applicant and corrected by the applicant's engineer and resubmitted. This process shall be repeated until the preliminary plans are completed. However, if the applicant fails to resubmit the corrected application within ninety (90) calendar days of the County staff's request for application correction, the application shall be considered rejected and the applicant must begin the process again from the start with a new application.

D. Preliminary Letter of Approval. The County staff shall issue a preliminary letter of approval once preliminary submittals are determined to meet minimum design standards, plus any other design requirements determined by County staff to be necessary to protect the public health, safety and welfare due to the unique nature of the proposed Excavation Site. Once this letter is received, the applicant may apply to SWFWMD and other outside agencies, and simultaneously submit construction plans. If it is determined that the Excavation cannot be permitted at this location, a letter will be issued stating the reasons for the denial.

E. Special Exception Approval. Once a preliminary letter of approval is issued, the application shall be eligible to be scheduled for review as a Special Exception. In addition to the Special Exception standards found in Section 12300 of the LDRs, any additional Special Exception standards found within the Excavation Management regulations will be used in this analysis. The application shall be approved, denied, or approved with conditions. If approved, the preliminary letter of approval shall be modified and the applicant shall be permitted to proceed to the next phase of permitting.

F. Construction Plan Submittal. Construction plans implementing any preliminary and Special Exception approval requirements, outside agency requirements, and all other design requirements shall then be submitted to the Development Department.

G. Construction Plan Review and Notice to Proceed. The County Engineer shall issue the Notice to Proceed once all submittal requirements are met. These requirements shall include, but shall not be limited to the following: All design requirements or special conditions are met within the plans, all bonds posted, any building permits issued, all SWFWMD, FDOT, DEP, Army Corps of Engineers, U.S. Fish and Wildlife and any other applicable outside agency permits are obtained and provided to the County. This shall permit the construction of required improvements within and without the Excavation Site. Material from the Excavation Site shall be permitted to be utilized in the construction of required Excavation Site improvements.

H. Notice to Commence Excavation (Permit). The Excavation Permit (notice to commence) shall be issued once all construction improvements have been completed and approved by the County. The completed improvements may include, but shall not be limited to the following; turn lanes, deceleration lanes, berms, vegetative buffers, scale houses, paved entrances, etc. as provided herein.

Section 10221 Type II, III & IV Preliminary Application Submittal

A. For Type II, III and IV applications, the following application submittals shall be made to the Development Department. When the Development Director determines that the application and all submittals have sufficiently met all standards herein and satisfactory addressed all concerns related to the application, the permit application shall be submitted to the Board of County Commissioners for consideration.

B. Application Forms and Attachments. A complete application and all submittals shall be made to the Development Department as required herein. Incomplete applications shall not be accepted or shall be later returned upon such discovery. A complete application shall consist of the requested number of copy sets as requested on the application. Each set shall include the following:

1. A fully completed preliminary Excavation Permit application form signed by both the Owner and Operator;

2. A boundary. and topographic survey signed and sealed by a licensed surveyor in the State of Florida that includes a legal description of the Excavation Site and the Excavation Limits;

3. An Excavation Site plan and drawing submittals in accordance with Section C below;

4. An Excavation Plan Sheet for the entire Excavation Site prepared in compliance with the minimum standards and requirements outlined in Section C below;

5. A Reclamation Plan Sheet for the entire Excavation Site, prepared in compliance with the minimum standards and requirements outlined in section C below (If submitting a preliminary plat, the preliminary plat application and all requirements of such an application should accompany the Reclamation Plan Sheet.);

6. A supplementary narrative to the Excavation Plan Sheet and a supplementary narrative to the Reclamation Plan Sheet;

7. An affidavit of agent authorization by the Owner, (where applicable), on the form provided;

8. An original and one copy of an adjacent owner statement of consent (where applicable), on the form provided;

9. Payment of all applicable application and review fees;

10. Any Environmental Assessments performed on the Owner's property that includes the Excavation Site; and 11. Any Traffic Studies performed on the property, per ITE traffic standards.

C. Plan and Drawing Submittals Required.

1. Minimum Plan Standards. Plans and other submittals shall be drawn at a scale of 1" = 50' or larger (i.e. 1" = 40'). The scale selected shall be the same throughout the sheets so that can be properly evaluated. The maximum sheet size for all plans shall not exceed 24 inches by 36 inches. Multiple sheets may be used, provided each sheet is numbered, the total number of sheets is indicated on each sheet, and an overal1 master sheet at a smaller scale is provided. Cross-referencing between sheets shall be required. Necessary notes and symbol legends shall be included. Abbreviations should be avoided, but if used they shall be defined in the notes. All submittals shall include the designated name of the Excavation, a north arrow, stated scale, graphic scale, and date of issue/revision. All plans must be clear, readable and fully dimensioned and prepared by and signed and sealed by a licensed professional engineer in the State of Florida.

2. Cover/Administrative Sheet. The following information shall be contained on the cover sheet:

a. The name of the project;

b. A site location map drawn to scale showing the relation of the Excavation Limits to section line, public roads, and natural waterways;

c. A legend to include:

i. Excavation Site acreage and square footage,

ii. scale,

iii. north arrow,

iv. existing zoning and future land use,

v. preparation/revision date,

vi. parcel numbers, and

vii. any former approvals;

d. The name, address and phone number of the Owner, Owner's representative, engineer/ architect, surveyor, and other involved individuals; and

e. Administrative Excavation Site data to include building square footages, future data information, phase explanations and any other necessary data.

3. Existing Conditions/Survey Sheet. This sheet shall be signed and sealed by a licensed surveyor in the State of Florida and shall show existing conditions (at the same scale as aerial photo, Excavation Plan Sheet and Reclamation Plan Sheet). The following information shall be contained on the survey sheet:

a. A boundary and topographic survey of the Excavation Site and legal description;

b. Existing parcels and platted lots on the Excavation Site;

c. Adjacent owners and adjoining property lines;

d. Buildings and other improvements;

e. Impervious and shelled areas on the Excavation Site;

f. Abutting streets (with name, ROW width from centerline, total width, pavement width, driveway medians and median cuts);

g. Sidewalks and bike paths;

h. Ditches, canals, swales, and other stormwater structures;

i. Utility lines (water, sewer, gas, electric, telephone, cable, stormwater conveyances including junctions and lift stations);

j. Easements;

k. 100·year flood plain boundaries;

l. Wetlands and waterways boundaries;

m. Elevations at one (1) foot contours;

n. Adjacent zoning and land use, as well as abutting adjacent site layout(s);

o. Show existing surface contours of the Excavation Site and one hundred (100) feet of adjacent land to one (1) foot intervals as based on National Geodetic Vertical Datum 1929; and

p. Show the location, description, and elevation of at least two (2) permanent bench marks - located at opposite sides of the Excavation Site.

4. Aerial Photo (same scale as other plans). The boundaries of the Excavation Site and Excavation Limits shall be over laid on the sheet.

5. Excavation Plan (meeting minimum plan standards outlined in subsection C(I) of this Article. It shall be the responsibility of the applicant to properly and fully explain the complete extent of the Excavation Operations proposed and impacts caused by the proposal. The plan shall be titled "Excavation Plan" followed by the designated name of the Excavation project and the name and address of the Owner and Operator on each sheet. The Excavation Plan shall be prepared as part of the set of all other required drawings and submittals. The Excavation Plan shall include:

a. A legal description for the Excavation Limits;

b. Show all boundary bearings and distances;

c. Describe comer monuments;

d. Show the limits of the proposed Excavated Area and any phasing that is proposed;

e. Show sufficient cross-sections, notes and details to illustrate compliance with the minimum standards and' requirements for Excavation and Excavation Operations outlined in the Excavation Management regulations including, but not limited to, jurisdictional wetlands, flood hazard areas, threatened and endangered species habitats, surface water management facilities, dewatering facilities, stockpile areas and haul roads;

f. Show proposed structures, scales, and fixed equipment within the Excavation Site with the intended use for each indicated; and

g. Show vehicle entrances and exits from the Excavation Site and vehicle travel routes outside of the Excavation Site to a connection with the public road system.

6. Excavation Plan Narrative. The excavation plan narrative shall:

a. Be identified with the title "Narrative to Excavation Plan" followed by the designated name of the Excavation project and the name and address of the Owner and Operator on each sheet;

b. Bear a date of issue identical to that of the Excavation Plan and have pages numbered;

c. Explain the purpose and objective of the Excavation, material to be excavated, and general destination of excavated material;

d. d. Include a schedule showing:

i. Land area and volume of material to be excavated during each year; and

ii. The date when all Excavation wil1 be completed as determined from the date the Excavation Permit is issued.

7. Reclamation Plan. The Reclamation Plan shall be identified with the title "Reclamation Plan" followed by the designated name of the Excavation project and the name and address of the Owner and Operator on each sheet. The Reclamation Plan shall be a separate sheet as part of the plan set of all other required drawings and submittals and shall be drawn to minimum plan standards as listed above. The Reclamation Plan shall:

a. Include a location map drawn to scale showing the relation of the Excavation Limits relative to section lines, public roads, and natural waterways;

b. Show all boundary bearings and distances, describe comer monuments;

c. Show the location, description and elevation of at least two (2) permanent bench marks located at opposite sides of the Excavation Site; and

d. Show sufficient cross-sections, notes, and details to illustrate compliance with the minimum plan standards listed in this article.

Note: Valid SWFWMD "FARMS" projects shall only be required to submit whatever is prepared in accordance with National Resources Conservation Service ("NRCS") standards.

8. Narrative to Reclamation Plan. The narrative to the Reclamation Plan shall be identified with the title "Narrative to Reclamation Plan" followed by the designated name for the Excavation project the as well as the name and address of the Owner and Operator on each sheet. It shall also:

a. Bear a date of issue identical to that of the Reclamation Plan and have each page numbered followed by the total number of pages;

b. Include details of planting of vegetative cover;

c. Include a schedule for:

i. The commencement and phasing of all Reclamation; and

ii. The planting of vegetative cover including the species, quantities needed and size upon planting;

d. Include commitment for the maintenance of fences and surface water management facilities until Reclamation is completed and accepted;

e. Include a detailed signed and sealed engineer's estimate for all post-Excavation improvements; and

f. Include an estimated time schedule and final completion date for all Reclamation.

Note: Valid SWFWMD "FARMS" projects shall only be required to submit whatever is prepared in accordance with NRCS standards.

Section 10222 Type IV Bonus Excavation Areas

The Board of County Commissioners finds that in the instances outlined in this Article, the health, safety and welfare of the citizens of the County may be better served if the Excavation

Limits outlined in the Excavation Management regulations were expanded as provided herein. However, such determination shall be made on a case-by-case basis, considering the specific facts surrounding each applicant's proposed Excavation Limits and proposed Excavation Operations. Consequently, the applicant/Owner applying for a Type IV Excavation Permit shall be eligible to submit for bonus excavation area/density. The applicant/Owner shall qualify for bonus density based upon voluntarily incorporating any of the elements listed below into the application. Each element and the applicable bonus are listed below.

A. Donation of public right of way to the County may entitle the applicant to an increase in the permitted Excavation Limits up to 5% or a maximum of 20 acres, whichever is less, if such increase and donation are determined to be in the public interest by the Board of County Commissioners.

B. Donation of property after Reclamation (excluding jurisdictional wetlands) may entitle the applicant to an increase in the permitted Excavation Limits up to 5% or a maximum of 20 acres, whichever is less, if such increase and donation are determined to be in the public interest by the Board of County Commissioners. A donation of more than 20 acres (excluding jurisdictional wetlands) after Reclamation may entitle the applicant to an increase in the permitted Excavation Limits up to 10% or a maximum of 40 acres, whichever is less if such increase and donation are determined to be in the public interest by the Board of County Commissioners. However, in no case shall such donation entitle the applicant to increase the permitted Excavation Limits by more than 10% or a maximum of 40 acres, whichever is less.

C. Provision of at least 20% of the stormwater capacity of the post-Excavation pond for public purposes may entitle the applicant to increase the permitted Excavation Limits up to 5% or a maximum of 20 acres, whichever is less, if such increase and provision are determined to be in the public interest by the Board of County Commissioners.

D. The Board of County Commissioners has determined that roadway upgrading and maintenance within the County is a paramount public concern. Consequently, a donation of ten cents per cubic yard for all material excavated from the project, to be used for roadway upgrading and maintenance, may entitle the applicant to increase the permitted Excavation Limits up to 5% or a maximum of 20 acres, whichever is less, if such increase and donation are determined to be in the public interest by the Board of County Commissioners. Each additional ten cent donation, for all cubic yardage excavated, may similarly entitle the applicant to increase the permitted Excavation Limits by up to an additional 5% or a maximum of 20 additional acres, whichever is less, if such increase and donation are determined to be in the public interest by the Board of County Commissioners. However, in no case shall more than a 15% increase in the permitted Excavated Limits or a maximum of 60 acres, whichever is less, be permitted.

E. The Board of County Commissioners has determined that the SWFWMD "FARMS" program greatly benefits the health, safety and welfare of the citizens of the County and protects and enhances the environment within the County. Consequently, approval of an

applicant's project as a valid SWFWMD "FARMS" project, may entitle the applicant to increase the permitted Excavation Limits by up to an additional 15% or a maximum of 60 acres, whichever is less.

F. Approval of a post-Excavation project for the approval of a development subdivision project incorporating at least 75% of the potential development density for the site, may entitle the applicant to increase the permitted Excavation Limits up to 5% or a maximum of 20 acres, whichever is less, if such increase and project are determined to be in the public interest by the Board of County Commissioners.

G. Certified use of at least 75% of the excavated material for projects within the County may entitle the applicant to increase the permitted Excavation Limits up to 15% or a maximum of 60 acres, whichever is less, if such increase and material use are determined to be in the public interest by the Board of County Commissioners.

Section 10223 Type IV Special Exception Review Criteria

A. The approval of the Special Exception permit application for a Type IV application shall depend on the following determinations by the Board of County Commissioners in addition to the Special Exception provisions contained in Section 12300 of the Land Development Regulations (LDRs):

1. That there are less than fifteen (15) active Type IV Excavation Operations (including those existing Excavation Areas that would be classified as such today) in the County;

2. That there are not more than six (6) Type IV Excavation Operations (including those existing Excavation Areas that would be classified as such today) already using the same collector or arterial roadways or segments within the County as part of their primary haul route;

3. That any post-development plan will have a positive future impact to the surrounding properties and the community;

4. That the application has indicated minimized negative impacts to adjoining property owners; and

5. That the application has met all requirements herein.

Section 10224 Type II, III & IV Construction Plan Submittal

A. <u>Application for Final Excavation Permit Approval</u>. The following application submittals shall be made to the Development Department. When the Development Director and County Engineer determine that the application and all submittals have sufficiently met

all standards herein and satisfactory addressed all concerns related to the application, a Notice to Proceed shall be issued by the Development Director.

B. Application Forms and Submittals. Incomplete applications shaH not be accepted or shall be later returned upon such discovery. A complete application shall consist of the requested number of copy sets as requested on the application. Each set shall include the following:

1. A fully completed final Excavation Permit application form signed by both Owner and Operator;

2. Corrected plans, drawing, and other submittals that have changed since the preliminary application (Examples include Excavation Plan Sheets, Reclamation Plan Sheets, related narratives, legal descriptions, etc.);

3. Engineer construction drawings for any required improvements (Examples include any pre and post roadway and bridge improvements, access improvements, buffer details, slopes, scales, Dewatering Pumps, etc.);

4. Certified engineer estimates for any required post-Excavation improvements within and without the Excavation Site;

5. Any outside agency applications and permits, as applicable (Examples include SWFWMD, FDOT, DEP, U.S. Fish and Wildlife, etc.);

6. Payment of all applicable application and review fees;

7. A phase II Environmental Assessment, if applicable; and,

8. Posting of all required sureties satisfactory to the County, for any Reclamation and offsite improvements. (This shall include an executed Assurance Agreement for Reclamation as outlined below.) Valid SWFWMD "FARMS" projects shall not be required to submit any post-Reclamation sureties.

C. Assurance Agreement. The Owner shall enter into an Assurance Agreement with the County to assure complete Reclamation of the Excavation Site and required external improvements. The Assurance Agreement shall provide for a schedule of Reclamation satisfactory to the Board of County Commissioners, be recorded in the Public Records of DeSoto County and shall include the consent of the Owner, and his/her successors in title, allowing the County to enter the Excavation Site to perform the Reclamation in the event that Reclamation is not timely performed pursuant to the approved Reclamation Plan. The Assurance Agreement shall act as a covenant encumbering and running with the land. The Owner shall agree to provide financial assurance for Reclamation in the form of cash escrow, construction bond or irrevocable letter of credit in favor of the County prior to the issuance of a Notice to Proceed for the Excavation Permit that will remain

valid for a period of one (1) year longer than the full term of the Excavation Permit. This period may be extended at the discretion of the County Administrator, depending on the scope of the Reclamation Plan that will be required to accomplish Reclamation of the Excavation Site. Performance of Reclamation shall be governed by compliance with the approved Reclamation Plan. Valid SWFWMD "FARMS" projects shall be required to sign a modified agreement that guarantees that Excavation Site Reclamation will be in accordance with NRCS standards and those of the SWFWMD "FARMS" program.

D. Financial Assurance. The financial assurance for Excavation Site improvements shall be in the amount of seven thousand, five hundred dollars ($7,500.00) for each acre of land included within the Excavation Limits. The approved financial assurance for improvements outside the Excavation Site shall be in the amount of 150% of the applicant's engineer's estimate to repair or replace said improvements, as approved by the County Engineer. The terms of the Assurance Agreement shall be such that if all Reclamation indicated on the approved Reclamation Plan is not satisfactorily completed within the time allowed for such Reclamation, the Board of County Commissioners, at its option, may elect to perform the Reclamation. The cost of any Reclamation performed by the County which is not covered by the financial assurance shall become a lien on the property included within the Excavation Site and bear interest at the rate often percent (10%) per annum from the date the same becomes due and payable. Valid SWFWMD "FARMS" projects shall not be required to submit any post-Reclamation Excavation Site sureties.

Section 10225 Type II, III & IV Minimum Design Standards and Requirements

A. The following standards and requirements shall be considered minimum standards for Type II, III and IV Excavation Operations. The Board of County Commissioners finds that access management, infrastructure protection, drainage, erosion control, soil stability, dust and noise abatement and other concerns arising from these types of Excavation Sites are paramount public concerns and finds these measures to be necessary and fair to protect the public health, safety, welfare and infrastructure from these particular problems associated with these types of Excavation Sites. The Board of County Commissioners, upon recommendation of the County staff, may adopt additional or stricter standards and requirements in their sole discretion, where a higher standard is necessary to protect the public interest, health, safety, welfare and infrastructure due to the specific facts surrounding a particular application. These facts sha1l include but not be limited to information regarding locations, affected properties and their uses, and other relevant factors specific to the application being considered.

B. Excavation Setbacks. For Type II Excavation Operations, the Top of Slope of any Excavated Area, all materials stockpiles, dewatering ponds and all facilities in connection with Excavation Operations shall be setback fifty (50) feet from all Excavation Site property lines. This shall not include required buffers and approved entrances/exits, which may be within setbacks. For Type III and IV Excavation Operations, the Top of Slope of any Excavated Area, all materials stockpiles, dewatering ponds and all facilities

in connection with Excavation Operations, with the exception of Excavation Site exit roads and required buffers, shall be no closer than greater of:

1. 300 feet from any property line;

2. 400 feet from any state highway or current or existing County arterial or collector road as identified in the County's Comprehensive Plan;

3. 1000 feet from any land use other the Rural/Agricultural or Rural/Residential Future Land Use boundary at the time of application. (In addition for Type IV applications, 1000 feet from any from zoning other than Agricultural 10 (A-10) or Industrial (I-L or I-H).);

4. 2,500 lineal feet measured in a straight-line method from any portion of a school site to any portion of an Excavation Site; and

5. 1,000 lineal feet measured in a straight-line method from any residence (above 30% on the tax rolls, to any portion of the Excavation Site; and

6. For Type IV Excavation Permits only, 1 mile from any other Excavation Site. (This shall be measured in a straight-line distance from entrance to entrance and from Excavation Site boundary to Excavation Site boundary.)

C. Operational Hours and Days. For Type II Excavation Operations, hours of operation, including all activities associated with construction, preparation, operation or closing the Excavation Site and the Excavation Operations, shall be limited to Monday through Friday between the hours of 8 AM. and 5 P.M. For Type III and IV Excavation Operations, hours of operation, including all activities associated with the Excavation project and Excavation Operations, shall be limited to the hours between 6 A.M. and 6 P.M., Monday thru Friday and 7am to 5pm on Saturday. In all cases, hauling on Sunday shall be prohibited.

D. Fencing. For Type II Excavation Operations, silt screen fencing shall be required around the perimeter of the Excavation Site. For Type III and IV Excavation Operations, the perimeter of the Excavation Limits shall be fenced with a four-strand barbed wire or wire fabric fence, four (4) feet in height with gates, which are locked when Excavation and Excavation Operations are not being conducted.

E. Dewatering: Pump. No Dewatering Pumps or similar type pump shall be permitted for Type II Excavation Operations. For Type III and IV Excavation Operations, discharge to dewater Excavated Areas shall be directed to storage facilities within the Excavation Site. The pump shall be at least 750 feet from any residence if an electric pump motor is utilized. If a nonelectric pump motor is used, it shall be at least 1,250 feet away from any residence. Dewatering Pumps shall be screened with a solid six (6) foot wood fence or other approved barrier on any sides between any houses and the Dewatering Pump, in

order to deflect sound. Operating hours shall be restricted to 6am to 6pm unless setbacks stated herein as increased by at least 250 feet.

F. Stormwater Management System:

1. All permits from SWFWMD and DEP, as well as any other agency with jurisdiction, shall be provided to the County for review prior to final approval of the Excavation Permit. The Board of County Commissioners hereby delegates authority to the County staff to require additional or stricter standards and requirements than state agencies in their sole discretion, when a higher standard is necessary to protect the public interest, health, safety, welfare and infrastructure due to the specific facts surrounding a particular application. These facts shall include but not be limited to information regarding locations, affected properties and their uses, and other relevant factors. This delegated discretion shall be used on a limited basis and shall be justified in writing on or attached to the permit thereto. The system shall be subject to the approval of the County Engineer. Turbidity screens and silt barriers shall be used if required to insure the quality of any discharge from the Excavation Site as required by the County Engineer.

2. Existing stormwater management facilities, both natural and man-made, serving upland property and located within the Excavation Site shall be perpetuated and maintained unless substitute facilities and easements benefiting upland owners approved by the County Engineer are provided.

3. Ground surfaces above the Seasonal High Water Table which are disturbed by Excavation or Excavation Operations shall be protected from erosion damage until permanent erosion protection is provided by Reclamation.

G. Time Limits of Excavation Operations. Type II, III and IV Excavation Operations may be permitted for a period of up to 1 ½ years (18 months), 3 ½ years (42 months) and five (5) years (60 months) respectively, from the date the Excavation Permit is issued. Shorter time frames may be required by County staff or the Board of County Commissioners for Excavation Areas less than 50% of the maximum allowable excavated material for the permit classification is to be removed. If Excavation has not begun within one (1) year after the date the Excavation Permit is issued, the Excavation Permit shall expire unless appealed and extended by the Board of County Commissioners.

H. Entrance/Access Improvements. The County shall require the following public road improvements to ensure public safety and proper traffic flow. The applicant may submit a request for traffic information and other data that would support not installing some of the required improvements listed below. The County Engineer may, through consideration of any information submitted, and/or solely on his/her own analysis, not require any of the improvements listed below.

1. All Type III and Type IV Excavation permittees shall be required to pave any Excavation Site entrance access road with a 22 foot wide drive, at least 150 feet in length, meeting minimum County road construction standards for all entrances. Type II permittees shall be exempt from this requirement, unless the unique situation of the Type II Excavation Site requires paving, at the sole discretion of the County Engineer, to protect the public health, safety, welfare and infrastructure.

2. A right hand decal/turn-lane, per FDOT standards, for the entrance and for any turning movements from an arterial or collector roadway necessary to get to the Excavation Site shall be required for Type IV permittees. Type II and III permittees shall be exempt from this requirement.

3. A left hand turn lane, per FDOT standards, into the Excavation Site for the entrance and for any turning movements from an arterial or collector roadway necessary to get to the Excavation Site shall be required for Type IV permittees. Type II and III permittees shall be exempt from this requirement.

4. All entrances shall meet County road access/separation standards, unless County staff determines that such separation cannot physically exist or another solution is proven to be safer.

5. The Board of County Commissioners or the County Engineer may also limit access or require additional improvements to the public roads or restrict transport routes as a condition of approval in order to mitigate expected road damage resulting from proposed operations and to enhance, maintain, promote and assure public safety and convenience.

I. Buffers:

1. A 4 foot berm with a 4 to 1 slope shall be required around the perimeter of the Excavation Site within the required setbacks. Said berm shall start at least 20 feet back from the property boundary. Type II and III permittees shall be exempt from this requirement, except along a public roadway.

2. A class D buffer shall be required in the first 100 feet of setback from the property line along any roadway or residential area (not A-S or A-l0). Twice the County standard number of trees shall be required.

3. A class B buffer shall be required in the first 100 feet of setback from the property line along all other property lines. Type II and III permittees shall be exempt from this requirement.

J. Maximum Size. The maximum size of any permitted Type II Excavation Limit shall be 20% of the total Excavation Site square footage (less jurisdictional wetlands) or 10 acres,

whichever is less. The maximum size of any permitted Type III Excavation Limit shall be 20% of the total Excavation Site square footage (less jurisdictional wetlands) or 100 acres, whichever is less. The maximum size of any permitted Type IV Excavation Limit shall be 25% of the total Excavation Site square footage (less jurisdictional wetlands) or 100 acres, whichever is less. Note that any jurisdictional wetlands must be subtracted from the total Excavation Site square footage before the percentage is calculated. For example a Type IV Excavation Limit on a 2,000,000 square foot Excavation Site with 500,000 square feet of jurisdictional wetlands would be (2,000,000 - 500,000) x 25% = 375,000 square feet. Bonus percentage and acreage may be permitted for Type IV Excavation Sites under the provisions of Article IX to allow a higher percentage and additional acreage to be excavated up to a maximum of 50% of the Excavation Site less any jurisdictional wetlands or 200 acres whichever is less, if the Board of County Commissioners determines that such increase is in the public interest. The maximum depth of a Type II Excavation shall be 20 feet, but in no case shall the Excavation penetrate the aquifer confining layer. While the Excavation Management regulations does not set a maximum depth for a Type III or Type IV Excavation, in no case shall the Excavation penetrate the aquifer confining layer.

K. Ownership Standard. The entire Excavation Site shall have a single ownership that is the same as the titleholder of the land; that is, half of the Excavation Site cannot be owned by one Person while the other half is owned by a different Person. However, the *entire* Excavation Site may be owned by two or more Persons. The Excavation Site shall not be permitted to be subdivided in any manner until released by the County one (1) year after completion and final certification of any Reclamation.

L. Scales. Scales shall be required of each Excavation Site. The scales shall be capable of weighing each excavated load leaving the Excavation Site. Each load leaving the Excavation Site shall be weighed, recorded, and verified that the loaded vehicle weight does not exceed any posted weight restrictions on the proposed haul route to be used, to specifically include bridges. Type II and III permittees shall be exempt from this requirement, but shall still calculate estimated yardage and weight based on the applicable capacity of the truck being utilized.

M. Scalehouse/Records Building. A scalehouse/records building shall be provided within the Excavation Site containing all required records, drawings, plans, and reports associated with the Excavation Site. Said building shall be manned during any hours the facility is opened to properly record all reporting information. All records shall be readily available on the Excavation Site for inspection. Type II and III permittees shall be exempt from this requirement if another accessible location is made available in the County.

N. Road Improvements. Non-collector and non-arterial roadways (local roads) on the approved haul route to/from the Excavation Site shall be upgraded to minimum County width standards to include applicable shoulders by the applicant. Said width initially shall be constructed with the appropriate base. Said width shall be maintained by the

Owner or Operator throughout the term of the Excavation Permit. Following cessation of Excavation Operations, said roadways shall be properly repaired and resurfaced to County standards. A surety bond shall be provided to the County by the Owner or Operator equal to 150% of the cost of said improvements prior to the issuance of an Excavation Permit. In lieu of surety bonds, the applicant, at their option, may pay an additional amount of $.10 per cubic yard of excavated material removed from the Excavation Site, for each road mile or fraction thereof as a fee to aid in the repair and upkeep of the local roads as a result of the Excavation Operations.

O. Bridges/Box Culverts/Drainage Pipe Improvements. Bridges on non-arterial collector and arterial roadways on the selected haul route to/from the Excavation Site shall be upgraded by the Owner or Operator to a minimum two lane width of 20 feet to assure safe highway operations during Excavation Operations. Bridges, box culverts and drainage pipes along the same haul routes shall be certified for a weight for the route by the applicant's engineer. In the case of a bridge, a complete report meeting FDOT inspection standards shall be required. Said report must be compiled by a bridge engineer. The lowest haul route weight certification shall be the weight restriction for the entire haul route. The applicant shall upgrade any such facilities to ensure that the selected haul route will handle the weight proposed. The final weight restriction shall be posted by the applicant along the route as determined by the County Engineer, pursuant to County standards.

P. Minimum Reclamation Standards:

1. Side slopes of the Excavated Area shall not be steeper than one (1) foot vertical to four (4) feet horizontal to a point four (4) feet below the Seasonal High Water Table.

2. Ground surfaces above the Seasonal High Water Table which are disturbed by Excavation or Excavation Operations shall be planted to provide dense vegetative cover suitable to prevent erosion and control dust. Sod shall be the standard cover or some other equal cover acceptable to the County Engineer.

3. The stormwater management system, as required for Excavation and Excavation Operations, shall be continued or modified. The system shall be subject to the approval of the County Engineer.

4. Other structures used for Excavation and Excavation Operations shall be removed from the Excavation Site.

5. Debris, surplus materials and stationary equipment shall be removed from the Excavation Site.

6. Perimeter fences and gates shall be maintained.

7. Reclamation should be, to the extent practical, carried out concurrently with Excavation, however, Reclamation shall begin no later than when fifty (50%) percent of the Excavated Area has been excavated or fifty (50%) percent of the permit life has expired, whichever occurs first.

8. Reclamation shall be completed within six (6) months from the expiration of the Excavation Permit, cessation of Excavation for 180 days, or permanent cessation of Excavation, whichever occurs first.

Section 10230 Post-Excavation Requirements (Cessation of Excavation)

A. The Operator shall notify the Development Department in writing within thirty (30) days following permanent cessation of Excavation. The notice shall include a schedule for Reclamation conforming to the requirements for Reclamation outlined herein. All Reclamation activities shall begin within thirty (30) days of proper notification of cessation. The Reclamation shall be completed within six (6) months unless otherwise approved by the Board of County Commissioners as part of the Reclamation or modified Reclamation Plan.

B. If the cessation is to be temporary for a period that will exceed six (6) months, the Operator shall notify the Development Department within thirty (30) days following temporary cessation of Excavation. The notice shall include a schedule for Reclamation or protection of disturbed areas and maintenance of the stormwater management system during the period of cessation.

C. Release Procedures: When Reclamation can be totally completed on an area within the Excavation Limits, the Owner may request that County Engineer release an equal percentage of the cash escrow, construction bond, or irrevocable letter of credit, less ten percent (10%) retainage for maintenance of the restored area.

D. Failure to perform all of the Reclamation as indicated on the Reclamation Plan within the time specified shall be a violation of these regulations and shall subject the Excavation Site to enforcement action in addition to any surety usage to correct said problems.

Section 10240 Reporting Requirements

A. <u>Quarterly Reporting Requirements</u>:

1. The Operator shall submit a quarterly summary report by the 15th day of the month following the end of the quarter showing the daily extractions by truck, cubic yardage (tonnage if applicable), material hauled, and destination location (address, street, and city/county), for each load on a daily log. Such daily log shall be totaled by the month and added cumulatively for the quarter. Attached to the summary report shall be individual extraction reports for each day Excavation occurs showing what is extracted, by load, material, tonnage and estimated cubic

yards by truck. The reporting quarters shall be January-March (1st), April-June (2nd), July-September (3rd), October-December (4th).

2. The Operator shall pay the County a quarterly administration/enforcement fee equal to three cents (.03) per cubic yard excavated to help offset the costs for County inspection, oversight and enforcement services. Said fee shall be in addition to any fee or charges paid relating to bonus Excavation or road maintenance as provided in the Excavation Management regulations. Type I permittees are exempt from this fee.

B. Annual Reporting Requirements:

1. The Operator shall submit an annual report by January 31st of each year regarding the Excavation Operations. The report shall be on the form provided, requiring certifications by the Operator and an engineer registered in the State of Florida. The report shall provide information on the Excavation Operations performed to date, summarizing all the quarterly reports, and any other necessary information depicting the extent of Excavation.

2. An engineer's report evaluating compliance with all requirements of the Excavation Permit, the Excavation Management regulations, outside agency permits and all other County regulations, shall be submitted by the Operator. Each approval, permit, and category shall be separately addressed within a signed and sealed report. If the annual report indicates a lack of compliance with the conditions of the Excavation Permit, the Excavation Management regulations, outside agency permits or any other County regulations, a plan for achieving compliance within thirty (30) days shall be submitted with the annual report.

3. Annually, a signed and sealed extraction survey shall be also be submitted calculating the difference in cubic yards from the initial elevations in the application survey and current status of the Excavation Area elevations. Differences between the current status and cumulative quarterly reports shall also be determined. Any deficiencies shall be trued up with a check in the amount of the Excavation-dependant fees and charges owed. Any overpayment shall be indicated also and shall be refunded by the County within thirty (30) days, accordingly.

4. The annual administration fee shall also be submitted with the annual report.

5. An engineering inspection of the condition of the non-arterial and collector roadways in the primary haul route, made by assessing each roadway's current condition compared to the original condition of the roadway and subsequent improvements, shall also be submitted with the annual report.

6. If there is a bridge or bridges along the primary haul route, a bridge engineer's inspection of the condition of the non-arterial and collector bridge(s) in the primary haul route, made by assessing each bridge's current condition compared to the original condition of the bridge and subsequent improvements, shall also be submitted with the annual report.

Section 10250 Extensions/Revisions/Transfers to Existing Excavation Permits

A. Excavation Time Limit Extensions. Time limit extensions to Excavation Permits shall generally be prohibited and as such denied. If approved for extension it shall be for a specific period of a minimum duration. Type I and Type II permit extensions shall be approved, approved with conditions, or denied by County staff for up to a maximum of 6 months. Type III permit extensions shall be approved, approved with conditions or denied by County staff for up to a maximum of 12 months. Type IV permit extensions shall be approved, approved by conditions or denied by the Board of County Commissioners for a maximum of 18 months. Complete extension applications not filed with the County at least three (3) months prior to the expiration of the Excavation Permit shall be considered expired at the end of the Excavation Permit term, shall be precluded from any further Excavating at that time and shall be treated as a new Excavation application.

B. All Excavation extension applications shall be evaluated based on a determination of the following criteria:

1. That there is a demonstrated need for the extension;

2. That there has been a catastrophic event that would have caused a delay such as a hurricane; (If so determined, the lost time shall be determined and used to measure what type of time extension may be warranted.);

3. That all other agency permits are still active;

4. That no major violations occurred during the Excavation Permit term, to include adherence to an requirements and conditions, timeliness of reports, and overall cooperation during the previous permit period;

5. That the conditions around the Excavation Site at the time of approval have not substantially changed requiring reassessment of the application; and

6. That there are not other property owners that are unnecessarily delayed in obtaining a new Excavation Permit, due to the granting of this extension.

C. New conditions may be added to the extended permit so as to make the remaining time the permit is operational more compatible. These new conditions may include any and all requirements herein.

D. Revisions To An Approved Excavation Permit. Revisions to an existing Excavation Permit, excluding an extension of time for the completion of Excavation and/or Reclamation, shall be considered upon application by the Owner and Operator. The application shall be on the form provided, accompanied by the required fee, and revised drawings and narratives signed and sealed by an engineer registered in the State of Florida, meeting all required standards herein, as applicable to the proposed revision as determined solely by the Development Director and County Engineer. The application for revision shall be reviewed and considered for approval pursuant to the same procedure as a new application. Only one such request shall be submitted every twelve (12) months. A second request over the same issue may not be re-applied for 36 months.

E. Transfer of Excavation Permit. An application for transfer of an Excavation Permit shall be on the form provided. The completed application shall include the required application fee, the designated name of the Excavation project and the date the Excavation Permit was issued. Incomplete applications will not be accepted. If no revisions are proposed to existing Permits, the application shall include the following:

1. A fully completed application form signed by the Owner, present Operator and proposed Operator wherein:

   a. The present Owner agrees to the transfer and agrees that the conditions of the Assurance Agreement shall remain in full force and effect;

   b. The present Operator agrees to the revocation of the existing Excavation Permit; and

   c. The proposed Operator agrees *td;:* be bound by all conditions of the existing Excavation Permit;

2. The legal description of the Excavation Limits;

3. An affidavit of agent authorization signed by the Owner (where applicable) on the form provided; and

4. Any other legal transfers or other papers to legally transfer responsibility to the new owners. If the application for a transfer is approved by the Board of County Commissioners, the Development Director shall issue a new Excavation Permit including any conditions imposed by the Board. The existing Excavation Permit shall be void.

Section 10260 Violations, Fines, and Penalties

A. Noncompliance. Upon discovery of the failure of an Operator to strictly comply with the terms of the Excavation Management regulations or other County regulations, including

the failure to adhere to all approved plans, narratives and agreements, the following action shall be taken:

1. A notice shall be sent to the Operator, by U.S. Mail, Federal Express or other common courier, notifying the Operator of the noncompliance. The notice shall give the operator ten (10) calendar days to correct the violation or provide a schedule to achieve compliance. A copy of the notice shall also be sent to the Owner by U.S. Mail, Federal Express or other common courier. The notice may also be posted at the Excavation Site in conjunction with Certified Mail and shall constitute service.

2. Ten business days after notification of non-conformance has been received (and/or property posted) by the owner/operator, County staff shall re-inspect the Excavation Site. If the violations and non-conformances identified in the notice have not been corrected, the code enforcement officers shall issue a cease and desist order suspending all Excavation. All operations on the Excavation Site will remain suspended until an acceptable stipulated settlement agreement for compliance including administrative fines can be agreed upon, or until the conclusion of a hearing before a special magistrate. If an agreed upon stipulated settlement agreement cannot be reached a special master hearing will be conducted within ten (10) business days and in accordance with Land Development Regulations Section 11703 Notice and Initiation of Special Master Hearings, 11704 (Conduct of Hearings before Special Masters) and 11705 (Subpoena Procedures).

B. Unsafe or Hazardous Condition. Nothing contained herein shall prevent an agent of the County from ordering an immediate suspension of Excavation Operations if it is determined that an unsafe or hazardous condition is determined to exist and to establish a reasonable time by which the unsafe or hazardous condition must be corrected before such suspension is lifted.

C. Revocation of Permit. Upon discovery of the failure of an Operator to strictly comply with the terms of the Excavation Management regulations or other County regulations, including the failure to adhere to all approved plans, narratives and agreements, on a repetitive basis (2 or more separate violation periods totaling more than thirty (30) calendar days cumulatively) or for a prolonged basis of more than thirty (30) calendar days for one violation period, the following action may be taken upon order of the County Administrator or his/her designee, regardless of other actions taken:

1. A written notice shall be sent to the Operator, by U.S. Mail, Federal Express or other common courier, notifying the Operator of the revocation hearing. The notice shall be sent to the Operator at least ten (10) calendar days prior to the scheduled hearing date. A copy of the notice shall also be sent to the Owner by U.S. Mail, Federal Express or other common courier. The notice may also be

posted at the Excavation Site in conjunction with Certified Mail and shall constitute service.

2. If the Board of County Commissioners finds, after hearing testimony from the County staff, the Operator and/or Owner, if available at the hearing, and any concerned citizens, that there has been a repetitive or prolonged failure to comply with the terms of the Excavation Management regulations or other County regulations, and that neither the Operator nor the Owner has sought to attentively maintain compliance with the permit terms, the Board may allow the Excavation Permit to continue to operate as issued with or without additional compliance conditions, or the Board may temporarily suspend the permit for up to one (1) year, or the Board may permanently revoke the Excavation Permit.

D. Violations and Penalties.

1. The provisions of sections A through C of this Article notwithstanding, any Person violating any provision of the Excavation Management regulations or other County regulations shall be prosecuted in the same manner as misdemeanors are prosecuted. Such violation shall be prosecuted in the name of the State in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof and upon conviction shall be punished by a fine not to exceed five hundred dollars ($500.00) or by imprisonment in the County jail not to exceed sixty (60) days or both such fine and imprisonment. Each day any violation of any provision of the Excavation Management regulations or other County regulations shall continue shall constitute a separate offense unless otherwise provided.

2. Nothing herein contained shall prevent the County from taking such other lawful action including, but not limited to, resort to equitable action as is necessary to prevent or remedy any violation. If the County prevails in any such lawful action, all costs incurred including, but not limited to, reasonable attorney's fees, shall be charged to the Owner of the property upon which the violation occurred. If said costs are not paid within thirty (30) days from date of invoice thereof, there shall be a lien upon the property upon which the violation occurred and said lien shall bear interest at the rate of ten (10) percent per annum from the date when the same became due and payable.

Section 10270 Fees

A. The Board of County Commissioners finds these fees to be fair, reasonable and necessary to the effective administration and enforcement of the ordinance. The following fees shall apply upon adoption of the Excavation Management regulations unless amended by the Board of County Commissioners from time to time via resolution of the Board of County Commissioners.

1. Application Fees.

a.	Type I application fees	$100 with application
b.	Type II preliminary application fees Final application fees	$200 with preliminary application $800 with construction plan submittals
c.	Type III preliminary application fees Final application fees	$1,000 with preliminary application $1,500 with construction plan submittals
d.	Type IV preliminary application fees Final application fees	$2,500 with preliminary application $5,000 with construction plan submittals

2. Annual Excavation Report Fee (Submitted with initial plan submittals and with annual reports every year or fraction thereof thereafter.

a.	Type I annual administration report fees	N/A
b.	Type II annual administration report fees	$500
c.	Type III annual administration report fees	$1,000
d.	Type IV annual administration report fees	$3,000

3. Administration/Enforcement Fees. Submitted with quarterly reports. Not applicable for Type I Permits. $.03 per cubic yard.

4. Transfer of Ownership or Operator. $1,500 per occurrence.

5. Revisions to a Type IV Excavation Permit. ½ original application fee.

6. Extension of Excavation Area. ½ original application fee.

7. Other Applicable Fees. Submitted with quarterly reports. $Voluntary Bonus Excavation fees
$Voluntary Amounts in lieu of sureties.

Section 10280 Miscellaneous Provisions

A. Existing Operating Permits:

1. All existing permits which are valid on the effective date of the Excavation Management regulations and which were issued under the provisions of Ordinance No. 1983-13, No. 1981-11, or No. 1990-10 shall remain in full force and effect until these permits are either revoked or expire.

2. Proposals to revise the conditions of or to transfer an existing permit shall be subject to the provisions of the Excavation Management regulations.

3. Violations of the conditions of any existing permit shall be administered pursuant to the Excavation Management regulations.

Section 10300 LAND SPREADING AND HAULING OF BIOSOLIDS

Section 10301 Intent

It is the intention of the County to conform its ordinances and resolutions to the requirements of the Florida Department of Environmental Protection's Rule Chapter 62-640, Florida Administrative Code, the Florida Department of Agriculture and Consumer Services' Rule Chapter 5E-1, Florida Administrative Code, and the Federal Environmental Protection Agency's regulation 40 CFR 503, in the interest of the public health, safety and welfare. As such, Rule Chapters 62-640 and 5E-1, Florida Administrative Code, and federal regulation 40 CFR 503 are adopted and incorporated herein by reference.

It is the further intent of the County to recognize that the proper use of Biosolids in accordance with the Biosolids regulations, as well as state and federal regulations, is of substantial benefit to agricultural operations, provides economic benefits to County residents, and has no negative impact on the environment.

Finally, it is the intent of the County that the permit fees established hereunder will be sufficient to support the County's regulatory and enforcement activities under the Biosolids regulations, and that these costs will not be borne by the County's taxpayers.

Section 10302 Definitions

The definitions contained in County the LDRs and Rule Chapter 62-640, F.A.C., shall apply to the Biosolids regulations unless the context clearly indicates otherwise.

Section 10310 General Provisions – Land Spreading

The following general provisions shall apply to any person, business or other entity (the Applicator") seeking to engage in the land spreading of Biosolids in DeSoto County, Florida.

1. An Applicator seeking to engage in land spreading of Biosolids must comply with all relevant federal, state and local regulations pertaining to the land spreading of Biosolids and other related material.

2. Copies of all permits required by federal or state authorities must be provided to the DeSoto County Development Department as part of the application for a Land Spreading Permit.

3. Only Class AA, A or B Biosolids may be used for land spreading

4. a. Land spreading of Class A Biosolids shall be permitted on contiguous land in common ownership of five (5) acres or more that is zoned Agricultural Five (A-5), Agricultural Ten (A-10) or Phosphate Mining-Industrial (PM-I).

   b. Land spreading of Class B Biosolids shall only be permitted on contiguous land in common ownership of ten (10) acres or more that is zoned Agricultural Five (A-5), Agricultural Ten (A-10) or Phosphate Mining-Industrial (PM-I).

   c. In accordance with Rule 62-640.850, Florida Administrative Code, Class AA Biosolids are distributed and marketed as a fertilizer and regulated under Chapter 576, Florida Statutes, and Chapter 5E-1, Florida Administrative Code. To the extent that Class AA Biosolids are spread and otherwise used in compliance with said regulations, they are exempt from the requirements of the Biosolids regulations.

5. Land spreading of Biosolids shall be permitted only during hours from sunrise to sunset (as those times are published by the Weather Bureau for the part of Florida in which Desoto County is located.

6. It shall be a condition of the Land Spreading Permit that County employees or inspectors designated by the County Administrator shall be permitted to enter upon any private property used for Land Application of Biosolids for the purpose of conducting an inspection to ensure compliance with the Biosolids regulations. The property owner must grant consent to such access as a condition of said permit. Loads of Biosolids may be sampled by the County to provide independent verification of the type of Biosolids and level of treatment achieved. The County may set a fee for said sampling.

7. The Applicator and Biosolids Hauler shall be jointly responsible to repair road and bridge damage caused by the hauling of Biosolids. Such damage does not include normal wear and maintenance of the roads or bridges.

The Applicator and Hauler shall submit information on the estimated number and weight of trucks, and truck routes to the DeSoto County Road and Bridge Department and County Engineer. If it is determined that increased maintenance is likely to be required as a result of the truck traffic that is hauling Biosolids, the Board may require the Applicator and Hauler to enter into a road maintenance agreement to reimburse cost to the County for such increased maintenance.

8. Biosolids shall be created and/or processed in such a manner that they will be free from plastics, solid metals, litter and other foreign objects prior to land application.

9. The Applicator shall contribute a fee for each acre that is applied with Biosolids into a fund designated for the continuing study of odors, pathogen transmissions, environmental effects and other concerns relating to land application of Biosolids, and/or establishment of educational information pertaining to the land application of Biosolids. The fee shall be set by the Board of County Commissioners.

10. The Applicator must have the express written consent of the owner of the application site prior to commencing land spreading of Biosolids.

Section 10320 Prohibited Acts – Land Spreading

The following land spreading acts are prohibited:

1. Land spreading or disposal of untreated domestic or industrial wastewater, Chemical/Portable Toilet Sludge, Treated Domestic Septage, Industrial Sludge, Food Establishment Sludge, Hazardous Waste, or Holding Tank Sludge;

2. Land spreading of wastewater that is not Class A, Class AA or Class B Biosolids, and disposal or land spreading of any form of wastewater or sludge not specifically permitted by the Biosolids regulations.

3. Land spreading of Biosolids in:

   a. The special water resource protection zone in Township 39S, Range 23E, Sections 7 through 23 and Sections 26 through 35, inclusive; and

   b. Such other areas and locations as the Board may determine, following public hearing, are not appropriate for the application of Biosolids based on the specific topography, water resources,

ground water levels and potential impact to natural resources of a specific area or location.

4. Land spreading of Biosolids in violation of the Biosolids regulations.

5. Land spreading, managing or handling Biosolids in any manner that causes, continues or contributes to a Public Nuisance.

6. Land spreading of Biosolids on any land that is water soaked by recent rain or where there is standing water from rain or flooding.

7. Land spreading of Biosolids during any period of an emergency declared by the Governor of Florida or the Board of County Commissioners if such emergency is caused by extreme wet weather conditions.

8. Land spreading of Biosolids without the express written consent of the owner of the application site.

9. Land spreading of Biosolids containing plastics, solid metals, litter, or any other foreign objects.

Section 10330 Land Spreading Permit

A Land Spreading Permit is required as follows:

1. Any Applicator intending to land spread Class A or B Biosolids in DeSoto County shall obtain a Land Spreading Permit for each land application site prior to the commencement of any land spreading activities. In order to obtain such Land Spreading Permit, the Applicator must submit the following which, in form and content and in the exercise of its reasonable discretion, the Board finds is sufficient for the issuance of a land spreading permit:

   a. A $1,000.00 application fee;

   b. The names and addresses of each Generator that will provide Biosolids for land spreading; the quantities and types (A, or B) of Biosolids to be land spread on the property owner's Site, copies of the contract(s) between the Generator(s) and the hauler(s) for the transportation of Biosolids to the Site, and the contract(s) and/or approval(s)between the hauler(s) and the property owner for the land spreading of the Biosolids;

   c. An estimate of the number of trucks that will deliver Biosolids to the Site each day;

d. A management plan which shall contain:

i. Hours and days of operation;
ii. Location of land spreading, identifying each individually numbered Field on a map of each Site that will be used for Land Spreading;
iii. Methodology for land spreading;
iv. Setbacks in compliance with FDEP Rule 62-640.700(8), unless greater setbacks are required by the Board based on site specific topography, water resources, ground water levels and other natural resource and adjoining property considerations;
v. List of contact people and telephone numbers where they may be reached 24 hours a day, seven days a week;
vi. Method of reporting land spreading activities to the County;
vii. Provision for 24 hour advance notice to the County of land spreading on each Field;
viii. Provision for reporting to the County of the next day's land spreading, including the following information: the number of loads of Biosolids that are going to be land spread, the source of the Biosolids, the Generator thereof, whether the Biosolids are A or B Biosolids, and whether the Biosolids are liquid or cake Biosolids.

e. A copy of each Florida Department of Environment Protection Nutrient Management Plan demonstrating compliance with Rule 62-640.500, Florida Administrative Code, for each proposed Field within the Site.

f. A map or schematic with the names and mailing addresses of the owners and occupants (or their authorized agents) of all structures located within one-half mile of the perimeter property line of the proposed Site.

g. A map or schematic of each proposed Field within the overall Site, identifying all areas subject to minimum setbacks.

h. A copy of the Biosolids Hauling Permit or permits required by Desoto County for transportation of Biosolids to the Site for land spreading or application(s) for such permit(s).

i. A performance bond in an amount sufficient to protect the County against loss due to spills of Biosolids or due to environmental

contamination and to provide for cleanup of such spills the minimum amount of such performance bond shall be $100,000 and may be set higher at the County Administrator's discretion. If such bond is utilized to remedy such events, the bond shall be immediately restored to its full original amount.

j. A Certificate of Pollution Liability Insurance indicating insurance in an amount no less than $1,000,000 (One Million Dollars).

k. A copy of the written consent of the owner of the application site for the spreading of Biosolids.

2. All submittals must satisfactorily demonstrate compliance with Chapter 62-640, Florida Administrative Code, and 40 CFR 503.

3. Land Spreading Permits are valid for one (1) year. Annual extensions shall be considered by the Board, based upon the same criteria as an initial application. If grounds for revocation of the permit exist, revocation of the permit shall be considered and resolved before the County acts on the application for extension. All extension requests must be filed at least ninety (90) days prior to the expiration of the current Land Spreading Permit.

Section 10340 Reporting and Additional Data Requirements

All persons, businesses or other entities that have been issued permits under the Biosolids regulations shall comply with the monitoring, record keeping, reporting and notification requirements set forth in Rule Chapter 62-640, Florida Administrative Code, and 40 CFR 503, and shall make those records available to the County for inspection and verification upon request.

Section 10350 Enforcement – Land Spreading

1. Noncompliance. Upon discovery of the failure of a Land Spreading Permit holder to strictly comply with the terms of these regulations and/or the Land Spreading Permit, the following action shall be taken:

a. The permit holder shall be provided with a cease and desist order issued by the County Administrator by electronic mail, facsimile or hand delivery. Upon delivery of such Cease and Desist Order, the permit holder shall immediately cease all land spreading on those Fields designated in the cease and desist order and shall not recommence land spreading in those Fields until the County

authorizes the recommencement of land spreading. The Fields designated in the Cease and Desist Order shall be those Fields on which the violation has occurred. Authorization to recommence land spreading shall be immediately provided to the permit holder at such time as the alleged violation shall have been determined by the Board or the Special Master to have not occurred or at such time as the County concludes that Remedial Measures have been completed.

b. A notice shall be sent to the permit holder by U.S. mail, giving notice of the noncompliance and delivery of the cease and desist order. The notice shall give ten (10) calendar days to correct the violation or submit a satisfactory schedule to achieve compliance. The property owner shall be sent a courtesy copy of the cease and desist order and the notice.

c. If the permit holder fails to respond to the notice, or if an acceptable schedule for compliance or Remedial Measures cannot be established, or upon request of the property owner, a hearing may be scheduled and conducted by the DeSoto County Special Master. A notice of the hearing shall be sent via U.S. mail, hand delivery, electronic mail or facsimile transmission to the permit holder and property owner.

d. If the Special Master finds that there has been a failure to comply with the terms of the Biosolids regulations and/or the Land Spreading Permit, and has failed to correct the noncompliance, the Special Master may suspend the Land Spreading Permit, order Remedial Measures or grant additional time to achieve compliance. If additional time for compliance is granted, the hearing shall be continued until a future time at which the Special Master shall take final action on the matter.

e. Special Masters shall operate pursuant to the provisions of Sections 12804 through 12811 of the DeSoto County LDR's except to the extent that the same are inconsistent with the Biosolids regulations, and pursuant to such other rules as may be provided by the Board of County Commissions by resolution or ordinance.

2. Violations and Penalties. Violations of the Biosolids regulations or Land Spreading Permit referred to the Special Master shall be punishable as set forth in Section 125.69, Florida Statutes, and Section 12809 of the Land Development Regulations. Nothing herein shall prevent the County from taking any other lawful action necessary to prevent or remedy any violation, including

action by the Board to suspend or revoke a Land Spreading Permit for failure to comply with the Biosolids regulations or the terms of the Permit.

3. Withdrawal of Consent. In the event the owner of the application site revokes consent for land spreading of Biosolids, the Applicator shall immediately cease all spreading. If the Applicator does not immediately cease all spreading of Biosolids at the application site for which consent has been revoked, the County Administrator shall issue a Cease and Desist Order in accordance with subsection 8(1), above. If the Applicator does not immediately cease all land spreading of biosolids at the site for which consent has been withdrawn, the Land Spreading Permit may be suspended or revoked by the Board.

Section 10360 General Provisions – Biosolids Hauling

The following general provisions shall apply to any person, business or other entity seeking to engage in the transportation of Class A or B Biosolids in DeSoto County, Florida for land spreading on an approved Land Spreading Site.

1. The person, business or other entity must have obtained and possess a valid Biosolids Hauling Permit. Compliance with the conditions of a Biosolids Hauling Permit does not relieve the Hauler of Biosolids from having to comply with all relevant federal and state regulations pertaining to the hauling of Biosolids and other related material.

2. The applicant for a Biosolids Hauling Permit must provide the County Administrator with copies of all permits required by federal or state authorities for the hauling and/or the land application of Biosolids in DeSoto County as a required condition precedent to obtaining a Biosolids Hauling Permit.

3. Transportation of only Class A or B Biosolids to an approved Land Spreading Site is permitted.

4. The hauling of treated Biosolids from a point of origin to a designated Land Spreading Site within DeSoto County shall be permitted only in accordance with the hauler's approved Operations Plan.

5. Each hauler shall store or park vehicles (except as described in Section 6 herein) which are used in hauling of Biosolids and which contain Biosolids only on an approved Land Spreading Site and then only during the times in which land spreading on the Land Spreading Site is specified in the hauler's Operations Plan.

6. Any vehicle which is hauling Biosolids in DeSoto County may not be parked or stopped for any period of time exceeding thirty (30) minutes, except to change flat tires, to effect emergency roadside repairs, to await towing after breakdown, to render assistance or comply with traffic laws involving vehicular or pedestrian accidents, or when otherwise required by any other law or unavoidable traffic condition.

7. Any vehicle engaged in hauling of Biosolids to a Land Spreading Site shall be thoroughly cleaned at the site after delivery of the Biosolids and prior to entering upon the public roads of DeSoto County so that Biosolids do not fall off of the vehicle onto the road.

Section 10370 Prohibited Acts – Biosolids Hauling

The following acts concerning hauling of Class A or B Biosolids are prohibited:

1. Hauling of Biosolids to an approved Land Spreading Site except when done pursuant to an approved Operations Plan and pursuant to a valid Biosolids Hauling Permit.

2. Hauling of Biosolids from a point of origin to a designated land spreading site within DeSoto County except during hours from sunrise to sunset (as those times are published by the Weather Bureau for the part of Florida in which Desoto County is located), Monday through Friday.

3. Hauling of Biosolids except to a site where such land spreading may lawfully occur and with the land owner's consent.

4. Any activity inconsistent with the permit submittals, including but not limited to storing or parking, temporarily or permanently, trucks containing Biosolids on or at sites not approved for such storage or parking by the permit.

5. Violation of any provision of the Biosolids regulations, including but not limited to failure to adhere to all of the provisions thereof.

6. Hauling for land spreading of any form of sludge or Biosolids not specifically permitted by the Biosolids regulations.

Section 10380 Biosolids Hauling Permit Required

Any hauler who intends to haul Class A or B Biosolids to a Land Spreading Site in DeSoto County shall first obtain a Biosolids Hauling Permit for such activity from the Board of County

Commissioners. The Board of County Commissioners shall not approve the permit unless the hauler provides the following information which the Board finds, in form and content and in the exercise of its reasonable discretion, is sufficient for the issuance of a hauling permit:

1. A site map showing the location of the Land Spreading Site(s). The Sites shall be shown on a U.S. Geological Survey Quad Sheet or other type of map clearly depicting topography, surface features of the site and distances; and

2. Zoning classifications of the Site(s), according to the DeSoto County Zoning Atlas; and

3. Proof of permission from the property owner or the owner's authorized agent to accept Biosolids for land spreading on each Land Spreading Site; and

4. An Operations Plan that identifies the method of land spreading, the name and contact information for the person(s) who will be on site and responsible for the land spreading operations, the amount of Biosolids to be spread per acre expressed in tons, and the moisture content of Biosolids that are to be spread; and

5. The permanent location, address, the daytime telephone number, and the weekends, holidays and nighttime telephone numbers of the biosolids treatment facility (Generator) from which hauling operations will originate and the location where vehicles and ancillary equipment used for land spreading are stored when not in use; and

6. Proof that the hauler has at least $500,000 in commercial liability insurance, in form satisfactory to DeSoto County. The applicant shall submit a certificate of insurance when applying for the permit, when insurance is changed, or when the insurance policy is renewed. A current insurance policy is required throughout the life of the permit and the permittee shall ensure that a copy of such policy is maintained as part of the County's records. If the hauler is a governmental entity, the governmental entity may submit a certificate of self-insurance to fulfill this requirement; and

7. Performance security in the amount of $250,000 to ensure that any environmental damage, damage to the public roads or public health threat caused by the hauler may be adequately remedied. Such performance security shall comply with the requirements of law and shall be reasonably satisfactory to the County as to form and manner of execution. In lieu of requiring this security, the County Administrator may permit governmental units to submit a certified resolution, ordinance or other

written assurance from the governing body agreeing to reimburse and indemnify DeSoto County for any funds expended to remedy environmental damage or injury to the roads of the County or the public health caused by that hauler, governmental entity, or by anyone employed by, or subcontracted to, that hauler.

8. The applicable permit fee to be set by Resolution of the DeSoto County Board of County Commissioners. The fee shall be in such amount as will compensate the County for the anticipated cost of administering the Biosolids regulations and shall not be established at such level as to either produce revenue in excess of expenses or to result in a deficiency of revenue to cover expenses. The fee amount will be reestablished annually based upon experience and anticipated costs of the regulation in order to assure that the fee is established at the proper level.

9. The location of each site or road upon which trucks will be stored or parked in accordance with the Biosolids regulations while containing Biosolids en route to a land spreading site. The sites shall be shown on a U.S. Geological Survey Quad Sheet or other type of map clearly depicting topography, surface features of the site and distances.

Section 10390 Biosolids Hauling Permit Issuance and Conditions

If all of the requirements set forth above have been met and if there is an approved Land Spreading Permit for land spreading of Class A or B Biosolids on the Land Spreading Site listed in the application, the Biosolids Hauling Permit shall issue, subject to the following conditions:

1. Transferability. The permit shall not be transferable.

2. Display of the Permit. When a permit is issued, the number of the permit, together with the name of the hauler, its address, phone number, empty weight of the vehicle and vehicle capacity (stated in gallons and tons) shall be permanently applied and prominently displayed on both sides of each vehicle used for hauling in three (3) inch or larger letters or numbers.

3. Required documentation. It shall be a condition of the permit that each driver of each permitted vehicle carry with him or her at all times the following documentation: (a) a complete copy of the permit issued pursuant to the Biosolids regulations; (b) a trip manifest which shall identify: (1) the point of origin of the materials being carried in the vehicle, the Generator of the Biosolids, and (2) the specific class of Biosolids being carried and (3) the name and location of the wastewater treatment plant (Generator) that produced the materials; and (4) the date and time when the materials were loaded, and the location where the

Biosolids are to be land applied, this location to correspond with the location identification system used in the Biosolids Hauling Permit application and the approved Operations Plan.

4. Right of Inspection. It shall be a condition of the Biosolids Hauling Permit that all drivers of vehicles operating under the Permit allow any agent of the County having proof of identification, or any uniformed law enforcement officer, to stop and inspect the vehicle at any time without prior notice and without warrant or probable cause in order to:

   a. inspect the copy of the permit carried by the driver;
   b. inspect the other written documents required to be carried by the driver by the Biosolids regulations; and
   c. inspect and sample the contents of the cargo load carried by the vehicle.

5. Duration and Extension of Permit. Biosolids Hauling Permits are valid for one (1) year.

6. Noncompliance. Upon discovery of the failure of a Biosolids Hauling Permit holder to comply with the terms of these regulations, including the failure to adhere to all approved conditions or requirement of the permit, the following actions shall be taken:

   a. The County Administrator shall notify the permit holder of the extent and nature of noncompliance and determine whether, in the County Administrator's discretion, the noncompliance can be remedied without resort to the formal procedures set forth in the Biosolids regulations. If the County Administrator decides that noncompliance can be remedied informally he or she shall take whatever measures he or she deems are reasonably necessary or appropriate to effect compliance.

   b. If the County Administrator determines that formal procedures are necessary, or if the permit holder fails to come into compliance after being given an opportunity to do so, then a notice from the County Administrator shall be sent by U.S. mail to the permit holder advising him/her with reasonable specificity of the details of the noncompliance. The notice shall give the permit holder ten (10) calendar days in which to correct the violation or submit a schedule to achieve compliance.

7. If the permit holder fails to respond to the notice, or if an acceptable schedule for compliance cannot be worked out, a hearing may be scheduled before the Desoto County Special Master. Reasonable notice of

the hearing shall be sent via U.S. mail to the permit holder. The hearing shall be quasi judicial in nature, and shall be in accordance with Sections 12804 through 12811 of the Land Development Regulations.

8. If the Special Master finds that there has been continuing failure to comply with the terms of these regulations and that the holder of a Biosolids Hauling Permit has failed to correct the noncompliance, the Board may suspend the Biosolids Hauling Permit or allow additional time for the Transporter to achieve compliance. If additional time for compliance is granted, the hearing shall be continued until a future meeting at which the Special Master shall take final action on the matter and the Board may revoke the permit for noncompliance. Issuance of a new Biosolids Hauling Permit or reinstatement of such permit, subsequent to the respective suspension or revocation of a Biosolids Hauling Permit held by the same permit holder, shall be conditioned upon such permit holder's having taken remedial measures reasonably acceptable to the County to cure the conditions responsible for the prior permit's suspension or revocation and to prevent their recurrence.

9. Violations and Penalties. Violations of the Biosolids regulations which are referred to the Special Master, including violations of any condition or requirement of a Permit shall be punishable as set forth in Section 125.69, Florida Statutes, and Section 12809 of the Land Development Regulations. Nothing herein shall prevent the County from taking such other lawful action as is necessary to prevent or remedy any violation, including action by the Board to suspend or revoke a Biosolids Hauling Permit for failure to comply with the Biosolids regulations or the terms of the Permit.

10. Cease and Desist. In the event the County Administrator or his designee determines that the action of a Biosolids Hauler endanger the public or are causing harm to private or public property, the County Administrator shall issue a Cease and Desist Order, whereupon the Hauler shall immediately cease all Biosolids hauling in DeSoto County. If the Hauler does not immediately cease all hauling of biosolids in DeSoto County, his Biosolids Hauling Permit may be suspended or revoked by the Board.

Section 10400 FLOODPLAIN MANAGEMENT

Policy Determination: Flood Plain Permitting And Approval

Upon the effectiveness of Ordinance 2013-04, the following procedure shall be used in determining Flood Plain permitting and approval provided that it does not alter the functionality of the Flood Plains as determined by FEMA's adopted Flood Insurance Rate Maps (FIRM).

Purpose:
To provide an understanding of the intent and purpose of Ordinance 2013-04, Floodplain Management Ordinance, of DeSoto County where it relates to permit requirements for bona fide agricultural operations. Specifically, Section 103.2, of the said ordinance defines the authority and direction of the Flood Plain Administrator as follows:

"General. The Floodplain Administrator is authorized and directed to administer and enforce the provisions of the Floodplain Management regulations. The Floodplain Administrator shall have the authority to render interpretations of the Floodplain Management regulations consistent with the intent and purpose of the Floodplain Management regulations and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in ordinance without the granting of a variance pursuant to Section 1.07 of the Floodplain Management regulations." In addition, Section 105.1 (last paragraph) of the said ordinance provides the Flood Plain Administrator the authority to waive certain documents and data information and to render decisions in compliance with the Floodplain Management regulations that states as follows: "The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by the Floodplain Management regulations but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with the Floodplain Management regulations."

As such, it is determined that bona fide agricultural practices and ancillary structures supporting bona fide agricultural operations outside the designated floodways will not alter the functionality of the flood plains as determined by the latest FIRM for DeSoto County. The following Procedures shall apply:

Typical practices within lands located in the Flood Plains as determined by FEMA adopted FIRM Maps and considered as bona fide agriculture lands shall be considered *de minimus* under the ordinance and would require no Flood Plain Permit. Examples of those *de minimus* activities are as follows:

1. Fencing outside the Flood Way boundaries as defined by the FIRM Maps.
2. General agricultural practices for production, such as disking, laser level, moving soil from one place to another to establish proper grading (outside flood way boundaries).
3. Equipment stored in open fields or under trees.
4. Storage of plants and field harvest crops in open fields.
5. Redefining and maintaining canals and ditches for adequate flow as approved by the Water Management District not designated as Flood Ways by the FIRM Maps.
6. Re-grading and maintenance of existing dirt roads.

7. Pole barn structures used strictly for shade and storage located outside the boundaries of the defined flood way. Said structures shall have no more than one wall or any floor that requires fill in the floodplain.
8. Access roadways and driveways.
9. Other activities as may be determined by the Flood Plain Administrator as *de minimus*.

Section 10400.100 Chapter 1 Administration

Section 10400.101 General

10400.101.1 Title. These regulations shall be known as the *Floodplain Management Regulations* of Desoto County.

10400.101.2 Scope. The provisions of the Floodplain Management regulations shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the *Florida Building Code;* placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

10400.101.3 Intent. The purposes of the Floodplain Management regulations and the flood load and flood resistant construction requirements of the *Florida Building Code* are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

(1) Minimize unnecessary disruption of commerce, access and public service during times of flooding;

(2) Require the use of appropriate construction practices in order to prevent or minimize future flood damage;

(3) Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;

(4) Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;

(5) Minimize damage to public and private facilities and utilities;

(6) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;

(7) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and

(8) Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22.

10400.101.4 Coordination with the *Florida Building Code.* The Floodplain Management regulations is intended to be administered and enforced in conjunction with the *Florida Building Code.* Where cited, ASCE 24 refers to the edition of the standard that is referenced by the *Florida Building Code.*

10400.101.5 Warning. The degree of flood protection required by the Floodplain Management regulations and the *Florida Building Code,* as amended by this community, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with the Floodplain Management regulations. **10400.101.6 Disclaimer of Liability.** This ordinance shall not create liability on the part of Board of County Commissioners of Desoto County or by any officer or employee thereof for any flood damage that results from reliance on the Floodplain Management regulations or any administrative decision lawfully made thereunder.

Section 10400.102 Applicability

10400.102.1 General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

10400.102.2 Areas to which the Floodplain Management regulations applies. This ordinance shall apply to all flood hazard areas within Desoto County, as established in Section 10400.102.3.

10400.102.3 Basis for establishing flood hazard areas. The Flood Insurance Study for DeSoto County, Florida and Incorporated Areas, dated November 6, 2013, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of the Floodplain Management regulations and shall serve as the minimum basis for establishing flood

hazard areas. Studies and maps that establish flood hazard areas are on file at the DeSoto County Planning and Zoning Department, 201 E. Oak Street, Ste. 204, Arcadia, **FL.**

10400.102.3.1 Submission of additional data to establish flood hazard areas. To establish flood hazard areas and base flood elevations, pursuant to Section 10400.105 of the Floodplain Management regulations, the Floodplain Administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:

(1) Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of the Floodplain Management regulations and, as applicable, the requirements of the *Florida Building Code.*

(2) Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.

10400.102.4 Other laws. The provisions of the Floodplain Management regulations shall not be deemed to nullify any provisions of local, state or federal law.

10400.102.5 Abrogation and greater restrictions. This ordinance supersedes any ordinance in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing ordinances including but not limited to land development regulations, zoning ordinances, stormwater management regulations, or the *Florida Building Code.* In the event of a conflict between the Floodplain Management regulations and any other ordinance, the more restrictive shall govern. This ordinance shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by the Floodplain Management regulations. **10400.102.6 Interpretation.** In the interpretation and application of the Floodplain Management regulations, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

Section 10400.103 Duties and Powers of the Floodplain Administrator

10400.103.1 Designation. The Desoto County Building Official is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

10400.103.2 General. The Floodplain Administrator is authorized and directed to administer and enforce the provisions of the Floodplain Management regulations. The Floodplain Administrator shall have the authority to render interpretations of the Floodplain Management regulations consistent with the intent and purpose of the Floodplain Management regulations and

may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in the Floodplain Management regulations without the granting of a variance pursuant to Section 10400.107 of the Floodplain Management regulations.

10400.103.3 Applications and permits. The Floodplain Administrator, in coordination with other pertinent offices of the community, shall:

(1) Review applications and plans to determine whether proposed new development will be located in flood hazard areas;

(2) Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of the Floodplain Management regulations;

(3) Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;

(4) Provide available flood elevation and flood hazard information;

(5) Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;

(6) Review applications to determine whether proposed development will be reasonably safe from flooding;

(7) Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*, when compliance with the Floodplain Management regulations is demonstrated, or disapprove the same in the event of noncompliance; and

(8) Coordinate with and provide comments to the Building Official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of the Floodplain Management regulations.

10400.103.4 Substantial improvement and substantial damage determinations. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

(1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of

repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

(2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

(3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

(4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the *Florida Building Code* and the Floodplain Management regulations is required.

10400.103.5 Modifications of the strict application of the requirements of the *Florida Building Code.* The Floodplain Administrator shall review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the *Florida Building Code* to determine whether such requests require the granting of a variance pursuant to Section 10400.107 of the Floodplain Management regulations.

10400.103.6 Notices and orders. The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with the Floodplain Management regulations.

10400.103.7 Inspections. The Floodplain Administrator shall make the required inspections as specified in Section 10400.106 of the Floodplain Management regulations for development that is not subject to the *Florida Building Code,* including buildings, structures and facilities exempt from the *Florida Building Code.* The Floodplain Administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

10400.103.8 Other duties of the Floodplain Administrator. The Floodplain Administrator shall have other duties, including but not limited to:

(1) Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 10400.103.4 of the Floodplain Management regulations;

(2) Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);

(3) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information

necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available;

(4) Review required design certifications and documentation of elevations specified by the Floodplain Management regulations and the *Florida Building Code* and the Floodplain Management regulations to determine that such certifications and documentations are complete; and

(5) Notify the Federal Emergency Management Agency when the corporate boundaries of Desoto County are modified.

10400.103.9 Floodplain management records. Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of the Floodplain Management regulations and the flood resistant construction requirements of the *Florida Building Code,* including Flood Insurance Rate Maps; Letters of Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the *Florida Building Code* and the Floodplain Management regulations; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to the Floodplain Management regulations and the flood resistant construction requirements of the *Florida Building Code.* These records shall be available for public inspection at the Desoto County Building Department and/or the Planning and Zoning Department.

Section 10400.104 Permits

10400.104.1 Permits required. Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of the Floodplain Management regulations, including buildings, structures and facilities exempt from the *Florida Building Code,* which is wholly within or partially within any flood hazard area shall first make application to the Floodplain Administrator, and/or the Building Official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of the Floodplain Management regulations and all other applicable codes and regulations has been satisfied.

10400.104.2 Floodplain development permits or approvals. Floodplain development permits or approvals shall be issued pursuant to the Floodplain Management regulations for any development activities not subject to the requirements of the *Florida Building Code,* including buildings, structures and facilities exempt from the *Florida Building Code.* Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain

Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

10400.104.2.1 Buildings, structures and facilities exempt from the *Florida Building Code.* Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the *Florida Building Code* and any further exemptions provided by law, which are subject to the requirements of the Floodplain Management regulations:

(1) Railroads and ancillary facilities associated with the railroad.

(2) Nonresidential farm buildings on farms, as provided in section 604.50, F.S.

(3) Temporary buildings or sheds used exclusively for construction purposes.

(4) Mobile or modular structures used as temporary offices.

(5) Those structures or facilities of electric utilities, as defined in section 366.02, F.S., which are directly involved in the generation, transmission, or distribution of electricity.

(6) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.

(7) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.

(8) Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.

(9) Structures identified in section 553.73(10)(k), F.S., are not exempt from the *Florida Building Code* if such structures are located in flood hazard areas established on Flood Insurance Rate Maps

10400.104.3 Application for a permit or approval. To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the County. The information provided shall:

(1) Identify and describe the development to be covered by the permit or approval.

(2) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.

(3) Indicate the use and occupancy for which the proposed development is intended.

(4) Be accompanied by a site plan or construction documents as specified in Section 10400.105 of the Floodplain Management regulations.

(5) State the valuation of the proposed work.

(6) Be signed by the applicant or the applicant's authorized agent.

(7) Give such other data and information as required by the Floodplain Administrator.

10400.104.4 Validity of permit or approval. The issuance of a floodplain development permit or approval pursuant to the Floodplain Management regulations shall not be construed to be a permit for, or approval of, any violation of the Floodplain Management regulations, the *Florida Building Codes*, or any other ordinance of the County. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions.

10400.104.5 Expiration. A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.

10400.104.6 Suspension or revocation. The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of the Floodplain Management regulations or any other ordinance, regulation or requirement of this community.

10400.104.7 Other permits required. Floodplain development permits and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including but not limited to the following:

(1) The Southwest Florida Water Management District; section 373.036, F.S.

(2) Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.

(3) Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.

(4) Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.

(5) Federal permits and approvals.

Section 10400.105 Site Plans and Construction Documents

10400.105.1 Information for development in flood hazard areas. The site plan or construction documents for any development subject to the requirements of the Floodplain Management regulations shall be drawn to scale and shall include, as applicable to the proposed development:

(1) Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.

(2) Where base flood elevations, or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 10400.105.2(2) or (3) of the Floodplain Management regulations.

(3) Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and the base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 10400.105.2(1) of the Floodplain Management regulations.

(4) Location of the proposed activity and proposed structures, and locations of existing buildings and structures.

(5) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.

(6) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.

(7) Existing and proposed alignment of any proposed alteration of a watercourse.

The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by the Floodplain Management regulations but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with the Floodplain Management regulations.

10400.105.2 Information in flood hazard areas without base flood elevations (approximate Zone A). Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the Floodplain Administrator shall:

(1) Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.

(2) Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source.

(3) Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the Floodplain Administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:

(a) Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or

(b) Specify that the base flood elevation is two (2) feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than two (2) feet.

(4) Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

10400.105.3 Additional analyses and certifications. As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

(1) For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in Section 10400.105.4 of the Floodplain Management regulations and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.

(2) For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one (1) foot at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.

(3) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in Section 10400.105.4 of the Floodplain Management regulations.

10400.105.4 Submission of additional data. When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

Section 10400.106 Inspections

10400.106.1 General. Development for which a floodplain development permit or approval is required shall be subject to inspection.

10400.106.1.1 Development other than buildings and structures. The Floodplain Administrator shall inspect all development to determine compliance with the requirements of the Floodplain Management regulations and the conditions of issued floodplain development permits or approvals.

10400.106.1.2 Buildings, structures and facilities exempt from the *Florida Building Code.* The Floodplain Administrator shall inspect buildings, structures and facilities exempt from the *Florida Building Code* to determine compliance with the requirements of the Floodplain Management regulations and the conditions of issued floodplain development permits or approvals.

10400.106.1.2.1 Buildings, structures and facilities exempt from the *Florida Building Code,* lowest floor inspection. Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the

Florida Building Code, or the owner's authorized agent, shall submit to the Floodplain Administrator:

(1) If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or

(2) If the elevation used to determine the required elevation of the lowest floor was determined in accordance with Section 10400.105.2(3)(b) of the Floodplain Management regulations, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

10400.106.1.2.2 Buildings, structures and facilities exempt from the *Florida Building Code*, final inspection. As part of the final inspection, the owner or owner's authorized agent shall submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in Section 10400.106.1.2.1 of the Floodplain Management regulations.

10400.106.1.3 Manufactured homes. The Building Official shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of the Floodplain Management regulations and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the Building Official.

Section 10400.107 Variances and Appeals

10400.107.1 General. The Board of County Commissioners shall hear and decide on requests for appeals and requests for variances from the strict application of the Floodplain Management regulations. Pursuant to section 553.73(5), F.S., the Board of County Commissioners shall hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the *Florida Building Code.*

10400.107.2 Appeals. The Board of County Commissioners shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the administration and enforcement of the Floodplain Management regulations. Any person aggrieved by the decision of Board of County Commissioners may appeal such decision to the Circuit Court, as provided by Florida Statutes.

10400.107.3 Limitations on authority to grant variances. The Board of County Commissioners shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 10400.107.6 of the Floodplain Management regulations, the conditions of issuance set forth in Section 10400.107.7 of the Floodplain Management regulations, and the comments and recommendations of the Floodplain Administrator and the Building Official. The Board of County Commissioners has the right to

attach such conditions as it deems necessary to further the purposes and objectives of the Floodplain Management regulations.

10400107.3.1 Restrictions in floodways. A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in Section 10400.105.3 of the Floodplain Management regulations.

10400.107.4 Historic buildings. A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the *Florida Building Code, Existing Building,* Chapter 11 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the *Florida Building Code.*

10400.107.5 Functionally dependent uses. A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in the Floodplain Management regulations, provided the variance meets the requirements of Section 10400.107.3.1, is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.

10400.107.6 Considerations for issuance of variances. In reviewing requests for variances, the Board of County Commissioners shall consider all technical evaluations, all relevant factors, all other applicable provisions of the *Florida Building Code,* the Floodplain Management regulations, and the following:

(1) The danger that materials and debris may be swept onto other lands resulting in further injury or damage;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;

(4) The importance of the services provided by the proposed development to the community;

(5) The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;

(6) The compatibility of the proposed development with existing and anticipated development;

(7) The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;

(8) The safety of access to the property in times of flooding for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

10400.107.7 Conditions for issuance of variances. Variances shall be issued only upon:

(1) Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of the Floodplain Management regulations or the required elevation standards;

(2) Determination by the Board of County Commissioners that:

(a) Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;

(b) The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and

(c) The variance is the minimum necessary, considering the flood hazard, to afford relief;

(3) Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and

(4) If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood

elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as $25 for $100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

Section 10400.108 Violations

10400.108.1 Violations. Any development that is not within the scope of the *Florida Building Code* but that is regulated by the Floodplain Management regulations that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with the Floodplain Management regulations, shall be deemed a violation of the Floodplain Management regulations. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by the Floodplain Management regulations or the *Florida Building Code* is presumed to be a violation until such time as that documentation is provided.

10400.108.2 Authority. For development that is not within the scope of the *Florida Building Code* but that is regulated by the Floodplain Management regulations and that is determined to be a violation, the Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.

10400.108.3 Unlawful continuance. Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law

Section 10400.200 Chapter 2 Definitions

Section 10400.201 General

10400.201.1 Scope. Unless otherwise expressly stated, the following words and terms shall, for the purposes of the Floodplain Management regulations, have the meanings shown in this section.

10400.201.2 Terms defined in the *Florida Building Code.* Where terms are not defined in the Floodplain Management regulations and are defined in the *Florida Building Code,* such terms shall have the meanings ascribed to them in that code.

10400.201.3 Terms not defined. Where terms are not defined in the Floodplain Management regulations or the *Florida Building Code,* such terms shall have ordinarily accepted meanings such as the context implies.

Section 10400.202 Definitions

Alteration of a watercourse. A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

Appeal. A request for a review of the Floodplain Administrator's interpretation of any provision of the Floodplain Management regulations or a request for a variance.

ASCE 24. A standard titled *Flood Resistant Design and Construction* that is referenced by the *Florida Building Code.* ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

Base flood. A flood having a 1-percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, Section 1612.2.] The base flood is commonly referred to as the "100-year flood" or the "1-percent-annual chance flood."

Base flood elevation. The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM). [Also defined in FBC, B, Section 1612.2.]

Basement. The portion of a building having its floor subgrade (below ground level) on all sides. [Also defined in FBC, B, Section 1612.2.]

Board of County Commissioners. The governing body of the unincorporated area of DeSoto County, Florida.

Design flood. The flood associated with the greater of the following two areas: [Also defined in FBC, B, Section 1612.2.]

(1) Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or

(2) Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

Design flood elevation. The elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to 2 feet. [Also defined in FBC, B, Section 1612.2.]

Development. Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities.

Encroachment. The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

Existing building and existing structure. Any buildings and structures for which the "start of construction" commenced before March 22, 1983. [Also defined in FBC, B, Section 1612.2.]

Existing manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before March 22, 1983.

Expansion to an existing manufactured home park or subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Federal Emergency Management Agency (FEMA). The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land from: [Also defined in FBC, B, Section 1612.2.]

(1) The overflow of inland or tidal waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood damage-resistant materials. Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Also defined in FBC, B, Section 1612.2.]

Flood hazard area. The greater of the following two areas: [Also defined in FBC, B, Section 1612.2.]

(1) The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.

(2) The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

Flood Insurance Rate Map (FIRM). The official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community. [Also defined in FBC, B, Section 1612.2.]

Flood Insurance Study (FIS). The official report provided by the Federal Emergency Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the base flood, and supporting technical data. [Also defined in FBC, B, Section 1612.2.]

Floodplain Administrator. The office or position designated and charged with the administration and enforcement of the Floodplain Management regulations (may be referred to as the Floodplain Manager).

Floodplain development permit or approval. An official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with the Floodplain Management regulations.

Floodway. The channel of a river or other riverine watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. [Also defined in FBC, B, Section 1612.2.]

Floodway encroachment analysis. An engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the evaluation shall be prepared by a qualified Florida licensed engineer using standard engineering methods and models.

Florida Building Code. The family of codes adopted by the Florida Building Commission, including: *Florida Building* Code, *Building; Florida Building* Code, *Residential; Florida Building* Code, *Existing Building; Florida Building* Code, *Mechanical; Florida Building* Code, *Plumbing; Florida Building* Code, *Fuel Gas.*

Functionally dependent use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long-term storage or related manufacturing facilities.

Highest adjacent grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

Historic structure. Any structure that is determined eligible for the exception to the flood hazard area requirements of the *Florida Building* Code, *Existing Building,* Chapter 11 Historic 6uildings.

Letter of Map Change (LOMC). An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

Light-duty truck. As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

(1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or

(2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or

(3) Available with special features enabling off-street or off-highway operation and use.

Lowest floor. The lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the *Florida Building Code* or ASCE 24. [Also defined in FBC, B, Section 1612.2.]

Manufactured home. A structure, transportable in one or more sections, which is eight (8) feet or more in width and greater than four hundred (400) square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer." [Also defined in 15C-1.0101, F.AC.]

Manufactured home park or subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market value. The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in the Floodplain Management regulations, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, Actual Cash Value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser.

New construction. For the purposes of administration of the Floodplain Management regulations and the flood resistant construction requirements of the *Florida Building Code*, structures for which the "start of construction" commenced on or after March 22, 1983, and includes any subsequent improvements to such structures.

New manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after March 22, 1983.

Park trailer. A transportable unit which has a body width not exceeding fourteen (14) feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. [Defined in section 320.01, F.S.]

Recreational vehicle. A vehicle, including a park trailer, which is: [see in section 320.01, F.S.)

(1) Built on a single chassis;

(2) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light-duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Special flood hazard area. An area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-

A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 1612.2.]

Start of construction. The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns.

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Also defined in FBC, B Section 1612.2.]

Substantial damage. Damage of any origin sustained by a building or structure whereby the cost of restoring the building· or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred. [Also defined in FBC, B Section 1612.2.]

Substantial improvement. Any repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, Section 1612.2.]

(1) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.

(2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

Variance. A grant of relief from the requirements of the Floodplain Management regulations, or the flood resistant construction requirements of the *Florida Building Code*, which permits construction in a manner that would not otherwise be permitted by the Floodplain Management regulations or the *Florida Building Code.*

Watercourse. A river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

Section 10400.300 Chapter 3 Flood Resistant Development

Section 10400.301 Buildings and Structures

10400.301.1 Design and construction of buildings, structures and facilities exempt from the *Florida Building Code.* Pursuant to Section 10400.104.2.1 of the Floodplain Management regulations, buildings, structures, and facilities that are exempt from the *Florida Building Code,* including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the *Florida Building Code* that are not walled and roofed buildings shall comply with the requirements of Section 10400.307 of the Floodplain Management regulations.

Section 10400.302 Subdivisions

10400.302.1 Minimum requirements. Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:

(1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;

(2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AD, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

10400.302.2 Subdivision plats. Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

(1) Where the subdivision has more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with Section 10400.105.2(1) of the Floodplain Management regulations; and

(2) Compliance with the site improvement and utilities requirements of Section 10400.303 of the Floodplain Management regulations.

Section 10400.303 Site Improvements, Utilities and Limitations

10400.303.1 Minimum requirements. All proposed new development shall be reviewed to determine that:

(1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;

(2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

10400.303.2 Sanitary sewage facilities. All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.

10400.303.3 Water supply facilities. All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

10400.303.4 Limitations on sites in regulatory floodways. No development, including but not limited to site improvements, and land disturbing activity involving fill or re-grading, shall be authorized in the regulatory floodway unless the floodway encroachment analysis required in Section 10400.1 05.3(1) of the Floodplain Management regulations demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

10400.303.5 Limitations on placement of fill. Subject to the limitations of the Floodplain Management regulations, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the *Florida Building Code.*

Section 10400.304 Manufactured Homes

10400.304.1 General. All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to section 320.8249, F.S., and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of the Floodplain Management regulations.

10400.304.2 Foundations. All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that are

designed in accordance with the foundation requirements of the *Florida Building Code Residential* Section R322.2 and the Floodplain Management regulations.

10400.304.3 Anchoring. All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.

10400.304.4 Elevation. Manufactured homes that are placed, replaced, or substantially improved shall comply with Section 10400.304.4.1 or 10400.304.4.2 of the Floodplain Management regulations, as applicable.

10400.304.4.1 General elevation requirement. Unless subject to the requirements of Section 10400.304.4.2 of the Floodplain Management regulations, all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the *Florida Building Code, Residential* Section R322.2 (Zone A).

10400.304.4.2 Elevation requirement for certain existing manufactured home parks and subdivisions. Manufactured homes that are not subject to Section 10400.304.4.1 of the Floodplain Management regulations, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:

(1) Bottom of the frame of the manufactured home is at or above the elevation required in the *Florida Building Code, Residential* Section R322.2 (Zone A); or

(2) Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.

10400.304.5 Enclosures. Enclosed areas below elevated manufactured homes shall comply with the requirements of the *Florida Building Code, Residential* Section R322 for such enclosed areas.

10400.304.6 Utility equipment. Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the *Florida Building Code, Residential* Section R322.

Section 10400.305 Recreational Vehicles and Park Trailers

10400.305.1 Temporary placement. Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:

(1) Be on the site for fewer than 180 consecutive days; or

(2) Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.

10400.305.2 Permanent placement. Recreational vehicles and park trailers that do not meet the limitations in Section 10400.305.1 of the Floodplain Management regulations for temporary placement shall meet the requirements of Section 10400.304 of the Floodplain Management regulations for manufactured homes.

Section 10400.306 Tanks

10400.306.1 Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

10400.306.2 Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section 10400.306.3 of the Floodplain Management regulations shall be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

10400.306.3 Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

10400.306.4 Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:

(1) At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

(2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

Section 10400.307 Other Development

10400.307.1 General requirements for other development. All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in the Floodplain Management regulations or the *Florida Building Code*, shall:

(1) Be located and constructed to minimize flood damage;

(2) Meet the limitations of Section 10400.303.4 of the Floodplain Management regulations if located in a regulated floodway;

(3) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;

(4) Be constructed of flood damage-resistant materials; and

(5) Have mechanical, plumbing, and electrical systems above the design flood elevation, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

10400.307.2 Fences in regulated floodways. Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 10400.303.4 of the Floodplain Management regulations.

10400.307.3 Retaining walls, sidewalks and driveways in regulated floodways. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 10400.303.4 of the Floodplain Management regulations.

10400.307.4 Roads and watercourse crossings in regulated floodways. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 10400.303.4 of the Floodplain Management regulations. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of Section 10400.105.3(3) of the Floodplain Management regulations.

ARTICLE 11 BOARDS AND AGENCIES

Section 11000 GENERALLY 11-2

Section 11100 PLANNING COMMISSION 11-2
Section 11101 Establishment and Composition 11-2
Section 11102 Proceedings 11-3
Section 11103 Functions, Powers, and Duties 11-4

Section 11200 BOARD OF ADJUSTMENT 11-5
Section 11201 Establishment and Composition 11-5
Section 11202 Proceedings 11-5
Section 11203 Functions, Powers and Duties 11-6

Section 11300 BOARD OF COUNTY COMMISSIONERS 11-6

ARTICLE 11 BOARDS AND AGENCIES

Section 11000 GENERALLY

The following boards and agencies are created to administer the provisions of the LDRs, in conjunction with County staff, under the authority prescribed by the LDRs and Florida law. Unless a board or agency adopts different rules of procedure, or unless otherwise required by the LDRs, all County boards, agencies, commissions and committees shall be governed by the current edition of Roberts Rules of Order.

Section 11100 PLANNING COMMISSION

Section 11101 Establishment and Composition

A. A Planning Commission is hereby established. The Planning Commission is designated the Local Planning Agency for DeSoto County pursuant to Section 163.3174, Florida Statutes. The Planning Commission shall consist of 6 members to be appointed by the Board of County Commissioners, each for a term of 4 years; and 1 member appointed by the DeSoto County District School Board, (the "School Board Appointee") who shall serve at the pleasure of the School Board, but for no longer than 4 consecutive years. Terms shall be staggered so that the terms of no more than 3 members expire in any one year. A member whose term expires may continue to serve until a successor is appointed.

B. No member of the Planning Commission except the School Board Appointee shall hold any elective office of or be employed by any municipality or county government in Desoto County. Members of the Planning Commission shall be residents of the County for at least 5 years prior to the date of appointment. Except for the School Board Appointee, no more than 2 members of the Commission shall be of the same business, trade, or profession.

C. Vacancies in Planning Commission membership shall be filled by appointment by the Board of County Commissioners for the unexpired term of the member affected. The School Board of the School District of DeSoto County, Florida may fill any vacancy for the School Board Appointee, by such procedures as the School Board deems fit.

D. Members of the Planning Commission may be removed from office for cause by the affirmative votes of 3 members of the Board of County Commissioners. The School Board of the School District of DeSoto County, Florida may remove the School Board Appointee, by such procedures as the School Board deems fit.

E. Two alternate members appointed by the Board of County Commissioners shall serve in the absence of any member or members of the Planning Commission. The term of office for each alternate member shall be 2 years. Alternate members

shall be required to attend all regular meetings of the Planning Commission, but are not counted for quorum purposes unless participating as regular Planning Commission members. If a Planning Commission member is absent from a meeting or unable to participate in the meeting or a matter on the agenda for any reason, including, but not limited to, a conflict of interest, the first alternate shall participate in the meeting or matter and vote in the stead of the Planning Commission member who is unable to participate or vote. If a second Planning Commission member is absent from a meeting or unable to participate in the meeting or a matter on the agenda for any reason, including, but not limited to, a conflict of interest, the second alternate shall participate and vote in the stead of the second Planning Commissioner who is unable to participate or vote. No Planning Commission alternate may participate or vote on any matter if he or she has a conflict of interest that would preclude him or her from participating or voting.

Section 11102 Proceedings

A. The Planning Commission shall elect a Chairman and a Vice Chairman from among its members, excluding the School Board appointee, for a term of one year, and may create and fill such other offices as it may determine. All members of the Planning Commission shall vote on matters before the Planning Commission. The annual election of the Planning Commission officers shall be held at the first regular meeting in January and shall be the last item of business of such meeting. The new term shall begin at the next regular meeting of the Planning Commission following the first regular meeting in January each year.

B. Meetings shall be held at the call of the Chairman and at such other times as the Planning Commission may determine; provided, that the Commission shall hold at least one regularly scheduled meeting each month, on a day to be determined by the Commission. Meetings that are not regularly scheduled shall not be held without proper notice. Regular scheduled meeting may be cancelled if no matters are to be presented before the Planning Commission. The Planning Department of DeSoto County shall provide notice to all Commission members, including the School Board Appointee, not later than close of business 5 business days prior to the scheduled hearing whether or not there are matters to be presented to the Commission and whether or not the matters are comprehensive plan amendments and rezonings that would, if approved, increase residential density on the property that is the subject of the application.

C. A quorum for the transaction of business shall consist of any 4 of the members or voting alternates. The Planning Commission shall keep records of its proceedings, showing the vote of each member The Commission shall keep records of its examinations, decisions, recommendations and other official actions.

D. Voting members are expected to attend all meetings. The Planning Commission shall consider asking for the resignation or the removal of any voting member who has been absent from 3 regular meetings within any 6 month period; except when such member has been granted a leave of absence by the Board of County Commissioners. Each member shall promptly notify the Board of County Commissioners in writing of any such request for leave of absence and shall promptly notify the Planning Commission of every such approved leave of absence. Any Planning Commission voting member who misses 6 regular, special, or called meetings within any 12 month period without an approved leave of absence shall be asked to resign. If the Chairman and Vice Chairman fail to attend a meeting, a quorum of the Commission members may appoint a Chairman Pro Tempore to chair that meeting.

E. Any and all testimony before the Planning Commission shall be taken under oath.

Section 11103 Functions, Powers, and Duties

The Planning Commission has the following functions, powers and duties:

A. All functions, powers and duties required of a local planning agency pursuant to Section 163.3174, Florida Statutes.

B. To prepare and recommend to the Board of County Commissioners for adoption and from time to time recommend amendments and revisions to a Comprehensive Plan for DeSoto County.

C. To determine whether specific proposed developments conform to the principles and requirements of the Comprehensive Plan. To recommend principles and policies for guiding action affecting development in the County.

D. To prepare and recommend to the Board of County Commissioners regulations, and other proposals promoting orderly development in accordance with the Comprehensive Plan.

E. To hold public hearings on applications for rezoning, LDR amendments and special exceptions and to report its findings and recommendations to the Board of County Commissioners.

F. To conduct such public hearings as may be required to gather information necessary for the drafting, establishment, and maintenance of the Comprehensive Plan and regulations implementing it, or for the purpose of promoting the accomplishment of the plan in whole or in part.

G. To recommend to the Board of County Commissioners, any necessary special studies on the location, adequacy, and conditions of specific facilities in the

County. These may include but are not limited to studies on housing, commercial and industrial conditions and facilities, recreation, public and private utilities, roads and traffic, transportation, parking, and the like.

H. To perform such other duties as may be lawfully assigned to it, or which may have bearing on the preparation or implementation of the Comprehensive Plan.

I. To hear appeals from decisions of the Development Review Committee regarding determinations of vested rights.

Section 11200 BOARD OF ADJUSTMENT

Section 11201 Establishment and Composition

A Board of Adjustment is hereby established. The Planning Commission shall serve as the Board of Adjustment.

Section 11202 Proceedings

A. The Board of Adjustment shall elect a Chairman and Vice Chairman from among its members which shall not include the School Board Appointee and may create and fill such other offices as it may determine. The Development Department shall assist the Board.

B. Meetings shall be held at the call of the Chairman and at such other times as the Board of Adjustment may determine. Meetings that are not regularly scheduled shall not be held without at least 3 days notice to each member.

C. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member. The Board of Adjustment shall keep records of its examinations and other official actions. A quorum for the transaction of business shall consist of any 4 of the members or voting alternates.

D. If any member of the Board called on to sit in a particular case find that his private on personal interests are involved in the matter coming before the Board, he shall disqualify himself from all participation in that case, or he may be disqualified by the votes of a majority of members of the Board, not including the member about whom the question of disqualification has been raised. No members of the Board of Adjustment shall appear before the Board of Adjustment as agent or attorney for any person.

Section 11203 Functions, Powers and Duties

The Board of Adjustment has the following functions, powers and duties:

A. Administrative Review: To hear and decide appeals when it is alleged there is error in any order, decision or determination of the Development Director in the implementation of the LDRs.

B. Variances: To authorize upon appeal in specific cases such variance from the terms of the LDRs as will not be contrary to the public interest where, owing to special conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the provisions of the LDR would result in unnecessary and undue hardship on the land. Examples of variances that the Board of Adjustment may grant include, but are not limited to, variances to building setbacks, fence height and parking requirements. The Board of Adjustment has no authority to grant variances from permitted uses of land, to grant variances from the requirements of State or Federal law, or to grant variances to concurrency requirements.

C. Nonconforming Uses: If no structural alterations are made, any nonconforming use of a structure or of a structure and premises in combination, may be changed to another nonconforming use, provided that the Board of Adjustment finds after public notice and hearing that the proposed use is equally or more appropriate to the zoning district than the existing nonconforming use and that the relation of the structure to surrounding properties is such that adverse effects on occupants and neighboring properties will not be greater than if the existing nonconforming use is continued. In permitting such changes, the Board of Adjustment may require appropriate conditions and safeguards in accord with the intent and purpose of these regulations. Applications for such changes in nonconforming uses shall be made to the Development Department.

D. Variances to Flood Damage Prevention Regulations: To hear and decide applications for variances to Flood Damage Prevention Regulations.

Section 11300 BOARD OF COUNTY COMMISSIONERS

With respect to the LDRs, the Board of County Commissioners shall have the duty of appointing or confirming members of the Planning Commission and Board of Adjustment; considering and adopting or rejecting proposed amendments or the repeal of the LDRs; considering and approving or denying requests for Comprehensive Plan Amendments, Rezonings, Special Exceptions, and establishing a schedule of fees and charges as set out in the LDRs.

ARTICLE 12 ADMINISTRATION AND ENFORCEMENT

Section 12000 DEVELOPMENT REVIEW AND APPROVAL 12-3
Section 12001 Purpose 12-3
Section 12002 A Development Permit Required Prior to Undertaking Any Development Activity 12-3
Section 12003 Prerequisites To Issuance of Development Permit 12-3
Section 12004 Exceptions To Requirement For A Development Order 12-4
Section 12005 Procedure for Obtaining Development Permits 12-4
Section 12006 Post-Permit Changes 12-7
Section 12007 Fees and Charges 12-7
Section 12100 PROCEDURES FOR REVIEW OF MINOR DEVELOPMENTS AND MAJOR DEVELOPMENTS 12-8
Section 12101 Designation of Plans As Minor or Major Developments 12-8
Section 12102 Procedures for Review of Minor Developments 12-9
Section 12103 Procedures for Review of Major Developments 12-9
Section 12104 Project Phasing 12-10
Section 12200 QUASI JUDICIAL HEARING PROCEDURES 12-11
Section 12201 Scope and Applicability 12-11
Section 12202 Preliminary Matters 12-11
Section 12203 Presentation and Hearing 12-12
Section 12300 PROCEDURES FOR APPLICATIONS FOR SPECIAL EXCEPTIONS 12-12
Section 12301 Generally 12-12
Section 12302 Applications 12-12
Section 12303 Staff Review 12-13
Section 12304 Findings by the Planning Commission 12-14
Section 12305 Conditions and Safeguards 12-15
Section 12306 Denial 12-15
Section 12307 Status of the Planning Commission Report and Recommendations 12-16
Section 12308 Board Action on Planning Commission Report 12-16
Section 12309 Changes and Amendments 12-16
Section 12310 Public Hearings 12-16
Section 12400 PROCEDURES FOR APPLICATIONS FOR VARIANCES 12-17
Section 12401 Generally 12-17
Section 12402 Applications 12-18
Section 12403 Staff Review 12-18
Section 12404 Initial Determination and Required Findings by the Board of Adjustment 12-18
Section 12405 Conditions and Safeguard 12-19
Section 12406 Variances To Be Considered As Part Of Development Review 12-19
Section 12407 Special Provisions Where Variance is Sought to Requirements to Floodplain Management Requirements 12-19
Section 12408 Special Requirements for Variances for Historic Properties 12-20

Section 12409 Public Hearings 12-20
Section 12500 PROCEDURES FOR APPLICATIONS FOR REZONING AND LDR AMENDMENTS 12-21
Section 12501 Generally 12-21
Section 12502 Applications 12-21
Section 12503 Staff Review 12-21
Section 12504 Nature and Requirements of Planning Commission Report 12-22
Section 12505 Conditions and Safeguards 12-23
Section 12506 Status of Planning Commission Report and Recommendations 12-23
Section 12507 Board of County Commissioners Action on Planning Commission Report 12-23
Section 12508 Public Hearings 12-24
Section 12600 OTHER PROCEDURES BEFORE THE BOARD OF ADJUSTMENT . 12-25
Section 12601 Appeals of Decisions of the Development Director 12-25
Section 12602 Special Authority of Board of Adjustment in Relation to Certain Nonconforming Uses 12-26
Section 12603 Appeals from Decisions of Board of Adjustment 12-26
Section 12700 VESTING OF DEVELOPMENT RIGHTS 12-26
Section 12701 Intent 12-26
Section 12702 Vesting of Development Rights 12-26
Section 12703 Property Not Vested 12-27
Section 12704 Procedures to Determine Vested Rights 12-28
Section 12705 Developments of Regional Impact 12-33
Section 12706 Concurrency 12-34
Section 12800 ENFORCEMENT OF THE LDRs 12-34
Section 12801 General 12-34
Section 12802 Enforcement of Codes by Other Means 12-34
Section 12803 Prosecution Under Previous Regulations 12-35
Section 12804 Special Master Proceedings 12-35
Section 12805 Creation of Special Masters 12-35
Section 12806 Notice and Initiation of Special Master Hearings 12-36
Section 12807 Conduct of Hearing Before Special Masters 12-38
Section 12808 Subpoena Procedures 12-39
Section 12809 Administrative Penalties 12-39
Section 12810 Rehearing 12-41
Section 12811 Appeals 12-41
Section 12900 ABATEMENT OF PUBLIC NUISANCES 12-41
Section 12901 Public Nuisance Defined 12-41
Section 12902 Public Nuisances Prohibited 12-44

ARTICLE 12 ADMINISTRATION AND ENFORCEMENT

Section 12000 DEVELOPMENT REVIEW AND APPROVAL

Section 12001 Purpose

This Article sets forth the application and review procedures for obtaining development approvals including but not limited to Development Orders, Development Permits, Special Exceptions, and Variances. In addition, this Article contains the procedures used to enforce the LDRs.

Section 12002 A Development Permit Required Prior to Undertaking Any Development Activity

Development is the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into 3 or more parcels. No development activity shall be undertaken unless authorized by a Development Order or Development Permit.

Section 12003 Prerequisites To Issuance of Development Permit

A Development Permit may not be issued to any applicant that has any unsatisfied, adjudicated code enforcement violations as determined in accordance with Section 12800 (i.e.) unpaid fines, continuing violations, code enforcement liens. In addition, a Development Permit may not be issued unless the proposed development activity:

A. Is authorized by a Development Order issued in accordance with the LDRs.

B. Conforms to all relevant provisions of the LDRs.

C. Has prior approval of the Florida Department of Environmental Protection when there is utilization of State owned, sovereign, submerged lands.

D. Is located on a parcel that has access to a public road or is located on a functional private road that connects to a public road.

E. Is located on a parcel served by utility companies that supply electricity, water and sanitary sewer. The County may require certification of service availability by the utility company. If water is not provided by a utility company, a well may be used. If the well is regulated (any development other than a single family dwelling) a copy of the approved permit or certification issued by the regulating authority must be provided. If sanitary sewer is not provided by a utility company, a private onsite sewage treatment system may be used. A copy of the approved permit or certification issued by the regulating authority must be provided.

F. Is located on a parcel that does not have any unsatisfied, adjudicated code enforcement violations as determined in accordance with Section 12800 (i.e.) unpaid fines, continuing violations, code enforcement liens.

Section 12004 Exceptions To Requirement For A Development Order

A Development Permit may be issued for the following development activities in the absence of a Development Order:

A. Development activity necessary to implement a valid site plan on which the start of construction took place prior to the adoption of the LDRs and has continued in good faith. Compliance with the development standards is not required if in conflict with the previously approved plan.

B. The alteration of an existing building or structure so long as no change is made to its gross floor area, its use, or the amount of impervious surface on the site.

C. The erection of a sign on a previously developed site and independent of any other development activity on the site.

D. The re-surfacing of a vehicle use area that conforms to all requirements of the LDR.

E. Bona fide agricultural activity as defined by the Florida Statutes.

F. A single family dwelling or a duplex structure on a platted lot, a Lot of Record or a lot that does not require platting.

Section 12005 Procedure for Obtaining Development Permits

A. Pre-Application Conference

Applicants are encouraged to request a pre-application conference with the Development Director and/or County staff prior to submitting an application in order to review application procedures, requirements and the proposed development. Failure of the County staff at the pre-application conference to identify any required permit or procedures shall not relieve the applicant from such requirements.

B. Filing and Application

Application for any development permit shall be made in writing by the owner(s) of the property for which it is sought or by the owner's designated agent and shall be filed with the Development Department. The following basic materials shall

be submitted before an application will be considered complete and formally accepted under the provisions of this section:

1. The County's standard application form shall be completed and signed by all owners or their representative.

2. A site plan drawn to scale, not less than 1" = 30' on parcels less than one acre in area (larger scales may be permitted for larger parcels with approval from the Development Director). All site plans shall include the following:

   a. All proposed and existing development on site. Structures shall reflect accurate distances from property lines, wetlands/waterfront, other structures, and rights-of-way and edge of pavement.

   b. All existing physical features (wetlands, waterfront, etc.)

   c. All rights-of-way and easements, if known.

   d. Direction of North to the property.

   e. Total parcel area.

   f. Statement of accuracy by the owner/applicant acknowledging that misrepresentation of the site plan may result in the cancellation of the development permit.

   g. All other information requested on the application form.

   h. The application fee.

   i. When an Improvement Plan is required, it must conform to the requirements contained in Section 14500.

3. A tie-in survey, if required by the Development Director, to show compliance with all provisions of the LDR.

C. Application Completeness

The Development Department shall determine whether an application is complete.

1. If the application is complete it shall be accepted and processed for review.

2. If the application is found incomplete, the applicant shall be notified. The application shall not be processed and shall be returned to the applicant for revision and resubmission.

D. Development Permits

Applications for Development Permits shall satisfy all of the following requirements:

1. A valid Development Order shall be on file for the project. Applications for Development Permits shall be submitted to the Development Department and may be submitted simultaneously with application for Development Plan or Improvement Plan approval; however, permits shall not be issued until Development Plan or Improvement Plan approval is granted and the Development Order issued. All Development Plans shall be reviewed by the Development Director and then submitted for a public hearing to be held by the Board for its review and approval or disapproval in accordance with Sections 12200 through 12203, with notice provided in accordance with Section 125.66(2)(a), Florida Statutes. After Board approval of a Development Plan, the Development Director is authorized to approve Improvement Plans upon a finding of completeness, consistency with the Development Plan, and compliance with the requirements of these Land Development Regulations. Should an application for Development Plan or Improvement Plans approval be found incomplete, the Development Permit application shall not be processed.

2. Development Orders may specify conditions to be met during construction of a project. Such conditions shall be made a part of the Development Order.

3. All conditions of the Development Order shall be satisfied prior to the release of the Development Order. It shall be the responsibility of the Development Director to withhold final development inspection until all conditions of the Development Order have been met.

   a. Every building or structure shall undergo all required inspections, as determined by the Development Department, prior to the issuance of the Certificate of Occupancy.

   b. No structure or building shall be used or activity carried out on property prior to the issuance of a Certificate of Occupancy.

c. A checklist shall be completed, providing for signatures of appropriate officials verifying compliance with all criteria and conditions, prior to the issuance of a Certificate of Occupancy.

4. Application for Development Permits (including individual permits for plumbing, electrical, and mechanical) for additions and remodeling shall require a valid Development Order for the proposed use of the building, unless exempt. Development Permits shall not be issued unless the proposed development complies with all requirements of the LDRs.

5. Applications for Development Permits shall be processed by the Development Department. However, a valid Development Order shall be on file prior to issuance of the Development Permit or shall verify that the property is lawfully exempt from the Development Order requirement. The Development Director shall also verify that requirements of the LDR have been met.

6. Proof of receipt of any required permits or notice or exemption from the County for driveways, sewer and water connections, and from state and federal agencies such as SWFWMD, FDOT, ACOE, HRS, and FDEP approvals (if applicable) shall be required for issuance of a Development Permit.

7. Development Permits shall not be issued which degrade the adopted levels of service.

8. Where required, complete construction plans must be submitted and approved prior to the issuance of a Development Permit.

Section 12006 Post-Permit Changes

After a permit has been issued, it shall be unlawful to change, modify, alter or otherwise deviate from the terms or conditions of the permit without first obtaining a modification of the permit. A modification may be applied for in the same manner as the original permit. A written record of the modification shall be entered upon the original permit and maintained in the files of the Development Department.

Section 12007 Fees and Charges

The Board shall establish a schedule of fees and charges for matters pertaining to administration and implementation of the LDRs.

It is the intent of the LDR that the County shall not be required to bear any part of the cost of applications or petitions made under the LDR and that the fees and charges

represent the actual cost of required legal advertising, postage, clerical, filing and other costs involved in the processing of applications and petitions.

The schedule of fees and charges shall be posted in the Development Department. The charges listed may be changed by resolution of the Board.

Applications or petitions initiated officially by DeSoto County by its duly authorized agencies or officers are exempt from the payment of the fees or charges herein set out.

Until the applicable fees or charges have been paid in full, no action of any type or kind shall be taken on any application or petition.

Section 12100 PROCEDURES FOR REVIEW OF MINOR DEVELOPMENTS AND MAJOR DEVELOPMENTS

Section 12101 Designation of Plans As Minor Developments or Major Developments

A. Generally

For purposes of these review procedures, all development shall be designated by the Development Director as either Minor Development or Major Development according to the criteria below.

B. Major Development

A proposed development shall be designated as a Major Development if it satisfies one or more of the following criteria:

1. The Development is a residential project other than one single family home or one duplex dwelling structure.

2. The development involves commercial and/or industrial uses.

3. Any development that the Development Director designates as a Major Development because the proposed development should be more thoroughly reviewed because of its complexity or location.

C. Minor Development

A proposed development shall be designated as a Minor Development if it involves one single family residential unit, one duplex residential unit, or agricultural structures. A Development Order is not required for Minor Developments.

Section 12102 Procedures for Review of Minor Developments

A. The developer of a proposed Minor Development shall submit a Development Plan application or Zoning Request Form, as appropriate, to the Development Department. The review is intended to verify appropriate zoning district designation on the property and identify required setbacks, height of structures, or other relevant regulations.

B. Within 5 working days of receipt of an application, the Development Director shall:

1. Determine that the application is complete and proceed with the procedures below; or

2. Determine that the application is incomplete and specify in writing the additional information required in order for the application to be complete. No further action shall be taken on the application until the additional information is submitted and determined to be complete.

C. Upon receipt of a complete application, the Development Director shall review the Development Plan and determine whether the proposed development complies with the applicable zoning requirements.

D. Complete applications for Minor Developments will be reviewed by County staff, including the Development Review Committee when necessary and appropriate, in order to determine compliance with the LDRs and other applicable requirements.

E. Within 5 working days of the conclusion of the review and determination that the Minor Development complies with all applicable requirements, the Development Director may issue an administrative approval of the Minor Development including appropriate conditions and safeguards.

Section 12103 Procedures for Review of Major Developments

A. The developer of a proposed Major Development shall submit an application for Improvement Plan approval to the Development Department. Pre-application meetings are not required for Improvement Plan applications, but are strongly encouraged. Improvement Plans must comply with the requirements set forth in Section 14500.

B. Within 5 working days of receipt of an Improvement Plan application, the Development Director shall determine that the application is complete and ready for review and processing or determine that the application is incomplete and

specify in writing the additional information required in order for the application to be reviewed.

C. Within 20 working days of receipt of an Improvement Plan application, the Development Director shall provide an applicant with written comments from County staff or the Development Review Committee that either:

1. Inform the developer in writing of the deficiencies. The developer may submit an amended plan within 90 calendar days without payment of an additional fee, but, if more than 90 calendar days have elapsed, the developer must thereafter initiate a new application and pay a new fee; or

2. Determine that the plan is complete and proceed with the following procedures.

D. Within 5 working days after the application review is complete, the Development Director shall prepare a Notice to Proceed that authorizes commencement of construction. A preliminary Notice to Proceed may be issued if permitting through other agencies is not yet complete, but impact final approval of the project. The Notice to Proceed may include appropriate conditions and safeguards.

E. Post Construction Review

1. The developer shall submit as-built drawings for all facilities constructed. As-built drawings shall be submitted within 10 working days of completion of the project and prior to receiving a Certificate of Occupancy.

2. Within 10 working days the County Engineer shall provide written notification to the Building Official that the project is in compliance and constructed to requirements.

Section 12104 Project Phasing

Development may be phased. A Master Plan for the entire development site must be approved for a Major Development that is to be developed in phases. The Master Plan shall be submitted simultaneously with an application for review of the Improvement Plan for the first phase of the development and must be approved as a condition of approval of the Improvement Plan for the first phase. An Improvement Plan must be approved for each phase of the development. Each phase shall include a proportionate share of the proposed recreational and open space, and other site and building amenities of the entire development, except that more than a proportionate share of the total amenities may be included in the earlier phases with corresponding reductions in the later phases.

Section 12200 QUASI JUDICIAL PROCEDURES

Section 12201 Scope and Applicability

A. These procedures shall apply to all quasi judicial hearings held by the Board of County Commissioners, the Planning Commission, and any other Board or Commission which holds quasi judicial hearings. The County Attorney shall determine which matters are quasi judicial in nature and shall direct the Board clerk to designate such matters on the agenda.

B. The Chairman or other presiding officer shall conduct the proceedings and maintain order. Hearings shall be conducted informally, but in a courteous and professional manner.

C. Failure to strictly adhere to these procedures shall not invalidate any action of a County Board or Commission.

Section 12202 Preliminary Matters

A. The County Attorney shall represent the Board of County Commissioners, the Planning Commission, or other County Board or Commission, rule on all evidentiary and procedural issues and objections, and advise the County Board or Commission as to the applicable law and necessary factual findings.

B. In all quasi judicial proceedings, the applicant shall bear the burden of demonstrating by competent and substantial evidence that the application satisfies the standards and requirements of the LDRs and the Comprehensive Plan.

C. Prior to the start of any quasi judicial hearing, each Board or Commission member shall disclose any ex parte communications which should be brought to the attention of the public and the Board or Commission.

D. Anyone wishing to testify must complete a card and present it to the Board or Commission clerk. The purpose of testimony is to present evidence which may be considered by the Board or Commission.

E. Anyone wishing to testify must declare that he or she will testify truthfully by taking an oath or affirmation prior to testifying.

F. At any time during the proceedings, any member of the Board or Commission, or the County Attorney, may ask questions of the applicant, witness, or county staff.

G. All decisions by a County Board or Commission shall be based on the record of the evidence presented to it at the hearing, which shall include testimony of all

witnesses, and other evidence presented. Strict rules of evidence shall not apply, but evidence must be relevant to the issues before the County Board or Commission.

Section 12203 Presentation and Hearing

A. The hearing shall be conducted in the following manner:

1. Open hearing.
2. County staff presentation of staff report.
3. Applicant presentation in support of application.
4. Other proponents of the application.
5. Opponents of the application.
6. Rebuttal by applicant.
7. Close hearing and commence deliberations.

B. Cross Examination of Witnesses: After each witness testifies, cross examination of the witness is permitted by County staff and the applicant or applicant's representative about matters to which the witness testified. Members of the public are permitted to cross examine witnesses, and thereafter are subject to cross examination by the applicant and County staff.

C. Presiding Officer: The Chairman or presiding officer shall at all times control the conduct of the hearing, may set time limits on testimony, and may exercise his or her discretion regarding the order of presentation of testimony.

Section 12300 PROCEDURES FOR APPLICATIONS FOR SPECIAL EXCEPTIONS

Section 12301 Generally

A Special Exception is a use that would not be appropriate generally or without restriction throughout a particular zoning district or classification, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, order, comfort, convenience, appearance or prosperity. The uses allowed by Special Exception are listed in the regulations for each zoning district. All applications for Special Exceptions shall be reviewed according to the following procedures.

Section 12302 Applications

A. An application for Special Exception shall be submitted indicating the basis in this LDR under which the Special Exception is sought and stating the grounds upon which it is requested, with particular reference to the types of findings which the Planning Commission must make as described below. The application must include material necessary to demonstrate that the approval of the Special

Exception will be in harmony with the general intent and purpose of the LDR, will not be injurious to the neighborhood or to adjoining properties, or otherwise detrimental to the public welfare. Such material includes, but is not limited to, the following, where applicable:

1. Plans at an appropriate scale showing proposed placement of structures on the property, provisions for ingress and egress, off-street parking and off-street loading areas, refuse and services areas, and required yards and other open spaces.

2. Plans showing proposed locations for utilities hook-up.

3. Plans for screening and buffering with reference as to type, dimensions and characters.

4. Plans for proposed landscaping and provisions for trees.

5. Plans for proposed signs and lighting, including type, dimensions and character.

Where the LDR places additional requirements on specific Special Exceptions, the application should demonstrate that such requirements are met. Where the rezoning of land, as well as the granting of a Special Exception, is requested simultaneously for the same parcel of land, both applications may be processed concurrently in accordance with the procedures set forth in Section 12500.

Section 12303 Staff Review

A. Upon receipt of an application for Special Exception, the Development Director shall determine whether the application is complete. The Development Director may waive some or all of the plans required by Section 12302(A)(1) if the Special Exception includes only a change in use without any new construction. If the application is complete, it will be accepted for review. If the application is incomplete, the Development Director shall specify in writing the additional information required in order for the application to be processed. No further action shall be taken on the application until the additional information is submitted and determined to be complete.

B. After receipt of a complete application, the Development Director shall distribute the application for review by County staff and/or the Development Review Committee.

C. Upon completion of review, the Development Department shall prepare a staff report and schedule review of the application by the Planning Commission.

Section 12304 Findings by the Planning Commission

A. Before any Special Exception shall be recommended for approval to the Board of County Commissioners, the Planning Commission shall make a written finding that the granting of the Special Exception will not adversely affect the public interest, that the specific requirements governing the individual Special Exception, if any, have been met by the applicant, and that satisfactory provisions and arrangements have been made concerning the following matters, where applicable:

1. Compliance with all elements of the Comprehensive Plan;

2. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

3. Off-street parking and loading areas, where required, and economic, noise, vibration, dust, glare or odor effects of the Special Exception on adjoining properties and properties generally in the district;

4. Utilities, with reference to locations, availability and compatibility;

5. Screening and buffering with reference to type, dimensions and character;

6. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effects, and compatibility and harmony with properties in the district;

7. Required yards and other open space;

8. General compatibility with adjacent properties and other property in the district;

9. Any special requirements set out in the zoning district regulations for the particular use involved;

10. Public and private utilities, structures, or uses required for public or private utilities, including but not limited to wastewater, gas, electric, and telephone utilities, sanitary landfills, and radio and television stations and towers may be permitted only as a special exception unless determined by the Board to be essential service. In addition to items 1 through 9 above, the review of the request for a Special Exception shall include consideration of a plan showing all improvements or alterations that are proposed for the utilities or facilities. The proposed location of such utilities or facilities shall be such as not to be injurious to the health,

safety, and welfare of the public or surrounding property owners, and shall protect the character of the surrounding property and maintain the stability of residential, commercial, manufacturing, agricultural, educational, cultural, and recreational areas within the County. The public benefit to be derived, the need for the proposed facilities, the existence of suitable alternative locations, potential impacts to surface or ground water drinking supplies, and whether the facility can properly be located on the site and in the development which it is to service shall also be taken into consideration where appropriate. Conditions in the form of screening, landscaping, or other site development restrictions may be imposed to protect the health, safety and welfare of the public or surrounding property owners;

11. The proposed use shall not act as a detrimental intrusion into the surrounding area; and

12. The proposed use shall meet the performance standards of the district in which the proposed use is permitted.

Section 12305 Conditions and Safeguards

A. In recommending approval of any Special Exception, the Planning Commission may also recommend appropriate conditions and safeguards in conformity with the LDR. Violation of such conditions and safeguards shall be deemed a violation of the LDR.

B. Code Enforcement Personnel will visit the development site a minimum of every three (3) years to assure that all conditions of approval are being complied with and that no other violations are present. Any conditions which are not being complied with or any violations which are identified will be pursued in accordance with the County's Code Enforcement procedures. In the event that the violation is not corrected, the Special Exception may be revoked upon a hearing being held by the Board of County Commissioners and after the affected land owner has been notified.

C. Any Special Exception shall expire 5 years from the date of approval by the Board of County Commissioners if the Special Exception use has not commenced or 5 years following the discontinuance of the Special Exception use, unless appealed and extended by action of the Board of County Commissioners.

Section 12306 Denial

If the Planning Commission recommends denial of a Special Exception, it shall state fully in its record its reasons for doing so. Such reasons shall take into account the factors stated in Section 12304 above, or such of them as may be

applicable to the action of denial and the particular regulations relating to the specific Special Exception requested, if any.

Section 12307 Status of the Planning Commission Report and Recommendations

The report and recommendations of the Planning Commission required above shall be advisory only and shall not be binding upon the Board of County Commissioners.

Section 12308 Board Action on Planning Commission Report

Upon receipt of the Planning Commission report and recommendations, the Board of County Commissioners shall, after public hearing, approve the petition for a Special Exception if the petition has complied with the DeSoto County Comprehensive Plan, the LDR and all other applicable regulations, unless it is determined that granting the Special Exception will adversely affect the public interest. In granting a Special Exception, the Board of County Commissioners may impose such conditions and restrictions upon the premises benefited by a Special Exception as may be necessary to allow a positive finding to be made on any of the foregoing factors, or to minimize the injurious effect of the Special Exception.

Section 12309 Changes and Amendments

A. The Development Director may approve minor changes in the location, site or height of buildings, structures and improvements authorized by the approved Special Exceptions if such changes are within the intent of the approval.

B. All other changes or amendments except increase in land area shall require Development Plan or Improvement Plan approval, as appropriate. Any change or amendment which would increase the land area covered by a Special Exception shall require a full review as for a new application for Special Exception.

Section 12310 Public Hearings

A. At the public hearings before the Planning Commission and the Board of County Commissioners, an applicant may appear personally or by authorized agent or attorney.

B. All testimony at the public hearings before the Planning Commission and the Board of County Commissioners shall be under oath.

C. Notice of the Public Hearing

1. Notice of the date, time and place of the public hearings by the Planning Commission and the Board of County Commissioners shall be sent at least 15 days in advance of the hearings by mail to ten (10) surrounding property owners or all owners of property within 1000 feet of the property lines of the land for which the Special Exception is sought, whichever is greater. For the purposes of this requirement, the names and addresses of property owners used for mailing shall be those listed in the records of the DeSoto County Property Appraiser's Office. Where the property for which the Special Exception is sought is part of, or adjacent to, land owned by the applicant, the 1000 foot distance shall be measured from the boundaries of the entire ownership. The notice shall advise that if the recipient is a member of a homeowner's, property owner's or condominium association, the recipient should inform said association about the content of the notice.

2. The applicant shall provide to the Development Department prepared adhesive mailing labels for mailing the required notice to adjacent property owners.

3. At least one sign shall be posted on each frontage of the subject property at least 15 days prior to the public hearings. The signs shall measure at least one and one-half (1 ½) square feet in area and shall specify the date, time and place of the public hearing as well as the nature of the Special Exception requested.

4. Notice of the public hearings shall also be advertised in a newspaper of general circulation in DeSoto County at least 15 days prior to each public hearing.

5. Failure to strictly comply with the mailing requirements shall not invalidate the decision of the Planning Commission or the Board of County Commissioners, provided that notice has been published or posted.

Section 12400 PROCEDURES FOR APPLICATIONS FOR VARIANCES

Section 12401 Generally

The Board of Adjustment may grant a variance from the terms of the LDRs as will not be contrary to the public interest where, owing to special conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the provisions of the LDR would result in unnecessary and undue hardship.

Under no circumstances shall the Board of Adjustment grant a variance to permit a use not permitted under the terms of the LDRs in the zoning district involved, or any use expressly or by implication prohibited by the terms of the LDRs. Establishment or

expansion of a use otherwise prohibited or not permitted shall not be allowed by variance. Nonconforming uses of neighboring lands, structures, or buildings in the same zoning district, and permitted uses of lands, structures, or buildings in any other zoning district shall not be considered grounds for the granting of a variance.

Section 12402 Applications

Applicants for a variance may submit an application and application fee to the Development Department. Such applications shall include all information requested on the application form.

Section 12403 Staff Review

A. Upon receipt of an application, the Development Director shall determine whether the application is complete. If the application is complete, it will be accepted for review. If the application is incomplete, the Development Director shall specify in writing the additional information required in order for the application to be processed. No further action shall be taken on the application until the additional information is submitted and determined to be complete.

B. After receipt of a complete application, the Development Director shall distribute the application for review by County staff and/or the Development Review Committee.

C. Upon completion of review, the Development Department shall prepare a staff report and schedule review of the application at a public hearing by the Board of Adjustment.

Section 12404 Initial Determination and Required Findings by the Board of Adjustment

A. Initial Determination

The Board of Adjustment shall first determine whether the need for the proposed variance arises out of the physical surroundings, shape, topographic conditions, or other physical or environmental conditions, that are unique to the specific property involved. If so, the Board of Adjustment shall make the required findings provided below. If, however, the condition is common to numerous sites so that requests for similar variances are likely to be received, the Board of Adjustment shall make the required findings listed below based on the cumulative effect of granting the variance to all who may apply.

B. Required Findings

The Board of Adjustment shall not grant a variance to any provision of the LDR unless it makes a positive finding, based on substantial competent evidence, on each of the following:

1. There are practical difficulties in carrying out the strict letter of the regulation.

2. The variance request is not based exclusively upon a desire to reduce the cost of developing the site.

3. The proposed variance will not substantially increase congestion on surrounding public streets, the danger of fire, or other hazard to the public.

4. The proposed variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site.

5. The effect of the proposed variance is in harmony with the general intent of the LDRs and the specific intent of the relevant subject area(s) of the LDRs.

Section 12405 Conditions and Safeguards

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with the LDR, including but not limited to, reasonable time limits within which the action for which variance is required shall be begun or completed, or both. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of the LDR.

Section 12406 Variances To Be Considered As Part Of Development Review

Any person desiring to undertake a development activity not in conformance with the LDR may apply for a variance in conjunction with the application for development review. A development activity that might otherwise be approved by the Director of Development must be approved by the Board of Adjustment if a variance is sought.

Section 12407 Special Provisions Where Variance is Sought to Requirements to Floodplain Management Requirements

Variances to floodplain management requirements shall be applied for and considered in accordance with the Floodplain Management Ordinance No. 2013-04, incorporated into these LDRs.

Section 12408 Special Requirements for Variances for Historic Properties

Special variances may be granted for the reconstruction, rehabilitation or restoration of structures listed on, or classified as contributing to a district listed on, the National Register of Historic Places, the local register of historic places, or the State Inventory of Historic Places. The special variance shall be the minimum necessary to protect the historic character and design of the structure. No special variance shall be granted if the proposed construction, rehabilitation, or restoration will cause the structure to lose its historical designation.

Section 12409 Public Hearings

A. The public hearing shall be held by the Board of Adjustment. Any party may appear in person, or by authorized agent or attorney.

B. All testimony before the Board of Adjustment shall be under oath.

C. Notice of the Public Hearing

1. Notice of the date, time and place of the public hearing by the Board of Adjustment shall be sent at least 15 days in advance of the hearing by mail to ten (10) surrounding property owners or all owners of property within 1000 feet of the property lines of the land for which the variance is sought, whichever is greater. For the purposes of this requirement, the names and addresses of property owners used for mailing shall be those listed in the records of the DeSoto County Property Appraiser's Office. The notice shall advise that if the recipient is a member of a homeowner's, property owner's, or condominium association, the recipient should inform said association about the content of the notice.

2. The applicant shall provide to the Development Department prepared adhesive mailing labels for mailing the required notice to adjacent property owners.

3. At least one sign shall be posted on each frontage of the subject property at least 15 days prior to the public hearing. The signs shall measure at least one and one-half (1 ½) square feet in area and shall specify the date, time and place of the public hearing as well as the nature of the variance requested.

4. Failure to strictly comply with the mailing requirements shall not invalidate the decision of the Board of Adjustment, provided that notice has been published or posted.

Section 12500 PROCEDURES FOR APPLICATIONS FOR REZONING AND LDR AMENDMENTS

Section 12501 Generally

These LDRs, and the Official Zoning Atlas, may from time to time be amended, supplemented, changed, or repealed.

Section 12502 Applications

A. Initiation of Proposals for Amendment: A zoning amendment may be proposed by:

1. Board of County Commissioners;

2. Planning Commission;

3. Board of Adjustment;

4. Any other department of agency of the County; or

5. Any person other than those listed in A 1-4, above; provided, however, that no person shall propose an amendment for the rezoning of property (except as agent or attorney for an owner) which he does not own. The name of the owner shall appear on each application.

B. All proposals for zoning amendments shall be submitted in writing to the Development Department, accompanied by all pertinent information required by the LDR and the application along with payment of the application fee. All Planning Commission meetings to consider any amendment shall be at a public hearing held in accordance with quasi judicial procedure as required by law.

Section 12503 Staff Review

A. Upon receipt of an application, the Development Director shall determine whether the application is complete. If the application is complete, it will be accepted for review. If the application is incomplete, the Development Director shall specify in writing the additional information required in order for the application to be processed. No further action shall be taken on the application until the additional information is submitted and determined to be complete.

B. After receipt of a complete application, the Development Director shall distribute the application for review by County staff and/or the Development Review Committee.

C. Upon completion of review, the Development Department shall prepare a staff report and schedule review of the application at a public hearing by the Planning Commission.

Section 12504 Nature and Requirements of Planning Commission Report

A. When pertaining to the rezoning of land, the report and recommendations of the Planning Commission to the Board of County Commissioners shall show that the Planning Commission has studied and considered the proposed change in relation to the following, where applicable:

1. Whether the proposed change would be consistent with the Comprehensive Plan.

2. The existing land use pattern.

3. The creation of an isolated district unrelated to adjacent and nearby districts.

4. The impact on the availability of adequate public facilities consistent with the level of service standards adopted in the comprehensive plan, and as defined and implemented through the DeSoto County concurrency regulations.

5. Whether the existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for changes.

6. Whether changed or changing conditions make the passage of the proposed amendment necessary.

7. Whether the proposed change will adversely influence living conditions in the area.

8. Whether the proposed change will create or excessively increase traffic congestion or otherwise affect public safety.

9. Whether the proposed change will create a drainage problem.

10. Whether the proposed change will seriously reduce light and air to adjacent areas.

11. Whether the proposed change will adversely affect property values in the adjacent area.

12. Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accord with existing regulations.

13. Whether the proposed change will constitute a grant of special privilege to an individual owner as contrasted with the public welfare.

14. Whether there are substantial reasons why the property cannot be used in accord with existing zoning; and

15. Whether the change suggested is out of scale with the surrounding area.

B. When pertaining to other proposed amendments of the LDR, the Planning Commission shall consider and study:

1. The need and justification for the change; and

2. The relationship of the proposed amendment to the purposes and objectives of the Comprehensive Plan, with appropriate consideration as to whether the proposed change will further the purposes of the LDR and the Comprehensive Plan.

Section 12505 Conditions and Safeguards

A. The Planning Commission may recommend that a rezoning application or an application to amend the LDRs be approved subject to conditions and safeguards, including but not limited to limiting the use of the property to certain uses provided for in the requested zoning district.

B. The Board of County Commissioners, after receiving the recommendation from the Planning Commission on an application for rezoning or an application to amend the LDRs, may grant or deny such rezoning or amendment and may make the granting conditional upon such conditions and safeguards as it may deem necessary to ensure compliance with the intent and purposes of the Comprehensive Plan.

Section 12506 Status of Planning Commission Report and Recommendations

The report and recommendations of the Planning Commission shall be advisory only and shall not be binding upon the Board of County Commissioners.

Section 12507 Board of County Commissioners Action on Planning Commission Report

Upon receipt of the Planning Commission report and recommendations, the Board of County Commissioners shall review the reports of staff and the Planning Commission to build a factual record and make conclusions of law. The Board of County

Commissioners shall hold a public hearing, held in accordance with quasi judicial procedure as required by law. The reports and recommendations of the Development Director and the Planning Commission on the application shall be presented prior to the close of the public hearing on the application. The applicant shall have the right, prior to the close of the public hearing, to respond to any contentions presented by any testimony or other evidence presented during the public hearing.

Section 12508 Public Hearings

A. The public hearing shall be held by the Planning Commission and Board of County Commissioners. Any party may appear in person, or by authorized agent or attorney.

B. All testimony before the Planning Commission and Board of County Commissioners shall be under oath.

C. Notice of the Public Hearings

1. Notice of the time and place of the public hearings by the Planning Commission and Board of County Commissioners shall be sent at least 15 days in advance of the hearings by mail to ten (10) surrounding property owners or all owners of property within 1000 feet of the property lines of the land for which the rezoning is sought, whichever is greater. For the purposes of this requirement, the names and addresses of property owners used for mailing shall be those listed in the records of the DeSoto County Property Appraiser's Office. Where the property for which the rezoning is sought is part of, or adjacent to, land owned by the applicant, the 1000 foot distance shall be measured from the boundaries of the entire ownership. The notice shall advise that if the recipient is a member of a homeowner's, property owner's, or condominium association, the recipient should inform said association about the content of the notice.

2. The applicant shall provide to the Development Department prepared adhesive mailing labels for mailing the required notice to adjacent property owners.

3. At least one sign shall be posted on each frontage of the subject property at least 15 days prior to the public hearings. The signs shall measure at least one and one-half (1 ½) square feet in area and shall specify the date, time and place of the public hearing as well as the nature of the requested rezoning.

4. Failure to strictly comply with the mailing requirements shall not invalidate the decision of the Planning Commission or the Board of County Commissioners, provided that notice has been published or posted.

5. Notwithstanding the above, if a proposed rezoning or LDR amendment is initiated by the County, then notice shall be provided in accordance with Section 125.66(4), F. S.

Section 12600 OTHER PROCEDURES BEFORE THE BOARD OF ADJUSTMENT

Section 12601 Appeals of Decisions of the Development Director

A. Appeals to the Board of Adjustment concerning interpretation or administration of these regulations or for variance under the LDR may be taken by any person aggrieved or by any officer, or agency of the County of DeSoto affected by any decision, determination or requirement of the Development Director. Such appeals shall be taken within a reasonable time not to exceed sixty (60) days or such lesser period as may be provided by the rules of the Board of Adjustment, by filing with the Development Director and with the Board, of notice of appeal specifying the grounds thereof. The Development Director shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney for any person.

B. In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of the LDR reverse, or affirm, wholly or partly, or may modify Zoning District requirements, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Development Director from whom the appeal is taken.

C. In matter of review, the concurring votes of a majority of the members of the Board of Adjustment present at a meeting shall be necessary to reverse any order, requirement, decision, or determination of the Development Director, or to decide in favor of the applicant on any matter upon which it is required to pass under these regulations. The final determination of the Board of Adjustment shall be made in writing, and shall be made available to the applicant.

D. An appeal stays all proceedings in furtherance of the action appealed from, unless the Development Director from whom the appeal is takes certifies to the Board of Adjustment after the notice of appeal is filed with him that, by reasons of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court

of record on application, on notice to the Development Director and on due cause shown.

Section 12602 Special Authority of Board of Adjustment in Relation to Certain Nonconforming Uses

If no structural alterations are made, any nonconforming use of a structure or of a structure and premises in combination, may be changed to another nonconforming use, provided that the Board of Adjustment shall find after public notice and hearing that the proposed use is equally or more appropriate to the district than the existing nonconforming use and that the relation of the structure to surrounding properties is such that adverse effects on occupants and neighboring properties will not be greater that if the existing non-conforming use is continued. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accord with the intent and purpose of these regulations. Application under this subsection shall be to the Development Director for transmittal to the Board of Adjustment.

Section 12603 Appeals from Decisions of Board of Adjustment

Any person or persons, jointly or severally, including any officer, department, board, commission of the County, aggrieved by any decision of the Board of Adjustment may apply to the circuit court having jurisdiction in DeSoto County for judicial relief within thirty (30) days after the rendition of the decision by the Board of Adjustment. The proceedings in the circuit court shall be by petition for writ of certiorari, when shall be governed by the Florida Rules of Appellate Procedure.

Section 12700 VESTING OF DEVELOPMENT RIGHTS

Section 12701 Intent

The intent of this Section is to provide a procedure by which a property owner may determine his rights under the DeSoto County Comprehensive Plan and the LDRs to develop land. This section provides standards for determining whether property is vested and also administrative procedures to be followed in making a vesting determination. It also provides a forum for the determination of vested rights.

Section 12702 Vesting of Development Rights

Any use of land must be consistent with the DeSoto County Comprehensive Plan. Notwithstanding the consistency requirements of the Comprehensive Plan, the right of a landowner to develop land shall be vested if:

A. The landowner possesses a development permit and has substantially developed the land and said development is continuing in good faith.

B. The right of a developer to develop the following categories of developments shall be vested, notwithstanding the requirements of the general rule in subsection A. above:

1. Unrecorded subdivisions approved by the Board.

2. Developments for which there is a final subdivision plat recorded pursuant to the County Land Development Regulations.

3. Developments for which there is a final detailed Development Plan approval that has not expired.

4. Special Exceptions approved by the Board.

5. Valid and active Development Permits issued prior to June 1, 2012.

6. Any structure on which construction has been completed and a Certificate of Occupancy (CO) has been issued if a CO was required at time of permitting.

7. All lots within a subdivision recorded as of March 1, 1982, or lots in approved unrecorded subdivisions for which streets, stormwater management facilities, utilities and other infrastructure required for the development have been completed. The Development Department shall maintain a listing of such exempt subdivisions.

8. All lots of record as of March 1, 1982, not located within a subdivision, but only to the extent of one single-family residence per lot.

Section 12703 Property Not Vested

The following categories shall be presumptively not vested for purposes of consistency with the Comprehensive Plan and concurrency as specified in the Comprehensive Plan, but may request a determination of vested rights by following the procedures set forth in Section 12704.

A. A zoning classification or a rezoning does not guarantee or vest any specific development rights.

B. An approved Subdivision Plat.

C. An approved Concept Plan.

D. Expansion of existing development in a manner that is not consistent with or in compliance with concurrency standards of the Comprehensive Plan.

Section 12704 Procedures to Determine Vested Rights

A. The owner shall request a determination of vested rights if it has been determined by the Development Director that the use is not vested by filing a technically complete, sworn application and the application fee with the Development Department upon a form to be provided for that purpose, setting forth the following information:

1. The name and address of the applicant, who shall be the owner or a person authorized to apply on behalf of the owner; if the property is owned by more than one person, any owner or an authorized agent of the owner may apply;

2. A legal description and survey of the property which is the subject of the application;

3. The name and address of each owner of the property;

4. A site or development plan or plat for the property;

5. Identification by specific reference to any ordinance, resolution, or other action of the County, or failure to act by the County upon which the applicant relied and which the applicant believes to support the owner's vested rights claim notwithstanding an apparent conflict with the Comprehensive Plan;

6. A statement of facts which the applicant intends to prove in support of the application; and,

7. Such other relevant information that the Development Director may request.

8. Failure to timely file an application requesting a determination within the prescribed time limits shall constitute a waiver of any vested rights claim by the owner of the property.

9. The Board of County Commissioners shall establish an application fee by resolution and said application fee shall be included with the application for a determination of vested rights.

10. At any time during or after the application period, the Director may waive the maximum response time. Said waiver may be applicable to any step in the vested rights determination procedure upon the Director's determination that the volume of applications received exceeds the

capacity of staff to process the applications received exceeds the capacity of staff to process the applications within the stated time limits or upon the applications within the stated time limits or upon the applicant's reasonable request.

B. The Development Department shall screen the application to determine whether it is technically complete. Technically incomplete applications shall be returned to the applicant with written notification of deficient items not provided as required by these regulations. Upon accepting a technically complete application, for which the application fee has been submitted, staff shall review the application and make a final determination within twenty (20) working days whether or not the application clearly and unequivocally has vested status.

1. Within ten (10) working days after receipt of an application, staff shall make a determination to ensure the application is technically complete. If not technically complete, the application shall be returned to the applicant immediately and the applicant shall be granted ten (10) additional calendar days to complete the application.

2. Within ten (10) working days after making a final determination of vested status the Development Department shall provide the applicant with written notification of the determination of vested status. The owner shall have the right to rely upon such written notification that the owner is vested shall be final and not subject to appeal, revocation or modification.

3. In the event the Development Department recommends that a hearing before the Development Review Committee is necessary to make a determination, the Director shall set a date for a hearing to be held by the Development Review Committee within fifteen (15) working days of the staff recommendation and shall notify the applicant and the Development Review Committee of the date, time, and place of the hearing. The hearing before the Development Review Committee shall also be granted to the applicant, upon written request to the Director, if the applicant desires to challenge the decision made by the Development Department. The notice shall be mailed to the applicant not less than ten (10) working days prior to the date of the hearing. At the applicant's option and with Development Review Committee concurrence, stipulations and sworn affidavits may be submitted in lieu of testifying at the Development Review Committee hearing.

C. Development Review Committee Hearing.

The applicant shall present all of the owner's evidence in support of the application. All testimony shall be under oath and witnesses shall be acceptable. The County shall preserve all testimony and, make a full or partial transcript or

existing hearing record available at no more than actual cost. At the conclusion of the testimony, the Development Review Committee shall approve, deny, or approve with conditions, or to continue the proceedings. A written record of the decision shall follow within ten (10) working days.

D. Appeals to the Planning Commission

1. Purpose - It is the purpose of this section to provide an administrative process for appealing decisions rendered by the Development Review Committee. In particular it is intended that such administrative relief be provided in the most professional, objective, and equitable manner possible through the Planning Commission to adjudicate matters as provided herein. The function of the Planning Commission shall be to serve as the third step of a three-step administrative process relating to the determination of vested rights. No party shall be deemed to have exhausted his or her administrative remedies for the purpose of seeking judicial review unless the party obtains a decision, first, by the Development Department, second, the Development Review Committee, and finally the Planning Commission as provided herein.

2. In cases that involve a Development Review Committee hearing, the Planning Commission appeal process provided is designed to allow for an appeal of Review Committee action after a full and complete hearing. This appeal is not intended to mean an appeal in the traditional sense, that is, only a review of the Development Review Committee record of their hearing. The Planning Commission appeal shall be construed in its broadest, non-technical sense, which is merely an application to a higher authority for a review of the Development Review Committee action taken.

3. If the Development Review Committee record of their hearing is full and complete, the Planning Commission may determine that the record is the only evidence that is necessary. However, the Planning Commission may determine that additional evidence and oral or written testimony, including cross-examination, is necessary to properly evaluate the Development Review Committee's action and render a decision as to its validity. The Planning Commission shall have the authority to determine the need for additional evidence and/or testimony.

4. Applicability. The property owner may appeal to the Planning Commission, a decision rendered by the Development Review Committee on an application for a vesting determination.

5. Filing an appeal. The procedure for filing an appeal shall be as follows:

a. Appeals shall be commenced by filing a notice of appeal with the Director within twenty (20) working days of the date the decision of the Review Committee is received by the applicant. A copy shall also be provided to the Clerk.

b. The notice of appeal shall set forth in detail the basis of the appeal.

c. The County shall accurately and completely preserve all testimony in the proceeding, and, on the request of any party, it shall make a full or partial transcript or existing hearing record available at no more than actual cost.

d. In any case where a notice of appeal has been filed, the decision of the staff or Development Review Committee shall be stayed pending the final determination of the case.

e. Following the hearing, the Planning Commission shall prepare the written findings and decision; copies of the findings and decision shall be sent by the Planning Commission to each party to the appeal and to the Director, with a copy provided to the Clerk.

6. Conduct of the hearing. Conduct of the hearing before the Planning Commission shall be as follows:

a. The Planning Commission shall set forth at the outset of the hearing the order of the proceedings and the rules under which the hearing will be conducted.

b. The order of presentation at the hearing shall be as follows:

(1) Receipt of the transcript minutes and exhibits from the Development Review Committee, if any.

(2) Opening statements by the parties.

(3) Appellant's case.

(4) Respondent's case.

(5) Rebuttal by appellant.

(6) Summation be respondent.

(7) Summation by appellant.

(8) Conclusion of the hearing by the Planning Commission.

c. The record of the Development Review Committee's hearing and decision, including all exhibits, shall be received and shall constitute a part of the record.

d. The Planning Commission shall have the authority to determine the applicability and relevance of all materials, exhibits, and testimony and to exclude irrelevant, immaterial, or repetitious matter.

e. The Planning Commission is authorized to administer oaths to witnesses.

f. A reasonable amount of cross-examination of witnesses shall be permitted at the discretion of the Planning Commission.

g. The time for presentation of a case shall be determined by the Planning Commission.

h. The Planning Commission may allow the parties to submit written findings of fact and conclusions of law following the hearing, and shall advise the parties of the timetable for so doing if allowed.

7. Decision. The decision of the Planning Commission shall be based upon the following criteria and rendered as follows:

a. The Planning Commission shall review the record and testimony presented at the hearing before the Development Review Committee. Although additional evidence may be brought before the Planning Commission, the hearing shall not be deemed a "hearing de novo," and the record before the Development Review Committee shall be incorporated into the record before the Planning Commission, supplemented by such additional evidence as may be brought before the Planning Commission. Any direct appeal from a staff determination shall be deemed a "hearing de novo."

b. The Planning Commission shall be guided by the Comprehensive Plan, the Land Development Regulations, these requirements, and established case law.

c. The burden shall be upon the appellant to show that the decision of the staff or Development Review Committee cannot be sustained

by a preponderance of evidence, or the decision of the staff or Development Review Committee departs from the essential requirements of law.

d. The Planning Commission's determination shall include appropriate findings of fact, conclusions of law, and decisions in the matter of the appeal. The Planning Commission may affirm, affirm with conditions, or reverse the decision of the staff or Development Review Committee.

e. The Planning Commission shall file a written determination on each appeal with the Director within 30 calendar days of the date of the appeal hearing and a copy shall be provided to the Clerk and the applicant.

f. The decision of the Planning Commission shall be final, subject to judicial review.

8. Judicial Review. Judicial review of the Planning Commission's decision is available to the property owner and the County in accordance with Florida law. In any case where judicial review is sought, the decision of the Planning Commission shall be stayed pending the final determination of the case.

Section 12705 Developments of Regional Impact

A. Notwithstanding any inconsistency with the Comprehensive Plan, developments of regional impact, or any substantial deviation there from, which were approved pursuant to Chapter 380, Florida Statutes, prior to the submittal of the Comprehensive Plan, shall be allowed to be completed as originally approved as provided herein unless subsequent change of law requires a different approach or imposes different terms applicable to such development. Further development orders may be issued for such developments of regional impact, authorizing the development as originally approved, subject, however, to the following provisions:

1. After the submission of the Comprehensive Plan, any development of regional impact that was issued a development order prior to the effective date of the 1985 Growth Management Act, October 1, 1985, and has not substantially and continuously moved toward completion of said development and within an approved phasing schedule, shall be required to apply for a determination of vested development rights and possible requirements for consistency with the Comprehensive Plan, prior to commencement or continuation of development.

2. Any development of regional impact issued a development order subsequent to the effective date of the 1985 Growth Management Act, October 1, 1985, and which development order contains an expiration date, is exempt from these Regulations. Provided, however, that when the local government issuing development order expressly finds that compliance with the Comprehensive Plan or with a regulation, limitation, condition, or requirement, subsequently imposed pursuant to this Comprehensive Plan, is necessary to prevent significant and probable harm to the health, welfare, or safety of the public or of any individual or group of property owners, residents, or occupants, compliance with such regulation, limitation, condition or requirement may be made a condition of the development order.

Section 12706 Concurrency

A. Any final development order issued on or after the effective date of these LDRs, shall not create vested rights for additional phases or additional development not expressly authorized by the initial development order. This section does not apply to any other subsequent final development order which may also be required for project completion, provided the densities and intensities allowed under the initial final development order are not increased and the specific development plan approved under the initial final development order remains substantially unchanged. All subsequent final development orders proposed to be changed under this section shall be subject to review and approval by the Board of County Commissioners.

B. Persons granted a final development order vested under the provisions of this ordinance shall be vested to complete their development in accordance with the terms of their development orders as approved in writing or shown on accompanying plans, without having to comply with the consistency and concurrency requirements of the Comprehensive Plan, provided that the provisions set forth in Section 12706 have been met.

Section 12800 ENFORCEMENT OF THE LDRs

Section 12801 General

The Code Enforcement Department shall enforce the LDRs in accordance with Chapter 162, F. S., the DeSoto County Code of Ordinances and the procedures for hearings before the Special Master.

Section 12802 Enforcement of Codes by Other Means

The enforcement of codes pursuant to Part I of Chapter 162, Florida Statutes, is an additional and supplemental means of obtaining compliance with local codes. Nothing

contained herein shall prohibit DeSoto County from enforcing its codes by any other means, including but not limited to, injunctive relief or criminal prosecution by the State Attorney.

Section 12803 Prosecution Under Previous Regulations

Any prosecution arising from a violation of the LDR in effect prior to these LDRs, which prosecution was pending at the effective date of these LDRs, or any prosecution which may be begun within six (6) months after the effective date of these LDRs as a result of any violation of the prior LDR, which violation was committed prior to the effective date of these LDRs, shall be tried and determined exactly as if such prior LDR had not been superseded; provided however, if a violation of the prior LDR is no longer a violation under these LDRs, said prosecution shall be dismissed or otherwise not pursued by the County.

Section 12804 Special Master Proceedings

The intent of a Special Master is to promote, protect, and improve the health, safety, and welfare of the citizens of DeSoto County by providing for the enforcement of the LDR and any other code and ordinance in force in DeSoto County where a pending or repeated violation continues to exist through the imposition of administrative fines and other no criminal penalties in an equitable, expeditious, effective, and inexpensive method.

Section 12805 Creation of Special Masters

A. Special Master candidates are selected by the Board of County Commissioners having the authority to hold hearings, assess fines, and order mitigation for violations of codes, as provided herein.

B. Special Master shall be attorneys at law, licensed to practice in Florida, and possess outstanding reputations for civic pride, interest, integrity, responsibility, and business or professional ability. Applications for Special Master shall be filed with the County Administrator pursuant to Notice, published from time to time in a newspaper of general circulation. The Board of County Commissioners shall select a pool if candidates from the applications timely filed with the County Administrator on the basis of experience or interest in code enforcement. Upon thirty (30) days written notice, the Board of County Commissioners shall have the authority to remove Special Master candidates from the pool with or without cause.

C. From the pool of candidates selected by the Board of County Commissioners, the Boards of County Commissioners shall appoint Special Masters to hear cases.

D. Appointments shall be made for a term of one (1) year.

E. Any Special Master may be reappointed at the discretion of the Board of County Commissioners. There shall be no limit on the number of re-appointments that may be given to an individual Special Master; provided, however, that a determination as to removal or re-appointment must be made for each Special Master at the end if each one year term. At any time during the appointed term, the Board of County Commissioners shall have authority to remove Special Masters with or without cause, upon thirty (30) days written notice.

F. If any Special Master elects to voluntarily resign his or her term appointment prior to the expiration of his or her term, he or she shall provide thirty (30) days written notice to the County Administrator.

G. If a Special Master is terminated prior to the expiration of his or her term or if the Board of County Commissioners determines that a Special Master should not be reappointed, the Board of County Commissioners shall appoint a Special Master from the pool of candidates previously selected by the Board of County Commissioners to fill the vacancy. Appointments to fill any vacancy shall be for the remainder of the unexpired term.

H. Special Masters shall not be County employees, but may be compensated at a rate to be established by resolution of the Board if County Commissioners. In addition, special Masters may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by the Board of County Commissioners.

I. The Board of County Commissioners shall provide clerical, administrative personnel, and legal services as may be reasonably required by Special Masters for the proper performance of their duties.

Section 12806 Notice and Initiation of Special Master Hearings

A. Initiation of enforcement proceedings of the various codes shall be solely the duty of the County Administrator or his designee.

B. Except as provided in Section 12806 C and D, if a violation of any code is found, the County Administrator shall provide a Notice of Violation to the alleged violator pursuant to Section 162.12, Florida Statutes, and give the violator a reasonable time to correct the violation. In the event the violation continues beyond the time specified for correction, the Code Enforcement Officer shall prepare an Affidavit of Violation and provide said Affidavit to the County Administrator who shall serve the Affidavit upon the violator pursuant to Section 162.12 and Chapter 48, Florida Statutes.

1. The Affidavit shall be attached to a Notice of Mandatory Hearing which shall specify the hearing date.

2. If Notice of Receipt of Service is not received prior to the date of the scheduled hearing, the hearing shall be re-scheduled and the Affidavit reserved. This re-scheduled shall continue until such time service is perfected.

3. If the violation is corrected and then recurs, or if the violation is not corrected by the time specified for correction by the County Administrator, the case may be presented to the Special Master even if the violation has been corrected prior to the hearing, and the notice shall so state.

C. If a repeat violation if found, the Code Enforcement Officer shall provide a written affidavit of Recurrence to the County Administrator. The County Administrator shall schedule a hearing date and indicate the date on a Notice of Penalty Hearing attached to the Affidavit of Recurrence. The Affidavit of Recurrence is not required to give the violator a reasonable time to correct the violation. If Notice if Receipt of Service is not received prior to the date of the scheduled hearing, the hearing shall be re-scheduled and the Affidavit of Recurrence re-served. The case may be presented to the Special Master for assessment of a fine and/or Order of Mitigation even if the repeat violation has been corrected prior to the hearing, and the notice shall so state.

D. Notwithstanding Section 12806, if the County Administrator has reason to believe a violation presents a serious threat to a public health, safety, and welfare or if the violation is irreparable or irreversible in nature, the County Administrator shall serve a Notice of Violation on the alleged violator (s) requesting immediate compliance and an emergency hearing, which shall be held as soon as possible after proper service notifying the alleged violator (s) of the emergency hearing date has been made.

E. To alleviate the necessity of having to amend this Section whenever new codes are adopted or existing codes repealed, the Board of County Commissioners shall designate by resolution those codes to be enforced before Special Masters.

F. The alleged violator may appear pro se at the hearing or be represented by legal counsel.

G. No later than three (3) business days prior to the hearing, the Respondent or his legal counsel shall file any affirmative defenses with the County Administrator and shall provide a copy to the Prosecutor. If an affirmative defense is not timely filed or timely provided to the County Attorney, the County Attorney shall be granted a continuance upon request.

H. By Resolution, the Board of County Commissioners shall have the authority to prescribe proper and necessary Rules and Regulations governing the notice and

initiation and procedural conduct of Special Master hearings. Such Rules and Regulations shall be served with the Notice of Mandatory Hearing and Notice of Penalty Hearing served on the alleged violator (s). The alleged violator (s) shall be subject to only those Rules and Regulations currently in effect at the time the Notice is serviced.

Section 12807 Conduct of Hearing Before Special Masters

A. Minutes shall be taken at hearings before Special Masters, and all hearings and proceedings shall be open to the public.

B. Each case before the Special Master shall be presented by the County Attorney or by a member of the administrative staff of the local governing body.

C. The Special Master shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The Special Master shall take testimony from the Code Enforcement Officer, the Respondent and any additional witnesses.

D. In cases involving multiple violations, a separate hearing shall not be required as to each alleged violation relating to the same person or property.

E. At the conclusion of the hearing or as soon thereafter as the Special Master deems necessary and just, the Special Master shall issue findings of fact, based on evidence of record and conclusions of law, and shall issue an order affording the proper relief. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed if the order is not complied with by said date. Said Order shall also contain the address upon which the violator may be served, by regular U.S. mail, with any further notices or orders in this matter. A certified copy of such order shall be recorded in the public records of the County and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns. If an order is recorded in the public records pursuant to this subsection and the order is complied with by the date specified in the order, the Special Master shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.

F. A copy of all orders issued shall be filed with the County Administrator promptly after issuance and shall be deemed rendered upon the date of said filing. A copy of all such orders shall be personally served on the violator or on the violator's legal counsel or mailed by certified mail, return receipt requested, to the violator within ten (10) days following the date the order is rendered.

Section 12808 Subpoena Procedures

A. Subpoena for Testimony Before the Special Masters: The Clerk of the Courts shall issue every subpoena for testimony. Each subpoena shall state the name of the Special Master, the title of the action, the case number of the action, the name and address of the person to whom the subpoena is issued, and the time, place and location of the hearing at which the person is directed to appear, and shall be prepared by the party requesting issuance.

B. Subpoena for Production of Documentary Evidence: A subpoena dues tecum may also be issued commanding the person to whom it is directed to produce the books, papers, documents or tangible items designated therein. The Special Master, upon motion made promptly, and, in any event, at or before the time specified in the subpoena for compliance therewith, may quash or modify the subpoena if it is unreasonable and oppressive.

C. Service of Subpoenas: A subpoena may be served by any person authorized by law to serve process. Proof of service shall be filed with the County Administrator. Payment of any service fee shall be made by the party at whose request the service is made.

D. Witness Fee and Payment: Persons subpoenaed shall be entitled to a witness fee and mileage compensation as provided for in Section 92.142, Florida Statutes. The cost of the witness fee and mileage compensation shall be borne by the party at whose request the subpoena is issued and shall be paid to the witness at or before the time of service. Failure to timely pay the witness fee and mileage compensation shall render the subpoena void.

Section 12809 Administrative Penalties

A. The Special Master, upon notification by the County Administrator that an order of the Special Master has not been complied with by the set time or, upon finding that a repeat violation has been committed, shall schedule a penalty hearing. Notice of hearing shall be served by regular U.S. mail. At such hearing, the Special Master may order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date set by the Special Master for compliance, or in the case of a repeat violation, for each day the repeat violation continues past the date of notice to the violator of the repeat violation, or may order mitigation.

B. When a penalty hearing is held, testimony shall be limited to the issue of compliance with the Special Master's previous order. No new evidence as to whether there was a violation shall be allowed.

1. A fine imposed pursuant to this section shall not exceed two hundred and fifty dollars ($250.00) per day for the first violation and shall not exceed five hundred dollars ($500.00) per day for a repeat violation, In determining the amount of the fine, the Special Master shall consider the following:

   a. The gravity of the violation;

   b. Any actions taken by the violator to correct the violation; and

   c. Any previous violations committed by the violator.

2. A certified copy of an order imposing a fine shall be recorded in the public records by the Clerk of Courts and thereafter shall constitute a lien against the land on which the violation exists. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but such order shall not be deemed to be a court judgment except for enforcement purposes. A penalty imposed pursuant to this part shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever occurs first. After three (3) months from the filing of any such lien which remains unpaid, the Board of County Commissioners may authorize foreclosure on the lien. No lien created pursuant to the provisions of this part may be placed on homestead property in accordance with s.4, Art. X of the State Constitution.

3. No lien shall continue for a period longer that twenty (20) years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. In an action to foreclose on a lien, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee that it incurs in the foreclosure. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

C. In determining the amount of the fine or the amount of mitigation necessary, if any, the Special Master shall consider the following factors:

1. The gravity of the violation;

2. Any actions taken by the violator to correct the violation; and

3. Any previous violations committed by the violator.

Section 12810 Rehearing

A. Either the County Attorney or the violator may request a rehearing of the decision of the Special Master. A request for rehearing shall be made, in writing, and shall be filed with the County Administrator within ten (10) days of the execution of the order. A request for rehearing shall be based only on the ground that the decision was contrary to the evidence or that the hearing involved an error on a ruling of law which was fundamental to the decision of the Special Master. The written request for rehearing shall specify the precise reasons therefore.

B. The Special Master shall make a determination as to whether or not to rehear the matter and its decision shall be made at a public meeting. If the Special Master determines it will grant a rehearing, it may:

1. Schedule a hearing where the parties will be given the opportunity of presenting evidence or argument limited to the specific reasons for which the rehearing was granted; or

2. Modify or reverse its prior order, without receiving further evidence, providing the change is based on a finding that the prior decision of the Special Master resulted from a ruling on a question of law which the Special Master has been informed was an erroneous ruling.

C. Until a request for rehearing has been denied or otherwise disposed of, the order of the Special Master shall be stayed and the time for taking an appeal, pursuant to this ordinance, shall not commence to run until the date upon which the Special Master has finally disposed of the request for rehearing by denying the same, or otherwise.

Section 12811 Appeals

An aggrieved party, including the Board of County Commissioners, may appeal a final administrative order of the Special Master to the circuit court. Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the Special Master. An appeal shall be filed within thirty (30) days of the execution of the order to be appealed.

Section 12900 ABATEMENT OF PUBLIC NUISANCES

Section 12901 Public Nuisance Defined

A. A public nuisance, under these LDRs shall mean any act, thing, occupation, condition or use of property which tends to annoy the community or injure the health of the citizens in general, is manifestly injurious to morals or manners of

the citizens in general, or is otherwise specified in Chapter 823, Florida Statutes. Public nuisances shall include but not be limited to the following acts, conduct, omissions, conditions or things.

1. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.

2. Carcasses of household pets or other animals not buried or otherwise disposed of in a sanitary manner within twenty four (24) hours after death.

3. Accumulations of garbage or refuse in a manner in which flies, mosquitoes, disease-carrying insects, rodents, or other vermin may bread or may reasonably be expected to breed. For the purposes of this section, garbage shall mean animal and vegetable waste resulting for the handling, preparation, cooking, storage or consumption of food, and refuse shall mean all putrid and non putrid solid wastes, including garbage, rubbish, debris, ashes, street cleanings dead animals, abandoned or inoperable automobiles, abandoned or inoperable household appliances, moveable furniture not designed for or modified to withstand the elements or outdoor use, sewage sludge and its byproducts, and other commercial and industrial wastes.

4. Containers with garbage or refuse which are not covered by solid, tight fitting lids or which have any uncovered holes or for which at least weekly removal of garbage and refuse is not provides.

5. Vegetation:

    a. Which harbors or aids in harboring rats or other vermin.

    b. Which harbors or hosts diseases or insects which may reasonably be expected to injure other forms of life.

    c. Which by reason of its location or condition constitutes an imminent danger to any person or property.

    d. Which hinders the removal of accumulations of junk, garbage and debris.

    e. Which is located in areas other than those areas zoned Agricultural 10 (A-10), Agricultural 5 (A-5), or Phosphate Mining-Industrial (PM-I), and which is unmanaged and in excess of ten (10) inches, provided that: (1) cultivated flowers, ornamental shrub or bushes, vegetation used for xeriscape, trees or food plants shall be presumed to be managed; (2) property whose principal use is

residential, is one acre or more, has a permitted, habitable, residential structure located on the property and which maintains vegetation at ten (10) inches or less from the structure to the front and side property lines, is not in violation of this provision; and (3) property that is too wet to be mowed is not in violation until such time as conditions on that property allow for mowing.

f. Which interferes with or obstructs the view or passage on any street, alley or other public way.

6. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial ash in such quantities as to endanger the health of persons or to threaten or cause substantial injury to property, but excluding smoke emanating from residential fireplaces.

7. The pollution of any well or cistern, stream, lake, canal or body of water by sewage, industrial wastes or other hazardous substances.

8. Any use of property, substances or things emitting or causing any foul, offensive, malodorous, nauseous, noxious or disagreeable odors or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the County.

9. Any structure or building that is in a state of dilapidation, deterioration or decayed, is of faulty construction, is open to intrusion, abandoned, damaged by fire to the extent as not to provide shelter, is extremely unsound, in danger of collapse or failure, and endangers the health and safety of the public.

10. Violations of Article 1 of Chapter 9 of the DeSoto County Code of Ordinances, Anti-Litter, or Article II of Chapter 9 of the DeSoto County Code of Ordinances, Anti-Dumping.

11. Vehicles parking in violation of Section 2207 or 2208 of these LDRs;

12. Dumpsters, trash containers, or trash container stands, located on a public right of way unless the dumpster is owned leased or under the control of the County; provided, further that trash containers may be placed on the publicly owned area adjacent to the pavement, on the day the trash in the container is scheduled for removal by a trash hauler.

13. Any unauthorized obstruction or encroachment on a county right-of-way which tends to annoy or endanger the safety of travelers or render the highway less accommodating or convenient for public use.

14. Violations of Article 1 of Chapter 7 of the DeSoto County Code of Ordinances, Obstruction of Ditches.

15. Violations of Article V of Chapter 11, of the DeSoto County Code Ordinances, Excessive, Unnecessary, or Unusually Loud Noises.

16. Such other actions, conduct, omissions, conditions or things defined or specified in any County ordinance or regulation as nuisances or public nuisances.

17. Persistent use of sudden noise devices, known and marketed as Air Cannons or Propane Cannons for any use including that of frightening birds from Aquaculture operations. As used herein, persistent means more than one discharge per day, or any discharge between sunset and sunrise.

B. Nothing herein shall be construed in a manner which is inconsistent with the Florida Right to Farm Act, Section 823.14, Florida Statutes.

C. Nothing herein shall be construed to require the destruction of any wetlands or forested lands, or the destruction of indigenous non-exotic vegetation therein.

Section 12902 Public Nuisances Prohibited

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the unincorporated areas of the County.

ARTICLE 13 DEFINITIONS

Section 13000 PURPOSE AND INTENT 13-2
Section 13100 Interpretation of Terms 13-2
Section 13200 Definitions 13-2

ARTICLE 13 DEFINITIONS

Section 13000 PURPOSE AND INTENT

The purpose of this Article is to define the words, terms and phrases used to express the standards and procedures established in the LDRs and to describe the intended interpretation of certain terms as they are used in the LDRs. The words, terms and phrases listed in this Article shall have the meanings and interpretations described herein unless the context of any particular circumstance clearly indicates otherwise.

Section 13100 Interpretation of Terms

A. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

B. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

C. The word "shall" is mandatory, the word "may" is permissive.

D. The words "used" or "occupied" includes the words intended, designed, or arranged to be used or occupied.

E. The word "land" includes the words water, marsh, or swamp.

F. When a manual, specification or code is cited, the latest version of such manual specification of code is intended unless the context clearly indicates otherwise.

G. The word "day" means a working day when the County's administrative offices are open for business, unless otherwise stated.

H. Defined terms shall be interpreted in accordance with the definitions below even when not initially capitalized in the LDRs, unless the context clearly indicates otherwise.

Section 13200 Definitions

ABUTTING PROPERTIES. Properties having a boundary line or a portion of a boundary line in common with no intervening street.

ACCESS. A way of ingress or egress to property.

ACCESSORY USE OR STRUCTURE. An accessory use or structure is a use or structure of a nature customarily incidental and subordinate to the principal use or

structure and unless otherwise provided, on the same premises. On the same premises with respect to accessory uses and structures shall be construed as meaning on the same lot or on a contiguous lot in the same ownership. Where a building is attached to the principal building, it shall be considered a part thereof, and not an accessory building. A facility for the service of malt, vinous, or other alcoholic beverages shall be deemed an accessory use for a motel, hotel, boatel, private club, country club, yacht club, or golf club provided all other applicable requirements of State law and County regulations are met.

ACRE. An area containing 43,560 square feet of land.

ADULT CONGREGATE LIVING FACILITY. Any building or buildings, section of building, or distinct part of a building, residence, private home, boarding home, home for the aged, or other place, which undertakes through its ownership or management to provide, for a period exceeding 24 hours, housing, food service, and one or more personal services for four or more adults, not related to the owner or administrator by blood or marriage, who require such services; or to provide extended congregate care, limited mental health services, when specifically licensed to do so pursuant to Florida Statutes. A facility offering personal services, extended congregate care, limited nursing services or limited mental health service for fewer than 4 adults is within the meaning of this definition if it formally or informally advertises to or solicits the public for residents or referrals and holds itself out to the public to be an establishment which regularly provides such services.

ADULT ENTERTAINMENT ESTABLISHMENT. An adult entertainment establishment is any business or commercial activity which, for any reason, excludes juveniles (persons under the age of 17) or, permits juveniles when accompanied by a parent or legal guardian.

AGRICULTURE. Activities within land areas which are predominantly used for the cultivation of crops and livestock including but not limited to crop land, pasture land, orchards, vineyards, nurseries, ornamental horticulture areas, groves, specialty farms, aquaculture operations, beekeeping operations, silviculture, fruit and nuts production, ranching, poultry, egg and milk production, animal breeding, raising, or stabling.

ALCOHOLIC BEVERAGES. Beverages containing more than one half percent alcohol by volume.

ALLEY. An alley is a public or approved private way which affords only a secondary means of access to property abutting thereon.

ALTERATION. Alter or alteration shall mean any change in size, shape, occupancy, character, or use of a building or structure.

ANIMAL HOSPITAL OR VETERINARY CLINIC. Any structure and land used (primarily and essentially) for the medical and surgical care of ill, injured, or disabled animals other than humans.

ANIMALS, DOMESTIC. Any animals domesticated by man so as to live and breed in a tame condition. The keeping of domestic animals, such as dogs, cats, birds and the like is permitted in all residential zoning districts provided it is for non-commercial use.

ANIMALS, FARM/LIVESTOCK/POULTRY. The keeping and raising of farm animals, livestock and poultry is permitted within certain zoning districts as specifically set out in these zoning regulations. This includes any animals raised for food or product. For the purpose of the LDR, horses and ponies are considered farm animals.

ANTENNA. Equipment designed to transmit or receive electronic signals.

APPLICANT. The person(s) or entity engaged or seeking approval of an application.

APPROVED PUBLIC ROAD. An approved public road is a road that is owned and maintained by a governmental entity for use by the general public.

AQUACULTURE. The cultivation of the natural produce of water.

AREA OF SPECIAL FLOOD HAZARD. The land within the jurisdiction of DeSoto County which is subject to having a one (1%) percent chance of flooding annually, i.e., the 100 year flood.

AUTOMOBILE WRECKING OR AUTOMOBILE WRECKING YARD. The term automobile wrecking or an automobile wrecking yard, shall mean the dismantling, crushing, shredding, or disassembling of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled, partially dismantled, obsolete, or wrecked vehicles or their parts.

AUTOMOTIVE SERVICE STATION. An automotive service station is an establishment whose principal business is the retail dispensing of automotive fuels and oil and or where grease, batteries, tires, and automotive accessories may be supplied and dispensed at retail, principally for automobiles and not for trucks (or in connection with a private operation where the general public is excluded from the use of the facilities), and where in addition the following services may be rendered and sales made, and no other:

a. Sales and servicing of spark plugs, batteries, and distributors and distributor parts.
b. Tire servicing and repair, but not recapping or re-grooving.
c. Replacement of water hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, wiper blades, grease retainers, wheel bearings, shock absorbers, mufflers, mirrors, and the like.

d. Provision of water, anti-freeze, and the like.
e. Washing and polishing and sale of automotive washing and polishing materials, but this provision does not permit car laundries.
f. Provision and repairing fuel pumps and lines.
g. Servicing and repair of carburetors.
h. Wiring repairs.
i. Adjusting and emergency repair of brakes;
j. Motor adjustments;
k. Greasing and lubrication;
l. Sales of cold drinks, candies, tobacco, and similar convenience goods for service station customers, but only as accessory and incidental to the principal business operation;
m. Provision of road maps and other informational material to customers; provision of restroom facilities.
n. Uses permissible at an automotive service station include major mechanical work but do not include body work, straightening of frames or body parts, steam cleaning, painting, welding other than for the installation of mufflers, storage of automobiles not in operating condition, operation of a commercial parking lot or commercial garage as an accessory use, or other work involving undue noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in such stations. An automotive service station is not a body shop or a truck stop.

BAKERY. The use of a structure or building for the production of bakery products including, but not limited to, breads, cakes, pastries, and doughnuts. When identified in the LDR as a use under "Retail", the bakery products produced are for the direct sale to the consumer with no wholesale production or sales. Wholesale bakeries, for the purpose of the LDR, are considered manufacturing.

BANK. Financial institution engaged in deposit banking and closely related functions.

BAR, COCKTAIL LOUNGE. A bar or cocktail lounge is any establishment devoted primarily to the retailing and on-premises drinking of malt, vinous, or other alcoholic beverages, or any place where any sign visible from public roads includes an exhibit or display indicating that alcoholic beverages are obtainable for consumption on the premises.

BASE FLOOD. (SEE AREA OF SPECIAL FLOOD HAZARD).

BED AND BREAKFAST. A dwelling or dwellings, as distinguished from a hotel or motel, containing no more than 6 rentable units serving a meal or meals, intended primarily for rental or lease. Dwelling or dwellings must be owner occupied

BEST MANAGEMENT PRACTICES. Practices that are technologically and economically practicable and most beneficial in preventing or reducing adverse impacts from mining activities.

BLOCK. A block is the length of a street between the intersections of that street with two other streets or a water course.

BOARD. Shall mean the Board of County Commissioners of DeSoto County, Florida.

BOARDING HOUSE. A boarding house is an establishment with lodging for 4 or more persons, where meals are regularly prepared and served for compensation and where food is placed upon the table family style, without service or ordering of individual portions from a menu. A boarding house is intended to provide lodging accommodations for monthly periods or longer. Such accommodations are not considered transient.

BOAT DOCK. A walkway protruding into a waterway which provides access to a moored boat. A boat dock may include a boat shelter.

BOAT HOUSE, COMMERCIAL. A building where, for a fee, boats are housed, launched, hauled, repaired, serviced, maintained or stored.

BOAT HOUSE, PRIVATE. An accessory use to a residential structure adjacent to a waterway, providing space for the housing of a boat and accessories customary thereto. A private boat house may not be used for the purpose of human habitation.

BOAT SHELTER. A roofed structure adjacent to a waterway, open on all sides and providing covered protection to a boat.

BOAT YARDS AND WAYS. Boat yards and ways shall mean a premises or site used as a commercial establishment for the provision of all such facilities as are customary and necessary to the construction or reconstruction, repair or maintenance, sale of boats, marine engines or marine equipment and supplies of all kinds including, but not limited to, rental of covered or uncovered boat slips or dock space or dry storage space or marine railways or lifting or launching services. Boat liveries shall provide sewage pump-out facilities and employ adequate spill containment equipment if petroleum or other such products are sold on the premises.

BREAKAWAY WALL. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral load forces without causing damage to the elevated portion of the building or the supporting foundation system.

BUILDABLE AREA. Buildable area shall mean the portion of a lot remaining after required yards have been provided. Buildings may be placed in any part of the buildable

area, but limitations on percent of the lot which may be covered by buildings may require open space within the buildable area.

BUILDING. A building is any structure, either temporary or permanent, having a roof impervious to weather, and used or built for the shelter or enclosure of persons, animals, or property of any kind.

BUILDING, ACCESSORY. A building detached from, but located on the same lot as the principal building, the use of which is incidental and accessory to the principal building. The accessory building shall not be larger than the principal building.

BUILDING, HEIGHT OF. Height of building is the vertical distance above finished grade to the highest point of a flat roof, to the deck line of a mansard roof, or to the average height between the plate and the ridge of gable or hip roof. The height of a stepped or terraced building is the maximum height of any segment of the building. Where minimum floor elevations in flood prone areas have been established by law, which exceed the minimum point of measurement established in the LDRs, the building height shall be measured from such required minimum floor elevations.

BUILDING LINE. Building line is the rear edge of any required front yard or the rear edge of any required setback line. Except as specifically provided by the LDR, no building or structure may be extended to occupy any portion of a lot streetward or otherwise beyond the building line.

BUILDING, PRINCIPAL. A building or, where the context so indicates a group of buildings in which is conducted the principal use of the lot on which such building is located.

BUILDING SITE. Building site shall mean the lot or lots or portion of a lot or lots used for a structure, including the total area of a lot or lots required for the building or structure and compliance therefore with the LDR.

BULK STORAGE. The storage of chemicals, petroleum products, grain, and other materials in structures for resale to distributors or retail dealers or outlets.

CAFETERIA. (SEE RESTAURANT)

CAMPGROUND. Land containing two or more campsites which are located, established, or maintained for use or occupancy by people in temporary living quarters, such as tents, recreational vehicles, or cabins, for recreation, education, or vacation purposes, with water and/or sanitary facilities, and for which a fee may be charged for such use or occupancy.

CAMPSITE. A plot of ground within a campground intended for the exclusive occupancy by a cabin, recreational vehicle, or tent but which is not intended for permanent living quarters.

CAR WASH. A building or premises or portions thereof uses for washing automobiles.

CARPORT. A carport is an accessory structure or portion of a principal structure, consisting of a roof and supporting members such as columns or beams, unenclosed from the ground to the roof on at least two sides, and designed or used for the storage of motor vehicles owned and used by the occupants of a building to which it is accessory.

CEMETERY. A cemetery is an area of land set apart for the sole purpose of the burial of bodies of dead persons or animals and for the erection of customary markers, monuments, and mausoleums.

CERTIFICATE OF OCCUPANCY. A document issued by the Development Department setting forth that land, a building, or structure complies with the DeSoto County LDRs and other applicable local requirements.

CERTIFICATE OF OWNERSHIP. A certificate of ownership means an opinion of title of a licensed attorney or title company certifying to DeSoto County, based upon an examination of an abstract of title or the official records of DeSoto County, stating that the applicant is the owner in fee simple to the tract submitted for subdivision. The certificate shall also state the names and nature of all liens, mortgages and encumbrances against the title to the tract, if any.

CHANGE OF USE. Change of use means a discontinuance of an existing use and the substitution therefore of a use of a different kind or class. Change of use is not intended to include a change of tenants or proprietor unless accompanied by a change in the type of use.

CHILD CARE CENTER. A child care center is an establishment where 7 or more children, other than members of the family occupying the premises, are cared for away from their own home by day or night. The term includes day nurseries, kindergartens, day care service, day care agency, nursery school, or play school. The term does not include foster homes or family day care homes.

CHILDREN'S HOMES. A home for children whose parents cannot care for them because of death, separation, abandonment, illness or some other reason, operations of which is by a charitable or not-for-profit corporation.

CHURCH. (SEE HOUSE OF WORSHIP)

CIRCULATION AREA. That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.

CLINIC, MEDICAL OR DENTAL. A medical or dental clinic is an establishment where patients, who are not lodged overnight, are admitted for examination and treatment by one person or a group of persons practicing any form of the healing arts, whether such persons be medical doctors, chiropractors, osteopaths, chiropodists, naturopaths, optometrists, dentists, or any such profession, the practice of which is regulated by the State of Florida. A public clinic is one operated by any governmental organization for the benefit of the general public. All other clinics are private clinics.

CLINIC, REHABILITATIVE. A rehabilitative clinic is an establishment where persons who are dependent on toxic substances, such as drugs or alcohol, are counseled in individual or group therapy sessions. Such establishments shall be licensed by the State of Florida and regulated by Florida Statute. Persons shall not be lodged overnight in rehabilitative clinics.

CLUB, PRIVATE. For the purpose of the LDR, a private club means those associations and organizations of a civic, fraternal or social character not operated or maintained for profit, and to which there is no unrestricted public access or use. Private club shall not include casinos, nightclubs, bottle clubs, or other establishments operated or maintained for profit.

CLUSTER. A development design technique that concentrates building on a part of the site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive features.

CODE or CODES. The LDR and any or all ordinances of DeSoto County, Florida.

CODE ENFORCEMENT OFFICER. Any employee or agent of Desoto County designated as such by the County Administrator whose duty it is to enforce codes and ordinances enacted by DeSoto County. Employees or agents who may be designated as Code Enforcement Officers may include, but are not limited to, code inspectors, law enforcement officers, animal control officers, or fire safety inspectors.

COMMERCIAL DRIVEWAY. Any driveway other than a private driveway or a temporary driveway.

COMMERCIAL EQUIPMENT. Any equipment commonly used in a commercial business, i.e., contractors equipment, earth moving machinery, utility trailers, and devices used for the transportation of equipment, material, or merchandise.

COMMERCIAL RADIO AND TV RECEIVING DISH. A dish antenna structure of any configuration, whose purpose is to receive relay and/or transmit communication signals between another space and/or ground transmitter relay or receptor. A dish antenna structure which serves 2 or more dwelling units shall be deemed commercial for the purposes of these regulations. The inclusion of commercial radio and T.V. receiving dishes as a permitted use, with standards, in any zoning district is not intended to affect existing rights to install non-commercial dishes as permitted accessory uses within any zoning district.

COMMERCIAL VEHICLE. A motor vehicle not ordinarily used for personal transportation displaying writing, images, lettering, logos, or other advertising, that serves to encourage trade with, or make known services or products provided by a vehicle's owner or company; provided, however, that automobiles, motorcycles, vans, pickup trucks and other similar vehicles that are ordinarily used for personal transportation but which may be used periodically for commercial purposes shall not be considered to be commercial vehicles.

COMMUNICATIONS TOWER. Any structure erected and so designed to receive or transmit electronic waves, such as telephone, television, radio or microwave transmissions. Towers used for residential purposes which meet residential height limits are exempt from this definition.

COMMUNITY CENTER. The use of a structure or building by members of the community, as opposed to the general public for social, cultural or recreational purposes.

COMPLETELY ENCLOSED BUILDING. A completely enclosed building is a building separated on all sides from adjacent open space, or from other buildings or other structures, by a permanent roof and by exterior walls or party walls, pierced only by windows and normal entrance or exit doors.

CONCEPT PLAN. An informal plan for development that carries no vesting rights or obligations on any party.

CONCURRENCY, CERTIFICATE OF. Shall be issued where a proposed development is found to be concurrent.

CONCURRENT. A proposed development will be considered concurrent if that development does not lower the existing level of service (LOS) of a facility/service below the adopted LOS in the DeSoto County Comprehensive Plan.

CONDOMINIUM. A form of ownership of real property which is created pursuant to Chapter 718 of the Florida Statutes, which is comprised of units that may be owned by one or more persons, and in which there is, appurtenant to each unit, an undivided share in common elements.

CONDOMINIUM PARCEL. A unit, together with the undivided share in the common elements which is appurtenant to the unit.

CONDOMINIUM PROPERTY. The lands, leaseholds, and personal property, that are subjected to condominium ownership, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto for use in connection with the condominium.

CONSTRUCTION, ACTUAL. Actual construction means the commencement and continuous uninterrupted construction pursuant to a permit which includes the permanent placement and fastening of materials to the land or structure for which the permit has been issued. Where demolition, excavation or removal of an existing structure has been substantially begun preparatory to new construction, such excavation, demolition or removal shall be deemed to be actual construction, provided that work shall be continuously carried on until the completion of the new construction involved. Fill and the installation of the drainage facilities shall be considered a part of construction. Actual construction shall include only work begun under a valid development permit.

CONTIGUOUS PROPERTY. (SEE ABUTTING PROPERTY).

CONTINUING IN GOOD FAITH. Shall mean that no period of 365 consecutive days has passed without the occurrence, on the land, of substantial development activity which significantly moves the proposed development toward completion. If the developer establishes that the 365 day lapse in substantial development activity was due to factors beyond the developer's control the running of the 365 day period shall be tolled for so long as the factors preventing development exist.

CONVENIENCE STORE. A small retail store which sells convenience items including, but not limited to food, beverages, tobacco products and similar uses as its primary sales. A convenience store may, in certain zone districts, include the sale of gasoline and diesel fuel but such sales shall be accessory to the primary sale of convenience goods.

COOKING FACILITIES. Facilities for the day-to-day storage, cleansing, and preparation of food, and shall include, but not limited to: a stove, a refrigerator, and a sink. Where these facilities are all built into one unit by the manufacturer, or where they constitute less than 16 square feet of floor area, they shall not be considered cooking facilities.

CORRECTIONAL FACILITY. A public facility, other than a jail, for the housing of persons convicted of a crime.

COUNTY. County shall mean the County of DeSoto, Florida.

COUNTY ROAD OR COUNTY ROADS. Roads for which DeSoto County has accepted maintenance responsibility.

DENSITY, RESIDENTIAL. The term density refers to the number of residential units permitted per gross acre of land.

DEVELOPER. Any person, including a governmental agency, undertaking any development.

DEVELOPMENT. The carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels.

1. The following activities or uses shall be taken to involve development:

   A reconstruction, alteration of the size, or material change in the external appearance of a structure on land; a change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land; alteration of a shore or bank of a seacoast, river, stream, lake, pond, or canal, including any coastal construction; commencement of mining, or excavation on a parcel of land; demolition of a structure; clearing of land as an adjunct or construction; deposit of refuse, solid or liquid waste, or fill on a parcel of land.

2. The following operations or uses shall not be taken to involve development:

   Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way; work by any utility and other persons engaged in the distribution or transmission of gas or water, for the purpose of inspecting, repairing, renewing, or constructing on established rights-of-way any sewers, mains, pipes, cables, utility tunnels, power lines, towers, poles, tracks, or the like; work for the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure; the use of any structure or land devoted to dwelling uses for any purpose customarily incidental to enjoyment of the dwelling; the use of any land for the purpose of growing plants, crops, trees, and other agricultural or forestry products, raising livestock, or other agricultural purposes; a change in the use of land or structure from a use

within a class specified in an ordinance or rule to another use in the same class; a change in the ownership or form of ownership of any parcel or structure; the creation or termination of rights of access, riparian rights, easements, covenants concerning development of land, or other rights in land.

3. Development as designated in an ordinance, rule, or development permit includes all other development customarily associated with it unless otherwise specified. When appropriate to the context, development refers to the act of developing or to the result of development. Reference to any specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development.

DEVELOPMENT CAPACITY. An element of the concurrency management system, addressing the ability of public facilities to absorb development that has not been built, or that has not been completely built out, and that therefore has not impacted, or fully impacted, existing public facilities. The availability of public facilities to accommodate future development, in order to maintain an established level of service, will take into account this vested but currently unused or under-utilized capacity.

DEVELOPMENT OF REGIONAL IMPACT (DRI). Development of regional impact means any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county.

DEVELOPMENT ORDER. Any order granting, denying, or granting with conditions an application for a development permit.

DEVELOPMENT PERMIT. Includes any building permit, zoning permit, plat approval, or rezoning, certification, variance, or other action having the effect of permitting development.

DEVELOPMENT PLAN. A drawing pictorially showing the land use elements either scaled or schematically illustrated, supported by documentation, where warranted.

DEVELOPMENT REVIEW COMMITTEE. A group of DeSoto County staff members and/or consultants and representatives from other regulatory agencies, as applicable, who are designated by the County Administrator to review and coordinate applications for development approval including, but not limited to, subdivisions, development plans, improvement plans, rezonings, special exceptions, variances, vacations of right of way and plats, and other development applications and matters. Members of the development review committee may include, but are not limited to, the Development Director, the County Engineer, the Fire Chief, the Utility Director and the

Building Official, or their designees, and the composition of the development review committee may change from time to time at the discretion of the County Administrator.

DIRECTOR OF DEVELOPMENT. That person designated by the Board responsible for the operation and administration of the Development Department, including the Development Department's administration and implementation of the LDRs. When the position is not otherwise filled, the County Administrator may serve as the Director of Development.

DISTURBED LANDS. In the context of phosphate mining, disturbed lands means the surface area of the land that is mined and all other land area in which the natural land surface has been disturbed as a result of or incidental to mining activities.

DORMITORY. A building used as a group living quarters for a student body, religious order, or other group as an associated use to a college, university, boarding school, orphanage, convent, monastery, or other similar use. Dormitories do not include kitchen facilities, except a group kitchen to serve all residents.

DRINKING ESTABLISHMENT. An establishment where alcoholic beverages are served and where such beverages are consumed on the premises. If the facility also sells food and the sale of food products represents more than fifty percent of the facilities total sales, the facility is considered an eating establishment.

DRIVE-IN RESTAURANT OR REFRESHMENT STAND. A drive-in restaurant or refreshment stand is any place or premises where provision is made on the premises for the selling, dispensing, or serving of food, refreshments, or beverages in automobiles and/or in other than a completely enclosed building on the premises, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages in automobiles on the premises and/or in other than a completely enclosed building on the premises. A restaurant which provides drive-in facilities of any kind in connection with regular restaurant activities shall be deemed a drive-in restaurant for purposes of the LDRs. A barbecue stand or pit having the characteristics noted in this definition shall be deemed a drive-in restaurant.

DRIVE-IN WINDOW. A window or other opening in the wall of a principal or accessory building through which goods or services are provided directly to customers in motor vehicles by means that eliminate the need for such customers to exit their motor vehicles.

DRIVEWAY. A path for a vehicle leading to or from abutting property. Driveway may be used interchangeably with the term connection.

DRIVEWAY, COMMERCIAL. Any driveway other than a private driveway or a temporary driveway.

DRIVEWAY, PRIVATE. Any driveway intended to serve a single family residence or a duplex. The term shall also apply to a driveway used to gain access to agricultural land.

DRIVEWAY, TEMPORARY. A driveway intended to serve construction activities or other commercial activities of a temporary nature which will terminate within one (1) year.

DRY CLEANERS. An establishment engaged in providing laundry, dry cleaning, and other related services to individual customers.

DRY CLEANING PLANT. An establishment engaged in providing laundry, dry cleaning, and other services on a large scale for institutions, business, or other such establishments.

DUPLEX. A single structure containing two single family units.

DWELLING, MULTIPLE DWELLING USE. For purposes of determining whether a lot is in multiple-dwelling use, the following considerations shall apply:

1. Multiple-dwelling uses may involve dwelling units intended to be rented and maintained under central ownership and management or cooperative apartments, condominiums, and the like.

2. Where an undivided lot contains more than one building and the buildings are not so located that lots and yards conforming to requirements for single, two, or multiple-family dwellings in the district could be provided, the lot shall be considered to be in multiple-dwelling use if there are three (3) or more dwelling units on the lot, even though the individual buildings may each contain less than three (3) dwelling units.

3. Guest houses and servants' quarters shall not be considered as dwelling units in the computation above.

4. Any multiple-dwelling in which dwelling units are available for rental for periods of less than 30 days shall be considered a transient accommodation.

DWELLING, MULTIPLE FAMILY. A multiple family dwelling is a building containing three (3) or more dwelling units.

DWELLING, ONE FAMILY OR SINGLE FAMILY. A one-family or single-family dwelling is a building containing only one dwelling unit. For regulatory purposes, the term is not to be construed as including mobile homes, manufactured homes, travel

trailers, housing mounted on motor vehicles, tents, houseboats, or other forms of temporary or portable housing.

DWELLING, TWO FAMILY OR DUPLEX. A two family or duplex dwelling is one building containing only two dwelling units.

DWELLING UNIT. A dwelling unit is a room or rooms connected together, constituting a separate, independent housekeeping establishment for a family, for owner occupancy or rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure and containing sleeping and sanitary facilities and one kitchen.

EARTHMOVING. The removal, extraction, or excavation for any purpose of soils, sands, shell, limestone, dolomite, gravel, ore, rock, clays, peat, or any material by whatever process, but not including phosphate mining and processing activities.

EARTHMOVING SITE. In determining the size of an earthmoving project, the boundaries of all disturbed soils, including the actual excavation and the required slope areas for reclamation.

EATING ESTABLISHMENTS. An establishment whose principal business is the sale of food, desserts, or beverages to the customer in a ready to consume state.

ELECTRICAL AND ELECTRONIC REPAIR. An establishment engaged in the repair of electrically powered equipment or electronic equipment such as, but not limited to, appliances, televisions, radios, non-commercial stereo equipment, computer and similar equipment.

ELEVATED BUILDING. A non-basement building built to have the lowest floor one foot or more above the base flood elevation by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls or breakaway walls.

EMERGENCY MEDICAL CLINIC. An establishment where patients, who are not lodged overnight, are admitted for examination and treatment by one or more physicians. An emergency medical clinic is not a doctor's office or a professional office.

EMERGENCY SERVICES. Emergency services include police, fire, rescue, or ambulance (but not funeral home) services whether operated by a government agency or by a quasi-public agency performing a public service.

ENGINEER. A civil engineer, registered and currently licensed to practice in the State of Florida, retained by the developer for the purpose of design and construction supervision.

ENVIRONMENTAL QUALITY. The character or degree of excellence or degradation in the total essential natural resources of the area as measured by the findings and standards of the physical, natural resources of the area as measured by the findings and standards of the physical, natural and social sciences, the arts and technology, and the quantitative guidelines of Federal, State and County governments.

ERECTED. The word "erected" includes built, constructed, reconstructed, moved upon, or any physical operation on the premises required for building. Excavation, fill, drainage, demolition of an existing structure, and the like shall be considered part of erection. (SEE CONSTRUCTION, ACTUAL)

ESSENTIAL SERVICES. Services designed and operated by, or under the approval of, appropriate governmental jurisdictions to provide necessary utilities, general communications, public uses, and solid waste disposal facilities.

EXCAVATED AREA. The hole or pit made by excavating.

EXCAVATION. The removal of earth material of any type or composition excluding phosphate from below the surface elevation of the ground.

EXCAVATION OPERATIONS. All activities in connection with Excavation within the Excavation Site Limits including, but not limited to, crushing, screening, containerizing, transport of materials, shop operations, dewatering, site preparation, maintenance and the stock piling and loading of materials.

EXOTIC NUISANCE SPECIES. Those species not native to Florida and which have been scientifically shown to have an undesirable ecological valve, including but not limited to Brazilian pepper (schinus terebinthifolius), cajeput (Melaleuca quinquenvia) and Australian pine (Casuarina equisetifolia).

FAMILY. One or more persons occupying a single dwelling unit, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a separate or additional family or families. The term "family" shall not be construed to mean a fraternity, sorority, club, monastery or convent, or institutional group.

FAMILY DAY CARE HOME. An occupied residence in which child care is regularly provided for children from at least two unrelated families and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit. Household children under 13 years of age, when on the premises of the family day care home or on a field trip with children enrolled in child care, shall be included in the overall capacity of the licensed home. See Section 402.302, F.S.

FDOT. The Florida Department of Transportation.

FEEDLOT. A confined area or structure, pen, or corral, used to fatten livestock prior to final shipment.

FEMA. The Federal Emergency Management Agency.

FLEA MARKET. The sale of items brought to the parcel of land for sale to the public on a daily, weekly, or monthly basis. This activity shall not include cattle auctions.

FLOOD INSURANCE RATE MAP (FIRM). The official map issued by the Federal Emergency Management Agency whereon special flood hazard areas are indicated.

FLOOD INSURANCE STUDY. The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Flood Way Map and the water surface elevation of the base flood.

FLOOD OR FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. the overflow of waterways;

2. the unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD PLAIN PERMIT. The permit required prior to development within a special flood hazard area.

FLOOD PROOFING. Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water or sanitary facilities, structures and their contents.

FLOOD WAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

FLOOR. The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

FLOOR AREA. Except as may be otherwise indicated in relation to particular districts and uses, "floor area" shall be construed as the sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings, excluding public corridors, common restrooms, attic areas with a headroom of less than seven (7) feet, unenclosed stair or fire

escapes, elevator structures, cooling towers, areas devoted to air-conditioning, ventilating or heating or other building machinery and equipment, parking structures, and basement space where the ceiling is not more than an average of forty-eight (48) inches above the general finished and graded level of the adjacent portion of the lot.

FRONTAGE BOUNDARY LINE. A line perpendicular to the road centerline, at each end of the frontage extending from the right-of-way line to the edge of the through traffic lane.

FRONTAGE OF A LOT. (SEE LOT FRONTAGE)

GARAGE APARTMENT. A garage apartment is an accessory or subordinate building, not a part of or attached to the main building, where a portion thereof contains a dwelling unit for one family only, and the enclosed space for at least one automobile is attached to such dwelling unit.

GARAGE, PARKING. A parking garage is a building or portion thereof designed or used for temporary parking of motor vehicles, and where gasoline and oils may be sold only to parking patrons of the garage.

GARAGE, PRIVATE. A private garage is an accessory structure designed or used for inside parking of private passenger vehicles, recreation vehicles, or boats, by the occupants of the main building. A private garage attached to or a part of the main structure is to be considered part of the main building. An unattached private garage is to be considered as an accessory building.

GARAGE, REPAIR. A repair garage is a building or portion thereof, other than a private, storage, or parking garage or automotive service station, designed or used for repairing, equipping, or servicing of motor vehicles. Such garages may also be used for hiring, renting, storing, or selling of motor vehicles.

GARAGE SALE. The sale of miscellaneous used items commonly associated with residential use. Garage sales shall not be for the sale of primarily a single commodity.

GARAGE, STORAGE. A storage garage is a building or portion thereof designed and used exclusively for the storage of motor vehicles or boats, and within which temporary parking may also be permitted.

GROSS FLOOR AREA. The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

GROUP HOME, LARGE. A nonprofit or for-profit boarding home for the sheltered care of more than 6 persons with special needs, which, in addition to providing food and

shelter, may also provide some combination of personal care, social or counseling services, and transportation.

GROUP HOME, SMALL. A nonprofit or for-profit boarding home for the sheltered care of 6 or fewer persons with special needs, which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services, and transportation.

GUEST HOUSE. A guest house is a building separate from and in addition to the principal residential building on a lot but not exceeding 50% of the floor area of said principal residential building, intended for intermittent or temporary occupancy. These living quarters shall be used exclusively for non-commercial accommodations for friends and relatives of the occupant or owner of the principal dwelling.

HABITABLE FLOOR. Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or any combination thereof. A floor used only for storage is not a habitable floor.

HEALTH PRACTITIONER'S OFFICE. An establishment offering diagnostic and routine health care on an outpatient basis by licensed practitioners such as but not limited to physicians, dentists, and chiropractors.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the building.

HISTORIC STRUCTURE. Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

a. By an approved State program as determined by the Secretary of the Interior;

b. Directly by the Secretary of the Interior in States without approved programs.

HOME FOR THE AGED. A home for the aged is a facility for the care of the aged with routine nursing and/or medical care and supervision provided for 7 or more adults not related to the owner or operator by blood or marriage. A home for the aged is in the nature of a nursing home, but with clientele restricted to the aged.

HOME OCCUPATION. An occupation or activity which is clearly incidental and secondary to use of the premises as a dwelling and which is carried on wholly or in party within a main building or accessory building by a member of the family who resides on the premises.

HOSPICE. An institution designed to provide comfort and relief for the emotional and physical needs of the terminally ill.

HOSPITAL. A hospital is a building or group of buildings having facilities for overnight care of one or more human patients, providing services to in-patients and medical or surgical care to the sick and injured, and which may include as related facilities laboratories, out-patient services, training facilities, central service facilities, and staff facilities; provided, however, that any related facility shall be incidental and subordinate to principal hospital use and operation. A hospital is an institutional use under the LDR.

HOSPITAL, VETERINARY. A veterinary hospital is any structure or premises used primarily and essentially for the medical and surgical care of ill, injured or disabled animals other than humans.

HOTEL OR MOTEL. A hotel or motel unit is a unit designed for transient occupancy and utilized for rental purposes and does not have separate electric or water meters for any of the units.

HUNTING CABIN. A hunting cabin is a temporary structure or shelter used primarily during the hunting seasons, and which shall not be used or be designed to be used as a permanent residence or structure.

HYDRODYNAMIC LOAD. The forces resulting from liquids in motion.

JOINT DRIVEWAY. One driveway located in such a manner to provide access to two adjoining parcels with different ownership. Joint driveways must be constructed with the center of the joint driveway located on the common property line, or an easement must be

recorded by the owner whose property the joint driveway is located giving the other property owner perpetual right of egress/ingress to their property.

JUNK. Old, dilapidated, scrap or abandoned metal, paper, building material and equipment, bottles, glass, appliances, furniture, beds and bedding, rags, rubber, motor vehicles, and parts thereof.

JUNK YARD. A junk yard is a place, structure, or lot where junk, waste, discarded, salvaged, or similar materials such as old metals, wood, slush, lumber, glass, paper, rags, cloth, bagging, cordage, barrels, containers, etc., are brought, bought, sold, exchanged, baled, packed, disassembled, stored, or handled, including used lumber and building material yards, house wrecking yards, heavy equipment wrecking yards, and yards or places for the storage, sale or handling of salvaged house wrecking or structural steel materials. This definition shall not include automobile wrecking and automobile wrecking yards, or pawnshops and establishments for the sale, purchase, or storage of second-hand cars, clothing, salvaged machinery, furniture, radios, stoves, refrigerators, or similar household goods and appliances, all of which shall be usable, nor shall it apply to the processing of used, discarded, or salvaged materials incident to manufacturing activity on the same site where such processing occurs.

KENNEL. Any commercial establishment, including shelter operations, used for the boarding, breeding, housing, training, or sale or care of four (4) or more dogs, cats, or other domestic animals or birds. This definition does not include riding stables, animals for personal use, or animals kept on farms or ranches located on five (5) or more acres. All kennels shall meet the following standards: The kennel will have fencing at least 6 feet high and will be designed to securely contain all animals and prevent animals from escaping from kennel's confines. Fencing can be of the chain linked type or the solid privacy fence type. Kennels containing more than 10 animals at any given time will require a sanitation system to be installed. A sanitation system is a septic tank. Allowed zoning for kennels: A-10 and A-5 permitted with Special Exception only. Kennels are prohibited in all other zonings. Minimum Lot Area: 10 acres for Zone A-10 and 5 acres for zone A-5. Kennel Setbacks: No external part of a kennel shall be located within two hundred (200) feet of any other parcel of land and/or the banks of any stream, river or other body of water that could be subject to flooding. Exception to Kennel Setback: Kennels may be located with less than two hundred (200) feet of any other parcel if and only if kennel is completed enclosed with sound dampening walls. If this exception is met kennel setback will be the same as any other outbuilding in the specified zoning district that parcel lies within. All kennels shall provide individual containment pens with hard surface flooring, water and food devices. All kennels must also identify an exercise area for animals and maintain exercise area outside of required set-back two hundred (200) feet.

KINDERGARTEN. SEE CHILD CARE CENTER

KITCHEN. An area within a structure used for cooking which contains a sink and a significant cooking appliance (electric/gas range with or without oven).

LANDFILL. Those lands, public and private, which are used for the purpose of disposing sanitary solid wastes.

LANDSCAPING. Landscaping shall consist of, but not be limited to, grass, ground covers, shrubs, vines, hedges, trees, berms and complementary structural landscape architectural features such as rock, fountains, sculpture, decorative walls and tree wells. Where a landscaped buffer is required by the LDRs, the use of only grass and/or ground covers shall not constitute a landscaped buffer.

LEVEL OF SERVICE (LOS). An indicator of the extent or degree of service provided by, or proposed to be provided by a facility based on and related to the operational characteristics of the facility. Level of service shall indicate the capacity per unit of demand for each public facility.

LOADING SPACE, OFF-STREET. Off-street loading space is space logically and conveniently located for pickups and/or deliveries or for loading and/or unloading, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled.

LOT. For purposes of the LDRs, a lot is a parcel of land of at least sufficient size to meet minimum requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on a public street or on an approved private street, and may consist of:

1. A single lot of record;

2. A portion of a lot of record;

3. A combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record;

4. A parcel of land described by metes and bounds; provided, that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of the LDRs.

LOT, CORNER. A lot at the point of intersection of and abutting on two or more intersecting street lines, or in the case of a curved street, on extended street lines of not more than 135 degrees.

LOT FRONTAGE. The front of an interior lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and

through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as set out in the LDRs. For the purpose of computing number and area of frontage of a lot shall be established by orientation of the frontage of buildings thereon, or of principal entrance points to the premises if building frontage does not clearly indicate lot frontage. If neither of these methods are determinant, the Development Director shall select on the basis of traffic flow on adjacent streets, and the lot shall be considered to front on the street with the greater traffic flow. (SEE ALSO BUILDING FRONTAGE)

LOT, INTERIOR. A lot other than a corner lot with frontage on only one street.

LOT LINE. A line that marks the boundary of a lot.

LOT LINE, INTERIOR. Any lot line that is not a street lot line, a lot line separating a lot from another lot.

LOT LINE, STREET. Any lot line separating a lot from a street right-of-way or general access easement. Where a lot line is located within such street right-of-way or easement, the right-of-way or easement boundary adjacent to the lot is considered to be the street lot line.

LOT MEASUREMENT, DEPTH. Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

LOT MEASUREMENT, WIDTH. Width of a lot shall be considered to be the average distance between straight lines connecting front and rear lot lines at each side of the lot, measured as straight lines between the foremost points of the side lot lines in front (where they intersect with the street line) and the rear most points of the side lot lines in the rear, provided however that the width between the side lot lines at their foremost points in the front shall not be less than 80% of the required lot width except in the case of lots on the turning circle of a cul-de-sac, where the width shall not be less than 60% of the required lot width or 60 feet, whichever is smaller.

LOT OF RECORD. A lot which is part of a subdivision or a lot described by metes and bounds the description of which has been recorded in the office of the DeSoto County Clerk of the Circuit Court:

1. Prior to September 28, 1981

2. After September 29, 1981 that conforms to the requirements of the DeSoto County Zoning Ordinance.

3. After March 1, 1982, that conforms to the requirements of the DeSoto County Zoning Ordinance and Public Works Manual.

LOT WIDTH. The horizontal distance measured along a straight line connecting the points where the minimum front yard line meets the interior lot lines or, if on a corner, the other front yard line.

LUMBERYARD. An establishment engaged in the cutting, dressing, finishing, and wholesale sale of lumber.

MANUFACTURED HOME. A mobile home as defined in Section 320.01(2)(b), Florida Statutes, as it may be amended from time to time.

MANUFACTURING, PROCESSING, AND ASSEMBLING. The mechanical or chemical transformation of materials or substances into new products. The land uses engaged in these activities are usually described as plants, factories, or mills and characteristically use power-driven machines and materials handling equipment. Establishments engaged in assembling component parts of manufactured products are also considered under this definition, if the new product is neither a fixed structure nor other fixed improvement. Also included is the blending of materials such as lubricating oils, plastics, resins, or liquors.

MARINA. A commercial establishment with a waterfront location for the provision of: rental of covered or uncovered boat slips or dock space or dry storage space (not to exceed one story), rental and/or sale of boats and boat motors, repair and maintenance of boats and boat motors in a sound proof area, marine fuel and lubricants, bait and fishing equipment, on-shore restaurants, and small boat hauling or launching facilities. Marina shall provide sewage pump-out facilities and employ adequate spill containment equipment if petroleum or other such products are sold on the premises. Such premises or site shall not include boat and/or motor manufacturing as an incidental use. A boat sales lot is not a marina.

MATRIX. The combination of gangue and/or minerals in which the ultimate product of mining activities is contained.

MEAN HIGH WATER LINE. Mean high water line is the intersection of the tidal plane of mean high water with the shore as established by applicable law.

MEDICAL AND DENTAL LABORATORY. An establishment engaged in the testing and analysis of material for medical or dental services or for the patient on prescription of a health practitioner.

MEMBERSHIP ORGANIZATIONS. A membership establishment operated by a corporation or association of persons for activities which include, but are not limited to,

business, professional, social, literary, political, educational, fraternal, charitable, or labor activities, but which are not operated for profit or to render a service which is customarily conducted as a business.

MINERAL EXTRACTION. The extraction of mineral ore from the earth by whatever method including the removal of overburden for the purpose of reaching underlying ore.

MINING ACTIVITIES. All functions, work, facilities and activities in connection with the development, extraction, drying or processing of mineral deposits and all uses reasonably incidental thereto. The definition of mining also includes reclamation. Site surveying, prospecting, coring, mapping and other functions necessary solely for proper preparation of permit applications are excluded.

MOBILE HOME. A structure, transportable in one or more sections, as defined in Section 320.01(2)(a), Florida Statutes, as it may be amended from time to time. In addition, commencing on May 1, 2015, all new mobile homes and existing mobile homes that are relocated or purchased must be skirted with materials compatible with the neighborhood and the mobile home, and which shields from view the area or space under the home to a reasonable extent under the circumstances.

MOTOR VEHICLE. Any vehicle or means of conveyance listed under Section 320.01(1), Florida Statutes.

NATIONAL GEODETIC VERTICAL DATUM (NGVD). The vertical control used as a reference for all elevations related to the LDR's.

NEW CONSTRUCTION. Buildings for which the start of construction commenced on or after the effective date of the LDRs.

NURSING HOME, REST HOME OR EXTENDED CARE FACILITY. A nursing home or extended care facility is a private home, institution, building, residence, or other place, which undertakes through its ownership or management to provide for a period exceeding twenty-four (24) hours, maintenance, personal care, or nursing for three (3) or more persons not related by blood or marriage to the operator, who by reason of illness, physical infirmity or advanced age, are unable to care for themselves; provided, that this definition shall include homes offering services for less than three (3) persons where the homes are held out to the public to be establishments which regularly provide nursing and custodial services.

OCCUPIED. The word occupied includes arranged, designed, built, altered, converted to or intended to be used or occupied.

OFF-PREMISES. Not located on the same lot with the principal use or structure.

OFFICE, BUSINESS. A business office is an office for activities such as, but not limited to, real estate agencies, advertising agencies (but not sign shop), insurance agencies, travel agencies and ticket sales, chamber of commerce, credit bureau, abstract and title agencies or insurance companies, stockbroker, and the like. A business office does not include the display or delivery of retail or whole goods from the premises to a customer. A barber or beauty shop is not a business office.

OFFICE, PROFESSIONAL. A professional office is an office for the use of a person or persons generally classified as professionals, such as but not limited to, architects, engineers, attorneys, accountants, doctors, lawyers, dentists, psychiatrists, psychologists, and the like.

OFFICIAL ZONING DISTRICT ATLAS. Scaled base maps of the unincorporated area of the County depicting land features, roads and property lines overlaid with Zoning District boundaries adopted by the DeSoto County Board of Commissioners and certified and dated by the Chairman, as may be amended from time to time. Zoning district symbols are depicted within each boundary.

OPEN SPACE, USABLE. Portion of a lot or parcel which can be used by the inhabitants of the property for outdoor living, active or passive activity and/or recreation.

OPEN STORAGE. The storage outside of a building, or within buildings with less than three sides; materials, supplies, merchandise, equipment, non-motorized commercial vehicles, and like items, but excluding junk.

OPERATING PERMIT. In the context of mining, an operating permit is written authorization to commence specified mining activities for a specified period of time, and generally requiring information and analysis more detailed than that available or existing at the time of Phosphate Mining Master Plan and DRI review.

OPERATOR, EARTH MOVING. The person authorized, in accordance with an approved application, to be in charge of, and responsible for, the conduct of an earth moving operator.

OVERBURDEN. The natural covering of any mineral sought to be mined including, but not limited to soils, sand, shell, rock, gravel, limestone, clay or peat.

OWNER. The person(s), corporation, or other entity holding title to the property.

PACKAGE STORE. A place where alcoholic beverages are dispensed or sold in containers for consumption off the premises.

PARKING. The act of placing a vehicle, equipment, or similar item at a specific location for a temporary period of time, generally less than one week.

PARKING AREA, OFF-STREET. An area for the temporary storage and parking of motor vehicles including the area required for adequate maneuvering space, access aisles or drive thereto.

PARKING SPACE, OFF-STREET. For the purpose of the LDRs, an off-street parking space shall consist of a space adequate for parking a standard size automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk or alley, and so that any automobile may be parked and un-parked without moving another.

PARK TRAILER. A transportable unit as defined in Section 320.01(1)(b)7, Florida Statutes, as it may be amended from time to time.

PERCOLATION. The seepage of water through the soil under gravity.

PERSON. An individual, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization, or other entity acting as a unit.

PERSONAL CARE SERVICES. The furnishing of services to residents including, but not limited to, individual assistance with, or supervision of, essential activities of daily living, such as eating, bathing, grooming, dressing and ambulation; the supervision of self administered medication and other similar services. Personal care services does not mean the provision of medical, nursing, dental or mental health services.

PERSONAL SERVICES. An establishment that primarily provides services generally involving the care of a person or a person's apparel, including, but not limited to, barber shops, beauty salons, seamstress shops, dry cleaning, and laundry pickup facilities.

PHOSPHATE MINING MASTER PLAN. A description of proposed phosphate mining activities over the life of the mine, so as to allow overall review of applicant's phosphate mining activities.

PLACE OF WORSHIP. The term 'place of worship' means a site or premises, such as a cathedral, chapel, church, mosque, synagogue, tabernacle, temple, or similar place which is used for religious worship and religious activities, including religious education and customary accessory uses, by a body or organization of religious believers.

PLANNED UNIT DEVELOPMENT. Land under unified control to be planned, and developed, operated, and maintained as a whole in a single development operation or a definitely programmed series of development operations which contains one or more residential clusters and one or more public, quasi-public, commercial, or industrial areas.

A planned unit development includes principal and accessory structures and uses substantially related to the character and purposes of the planned development. A planned development is built according to general and detailed plans which include not only streets, utilities, lots and building location, and the like, but also site plans for all buildings as are intended to be located, constructed, used, and related to each other, and plans for other uses and improvements on the land as related to the buildings. Approval of a planned unit development may authorize a relaxation of other requirement of the LDRs. A planned development includes a program for the provision, operation and maintenance of such areas, facilities, and improvements as will be for common use by some or all of the occupants of the planned unit development district, but which will not be provided, operated, or maintained at general public expense.

PLAT. The drawing which depicts the manner and method of subdivision of a particular parcel of land which is prepared for the express purpose of being recorded in the Public Records as a permanent and official record of the subdivision. When used as a verb, the meaning is taken as the act of preparing the plat.

PREMINING CONSTRUCTION ACTIVITIES. Major disturbances that include the following: (1) clearing land in preparation for mining but not for construction of roads, power lines, or pipelines; (2) clearing land for constructing waste disposal sites; (3) draining wetlands; (4) removing overburden, if no clearing was necessary; and (4) constructing dams.

PRODUCE STANDS. The retail sale of any form of agricultural or horticultural products such as, but not limited to, flowers, firewood, fruits, vegetables, boiled peanuts, and other perishable goods. This does not include food stands where food is cooked or prepared.

PROFESSIONAL SERVICES. An establishment containing practitioners of a calling or vocation in which knowledge of some department of science or learning is used in its application to the affairs of others. Such activities would include, but not be limited to, accounting, auditing and bookkeeping services, architectural services, engineering and surveying services, interior design services, and legal services. Physicians and dentists are classified as Health Practitioners.

PROJECT. Construction within prescribed limits such as a platted subdivision or the total work for which a permit is issued. An undertaking of land development by one developer of contiguous lands into one or more subdivisions.

PROJECT ENGINEER. The Professional Engineer registered in the State of Florida, or a corporation authorized to practice engineering in the State of Florida, designated by the Developer to act in his behalf insofar as duties of the Project Engineer are prescribed in the LDRs.

PROJECT SURVEYOR. The professional Land Surveyor registered in the State of Florida, or a corporation authorized to practice Land Surveying in the State of Florida, designated by the Developer to act in his behalf insofar as duties of the Project Surveyor are prescribed in the LDRs..

PUBLIC SERVICE FACILITIES. The use of land, buildings, or structures by a public utility, railroad, or governmental agency, including water treatment plants, sewage treatment plants, telephone exchanges, resource recovery facilities, and other similar public service structures, but not including land, buildings, or structures devoted solely to the storage and maintenance of equipment and materials.

PUBLIC UTILITY FACILITY. Public utility facility means facilities including, but not limited to, electric transmission and distribution lines, gas and water pumping stations, transformer stations, but not including land used for storage of materials and maintenance of equipment.

PUBLISHING AND PRINTING. An establishment primarily engaged in preparing, publishing, and printing newspapers, periodicals, books, and pamphlets.

RADIO AND TELEVISION STUDIO. A facility for the production and broadcast of radio and television shows, including their offices, dressing rooms, broadcast and taping studios, file rooms, set storage and related installations, but not including radio and television transmitting and receiving facilities.

RECLAMATION. The reshaping and revegetation of land and water bodies disturbed or affected by mining activities.

RECREATION SERVICES. Privately owned outdoor amusement facilities such as golf and country clubs, swimming and tennis clubs, equestrian centers, marinas, but built as part of a residential development. The term also includes publicly owned and operated facilities such as athletic fields, golf courses, tennis courts, swimming pools, parks, marinas, and similar uses not associated with a school.

RECREATIONAL VEHICLE. A vehicular type portable unit as defined in Section 320.01(1)(b), Florida Statutes, as it may be amended from time to time.

RECREATIONAL VEHICLE PARK. The provision of recreational vehicle spaces on a single zoning lot.

RECREATIONAL VEHICLE SPACE. An area of land designated for the location of a recreational vehicle while in use as a dwelling unit.

REHABILITATION CENTERS. An establishment engaged exclusively in the provision of outpatient services to correct, cure or assist an individual in adjusting to a

physical disability. Such services include but are not limited to physical therapy, occupational therapy, speech therapy, audiology, radiology and respiratory therapy, but excluding therapy for mental illness, drug or alcohol dependency, or rehabilitation of criminals.

RENTAL AND LEASING OF LIGHT EQUIPMENT. An establishment engaged in the renting or leasing of equipment including, but not limited to, wedding supplies, party supplies, small appliances, hand tools, furniture, and like items.

REPAIR SERVICES. The use of land, structures or buildings for the purposes of mending or restoring items after decay, damage, dilapidation, or partial destruction. Such services include, but are not limited to: motor vehicle repairs, bicycle repair, electrical and electronic repairs, gunsmiths, locksmiths, re-upholstery services, furniture, refinishing and repair, small motor repair, and watch, clock, and jewelry repair. Construction activities is not included in repair services.

REPEAT VIOLATION. A violation of a provision of a code by a person who has previously been found, by the Special Master to have violated the same provision within five (5) years prior to the subject violation.

RESIDENTIALLY DESIGNED MANUFACTURED HOME. A factory built, single-family dwelling that meets either the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. Section 5401, et seq.) commonly known as HUD (U.S. Department of Housing and Urban Development) code or the Florida Manufactured Building Act of 1979 (Chapter 553, Part I, Florida Statutes). These Residentially Designed Manufactured Homes must have: a roof with a pitch not less than 3 inches rise in a 12-inch run with eaves; vinyl, wood or masonry siding or an approved product that simulates any of these types of siding; and be a minimum width of 22 feet. All Residentially Designed Manufactured Homes must meet or exceed the structural requirements for the wind zone in which they are installed, as specified in their respective codes. In addition, commencing on May 1, 2015, all new residentially designed manufactured homes and existing residentially designed manufactured homes that are relocated or purchased must be skirted with materials that are compatible with the neighborhood and the mobile home, and shields from view the area or space under the home to a reasonable extent under the circumstances.

REST HOME. SEE NURSING HOME.

RESTAURANT. An establishment where food is ordered from a menu, prepared and served for pay primarily for consumption on the premises in a completely enclosed room, under roof of the main structure, or in an interior court. A drive-in restaurant is not a restaurant for purposes of the LDRs. A cafeteria is a restaurant for purposes of the LDRs.

RESTAURANT, DRIVE-IN. An establishment where food is prepared and served to the customer in a ready-to-consume state, but only for consumption outside the building.

RESTAURANT, FAST-FOOD. A fast-food restaurant is an establishment where food is prepared and served to the customer in a ready-to-consume state for consumption either within the restaurant building, outside the building, but on the same premises, or off the premises and having any combination of two or more of the following characteristics:

1. A limited menu, usually posted on a sign rather than printed on individual sheets or booklets;

2. Self-service rather than table service by restaurant employees;

3. Disposable containers and utensils; or,

4. A kitchen area in excess of 50% of the total floor area.

A cafeteria shall not be deemed a fast-food restaurant for the purpose of the LDR's.

RETAIL. The use of land, buildings, or structures for the sale of merchandise to the consumer of the merchandise which may include, but not be limited to, convenience goods, shoppers goods' bicycle sales, liquor stores, lumber and other building material sales, mail order pickup facilities, manufactured home sales, motor vehicle sales, service stations, and sales of used merchandise.

RETAIL SALES, CONVENIENCE GOODS. Commercial establishments that generally service day-to-day commercial needs of a residential neighborhood, including, but not limited to, convenience stores, tobacco shops, newsstands, bakeries, candy, nut and confectionery stores, delicatessens, dairy products, meat and seafood markets, produce markets, food stores with less than ten thousand square feet in floor area, and eating establishments.

RETAIL SALES, SHOPPERS GOODS. Commercial establishments that supply the more durable and permanent needs of a community including, but not limited to, apparel and footwear stores; appliance stores; art supplies stores; automotive supply stores; book and stationery stores; camera and photography supplies stores; department stores; discount stores; drug stores; farm supplies stores; florists; and home furnishing stores; gift shops; gun and ammunition sales; hardware stores; hobby, toy and crafts stores; jewelry stores; lawn and garden supply stores; novelty and souvenir shops; office equipment stores; optician and optical supplies stores; paint and wallpaper stores; pet shops; radio and television sales stores; sporting goods stores; trading stamps redemption stores; and variety stores.

RIGHT-OF-WAY. A parcel of land deeded or dedicated to the public or to special interest for a particular purpose. A Right-of-way may be identified as being a Street, Avenue, Road, Boulevard, Highway or any other such designation, or as a Drainage or Utility Right-of-way.

ROAD OR ROADWAY. The surface upon which vehicles and pedestrians travel which is usually located within a Right-of-way. The word road may be used as a proper name with supplementary identification to make reference to a particular right-of-way.

RUNOFF. The surplus volume resulting from rainfall.

SAND/CLAY RECLAMATION SITE. In the context of mining, locations where sand/clay mixtures are deposited and settled within dams constructed over excavated areas as part of a final reclamation effort.

SCHOOL. Buildings and equipment, structures, and special educational use areas that are built, installed, or established to serve primarily the educational purposes and secondarily the social and recreational purposes of the community and which may lawfully be used as authorized by the Florida Statutes and approved by the Board of County Commissioners.

SCOUR. Erosion caused by debris and flowing water.

SEASONAL HIGH WATER TABLE. The annual high elevation of the surface water table under ordinary rainfall conditions.

SERVICE STATION. SEE AUTOMOTIVE SERVICE STATION.

SETBACK LINE. A line marking the minimum distance between a right-of-way line, property line, or other defined location and the beginning point of a required yard or the buildable area, as may be required by the LDRs.

SETTLING. The clay-water mixture and associated chemicals resulting from processing the matrix.

SITE ALTERATION. Any modification, change or transformation of any portion of a lot or parcel of land including, but not limited to, the removal, displacement, or relocation of trees, plants and vegetation, the addition or removal of earth materials and the creation, retention or relocation of drainage courses or water areas.

SPECIAL EVENTS. Circuses, fairs, carnivals, festivals, or other types of special events that, (1) run for longer than one day, but not longer than two (2) weeks; (2) are intended to or likely to attract substantial crowds; and (3) are unlike the customary or usual activities generally associated with the property where the special event is to be located.

SPECIAL EXCEPTION. A use which would not be appropriate generally or without special study throughout the zoning district, but which, if controlled as to number, size, location or relation to the neighborhood, would promote the public health, safety, and general welfare.

SPECIAL FLOOD HAZARD AREA. Those areas delineated on the FIRM as being areas of flood hazard.

SPECIAL MASTER. A person appointed to hold hearings, assess fines and order mitigation for violations of the LDR and other codes.

START OF CONSTRUCTION. Commencement of development.

STORAGE. The act of placing a vehicle, equipment, or similar item at a specific location for a period of time generally more than one week in an enclosed structure, within a fenced area, or otherwise in a manner which provides protection and safekeeping for the item being stored; provided that during business hours items displayed for sale, and items stored at any time on property used for bona fide agricultural purposes do not have to be kept in an enclosed structure.

STORM FREQUENCY. The time interval in years in which a storm of given intensity is expected to reoccur.

STORY. That portion of a building included between a floor which is calculated as part of the building's floor area and the floor or roof next to it.

STREET. SEE ROAD.

STRUCTURE. Anything constructed or erected which requires a fixed location on the ground, or in the ground, or attached to something having a fixed location on or in the ground.

STRUCTURE, ACCESSORY. A subordinate structure detached from, but located on, the same lot or parcel of land as the principal structure and where the accessory structure is not larger than the principal structure.

STRUCTURE, PRINCIPAL. A structure, or where the context so indicates, a group of structures in or on which is conducted the principal use of the lot or parcel of land on which such structure is located.

STRUCTURED ENVIRONMENT. A residential setting within which persons, progressing from relatively intensive treatment for crime, delinquency, mental or emotional illness, alcoholism, drug addiction or similar conditions to full participation in

Community life, are provided professional staff services, as was as board, lodging, supervision, medication, and other treatment.

SUBDIVIDER. A person who owns any interest in subdivided lands or is engaged in the disposition of subdivided lands either directly or through the services of a broker or salesman.

SUBDIVISION. A subdivision shall include all divisions of a tract or parcel of land into three or more lots, building sites or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; provided that the following shall not be included within this definition nor be subject to the regulations authorized by the LDRs:

1. The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of DeSoto County as shown in the LDRs; and

2. The public acquisition by purchase of strips of land for widening or opening of streets.

In interpretation of (1) above, the term "previously platted" shall mean platted, approved and recorded, if such lots were created in accordance with subdivision regulations in effect at the time of their creation, or created as a result of a recorded land division prior to existence of applicable subdivision regulations.

SUBDIVISION, MAJOR. Divisions of a tract or parcel of land into 7 or more lots.

SUBDIVISION, MINOR. Divisions of a tract or parcel of land into 6 or fewer lots not involving the construction of new roadway or drainage facilities, wetland or flood plain impacts; change in the length or alignment of any existing road; obstruction of county right-of-way; or reconstruction of roadway or drainage facilities; and where all lots abut or have access to a public road or right of way by easement over a single lot and meet the minimum lot size and dimensions standards of the zoning district.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure.

SUBSTANTIAL DEVELOPMENT. The developer has made an attempt to move the development towards completion, such a substantial change imposition, or has incurred such extensive obligations and significant expenditures, that it would be highly inequitable and unjust not to allow the development to proceed to completion. The

occurrence of substantial development shall be determined by taking into consideration the totality of circumstances surrounding the development. Activities that may constitute substantial development include, expenses incurred for construction, planning, permitting, designing, engineering and surveyor; the preparing of property for construction; significant purchases of materials; the making of improvements and purchases of materials; the making of improvements and repairs; and meeting conditions of a development permit.

SUBSTANTIAL IMPROVEMENT. Any combination of repairs, reconstruction, alteration, or improvements to a building, taking place during the life of a building in which the cumulative cost equals or exceeds fifty (50%) percent of the market value of the building. The market value of the building should be (1) the appraised value of the building prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the building prior to the damage occurring. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include any project for the improvement of a building required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

TAILINGS. In the context of mining, sands that have been separated from overburden and matrix through beneficiation.

TOP OF SLOPE. The upper limit of an inclined surface where the transition occurs to a general horizontal plane.

TOWNHOUSE OR ROW HOUSE. Townhouse or row house shall mean three (3) or more single-family structures separated by party walls or separated by not more than one (1) inch from another townhouse. A townhouse may be held in separate ownership. Side yards are not required for interior townhouses, but front and rear yards shall be for all townhouses as for single-family dwellings for the district in which the townhouses are located. End units shall have side yards, or if on a corner lot, front yards as for single-family dwellings in the district in which the townhouses are located.

TRAILER, BOAT/FARM ANIMALS. A wheeled conveyance drawn by other motive power for the transportation of a single boat, or farm animals.

TRAILER, CAMPING OR POP-UP. A trailer as defined in Section 320.01(1)(b)2, Florida Statutes, as it may be amended from time to time.

TRAILER, TRAVEL. A trailer as defined in Section 320.01(1)(b)1, Florida Statutes, as it may be amended from time to time.

TRAVEL TRAILER PARK. A County approved park for the temporary residential usage of travel trailers.

USE. The purpose of which land or water or a structure thereon is designated, arranged or intended to be occupied or utilized for which it is occupied or maintained. The use of land or water in the various zoning districts is governed by the LDRs.

UTILITY GRADE SOLAR POWER PLANT. The commercial production of electrical current generated by various technologies utilizing solar energy. The energy is generated for the purpose of distribution to off-site users generally greater than two megawatts.

VARIANCE. A relaxation of the terms of the LDRs where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the LDR's would result in unnecessary and undue hardship on the land.

VESTED. The determination that an individual relied on an act of the County to confer specific rights to develop property for certain uses, densities, and intensities of use before the effective date of the LDRs, the Comprehensive Plan, or their amendments, even though such development may be inconsistent with the LDRs, Comprehensive Plan or their amendments.

VIOLATOR. A person or entity legally responsible for the violation of, or who has been found in violation of the LDR or any other code.

WAREHOUSE. A building or group of buildings for the storage of goods or wares belonging either to the owner of the facility or to one or more lessees of space in the facility or both, with access to contents only through management personnel.

WATER RECIRCULATION FACILITIES. In the context of mining, structures used for storing, routing and treating mine and process waters, including but not limited to reservoirs, slime ponds, canals, ditches and their associated dams and dikes.

WATERCOURSE. Any natural or artificial channel, ditch, canal, stream, river, creek, waterway or wetland through which water flows in a definite direction, either continuously or intermittently, and which has a definite channel, bed, banks or other discernible boundary.

WATERSHED. The area of land contributing storm water run-off to a common point.

YARD, FRONT. A yard extending between side lot lines across the front of a lot adjoining a street. A front yard shall be measured at right angles to a straight line joining

the foremost points of the side lot line. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding, provided that in residential districts, no required front yard shall be less than ten (10) feet in depth.

YARD, GENERALLY. A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from thirty (30) inches above the general ground level of the graded lot upward; provided, however, that fences, walls, hedges, poles, posts, children's play equipment and other customary yard accessories, ornaments, statuary and furniture may be permitted in any yard subject to height limitations and requirements limiting obstructions to visibility.

In the case of through lots, unless the prevailing front yard pattern on the adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the Development Director may waive the requirement for the normal front yard and substitute therefore a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

In the case of corner lots, full depth front yards are required on both frontages.

YARD, REAR. A rear yard is a yard extending across the rear of the lot between inner side yard lines. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards. Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.

YARD, SIDE. A yard extending from the interior (rear) line of the required front yard to the rear lot line, or in the absence of any clearly defined rear lot line, to the point on the lot farthest from the intersection of the lot line involved with the public street.

In the case of through lots, side yards shall extend from the rear lines of front yards required.

In the case of corner lots, yards remaining after front yards have been established on both frontages shall be considered side yards. Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.

YARD, SPECIAL. A yard behind any required yard adjacent to a public street required to perform the same functions as a side or rear yard, but adjacent to a lot line and so placed or oriented that neither the term "side yard" nor the term "rear yard" clearly applies. In such cases, the Development Director shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the district, determining

which shall apply by the relation of the portion of the lot on which the yard is to be located to the adjoining lot or lots, with due regard to the orientation and location of structures and buildable areas thereon.

In case of irregularly shaped lots or unusual circumstances where minor variations in yards appear necessary, the Development Director may allow smaller yards than are otherwise required in the district, providing that:

1. The Development Director allows only yards that are similar to yards required elsewhere in the same district, and in no event allows yards over twenty-five (25%) percent smaller than are required elsewhere in the same district.

2. The Development Director allows only yards that achieve the same purpose as required yards elsewhere in the district.

3. The irregular shape is due to conditions over which the property owner has no control

ZONING DISTRICTS. Areas of land or water, whose boundaries are indicated on the Official Zoning District Atlas, within which all properties are regulated by the general regulations of the LDR and the specific regulations of the individual district.

ZONING LOT. A lot or combination of lots shown on an application for development approval.

ARTICLE 14 SUPPLEMENTARY REQUIREMENTS

Section 14000 DRIVEWAY DEVELOPMENT PROCEDURES 14-2
Section 14001 Construction Requirements 14-3
Section 14002 Driveway Maintenance 14-7
Section 14003 Minimum Standards 14-8
Section 14100 PUBLIC RIGHT-OF-WAY SUBDIVISION IMPROVEMENTS 14-8
Section 14101 General Requirements 14-8
Section 14102 Applicable Documents 14-10
Section 14103 Clearing, Grubbing and Earthwork 14-11
Section 14104 Road Construction 14-12
Section 14105 Road Shoulder Construction 14-13
Section 14106 Drainage Facilities and Piping Systems 14-13
Section 14107 Drainage and Piping System Construction 14-15
Section 14108 Grading 14-16
Section 14109 Signs 14-16
Section 14110 Sign Construction 14-18
Section 14111 Grassing 14-18
Section 14112 Concrete Construction 14-19
Section 14113 Quality Control 14-20
Section 14114 Inspection Services 14-24
Section 14200 VACATION OF PLATS OR RIGHTS-OF-WAY BY OWNER OR BOARD OF COUNTY COMMISSIONERS 14-24
Section 14201 Vacation of Plats by Owner 14-24
Section 14202 Vacation of Plats by Board of County Commissioners 14-25
Section 14203 Vacation of Rights-of-Way 14-25
Section 14400 SEXUALLY ORIENTED ENTERTAINMENT ESTABLISHMENTS 14-27
Section 14500 IMPROVEMENT PLAN 14-45

ARTICLE 14 SUPPLEMENTARY REQUIREMENTS

Section 14000 DRIVEWAY DEVELOPMENT PROCEDURES

A. Any person who 1) obtains a development permit and proposes to construct a driveway; and 2) proposes to utilize a County maintained road for direct access to property shall submit an application for a right-of-way permit. Proper permits must be obtained from the County Development Department prior to the installation of any driveway on a County maintained road. Permits shall be issued in accordance with the following regulations:

1. The permit application will be forwarded to the Engineering Department for review and if acceptable and complete, approval notification will be made within 72 hours.

2. The approved application becomes the permit. Construction of the driveway shall be completed within six (6) months of the effective date of the permit. Upon written application to the County the permit expiration date may be extended for a period not to exceed three (3) months. If the permit is granted an extension, all regulations governing the installation of driveways in effect at the time of the extension will govern the installation of the driveway.

3. The applicant will be provided with a right-of-way permit stake and field permit card to be attached to the stake. The permit stake, with attached permit card, is to be placed at the center of the proposed driveway.

4. The County will set stakes to show the lines and grades for the invert of the driveway or culvert as applicable. The field permit card and application will be completed by the County, indicating the diameter and length of the culvert, if required.

5. The County will inspect the culvert for proper placement and construction, prior to issuing approval to cover the culvert.

6. The County will make a final inspection and provide certification when the driveway construction meets the requirements of these regulations.

7. No Certificate of Occupancy shall be issued until the County has approved the final inspection.

8. Driveways designed and approved on subdivision plans do not require driveway permits when constructed as part of the subdivision prior to plat approval.

B. Any person who constructs a driveway in the County right-of-way utilizing a County maintained road for direct access to his property without obtaining a permit shall be responsible for reimbursing the County for all cost of removing that driveway and culvert if the County determines it is necessary to replace the driveway and culvert for reasons of public safety, right-of-way maintenance, drainage, compliance with applicable Codes or Specifications, or for any other reason.

C. The following driveway maintenance activities are exempt from obtaining Right of Way Permits, provided that such activities do not impede the flow of stormwater:

1. Repair to washout or drop-offs on driveways;
2. Adding shell material which has eroded over time to existing shell driveways;
3. Cleaning of culvert pipes;
4. Seal coating of asphalt driveways;
5. Any other activity on an existing driveway deemed to be routine maintenance by the County Engineer.

Section 14001 Construction Requirements

A. General Requirements

1. It is the intent of the LDR that all driveways be constructed in such a way that the drainage of the roadway will not be impaired and the stability of the roadway will not be altered. All references to Standard Codes or Specifications are intended to mean the latest, current version of such Code or Specification.

2. The owner, or representative, shall notify the Engineering Department at least twenty-four (24) hours prior to beginning construction of any driveway.

3. The number of driveways to be allowed for any single property or development shall be the minimum number required to adequately serve the needs of the property or development. Frontage of fifty (50) feet or less will be limited to one (1) driveway. A rebuttable presumption exists that no more than two (2) driveways are sufficient for any single property, unless the frontage width exceeds six hundred sixty (660) feet. Unless otherwise determined to be in the County's best interest, the distance from the end of the culvert to the edge of the driveway, and the distance from the end of the culvert to the edge of the parallel street, shall each be twelve (12) feet.

4. In the interest of public safety and convenience, the County may:

a. Restrict the placement of a driveway to a particular location along the frontage.

b. Deny direct driveway access or require redesign of an existing or proposed connection, roadway geometrics, or traffic control devices which are causing undue disruption of traffic or creating safety hazards at existing connections, or are expected to cause such disruption or hazards at proposed connections.

c. Redesign of an existing driveway where change in use of the land served by the driveway increases or is expected to increase the traffic generated by the driveway.

d. Require the establishment of parallel access road in order to minimize direct access to the County Highways.

5. All driveways shall be constructed within the limits of the frontage of the property or development they serve, except that owners of adjacent property may, by written mutual agreement, construct a joint driveway to service both properties. For joint driveways, the permit shall be issued to all affected property owners and shall be state that there is an agreement that all property's access to the County road shall be via the driveway system.

6. All driveways must be located at a point which will provide optimum sight distance along the road with the limits of the property frontage.

7. No driveways are to be constructed within intersections unless approved by the authorized official. Driveways shall not be located in such position as to adversely affect the placing or proper operation of road signs, traffic signals, lighting or other devices.

8. All driveways shall be positioned as close to perpendicular to the road right-of-way as possible.

9. The driveway edge shall be connected to the County road by means of a radius adequate to handle turns by the largest vehicle expected to use the driveway with regular frequency without encroaching on adjacent traffic lanes.

10. Driveways shall be designed so that no portion of the right-of-way is used for private use such as parking, servicing vehicles, displays, buildings sales, exhibits, business signs, service equipment or appurtenances or the conduct of private business.

11. In areas where driveways are located within the limits of existing curb and gutter or sidewalk, the existing curb and sidewalk shall be removed in a neat and acceptable manner and a six (6) inch thick sidewalk, or a four (4) inch thick sidewalk with welded wire fabric, or equivalent fiber mesh, constructed and replaced with an acceptable drop curb conforming to the current applicable Florida Department of Transportation (FDOT) Roadway and Traffic Design Standard.

12. All work done in the right-of-way shall be done in such manner as to insure proper drainage, easily maintained slopes, pleasing appearance and adequate sight distance for traffic operations as specified by the current edition of the Manual of Uniform Standards for Design, Construction and Maintenance of Streets and Highways prepared by the FDOT and compliance therewith shall be indicated on the plans submitted for approval. When necessary, measures such as silt barriers shall be used to control erosion and silt transport from the construction site.

13. DeSoto County Standard Engineering Details graphically illustrate minimum design standards for various types of conditions. These sketches are not intended to include every condition that may be encountered, but are included as assistance to those using the LDRs.

14. Flexible pavement with an asphaltic concrete surface may be used for any paved driveway. The FDOT structural number criterion shall be used to determine the thickness of sub-base, base and surface course for the intended traffic load. The minimum structural number for all commercial driveways shall be 2.18

15. Rigid pavement driveways shall be constructed with a minimum of six (6) inches of 2,500 PSI Portland cement concrete, or four (4) inches with welded wire fabric or fiber mesh.

16. Temporary driveways shall conform to the requirements of the LDR. Temporary driveways shall be removed at the termination of their use and the roadway and right-of-way restored to the original condition.

17. Driveways or portions of driveways which are not paved shall be stabilized with clay, lime rock, shell or other suitable material to carry the expected traffic without rutting. Driveways shall be constructed to prevent erosion and damage to the pipe culvert.

18. The minimum size of pipe culvert which may be installed within the road right-of-way shall be in accordance with the DeSoto County Standard Engineering Details.

19. All culverts installed in County Right-of-Way shall have mitered ends with concrete collars and shall conform to specifications as set forth in the most recent FDOT Roadway and Traffic Design Standards Manual and the DeSoto County Standard Engineering Details. The Development Director upon the advice of the County Engineer shall have the authority to make exceptions to meet special or unique site conditions such as speed limit, cross slope of swale, width of the right-of-way, distance of the culvert off the edge of the pavement, neighborhood characteristics, and culvert material type.

20. All culvert pipes shall be new or used and approved by the Engineering Department. Acceptable culvert types include corrugated metal, reinforced concrete or other material allowed by FDOT specifications for similar use.

B. Private Driveways

1. Private driveways connected to an unimproved County road using flexible pavement shall be constructed with a minimum of six (6) inches of oyster shell or lime rock base material and a minimum of one and one-half (1 ½) inches of asphalt surface.

2. All private driveways connected to an unimproved County road shall incorporate a five (5) foot shell apron from the edge of the existing road.

C. Commercial Driveways

1. The developer of any commercial site requiring a driveway access from a paved County road shall construct a paved driveway from the edge of the road pavement to the right-of-way line and shall conform to the provisions of the LDR and the DeSoto County Standard Engineering Details.

2. Three (3) sets of site plans prepared by an engineer registered in the State of Florida shall be submitted for review, along with a complete Right-Of-Way permit application as described in Section 14000. Upon approval, two (2) approved sets will be returned to the owner or a representative along with a driveway permit. The Development Director, upon the advice of the County Engineer, may modify this requirement (three site plans prepared by an engineer) for special or unique site conditions such as the rural nature of the site, low trip generation, proximity to road intersections or other driveways, speed limit on the roadway, location of objects such as fire hydrants in the right-of-way, and whether the driveway connects to a curved or straight roadway, provided that any such modification does not result in sight distance safety concerns.

3. Commercial site plans and specifications shall include the following:

a. The general location of the property (Section, Township, and range) and the names of adjoining roads.

b. The name of the owner and the intended use of the proposed development.

c. The location of all existing driveways and street intersections within three hundred (300) feet of the proposed entrance.

d. Complete geometrics and cross sections of the proposed entrance including widths, distances to property lines, radii dimensions and modifications to existing roadways.

e. A drainage map including the entire area to be developed and adjacent areas affecting, and to be affected by, such drainage. Disposition of storm waters shall be shown.

f. The present land use of adjacent lands abutting the County roadway on each side of the site and across the road.

g. The existing width of pavement and right-of-way, storm drainage layout (the layout shall extend outside the limits of the site to show the relationship of the proposed work to the existing drainage facilities), existing curb, sidewalk, shoulders and ditches, location of utilities and appurtenances, street lights traffic signals, hydrants, trees and property lines.

4. Driveways for commercial and industrial sites and entrances to subdivisions shall be constructed using either reinforced concrete pipe culvert or high density poly ethylene (HDPE). Such pipe shall have a minimum top length of thirty (30) feet and have side slopes which are safe and convenient to maintain. Joints shall be made according to FDOT specifications. If HDPE pipe is used, it shall be approved by the County Engineer and shall be double-walled corrugated pipe, or approved equal, with a minimum of twelve (12) inches of cover.

5. If any County requirements have changed, the changes may be applied to the project driveway before the extension is granted.

Section 14002 Driveway Maintenance

A. The County is responsible for and will maintain storm drainage through private driveway culvert pipes in public rights-of-way.

B. If the County determines it is necessary to construct a ditch in a right-of-way where no ditch previously existed, the County will furnish and install a suitable driveway where necessary to replace those that previously existed.

C. When a road is improved, the County will provide the necessary modifications to make the existing driveways compatible with the road surface.

D. If the County replaces an existing culvert on a residential or commercial driveway or performs any other work that requires the removal of existing concrete, asphalt or otherwise paved road, the County will restore the surface of the driveway with either lime rock or shell material. Replacement of the surface course is the responsibility of the property owner. The property owner must obtain a Right-Of-Way permit as described in Section 14000, but permit fees for replacement of previously existing surface courses following County construction shall be waived.

Section 14003 Minimum Standards

A. Minimum Standards

The requirements set forth herein and in the DeSoto County Standard Engineering Details are minimum standards. Stricter requirements may be imposed if they are necessary to protect the public health, safety and welfare.

Section 14100 PUBLIC RIGHT-OF-WAY SUBDIVISION IMPROVEMENTS

Section 14101 General Requirements

A. Applicability: All work in the public Rights-of-Way and all required subdivision improvements shall be constructed in accordance with these provisions and the Project Plans. In the event of conflict between these provisions and the Project Plans, these provisions shall govern. These provisions shall also apply to construction on private property where there is an agreement or intention to grant or otherwise dedicate such property to the public after construction conforms to the provisions herein. All references to Standard Codes or Specifications are intended to mean the latest, current version of such Code or Specification.

B. Changes to the work: No change to the work as shown on the Project Plans shall be made without notification to the authorized county official. In the event of such a change, a print of the Project Plans reflecting proposed changes shall be submitted in advance of the actual work. Field revision prerogatives granted the Project Engineer elsewhere in these provisions are cause for exemption from the requirement for advance notification of changes from the Project Plans.

C. Use of Roads During Construction: Roads being used by the public at the commencement of construction which provide the only means of ingress and

egress shall be maintained in a passable condition during construction, with rough grading, or alternate suitable routes, commencing with the completion of clearing and grubbing.

D. Permit Required: A permit shall be obtained for all work within or improvements installed within, the public Right-of-Way: and as a condition for the issuance of a Development Permit for a new principal land use. Application for permit shall be made to the Development Department on the form provided together with payment of the approved fee. The application form shall become a permit when signed and dated by the county official having authority. The original of the permit shall be mailed or delivered to the applicant. The first copy shall be retained by the Engineering Department and the second copy shall be forwarded to the Development Department after final inspection by the Engineering Department. Applicants for private driveway and/or culvert permits shall be issued a survey stake and the Field Permit Card. The Field Permit Card shall contain the application number and other basic application information. The applicant shall place the stake in the center of the proposed driveway. The Field Permit Card shall be attached to the stake. The Engineering Department shall obtain permit applications daily from the Development Department. The Engineering Department shall set stakes to show the required alignment in relation to the road swale. Stakes shall be set to designate ends of the culvert if it is determined that a culvert is required. A grade mark shall be placed on the stakes indicating the invert of the culvert pipe or driveway is applicable. The Field Permit Card and the application shall be completed with information on diameter and length of the culvert, or otherwise a notation that no culvert is required, and the driveway shall be constructed to grade provided. The applicant shall be required to call the Engineering Department for an inspection before the culvert pipe barrel is covered. The applicant shall be notified if backfill can be placed. Results of the inspection shall be noted on the application. If the permit includes a culvert and is issued in connection with a building permit, the Certificate of Occupancy shall not be issued until a satisfactory inspection report is received.

E. Inspections: A building, right-of-way use, or development permit provides the County's employees with right of entry onto the permittee's property to make any inspections of work or materials being used in the work as deemed necessary by the County. It is the permittee's responsibility to provide notification to the appropriate County Department twenty-four (24) hours prior to beginning each phase or item of construction.

F. Minimum Standards: The requirements included herein and in the DeSoto County Standard Engineering Details are minimum standards considered only as basic requirements for performance, structural suitability and durability. All proposed construction must be designed with full consideration given to the functional, structural and aesthetic requirements of the particular installation.

Where strict adherence to the Standard Engineering Details is not practical, the County Engineer may approve deviations.

G. Location of Utilities in Public Rights-of-Way and utility easements shall conform to those locations shown in the Standard Engineering Details unless it can be shown that existing conditions or extenuating circumstances make it impossible or impractical to conform.

H. Private Driveways in Public Rights-of-Way shall conform to the DeSoto County Standard Engineering Details for private driveways for commercial or industrial use, and shall be paved in accordance with the construction requirements herein and the DeSoto County Standard Engineering Details in conformance with the existing road to which the connect is paved. Private driveways for residential use may be constructed by any method which will not cause damage to the surface of the public road to which it connects, or interfere with storm drainage, or create unsafe traffic conditions. Pipes shall be new and shall conform to Subsection 14106-B of these regulations and the DeSoto County Standard Engineering Details. DeSoto County is responsible for and will maintain private culverts in public Rights-of-Way to the extent of storm drainage concerns. DeSoto County is not responsible for and will not maintain the private driveway nor is DeSoto County responsible for deteriorated culvert pipe conditions. The owner of the property served by a private driveway with a deteriorated culvert pipe shall be notified to replace the pipe if drainage of the public road is adversely affected by the condition of the pipe. The owner of the property served by a private driveway not having a culvert shall be notified to install a culvert under permit if drainage of the public road is adversely affected. Any person who constructs a driveway without a permit in the County right-of–way utilizing a County maintained road for direct access to his property shall be responsible for reimbursing the County for all cost of removing that driveway and culvert if the County determines it is necessary to replace the driveway and culvert for due to reasons of public safety, right-of-way maintenance, drainage, compliance with applicable Codes or Specifications, or for any other reason.

I. Persons causing damage to any public improvements within the Right-of-Way of a public road in the unincorporated area of DeSoto County, Florida shall be considered violation of these requirements and shall be punished by a fine not to exceed Five Hundred Dollars ($500.00) or by imprisonment in the County jail not to exceed sixty (60) days or both such fine and imprisonment. In addition to the penalty provided for herein, the Board of County Commissioners of DeSoto County, Florida, may bring civil action to remedy the violation.

Section 14102 Applicable Documents

A. Publications, Codes, Specifications and the DeSoto County Standard Engineering Details referenced throughout these regulations are a part of the LDR just as if incorporated herein. Reference is intended to refer to the latest revision or

publication which has been officially adopted by the issuing agency unless a dated issue is indicated. Reference in FDOT Standard Specifications to the State of Florida shall be interpreted to mean the County Engineer or Project Engineer depending on the responsibilities assigned by requirements herein. Reference to testing, sampling, job mixtures and other quality control provisions therein are deleted in favor of quality control provisions of these requirements.

Section 14103 Clearing, Grubbing and Earthwork

A. General: Clearing and grubbing is required within the entire Right-of-Way prior to construction of a road. Clearing and Grubbing is required in dedicated drainage basins and drainage Rights-of-Way prior to construction of drainage facilities. Earthwork including excavation, filling and backfilling shall conform to the approved Improvement Plan or the Project Plans for which a permit is issued.

B. Clearing and Grubbing: All structures or portions thereof, and all timber, brush, stumps, roots, grass, weeds, and other such obstructions, above and to a depth of two (2) feet below the finish grade in Road Rights-of-Way, drainage basins and drainage Rights-of-Way, drainage basins and drainage Rights-of-Way shall be removed and disposed of as hereinafter specified.

C. Earthwork:

1. Excavation: All rock shall be removed below the sub-grade of roads to a depth of six (6) inches below the sub-grade. All unsatisfactory soils, except those of classification PT, shall be removed for a depth of one foot below sub-grade. Soils of classification PT shall be entirely removed from below sub-grade. Excavation for drainage basins shall be to the approval grades.

2. Fill and Backfill materials shall be soils in classifications other than those listed herein as unsatisfactory soils. Materials shall be free of rocks larger than six inches in greatest dimension and free of roots, wood scrapes, refuse and other organic materials. Fill and backfill, including that for pipe trenches, shall be placed in layers not to exceed 12 inches in thickness and each layer shall be compacted and tested in accordance with the quality control provisions set forth herein.

D. Unsatisfactory Soils shall be those in classification MH, CH, OH, and PT of the Unified Soil Classification System which are basically inorganic silts, inorganic clays, organic clays and peat or other organic solid.

E. Disposal shall include the complete removal from Rights-of-Way and other public areas of the debris and unsatisfactory soils resulting from clearing, grubbing and earthwork. Burning of combustible materials shall be permitted subject to

approval of all governing agencies having jurisdiction. All materials must be burned to a negligible ash.

F. Ownership of Materials: The County shall not claim ownership of materials removed as a result of required clearing and grubbing or earthwork unless otherwise specifically provided. The mining of stabilizing material from dedicated public areas is permitted only with approval and such materials must be used on the project from which they were obtained.

Section 14104 Road Construction

A. General: All road construction shall conform to the requirements of this Section, applicable Construction Details and the DeSoto County Standard Engineering Details and appropriate Sections of the FDOT Standards Specifications. Paved road construction shall consist of clearing and grabbing, earthwork if required, stabilized sub-grade, base course, prime coat, and asphaltic concrete wearing surface.

B. Material

1. Sub-grade Stabilizing Material shall conform to the FDOT Standard Specifications.

2. Base Course Material shall be bank run shell or lime rock. Bank run shell material shall essentially consist of broken mollusk shell found in natural deposits. The material shall be non-plastic and shall contain proper bonding. Lime rock material shall meet the requirements of the FDOT Standard Specifications.

3. Bituminous Materials: Prime coat shall be cut-back asphalt conforming to FDOT Standard Specifications.

4. Sand for Prime Coat shall be clean dry sand, free of sticks, trash, roots and other organic materials. Sand shall have a plastic index less than 4 and shall be free of silt and rock particles or clay balls larger than ¼ inch in size.

5. Asphaltic Concrete Material for surface course shall be Type S-1 or Type III conforming to the FDOT Standard Specifications (2000 Edition). The aggregate shall consist entirely of crushed stone or gravel. The required stability shall be at least 800 pounds as determined by Marshall Stability Tests. Plant methods and equipment for the manufacture of Asphalt Concrete shall conform to the FDOT Standard Specifications.

C. Construction:

1. Subgrade construction shall be Type B Stabilization conforming to the FDOT Standard Specifications except that the use of mechanical rock spreaders is not required. Complete mixing to the full width and depth of the stabilized sub-grade is required. After mixing, the sub-grade will be tested for LBR Value and if found to be less than required, additional stabilizing material must be added and the sub-grade shall again be mixed to full width and depth and again tested for LBR Value.

2. Shell Base Course construction shall conform to the FDOT Standard Specifications.

3. Lime Rock Base Course construction shall conform to the FDOT Standard Specifications.

4. Prime Coat Application shall conform to the FDOT Standard Specifications. The base course shall be sanded conforming to the FDOT Standard Specifications immediately following the application of prime material.

5. Asphaltic Concrete Surface Course construction shall conform to the FDOT Standard Specifications.

Section 14105 Road Shoulder Construction

A. General: Road shoulder construction shall conform to the requirements of this Section, the DeSoto County Standard Engineering Details and applicable portions of FDOT Standard Specifications. Stabilized shoulder construction is required adjacent to all paved road construction. Materials for stabilizing shoulders shall be in accordance with the FDOT Standard Specifications.

B. Construction: Where stabilized shoulders are to be constructed the surface shall be brought to the grade, lines and cross section required. Stabilizing shall conform to the FDOT Standard Specifications. Stabilizing material shall be placed and mixed in one layer.

Section 14106 Drainage Facilities and Piping Systems

A. General: The construction of drainage facilities and piping systems shall conform to the requirements of this Section and the approved Improvement Plan or Project Plans for which the construction permit was issued. Grading and earthwork in connection with drainage basins, swales and pipe trenches is included in other Sections. Quality control provisions are specified elsewhere in these Regulations.

B. Materials

1. Pipe: Corrugated steel pipe or reinforced concrete pipe shall be used for culverts and storm drains. Poly vinyl chloride (PVC) pipe shall be used for gravity flow sanitary sewage collection systems. Poly vinyl chloride (PVC) pipe or Acrylonitrile-Butadiene-Styrene (ABS) pipe may be used for sewer service connections. Cast iron pipe, ductile iron pipe, galvanized steel pipe or poly vinyl chloride (PVC) pipe shall be used for sanitary sewage collection or potable water distribution pressure systems.

   Galvanized steel pipe, polyethylene pipe, polybutylene pipe, poly vinyl-chloride (PVC) pipe, or copper tube may be used for potable water service connections.

   a. Corrugated galvanized steel pipe may be circular or pipe arch in section, and shall conform to ASSHTO Specifications. Pipe shall be Type I or II with a Type A asphalt coating.

   b. Reinforced Concrete Pipe shall be circular or elliptical in section, Class III for a D load of 2000 pounds per lineal foot or greater, with joints using round rubber gaskets conforming to the FDOT Standard Specifications.

C. Headwalls and Tailwalls for culverts and storm drain outfalls shall be in accordance with the DeSoto County Standard Engineering Details.

   Rip-Rap shall be composed of sand-cement or rubble conforming to the FDOT Standard Specifications.

D. Manholes, Handholes, Inlets, and Junction Boxes shall be of precast reinforced concrete, or cast-in-place reinforced concrete.

   1. Concrete for cast-in-place and precast structures shall conform to the requirements elsewhere in these requirements.

   2. Reinforcing for cast-in-place and precast structures shall conform to the requirements elsewhere in these requirements.

   3. Precast Structures shall be subject to approval of design, materials and fabrication details submitted prior to installation.

   4. Castings: Frames, grates, and covers shall be of cast iron for installations where flues with the adjacent grade and subject to vehicular loads. Cast iron covers for manholes shall be designed for traffic bearing and shall weigh not less than 130 pounds. Covers shall have raised integral-cast letters reading Sanitary Sewer, Storm Sewer, Electric, Telephone, or similar lettering explaining use and purpose of structure. Cast iron grates

for inlets shall be designed for traffic bearing and shall have sufficient open area to pass the calculated maximum storm water surface flow. No opening shall be greater than one inch in least dimension with lesser openings used where pedestrian safety is consideration.

E. Fire Hydrants:

1. Fire Hydrants shall have one (1) 5 ¼ inch valve opening, two (2) 2 ½ inch hose connections, one (1) 4 ½ inch pumper connection (measured on the inside diameter) and 6 inch diameter inlet connection and shall conform to AWWA C502. Fire Hydrants shall be painted with Safety Yellow enamel, and shall have the bonnet painted to the standard for the actual water flow (AWWA and NFPA Standards) when tested for the installed hydrant. Hose connections shall have National Standard hose coupling thread(s).

2. Hydrants shall have full safety chains installed on each cap.

3. Hydrant spacing, placement and number of hydrants shall meet the requirements as set forth in the Florida Fire Prevention Code (FFPC) which is the National Fire Protection Association (NFPA) Standard of NFPA 1, the NFPA Life Safety Code of NFPA 101, and all FFPC referenced standards in effect at the time of the permit application. The referenced Code and Standards shall be those adopted in accordance with Florida law and rules of the Florida Fire Marshal's Office.

4. Hydrants by type and manufacture shall meet the most recent standards in effect.

Section 14107 Drainage and Piping System Construction

A. Pipe for gravity flow systems shall be laid to the invert elevation indicated but not less than one foot of cover above the pipe shall be provided except for culverts under private driveways where not less than 6 inches of cover above the pipe shall be provided. Pressure pipe shall have no less than 30 inches of cover. Joints shall be made according to the manufacturer's printed instructions. Damage to protective bituminous coatings shall be repaired. Poly-vinyl-chloride pipe, polyethylene pipe, polybutylene pipe, and acrylonitrile-butadiene styrene pipe shall be installed in accordance with ASTM Specification D2321.

B. Infiltration and Exfiltration of pressure lines and gravity flow storm drains and sewage collection systems, shall meet the quality control provisions of these requirements.

C. Covers and Grates for manholes and inlets subject to vehicular traffic shall meet H-20 traffic rating for lids and grates in traffic areas and Rights-of-Way.

D. Valve Box shall be placed over every valve installed in Public Rights-of-Way. The top of the Box shall be flush with pavement surface or finish grade. Valves should preferably be located in pavement.

E. Jacking of pipe under existing pavement may be approved subject to special requirements.

Section 14108 Grading

A. General: Grading for construction of roads, utilities and drainage facilities shall conform to the requirements of the DeSoto County Standard Engineering Details and the project plans for which the Construction Permit was issued. Grading as specified herein includes that required for earth areas under the adjacent to road construction, for drainage facilities; and grading required following the installation of underground facilities. Grading of stabilized sub-grade, shoulders, and the finishing of base course is included in other Sections.

B. Rough Grading prior to road construction shall bring the entire Right-of-Way to the approximate finish grade as indicated ready for additional construction as required. Road construction shall not proceed until adequate drainage facilities are installed, either permanent or temporary, to accommodate and dispose of storm water runoff without endangering the construction progress.

C. Finish Grading: Earth surfaces in road Rights-of-Way, drainage swales and drainage basins shall be brought to the elevations shown with a smooth surface ready for grassing. Finish of road shoulders and road swales shall only be done after road construction is satisfactorily completed. Areas around culverts, headwalls and tailwalls shall be carefully sloped to a neat and finished appearance. After completion of the installation of underground facilities the surface shall be carefully restored to the grade indicated, or in the case of utilities installed in areas where no surface construction is contemplated, the surface shall be restored to its original condition prior to the installation of the underground facilities.

Section 14109 Signs

A. General: This section includes street name signs, traffic regulatory and warning signs, delineators, temporary signs, barricades and warning devices. Street as used in this section shall mean any public Right-of-Way.

B. Materials

1. General: All sign materials shall conform to the Manual on Uniform Traffic Control Devices and the Manual on Traffic Control and Safe Practices for Street and Highway Construction, Maintenance and Utility Operations.

2. Street Name Signs shall be produced from blanks of aluminum alloy 6061-T6 conforming to ASTM Specification B209 treated with Alodine 1200, Iridite 14.2 or Bonderite 721 prior to application of sheeting. Blanks shall be 0.080 inches thick and 6 inches high by either 24, 30, or 36 inches in width as required to accommodate the sign message. Corners shall be rounded. All street signs shall be covered on both sides with Type a green vacuum-applied reflective sheeting conforming to the DOT Standard Specifications. Letters and numbers shall be silver upper-case standard alphabet Series C of the Federal Highway Administration. Letters and numbers shall be 4 inches for street name or quadrant numbers.

3. Mounting Brackets for street signs shall be die cast form aluminum alloy Cs43A conforming to ASTM Specification B108 (SAE#380). Post top bracket shall be designed for mounting on posts as specified herein. Slots in post top bracket and two-way bracket shall have two allen-head recessed set screws to secure each sign plate. A similar screw shall be used to secure the post top bracket to the post.

4. Posts for street name signs shall be galvanized round steel posts 2.375 inches I outside diameter weighting 2 pounds per foot or galvanized square steel posts 2 inches in outside dimension and weighing 1.6 pounds per foot. Posts shall not be less than 10 feet in length and mounting height to top of sign shall be eight feet.

5. Traffic Regulatory and Warning Signs shall be made from materials as specified for street name signs. The size, shape, legend, and color shall conform to the requirements for conventional roads in the Manual on Uniform Traffic Control Devices.

6. Posts for Regulatory and Warning Signs shall be rail steel-U channel posts weighting not sell than two pounds per lineal foot. The post cross-section shall conform to applicable Construction Detail of these requirements. Post shall be perforated on the mounting flange with 5/16 inch holes spaces at one inch centers beginning at one end of the post and providing no less than 60 holes. Post shall be factory painted after fabrication with a green baked-on resin enamel.

7. Delineators shall be Type B amber reflectors conforming to the applicable requirements of the DOT Standard Specifications. Posts and accessories shall conform to the requirements for regulatory and warning signs herein except that posts shall be 4 feet in length.

8. Fasteners: Bolts and nuts for securing sign faces to posts shall be Class A conforming to ASTM Specifications A307. Bolts, nuts and flat washers

shall be galvanized conforming to ASTM Specification A123 or cadmium plated conforming to ASTM Specification A165.

9. Temporary Signs, Barricades, and Warning Devices advising the public of hazardous conditions or construction in process shall conform to the requirements of the FDOT Design Standards 600 Series.

Section 14110 Sign Construction

A. General: Sign installation shall conform to the DeSoto County Standard Engineering Details and the provisions of the FDOT Design Standards for standard installation locations.

B. Posts shall be set to the minimum depth indicated and checked for vertical alignment with spirit level.

C. Sign Faces shall be oriented normal or parallel to the Right-of-way lines as applicable.

D. Fasteners shall be securely installed using specified hardware. Galvanized or Cadmium plat flat washers shall be used behind each nut and bolt head.

E. Speed Limit Signs shall not be erected until the Board of County Commissioners has established the legal speed limit.

F. Temporary Signs, Barricades, and Warning Devices shall be installed and used in accordance with the requirements of the FDOT Design Standards 600 Series.

Section 14111 Grassing

A. General: This section includes sodding and seeding with associated work such as mulching, fertilizing, and watering.

B. Materials

1. Sod shall be established, well rooted common Bermuda grass, Saint Augustine grass, Centipede grass, Pensacola Bahia grass or Argentina Bahia grass except that where sodding replaces or is a adjacent to established private lawns, similar grass material to that existing shall be used. Sod shall be obtained in commercial size rectangles and shall be alive, fresh and uninjured at the time of planting.

2. Mulch material shall be dry straw of hay or oat, rye, Bermuda or Bahia grass free of weeds and undesirable grasses.

3. Seed shall be Pensacola or Argentine Bahia grass and varieties of Pearl millet and rye grass. Bahia grass seed shall be scarified and certified for a minimum active germination of 40 percent and a total germination of 85 percent.

4. Fertilizer shall be a commercial product complying with all State regulations. Liquid or solid fertilizer may be used. The chemical composition shall be rated as 12-8-8 (Total nitrogen, available phosphoric acid, water-soluble potash).

C. Workmanship

1. General: Either seeding or sodding may be used except where sodding is specifically required. Work shall not begin until grading is approved. Lack of rain after planting shall not excuse the results of seeding or sodding as required in other Sections.

2. Sodding shall be solid with edges staggered where possible. Each section shall be places in form contact with the soil.

3. Seed and Fertilizer may be spread by mechanical spreaders which are independently operated or operated as a part of the cultipacker or grain frill. Mulch is not required but if used, mulch shall be cut into the soil with a rotovator or other approved device. A cultipacker or a traffic roller shall be used for rolling the seeded or seeded and mulched areas. Not less than 100 pounds of Bahia grass seed combined with 10 pounds if millet or rye grass seed per acre shall be scattered uniformly over the area to be grassed. Not less than 200 pounds of dry fertilizer per acre shall be used. Liquid fertilizer shall be applied at a plant food rate equivalent to that of dry fertilizer but not less than 5 gallons per acre. Fertilizer shall be uniformly spread over the area to be grassed.

Section 14112 Concrete Construction

A. General: This section includes requirements for cast-in-place and precast concrete construction. The provisions of ACI Standard 301-72 apply except as otherwise specified herein.

1. Strength of Concrete shall be 2500 pounds per square inch unless a higher strength is shown. Only normal weight concrete shall be used.

2. Proportioning of ingredients shall be by Method 1.

3. Reinforcing Steel conforming to ASTM A165 with a yield strength no less than grade 40 shall be used.

4. Welding Wire Fabric shall conform to ASTM A185.

5. Premolded Expansion Joint Filler shall conform to ASTM D1751 or D1752.

6. Joint Sealer shall conform to ASTM specification D1190.

7. Liquid Curing Compound shall conform to AASHTO Specification M148-60 Type 1.

8. Curing Paper shall conform to AASHTO Specification M139-60.

B. Construction

1. General: Concrete sidewalk shall conform to the DeSoto County Standard Engineering Details and the FDOT Standard Specifications except that either white pigmented curing compound or curing paper shall be used for the entire 72 hour curing period.

2. Concrete Curb, and concrete curb and gutter shall conform to the DeSoto County Standard Engineering Details and the FDOT Standard Specifications.

Section 14113 Quality Control

A. General: This Section includes requirements for testing and inspection. Testing services shall be performed by an acceptable independent laboratory and inspection services shall be performed by the County Engineer or his/her designee.

B. Testing Services shall include the testing of workmanship and field in-place materials or material mixtures for compliance with the requirements of this subsection using the following test methods. Quality control provisions for manufactured or mined materials are included in other subsections.

1. Test Methods

LABORATORY MAXIMUM DENSITY of soils or soil mixtures at optimum moisture shall be determined by AASHTO T-80 for road subgrade, base course, pipe trenches and all other applications.

FIELD DENSITY of base course, stabilized subgrade, and soils or soil mixtures in fill or backfill shall be determined by Nuclear Gage in accordance with current ASTM Standard.

BEARING VALUE of soils and soil mixtures shall be determined by the methods required for determining lime rock Bearing Ratio (LBR) according to DOT Bulletin 22.

CONCRETE shall be sampled and tested in accordance with ASTM C172, C31 and C39, or current editions thereof.

STABILITY OF ASPHALTIC CONCRETE shall be determined by the Marshall Method according to AASTO T245.

INFILTRATION OR EXFILTRATION TESTS to determine leakage of gravity piping systems shall be made by direct measure of quantities gained or lost.

PRESSURE TESTS to determine leakage of pressure piping systems shall be made by pressurizing a closed system and determining the water loss over a specified period of time.

EXTRACTION TESTS for asphaltic concrete mixture shall conform to ASTM D2172, or current edition thereof.

C. TESTING REQUIREMENTS

1. Stabilized Subgrade shall be tested for LBR and field density. LBR value shall not be less than 40 and field density shall not be less than 96 percent. A minimum of two (2) samples per mile shall be tested for LBR but not less than one test shall be taken for each section of road between intersections or between an intersection and the termination of a road at a cul-de-sac or dead end.

   Additional tests for LBR value shall be taken if, in the opinion of the County Engineer or Project Engineer, a change in soil mixture is evident. Field density tests shall be at intervals not to exceed 500 feet but not less than two tests shall be taken for each section of road between intersections or between an intersection and the termination of a road at a cul-de-sac or dead end. The finished surface shall be checked with a template cut to the required cross-section and with a 15 foot straight edge laid parallel to the centerline. All irregularities greater than ½ inch shall be corrected by scarifying and adding material. The surface shall be checked transversely at intervals not to exceed 100 feet and as required in a longitudinal direction. The completed stabilized subgrade shall be checked for width and depth at intervals not to exceed 200 feet. No less than the required width each side of the centerline shall be acceptable. The grade of the stabilized subgrade shall be checked for proper relation to the finish crown grade. Excess material shall be removed providing the minimum required

thickness of stabilized subgrade remains. Low grades may be made up by extra thickness of base course material.

2. Base Course shall be tested for field density. Density shall not be less than 96% of maximum density. Field density tests shall be at intervals not to exceed 500 feet. No less than three tests shall be taken on the base course compacted each day and no less than two tests shall be taken for each section of road between intersections or between an intersection and the termination of a road at a cul-de-sac or dead end. The finished surface shall be checked with a template cut to the required cross-section and with a 15 foot straight edge laid parallel to the centerline. All irregularities greater than ¼ inch shall be corrected by scarifying and adding material. Measurements shall not be taken in holes where rock particles were lifted from the surface. The surface shall be checked transversely at intervals not to exceed 100 feet and as required in the longitudinal direction. The base course shall be checked for width and depth at intervals not to exceed 200 feet. No less than the required width and depth shall be acceptable. The base course shall be checked for proper centering in the Right-of-way at intervals not to exceed 200 feet. No less than the required width and depth shall be acceptable. The base course shall be checked for proper centering in the Right-of-way at intervals not to exceed 200 feet. A wider width of base course than is required will be permitted providing that the underlying stabilized subgrade extends no less than 18 inches beyond the edge of the base course. A narrower width of base course than us required shall not be permitted. The grade of the base course shall be checked for proper relation to the approved finish crown grade. Low grade may be corrected by adding material providing the minimum thickness of the base course remains.

3. Asphaltic Concrete Surface Course: Extraction and Marshall Stability tests shall be taken on the material placed on each one half mile of road but at least one test for extraction and Marshall Stability shall be taken for material that is placed each day. Extraction tests for quantitative analysis of the material shall not be required if the independent testing laboratory has continuous supervision of the plant while material for the project is being manufactured. The finish surface shall be checked with a template cut to the required cross-section and with a 15 foot straight edge laid parallel to the centerline. The surface shall be checked transversely at intervals not to exceed 100 feet and as required in the longitudinal direction. All irregularities greater than ¼ inch shall be corrected by complete removal of the surface course to a saw-cut edge on each side of the defective area and the replacement of the material to acceptable surface tolerances. The finished grade shall be checked for conformance to approved finish crown grades. A maximum variation in grade of ½ inch shall be permitted but minimum required thickness of surface course shall be provided.

4. Stabilized Shoulder shall be tested as required for stabilized subgrade herein except that LBR values shall not be less than 25, and the field density shall be taken at intervals not to exceed one quarter mile on the stabilized shoulder on each side of the road.

5. Infiltration and Exfiltration of gravity piping systems shall be tested by plugging the upstream and downstream ends of the section being tested. Sections below ground water level shall be tested for infiltration by pumping out all water and measuring the quantity of infiltration for a specified time interval. Sections above ground water level shall be tested for exfiltration by filling the section with water to the rim of the downstream manhole and measuring the loss for a specified time interval. Infiltration shall not exceed 500 gallons per inch of pipe diameter per day per mile of pipe. Testing shall only be required for gravity piping systems within public Rights-of-way.

6. Leakage if pressure piping systems shall be tested by pressurizing the section to be tested to 50 pounds per square inch in excess of the design working pressure but not less than 75 pounds per square inch. Leakage from the system after a period of time of one hour shall be not more than that determined by the formula L=ND P/1850 where L is the allowable leakage in gallons per hour that must be supplied to the system to maintain the specific test pressure after the air has been expelled and the system is filled with water, N is the number of joints in the system being tested, D is the nominal diameter of the pipe in inches, and P is the average test pressure during the leakage test in pounds per square inch gauge. Testing for pressure loss shall only be required for pressure piping systems within the public Rights-of-way.

7. Pipe Trenches under existing or proposed roads or within four feet thereof shall be backfilled and compacted in layers not to exceed six inches in thickness. Field density shall be performed on all compacted fill at a frequency not to exceed 12-inches of compacted material. On all layers under and adjacent to paved surfaces or surfaces intended for vehicular traffic, no less than 95% of maximum density for any test shall be acceptable. Test on each layer shall be taken at intervals not to exceed 300 feet, except that a minimum of one such test shall be taken on each transverse crossing each lane of a road or proposed road. Where pipe trenches are not, and are not expected to be, within 4 feet of existed or proposed roads, each layer shall be compacted and tested for field density and no less than 90% of maximum density shall be acceptable for each test. Tests on each layer shall be taken at intervals not to exceed 300 feet. Trenches for pipe or cable which are less than 6 inches in width at the surface are exempt from the compaction requirements herein except where existing pavement is cut.

Section 14114 Inspection Services

Inspection Services shall include field examination for compliance with all requirements herein, as well as any additional requirements determined by the County Engineer to be in the best interest the County.

A. Dimensional Inspection: All construction shall be inspected before concealment to determine compliance with all depth, width, height, thickness and other dimensional requirements.

B. Materials Inspection: all materials used in construction which are not controlled by the testing requirements of this section shall be inspected for compliance with the provisions of other sections of these requirements. Manufacturer's certificates of compliance with the requirements of these requirements shall be furnished when requested.

C. Certification of Satisfactory Completion as required herein shall include certification to both testing and inspection without qualification as to either. The Project Engineer is responsible for testing only to the extent of the receipt and review of all required satisfactory test results from the independent testing laboratory and manufacturer's certification prior to the issuance of his certificate.

Section 14200 VACATION OF PLATS OR RIGHTS-OF-WAY BY OWNER OR BOARD OF COUNTY COMMISSIONERS

Section 14201 Vacation of Plats by Owner

No final plat for the re-subdivision of platted lands will be accepted for recording unless the underlying plat is vacated or a petition has been filed so that the vacation may be acted upon simultaneously with the acceptance of the new plat. The County will assist in the preparation of required notices, petitions and resolutions to the extent deemed necessary. The procedure shall be as follows:

A. Payment of Application Fee set by the Board of County Commissioners.

B. Prepare Notice of Intention to Vacate Plat (or portion of plat).

C. Publish Notice of Intention to Vacate Plat (or portion of plat) in a newspaper of general circulation within the County in not less than two (2) weekly issues. Request Proof of Publication.

D. Prepare Petition for the Vacation of Plat and Resolution to Vacate Plat.

E. Provide Development Director with copy of Petition and Resolution for verification of description.

F. County staff will schedule appearance before the Board of County Commissioners on the Petition for the Vacation of Plat. Proof of Publication for the Vacation of Plat together with Proof of Ownership and Certification that all taxes have been paid must be provided. If the plat is within the corporate limits of a municipality, a certified copy of a Resolution by the governing body of such municipality is required indicating that such governing body concurs with the proposed vacation.

G. The vacation shall not become effective until the resolution for the Vacation of the Plat has been filed in the Office of the Clerk of Circuit Court and recorded in the Public Records.

Section 14202 Vacation of Plats by Board of County Commissioners

The Board of County Commissioners may order the vacation and reversion to acreage of all or any part of a platted subdivision within the unincorporated area of DeSoto County, including the vacation of streets or other parcels of land dedicated for public purposes or any part of such streets or other parcels, when:

A. The Plat of the subdivision was recorded in the Public Records not less than five (5) years before the date of such action, and

B. In the subdivision, or part thereof, not more than ten (10) percent of the subdivision area has been sold as lots by the original subdivider or direct successor, and

C. The Board of County Commissioners of DeSoto County, Florida, finds that the proposed vacation and reversion to acreage of the subdivided land conforms to the comprehensive plan of the area, and that the public health, safety, economy, comfort, order, convenience and welfare will be promoted thereby.

Before acting on a proposal for vacation and reversion of the subdivided land to acreage, the Board shall hold a public hearing thereon with due public notice. The Board may simultaneously amend the LDR on the subdivided lands being vacated as may be deemed advisable in view of the conditions that will exist subsequent to such reversion to acreage. The owner of any parcel of land in a subdivision shall not be deprived of reasonable access to such parcel nor of reasonable access there from to existing facilities to which such parcel has theretofore has access as a result of the reversion to acreage of any part of the subdivision. Such access remaining or provided for after such vacation need not be the same as that therefore existing, but shall be reasonably equivalent thereto.

Section 14203 Vacation of Rights-of-Way

The process for vacation of rights-of-way is as follows:

A. Prepare a Petition and Resolution to Declare Public Hearing.

B. Provide Development Director with copy of Petition, Resolution, and a description of the subject road prepared by a registered surveyor.

C. Schedule appearance before the Board of County Commissioners to present Petition and request adoption of Resolution to Declare Public Hearing.

D. Contact Development Director and arrange visit to the site. The petitioner will determine width and length of road or roads to be closed and an accurate survey will be provided by the petitioner. The County will erect signs at appropriate locations advising of the public hearing.

E. Prepare Notice of Public Hearing to Close and Abandon Road(s).

F. Publish Notice of Public Hearing to Close and Abandon Road(s) in local newspaper of general circulation one (1) time at least two (2) weeks prior to hearing date. Request Proof of Publication.

G. Prepare Resolution to Close and Abandon Road(s).

H. Prepare Notice of Adoption of Resolution.

I. Attend hearing with Resolution to Close and Abandon Road(s) and Proof of Publication. In order for the Board to approve the right-of-way vacation at the Public Hearing, the Board must make the find that all of the following requirements are met:

1. The requested vacation is consistent with the Traffic Circulation Element of the Comprehensive Plan.

2. The right-of-way does not provide the sole access to any property. The remaining access shall not be by easement.

3. The proposed vacation would not jeopardize the current or future location of any utility.

4. The proposed vacation is not detrimental to the public interest, and provides a positive benefit to the County.

J. If the Resolution is adopted by Board, publish Notice of Adoption of Resolution one (1) time in local newspaper of general circulation within thirty (30) days of adoption of Resolution. Request Proof of Publication.

K. Record Proof and Publication of Notice of Public Hearing to Close and Abandon Road(s), the Resolution to Close and Abandon Road(s), as adopted, and the Proof of Publication of the Notice of Adoption of Resolution.

Section 14400 SEXUALLY ORIENTED ENTERTAINMENT ESTABLISHMENTS

The purpose of this Section is to regulate reasonably and uniformly the location of sexually oriented entertainment establishments throughout Desoto County in order to prevent and reduce the adverse secondary effects on the public health, safety, and welfare which, as the United States Supreme Court has recognized, may be "caused by the presence of even one such establishment." *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000). The provisions of this Section, acting alone or together with other applicable provisions of the Desoto County ordinances, have neither the purpose nor effect of imposing a limitation or restriction of the content of any communicative materials, including sexually oriented entertainment material. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented entertainment material or to any expression protected by the First Amendment of the United States Constitution or by the Constitution of the State of Florida, or to deny access by distributors and exhibitors of sexually oriented entertainment materials to their intended markets. This Section is based upon the fundamental zoning principle that certain uses, by the very nature of the adverse secondary effects such uses are recognized to have upon the surrounding community, must be subjected to particular restrictions so that such uses may exist without destroying the value, vitality, or existence of other lawful and reasonable uses. The sole purpose of the legislative body of the County in enacting this Section is the desire to preserve and protect the quality of life, public health, safety, and general welfare of the citizens of the County and not to suppress free speech or impair the constitutional rights of any person or group of persons. Nothing herein shall be construed to authorize a commission of any obscenity offense or other criminal defense as proscribed by the laws of the state, the county, or the laws of any local government within the County.

A. Definitions.

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

1. ***Adult arcade***. The term ‘adult arcade’ means a place to which the public is permitted or invited wherein coin-operated, slug-operated or token-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas, as defined in this section.

2. ***Adult bookstore***. The term ‘adult bookstore’ means an establishment that advertises, sells or rents adult material, or offers for sale or rent adult material, unless:

   a. Admission to the establishment is not restricted to adults only;

   b. All adult material is accessible only by employees;

   c. The gross income from the sale and/or rental of adult material comprises less than ten percent of the gross income from the sale and rental of the goods or services at the establishment; and

   d. The individual items of adult material offered for sale, rental or display comprise less than 25 percent of the total individual new items publicly displayed as stock in trade in any of the following categories: books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, V.H.S. format videotapes, BETA format videotapes, slides, or other visual representations, including, but not limited to, compact discs (CDs), laser discs, and digital video discs (DVDs), recordings or other audio matter, or less than 25 percent of the individual used items publicly displayed at the establishment as stock in trade in the same categories set out above.

   Any establishment that has food, beverages, tobacco products or other grocery products as more than 75 percent of its sales shall not be considered an adult bookstore.

3. ***Adult booth***. The term ‘adult booth’ means a separate enclosure inside a sexually oriented entertainment establishment, accessible to any person, regardless of whether a fee is charged for access. The term `adult booth' includes, but is not limited to, a peep show booth, adult arcade booth, or other booth used to view sexually oriented entertainment material. The term `adult booth' does not include a foyer through which any person can enter or exit the establishment, or a restroom.

4. ***Adult photographic or modeling studio***. The term ‘adult photographic or modeling studio’ means, and includes, any business entity which offers or advertises as its primary business stock in trade, the use of its premises for the purpose of photographing or exhibiting specified sexual activities or specified anatomical areas or the modeling of apparel that exhibits specified anatomical areas.

5. ***Adult theater***. The term ‘adult theater’ means an enclosed building or an enclosed space within a building, or an open-air area used for presenting

either filmed or live plays, dances, or other performances, either by individuals or groups, distinguished or characterized by an emphasis on material depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined in this section for observation by patrons therein. An establishment which has adult booths or an adult arcade is considered to be an `adult theater.'

6. ***Alcoholic beverage***. The term 'alcoholic beverage' means and includes alcohol and any beverage containing more than one percent of alcohol by weight, including, but not limited to, spirits, liquor, wine or beer, regardless of amount.

7. ***Applicant***. The term 'applicant' means any business entity or person that has applied for a sexually oriented entertainment use permit.

8. ***Business entity***. The term 'business entity' means any and all persons, natural or artificial, including any individual, firm, enterprise, corporation, company or association operating or proposed to operate for commercial or pecuniary gain. The application of the phrase `operate for commercial or pecuniary gain' shall not depend upon actual profit or loss. Moreover, operation for commercial or pecuniary gain shall be presumed where the business entity has an occupational license. The term `business entity' includes any enterprise or venture in which a person sells, buys, exchanges, barters, deals or represents the dealing in any thing or object of value, or offers or renders services for compensation.

9. ***Child care facility***. The term 'child care facility' shall refer to any child care center or child care arrangement which provides child care for one or more children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit, including, but not limited to, any children's center, day nursery, nursery school, kindergarten, family day care home, summer day camps, summer camps having children in full-time residence, and bible schools normally conducted during school vacation periods.

10. ***Employee***. When used herein in connection with a sexually oriented entertainment entity, the term 'employee' shall mean a person who works or performs or provides services in connection with a sexually oriented entertainment entity, irrespective of whether such person is paid a salary or wage, is an independent contractor, pays for the privilege of working or performing or providing such services in connection with a sexually oriented entertainment entity, or works or performs or provides such services in connection with a sexually oriented entertainment entity without paying, provided such person has a substantial or consistent relationship with the business of, or with the entertainment, goods, or

services provided by, the sexually oriented entertainment entity. In the context of sexually oriented entertainment entities, the term `employee' includes, but is not limited to, any performers, managers and assistant managers, stockpersons, tellers, and operators.

11. ***Industrial zoning district***. The term 'industrial zoning district' refers to a district located in the incorporated or unincorporated areas of Desoto County, the municipal or county zoning designation of which allows industrial uses. At the time of enactment of this ordinance, Desoto County industrial districts are limited to two categories: Industrial Light (IL) and Industrial Heavy (IH)).

12. ***Mixed use zoning district***. The term 'mixed use zoning district' refers to a district located in the incorporated or unincorporated areas of Desoto County, the municipal or county zoning designation of which allows residential use alone or in any combination with commercial or industrial uses.

13. ***Nates.*** The term 'nates' means the prominence formed by the gluteus maximus and gluteus medius muscles, typically superimposed by a layer of fat, the superior aspect of which terminates at the iliac crest, and the lower aspect of which is outlined by the horizontal gluteal crease.

14. ***Operator***. The term 'operator' means any person or business entity who engages in or performs any activity which is necessary to, or which facilitates the operation of, a sexually oriented entertainment entity, including, but not limited to, any licensee, manager, owner, doorman, bartender, disc jockey, sales clerk, ticket taker, movie projectionist, performer, employee, or supervisor. This term is not meant to include repairmen, janitorial personnel or the like who are only indirectly involved in facilitating the operation of the sexually oriented entertainment entity.

15. ***Patron***. The term 'patron' means and includes any natural person other than an employee, operator, licensee, or governmental officer performing duties pursuant to this ordinance or other law.

16. ***Physical culture enterprise***. The term 'physical culture enterprise' means any business entity which offers, advertises, or provides massage, body rubs or scrubs, or physical contact with specified anatomical areas, whether or not the entity or its employees are licensed to perform such services. Business entities which routinely provide medical services by state-licensed medical practitioners, electrolysis treatment by licensed operators or electrolysis equipment, and massage establishments regulated by the Florida Department of Business and Professional Regulation, Board of Massage, and by Florida Statutes Chapter 480, shall be excluded from the definition of physical culture enterprise.

17. ***Place of worship***. The term 'place of worship' means a site or premises, such as a cathedral, chapel, church, mosque, synagogue, tabernacle, temple, or similar place which is used for religious worship and religious activities, including religious education and customary accessory uses, by a body or organization of religious believers.

18. ***Private performance***. The term 'private performance' means engaging in specified sexual activities or the display of any specified anatomical area by an employee to a person other than another employee while the person is in an area not accessible during such display to all other persons in the sexually oriented entertainment establishment, or while the person is in an area in which the person is totally or partially screened or partitioned during such display from the view of all persons outside the area.

19. ***Public recreation area***. As used in this ordinance, the term 'public recreation area' means a tract of land within an incorporated or unincorporated area of Desoto County which is kept primarily for ornamental or recreational purposes and which is maintained as public property.

20. ***Residential zoning district***. The term 'residential zoning district' refers to any district designated by Desoto County or any municipality in Desoto County exclusively for the use of residential structures and accessory structures and uses associated with residential structures including, but not limited to, garages, pools, and sheds. At the time of enactment of this ordinance, residential districts designated by Desoto County are limited to the following categories: RSF-l, RSF-2, RSF-3, RSF-4, RSF-5, RMF-6, RMF-8, RMF-12, MHP, MHS, RM, and RMF-M.

21. ***School***. The term 'school' means and includes the premises upon which there is operated a nursery school, kindergarten, elementary school, middle school or junior high school, high school, or exceptional learning center.

22. ***Sexually oriented entertainment***. The term 'sexually oriented entertainment' means the offering, permitting, suffering, or allowing of private performances, as defined under this section, whether knowingly or with reason to know, by any business entity. The term `sexually oriented entertainment' also shall be defined to include goods and services of any adult arcade, adult bookstore, adult booth, adult theater, special cabaret, physical culture enterprise, and adult photographic or modeling studios as defined in this section, as well as the activities, goods and services of any business entity whose primary business stock in trade is dependent upon, or related to, specified sexual activities or specified anatomical areas, as defined in this section.

23. ***Sexually oriented entertainment entity***. The term 'sexually oriented entertainment entity' refers to any business entity, as defined in this section, that offers, permits, suffers, or allows sexually oriented entertainment at any sexually oriented entertainment establishment, including, but not limited to, adult arcades, adult bookstores, adult photographic or modeling studios, adult theaters, and special cabarets.

24. ***Sexually oriented entertainment establishment***. The term 'sexually oriented entertainment establishment' means a site or premises, or portion thereof, upon which certain sexually oriented entertainment activities or operations are conducted.

25. ***Sexually oriented entertainment material***. The term 'sexually oriented entertainment material' means any one or of the following, regardless of whether new or used:

    a. Books, magazines, periodicals or other printed matter, paintings, drawings, or other publications or graphic media, photographs, slides, films, motion pictures, videocassettes, digital video discs, or other visual representations, or recordings, or other audio matter, whether analog, digital, or otherwise, which have as their primary or dominant theme matter depicting, illustrating, describing or relating to specified sexual activities or specified anatomical areas; or

    b. Instruments, novelties, devices or paraphernalia which are designed for use in connection with specified sexual activities.

26. ***Sexually Oriented Entertainment License***. The term 'sexually oriented entertainment license' means the written permission issued by Desoto County to allow a sexually oriented entertainment entity to operate within Desoto County in accordance with the requirements of this ordinance.

27. ***Sexually Oriented Entertainment Use Permit***. The term 'sexually oriented entertainment use permit' means the written permission issued by Desoto County to allow a sexually oriented entertainment establishment to be situated at a given location within Desoto County, based on perceived compliance with all applicable zoning, land use, and development requirements.

28. ***Special cabarets***. The term 'special cabaret' means any bar, dance hall, restaurant, or other place of business which features dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, lingerie models, or similar entertainers, or waiters or waitresses who engage in specified sexual activities or display specified anatomical areas.

29. ***Specified anatomical area***. The term 'specified anatomical area' means any of the following, alone or in combination:

a. Any less than completely or opaquely covered portion of

(1) The human genitals or the pubic region;

(2) The cleavage of the nates of the human buttocks;

(3) That portion of the human female breast directly or laterally below a point immediately above the top of the areola; this definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not so exposed;

b. Human male genitals in a discernible turgid state, even if completely and opaquely covered;

c. Any covering, tape, pasty, latex spray or paint or other device which simulates or otherwise gives the appearance or illusion of the display or exposure of any of the specified anatomical areas listed in paragraphs (a) and (b) of this definition.

30. ***Specified sexual activity***. The term 'specified sexual activity' means:

a. Human genitals in a state of sexual stimulation, arousal or tumescence;

b. Acts of analingus, bestiality, buggery, coprolagnia, coprophagy, copulation, cunnilingus, ephebophilia, fellation, flagellation, masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sapphism, sexual intercourse, sodomy, urolagnia, urophagia, or zooerasty;

c. Fondling or other erotic touching of human genitals, pubic region, buttock, anus, or female breast;

d. Excretory functions as part of or in connection with any of the activities set forth in paragraphs a. through c. of this definition.

B. Legislative findings.

1. The concerns raised in the legislative findings in this Section relate to substantial and legitimate governmental interests, and while as of the time of adoption of this ordinance by the Board of County Commissioners, no sexually oriented entertainment entities are operating within Desoto County, the Board of County Commissioners has determined that the location of any sexually oriented entertainment entities that may be established in Desoto County in the future should be reasonably regulated in order to protect those substantial and legitimate governmental interests.

2. The Board of County Commissioners finds that the adoption of this ordinance is reasonably necessary to prevent crime, protect retail trade, maintain real property values, and shelter and preserve the quality of neighborhoods, commercial districts, and urban and suburban life in Desoto County.

3. The Board of County Commissioners recognizes that sexually oriented entertainment, as a category of use, is associated with a broad range of adverse secondary effects, including, but not limited to, crimes against persons and property, risks to public safety, and negative impacts on surrounding real property.

4. In arriving at the findings herein, the Board of County Commissioners has considered the following reports, studies, judicial opinions, and other documents and materials concerning the adverse secondary effects of sexually oriented entertainment entities on communities in which they are located:

   a. Expert Report, Richard McCleary, Ph.D., December 18, 2004;

   b. Preliminary Report, Shawn Eady Wilson, MAI, December 29, 2004;

   c. Affidavits of Tom McCarren;

   d. *City of Littleton v. Z. Gifts D-4*, 541 U.S. 774 (2004);

   e. *City of Erie, et at. v. PAP's A.M.*, 529 U.S. 277 (2000);

   f. *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 50 (1976);

   g. *City of Renton v. Playtime Theatres, Inc.*, 535 U.S. 425 (2002);

   h. *Young v. American Mini Theatres, Inc.*, 427 U.S. 50 (1976);

   i. *Barnes v. Glen Theatre, Inc.*, 501. U.S. 560 (1991);

j. *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990);

k. *California v. LaRue*, 409 U.S. 109 (1972);

l. *Artistic Entertainment, Inc. v. City of Warner Robins*, 223 F.3d 1306 (11th Cir. 2000);

m. *Peek-A-Boo Lounge of Bradenton, Inc. v. Manatee County*, 337 F.3d 1251 (11th Cir. 2003);

n. *Gary v. City of Warner Robbins*, 311 F.3d 1334 (11th Cir. 2002);

o. *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003);

p. *Wise Enterprises v. Unified Government of Athens-Clarke County*, 217 F,3d 1360 (11th Cir. 2000);

q. *BZAPs, Inc. v. City of Mankato*, 268 F.3d 603 (8th Cir. 2001);

r. *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004);

s. *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005);

t. *Ward v. County of Orange*, 217 F.3d 1350 (11th Cir. 2000);

u. *Boss Capital, Inc. v. City of Casselberry*, 187 F.3d 1251 (11th Cir. 1999);

v. *David Vincent, Inc. v. Broward County*, 200 F.3d 1325 (11th Cir.2000);

w. *Sammy's of Mobile, Ltd. v. City of Mobile*, 140 F. 3d 993 (11th Cir.1998);

x. *Lady J. Lingerie, Inc. v. City of Jacksonville*, 176 F.3d 1358 (11`h Cir. 1999);

y. *Lady J. Lingerie, Inc. v. City of Jacksonville*, 973 F.Supp.1428 (M.D. Fla. 1997);

z. *Grand Faloon Tavern, Inc. v. Wicker*, 670 F.2d 943 (11th Cir.982);

aa. *International Food & Beverage Systems v. Ft. Lauderdale*, 794 F.2d 1520 (11th Cir. 1986);

bb. Summaries of Key Reports Concerning the Negative Secondary Effects of Sexually Oriented Businesses, compiled by Louis F. Comus III;

cc. Report on Secondary Effects of the Concentration of Adult Use Establishments in the Times Square Area, prepared by Insight Associates, April 1994;

dd. Seattle Department of Construction and Land Use Director's Report, Proposed Land Use Code Text Amendment, Adult Cabarets, March 1989;

ee. A Report on Zoning and Other Methods of Regulating Adult Entertainment Establishments in Amarillo, Planning Department, City of Amarillo, Texas, September 12, 1977;

ff. Adult Entertainment Businesses in Indianapolis, An Analysis, Department of Metropolitan Development, Division of Planning, February 1984;

gg. Adult Business Study, Planning Department, City of Phoenix, May 25, 1979;

hh. Adult Cabarets Factual Record, Phoenix, Arizona, 1997;

ii. Police Memorandum, Adult Entertainment Ordinance, Michael J. Leverenz, Assistant Chief of Police, Investigative Services, City of Tucson, Arizona, May 1, 1990;

jj. Report on Adult Oriented Businesses in Austin, prepared by Office of Land Development Services, Austin, Texas, May 19, 1986;

kk. An Analysis of the Effects of SOBs on the Surrounding Neighborhoods in Dallas, Texas as of April 1997, prepared by Peter Malin, MAI;

ll. Legislative Report on an Ordinance Amending Section 28-73 of the Code of Ordinances of the City of Houston, Texas, November 1983;

mm. Sexually Oriented Business Ordinance Revision Committee Legislative Report, Houston City Council, January 7, 1997;

nn. Adult Use Study, Newport News Department of Planning and Development, Newport News, Virginia, March 1996;

oo. Crime Risk in the Vicinity of a Sexually Oriented Business: A Report to the Centralia City Attorney's Office, prepared by Richard McCleary, Ph.D., February 28, 2004;

pp. Criminal Activity Records, Louisville, Kentucky;

qq. An Analysis of the Relationship Between Adult Entertainment Establishments, Crime, and Housing Values, prepared by Marlya McPherson and Glenn Silloway, The Minnesota Crime Prevention Center, Inc., October 1980;

rr. Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Sinesses, Hubert H. Humphrey, III, Attorney General, State of Minnesota, June 6, 1989;

ss. A Methodological Critique of the Linz-Yao Report: Report to the Greensboro City Attorney, prepared by Richard McCleary, Ph.D., December 15, 2003;

tt. Adult Entertainment Businesses in Oklahoma City: A Survey of Real Estate Appraisers, March 3, 1986;

uu. Sexually Oriented Businesses: An Insider's View, testimony of David Sherman, former Midwest Manager of Dej Vu, before the Michigan House Committee --Ethics and Constitutional Law, January 12, 2000;

vv. The Relationship Between Crime and Adult Business Operations on Garden Grove Boulevard, prepared by Richard McCleary, Ph.D. and James W. Meeker, J.D., Ph.D., October 23, 1991;

ww. Study of the Effects of the Concentration of Adult Entertainment Establishments in the City of Los Angeles, Department of City Planning, City of Los Angeles, June 1997;

xx. Staff Report, Amendment to Zoning Regulations, Adult Businesses in C-2 Zone with Conditional Use Permit, City of Whittier, California, January 9, 1978;

yy. Sting at Strip Club Nets 19 Arrests, by Carli Teproff, The Miami Herald, March 21, 2004;

zz. Crime-Related Secondary Effects of Sexually-Oriented.Businesses: Report to the City of Oakland Park, prepared by Richard McCleary, Ph.D., July 7, 2004;

aaa. Dancers Busted in Sting, 29 Are Arrested in Adult Club Crackdown, by Candace J. Samolinski, The Tampa Tribune, October 12, 2002;

bbb. Compliance on the main stage at adult clubs. Arrests of dancers take back seat to enforcement of hands-off policy, by Amber Bollman, Pensacola News Journal, March 21, 2004;

ccc. Strip Clubs According to Strippers: Exposing Workplace Sexual Violence, by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota;

ddd. Public Morals Division Surveillance Report, submitted by Detective Lorenzo Davis, Jr., Gary Police Department;

eee. Transcript of the Pinellas County Adult Use Licensure Ordinance Public Hearing held 15 January 1991, including testimony from Pinellas County law enforcement officers and health officials regarding the secondary effects of sexually oriented entertainment entities and establishments in Pinellas County;

fff. Transcript of the Pinellas County Adult Use Licensure Ordinance Public Hearing held 29 January 1991;

ggg. Blue Moon Enterprises, Inc. v. Pinellas County Department of Consumer Protection ex rel. Pinellas County, Florida, 97 F. Supp. 2d 1134 (M.D. Fla. 2000).

5. The Board of County Commissioners has determined that when sexually oriented entertainment entities are present and operating within a community, activities which are illegal or unhealthful tend to accompany them, concentrate around their locations, and be aggravated by them, including, but not limited to, prostitution, solicitation for prostitution, solicitation for alcohol, lewd and lascivious behavior, exposing minors to harmful materials, and drug-related offenses.

6. The Board of County Commissioners, recognizing that sexually oriented entertainment has deleterious effects on surrounding real property, particularly where sexually oriented entertainment establishments are geographically concentrated, finds special regulation of locations for sexually oriented entertainment to be necessary in order to protect real property surrounding sexually oriented entertainment establishments from blight and reduced property values.

7. The Board of County Commissioners finds that in order to achieve a reasonable and appropriate balance between the substantial and legitimate governmental interests in the public health, safety, and welfare of the residents of Desoto County and the need to provide adequate locations for sexually oriented business entities to operate in Desoto County, sexually oriented entertainment establishments should be geographically dispersed, rather than concentrated, to minimize the adverse secondary effects arising from them.

8. The Board of County Commissioners has determined that it is reasonable to require that any sexually oriented business establishment in Desoto County should be situated no less than a distance of 2,500 feet from any other sexually oriented business establishment, whether or not the other sexually oriented business establishment is located within Desoto County.

9. The Board of County Commissioners finds that in order to achieve a reasonable and appropriate balance between the substantial and legitimate governmental interests in the public health, safety, and welfare of the residents of Desoto County and the need to provide adequate locations for sexually oriented business entities to operate in Desoto County, sexually oriented entertainment establishments should be situated no less than 2,500 feet from any residential zoned property, place of worship, school, child-care facility, or public recreation area, or business entity serving alcoholic beverages.

10. The Board of County Commissioners finds that a reasonable and simple permitting procedure is an appropriate mechanism to place the burden of the regulation of the location of sexually oriented entertainment on the owners, operators and managers of sexually oriented entertainment entities.

11. Pursuant to Florida Statutes Chapter 163, the Board of County Commissioners has received a recommendation from its local planning agency regarding this ordinance.

C. Authorized Locations and Distance Restrictions. Sexually oriented entertainment establishments shall be allowed only within industrial zoning districts designated by Desoto County or any municipality within Desoto County, and then only if the following conditions are met at the time of submission to Desoto County of an application for a sexually oriented entertainment use permit:

1. No sexually oriented entertainment establishment, including an adult bookstore operating only as an adult bookstore, may be located within 2,500 feet of any residential zoning district, or of any portion of a mixed use zoning district developed and utilized, or to be developed and utilized, for residential use, or of any home or other residential structure then

existing or under construction and lawfully located within any zoning district, nor within 2,500 feet of any child care facility, place of worship, public recreation area, or school, regardless of whether the residential zoned district, mixed use zoning district, home or other residential structure, child care facility, place of worship, public recreation area, or school is located within Desoto County.

2. No sexually oriented entertainment establishment may be located within 2,500 feet of any business establishment licensed by the State of Florida to sell or serve alcoholic beverages, regardless of whether the business establishment licensed to sell or serve alcoholic beverages is located within Desoto County.

3. No sexually oriented entertainment establishment may be located within 2,500 feet of any other sexually oriented entertainment establishment regardless of whether the other sexually oriented entertainment establishment is located within Desoto County.

4. The distance requirements set forth in subsections 1., 2., and 3. above shall be calculated based on the distance measured along a straight line, without regard to intervening structure or objects, from the nearest residential zoning district or portion of any mixed use zoning district developed or to be developed for residential use, or from the nearest property line of the child care facility, place of worship, public recreation area, school, business establishment licensed to serve alcoholic beverages, or other sexually oriented entertainment establishment, or from the nearest residential structure, in any zoning district, to the closest property line of the sexually oriented entertainment establishment, whichever of these distances is shortest.

5. Nothing in this section shall be construed to permit the operation of any business or the performance of any activity prohibited under any portion of this Section or of any other article in the Code of Ordinances, Desoto County, Florida.

D. Sexually Oriented Entertainment Use Permits.

1. Permit Required. No natural person or business entity shall be allowed to commence or continue to operate any sexually oriented entertainment establishment without first applying to and obtaining from the County Administrator or his authorized designee a valid sexually oriented entertainment use permit.

2. Application and Classification. Every sexually oriented entertainment establishment proposed to be operated by a sexually oriented entertainment entity shall be classified as an adult bookstore, adult theater, adult photographic or modeling studio, physical culture establishment, or special cabaret, based on the information supplied by the applicant in the sexually oriented entertainment use permit application, and every proposed or operating sexually oriented entertainment establishment shall be subject to inspection from time to time by the County Administrator or his authorized designee for verification of any such claimed classification.

3. Single Use. Only a single classification of sexually oriented entertainment use shall be allowed at any permitted sexually oriented entertainment establishment. Any change in the classification of sexually oriented entertainment permitted at a sexually oriented entertainment establishment shall only be allowed upon application and approval in advance to the County Administrator or his designee.

4. Application Fees. At the time of application, an applicant shall pay the County a non-refundable initial application fee. The fee to be paid shall be established by resolution of the Board of County Commissioners in an amount the Board deems reasonable to offset the costs of processing the application and issuing the permit, including, but not limited to, any zoning, land use, and development review and inspections. The initial application fee shall be paid only one time by an applicant for any proposed sexually oriented entertainment establishment. If the application is subsequent to an original application and is made by the applicant solely to change the classification of a previously permitted sexually oriented entertainment classification at a given sexually oriented entertainment establishment to another sexually oriented entertainment classification, the applicant shall be subject to a reclassification fee, established by resolution of the Board of County Commissioners in an amount the Board deems reasonable to offset the costs of processing the application and conducting any inspections related thereto.

5. Information Required on Application. In order to obtain a sexually oriented entertainment use permit, at the time of application, the applicant shall provide, in addition to the aforesaid application fee, the following information:

a. Name, mailing address and telephone number.

b. Street address and a legal description of the property containing the proposed or existing adult use.

c. The particular sexually oriented entertainment classification proposed for the sexually oriented entertainment establishment.

d. A site plan, meeting all the requirements for development provided in the Desoto County Land Development Regulations, of the proposed sexually oriented entertainment establishment.

e. Known locations of any child care facilities, places of worship, public recreation facilities, schools, business entities licensed to sell alcoholic beverages, or other existing or proposed sexually oriented entertainment establishments within approximately 2,500 feet of the proposed or existing location for which the sexually oriented entertainment use permit is being sought.

f. If the applicant's proposed location is that of an existing sexually oriented entertainment establishment, the date of commencement of operations as a sexually oriented entertainment establishment, including documentation of commencement if available.

g. If the applicant is not the record owner of the subject parcel, the application must include a letter, with the notarized signature of the record owner, purporting to be the record owner, stating that the applicant is authorized to seek a sexually oriented entertainment use permit for the premises.

6. Evaluation of Application. Upon receipt of a completed application for a sexually oriented entertainment use permit, the County Administrator or his authorized designee shall inspect and evaluate the proposed location for the sexually oriented entertainment establishment. The inspection and evaluation shall be completed in no more than 45 days.

7. Decision on permit application.

a. Denial. Should it be determined that the location proposed in the application does not meet the distance requirements of Section 3.C., above, or that the location is one where a valid sexually oriented entertainment establishment already exists, or is one for which a valid sexually oriented entertainment use permit has been issued or is in the process of being issued to another applicant, then within 15 days of completion of the inspection and evaluation of

the proposed location for the sexually oriented entertainment establishment, the applicant shall be issued written notice that no permit shall be issued to the applicant for that location. Upon receipt of said notice, the applicant shall have ten days to request a hearing on the decision pursuant to the provisions of Section 3.D.9., above.

b. Issuance. Where it is found that the applicant's proposed location meets the distance requirements of Section 3.C., above, and where no valid sexually oriented entertainment establishment exists and no valid sexually oriented entertainment use permit has been issued to another applicant, then the applicant shall be issued a permit for the location and classification disclosed pursuant to Section 3.D.5, above.

8. Conflicting Applications.

a. The Board of County Commissioners recognizes the potential of creating non-conformities by granting sexually oriented entertainment use permits that conflict. The County Administrator shall develop a system for tracking potentially conflicting applications and for ranking them by date, time of application, and date of establishment. Between two or more applications being processed at the same time, which individually qualify under Sections 3.D.1 and 3.D.2, above, but which would violate the provisions of Section 3.D.2 if permits were to issue to multiple applicants, the applicant whose application was completed at the earliest date, as provided for in Section 3.D.5., shall be issued a permit pursuant to the provisions of Section 3.D.7.b. The remaining applicant or applicants shall be issued a notice pursuant to the provisions of Section E.7.a., with a notation on said notice that the permit was denied due to the earlier submission of a conflicting application.

b. Within 30 days of the date of issuance of a denial of a permit pursuant to the provisions of Section 3.D.8.a., an applicant may amend the application without additional charge to request a permit at a new proposed location; otherwise, the applicant must reapply for a sexually oriented entertainment use permit and pay all required fees for a new application.

9. Continuing validity of sexually oriented entertainment use permit.

a. The sexually oriented entertainment use permit signed by the County Administrator or his authorized designee shall be valid for a period of six months after issuance, during which time the

applicant must apply for a sexually oriented entertainment use license pursuant to this Section. The validity of such a permit may be extended by the County Administrator or his authorized designee one time for 90 days for good cause shown by the applicant.

b. Once legally established by the granting of a sexually oriented entertainment use license pursuant to this Section, the sexually oriented entertainment use permit shall remain valid unless revoked pursuant to this ordinance or terminated sooner by reason of the failure of the permit holder to have or maintain a valid sexually oriented entertainment use license pursuant to the Desoto County Sexually Oriented Business Regulation Ordinance, or if the sexually oriented entertainment establishment has been abandoned or remains closed to the public for more than 14 consecutive days.

c. If the County Administrator or his authorized designee decides to revoke a previously valid sexually oriented entertainment use permit, the permit holder shall have the right to request a hearing, which shall be held by the County Administrator or his authorized designee. This hearing shall be commenced within 30 days of the date of the request for the hearing.

10. Variances. No variances, waivers, or special exceptions from the criteria set forth in this ordinance shall be permitted for any reason.

11. Revocation of Permit. The County Administrator may revoke a previously issued sexually oriented entertainment use permit on the following grounds, and shall notify the holder thereof in writing by service upon the then occupant of the entertainment entity, if present during daylight hours, and by certified mail, return receipt requested, to the permit holder of record:

a. False, misleading, or incomplete information was provided by the applicant in the application for the sexually oriented entertainment use permit;

b. There have occurred one or more convictions for violation of this Section involving the sexually oriented entertainment establishment for which the sexually oriented entertainment permit was issued; or

c. Additional or different classifications of sexually oriented entertainment have taken place at the sexually oriented entertainment establishment than the single classification of

sexually oriented entertainment authorized in the sexually oriented entertainment permit, in violation of Section 3.D.3., above.

12. Appeals of adverse final administrative determinations. With respect to any adverse final administrative determination made under this ordinance by the County Administrator or his authorized designee, any party with standing thereafter may file a petition for a writ of certiorari with the Circuit Court for the Twelfth Judicial Circuit of Florida seeking a judicial review of the adverse final administrative determination.

Section 14500 IMPROVEMENT PLAN

A. CONTENT AND PURPOSE

When the LDRs require submission of an Improvement Plan, it shall meet the following requirements. The Improvement Plan in scope, detail and purpose shall be suitable for contracting and construction purposes. The plan shall show those subdivision improvements which are required, which are the subject of the improvement agreement, and which must be satisfactorily completed before the bond or other assurance is released. The Improvement Plan shall indicate location and construction details for all required subdivision improvements including, but not limited to, road construction, grading, drainage facilities, signs, grassing, and miscellaneous construction. No street lights, private signs or similar objects shall be placed in the public Rights-of-Way without prior approval of the Board of County Commissioners. Plans shall include all necessary dimensions, elevations, details, sections and notes which are necessary and desirable in order to clearly and exactly show the work to be done and the manner in which it is to be done. Design details shall conform to applicable construction Details and Engineering Standard Details. Reference to the LDR is required and permitted only to the extent of Material Requirements and Quality Control. Existing elevations must be shown by contours not to exceed one foot intervals. All flood plains shall be shown by contour with the flood elevation noted. Topographic information shown must be certified by a registered land surveyor and shall meet the minimum technical standards for vertical control and topographic surveys if the topographic information is obtained by aerial methods, the name of the person or firm performing the service must be indicated. Contours obtained by aerial means shall not be used for establishing finish grades, calculating as to their accuracy due to dense ground cover or other reasons.

Under such conditions contours obtained from more reliable ground methods shall be used. The Project Surveyor is responsible for the reliability of topographic information shown. Storm water runoff shall be collected within the subdivision and disposed of by acceptable methods. Calculations for runoff shall consider the entire contributory watershed including areas outside of the subdivision. The upland owners' interest shall be protected to the extent that the system is designed to receive runoff at the rate calculated for existing conditions. The downstream

owners' interest shall be protected by limiting runoff to the rate calculated for the undeveloped condition. Adjacent public facilities may be utilized for disposal if it can be proven that capacity is sufficient. Natural disposal facilities within the subdivision may be used without further excavation if the Project Engineer can show that existing capacity is sufficient. The collection of storm water runoff shall be by positive gravity means without the use of siphons, pumps or similar devices. For small drainage areas (less than 20 acres) where only peak discharges are needed the rational method (Q=ACI) is the preferred method. When using the rational method the rainfall intensity must be based on the latest available intensity-duration curves for Zone 8 as published by the Florida Department of Transportation for the 25-year storm event except as otherwise provided herein. For larger drainage areas where the complete hydrograph is needed or where flood routing is involved the recommended method is as shown in the applicable Technical Release of the Soil Conservation Service of the United States Department of Agriculture (SCS). In the more complex situations where reservoir routing, backwater analysis, or other hydraulic or hydrologic problems are encountered it will be necessary to use more elaborate techniques. This method shall be based on the 25-year 24-hour storm event of the National Weather Service and the United Stated Weather Bureau distribution and having rainfall depths increased by 21% to account for 48 hour antecedent rainfall. Flow capacity of ditches, channels, streams, and floodways may be determined using Manning's formula in those reaches where there is no possibility of backwater from constrictions downstream. Water surface profiles (backwater computations) should be used in all other instances and should start at a control structure or at the outfall. Coefficients for determining runoff, and the areas for each, shall be based on conditions of ultimate development of the subdivision. Culverts shall be designed to discharge the peak discharge from a 10 year storm event without static head at the entrance and a 25 year storm event utilizing available head at the entrance. Sheet or channelized flow across pavement shall not be per-mitted. The minimum size of culverts under roads shall be 15 inches for round pipe and 17 inches by 13 inches for arched pipe.

Culvert flow capacity shall be determined for the conditions of inlet and outlet control to determine which actually controls. The County Engineer reserves the right to require the Project Engineer to submit storm drainage calculations for review. The format for calculations should be conventional and assumed parameters must be listed. Percolation and soil test results must be shown. Soils identification must refer to the classifications conforming to ASTM D2487. Test holes shall be excavated to a six foot depth. Test hole locations shall be shown on the Improvement Plan and the soil type or types and water table information found at each location shall be indicated in tabular form. Each print submitted shall bear the original signature and seal of the Project Engineer and the Project Surveyor, and each are responsible for information when within their particular field of practice. Percolation test results shall be shown on the Improvement Plan. One such test shall be taken for each ten acres of land or fraction thereof within

the subdivision. Tests shall be spaced evenly throughout the subdivision and additional tests shall be taken where soil conditions change.

B. SUBMITTAL

Three prints of the Improvement Plan shall be submitted. One print shall be returned to the Project Engineer with the notation of "Approved", "Approved as Noted" or "Not Approved", the latter requiring a re-submittal.