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Town of Lee Little but Proud

ARTICLE TWO-DEFINITIONS, LOTS DIVIDED BY DISTRICT LINES, AND NONCONFORMING SITUATIONS

ARTICLE TWO. DEFINITIONS, LOTS DIVIDED BY DISTRICT LINES, AND NONCONFORMING SITUATIONS

SECTION 2.1 Definitions General. For the purpose of these land development regulations, certain terms or words used herein shall be interpreted as follows:

The word person includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

The present tense includes the future tense; the singular number includes the plural, and the plural number includes the singular.

The word shall is mandatory; the word may is permissive.

The words used or occupied include the words intended, designed, or arranged to be used or occupied.

The word lot includes the words plot, parcel, tract, or site.

The word structure includes the word building as well as other things constructed or erected on the ground, attached to something having location on the ground, or requiring construction or erection on the ground. Among other things, structures include walls, buildings, fences, signs, and swimming pools.

The word land includes the words water, marsh, or swamp.

The word abut shall not include directly across from.

The words Town Council shall mean the Town Council of the Town of Lee, Florida.

The word Town shall mean the Town of Lee, Florida.

The Term Comprehensive Plan shall mean the Comprehensive Plan of the Town of Lee, Florida which was adopted by Ordinance, as amended.

Abandoned Motor Vehicle. Abandoned motor vehicle is defined as one that is in a state of disrepair and incapable of being moved under its own power and does not have a current vehicle registration certificate

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Abutting or Adjacent Property. Abutting or adjacent property is property that is immediately contiguous to the property being considered under these land development regulations.

Access. Access shall mean the primary means of ingress and egress to abutting property from a dedicated right-of-way.

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, is located 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. Addition. An addition is an extension or increase in floor area or height of a building or structure. Administrator. The Administrator is the Land Development Regulation Administrator designated by the Town Council for the administration and enforcement of these land development regulations (see Land Development Regulation Administrator).

Adverse Effect. Adverse effect means increases in flood elevations on adjacent properties attributed to physical changes in the characteristics of the Official 100-Year Flood Area due to development.

Alley or Service Drive. An alley or service drive is a public or private right-of-way which affords only a secondary means of access to property abutting thereon.

Alter or Alteration of a Stormwater Management System. Alter or alteration of a stormwater management system is work done other than that necessary to maintain the system's original design and function.

Alteration. Alter or alteration shall mean any change in size, shape, occupancy, character, or use of a building or structure.

Aquifer or Aquifer System. Means a geologic formation, group of formations, or part of a formation that contains sufficient saturated permeable material to yield significant quantities of water to wells and springs.

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Area of Shallow Flooding. Area of shallow flooding means a designated A on the incorporated Town's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flow may be evident.

Area of Special Flood Hazard. Area of special flood hazard is the land so designated on the Town's Flood Hazard Boundary Map or the Flood Insurance Rate Map.

Arterial Streets. Arterial streets are streets (roads) which conduct large volumes of traffic over long distances and are functionally classified as such on the Florida Department of Transportation Current Highway Functional Classification and Systems map for the Town, as amended or for any other streets as designated by the Town Council.

Automobile Wrecking or Automobile Wrecking Yard. The term automobile wrecking or automobile wrecking yard refers to the dismantling 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 dispensing at retail of motor fuel and oil primarily for automobiles; and where grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail. In addition, an automotive service station may provide accessory facilities for car washing and polishing (but not commercial car wash facilities) and may render minor repair services. However, major mechanical and body work, straightening of frames or body parts, steam cleaning, painting, tire recapping or re-grooving, storage of automobiles not in operating condition, or other work involving undue noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in such stations are prohibited. An automotive service station is not a repair garage, a body shop, truck stop, or a car wash or a combination thereof.

For the purposes of these land development regulations, where motor fuel pumps are erected for the purpose of dispensing motor fuel at retail primarily for automobiles, such motor fuel pumps shall be considered to constitute an automotive service station, even where additional services which are customarily associated with an automotive service station are not provided. Where such motor fuel pumps are erected in conjunction with a use which is not- an automotive service station, each use shall be considered as a separate principal use and as such, each must meet all applicable requirements of these land development regulations (see Article 4 for special design standards for automotive service stations).

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Bar. Cocktail Lounge or Tavern. A bar, cocktail lounge, or tavern is any establishment which is devoted primarily to the retailing and on premises drinking of malt, vinous, or other alcoholic beverages, and which is licensed by the State of Florida to dispense or sell alcoholic beverages.

Base Flood. Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement. A basement means that portion of a building between floor and ceiling, which is partly below and partly above grade, but so located that the vertical distance from the grade to the floor below is less than the vertical distance from the grade to the ceiling provided, however, that the distance from the grade to the ceiling shall be at least four (4) feet six (6) inches, (see Cellar).

Bicycle and pedestrian ways. Bicycle and pedestrian ways means any road, path or way which is open to bicycle travel and traffic afoot and from which motor vehicles are excluded.

Block. The term block includes tier or group and means a group of lots existing with well-defined and fixed boundaries, usually being an area surrounded by streets or other physical barriers and having an assigned number, letter, or other name through which it may be identified.

Board of Adjustment. The term Board of Adjustment shall mean the Board of Adjustment of the Town, as herein provided for within these land development regulations.

Breakaway Vail. A breakaway wall is 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 loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

Buildable Area. The buildable area is that portion of a lot remaining after the required yards have been provided. Buildings may be placed in any part of the buildable area, but limitations on the percent of 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 enclosure or shelter of persons, animals, vehicles, goods, merchandise, equipment, materials, or property of any kind. This definition shall include tents, dining cars, trailers, mobile

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homes, sheds, garages, carports, animal kennels, storerooms, or vehicles serving in any way the function of a building as described herein. This definition of a building does not include screened enclosures not having a roof impervious to weather.

Building Front Yard Setback Line. The building front yard setback line is the rear edge of any required front yard as specified within these land development regulations. (See Article 4)

Building Height of. Height of building is the vertical distance measured from the established grade at the corner of a front of a building to the highest point of the roof surface of a flat roof, to the deck line of a mansard or Bermuda roof, to the mean height level between eaves and ridge of gable, hip, cone, gambrel and shed roofs, and to a height three-fourths (3/4) the distance from the ground to the apex of A-frame and dome roofs, as depicted in the diagram below. (See Article 4, Exclusions from

Height Limitations).
ROOF TYPES

- BERMUDA
- FLAT
- DOME
- MANSARD

H-HEIGHT OF BUILDING FOR LAND DEVELOPMENT REGULATION PURPOSES

Building Line. A 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 these land development regulations, no building or structure may be erected or extended to occupy any portion of a lot streetward or otherwise beyond the building line.

Capital Budget. Capital budget means the portion of the Town's annual budget which reflects capital improvements scheduled for a fiscal year.

Capital Improvements. Capital improvements means physical assets constructed or purchased to provide, improve or replace a public facility and which are large scale and high in cost. The cost of

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a capital improvement is generally nonrecurring and may require multi-year financing. For the purpose of these land development regulations, physical assets which have been identified as existing or projected needs in the individual comprehensive plan elements shall be considered capital improvements.

Cellar. Cellar means that portion of a building, the ceiling of which is entirely below grade or less than four (4) feet six (6) inches above grade (see Basement).

Child Care Center. A "child care center" includes any child care facility or child care arrangement where more than five (5) children, other than members of the family occupying the premises, are cared for during the day, whether or not operated for profit. The term includes day nurseries, kindergartens, day care services, nursery school, or play school.

Child Care Center, Overnight. An overnight child care center is an establishment where more than five (5) children, other than members of the family occupying the premises, are cared for not only during the day but overnight. An overnight child care center provides full overnight sleeping facilities for such children.

Clinics, 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.

Club, Private. Private clubs, for the purposes of these land development regulations, shall pertain to and include those associations and organizations of a civic, fraternal, recreational, or social character, not operated or maintained for profit. The term "private club" shall not include casinos, nightclubs, bottle clubs, or other establishments operated or maintained for profit.

Collector Streets. Collector streets are streets (roads) which serve as the connecting link for local streets and arterials and which provide for intra-neighborhood transportation. The traffic characteristics generally consist of relatively short trip lengths with moderate speeds and volumes. Collectors should penetrate neighborhoods without forming a continuous network, thus discouraging through traffic which is better served by arterials. In addition, collectors are so functionally classified by the Florida

Department of Transportation Current Highway Functional Classification and Systems Map for the Town, as amended, or for any other streets as designated by the Town Council.

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Community Residential Homes. A community residential home means a dwelling unit licensed to serve clients of the Department of Health and Rehabilitative Services, which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents. (See also Article 4)

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 and exit doors.

Cone of Influence. Cone of influence means an area around one or more major waterwells the boundary of which is determined by the Town Council based on groundwater travel or drawdown depth.

Construction, Actual. Actual construction includes the placing of substantial construction materials in permanent position and fastened in a permanent manner; except that 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. Actual construction shall include only work begun under a valid building permit.

County Health Department. The term County Health Department shall mean the Health Department of Madison County.

Cul-de-sac. A cul-de-sac is a local street of relatively short length with one end open and the other end terminating in a vehicular turnaround.

Curb Break. A curb break is a driveway or any other point of access or opening for vehicles onto a public

street.

Day Care Center or Nursery. See Child Care Center.

Density. Gross Residential. The term residential density refers to the number of residential dwelling units permitted per gross acre of land and is determined by dividing the number of units by the total area of land within the boundaries of a lot or parcel including dedicated rights-of-way and except as otherwise provided for in these land development regulations. In the determination of the number of residential units to be permitted on a specific parcel of land, a fractional unit shall not entitle the applicant to an additional unit.

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Developer. Developer means any person, including a governmental agency, undertaking any development as defined in Chapter 163, Part II and Chapter 380.04, Florida Statutes, as amended.

Development. Development has the meaning as defined in Chapter 163, Part II and Chapter 380.04-, Florida Statutes, as amended.

Development Order. Development Order means any order granting, denying, or granting with conditions an application for a development permit, which includes any building permit, subdivision approval, rezoning, certification or designation, special exception, variance, special or temporary permit, or any other official action of the appropriate Town approval body or Land Development Regulation Administrator having the effect of permitting the development of land.

Dormitory. A dormitory is a space in a unit where group sleeping accommodations are provided with or without meals for persons not members of the same family group, in one (1) room, or in a series of closely associated rooms under joint occupancy and single management, as in college dormitories, fraternity houses, and military barracks.

Drainage Basin. Drainage basin means the area defined by topographic boundaries which contributes stormwater to a drainage system, estuarine waters, or oceanic waters, including all areas artificially added to the basin.

Drainage Detention Structure. Drainage detention structure means a structure which collects and temporarily stores stormwater for the purpose of treatment through physical, chemical, or biological processes with subsequent gradual release of the stormwater.

Drainage Facilities. Drainage facilities means a system of man-made structures designed to collect, convey, hold, divert or discharge stormwater, and includes stormwater sewers, canals, detention structures, and retention structures.

Drainage Retention Structure. Drainage retention structure means a structure designed to collect and prevent the release of a given volume of stormwater by complete on-site storage.

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 beverage to persons 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. A restaurant which

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provides drive-in facilities of any kind shall be deemed a drive-in restaurant for the purposes of these land development regulations. A barbecue stand or pit having the characteristics noted in this definition shall be deemed a drive-in restaurant.

Dwelling Unit (D.U.). A dwelling unit is a room or rooms connected together, containing sleeping facilities and one (1) kitchen constituting a separate, independent housekeeping establishment for one (1) family, for owner occupancy or rental or lease on a weekly, monthly, or longer basis, and physically separated from other rooms or dwelling units which may be in the same structure.

Dwelling. Single Family. A single family dwelling is a building containing only one (1) dwelling unit and structurally connected to no other dwelling unit. For regulatory purposes the term is not to be construed as including mobile homes, travel trailers, housing mounted on self-propelled or drawn vehicles, tents, house boats, or other forms of temporary or portable housing.

Dwelling. Mobile Home or Mobile Home. A mobile home dwelling or mobile home is a detached one (1) family dwelling unit with all the following characteristics: (a) designed for long term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems;

(b) designed for transportation after fabrication on streets or highways on its own wheels or on a flatbed or other trailers;

(c) arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connection to utilities, and the like; and (d) structures fabricated on or after June 15, 1976 and certified to be in compliance with the federal Manufactured Home Construction Standards by the U.S. Department of Housing and Urban Development referred to as "manufactured homes" and

which are classified as Standard Design Manufactured Homes by these land development regulations, are considered mobile homes within these land development regulations. Manufactured homes which are classified as a Residential Design Manufactured Home and meet all the criteria prescribed in Article 4, Supplementary Regulations, of these land development regulations shall be considered a single family dwelling unit. A travel trailer is not to be considered a mobile home.

Dwelling, One Family. A one (1) family dwelling is one (1) building under one (1) roof containing only one (1) dwelling unit. A one (1) family dwelling may be either a single family dwelling or a mobile home dwelling.

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Dwelling, Two Family or Duplex. A two (2) family or duplex dwelling is one (1) building under one (1) roof containing only two (2) dwelling units.

Dwelling, Multiple or Multi-Family. A multiple family dwelling is one (1) building under one roof containing three (3) or more dwelling units. Housing for the aged, which does not provide for routine nursing and/or medical care, shall be construed to be a multiple family dwelling.

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 (1) building and the buildings are not so located that lots and yards conforming to requirements for single or two (2) 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 servant's quarters in connection with single family residences shall not be considered as dwelling units in the computation of (2) above.
4. Any multiple dwelling in which dwelling units are available for rental for periods of less than one (1) week shall be considered a tourist home, a motel, motor hotel, or hotel as the case may be.

Easement. An easement is any strip of land created by a sub-divider for public or private utilities, drainage, sanitation, or other specified uses having limitations, the title to which shall remain in the name of the property owner, subject to the right of use designated in the reservation of the servitude.

Elevated Building. An elevated building is a non-cellar building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls, or breakaway walls.

Elevation. Elevation means height in feet above mean sea level as established by the National Geodetic Vertical Datum (NGVD) of 1929.

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Engineer. The term engineer shall mean a Professional Engineer registered to practice engineering by the State of Florida who is in good standing with the Florida Board of Engineer Examiners.

Essential Services. See Article 14.

Extermination. Extermination shall mean the control and extermination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping; or by any other recognized and legal pest elimination methods.

Facility. A facility is a building or buildings, appurtenant structures and surrounding land area used by a single business private entity or governmental unit or sub-unit at a single location or site.

Family. A family is one (1) or more persons occupying a single dwelling unit, provided that unless all members are related by consanguinity, adoption, marriage, or foster care, no "family shall contain, over three (3) persons, 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 and not more than two (2) roomers or boarders may occupy the dwelling unit (for three (3) or more roomers or boarders, see Group Living Facility). The term family shall not be construed to mean a fraternity, sorority, club, monastery or convent, or institutional group.

Fill. Fill means any materials deposited for the purpose of raising the level of natural land surface.

Flood. Flood means the unusual and rapid accumulation or runoff of surface water of any source.

Flood Elevation of Record. Flood Elevation of Record means the maximum flood elevation for which historical records exist.

Flood Hazard Boundary Map (FHBM). The Flood Hazard Boundary Map (FHBM) is the official map of the Town, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

Flood Insurance Rate Map (FIRM). The Flood Insurance Rate Map (FIRM) is the official map of the Town, issued by the Federal Emergency Management Agency where both the areas of special flood hazard and the risk premium zones applicable to the Town have been delineated.

Flood Insurance Study. A Flood Insurance Study is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as, the Flood Boundary Floodway Map and the water surface elevation of the base flood for the Town.

Floodplain. A floodplain is an area adjacent to a watercourse inundated during a 100-year flood event and identified by the Federal Emergency Management Agency as an A Zone on Flood Insurance Rate Maps or Flood Hazard Boundary Maps.

Floodway. A floodway is 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 (1) foot.

Floor Area. Floor Area means, except as may be otherwise indicated in relation to particular districts and uses, 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 (2) buildings, excluding attic areas with a headroom of less than seven (7) feet, unenclosed stairs 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 forty-eight (48) inches above the general finished and graded level of the adjacent part of the lot.

Floridian Aquifer System. Floridian Aquifer System means the thick carbonate sequence which includes all or part of the Paleocene to early Miocene Series and functions regionally as a water-yielding hydraulic unit. Where overlaid by either the intermediate aquifer system or the intermediate confining unit, the Floridian contains water under confined conditions. Where overlaid directly by the surficial aquifer system, the Floridian may or may not contain water under confined conditions, depending on the extent of low permeability materials in the surficial aquifer system. Where the carbonate rocks crop out, the Floridian generally contains water under unconfined conditions near the top of the aquifer system, but, because of vertical variations in permeability, deeper zones may contain water under confined conditions. The Florida Aquifer is the deepest part of the active ground water flow system. The top of the aquifer system generally coincides with the absence of significant thicknesses of elastics from the section and with the top of the vertically persistent permeable carbonate section. For the most part, the top of the aquifer system coincides with the top of the Suwannee Limestone, where present, or the top of the Ocala Group. Where these are missing, the Avon Park Limestone or permeable carbonate beds of the Hawthorn Formation for the top of

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the aquifer system. The base of the aquifer system coincides with the appearance of the regionally persistent sequence of anhydride beds that lie near the top of the Cedar Keys Limestone.

Frontage of a Lot. See Lot Frontage.

Garage. Parking. A parking garage is a building or portion thereof designed or used for temporary parking of motor vehicles. **Garage. Private.** A private garage is a structure designed or used for inside private parking of private passenger vehicles 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. Storage. A storage garage is a building or portion thereof designed and used exclusively for the storage of motor vehicles, and within which temporary parking may also be permitted.

Garbage. Garbage shall mean the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Grade. The level of the finished ground surface immediately adjacent to the exterior walls of the building. **Ground Water.** Ground water shall mean water in saturated zones or stratum beneath the surface of land or water, whether or not it is flowing through known and definite channels.

Group Living Facility. A group living facility is an establishment where lodging is provided (a) for four (4) or more persons who are not a family or for three (5) or more roomers or boarders, (b) for residents rather than transients, (c) on a weekly or longer basis, and (d) in which residents may share common sleeping or kitchen facilities. The term group living facility includes dormitories, fraternities, sororities, rooming or boarding houses, convents or monasteries, orphanages, and housing for other institutional groups. For the purposes of these land development regulations, community residential homes, and one (1), two (2), or multiple family dwellings which constitute separate, individual housekeeping establishments for one (1) family shall not be considered to be group living facilities.

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Guest House or Guest Cottage. A guest house or guest cottage is a dwelling unit in a building separate from and in addition to the main residential building on a lot, intended for intermittent or temporary occupancy by a non-paying guest, provided, however, that such quarters shall have no cooking facilities, shall not be rented, and shall not have separate utility meters.

Habitable Room. A habitable room is a space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space and similar areas are not considered habitable space.

Habitable Story. Habitable story means any story used or to be used for living purposes, which includes working, sleeping, eating cooking, recreation, or a combination thereof. A story used only for storage purposes having only non-load bearing walls, e.g., breakaway lattice-work, wall, or screen, is not a "habitable story".

Hazardous Waste. Hazardous Waste means solid waste, or a combination of solid wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the -environment when improperly transported, disposed of, stored, treated or otherwise managed.

Height of a Building. See Building Height.

Highest Adjacent Grade. Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

Home Occupation. Unless otherwise provided herein, a home occupation is an occupation conducted entirely in a dwelling unit, in accordance with home occupation criteria prescribed within Article 4, Supplementary Regulations.

Hotel. Motel. Motor Hotel. Motor Lodge. Tourist Court. The words hotel, motel, motor hotel, motor lodge, and tourist court are to be considered synonymous terms and to mean a building or a group of buildings in which sleeping accommodations are offered to the public and intended primarily for rental to transients with daily charge, as distinguished from multiple family dwellings and group living facilities, where rentals are for periods of a week or longer and occupancy is generally by residents rather than transients.

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Improvements. The term improvements may include, but is not limited to, street pavements, curbs and gutters, sidewalks, alley pavements, walkway pavements, water mains, sanitary sewers, storm sewers or drains, road and street signs, landscaping, permanent reference monuments ("PRMs"), permanent control points ("PCPs"), or any other improvements required by these subdivision regulations.

Infestation. Infestation shall mean the presence within or around a dwelling, of any insects, rodents, or other pests.

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 or automobile wrecking yards 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.

Land. Land means the earth, water and air, above, below, or on the surface, and includes any improvements or structures customarily regarded as land.

Land Development Regulations. The term land development regulations shall mean regulations which address the use of land and water, subdivision of land, drainage and stormwater management, protection of environmentally sensitive areas, sign control, standards for public facilities and services, on-site traffic flow and parking and any other regulation so deemed appropriate by the Town Council.

Land Development Regulation Administrator. The Land Development Regulation Administrator is the official designated by the Town Council for the administration and enforcement of these land development regulations.

Landmark. A building or structure which has been designated as such within the Comprehensive Plan.

Landmark Site. The land on which a landmark and related buildings and structures are located and the land that provides the grounds, the premises or the setting for the landmark.

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Level of Service. Level of Service means 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 indicates- the capacity per unit of demand for each public facility.

Lien. A lien is a claim on the property of another as security against the payment of a just debt.

Loading Space. Offstreet. Offstreet 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 offstreet parking spaces are filled.

Local Planning Agency. The term Local Planning Agency means the agency designated by the Town Council, under the provisions of Chapter 163, Part II, Florida Statutes, as amended.

Local Streets. Local streets are streets whose primary function is to provide the initial access to the collector and arterial roadways. These facilities are characterized by short trips, low speeds, and small traffic volumes.

Lot. A lot is a portion of a subdivision or any parcel of land intended as a unit for building development or for transfer of ownership or both. For the purposes of these land development regulations, a lot shall be of at least sufficient size (a) to meet minimum zoning requirements for use, coverage, and area, and (b) to provide such yards and open spaces as are herein required (provided that certain non-conforming lots of record are exempted from certain of the provisions of these land development regulations (see Section 2.3).

The term "lot" includes the words "plot", "parcel", "tract", or "site" 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 these land development regulations.

Lot Area. Lot area is the total horizontal area included within lot lines.

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Lot Coverage. Lot coverage is that percentage of lot area that is covered or occupied by buildings, including accessory buildings.

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 these land development regulations.

Lot Line. The lines bounding a lot as established by ownership.

Lot Measurement. Depth. Depth of a lot shall be considered to be the distance between the midpoints of straight lines connection the foremost points on the side lot lines in front and the rearmost points of the side lot lines in the rear. For diagrams contact Lee City Hall.

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STREET

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 eighty percent (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 sixty percent of the required lot width. For diagram contact Lee City Hall.

CUL-DE-SAC STREET MINIMUM 80%
 REQUIRED WIDTH
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Lot of Record. A lot of record is (1) a lot which is part of a subdivision recorded in the office of the County Clerk, or (2) a lot or parcel described by metes and bounds, the description of which has been so

recorded on or before the effective date of the Town's Comprehensive Plan.

Lot Types. The diagram which follows illustrates terminology used in these land development regulations with reference to corner lots, interior lots, reversed frontage lots, and through lots: For diagram contact Lee City Hall.

In the diagram:

A = Corner Lot, defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one-hundred thirty-five (135) degrees. See lot marked A(1) in the diagram.

B = Interior Lot, defined as a lot other than a corner lot with only one (1) frontage on a street.

C = Through Lot, defined as a lot other than a corner lot with frontage on more than one (1) street.

Through lots abutting two streets may be referred to as double frontage lots.

D = Reversed Frontage Lot, defined as a lot on which the frontage is at right angles or approximately right angles (interior angle less than one-hundred thirty-five (135) degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot (A-D in the diagram), an interior lot (B-D), or a through lot (C-D).

Marginal Access Street. A marginal access street is a street, parallel and adjacent to an existing street, providing access to abutting lots.

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Mini-Self-Storage Building. A building or series of buildings operated as one enterprise of not fewer than thirty (30) enclosed individual spaces which are separated by permanent partitions. The largest of these spaces shall contain not more than two hundred (200) square feet of floor area; each of these individual spaces shall be accessible by a separate exterior door; and all of these spaces shall be offered for rent to the general public for storage of goods, personal property, or merchandise. These premises shall not be inhabitable, shall not contain sanitary facilities nor office partitions, and shall not be used solely for the storage of goods, personal property, or merchandise none of which shall be explosive, flammable, or illegal. Excepting a predesignated area not in excess of three hundred (300) square feet of any one by only one structure comprising the mini-self-storage building may be designated and constructed to provide office space and sanitary facilities as required by the adopted Standard Building Code for use by the owner(s) of the enterprise or their employee(s) only and only for the purpose of operating the mini-self-storage building.

Mini-Storage Facility. A mini-storage facility is a building or series .of buildings operated as one enterprise, under constant supervision during posted hours of operation, and providing individual storage compartments of not more than nine (9) square feet of floor area, which are accessible only by way of single exterior entrance to the, or each, building. These premises shall be offered to the public for rent for storage of personal goods only. These premises may contain office space not to exceed one hundred fifty (150) square feet of floor space and sanitary facilities as required by the adopted Standard Building Code for use by the owner(s) of the facility or their employee(s) only and only for the purpose of operating said mini-storage facility.

Mobile Home. See Dwelling, Mobile Home.

Mobile Home Park. A mobile home park consists of a parcel of land under single ownership or management which is operated as a business engaged in providing for the parking of mobile homes to be used for non-transient living or sleeping purposes, and where lots are offered only for rent or lease, and including customary accessory uses such as owners' and managers' living quarters, laundry facilities, and facilities for parks and recreation. (See Section 2.1 for the definition of a mobile home.)

Mobile Home Stand. A mobile home stand is a lot or parcel of ground designated for the accommodation of not more than one mobile home.

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Mobile Home Subdivision. A mobile home subdivision is a residential subdivision where lots are offered for sale for use exclusively by mobile homes. (See Section 2.1 for the definition of a mobile home.)

Motel. Motor Hotel, or Motor Lodge. See Hotel.

National Geodetic Vertical Datum (NGVD). The National Geodetic Vertical Datum, NGVD, as corrected in 1929, is a vertical control used as a reference for establishing varying elevations within the flood plain.

Natural Drainage Features. Natural drainage features means the naturally occurring features of an area which accommodates the flow of stormwater, such as streams, rivers, lakes, and wetlands.

New Construction. New construction means structures for which the "start of construction" commenced on or after the effective date of these regulations.

Newspaper of General Circulation. A newspaper of general circulation means a newspaper published at least on a weekly basis and printed in the language most commonly spoken in the area within which it circulates, but does not include a newspaper intended primarily for members of a particular professional

or occupational group, a newspaper whose primary function is to carry legal notices, or a newspaper that is given away primarily to distribute advertising.

Non-Conforming Lot. Structure, Use of Land, Use of Land and Structure. etc. See Section 2.3.

Nuisance. The following shall be defined as nuisances:

1. Any public nuisance known at common law or in equity jurisprudence.
2. Any attractive nuisance which may prove detrimental to children whether in a building, on the premises of a building, or upon an unoccupied lot. This includes any abandoned wells, shafts, basements, or excavations; abandoned refrigerators and motor vehicles; or any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation which may prove a hazard for inquisitive minors.
3. Whatever is dangerous to human life or is detrimental to health, as determined by the County health officer.

4. Overcrowding a room with occupants.

5. Insufficient ventilation or illumination.

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6. Inadequate or unsanitary sewage or plumbing facilities.

7. Uncleanliness, as determined by the County health officer.

8. Whatever renders air, food or drink unwholesome or detrimental to the health of human beings, as determined by the County health officer.

Nursery School. See Child Care Center.

Nursing Home. A nursing home is a private home, institution, building, residence, or other place, whether operated for profit or not, including those places operated by units of government, 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 lineal consanguinity 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, extended care, and custodial services. (See also, Residential Home for the Aged.)

Office. Business. A business office is an office for such operations as real estate agencies, advertising agencies (but not sign shop), insurance agencies, travel agencies and ticket sales, chamber of commerce, credit bureau (but not finance company), abstract and title agencies, insurance companies, stockbroker, employment agencies, billing office, and the like. It is characteristic of a business office that retail or wholesale goods are not shown to or delivered from the premises to a customer.

Office. Professional. A professional office is an office for the use of a person or persons generally classified as professional such as architects, engineers, attorneys, accountants, doctors, lawyers, dentists, veterinarians (but not including boarding of animals on the premises, except as part of treatment and then only

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in soundproof buildings), psychiatrists, psychologists, and the like. It is characteristic of professional offices that the use is devoted principally to an offering of consultive services.

100-Year Flood Area. 100-Year Flood Area means those areas within the scope of these land development regulations that have a land elevation less than the Official 100-Year Flood Elevations.

Official 10-Year Flood Elevations. Official 10-Year Flood Elevations means the most recent and reliable flood elevations based on a Log Pearson type III probability distribution produced by the United States Geological Survey and based on historical data.

Official 100-Year Flood Map. Official 100-Year Flood Map means the map issued by the Federal Emergency Management Agency that delineates, to the nearest section, the areas having ground elevations that are less than the Official 100-Year Flood Elevations.

Openable Area. Openable Area shall mean that part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

Open Spaces. Open spaces means undeveloped lands suitable for passive recreation or conservation uses.

Operator. Operator shall mean any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

Owner. Owner shall mean the holder of the title in fee simple and any person, group of persons, company, association or corporation in whose name tax bills on the property are submitted. It shall also mean any person who, alone or jointly or severally with others:

1. shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or

2. shall have charge, care or control of any dwelling or dwelling unit, as owner, executor, executrix, administrator, trustee, guardian of the estate of the owner, mortgagee or vendee in possessions, or assignee of rents, lessee, or other person firm, or corporation in control of a building; or their duly authorized agents. Any such person thus representing the actual owner shall be bound to comply with the provisions of these land development regulations to the same extent as if he were the owner. It is his responsibility to notify the actual owner of the reported infractions of these regulations pertaining to the property which apply to the owner.

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Package Liquor Store. A package liquor store is a place where alcoholic beverages are dispersed or sold in containers for consumption off the premises.

Parcel of Land. Parcel of Land means any quantity of land capable of being described with such definiteness that its locations and boundaries may be established, which is designated by its owner or developer as land to be used, or developed as, a unit or which has been used or developed as a unit.

Parking Space. Handicapped. A handicapped parking space is an off-street parking space which is reserved for persons who are physically disabled or handicapped.

Parking Space. Off-street. For the purposes of these land development regulations, 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 offstreet parking areas for three (3) or more automobiles shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street or walk and so that any automobile may be parked and unparked without moving another. For purposes of rough computation, an offstreet parking space and necessary access and maneuvering room may be estimated at three hundred (300) square feet, but offstreet parking requirements will be considered to be met only where actual spaces meeting the requirements above, are provided and maintained, and are improved in the manner required by these land development regulations, and in accordance with all ordinances and regulations of the Town. (See also Article 4, Offstreet Parking Requirements).

Performance Bond. See Surety Device.

Permanent Control Point (POP). A permanent control point (PCP) is a secondary horizontal control monument which shall be a metal marker with the point of reference marked thereon or a four (4) inch by four (4) inch concrete monument a minimum of twenty-four (24) inches long with the point of reference marked thereon. P.C.P.'s shall bear the registration number of the surveyor filing the plat of record.

Permanent Reference Monument (PRM). A permanent reference monument (PRM) is a metal rod a minimum of twenty-four (24) inches long or a one and one-half (1 1/2) inch minimum diameter metal pipe a minimum of twenty (20) inches long, either of which shall be encased in a solid block of concrete or set in natural bedrock, a minimum of six (6) inches in diameter, and extending a minimum of eighteen (18) inches below the top of the monument, or a concrete monument four (4) inches by four (4) inches, a minimum of twenty-four (24) inches long, with the point of reference marked

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thereon. A metal cap marker, with the point of reference marked thereon, shall bear the registration number of the surveyor certifying the plat of record, and the letters PRM shall be placed in the top of the monument.

Planning and Zoning Board. The term Planning and Zoning Board shall refer to the Planning and Zoning Board of the Town, as herein provided for within these land development regulations.

Plat. A plat is a map or drawing depicting the division of land into lots, blocks, parcels, tracts, sites, or other divisions, however the same may be designated, and other information required by these land development regulations. The word plat includes the terms replat or revised plat.

Plat. Final. A final plat is a finished drawing of a subdivision showing completely and accurately all legal and engineering information and certification necessary for recording.

Plot. See Lot.

Plumbing. Plumbing shall mean the practice, materials, and fixtures used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances, and appurtenances in connection with any of the following: Sanitary drainage or storm drainage facilities, the venting system and the public or private water-supply systems, within or adjacent to any building structure, or conveyance; also the practice and materials used in the installation, maintenance, extension, or alteration of storm-water, liquid-waste, or sewerage, and water-supply systems of any premises to their connection with any point of public disposal or other acceptable terminal.

Premises. Premises shall mean a lot, plot or parcel of land including the buildings of structures thereon.

Product tight. Product tight shall mean impervious to the hazardous material which is or could be contained so as to prevent the seepage of the hazardous material form the containment system. To be

product tight, the containment system shall be made of a material that is not subject to physical or chemical deterioration by the hazardous material being contained.

Public Areas. Public Areas means an unoccupied open space adjoining a building and on the same property, that is permanently maintained accessible to the Fire Department and free of all incumbrances that might interfere with its use by the Fire Department.

Public Buildings and Facilities. For the purposes of these land development regulations, the term public buildings and facilities means the use of land or structures by a municipal, county, state, or federal governmental entity for a public service purpose. More

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specifically, public facility means major capital improvements including but not limited to purposes of transportation, sanitary sewer, solid waste, drainage, potable water, education, parks and recreation, and health systems and facilities. For the purposes of these land development regulations, essential service shall not be considered public buildings and facilities.

Recreational Facility. Recreation facility means a component of a recreation site used by the public such as a trail, court, athletic field or swimming pool.

Recreational Uses. Recreational uses means activities within areas where recreation occurs.

Regulated materials. Regulated materials shall be the following:

1. Petroleum products, which include fuels (gasoline, diesel fuel, kerosene and mixtures of these products, lubricating oils, motor oils, hydraulic fluids and other similar products. This term does not include liquified petroleum gas, American Society for Testing and Materials grade number 5 and number 6 residual oils, bunker C residual oils, intermediate fuel oils used for marine bunkering with a viscosity of 30 and higher and asphalt oils.

2. Substances listed by the Secretary of the Florida Department of Labor and Employment Security pursuant to Chapter 442, Florida Statutes, as amended (Occupational Health and Safety). This list, known as the Florida Substances List, is provided in Chapter 38F-41, Florida Administrative Code, as amended.

3. Substances listed by the Administrator of the United States Environmental Protection Agency pursuant to Section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended. This list is provided in Title 40 (Protection of the Environment) of the Code of Federal Regulations, Part 302, Designation, Reportable Quantities and Notification, as amended.

4. Substances listed by the Administrator of the United States Environmental Protection Agency pursuant to Title III of the Superfund Amendments and Reauthorization Act of 1986, as amended. The list is provided in Title 40 of the Code of Federal Regulations, Part 355, Emergency Planning and Notification, as amended.

5. Materials listed by the Secretary of the United States Department of Transportation pursuant to the Hazardous Materials Transport Act. This list is provided in Title 49 (Transportation) of the Code of Federal Regulations, Part 172, Hazardous Materials Tables and Communications Regulations, as amended.

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6. The following elemental metals, if they are stored in a easily crumbled, powdered, or finely divided state: aluminum, beryllium, cadmium, chromium, copper, lead, manganese, mercury, molybdenum, nickel, rhodium, silver, tellurium, tin and zinc.

7. Mixtures containing the above materials if they contain one per cent (1%) or more by volume or if they are wastes.

8. Any material not included above which may present similar or more severe risks to human health or the environment as determined by the Land Development Regulation Administrator. Such determinations must be based upon competent testing or other objective means with conclusions which indicate that the material may pose a significant potential or actual hazard.

Repair. Repair means the replacement of existing work with the same kind of material used in the existing work, not including additional work that would change the structural safety of the building, or that would affect or change required existing facilities, a vital element of an elevator, plumbing/ gas piping, wiring or heating installations, or that would be in violation of a provisions of law or ordinance. The term repair or repairs shall not apply to any change of construction.

Residential Buildings. Residential Buildings means buildings in which families or households live or in which sleeping accommodations are provided and all dormitories, shall be classified as residential occupancy. Such buildings include, among others, the following: dwellings, multiple dwellings and rooming houses (see also dwelling unit Section 2.1).

Residential Home for the Aged. A residential home for the aged is a health care facility containing characteristics of multiple family housing, providing a maximum in independent living conditions for

individuals or couples and a minimum of custodial services which would include daily observation of the individual residents by designated staff personnel. As accessory uses, residential homes for the aged may include dining rooms and infirmary facilities for intermediate or skilled nursing care solely for the use of the occupants residing in the principal facility.

Restaurant. A restaurant is an establishment where meals or prepared food, including beverages and confections, are served to customers for consumption on or off the premises. The term restaurant includes cafes, coffee shops, donut shops, delicatessens, cafeterias, and other establishments of a similar nature.

Retention. Retention means the collection and storage of runoff without subsequent discharge to surface waters.

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Right-of-Way. Right-of-way is land dedicated, deeded, used, or to be used for a street, alley, pedestrian way, crosswalk, bikeway, drainage facility, or other public uses, wherein the owner gives up his or her rights to the property so long as it is being or will be used for the dedicated purpose. Right-of-way also is a land measurement term, meaning the distance between lot property lines which generally contains not only the street pavement, but also the sidewalk, grass area, and underground or aboveground utilities.

Roadway Functional Classification. Roadway functional classification means the assignment of roads (streets) into categories according to the character of service they provide in relation to the total road network. Basic functional categories include limited access facilities, arterial roads, and collector roads, which may be subcategorized into principal, major or minor levels. Those levels may be further grouped into urban and rural categories.

Rooming House. Rooming House means any dwelling, or that part of any dwelling containing one (1) or more rooming units, in which space is let by the owner or operator to three (3) or more persons which are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator.

Rooming Unit. Rooming unit means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

Rubbish. Rubbish shall mean combustible and non-combustible waste materials, except garbage; and the term shall include the residue from the burning of wood, coal, coke, or other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber leather, tree branches, yard trimmings, tin cans, metal, mineral matter, glass crockery, and dust.

Sanitary Sewer Facilities. Sanitary sewer facilities means structures or systems designed for the collection, transmission, treatment, or disposal of sewage and includes trunk mains, interceptors, treatment plants, and disposal systems.

Sediment. Sediment means suspended or filtered out material resulting from the act of sedimentation.

Sedimentation. Sedimentation is mineral or organic particulates being transported in water or air from the site of its origin.

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Servants' Quarters. Servants' quarters are accommodations, without cooking facilities or separate utility meters, for domestic servants employed on the premises. Such units may be in either a principal or an accessory building but no such living quarters shall be rented, leased, or otherwise be made available for compensation of any kind except in the form of housing for servants.

Service Station. See Automotive Service Station. **Sidewalk.** A sidewalk is that portion of the street right-of-way outside the roadway, which is improved for the use of pedestrian or bike traffic.

Sign. A sign is any device designed to inform or attract the attention of persons not on the premises on which the sign is located. Unless otherwise specified, a sign may have one (1) or two (2) faces. (See Article 4 for general regulations governing signs.)

Sign, Animated. An animated sign is a sign with externally moving parts or messages, or so operating as to give a viewer the illusion of moving parts or messages.

Sign, Attached. An attached sign is a sign painted on the exterior face of a building or attached to a building. Attached signs include canopy signs, marquee signs, wall signs, roof signs, and projecting or hanging signs supported or attached to a canopy, awning, marquee, or building.

Sign, Flashing. A flashing sign is a sign designed to attract attention by the inclusion of a flashing, changing, revolving, or flickering light source or a change of light intensity.

Sign, Freestanding. A freestanding sign is a sign which is not attached to a building. Freestanding signs include ground signs, pole signs, and portable signs.

Sign, Identification. An identification sign is a sign which depicts the name and/or address of a building or establishment on the premises where the sign is located as a means of identifying said building or establishment. An identification sign shall not contain promotional or sales material.

Sign, Non-Flashing. A non-flashing sign is a sign which does not have a flashing, changing, revolving, or

flickering light source or which does not change light intensity.

Sign. Off-Site. An off-site sign is a sign other than an on-site sign.

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Sign. On-Site. An on-site sign is a sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

Sign. Surface Area. The surface area of a sign shall be computed as including the entire area within the periphery of a regular geometric form, or combinations of regular geometric forms, comprising all of the display area of the sign, and including all of the elements of the matter displayed, but not including blank masking, frames, or structural elements of the sign and bearing no advertising matter. In the case of double face signs, each sign face shall be measured as surface area and the combined surface area of both faces shall not exceed the maximum permitted for the building or use.

Site. See Lot.

Soil Survey. The term soil survey shall mean the United States Department of Agriculture, Soil Conservation Service Soil Survey for Madison County, Florida, or data therein.

Solid waste. Solid waste means sludge from a waste treatment works, water supply treatment plant, or air pollution control facility or garbage, rubbish, refuse, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

Solid waste Facilities. Solid waste facilities means structures or systems designed for the collection, processing or disposal of solid wastes, including hazardous wastes, and includes transfer stations, processing plants, recycling plants, and disposal systems.

Solid waste Processing Plant. Solid waste processing plant means a facility for incineration, resource recovery, or recycling of solid waste prior to its final disposal.

Solid waste Transfer Station. Solid waste transfer station means a facility for temporary collection of solid waste prior to transport to a processing plant or to final disposal.

Special Exception. A special exception is a use that would not be appropriate generally or without restriction throughout a zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or the general

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welfare. Such uses may be permissible in a zoning district as a special exception if specific provision for such a special exception is made in these land development regulations. (For the procedure in securing special exceptions, see Article 12).

Stairway. Stairway means one (1) or more flights of stairs and the necessary landings and platforms connecting them, to form a continuous and uninterrupted passage from one (1) story to another in a building or structure.

Start of Construction. Start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within one-hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Stormwater. Stormwater means the flow of water which results from and that occurs immediately following a rainfall.

Stormwater Management System. The stormwater management system, or combination of systems, designed to treat Stormwater, or collect, convey, channel, hold, inhibit, or divert the movement of Stormwater on, through and from a site.

Stormwater Runoff. Stormwater Runoff means that portion of the Stormwater that flows from the land surface of a site either naturally, in manmade ditches, or in a closed conduit system.

Story. A story is that portion of a building included between the surface of any floor and the surface of the next floor above it (including basement), or if there be no floor above it, then the space between such floor and the ceiling next above it. (see habitable story Section 2.1).

Street. A street is a public or private roadway which affords the principal means of access to abutting property. The term street includes lanes, ways, places, drives, boulevards, roads, avenues, or other

means of ingress or egress regardless of the descriptive term used.

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Street Line. The street line is the line between the street and abutting property. A street line is also referred to as the right-of-way line.

Structure. See General. Section 2.1.

Subdivider. The term subdivider refers to any person, firm, corporation, partnership, association, estate, or trust or any other group or combination acting as a unit, dividing or proposing to divide land so as to constitute a subdivision as herein defined, including a developer or an agent of a developer.

Subdivision. Subdivision is the division of a parcel of land, whether improved or unimproved, into three (3) or more lots or parcels of land, for the purpose whether immediate or future, of transfer of ownership, whether by deed, metes and bounds description, devise, lease, map, plat or other recorded instrument or if the establishment of a new street is involved, any division of such parcel. The term shall not mean the division of land into parcels of more than ten (10) acres not involving any change in street lines; the transfer of property by sale or gift or testate succession by the property owner to his or her spouse or lineal descendants; or the transfer of property between tenants in common for the purpose of dissolving the tenancy in common among those tenants. The term includes a resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land subdivided.

Subdivision. Major. A major subdivision is any subdivision not classified as a minor subdivision, including but not limited to subdivisions of four (4) or more lots, or any size subdivision requiring any new street or extension of the local governmental facilities, or the creation of any public improvements, except where otherwise specifically exempted from the requirements of these land development regulations.

Subdivision. Minor. A minor subdivision is any subdivision containing not more than three (3) lots fronting on an existing street, not involving any new street or road, or the extension of local governmental facilities or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjacent property, and not in conflict with any provision or portion of the Comprehensive Plan or these land development regulations.

Substantial Improvement. Substantial Improvement means for a structure built prior to the enactment of these land development regulations any repair, reconstruction, or improvement of a structure the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the improvement or repair is started. For the purposes of this definition, "substantial improvement" is considered to occur when the first

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alteration on any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not include:

1. any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
2. any alteration of a structure listed on the National Register of Historic Places.

Supplied. Supplied means paid for, furnished, or provided by or under control of, the owner or operator.

Surety Device. A surety device is an agreement by a subdivider with the Town Council for the amount of the estimated construction cost guaranteeing the completion of physical improvements according to plans and specifications within the time prescribed by the agreement.

Surface Water. Surface Water means water above the surface of the ground whether or not flowing through definite channels, including the following:

1. Any natural or artificial pond, lake, reservoir, or other area which ordinarily or intermittently contains water and which has a discernible shoreline; or
2. Any natural or artificial stream, river, creek, channel, ditch, canal, conduit culvert, drain, waterway, gully, ravine, street, roadway, swale or wash in which water flows in a definite direction, either continuously or intermittently and which has a definite channel, bed or banks; or
3. Any wetland.

Surficial Aquifer System. Surficial Aquifer System means the permeable hydro geologic unit contiguous with land surface that is comprised principally of unconsolidated to poorly indurate clastic deposits. It also includes well-indurated carbonate rocks, other than those of the Floridian Aquifer System where the Floridian is at or near land surface. Rocks making up the surficial aquifer system belong to all or part of the upper Miocene to Holocene Series. It contains the water table and water within it is under mainly unconfined or locally confined conditions to prevail in its deeper parts. The lower limit of the surficial aquifer system coincides with the top of laterally

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extensive and vertically persistent beds of much lower permeability. Within the surficial aquifer system, one (1) or more aquifers may be designated base on lateral or vertical variations on water bearing

properties.

Surveyor. Land. The term land surveyor shall mean a Land Surveyor registered under Chapter 472, Florida Statutes, as amended, who is in good standing with the Florida State Board of Engineer Examiners and Land Surveyors.

To Plat. The phrase to plat means to divide or subdivide land into lots, blocks, parcels, tracts, sites, or other divisions, however the same may be designated, and the recording of the plat in the office of the County Clerk in the manner provided for in these land development regulations.

Travel Trailer. A travel trailer is a vehicular, portable structure built on a chassis, designed to be a temporary dwelling for travel, recreational, and vacation purposes, which: (a) is identified on the unit by the manufacturer as a travel trailer; (b) is not more than eight (8) feet in body width; and (c) is of any weight provided its body length does not exceed thirty-five (35) feet.

Truck Stop. A truck stop is an establishment where the principal use is primarily the refueling and servicing of trucks and tractor-trailer rigs. Such establishments may have restaurants or snack bars and sleeping accommodations for the drivers of such over-the-road equipment and may provide facilities for the repair and maintenance of such equipment.

Unsafe Building. An unsafe building is a building or structure that has any of the following conditions, such that the life, health, property, or safety of the general public is endangered:

1. Whenever the stress in any material, member or portion thereof, due to all imposed loads including dead load exceeds the working stresses allowed in the Town Building Code for new buildings.
2. Whenever a building, structure or portion thereof has been damaged by fire, flood, earthquake, wind or other cause to the extent that the structural integrity of the buildings or structures is less than it was prior to the damage and is less than the minimum requirement established by the Town Building Code for new buildings.
3. Whenever for any reason a building, structure or portion thereof is manifestly unsafe or unsanitary for the purpose for which it is designed.

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4. Whenever any building, structure or portion thereof as a result of decay, deterioration or dilapidation is likely to fully or partially collapse.
5. Whenever any building, structure or portion thereof has been constructed or maintained in violation of a specific requirement of Town regulations.
6. Whenever any building, structure or portion thereof is unsafe, unsanitary or not provided with adequate egress, or which constitutes a fire hazard, or is otherwise dangerous to human life, or, which in relation to existing use, constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment.

Use. Use means the purpose for which land or water or a structure thereon is designed, arranged, or intended to be occupied or utilized or for which it is occupied or maintained. The use of land or water in the various zoning districts is governed by these land development regulations.

Use of Land. The term use of land includes use of land, water surface, and land under water to the extent covered by these land development regulations, and over which the Town Council have jurisdiction.

Utilities. The term utilities includes but is not necessarily limited to water systems, electrical power, sanitary sewer systems, storm water management systems, and telephone or television cable systems; or portions, elements, or components thereof.

Valuation or Value. As applied to a building, valuation or value means the estimated cost to replace the building in kind.

Variance. A variance is a relaxation of the terms of these land development regulations 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 these land development regulations would result in unnecessary and undue hardship on the land. Establishment or expansion of a use otherwise prohibited or not permitted shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning classification or district or adjoining zoning classifications or districts. (For the procedure in securing variances, see Article 12).

Ventilation. Ventilation means the process of supplying and removing air by natural or mechanical means to or from any space.

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Watercourse. Watercourse means 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, bank, or other discernible boundary.

Water Veils. Water wells means wells excavated, drilled, dug, or driven for the supply of industrial,

agricultural, or potable water for general public consumption.

Well. Well means any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when intended use of such excavation is to conduct ground water from an aquifer or aquifer system to the surface by pumping or natural flow, to conduct waters or other liquids from the surface into any area beneath the surface of land or water by pumping or natural flow, or to monitor the characteristics of ground water within an aquifer system(s). For the purposes of these land development regulations, geotechnical borings greater than twenty (20) feet in depth shall be included in the definition of "well".

Wellfield Protection Area. Wellfield Protection Area is an area of three-hundred (300) feet around wellheads with a permitted capacity of one-hundred thousand (100,000) gallons per day or more (see Section 6.2).

Wetlands. Wetlands means land that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient of support, and that under normal circumstances do or would support, a prevalence of vegetation typically adapted for life in saturated soil conditions. The term includes, but is not limited to, swamp hammocks, hardwood swamps, riverine cypress stands, cypress ponds, bay heads and bogs, wet prairies, freshwater marshes, tidal flats, salt marshes and marine meadows.

Yard. A yard is a required open space unoccupied and unobstructed from the ground upward, provided however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard, subject to height limitations and requirements limiting obstruction of visibility.

For explanation of how to measure the various types of yards, on rectangular and non-rectangular lots, as defined in the following definitions, see accompanying diagrams.

Yard, Front. A front yard is a yard extending between side lot lines across the front of a lot adjoining a public street. In the case of through lots, unless the prevailing front yard pattern on 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 Land Development Regulation 2-35

Administrator 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 and reverse frontage lots, a front yard of the required depth shall be provided on both frontages.

Yard Front, Depth Required Yard Front, Depth Required shall be measured at right angles to a straight line joining the foremost points of the side lot lines. 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.

Yard, Side. A side yard is a yard extending from the 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.

Yard, Side; Depth Required Yard, Side; Depth Required 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, 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.

Yard Rear; Depth Required Yard, Rear; Depth Required 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, Special. A special yard is a yard behind any required yard adjacent to a 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 Land Development Regulation Administrator 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 area thereon.

Yard, Waterfront. A waterfront yard is a yard measured from and parallel to the mean high water mark of the lake, stream, or other watercourse on which the lot is located.

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SECTION 2.2 LOTS DIVIDED BY DISTRICT LINES

2.2.1 Whenever a single lot is located within two (2) or more different zoning districts, each portion of

that lot shall be subject to all the regulations applicable to the district in which it is located.

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YARDS ON NON-RECTANGULAR LOTS

FRONT
SIDE
REAR
WATERFRONT
SPECIAL
 LOT LINES
YARD MEASUREMENT LINES

YARDS ON RECTANGULAR LOTS

LAKE

WATERFRONT

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SECTION 2.3. NON-CONFORMING LOTS. NON-CONFORMING USES OF LAND. NON-CONFORMING STRUCTURES. NON-CONFORMING CHARACTERISTICS OF USE. NON-CONFORMING USE OF STRUCTURES AND PREMISES. Within the districts established by these land development regulations or amendments that may later be adopted, there may exist (1) lots, (2) uses of land, (3) structures, (4) characteristics of use, and (5) use of structures and premises which were lawful before these land development regulations were adopted or amended, but which would be prohibited, regulated, or restricted under the terms of these land development regulations or future amendments. It is the intent of these land development regulations to permit these non-conformities to continue until they are voluntarily removed or removed as required by these land development regulations, but not to encourage their survival. It is further the intent of these land development regulations that non-conforming uses of land or structures may be continued where the lawful use of land existed prior to adoption of the Town's Comprehensive Plan. Such non-conforming uses may be continued, so long as it remains otherwise lawful, subject to its discontinuance after it ceases to exist for a period of more than twelve (12) months.

A non-conforming use of land shall not be extended or enlarged after the effective date of the Town's adopted Comprehensive Plan. A non-conforming structure may be continued where a structure lawfully existed prior to adoption of the Town's Comprehensive Plan where such structure would not be permitted to be built under the Town's Comprehensive Plan by reason of restrictions on requirements other than the use concerning the structure. Such structure may be continued so long as it remains otherwise lawful, subject to a fifty (50%) percent enlargement or alteration limitation.

To avoid undue hardship, nothing in these land development regulations shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of the Town's adopted Comprehensive Plan 2011 and upon which actual building construction has been carried on diligently (see Section 2.1 for definition of actual construction). 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 diligently.

2.3.1 Non-conforming lots of record. In a district in which one (1) family dwellings are permitted, a one (1) family dwelling and customary accessory buildings may be erected, expanded, or altered on any single lot of record at the effective date of the Town's adopted Comprehensive Plan, whether located within a subdivision or without, but only to the extent of one single family residence per lot. However, such lots shall not be contiguous with the same frontage as of the effective date of

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the Town's adopted Comprehensive Plan, to other lot(s) owned by or under contract for deed to the persons(s) applying for the single family residence building permit.

2.3.2 Non-Conforming Uses of Land. Where, at the effective date of the Town's adopted Comprehensive Plan 2011, lawful use of land exists which would not be permitted by these land development regulations, such use may be continued, so long as it remains otherwise lawful, subject to:

1. Enlargement, increase, intensification, alteration. No such non-conforming uses shall be enlarged, increased, intensified, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of these land development regulations.
2. Movement. No non-conforming 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 of adoption or amendment of these land development regulations.
3. Discontinuance. If a non-conforming use ceases for any reason (except when governmental action impedes access to the premises) for a period of more than twelve (12) consecutive months, any subsequent use of such land shall conform with the regulations specified by these land development regulations for the district in which such land is located.
4. Structure additions. No structures shall be added on such land, except for the purposes and in a manner conforming with the regulations for the district in which such land is located.

2.3.3 Non-Conforming Structures. Where a structure exists lawfully under these land development regulations at the effective date of their adoption or amendment that could not be built under these land development regulations by reason of restrictions on area, lot coverage,

height, yards, location on the lot, or requirements other than use concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to:

- 1. Enlargement or alteration. No such non-conforming structure may be enlarged or altered other than fifty (50%) percent in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity; 2-40

- 2. Destruction. Should such non-conforming structure or non-conforming portion of structure be destroyed by any means to an extent of more than seventy percent (70%) of its replacement value at time of destruction, it shall not be reconstructed except in conformity with these land development regulations.

- 3. Movement. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform with the regulations for the district in which it is located after it is moved.

- 2.3.4 Non-Conforming Characteristics of Use. If characteristics of use such as residential densities, signs, off-street parking or loading, or other matters pertaining to the use of land, structures, and premises are made non-conforming by these land development regulations as adopted or amended, no change shall thereafter be made in such characteristics of use which increases non-conformity with these land development regulations; provided, however, that changes may be made which do not increase, or which decrease, such non-conformity.

- 2.3.5 Non-Conforming Use of Structures and Premises. Where a lawful use of a structure, or of a structure and premises in combination, exists at the effective date of the Town's adopted Comprehensive Plan 2011 that would not be allowed in the district under the terms of these land development regulations, the lawful use may be continued so long as it remains otherwise lawful, subject to:

- 1. Enlargement, extension, alteration, etc. No existing structure devoted to a use not permitted by these land development regulations in the district in which such use is located shall be enlarged or altered by more than fifty (50%) percent, extended, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

- 2. Extension of use. A non-conforming use may be extended into any part of a building which was manifestly arranged or designed for such use at the effective date of adoption or amendment of these land development regulations. A non-conforming use which occupied a portion of a building not originally designed or intended for such use shall not be extended to any other part of the building. No non-conforming use shall be extended to occupy land outside the building or another building or structure on the same lot or parcel not used for such non-conforming use at the effective date of adoption or amendment of these land development regulations.

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- 3. Change in tenancy or ownership. A change in tenancy, ownership, or management of a non-conforming use does not affect the status of the non-conformity provided there is no change in the nature or character of such non-conforming use.

- 3. Change in use. A non-conforming use of a structure, or of a structure and premises in combination, may be changed to another non-conforming use of the same character, or to a more restricted but non-conforming use, provided the Board of Adjustment finds after due public notice and hearing that the proposed use is equally or more appropriate to the district than the existing non-conforming 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 non-conforming use is continued. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the intent and purpose of these land development regulations.

- 4. Change to conforming use requires future conformity with district regulations. A structure, or structure and premises in combination, in or on which a non-conforming use is superseded by a permitted use shall thereafter conform with the regulations of the district in which such structure is located, and the non-conforming use shall not thereafter be resumed nor shall another non-conforming use be permitted.

- 5. Discontinuance. If a non-conforming use of a structure, or structure and premises in combination, ceases for any reason (except where governmental action impedes access to the premises) for a period of more than twelve (12) consecutive months, any subsequent use shall conform with the regulations for the district in which the use is located.

- 6. Structure additions. Additions to a non-conforming structure, as long as it remains otherwise lawful, are subject to a fifty (50%) percent enlargement or alteration limitation.

- 6. Destruction. Should a structure containing a non-conforming use be destroyed by any means to the

extent of more than seventy percent (70/6) of its replacement value at the time of destruction, its status as a non-conforming use is terminated, and it shall not be reconstructed except in conformity with all provisions of these land development regulations.

2.3.6 Casual, Temporary, or Illegal Use. The casual, temporary, or illegal use of land or structures, or land and structures in combination, shall not be sufficient to establish the existence of a non-conforming use or to create rights in the continuance of such use. 2-42

2.3.7 Uses Under Special Exception Provisions not Non-Conforming Uses. A use permitted as a special exception in a district under the terms of these land development regulations shall not be deemed a non-conforming use in such district but shall, without further action be deemed a conforming use in such district. However an enlargement or expansion of such use shall be subject to procedures for securing special exceptions (see Article 12).

SECTION 2.4 VESTED RIGHTS. Certain land development rights of property owners may be vested with respect to the Town's Comprehensive Plan and these land development regulations adopted to implement the Comprehensive Plan. For instance, development specifically approved in a Development of Regional Impact development order is vested in accordance with Section 163.3167(8), Florida Statutes (1987), and is exempt from the provisions of this section. This section sets forth the procedure for determining those vested rights. A person claiming vested rights to develop property may make application for a Vested Rights Certificate pursuant to this section, notwithstanding the preceding sections.

2.4.1 Determination of vested rights.

2.4.1.1 An application for a Vested Rights Certificate may be approved and a Vested Rights Certificate issued if an applicant demonstrates rights that are vested under the standards of this section, subject to the limitation set forth in this section and subject to compliance with such laws and regulations against which the development is not vested. Possession of a vested Rights Certificate enables a permittee to complete the development approved under such certificate up to and through issuance of appropriate certificates of occupancy.

2.4.1.2 An application for a Vested Rights Certificate may be filed within one (1) year of the adoption of these land development regulations for the subject property. Except as provided in the section, below, failure to file an application within the required period constitutes an abandonment of any claim to vested rights. Judicial relief is not available until administrative remedies set forth in the section are exhausted.

2.4.1.3 If a property owner is absent from the State of

Florida during the entire filing period and does not have an agent present in the state during such period, such property owner may, with documentation sufficient to indicate a probable lack of notice, be granted leave by the Town Council to file an application within one (1) year after the individual's return to the state of Florida.

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2.4.1.4 Notwithstanding the provisions of this section, the Town Council may, in extraordinary circumstances, allow a property owner to submit an application after the one (1) year deadline where such extension avoids undue hardship to the property owner.

2.4.2 Standards for Vested Rights.

2.4.2.1 An application for vested rights determination shall be approved if the applicant demonstrated:

1. The applicant:

a. owned the property proposed for development on September 3, 1991, the effective date of the Town's Comprehensive Plan;

b. entered into a contract or option to purchase the property on or before such date; or

c. presents facts such that it would be inequitable, unjust or fundamentally unfair to deny an application for vested rights where the applicant acquired ownership after such date; and

2. There was a valid, unexpired act of an agency or authority of government upon which the applicant reasonably relied in good faith; and

3. The applicant, in reliance upon the valid unexpired act of government, made a change in position or incurred extensive obligations or expenses; and

4. It would be inequitable, unjust or fundamentally unfair to destroy the rights acquired by the applicant.

In making this determination, the Town may consider a number of factors including, but not limited to:

a. whether construction or other development activity has commenced and is continuing in good faith.

b. whether or not the expense or obligation incurred can be substantially used for a development permitted by the Town's Comprehensive Plan and these land development regulations. 2-44

2.4.2.2 The following are not considered development

expenditures or obligations in and of themselves without more evidence of actions in reliance unless the

applicant was unable to obtain further approvals because of extraordinary delays, beyond the applicants control:

1. Costs for legal and other professional services that are not related to the design or construction of improvements.
2. Taxes.
3. Costs for acquisition of the land.

2.4.3 Presumptive Vesting. Notwithstanding the criteria set forth in this section, presumptive vesting for consistency and concurrency is applied to any structure on which construction has been completed pursuant to a valid building permit such presumptive vesting for the purposes of consistency and concurrency means there is no requirement to file an application to preserve vested rights. status .

1. Presumptive vesting for density only - the following categories of properties are presumptively vested for purpose of density only and shall not be required to file an application to preserve vested rights in this regard:

a. lots of record as of the adoption of the Town's

Comprehensive Plan, whether located within a subdivision or without, but only to the extent of one single family residence per lot; however, such lots shall not be contiguous on the same frontage as of the adoption of the Town's Comprehensive Plan to any other lot(s) owned by or under contract for deed to the person(s) applying for the single family residence building permit; and

b. contiguous lots of record as of the adoption of the Town's Comprehensive Plan, whether located within a subdivision or without, where such lots are treated as one lot for one single family residence.

2.4.4 Section 380.06 Vested Rights. Developments of regional impact authorized under Chapter 380.06, Florida Statutes (1987), pursuant to a valid, unexpired Binding Letter of Vested Rights issued by the state land planning agency, including approved modifications to such Binding Letter of Vested Rights (the "Binding Letter"), shall automatically qualify for a Vested Rights Certificate to be issued upon completion of the procedure set forth in this paragraph. Such permit shall recognize the vesting of the development as set forth in the Binding Letter for purposes of the Comprehensive Plan, from these land development

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regulations adopted to implement the Comprehensive Plan and from Concurrency. In lieu of subsection 2.4.7, below, such vesting shall continue until development approved in the Binding Letter is complete or until the expiration or invalidation of the Binding Letter, whichever occurs first. Notwithstanding subsection 2.4.7, a proposed change to a development vested hereunder shall be reviewed pursuant to the substantial deviation or change criteria provided for in Chapter 380.06, Florida Statutes (1987). A substantial deviation after September 3, 1991 shall cause those development rights that are the subject of such deviation to become subject to the Comprehensive Plan, these land development regulations and Concurrency requirements. The request for issuance of the Vested Rights Certificate shall consist of the Binding Letter along with a master plan of development or similar document previously approved by the Town Council and submitted to the Land Development Regulation Administrator for verification of authenticity. The Land Development Regulation Administrator may require additional documents or materials necessary for the Town to determine the extent of development vested and to estimate the capital improvements required by the development.

Submission of the Binding Letter along with the appropriate master plan or similar document and additional materials required by the Land Development Regulation Administrator shall entitle the applicant to a Vested Rights Certificate which shall be issued by the Town Council upon receipt of verification of authenticity by the Land Development Regulation Administrator. Development of Regional Impact development is vested under Section 380.06 and for which a Binding Letter has not been issued shall qualify for a Vested Rights Certificate in accordance with the procedures set forth in these land development regulations, upon establishment, that prior to July 1, 1973, the Town issued a building permit or other authorization to commence development and that in reliance on such permit or other authorization there has been a change of position as required under the provisions of Section 380.06(20) Vested Rights; provided however, in lieu of the limitation set forth in subsection 2.4.7, such vesting shall continue until such development is complete or until the state land planning agency determines that such development is not entitled to be vested under Section 380.06, whichever occurs first.

2.4.5 Statutory Vesting. The right to develop or continue the development of property shall exist if: (1) a valid and unexpired final development order was issued by the Town prior to adoption of this Comprehensive Plan, (2) substantial development has occurred on a significant portion of the development authorized in the final development order or is completed or (3) development is continuing in good faith as of the adoption of this Comprehensive Plan. A "final development order" is a development order which approved the development of land for a particular use of uses at a specified

density of use and which allowed development activity to commence on the land for which the development order was issued. "Substantial development" means all

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required permits necessary to commence and continue the development have been obtained; permitted clearing and grading has commenced on a significant portion of the development; and the actual construction of roads and the stormwater management system on that portion of the development is complete or is progressing in a manner that significantly moves the entire development toward completion.

2.4.6 Common Law Vesting. A right to develop or continue the development of property notwithstanding this Comprehensive Plan may be found to exist if the applicant proves by a preponderance of evidence that the owner or developer, acting in good faith and reasonable reliance upon some act or omission of the Town, has made a substantial change in position or has incurred such extensive obligations and expenses that it would be highly inequitable and unjust to destroy the right to develop or to continue the development of the property.

2.4.7 Limitation on Determination of Vested Rights:

2.4.7.1 Development subject to a Vested Rights Certificate

shall be consistent with the terms of the development approval(s) upon which the Certificate was based. Substantial deviation from a prior approval, except as required by governmental action, shall cause the development to be subject to policies and implementing decisions and regulations of the Town's Comprehensive Plan. The Town Council shall determine if a proposed or actual deviation change is a substantial deviation based upon:

1. A change in use or intensity of use that would

increase the development's impacts on those public facilities subject to Concurrency by more than five (5) percent.

2. A change in access to the project that would

increase the development's transportation impacts by more than five (5) percent on any road subject to Concurrency unless the access change would result in an overall improvement to the transportation network.

2.4.7.2 A Vested Rights Certificate applies to the land and is therefore transferable from owner to owner of the land subject to the Permit.

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2.4.7.3 Notwithstanding anything in this section to the

contrary, a vested rights determination may be revoked upon a showing by the Town of a peril to public health, safety or general welfare of the residents of the Town unknown at the time of approval.

2.4.8 Vested Rights Applications. Applications for a determination of vested rights shall be submitted to the Land Development Regulation Administrator on forms provided by the Town. The Town shall review the application for sufficiency and an insufficient application shall be returned to the applicant for additional information. Upon acceptance by the Town, the application shall be assigned a hearing date. The Town establishes the schedule of hearing dates and an application deadline for each hearing.

2.4.9 Application Forms. The application for determination of vested rights shall contain information sufficient to permit a determination by the Town pursuant to the criteria set forth in this section.

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