

APPENDIX A

ZONING*

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***Editor's note**—Printed herein is the town zoning ordinance, as adopted by Ord. No. 233, enacted March 15, 1990. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citation to state statutes, and expression of numbers in text has been used to conform to the Code of Ordinances. Additions made for clarity are indicated by brackets.

Cross references—Applications for permits generally, § 2-1; alcoholic beverages, ch. 3; buildings and building regulations, ch. 6; fire prevention and protection, ch. 10; flood damage prevention, ch. 11; mobile homes and mobile home parks, ch. 12; planning, ch. 15; streets and sidewalks, ch. 17.

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ARTICLE I. TITLE, PURPOSE, AND JURISDICTION

Section 1000. Short title.

This ordinance shall be known as and may be referred to as the "Town of Havana Zoning Ordinance."

Section 1001. Legislative intent.

In enacting this zoning ordinance, special notice has been taken of the fact that the goals of citizens and landowners of the Town of Havana often conflict or compete. In the light of this situation, the first consideration has been to devise technical solutions which minimize or eliminate conflicts. This ordinance has been designed to protect and accommodate both competing interests. This has inevitably, and properly, led to some form of compromise. In arriving at these compromises, every possible consideration has been given to the public interest, individual property rights, and externalities. While compromise implies mutual concessions or losses, it also implies, and this ordinance has been designed to provide, mutual gains and benefits. It is the goal of this ordinance that both the burdens and the benefits which it, like any scheme of public regulation, implies be rationally and fairly distributed among the citizens and property owners of the Town of Havana.

Commentary: All zoning cases pit either a landowner and the public interest or two landowners against each other. There is substantial judicial precedent for the proposition that it is the legislature's role to determine the best path for land use to follow; in this instance, the Town of Havana has devoted a substantial effort to finding equitable solutions to conflicts. Every effort has been made to make uses a matter of right subject to performance criteria capable of nondiscretionary, objective administrative evaluation, thus reducing the number of times that ad hoc decisions need be made. This greatly increases the potential uses or choices available to individual property owners. The ad hoc decisions appear to reduce the certainty of protection to neighbors and to increase the potential for adverse impacts to the Town of Havana. This ordinance contains performance criteria intended to ensure that neighbors are protected from adverse impacts. The ordinance also contains performance criteria to protect the community's general welfare. Zoning districts are few in number, and each has a clearly different purpose. Distinctions between districts are significant and based on the Town of Havana's comprehensive plan. The districts are sized to be adequate to handle the town's longterm needs and must be regularly updated as time passes. Where performance criteria severely limit the use of properties, the ordinance has gone to considerable extremes to provide the landowners with a range of choices, flexibility, and options for development.

Section 1002. Commentary.

Throughout this ordinance subsections prefaced "Commentary" are included. Each commentary is included and intended as an official statement of legislative finding or purpose. Whenever a section or subsection of this ordinance is deemed to require clarification, explanation of its intent, or further elaboration, that section is followed by a commentary. The commentaries have been legislatively adopted together with the more formal text of the

ordinance. They are intended as a guide to the administration and interpretation of the ordinance, and shall be treated in the same manner as other aspects of legislative history.

Section 1003. Purpose.

The purpose of this ordinance is implementation of the Town of Havana comprehensive plan and the promotion of the health, safety, and general welfare of the present and future inhabitants of the Town of Havana by:

- A. Giving effect to policies and proposals of the Town of Havana comprehensive plan.
- B. Dividing the incorporated area of the Town of Havana into districts according to the use of land and buildings, the intensity of such use (including bulk and height), and surrounding open space.
- C. Regulating and restricting the location and use of buildings, structures, and land for trade, industry, residences, and other uses.
- D. Providing standards for all types of dwelling units so that all the people may have access to decent, sound, and sanitary housing in accordance with the goals of the Federal Housing Act of 1949, among which is the provision of adequate zoning to meet a fair share of the region's housing needs.
- E. Lessening the danger and congestion of traffic on the roads and highways, limiting excessive numbers of intersections, driveways, and other friction points, minimizing other hazards, and ensuring the continued usefulness of all elements of the existing highway system for their planned function.
- F. Securing safety from fire, panic, flood, and other dangers.
- G. Providing adequate privacy, light, and air.
- H. Protecting the tax base by facilitating cost-effective development within the Town of Havana.
- I. Securing economy in local government expenditures.
- J. Conserving the values of property throughout the Town of Havana.
- K. Protecting landowners from adverse impacts of adjoining developments.

Each purpose listed above serves to balance the interests of the general public of the Town of Havana and those of individual property owners.

Section 1004. Interpretation.

This ordinance shall be interpreted, whenever an administrator or the judiciary is called upon to do so, in conformance with the purposes intended by the town council to be served by its enactment. The intent of the standards and supporting definitions is to protect both individual property owners and the general public from adverse impacts which might otherwise be

the result of a proposed use. To this end, those called upon to interpret this ordinance shall proceed as follows:

- A. Determine the public purpose(s) of the standard(s) with respect to which an interpretation is required.

Commentary: Before any zoning interpretation is made, there must be an explicit identification of the purpose(s) for which the regulation was initially imposed. Each zoning regulation is intended to protect the interests of both present and future neighbors and the general public. Each standard is developed as a regulatory response to an identifiable negative impact or potential. A sound interpretation of any such standard cannot be ensured without a careful analysis of the end to which the regulation is directed.

- B. Determine the actual impact of a proposed interpretation.

Commentary: There is a critical distinction between an interpretation which provides a greater degree of design freedom to achieve a permitted land use and an interpretation which permits a new or not previously permitted use or which allows a use to be enlarged or have its intensity increased beyond the degree specified in the ordinance.

- C. Determine that the proposed interpretation will ensure a just balance between the rights of the landowner and all others who will be affected by that person's land use proposal.

Commentary: If an interpretation merely would allow a design solution which is more flexible, albeit slightly different, from the one expressly stated, and if it results in no less a degree of protection to any affected party, such an interpretation may be appropriately made. Any interpretation which would result in any identifiable loss of protection or which would increase the nuisance potential of any use should not be made by an administrator. Any interpretation which will result in any loss of protection or increase in intensity beyond that already permitted should only be made when the party interpreting the ordinance has the power to impose additional restrictions or conditions to protect the public and exercises this power.

Commentary: This ordinance has been carefully designed to avoid the necessity of making ad hoc decisions about whether the interest of a landowner or the public interest should prevail: it has sought to balance those interests. All required interpretation should do likewise. This section recognizes that there is a tension inherent in the regulatory approach in that minimum standards must be set in the context of typical or anticipated development. It is not intended that such regulation frustrate good design, but some approaches by good designers which are quite atypical, and therefore neither envisioned nor expressly regulated by this ordinance's standards, are probably inevitable.

An example of the way these rules of interpretation are intended to be applied is present here. The example involves the term "bedroom" and standards which vary as a function of the

number of bedrooms per dwelling unit. A person called on to interpret this ordinance may be required to determine the standard applicable to a home which its developer describes as having four bedrooms and one “den” or “study.” The first step is to determine why each such standard is expressed in terms of the number of bedrooms. The reason is that this number provides a basis for regulating lot size, private yard area available per person, the number of parking spaces, or the size of a septic system. These are all important purposes which protect the health (septic systems), safety (adequate offstreet parking), and welfare (the yard size, based on the number of expected inhabitants). An interpretation that the den can and will be used as a bedroom will ensure that all these public interests are protected. Were the interpretation to be that the room labeled a den was not a bedroom but was in fact later used as one, the standards applicable to septic field, parking, and lot area would be inadequate. The judgment to be made is whether the room is likely to be used as a bedroom (based, e.g., on its location with [within] the unit and with respect to closets and bathrooms). An extra “nonbedroom” might still require a larger lot but not more parking or a larger septic field. As a prerequisite of accepting a room as a den, there must be assurance that it cannot be readily used as a bedroom. This approach is often little more than the exercise of common sense. It ensures the integrity of the ordinance and does not hamper or unduly limit the landowner’s use of the land.

ARTICLE II. DEFINITIONS

Section 2000. Purpose.

It is the purpose of this article to define words, terms, and phrases contained within this ordinance.

Section 2100. Word usage.

In the interpretation of this ordinance, the provisions and rules of this section shall be observed and applied, except when the context clearly requires otherwise:

- A. Words used or defined in one tense or form shall include other tenses and derivative forms.
- B. Words in the singular number shall include the plural number, and words in the plural number shall include the singular number.
- C. The masculine gender shall include the feminine, and the feminine shall include the masculine.
- D. The word “shall” is mandatory.
- E. The word “may” is permissive.
- F. The word “person” includes individuals, firms, corporations, associations, trusts, and any other similar entities.

- G. The words "planning commission" shall mean the Town of Havana planning commission.
- H. The words "recorder" and "recorder of deeds" shall mean the Gadsden County clerk.
- I. In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, or table, the text shall control.

Section 2200. Abbreviations.

The following abbreviations are used in this ordinance and are intended to have the following meanings: DF (density factor), FAF (floor area factor), ISR (impervious surface ratio), OSR (open space ratio).

Section 2300. Definitions.

When used in this ordinance, the following terms shall have the meanings herein ascribed to them:

Abutting. Having a common border with, or being separated from such common border by, an alley or easement.

Access. A means of vehicular approach or entry to or exit from property.

Acre. Forty-three thousand, five hundred sixty square feet.

Alley. A thoroughfare either used as such or shown on any recorded description of the subject parcel(s) which is not more than 30 feet wide and which affords only a secondary means of access to abutting property.

Apartment. A dwelling unit contained in a building comprising more than three dwelling units, each of which has an entrance to a hallway or balcony in common with at least one other dwelling unit.

Appeal. A means for obtaining review of a decision, determination, order, or failure to act pursuant to the terms of this ordinance as expressly authorized by the provisions of article VIII (Administration and Enforcement).

Arterial road or street. A roadway so designated by sections 4703 (Street types) and 4704 (Road classification map).

Attic. That part of a building which is immediately below, and wholly or partly within, the roof building.

Base site area. A calculated area; see section 4301.

Bed and breakfast inn. This use covers those structures with five or fewer guest rooms where the owner or operator maintains a permanent residence on the premises. No food preparation or cooking for guests shall be conducted within any bedroom or other individual

rooms, except for the kitchen and pantry. Guests are limited to a length of stay of no more than 14 consecutive days. This use is not allowed in the neighborhood conservation district. Adequate parking as outlined in section 5700 is required.

Commentary: Bed and breakfast inns are distinguished from rooming houses by the limitation of guest rooms to five or fewer, to the limitation of a maximum length of stay and by prohibition of cooking in individual rooms.

Bedroom. A room marketed, designed, or otherwise likely to function primarily for sleeping.

Bufferyard. A unit of land, together with a specified type and amount of planting thereon, and any structures which may be required between land uses to eliminate or minimize conflicts between them.

Building. A structure built, maintained, or intended for use for the shelter or enclosure of persons, animals, or property of any kind. The term is inclusive of any part thereof. Where independent units with separate entrances are divided by party walls, each unit is a building.

Building, accessory. A building which (1) is subordinate to and serves a principal structure or a principal use, (2) is subordinate in area, extent, and purpose to the principal structure or use served, (3) is located on the same lot as the principal structure or use served except as otherwise expressly authorized by provisions of this ordinance, and (4) is customarily incidental to the principal structure or use. Any portion of a principal structure devoted or intended to be devoted to an accessory use is not an accessory structure.

Building front. That exterior wall of a building which faces a front lot line of the lot.

Building line. A line on a lot, generally parallel to a lot line or road right-of-way line, located a sufficient distance therefrom to provide the minimum yards required by this ordinance. The building line delimits the area in which buildings are permitted subject to all applicable provisions of this ordinance.

Building, principal. A building in which is conducted, or in which is intended to be conducted, the main or principal use of the lot on which it is located.

Caliper. A measurement of the size of a tree equal to the diameter of its trunk measured 4.5 feet above the natural grade.

Caretaker's residence. A dwelling unit which is used exclusively by either the owner, manager, or operator of a principal permitted use and which is located on the same parcel as the principal use.

Cartway. The paved portion of a road or street.

Collector road or street. A roadway so designated by sections 4703 (Street types) and 4704 (Road classification map).

Comprehensive plan. A composite of the Town of Havana comprehensive plan, all accompanying maps, charts, and explanatory material adopted by the Havana town council and all amendments thereto.

Corner lot. See Lot, corner.

Curb cut. See Access.

Dedication. The transfer of property interests from private to public ownership for a public purpose. The transfer may be of fee simple interest or of a less than fee interest, including an easement.

Density factor. An intensity measure expressed as the number of units per net buildable site area (as calculated pursuant to sections 4304 and 4305). It is the density on the buildable portion of a site.

Density, gross. The quotient of the total number of dwelling units divided by the base site area of a site.

Design deviation. A standard alternative to and providing more flexibility than the one otherwise required by this ordinance for residential development. The ordinance specifies certain requirements as a precondition for the use of the deviation standard. See section 5400 (Residential use design deviations).

Detention. The collection, temporary storage, and controlled discharge of surface water.

Developer. The legal or beneficial owner(s) of a lot or parcel of any land proposed for inclusion in a development, including the holder of an option or contract to purchase.

Development. The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any buildings; any use or change in use of any buildings or land; any extension of any use of land or any clearing, grading, or other movement of land, for which permission may be required pursuant to this ordinance.

Drainage. The removal of surface water or groundwater from land by drains, grading, or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development and includes the means necessary for water supply preservation or prevention or alleviation of flooding.

Dwelling. Any building or portion thereof which is designated or used for residential purposes.

Dwelling, attached. Three or more adjoining dwelling units, each of which is separated from the others by one or more unpierced walls from ground to roof.

Dwelling, multiple-family. A building designed for of [or] containing two or more dwelling units, sharing access from a common hall, stair, or balcony.

Dwelling, semidetached. Two dwelling units, each of which is attached side to side, each one sharing only one common wall with the other.

Dwelling, single-family detached. A dwelling designed for and occupied by not more than one family and having no roof, wall, or floor in common with any other dwelling unit.

Dwelling unit. A room or group of rooms, providing or intended to provide living quarters for not more than one family.

Easement. Authorization by a property owner of the use by another and for a specified purpose of any designated part of his property.

Exterior storage. Outdoor storage of fuel, raw materials, products, and equipment. In the case of lumberyards, exterior storage includes all impervious materials stored outdoors. In the case of truck terminals, exterior storage includes all trucks, truck beds, and truck trailers stored outdoors.

Family. One or more persons related by blood, marriage, adoption, or guardianship, or not more than five persons not so related, occupying a dwelling unit and living as a single housekeeping unit.

Fast food restaurant. See Restaurant, fast food.

Filling. The depositing on land, whether submerged or not, of sand, gravel, earth, or other materials of any composition whatsoever.

Floodplain. Floodplains may be either riverine or inland depressional areas. Riverine floodplains are those areas contiguous with a lake, stream, or stream bed whose elevation is greater than the normal waterpool elevation but equal to or lower than the projected 100-year flood elevation. Inland depressional floodplains are floodplains not associated with a stream system but which are low points to which surrounding lands drain.

Floor area. The sum of the gross floor area for each of a building's stories measured from the exterior limits of the faces of the structure. The floor area of a building includes basement floor area and includes attic floor area but only if the attic area meets the Gadsden County building code standards for habitable floor area. It does not include cellars and unenclosed porches or any floorspace in an accessory building or in the principal building which is designed for the parking of motor vehicles in order to meet the parking requirements of this ordinance.

Floor area factor. An intensity measure expressed as the ratio derived by dividing the total floor area of a building by the net buildable site area. It is the floor area ratio measured on the buildable area of the site.

Floor area ratio. An intensity measured as the ratio derived by dividing the total floor area of a building by the base site area. Where the lot is part of a larger development and has no bufferyard, that lot area may be used instead of the base site area.

Garage. A deck or building, or part thereof, used or intended to be used for the parking and storage of motor vehicles.

Garden center. A place of business where retail and wholesale products and produce are sold to the retail consumer. These centers, which may include a nursery and/or greenhouses, import most of the items sold. These items may include plants, nursery products and stock, fertilizers, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other garden and farm tools and utensils.

Gas station. An establishment providing sales of vehicle fuel and such services as lubrication, oil and tire changes, and minor repairs. This use does not include paint spraying or body fender repair.

Greenhouse. An enclosed building, permanent or portable, which is used for the growth of small plants.

Gross density. See Density, gross.

Group dwelling. The residence of a group of six or more persons, not related by blood, marriage, adoption, or guardianship and living together in a single housekeeping unit.

Height of structure. The vertical distance measured from the lowest ground elevation to the highest point on such structure.

Home occupation. A business, profession, occupation, or trade conducted for gain or support and located entirely within a residential building, or a structural accessory thereto, which use is accessory, incidental, and secondary to the use of the building for dwelling purposes and does not change the essential residential character or appearance of such building.

Hotel. A building or group of buildings used, or intended to be used, for the lodging of more than ten persons for compensation.

Hydric. Of soils; pertaining to a wet or moist environment.

Impervious surface. Impervious surfaces are those which do not absorb water. They consist of all buildings, parking areas, driveways, road, sidewalks, and any areas of concrete or asphalt. In the case of lumberyards, areas of stored lumber constitute impervious surfaces.

Impervious surface, on-lot. The total amount of impervious surface which is present on a lot.

Impervious surface ratio. A measure of the intensity of land use which is determined by dividing the total area of all impervious surfaces on a site by, in the case of residential uses, base site area or, in the case of nonresidential uses, by net buildable site area.

Intensity class, land use. A measure of the magnitude and negative impact of a land use on the environment and neighboring land uses (see sections 4601 and 4602).

Junkyard. Any land or structure used for a salvaging operation, including but not limited to the storage and sale of wastepaper, rags, scrap metal, and discarded materials and the collection, dismantlement, storage, and salvage of two or more unlicensed, inoperative vehicles.

Kennel. Any place in or at which any number of dogs are kept for the purpose of sale or in connection with boarding care or breeding, for which any fee is charged.

Lakes and ponds. Natural or artificial bodies of water which retain water yearround. A lake is a body of water of two or more acres. A pond is a body of water of less than two acres. Artificial ponds may be created by dams or may result from excavation. The shoreline of such bodies of water shall be measured from the maximum condition rather than from the permanent pool in the event of any difference.

Lot. A parcel of land undivided by any street of [or] private road and occupied by, or designated to be developed for, one building or principal use and the accessory buildings or uses customarily incidental to such building, use, or development, including such open spaces and yards as are designed and arranged or required by this ordinance for such building, use, or development.

Lot area. The area contained with [within] the boundary lines of a lot.

Lot, corner. A lot abutting two or more streets at their intersection.

Lot frontage. Lot width measured at the street lot line. When a lot has more than one street lot line, lot width shall be measured, and the minimum lot width required by this ordinance shall be provided, at each such line.

Lot line. A line bounding a lot which divides one lot from another or from a street or any other public or private space.

Lot line, rear. That lot line which is parallel to and most distant from the front lot line of the lot; in the case of an irregular, triangular, or gore-shaped lot, a line 20 feet in length, entirely within the lot, parallel to and at the maximum possible distance from the front line, shall be considered to be the rear lot line. In the case of lots which have frontage on more than one road or street, the rear lot line shall be opposite the lot line along which the lot takes access to a street.

Lot line, side. Any lot line other than a front or rear lot line.

Lot line, street. In the case of a lot abutting only one street, the street line separating such lot from such street; in the case of a double-frontage lot, each street line separating such lot from a street shall be considered to be the front lot line, except where the rear yard requirement is greater than the front yard requirement in which case one of two opposing yards shall be a rear yard.

Lot of record. Any validly recorded lot which at the time of its recordation complied with all applicable laws, ordinances, and regulations.

Lot width. The mean horizontal distance between the side lot lines measured at right angles to those side lot lines at the building line. Where there is only one side lot line, lot width shall be measured between such lot line and the opposite lot line or future right-of-way line.

Maintenance guarantee. A guarantee of facilities or work to ensure the correction of any failures of any improvements required pursuant to this ordinance and regulation, or to maintain same.

Mesic. Of soils; pertaining to a soil having a balanced supply of moisture.

Minimum floor elevation. The lowest elevation permissible for the construction, erection, or other placement of any floor, including a basement floor.

Miniwarehouse. A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the dead storage of a customer's goods or wares. No sales, service, or repair activities other than the rental of dead storage units are permitted on the premises.

Mobile home. A transportable, single-family dwelling intended for permanent occupancy contained in one unit, or in two units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation. For the purposes of determining standards which apply, a distinction is made between doublewide units with tongue and axles removed mounted on a permanent foundation, which shall be considered a single-family home and shall be regulated by the provisions of sections 5200A and 5200B(1) or (3) (Residential use regulations), and singlewide units, which are permitted only in mobile home parks.

Mobile home park. A mobile home park is a performance subdivision containing mobile homes. Such a facility shall meet all requirements for performance subdivisions listed in section 4203 (Table of district performance standards).

Motel. See Hotel.

Net buildable site area. A calculated area; see sections 4304 (Residential uses) and 4305 (Nonresidential uses).

Nonconformity. See article VI.

Nursery. An enterprise which conducts the retail and wholesale sale of plants grown on the site, as well as accessory items (but not power equipment such as gas or electric lawnmowers and farm implements) directly related to their care and maintenance. The accessory items normally sold are clay pots, potting soil, fertilizers, insecticides, hanging baskets, rakes, and shovels.

Onsite. Located on the lot in question, except in the context of onsite detention, when the term means within the boundaries of the development site as a whole.

Open space. See section 4500.

Open space ratio. The proportion of a site consisting of open space as defined by section 4500 (Open space) and specified in section 4203 (Table of district performance standards), which shall be calculated using the base site area.

Owner. The person or persons having the right of legal title to, beneficial interest in, or a contractual right to purchase a lot or parcel of land.

Parcel. The area within the boundary lines of a development.

Performance guarantee. A financial guarantee to ensure that all improvements, facilities, or work required by this ordinance will be completed in compliance with the ordinance, regulations, and the approved plans and specifications of a development.

Permanent foundation. A foundation upon which a structure, not on wheels or skids, rests which may not be easily removed. Examples of permanent foundations are, but are not limited to, poured concrete footings, poured concrete slabs, grade beams and poured-in-place piers.

Pond. See Lakes and ponds.

Principal building. See Building, principal.

Principal use. See Use, principal.

Public improvement. Any improvement, facility, or service, together with customary improvements and appurtenances thereto, necessary to provide for such public needs as: vehicular and pedestrian circulation systems, storm sewers, flood control improvements, water supply and distribution facilities, sanitary sewage disposal and treatment, public utility, and energy services.

Recorded lot. See Lot of record.

Recreational vehicle. A vehicle or a unit that is mounted on or drawn by another vehicle primarily designed for temporary living. Recreational vehicles include travel trailers, camping trailers, truck campers, and motor homes.

Recreational vehicles park. A lot on which campsites are established for occupancy by recreational vehicles of the general public as temporary living quarters for purposes of recreation or vacation.

Residential street. A roadway so defined by section 4703.

Restaurant, fast food. An establishment whose principal business is the sale of food and/or beverages in a ready-to-consume state for consumption (1) within the restaurant building, (2) within a motor vehicle parked on the premises, or (3) off the premises as carryout orders, and whose principal method of operation includes the following characteristics: food and/or beverages are usually served in edible containers or in paper, plastic, or other disposable containers.

Restaurant, standard. An establishment whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state, and whose principal method of operation includes one or both of the following characteristics: (1) customers, normally provided with an individual menu, are served their food and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed; (2) a cafeteria-type operation where food and beverages generally are consumed within the restaurant building.

Restrictive, more (less). A regulation imposed by this ordinance is more (less) restrictive than another if it prohibits or limits development to a greater (lesser) extent or by means of more (less) detailed specifications.

Resubdivision. See Subdivision.

Retention. The collection and storage of surface water runoff without discharge other than through percolation or evapotranspiration.

Roominghouse. A dwelling where lodging is provided, for compensation, for from four to ten persons, who are not members of a family occupying that dwelling unit and who do not occupy the dwelling as a simple housekeeping unit.

Sedimentation. The deposition of soil that has been transported from its site of origin by water, ice, wind, gravity, or other natural means as a result of erosion.

Shopping center. A group of commercial establishments planned, developed, and managed as a unit with offstreet parking provided on the property.

Shopping center, regional. A shopping center having in excess of 750,000 square feet of gross floor area.

Site area. See Base site area.

Stable, commercial. A building or land where horses are kept for remuneration, hire, sale, boarding, riding, or show.

Stable, private. Any building, incidental to an existing residential, principal use, that shelters horses for the exclusive use of the occupants of the premises.

Steep slopes. Land area where the inclination of the land's surface from the horizontal is 12 percent or greater. Slope is determined from onsite topographic surveys prepared with a two-foot contour interval.

Street line. See Lot line, front [street].

Structural alteration. Any change in the supporting members of a building, such as the bearing walls, beams, or girders, or any change in the dimension or configuration of the roof or exterior walls.

Structure. See Building.

Structure, accessory. See Building, accessory.

Subdivision. Any subdivision or redivision of a subdivision, tract, parcel, or lot of land into two or more parts by means of mapping, platting, conveyance, change or rearrangement of boundaries. All subdivisions are also developments.

Temporary use. See Use, temporary.

Use. The purpose or activity for which land or any building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

Use, accessory. An accessory use is one which (1) is subordinate to and serves a principal structure or principal use, (2) is subordinate in area, extent, and purpose to the principal structure or use served, (3) is located on the same lot as the principal structure or use served except as otherwise expressly authorized by provisions of this ordinance, and (4) is customarily incidental to the principal structure or use. See also section 5500 (Accessory uses).

Use, principal. The specific primary purpose for which land is used.

Use, temporary. A temporary use is one established for a fixed period of time with the intent to discontinue such use upon the expiration of such time. Such uses do not involve the construction or alteration of any permanent structure.

Variance. Permission to depart from the literal requirements of this ordinance granted pursuant to section 8017 (Variances).

Wetland. An area of 0.25 acre or more where standing water is retained for a portion of the year and unique vegetation has adapted to the area.

Xeric. Of soils; pertaining to a dry environment.

Yard. The space between a lot line and a building line.

Yard, front. A yard extending the full width of the front of a lot between the front (street) right-of-way line and the front building line.

Yard, rear. A yard extending the full width of the lot in the area between the rear lot line and the rear building line.

Yard, side. A yard extending the full length of the lot in the area between a side lot line and a side building line.

(Ord. No. 279, § 1, 7-23-96)

ARTICLE III. ESTABLISHMENT OF ZONING DISTRICTS

Section 3000. Establishment of zoning districts.

The Town of Havana, Florida is hereby divided into zoning districts of such number and character as are necessary to achieve compatibility of uses within each district, to implement the official Town of Havana land use plan and related official plans and the official zoning map of the Town of Havana and to serve the other purposes of this ordinance as detailed in article I (Title, Purpose, Jurisdiction).

Section 3100. Zoning districts.

For the purpose of this ordinance, all land and water areas in the Town of Havana are hereby divided into zoning districts which shall be designated as follows: neighborhood conservation (NC) district, development (D) district, urban core (UC) district, heavy industrial (HI) district.

Section 3200. Map of zoning districts.

Zoning districts established by this ordinance are bounded and defined as shown on the official zoning map of the Town of Havana, which, together with all explanatory materials contained thereon, is hereby made a part of this ordinance.

Editor's note—The zoning map is included at the end of art. III.

Section 3201. Interpretation of district boundaries.

The following rules shall be used to determine the precise location of any zone boundary shown on the official zoning map of [the] Town of Havana:

- A. Boundaries shown as following or approximately following the limits of any municipal corporation shall be construed as following such limits.
- B. Boundaries shown as following or approximately following streets shall be construed to follow the centerlines of such streets.
- C. Boundary lines which follow or approximately follow platted lot lines or other property lines as shown on the Town of Havana tax maps shall be construed as following such lines.
- D. Boundaries shown as following or approximately following section lines, half-section lines, or quarter-section lines shall be construed as following such lines.
- E. Boundaries shown as following or approximately following railroad lines shall be construed to lie midway between the main tracks of such railroad lines, or where a single line exists, midway between the rails of the single track.
- F. Boundaries shown as following or approximately following shorelines of any lakes shall be construed to follow the mean high-water lines of such lakes, and, in the event of change in the mean high-water line, shall be construed as moving with the actual mean high-water line.
- G. Boundaries shown as separated from, and parallel or approximately parallel to, any of the features listed in paragraphs A through F above shall be construed to be parallel to such features and at such distances therefrom as are shown on the map.

Section 3300. Statement of purpose and intent of zoning districts.

The following sections specify the purpose and intent of the zoning districts established by this ordinance.

Section 3301. Neighborhood conservation district.

The neighborhood conservation district is intended to preserve the character of existing neighborhoods and developments platted at the time of adoption of this ordinance. It is designed to prevent these neighborhoods and subdivisions from becoming nonconforming under the terms of this ordinance. This district is also intended to provide for minor in-filling of existing neighborhoods consistent with their character at the time of enactment of this ordinance. The regulations permit future development consistent with the existing character. Areas identified as having a stable and fixed character will be allowed to continue to exist and develop under the general regulations governing their design and construction or the actual plat plans previously approved. Only one dwelling unit per lot will be permitted within this district.

Commentary: This district is designed to avoid the creation of large areas of nonconformities as a consequence of the enactment of this ordinance. Large residential properties have already been subdivided or largely developed. The legal, administrative, and individual problems that would be created by making these areas nonconforming are not justifiable, and it is largely for this reason that the neighborhood conservation district exists.

No new neighborhood conservation districts or expansion of same shall be allowed following the adoption of this ordinance. This district is not considered appropriate for new development.

Section 3302. Development district.

This district is intended to accommodate most of the growth expected in the Town of Havana. It is to be provided with all public facilities (schools, sewers, water, highways) and will allow most uses by right. It is intended to provide the zoning and capital improvements which attract development. It consists of the areas where development should logically locate as a consequence of existing and planned public facilities and associated capital expenditures. This district provides regulations which permit development of a generally suburban character. It provides for moderate density residential development and for necessary commercial, institutional, and light industrial uses. Excluded are uses of higher density or intensity or of major industrial importance.

Commentary: The development district allows many and varied uses while placing the emphasis on minimizing or buffering any nuisances between uses. Segregation of uses has never provided adequate protection, especially at the boundaries of use districts. This ordinance anticipates the likelihood, and desirability, or [of] considerable mixing of land uses and imposes standards to resolve any possible problems and eliminate the negative impacts of juxtaposing unlike land uses.

Section 3303. Urban core district.

This district is intended to serve as a community focal point as a business and focal center.

In general, the district provides for centers and uses of regional importance. It is intended to be an area of high-intensity use on which a full range of public facilities (including water, sewer, schools, police, fire protection) will generally be focused. The standards and high densities prescribed for the district are designed to optimize utilization of in-place facilities, and thus to reduce the fiscal burden of new infrastructure construction on all citizens of the Town of Havana.

Commentary: The urban core district is intended to be the center of commercial activity in the town. It is characterized by higher-density development than allowed elsewhere in the town. The higher densities allowed in this district will facilitate pedestrian access to and between commercial establishments in the area.

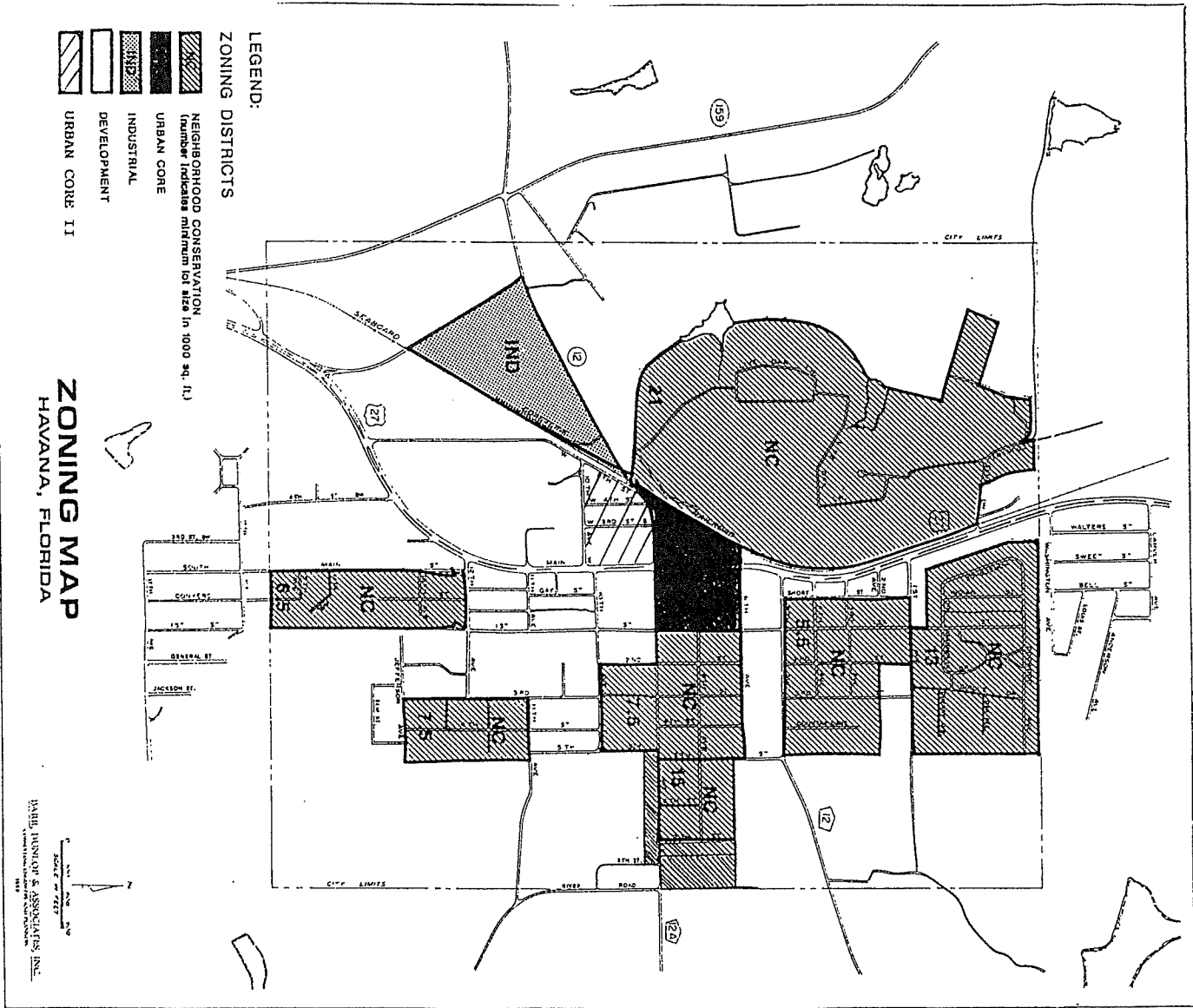
Section. 3303A. Urban Core II Classification.

Will meet all of the criteria for the urban core except with regard to the parking requirements. Urban core II will be required to meet the parking standards of the development district. The zoning map as attached hereto is amended to include a new urban core II zoning district and an expanded neighborhood conservation district.
(Ord. No. 280, § 2, 7-23-96)

Section 3304. Heavy industrial district.

This district is intended to accommodate those industrial uses which must be segregated because of major negative impacts which cannot be made compatible with other uses through the application of performance standards. The creation of this separate district for heavy industrial use recognizes not only nuisance-type, but also infrastructure and operational incompatibilities between its permitted uses and those of other districts. Accordingly, the standards for this district are designed to accommodate very intensive industrial uses having potential nuisances which either cannot be handled by technology or which are nearly impossible to police. Locational criteria for the heavy industrial district focus on transportation, requiring that sites have access to a rail line and a nearby arterial highway.

Commentary: This ordinance recognizes the possible compatibility of light industry and other land uses within the development districts, so long as the neighboring uses have similar characteristics and can meet performance standards. Linking heavy industrial uses to locations with appropriate transportation amenities is a sound planning approach, and requiring intensive buffers will minimize the impact of these nuisances on any nearby, less intensive uses. Further, the locational requirements of heavy industry make it important to use a district designation to set aside land for these uses and prevent their being preempted by less intensive uses.



(Ord. No. 280, § 1, 7-23-96)

ARTICLE IV. REGULATIONS

Section 4000. Introduction.

The purpose of the regulations contained in this article is to allow maximum utilization of land while ensuring against detrimental impacts on the environment, neighboring properties, and the public interest. This is provided by separating the Town of Havana into four types of zoning districts and permitting specified land uses within each, provided that a use meets all the additional criteria specified in this ordinance. This regulatory approach has been termed "performance zoning" because it permits a use to be developed on a particular parcel only if that use on that parcel meets "performance" standards which have been enacted to ensure against the use causing (or having the potential to cause) the negative impacts mentioned above.

The format of the regulations in this ordinance (and particularly in this article) differs somewhat from that of traditional zoning ordinances, because performance zoning requires that consideration be given to site characteristics and the range of impacts which any use (such as "office" or "light industry") may have.

Commentary: The following step-by-step guide is provided as an aid for the property owner or prospective developer. It is intended to be a summary of the process by which one can determine what may or may not be permitted on a specific site and, if permitted, the limits that will be placed on its development.

Step 1: Identify the zoning district in which the particular parcel is located. Zoning districts are defined in article III of this ordinance, and the official zoning map of the Town of Havana delineates the boundary of each zoning district.

Step 2: Determine the general use category for the proposed use(s) by referring to section 4103 (Use categories defined). Section 4102 (Table of permitted uses) identifies the general permitted and conditional use categories which may be established in each zoning district.

Step 3: Determine the maximum performance standards possible for the zoning district in which the parcel is located by referring to section 4203 (Table of district performance standards). The standards specified are for open space ratio, density factor, floor area factor, impervious surface ratio, minimum site area, minimum lot area, and maximum number of lots per development. These terms are defined either in article II or in this article.

Step 4: Calculate site capacity, base site area, and net buildable site area by following the directions in sections 4300 through 4305. The principal factors determining site capacity are the natural features and environmental characteristics of the site. If the site includes any natural features or limitations such as floodplains, wetlands or others listed in sections 4400 through 4409, these sections should be referenced in order to determine how such features may operate to restrict development of the site. The open space standards of these sections protect environmentally sensitive features by limiting impervious surface coverage. These standards operate equally across all zoning districts because they are designed to

improve the compatibility of development with natural functions of the land and to regulate the resulting impact that any such particular use will have upon existing or future neighborhood uses.

Step 5: Select a land use intensity class from section 4602 (Table of land use intensity class standards). Under this ordinance, the intensity at which a use is developed on a particular parcel is not solely a function of the zoning district in which the parcel is located, except that the maximum performance standards for each zoning district set in section 4203 (Table of district performance standards) may not be exceeded. This ordinance recognizes that uses of a single type (e.g., freestanding commercial) may generate widely different nuisance impacts depending on the intensity at which they are developed. Consequently, a use has the option to develop at an intensity which will minimize nuisances to neighbors or to provide more protection for those neighbors (e.g., a denser bufferyard) as the land is developed at greater intensities. The range of intensity classes open to a use affects only how it can develop on a lot, not whether it can locate on a lot. Several performance standards are specified for each intensity class. These include limits on impervious surface ratio, gross density, trips per acre, height and floor area ratio, signs, and landscaping. All standards in each land use intensity class apply for that class; exceeding any single standard in a class moves a use to the next-higher intensity class. Uses may not exceed the standards specified for the highest class in which the use is listed.

Step 6: Determine the required bufferyard (which corresponds to the intensity class of the use) by referring to section 4606 (Table of bufferyard requirements). As a use develops at a greater intensity, the bufferyard necessary to protect neighboring uses increases in size and amount of plant materials and fences. Detailed bufferyard illustrations and standards are contained in sections 4603 through 4607.

Step 7: Sections 4612 through 4619 contain performance standards for design elements such as landscaping, parking lot landscaping, exterior lighting, and signs. Sections 4700 through 4710 deal with road standards, including types of roads, their widths, access requirements for certain types of roads (when a transportation impact report is required), access for fire vehicles, and clear views at intersections.

Section 4100. Use regulations.

Sections 4101 through 4108 specify which uses are permitted in each zoning district and define the use categories used in this ordinance.

The purpose of this section is to indicate which land uses may locate in each zoning district and which uses may not locate therein. A further distinction is made between uses which may locate in a given district only upon obtaining a conditional use permit to do so. The uses generally described in sections 4101 and 4102 are specifically listed in sections 4103 through 4108.

Section 4101. Uses permitted by right, uses permitted with conditional use permits, and uses not permitted.

Except as otherwise provided by law or in this ordinance, no building, structure, or land shall be used or occupied except in the zoning districts indicated and for the purposes permitted in this section. The general use categories specified by section 4102 (Table of permitted uses) are defined in sections 4104 through 4108.

- A. A use listed in section 4102 in any district denoted by the letter "Y" is a use permitted by right, provided that all other requirements of state law and this ordinance have been met and provided that a zoning certificate has been issued in accordance with article VIII.
- B. A use listed in section 4102 may be permitted as a conditional use in any district denoted by the letter "C," provided that the requirements of article VIII have been met.
- C. A use listed in section 4102 is not permitted in any district denoted by the letter "N."
- D. Uses permitted by right or as a conditional use shall be subject, in addition, to use regulations contained in this ordinance, to all performance criteria and other regulations governing yards, lot size, lot width, building area, easements, provisions of offstreet parking and loading, and to such other provisions as are specified in other articles herein. In particular, the laws and regulations of the state and of the Town of Havana regarding water supply and waste disposal shall be adhered to. Further, no zoning permit shall be issued until approval is obtained from the Town of Havana for water supply and sewage disposal, unless the premises are served by public water and/or sewage facilities.
- E. All solar access developments are permitted as a conditional use in every district.
- F. Uses not listed in section 4102 are not permitted in any district except pursuant to article VIII, which provides for interpretation of uses, or article VI, which provides for nonconformities.

Although a use may be indicated as permitted or conditionally permitted in a particular district, it does not follow that such a use is permitted or permissible on every parcel in such district. No use is permitted or permissible on a parcel unless it can be located thereon in full compliance with all of the performance standards and other regulations of this ordinance applicable to the specific use and parcel in question.

Section 4102. Table of permitted uses.

TABLE 4102. TABLE OF PERMITTED USES

General Use Category	Development	Districts		
		Urban Core	Neighborhood Conservation	Heavy Industrial
A. Agriculture				
1. Agriculture	C	N	N	Y
2. Forestry	C	C	C	Y
B. Residential				
1. Conventional subdivision	Y	Y	Y	N
2. Performance subdivision	Y	Y	N	N
C. Institutional				
1. Outdoor recreational (except commercial stables)	Y	Y	Y	N
Commercial stables	C	N	N	N
2. Institutional, indoor recreation, and special residential	Y	Y	N	N
D. Commercial				
1. Office	Y	Y	N	Y
2. Commercial/entertainment	Y	Y	N	N
3. Commercial/recreation	Y	Y	N	N
4. Recreational rental dwelling	Y	N	N	N
5. Bed and breakfast inn	Y	Y	N	N
6. Road service, vehicle service and sales, and fast food	Y	Y	N	Y
7. Public service	Y	Y	Y	Y
8. Agricultural support	Y	C	N	Y
9. Nurseries	Y	C	N	N
10. Regional shopping center	Y	C	N	N
E. Industrial				

General Use Category	Districts			Heavy Industrial
	Urban	Neighborhood Conservation	Core	
1. Light industry			Y	Y
2. Heavy industry			C	Y
3. Extraction			N	Y

(Ord. No. 280, § 3, 7-23-96)

Section 4103. Use categories defined.

The categories of use utilized by this ordinance are defined in sections 4104 through 4108. The uses not enumerated in these sections are not necessarily excluded. Article VIII (Administration and Enforcement) empowers the zoning officer to make interpretations of use.

Section 4104. Agricultural uses.

A. *Agriculture.* Agricultural uses include farms (and farm residences), fish or poultry hatcheries, fur-bearing animal ranches, orchards, raising of livestock, horses, or poultry, truck farming, and all other agricultural uses. Specifically excluded are nurseries and forestry operations.

Commentary: This use category includes all purely agricultural uses. It does not include uses which may be accessory to agriculture, such as retail stores, nor does it include industries or businesses which support or are supported by agriculture.

Section 4105. Residential uses.

A. *Conventional residential.* Conventional residential uses include all single-family detached dwelling units in subdivisions built or subdivided prior to enactment of this ordinance and all single-family detached dwelling units in subdivisions subdivided after enactment of this ordinance which are developed to the standards for conventional subdivisions required by this ordinance.

Commentary: This use includes all individual houses, not part of a plat of existing subdivisions, and new single-family subdivisions.

B. *Performance residential.* Performance residential uses consist of all residential subdivisions built or subdivided after enactment of this ordinance except those included within the conventional residential use category.

Commentary: This use category is intended to be the primary mode of residential development. It will permit the residential builder considerable freedom by allowing varied types of dwellings, lot sizes, and design. It also ensures adequate open space in each development.

Section 4106. Recreational, institutional, and special residential uses.

A. *Outdoor recreational.* Outdoor recreational uses include areas for recreational activities (including, but not limited to, picnicking, jogging, cycling, and tot lots), arboreturns, areas for cycling, hiking, and jogging, golf courses (regulation or par 3), nature areas, parks (public or private), picnic areas, playfields, playgrounds, commercial stables, outdoor swimming pools, tennis courts, wildlife sanctuaries, and all other outdoor recreational uses. Specifically excluded are outdoor movie theaters, firing ranges, miniature golf courses, golf driving ranges, and marinas.

Commentary: This use is basically an open space use. Physical structures are permitted, but only as minor, incidental accessories to open space use.

B. *Institutional, indoor recreational, and special residential uses.* These uses include aquariums, roominghouses, day or youth camps, cemeteries, churches, community or recreational centers, convents or monasteries, day care centers, public or private schools, schools or homes for physically or mentally handicapped, indoor skating rinks (ice or roller), indoor swimming pools, tennis, racquetball, handball courts, and all other institutional, indoor recreational, and special residential uses.

Commentary: These uses are all supportive of the residential community: they provide indoor space for recreation, hobbies, meetings, education, and worship, as well as cultural facilities, group quarters for religious groups and the infirm or elderly, and boardinghouses. While some uses may be operated for private profit, they duplicate services that are generally provided by public or nonprofit groups.

Section 4107. Commercial uses.

A. *Office.* Office uses include barbershops (and other personal service uses such as beauty shops), governmental offices, business or professional offices, medical offices or clinics, and all other office uses.

Commentary: This category includes all types of business or governmental offices. It also includes various service type businesses where service is basically on an individual-to-individual basis as opposed to services which are performed on objects or personal property.

B. *Commercial and entertainment.* These uses include animal shelters, auto accessory stores, banks (and other financial institutions), blueprint and photostat stores, bowling alleys, private indoor clubs, commercial or trade schools (e.g., dance studios, schools for martial arts), currency exchanges, funeral homes, mortuaries, garden supply and/or greenhouses (provided all sales on premises are retail), grocery stores and supermarkets (excluding convenience stores), hospitals, hotels (or motels), ice cream stores or stands, laundries and/or dry cleaners, light mechanical repair stores (e.g., watch, camera, bicycle, TV), stores selling liquor, beer, or soft drinks (in sealed containers, not for consumption on premises), lodges for fraternal orders, package stores, restaurants (standard sit-down, not fast food), retail sales or stores, service

businesses or stores (e.g., catering, duplicating, photography, shoe repair, tailoring, travel agency, upholstery), shopping centers, theaters and auditoriums (indoor), upholstery stores, and all other commercial and entertainment uses.

Commentary: This category consists of uses which are varied but share such important land use characteristics as traffic generation rates and bulk (building) requirements. Accordingly, they have similar impact(s) on other uses in proximity to them.

C. *Commercial recreational use.* These uses include amusement parks, fairgrounds, golf driving ranges (including miniature golf), marinas, outdoor theaters (or amphitheaters), racetracks (e.g., auto, dog, go-cart, harness, horse, motorcycle), ranges (skeet, rifle, or archery), sport arenas, and all other commercial recreation uses.

Commentary: This group includes recreational uses which are greater nuisances than conventional outdoor recreational activities because of their size and scale, traffic volumes, noise, lights, or physical hazards such as flying objects or use of weapons.

D. *Recreational rental dwelling uses.* These uses include camps or campgrounds with overnight camping or vacation cottages, rental cabins and vacation cottages. Condominiums, resort hotels and like higher-density uses are not included in this category.

Commentary: These uses are all shortterm rental facilities oriented toward leisure activities for the vacationer or organized activities such as summer camps. The users are transient, and much activity is apt to be out-of-doors. Because these uses are leisure-oriented and take place outdoors, they have higher nuisance values than do other residential uses.

E. *Road service.* These uses include arcades or billiard parlors, boat rental and/or storage facilities, body shops, convenience stores, gasoline service stations, garden centers, lawnmower repair stores, fast food restaurants, recreational vehicle parks, taverns (lounges, nightclubs, dancehalls), travel trailer parks, commercial vehicle garages, vehicle rentals, vehicle repair (body) shops, vehicle sales, supplies, and service (new or used auto, boat, bus, equipment, motorcycle, truck), and all other road services.

Commentary: Many of these uses have significant nuisance effects because of the types of merchandise sold, most of which require or conventionally involve outdoor storage. They are commonly highway-oriented facilities. The servicing of vehicles and equipment often involves noise, unsightly trash, oil, grease, and dirt, as well as testing and exterior storage. The food and entertainment uses are ones with late hours of operation which often generate excessive litter, traffic, noise, and other neighborhood concerns.

F. *Public service.* These uses include emergency services, service buildings or garages (e.g., ambulance, fire, police, rescue), utility or broadcasting stations or towers, utility service yards or garages, and all other public utility and public service uses.

Commentary: Public service uses are those uses which are essential to the functioning of the community. Most of the impervious surface allowed in these uses will consist of the building's floor area (as opposed, e.g., to parking area). Most often a public service use will be one which supports a public utility (e.g., telephones, electricity). Such utilities usually must be located in

residential areas because of the nature of the service they provide. These uses generally do not have employees regularly employed onsite and are consequently not heavy traffic generators. Other than electrical substations, these uses present no public dangers.

G. *Agricultural support.* These uses include farm equipment sales and repair, farm produce sales and supply (feed, grain, fertilizer), farm product processing (dryers, dairies, poultry, or meat processing) provided that the total number of employees in such processing plants does not exceed five, and all other agricultural support uses.

Commentary: These uses are generally supportive of the farm community. Without the presence of such uses, farmers find it increasingly difficult to function. They are fully compatible with agriculture, which distinguishes them from other commercial uses.

H. *Nurseries.* This category includes nurseries with or without retail sales or greenhouses.

Commentary: A nursery is basically an open space use which generates little traffic and has few nuisances (such as late hours or customer or truck noise) associated with it (see article II, definition). Nurseries should be distinguished from more intensive garden centers.

I. *Regional center.* This category includes commercial land (use) development consisting of 700,000 or more square feet of gross floor area.

Section 4108. Industrial uses.

A. *Light industry.* These uses include blacksmith shops, boatworks (custom building and repair), building materials sales or storage yards (excluding asphalt or concrete mixing), bulk materials or machinery storage (fully enclosed), carpet and rug cleaning plants, contractors' offices and equipment storage yards, dry cleaning and laundry plants serving more than one outlet, dyeing plants, extermination shops, food processing and packing plants (except meat packers), fuel oil, ice, and wood sales, furniture cleaning plants, furniture refinishing shops, lumberyards, manufacturing (including the production, processing, cleaning, testing, and distribution of materials, goods, foodstuffs, and products in plants with less than 500,000 square feet of floor area, or fewer than 2,000 total employees), any miniwarehouses or storage facilities, mirror supply and refinishing shops, monument works, ornamental iron workshops, pilot plants, printing plants, publishing plants, scientific (e.g., research, testing, or experimental) laboratories, trade shops (including cabinet, carpentry, planing, plumbing, refinishing, and paneling), truck terminals, veterinary offices with fully enclosed runs, yards, pens, and kennels, warehouses, wholesale business and storage, and all other light industrial uses.

Commentary: This category contains those industrial uses which are generally not objectionable because of noise, heavy truck traffic, or fumes, or which generate nuisances which may be ameliorated adequately by performance standards.

B. *Heavy industry.* This use category includes airports, landing strips and heliports, asphalt or concrete mixing plants, bulk material or machinery storage (unenclosed), fuel generation plants, grain elevators, meat packing plants or slaughterhouses, resource recovery

Section 4202. Performance standards.

This section contains the basic standards applicable to the districts and uses allowed by this ordinance. The standards of section 4203 (Table of district performance standards) are minimum standards and shall apply to each district and use therein. All standards must be met. Whenever the standard contained in section 4203 is different from another performance standard articulated in this article, the strictest standard shall always govern. The density factor (DF) is the maximum density permitted on the buildable portion of the site, as determined in section 4304 (Determination of site capacity). All tracts of land within a district may be developed to the same density factor. The density factor is calculated by dividing the total number of dwelling units by the net buildable site area (section 4304). Thus, no density factor directly controls actual site capacity. The floor area factor is the amount of floor area of a building compared with the net buildable site area. The minimum site area specifies the minimum total number of acres for which development of a particular use may be proposed. The minimum lot area, on the other hand, specifies the minimum lot size for agriculture, nurseries, and single-family uses.

Section 4203. Table of district performance standards.

TABLE 4203. TABLE OF DISTRICT PERFORMANCE STANDARDS

Zoning District and Use	Open Space Ratio (OSR) Minimum (See Section 4500)	Density Factor (DF) Maximum (See Article VIII)	Floor Area Factor		Impervious Surface Ratio (ISR)		Minimum Site Area*	Minimum Lot Area**
				Maximum (FAF)	Maximum	Minimum		
<i>Neighborhood conservation</i>								
Conventional subdivi- sion	—	(See section 5300)	—	—	—	(See section 5300)	—	—
Other	—	—	0.12	—	0.20	—	—	—
<i>Development district</i>								
Conventional subdivi- sion	—	4.0	—	—	0.35	40,000	8,500	—
Performance subdivision	0.30	22	—	—	0.50	—	—	—
Other uses	—	—	1.2	—	1.0	—	—	—
Conditional uses	—	—	0.63	—	0.60	30 acres	—	—
<i>Urban core district</i>								
Conventional subdivi- sion	—	4.1	—	—	0.36	10,000	8,500	—
Performance subdivision	0.20	27	—	—	0.50	—	—	—
Other permitted uses	—	—	1.2	—	1.00	—	—	—
Conditional uses	—	—	0.86	—	0.80	20 acres	—	—

Zoning District and Use	Open Space	Density	Floor Area	Imperious	Minimum	Minimum
	Ratio (OSR)	Factor (DF)	Factor	Surface	Ratio (TSR)	Site Area*
	Minimum (See Section 4500)	Maximum (See Article VIII)	(FAF) Maximum	Ratio (TSR) Maximum	Minimum	Lot Area**

Heavy industry

All uses	—	—	0.94	1.00	—	—
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*The figures specified in this column are minimum square feet unless otherwise specifically expressed in terms of minimum acreage.

**The minimum lot area will be 21,780 square feet with onsite water supply and septic tanks; and 10,890 square feet with public water supply and septic tanks. See section 4409.

Section 4300. Site capacity calculation: purpose.

Site capacity for any proposed development is equal to the net buildable area of the site multiplied by the density factor (in the case of residential uses) or by the floor area factor or impervious surface ratio, whichever is more restrictive (in the case of nonresidential uses). The site capacity calculation provides the mechanism for subtracting from the base site area all portions of a site inappropriate for development. Consequently, the purpose of this section is to determine the extent to which a site may be utilized given its unique physical characteristics.

Commentary: Because land forms, size, and shape as well as natural or engineered limitations vary significantly from site to site, reasonable development regulations must take account of these variations.

For each tract, the calculations contained in sections 4301 through 4305 shall be made. If a parcel consists of land in more than a single district, or when it is to be part residential and part nonresidential, calculations shall be done separately for each such part of the total parcel.

Section 4301. Base site area (all land uses).

[Base site area is determined as follows:]

- A. Gross site area as determined by actual onsite survey. _____ acres
- B. Subtract land constituting roads and land within ultimate rights-of-way of existing roads, rights-of-way of utilities, and easements of access. ————— acres
- C. Subtract land which is not contiguous:

1. A separate parcel which does not abut, adjoin, or share common boundaries with the rest of the development. ————— acres

2. Land which is cut off from the main parcel by a road, railroad or existing land uses, such that common use is hindered or that the land is unavailable for building purposes. ————— acres

- D. Subtract land which in a previously approved subdivision encompassing the same land, as part or all of the subject parcel, was reserved for resource reasons (e.g., flooding or for recreation).
 ————— acres
- E. Subtract land used or proposed for residential uses, whenever both nonresidential and residential uses are proposed. (In the case of the site capacity calculation for the proposed residential use, subtract the land proposed for nonresidential use.)
 ————— acres
- F. Subtract land required for bufferyard area by sections 4603 through 4611. (See commentary below for estimating bufferyard requirement.)
 ————— acres
- G. Equals base site area.
 = ————— acres

Commentary: This section makes clear that the area of a parcel which is suitable for development is not contemporaneous with the gross area of that parcel. The site capacity calculation determines the extent to which a site is developable by “subtracting” land which is unfit for development for any of a variety of reasons.

When a parcel is to be developed for both residential and nonresidential uses, the base site area for each portion must be calculated separately. This is necessary because in the case of residential uses permitted intensity is based on density, whereas in the case of nonresidential uses intensity is based on a floor area factor.

Land constituting easements and rights-of-way of roads must be subtracted because it is literally unavailable for development.

Noncontiguous land consists of areas which are effectively isolated and therefore unavailable for purposes related to the proposed use. For example, if a portion of the parcel is effectively inaccessible from the remainder of the parcel and therefore not buildable, it should be subtracted. If it is large enough to support development independent of the other portion and/or has access to a road, its base site (buildable) area could be calculated separately or could be included in a single, combined calculation.

Section 4302. Resource protection land (all land uses).

All land area consisting of the natural resources or natural features listed below shall be measured. The total acreage of each resource shall be multiplied by its respective open space ratio to determine the amount of resource protection land or area required to be kept in open space in order to protect the resource or feature. The sum total of all resource protection land on the site equals total resource protection land. (See table 4302.)

Commentary: All areas within any parcel(s) proposed for development which consist of natural resources or resource limitations shall be protected to the extent that the total resource protection land shall be subtracted from that site’s buildable area.

This subsection identifies the resources of concern and the proportion of the area encompassing the resource or limitation which must be left in open space and may not be used to calculate a site's buildable area. Sections 4400 through 4419 complement this section by detailing how development of such natural resource areas shall be restricted.

TABLE 4302. RESOURCE PROTECTION AND SPECIAL NATURAL FEATURES LAND

<i>Resource/Natural Feature (All Districts)</i>	<i>Open Space Ratio *</i>	<i>Acres of Land in Resource</i>	<i>Resource Protection Land (Acres in Resource × Open Space Ratio)</i>
Lakes, ponds, or watercourses	1.00	_____	_____
Lake shoreline	0.75	_____	_____
Pond shoreline	0.75	_____	_____
Wetlands	1.00	_____	_____
Drainageways	0.50	_____	_____
Floodplains	1.00	_____	_____
TOTAL LAND IN RESOURCE		= _____	
TOTAL RESOURCE PROTECTION LAND			= _____

*See section 4500.

Section 4303. Recreational land (residential uses only).

This calculation is required of all residential land uses with the exception of subdivisions which would be required to provide less than 0.25 acre by the following calculation. Total recreational land required for residential uses is calculated as follows:

Take	Base site area	_____	acres
Subtract	Total acres of land in resource	- _____	acres
Equals	Total unrestricted land	= _____	acres
Multiply	Total unrestricted land by one of the following as appropriate:	× _____	
Zoning district/use:			
Development district			
	Conventional subdivision	0.0276	Figure to be multiplied by total unrestricted land.
	Performance subdivision	0.1711	

Urban core district	Conventional subdivision	0.0474	
	Performance subdivision	0.1633	
Equals	Total recreational land required	=	_____ acres
Subtract	Any resource protection land in the categories noted below provided said land is improved, or will be improved, for recreation.		
	Lake shore	-	_____ acres
	Pond shore	-	_____ acres
Equals	Total recreation land remaining to be provided	=	_____ acres

Commentary: One purpose of an open space requirement is protection of the land's resources; an additional purpose with residential uses is to provide usable public or common open space as near to each dwelling unit as possible. Thus, there is a need for further control in order to ensure that a minimum amount of land not restricted by the two immediately preceding subsections is retained for this purpose.

The character of the urban core district calls for less recreational space. In the case of neighborhood conservation districts, the areas are so small or are so likely to be fully developed that no useful recreational land would be provided by this specific requirement. An exemption has been created for small residential developments because the recreational land which would have been required by this calculation would be so limited in area as not to provide useful recreational space.

Section 4304. Determination of site capacity (all residential land uses).

Individual site capacity is determined by calculating the net buildable site area. For single-family, single-family cluster, or performance subdivisions, the number of dwelling units permitted is determined by multiplying the density factor by the net buildable site area. The calculations are as follows:

Take	Total resource protection land	_____	acres
Add	Total recreation land remaining to be provided	+ _____	acres
Equals	Total open space	= _____	acres

Take	Base site area	_____	acres
Multiply by	District open space ratio (see section 4203)	× _____	
Equals	Minimum required open space	= _____	acres
Take	Base site area	_____	acres
Subtract	Total open space or minimum required open space, whichever is greater	- _____	acres
Equals	Net buildable site area	= _____	
Multiply by	District maximum density factor (section 4203)	× _____	
Equals	Number of dwelling units (do not round off: use lowest whole number)	= _____	units

Section 4305. Determination of site capacity (all nonresidential uses).

Individual site capacity is calculated as follows. Both maximum impervious surface area and maximum floor area must be calculated.

Take	Base site area	_____	acres
Subtract	Resource protection land	- _____	acres
Equals	Buildable land	= _____	acres
Take	Buildable land	_____	acres
Divide by	Base site area	÷ _____	acres
Equals	Calculated impervious ratio	= _____	
Take	Impervious surface ratio (from land use intensity class of proposed use or district maximum, whichever is less)	_____	

If impervious surface ratio is equal to or less than the calculated impervious surface ratio, then:

Take	Base site area	_____	acres
Multiply by	Impervious surface ratio	× _____	
Equals	Permitted impervious area	= _____	acres

Take	Base site area	_____	acres
Multiply by	FAR (from land use intensity class of proposed use or district maximum, whichever is less)	_____	
		×	_____

Equals	Permitted floor area	=	_____	acres
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If impervious surface ratio is more than the calculated impervious ratio, then:

Take	Base site area	_____	acres	
Multiply by	Calculated impervious ratio	×	_____	
Equals	Permitted impervious area	=	_____	acres
Take	Calculated impervious ratio	_____		
Divide by	Impervious surface ratio	÷	_____	
Equals	Reduction factor	=	_____	

Take	Floor area ratio (from section 4602) or maximum floor area factor (section 4203), whichever is more restrictive	_____		
Multiply by	Reduction factor	×	_____	
Equals	Required floor area factor	=	_____	
Multiply by	Base site area	×	_____	acres
Equals	Permitted floor area	=	_____	acres

Commentary: Certain land which requires protection because of natural resources or limitations must be subtracted from the base site area. Maximum permitted impervious area and floor area are then determined by the above calculations. The maximum intensity of use permitted in a district may not be reached, since a developer may choose to develop within a particular land use intensity class which imposes more restrictive standards than are otherwise applicable in the district.

Section 4400. Natural resource or natural limitation performance standards.

A. In addition to the regulations imposed by sections 4300 through 4303, all development shall be preceded by the identification of any environmental or natural feature described below and shall meet the following standards of environmental protection.

B. Site alterations, regrading, filling, and clearing or planting vegetation prior to submission of the plans for development shall be a violation of this ordinance. Reference in this section to “open space” is intended to mean the term as it is defined by article II (Definitions) and described in section 4500 (Open space).

C. Sections 4401 through 4409 specify the environmental protection standards applicable to each natural resource identified therein.

D. Sections 4408 and 4409 specify the standards imposed for stormwater runoff and control of soil erosion, sedimentation, and water quality.

Section 4401. Floodplains.

A. *[Determination of boundaries.]* The determination of all floodplain boundaries shall be based on the maximum recorded or projected flood elevation applicable. The area constituting a riverine floodplain shall be determined by reference to the following sources in the order indicated below. If the first source is not applicable, the second one shall be used.

1. Certified Federal Emergency Management Agency flood insurance rate maps (FIRM maps).
2. Floodprone area maps published by the Water Resources Division of the U.S. Geological Survey.
- B. *Permanent open space.* All such areas shall be permanent open space. No uses or improvements other than those permitted herein shall be permitted in any area consisting of floodplain as defined by this ordinance.
- C. *Permitted uses.* The following uses are permitted within the floodplain as a matter of right:
 1. All uses which are permitted in designated open spaces by section 4500.
 2. All uses which are classified as agriculture, nurseries, and outdoor recreation in sections 4104, 4106, and 4107.
 3. Operational, rental, or sales shelters associated with uses permitted by this section, [and] drive-in movie screens, provided that their floors or structure are elevated above flood elevation on piles, piers, or other structures designed to permit floodwaters to flow safely underneath.

D. *[Conditional uses.]* All other buildings or any residential, institutional, office, commercial and entertainment, commercial recreation, recreational rental dwelling, or nursery uses may be permitted pursuant to conditional use permits (see article VII), provided that all such uses or structures and their access are raised so that no floor, or its structural supports, or any utility line has less than three feet of clearance between its lowest point and the 100-year flood elevation. Vehicular access to such structures shall comply with the same standards in order to ensure emergency or fire access during periods of high water. Any reduction of cross sectional area due to vertical supporting members shall be offset by compensatory storage.

E. *Installation of fill materials.* Fill may be placed within the floodplain only when allowed as a conditional use pursuant to article VII (Conditional Uses) and any requirements of the Florida department of environmental regulation are met. An application for such conditional use shall be accompanied by detailed fill plans, showing existing and proposed conditions. If a structure is to be placed on the fill, the plans shall show the structure as well. In

considering the application, the zoning hearing board shall determine whether the proposed fill meets the general standards set forth in article VII and the following additional standards:

1. An inland depressional floodplain may have its location and contours altered through cut and fill over 30 percent of its surface area.
2. Compensatory storage shall be provided to offset the storage lost through the filling.
3. All changes in velocity, depth of flood elevation, or storage shall be limited to the property of the owner doing the filling or those property owners who have been granted flood or flow easements, provided that in no event shall an increase in flood elevation be permitted if it would affect any existing building or bring any building to within three feet of the flood elevation.
4. In an inland depressional floodplain, the depth of fill measured from the natural grade to the new surface shall not exceed five feet.
5. Fill shall consist of soil or rock materials only; sanitary landfills shall not be permitted in the floodplain. Further, all fill areas shall be stabilized with material which will ensure and protect against erosion hazards, undercutting, and undermining.

Commentary: Note that the Florida department of environmental regulation (DER) has jurisdiction over defined “wetlands.” Alteration of these wetlands without obtaining permits from DER is a violation of state law. DER regulations should be consulted if there is any indication that the area in question is a “wetland.”

6. No litter, trash or other debris may be placed in the floodplain.

F. *Structural anchoring.* Any structure placed in the floodplain shall be anchored firmly to prevent floodwaters from carrying it downstream. Such anchoring shall be sufficient to withstand a flood velocity of six feet per second. The zoning officer shall require the applicant to submit the written opinion of a registered professional engineer that the proposed structural design meets this standard.

Section 4402. Wetlands.

A. *Permanent open space.* All such areas shall remain as permanent open space. Wetlands may be dredged for deepening or enlargement, provided necessary permits from DER and/or Corps of Engineers are obtained, but wetlands shall not be filled.

B. *Permitted uses.* The following buildings or structures are permitted within wetlands as a matter of right:

1. Boat launching ramps, boat docks, piers, picnic shelters, and stormwater detention facilities, provided that a licensed engineer has certified that such structures are designed to withstand the forces exerted by the 100-year storm event. Evidence of this certification shall be presented as a precondition to issuance of a zoning certificate.
2. Boathouses, boat buildings, and operational sales or rental structures (except boat or motor repair buildings) associated with uses permitted in the preceding subsection,

provided that a licensed engineer certifies that such structures are designed to allow free entrance of floodwaters and structurally to withstand the forces exerted by the 100-year flood event at that location. Evidence of this certification shall be presented as a precondition to issuance of a zoning certificate.

3. Operational, rental, or sales shelters associated with uses permitted by this section, [and] drive-in movie screens, provided that their floors or structures are elevated above flood elevation on piles, piers, or other structures designed to permit floodwaters to flow safely underneath.

All other buildings or any residential, institutional, office, commercial and entertainment, commercial recreation, recreational rental dwelling, or nursery use may be permitted pursuant to conditional use permits (see article VII), provided that all such uses or structures and their access are elevated so that no floor, or its structural supports, or any utility line has less than three feet of clearance between its lowest point and the 100-year flood elevation. Vehicular access to such structures shall comply with the same standards in order to ensure emergency or fire access during periods of high water. Any reduction of cross sectional area due to vertical supporting members shall be offset by compensatory storage.

Commentary: Note that the Florida department of environmental regulation (DER) has jurisdiction over defined "wetlands." As of July 1991, there were no jurisdictional wetlands identified within the town limits. The requirements under section 4402 are minimum standards. DER rules may be more stringent and not allow uses/structures permitted under this section. Alteration of these wetlands without obtaining permits from DER is a violation of state law. DER regulations should be consulted if there is any indication that the area in question is a "wetland."

(Ord. No. 256, § 1, 9-15-92)

Section 4403. Lakes, ponds and streams.

All such areas shall be permanent open space. No development or diverting of these bodies of water shall be permitted except to provide required roads. Filling shall be permitted only in conjunction with deepening the water body and is permitted only if surface area and flood retention remain unchanged or are enlarged and required department of environmental regulation permits are obtained.

Section 4404. Lake shorelines.

The shorelines of lakes, consisting of the area within 25 feet from the shorelines, shall contain no more than 15 percent impervious surfaces. At least 75 percent of all such areas shall be permanent open space.

Section 4405. Pond shorelines.

The shorelines of ponds, consisting of the area within 25 feet from the shorelines, shall contain no more than 15 percent impervious surfaces. At least 75 percent of all such areas shall be permanent open space.

Section 4406. Stream shorelines.

The shorelines of streams, consisting of the area within 50 feet from the shorelines, shall contain no more than 15 percent impervious surfaces. At least 75 percent of all such areas shall be permanent open space.

Section 4407. Drainageways.

- A. No more than 50 percent of such areas shall be developed.
- B. The remaining 50 percent shall remain as permanent open space. Regrading, stripping of vegetation, or filling is permitted in these areas, provided that:
 - 1. The time of concentration of stormwater flows remains unchanged or is lengthened;
 - 2. Stormwater and groundwater storage capacity are unchanged or increased;
 - 3. Natural vegetation is installed (see section 4800);
 - 4. The resultant new drainageway has less velocity than preexisted.

Commentary: The regulations in sections 4404 through 4406 above are designed to prevent excessive direct runoff and, thus, pollution into water bodies and to limit damage in the event of flooding.

Section 4408. Stormwater runoff.

A. *[Generally.]* Except for conventional single-family dwellings with an impervious surface ratio of 0.26 or less, each development shall provide for the detention on or off site of excess stormwater runoff resulting from that development. For the purpose of this article, “excess stormwater runoff” shall include all increases in stormwater resulting from: an increase in the impervious surface of the site, including all additions of buildings, roads, and parking lots; changes in soil absorption caused by compaction during development; modifications in contours, including the filling or draining of small depressional areas, alterations of drainageways, or regrading of slopes; destruction of forest; alteration of drainageways or installation of collection systems to intercept street flows or to replace swales or other drainageways; or the alteration of subsurface flows, including any groundwater dewatering or diversion practices such as curtain drains, compared with the site in its natural state. No site alteration activities shall allow water to become a health hazard or contribute to the breeding of mosquitoes.

B. *Limitation on stormwater runoff.* No development shall cause downstream property owners, watercourses, channels, or conduits to receive stormwater runoff from proposed developments at a higher peak flow rate than would have resulted from the same storm event occurring over the site of the proposed development with the land in its natural, undeveloped condition. For the purposes of this article, “undeveloped condition” shall mean that all the natural retention areas and drainageways plus existing farm drainage tiles and highway drainage structures shall be included in the flow calculations. For the purposes of the following calculation, all ground covers shall be considered to be meadow or grassland, with the excep-

tion that forested areas shall be treated as woodlands. "Channel" or "drainageway channel" shall mean the channels used to convey the drainage flows between successive retention facilities or to retention facilities or from the property.

C. *Storage capacity.* All stormwater storage facilities shall be designed with sufficient capacity to accommodate all runoff caused by the development in excess of the runoff which would have resulted from the site if left in its natural, undeveloped condition. The storage capacity of all storage facilities shall be sufficient to store 115 percent of the excess flow, in each watershed, which would result from the 50-year storm of 24-hour duration.

Commentary: The excess storage capacity is intended to provide a safety margin for downstream land uses and to provide reserve capacity to offset losses due to the accumulation of sediments and miscellaneous debris.

D. *Detention storage calculation.* The engineering calculations regarding stormwater shall be made by a Florida licensed engineer practicing within his/her area of expertise.

Commentary: The detention storage calculation is a comprehensive calculation intended to account for all major factors which alter the runoff characteristics of a site during a 50-year, 24-hour storm. First, the runoff from the site in its developed condition is determined, including all upstream areas. This part of the calculation accounts for the impervious surfaces, ground covers, time of concentration, soil types, and compaction of soils. Then, the runoff from upstream areas, which is a factor beyond the landowner's control, is subtracted from this figure. The runoff from the site in a natural condition is also calculated and subtracted. Natural condition includes all forested areas and assumes a grassland cover for all grasslands and fields, whether cultivated or not. This is done because the natural state of runoff has often been substantially altered causing downstream flood damage. All development must restore runoff characteristics to at least natural condition. Next, change in the site's natural retention capacity is subtracted from the site in its developed capacity. If natural depressional areas are filled or drained, their storage capacity is added to the required detention area. If natural storage capacity is enlarged, it is subtracted from the needed detention storage.

E. *Water quality.* Stormwater treatment shall be required for all new development and redevelopment. The stormwater treatment system or systems can be site-specific or serve subareas of the town. Regardless of the area served, the stormwater treatment systems must provide a level of treatment for the runoff from the first one inch of rainfall for projects in drainage basins of 100 acres or more, or, as an option for projects or project subunits with drainage basins less than 100 acres, the first one-half inch of runoff, from the design storm in accordance with Rule 17-25, F.A.C. (1991) in order to meet the receiving water quality standards of Rule 17-302, section 17-302.500, F.A.C. (1991). Stormwater discharge facilities shall be designed so as to not lower the receiving water quality or degrade the receiving water body below the minimum conditions necessary to maintain their classifications as established in chapter 17-302, F.A.C.

Infill residential development within improved residential areas or subdivisions existing prior to the adoption of this comprehensive plan must ensure that its post-development storm-

water runoff will not contribute pollutants which will cause the runoff from the entire improved area or subdivision to degrade receiving water bodies and their water quality as stated above.

F. *Design regulations.* All detention facilities and improvements required by this section shall comply with the following regulations.

1. *Storage volumes.* Storage may be provided by wet or dry bottom basins or reservoirs or rooftop storage facilities.
2. *Outlet control structures.* Outlet control structures shall be designed as simply as possible and shall operate automatically. They will be designed to limit discharges into existing or planned downstream channels or conduits so as not to exceed existing flow of the site in its natural condition.
3. *Spillway.* Emergency overflow facilities shall be provided unless inflow is controlled to divert flows when the basin is at capacity.
4. *Dry bottom basin.* For basins designed without permanent pools:
 - a. *Interior drainage.* Provisions must be made to facilitate interior drainage, to include the provision of natural grades to outlet structures, longitudinal and transverse grades to perimeter drainage facilities, or the installation of subsurface drains.
 - b. *Multipurpose features.* These may be designed to serve secondary purposes for recreation, open space, or other types of use which will not be adversely affected by occasional or intermittent flooding.
 - c. *Cleaning.* The basins shall be designed for periodic cleaning and removal of sediments, which shall be removed from the site or otherwise disposed of in an appropriate manner.
5. *Wet basins.* For basins designed with permanent pools:
 - a. *Depth for fish.* If fish are used to help keep the basin clean, at least one-quarter of the area of the permanent pool must have a minimum depth of four feet.
 - b. *Facilities for emptying.* For emergency purposes, cleaning, or shoreline maintenance, facilities shall be provided or plans prepared for the use of auxiliary equipment to permit emptying and drainage.
 - c. *Pollution abatement.* Aeration facilities may be required when the quality of the influent and detention time would result in a lowering of dissolved oxygen content in the basin.
 - d. *Slopes.* Approach slopes shall be at least 6:1 but not more than 3:1 and shall be at least four to six feet wide and slope gently toward the basin. The side slopes shall be of nonerosive material with a slope of 1:1 or flatter. The ledge shall be four to six feet wide and slope gently toward the shore to prevent people or objects from sliding into deep water. There shall be a freeboard of 12 to 18 inches above the high-water elevation on all retention basins. Alternate designs for side slopes

may be considered under special circumstances where good engineering practice is demonstrated.

- e. *Cleaning.* The basins shall be designed to include sediment traps in all inlets. Sediment traps shall be designed to permit periodic cleaning and maintenance. A basin maintenance plan shall be developed to ensure that the design depths of the basin will remain over time.

6. *Building regulations.*

- a. *Roof top storage.* Detention storage requirements may be met either in total or in part by detention on flat roofs. Design specifications of such detention shall be a part of the application for a zoning certificate. These specifications shall include the depth and volume of storage, design of outlet devices and downdrains, elevations of overflow scuppers, design loadings for the roof structure, and emergency overflow provisions. Rooftop storage shall not be permitted to drain directly into sanitary sewers or streets.
- b. *Parking lot storage.* Paved parking lots may be designed to provide temporary detention storage of stormwater on a portion of their surfaces not to exceed 25 percent. Outlets shall be designed to empty the stored waters slowly, and depths of storage must be limited so as to prevent damage to parked vehicles. Storage areas shall be posted with warning signs and shall be designed to fill to maximum depth in not less than two hours.
- c. *Detention storage.* All or a portion of the detention storage may also be provided in underground detention facilities.

7. *[Retention in floodplains.]* Retention in floodplains shall be permitted only in depressed floodplain areas. Retention shall not be permitted in riverine floodplains.

- 8. *[Channeling runoff from retention ponds.]* Channeling runoff directly into water bodies from retention ponds is discouraged wherever possible. Instead, runoff should be routed through swales and other retention or detention systems to increase stormwater infiltration and evapotranspiration, to allow settling of suspended solids, and to remove pollutants.

G. *Maintenance of facilities.* The developer shall be responsible for the maintenance of all improvements until such time as 80 percent of the development is completed and occupancy permits are issued or until such time as 80 percent of the lots in the development have been sold. The developer shall not, however, transfer these improvements for the purpose of maintenance until he has complied with the above and until he has received final approval, final inspection, and a certificate of compliance from the Town of Havana. Thereafter, all detention improvements shall be maintained in perpetuity and cannot be developed for any other use which would limit or cause to limit the use for detention.

H. *Inspection of facilities.* The developer's engineer shall be required to inspect all drainage facilities under construction and certify their compliance with approved plans. In addition, a registered engineer, employed by the Town of Havana, may inspect all drainage facilities

while under construction. When facilities are not constructed according to approved plans, the Town of Havana has the explicit authority to compel compliance and require correction of any situations which are not in accordance with the approved plans. (Ord. No. 241, § 1, 11-27-90; Ord. No. 256, § 2, 9-15-92)

Section 4409. Sewage disposal.

A single-family or duplex dwelling unit must connect to the town's sewer system if a connection is possible within 1,320 feet of an existing sewer line measured from the closest lot line, unless each dwelling unit is on a one-acre or greater lot, or if connection to the sewer line is prohibitively expensive. The town may, at its option, extend a sewer line to within 200 feet of the lot line in order to allow connection. If, after notification by the town that a sewer line will not be extended, a single-family or duplex dwelling may use an onsite septic system if the requirements of paragraphs A, B or C below are met.

New commercial structures or new multi-family dwellings of more than two units and new residential units east of the railroad tracks must connect to the town's sewer system prior to issuance of a certificate of occupancy.

Any subdivision of five or more lots in an area not yet served by sewer must install, at the developer's expense, sewer lines to facilitate future connections to the wastewater treatment facility when collection lines are extended to the subdivision.

In any event, all new development and structure using septic tanks must connect to the town's sewer system and discontinue use of the septic tank when the septic system must be pumped out or fails in any way after a sewer line is provided within 1,320 feet of the nearest property line, unless such connection is prohibitively expensive.

Onsite septic system disposal, where allowed, shall meet the standards imposed by the State of Florida.

- A. The minimum site upon which a septic system may be permitted shall not be less than one-quarter acre (10,890 square feet) where a public potable water supply is provided.
- B. The minimum site upon which a septic system may be permitted shall not be less than one-half acre (21,780 square feet) where a private well is used to supply potable water.
- C. The soils in the specific location in the drainfield must meet all requirements specified by the requirements of the State health department or its successor and a permit obtained from the local health unit prior to obtaining a local certificate of occupancy. (Ord. No. 256, § 3, 9-15-92; Ord. No. 279, § 2, 7-23-96)

Section 4500. Open space.

A. Land which is required by this ordinance to remain as open space may be used for the recreation, agriculture, resource protection, amenity and other purposes specified in this section. Open-space land shall be freely accessible to all residents of a development, with the exception that agricultural land uses shall be permitted to restrict access to that land to those solely engaged in agricultural pursuits. Freely accessible shall not be construed to preclude the

collection of reasonable and typical user's fees such as golf course green fees or membership fees. Open-space land shall not be occupied by nonrecreational buildings, or road rights-of-way except as permitted by sections 4400 through 4406, nor shall it include the yards or lots of single-family or multifamily dwelling units or land required to meet the minimum standards for parking areas.

B. All developments required by this ordinance to provide open space shall meet the following requirements:

1. Land designated as open space shall be maintained as open space and may not be separately sold, subdivided, or developed except as provided below.
2. An open space plan shall be submitted as a part of the application for a zoning certificate (see article VIII). This plan shall designate and indicate the boundaries of all open space areas required by this ordinance. The plan shall:
 - a. Designate areas to be reserved as open space. The specific design of open space areas shall be sensitive to the physical and design characteristics of the site.
 - b. Designate the type of open space which will be provided.
 - c. Specify the manner in which the open space shall be perpetuated, maintained, and administered.
3. The types of open space which may be provided to satisfy the requirements of this ordinance, together with the maintenance required for each type, are as follows:
 - a. Natural areas are areas of undisturbed vegetation or areas replanted with vegetation after construction. Woodlands, woodland swamps, wetlands and savannah are specific types of natural areas (see sections 4800 through 4804 for detailed specifications). Maintenance may be limited to removal of litter, dead tree and plant materials, and brush. Natural watercourses are to be maintained as free-flowing and devoid of debris. Stream channels shall be maintained so as not to alter floodplain levels.
 - b. Agricultural uses specified in section 4104 (Agricultural uses). No specific maintenance is required.
 - c. Garden plots are the division of open space into plots for cultivation as gardens by residents. Maintenance may be limited to weeding and fallowing.
 - d. Recreational areas are areas designed for specific, active recreational uses such as tot lots, tennis courts, swimming pools, ballfields, and similar uses. Recreational areas shall be accessible to all residents of the development. Maintenance may be limited to ensuring that there exist no hazards, nuisances, or unhealthy conditions.
 - e. Greenways are linear greenbelts linking residential areas with other open space areas. These greenways may contain bicycle paths, footpaths, and bridle paths. Connecting greenways between residences and recreational areas are encouraged. Maintenance may be limited to a minimum removal and avoidance of hazards, nuisances, or unhealthy conditions.

- f. Lawns consist of grass with or without trees. Maintenance is limited to mowing to ensure neatness.
4. All designated open space shall be large enough to be usable open space. The minimum dimension for usable open space shall be ten feet and the minimum area shall be 100 square feet.

C. Preservation of open space. Open space areas shall be maintained so that their use and enjoyment as open space are not diminished or destroyed. Open space areas may be owned, preserved, and maintained as required by this section by any of the following mechanisms or combinations thereof:

1. Dedication of open space to the Town of Havana or an appropriate public agency, if there is a public agency willing to accept the dedication.
2. Common ownership of the open space by a homeowner's association which assumes full responsibility for its maintenance.
3. Dedication of development rights of open space may be made to an appropriate public agency with ownership remaining with the developer or homeowner's association. Maintenance responsibility shall remain with the property owner.
4. Deed-restricted private ownership which shall prevent development and/or subsequent subdivision of the open space land and provide the maintenance responsibility. (Ord. No. 279, § 3, 7-23-96)

Section 4600. Land use intensity classification and bufferyards.

All land uses which are permitted by this ordinance have been assigned a land use intensity class designation (see section 4602). This classification system separates uses on the basis of the type and degree of "nuisance" or negative impact they are likely to impose on land uses adjacent to them.

In order to minimize any negative effects that a more obnoxious or intensive use will impose on its neighbors, this ordinance requires that bufferyards be provided between uses.

Commentary: Traditional zoning assumes that all uses of a single type (such as an office) always generate the same impacts or have the same levels of nuisance. Based on this assumption, traditional ordinances prescribe a single, unvarying standard for all such uses. Performance zoning recognizes that the traditional assumption is erroneous: the office of an insurance agent with a single employee is clearly much different from a four-story rental office building, for example. In this ordinance, the tremendous variability possible between uses or a single type forms the basis of the land use intensity classification system. Intensity is operationally defined in terms of measurable standards, including impervious surface coverage, building height and bulk, and traffic generation. Each land use intensity class, then, comprises those uses, which, when developed to specified permitted maximum "intensity," have similar "nuisance values."

Bufferyards are required to protect one class of use from adverse impacts caused by a use in another class or to ameliorate the impact two uses in the same class may have on one another. This regulation benefits both the developer and the adjoining landowner(s) because it allows the developer several options from which to choose in developing the property, while ensuring each neighbor adequate protection regardless of the developer's choice.

Each land use is listed in one or more use intensity classes. A use must meet all the standards specified for that use in section 4602 (Table of land use intensity class standards). The standards which apply to the highest-intensity class for a use shall be the maximum intensity permitted for that use. There are standards which set maximum density, impervious surface ratio, floor area, vehicle trips/acre during 24 hours, height and exterior storage area. In addition, there are standards for road location and access and site design (including landscaping, lighting, and signs).

Section 4601. Land use intensity class standards.

In keeping with the concept that performance should be the relevant measure of any land use regulations, the following section classifies uses according to their respective impact (all uses within a use class are considered to have an equal impact on neighboring uses). A developer may develop at an intensity which will minimize nuisances to neighbors or provide a denser bufferyard if the land is developed at greater intensities. The impacts of greater intensity may include greater impervious surface coverage, with associated increased runoff, heat generation, reduced percolation, and open space, increased bulk and height of buildings, increased traffic with associated noise and congestion, signs and exterior lighting visible from neighboring property, and other nuisances. Thus, for example, an office use on any lot may meet the standards at intensity class IV, V, VI, VII, or VIII. The range of intensity classes open to a use does not affect whether it can locate on its lot, but only how it can develop on that lot. Performance standards are specified for each intensity class; exceeding any single standard in an intensity class moves a use to the next-higher intensity class. In the event that a use does not appear in the next-higher intensity class, it may not exceed any single criteria in the highest-intensity class in which it is listed.

Section 4602. Table of land use intensity class standards.

TABLE 4602. LAND USE INTENSITY CLASS STANDARDS

Land Use Intensity Class Number and General Use Category	Maximum Density (Gross)	Maximum Impervious Surface Ra- tio	Maximum Floor Area Ratio	Site Design Standards (See Note 1)	Road Location (See Sections 4701, 4703, 4706)		Maximum Height (feet) (See Note 2)	Exterior Storage (See Note 3)	Trips/Acre/ 24 Hours
					Any				
Class I Agriculture	0.025	0.05	N/A	R	Any		35/80	N/A	N/A
Class II Conventional subdivision	0.9	0.12	N/A	R	I		35	None	8
Performance subdivision	1.2	0.12	N/A	R	I	See section 5200		None	10

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Land Use Intensity Class Number and General Use Category	Maximum Density (Gross)	Maximum Impervious Surface Ra- tio	Maximum Floor Area Ratio	Site Design Standards (See Note 1)	Road Location (See Sections 4701, 4703, 4706) (See Note 5)		Maximum Height (feet) (See Note 2)	Exterior Storage (See Note 3)	Trips/Acre/ 24 Hours
Outdoor recreation	N/A	0.05	0.003	A	Any	Any	20	None	10
Class III									
Conventional subdivision	3.2	0.26	N/A	R	I	I	35	None	26
Performance subdivision	5.2	0.30	N/A	R	I	I	See section 5200	None	42
Outdoor recreation	N/A	0.08	0.005	A	Any	Any	25	None	20
Class IV									
Conventional subdivision	5.0	0.35	N/A	R	I	I	35	None	40
Performance subdivision	17.5	0.52	N/A	R	I	I	See section 5200	None	140
Recreational rental dwellings	10	0.25	0.15	B	II or III	II or III	35	None	120
Outdoor recreation	N/A	0.15	0.009	A	Any	Any	30	None	30
Bed and Breakfast Inn	N/A	0.30	0.25	R	I, II or III	I, II or III	30	None	30
Class V									
Outdoor recreation	N/A	0.15	0.009	A	Any	Any	30	None	40
Indoor recreation, institutional, and special residential	N/A	0.30	0.25	A	II or III	II or III	35	None	170
Public service	N/A	0.20	0.12	A	I, II or III	I, II or III	20	None	25
Office	N/A	0.20	0.11	A	II, III or IV	II, III or IV	20	None	150
Nursery	N/A	0.03	0.05	A	II, III or IV	II, III or IV	25	0.05	100
Class VI									
Outdoor recreation	N/A	0.25	0.01	B	Any	Any	30	None	50
Public service	N/A	0.50	0.35	B	Any	Any	30	None	50
Indoor recreation, institutional, and special residential	N/A	0.60	0.49	B	II or III	II or III	40	None	350
Office	N/A	0.50	0.24	B	II, III or IV	II, III or IV	60	None	360
Commercial/entertainment	N/A	0.40	0.47	B	II, III or IV	II, III or IV	25	None	630
Light industry	N/A	0.30	0.29	B	II, III or IV	II, III or IV	30	None	105
Nursery	N/A	0.20	0.20	B	II, III or IV	II, III or IV	30	0.10	250
Class VII									
Outdoor recreation	N/A	0.40	0.02	C	Any	Any	35	None	75
Public service	N/A	0.70	0.40	C	II, III or IV	II, III or IV	40	0.10	75
Indoor recreation, institutional, and special residential	N/A	0.70	0.57	C	II, III or IV	II, III or IV	45	None	406
Office	N/A	0.70	0.36	C	III or IV	III or IV	60	None	500
Commercial/entertainment	N/A	0.65	0.77	C	III or IV	III or IV	30	None	1,000
Agricultural support	N/A	0.65	0.55	C	III or IV	III or IV	40	None	250
Light industry	N/A	0.50	0.48	C	III or IV	III or IV	35	None	180
Road service	N/A	0.50	0.19	C	III or IV	III or IV	25	None	2,000
Class VIII									
Outdoor recreation	N/A	0.60	0.03	D	Any	Any	40	None	110
Public service	N/A	0.90	0.45	D	II, III or IV	II, III or IV	50	0.30	100
Indoor recreation, institutional, and special residential	N/A	0.80	0.65	D	III or IV	III or IV	50	0.05	470
Office	N/A	0.90	0.50	D	III or IV	III or IV	60	None	650
Commercial/entertainment	N/A	0.90	1.10	D	III or IV	III or IV	50	0.05	1,400
Light industry	N/A	0.80	0.78	D	III or IV	III or IV	45	0.05	280

Land Use Intensity Class Number and General Use Category	Maximum Density (Gross)	Maximum Imperious Surface Ra- tio	Maximum Floor Area Ratio	Site Design Standards (See Note 1)	Road Location (See Sections 4701, 4703, 4706)		Maximum Height (feet) (See Note 2)	Exterior Storage (See Note 3)	Trips/Acre/ 24 Hours
					(See Note 5)				
Road service	N/A	0.80	0.31	D	III or IV		40	0.05	3,200
Agricultural support	N/A	0.80	0.80	D	III or IV		50	0.05	400
Class IX									
Public service	N/A	1.0	0.55	E	II, III or IV		50	0.80	200
Office	N/A	1.0	0.70	E	III or IV		75	0.10	700
Commercial/entertainment	N/A	1.0	1.2	E	III or IV		60	0.30	1,600
Light industry	N/A	0.90	0.87	E	III or IV		45	0.50	400
Road service	N/A	0.90	0.35	E	III or IV		40	0.30	3,600
Commercial/recreation	N/A	0.70	0.30	E	III or IV		25/60	None	200
Agricultural support	N/A	0.90	0.95	E	III or IV		60	0.50	600
Class X									
Commercial/recreation	N/A	0.90	0.40	E	III or IV		40/120	0.10	300
Light industry	N/A	1.0	0.97	E	III or IV		45	0.90	600
Class XI									
Heavy industry	N/A	0.90	0.94	E	IV		60	0.90	500
Extraction	N/A	0.10	0.10	E	IV		30	0.80	150

Notes to table:

1. See sections 4612 through 4619: landscaping (section 4613); offstreet parking area landscaping (section 4614); exterior lighting (section 4615) and signs (section 4616).
2. The figure specified in this column is the maximum permitted height of each permitted structure. When two figures are specified, the latter one is the maximum permitted height of permitted uninhabited accessory structures. The following structures are exempt from the maximum height regulations of this section, except as limited by any height restriction regulation of the Federal Aviation Agency or the Florida department of transportation, aviation bureau, or any height restriction imposed by any airport authority, port district, or other municipal corporation operating an airport.

a. Agricultural buildings, except residences.

b. Bulk storage silos and storage towers, provided the maximum permitted height shall not exceed 100 feet.

c. Concrete batching and mixing towers, provided the maximum permitted height shall not exceed 100 feet.

d. Gravity feed apparatus in all districts except heavy industrial; the maximum permitted height shall not exceed 60 feet.

e. Public utility poles, towers, and wires.

f. Radio and television antennae and towers.

g. Towers for mechanical equipment or smoke.

h. Water tanks and standpipes.

3. Garden centers shall be permitted the following additional exterior storage for plant material only:

In Class VII: 0.70

In Class VIII: 0.90

In Class IX: 1.00

4. In the development district, any land use having direct frontage on an arterial or collector roadway may take access to a directly adjoining residential street provided the residential street adjoins the side of the lot and not the rear.

5. Road location codes and classifications are specific to this zoning ordinance. The terms "arterial" and "collector" are to be interpreted only as defined in section 4704 of this ordinance. Reference to traffic engineering practice in order to dispute the classifications presented in section 4704 is not appropriate to interpret section 4704. The road location codes and associated classifications are:

I = Residential streets

II = Local streets

III = Collector streets

IV = Arterials

See map in section 4704 for the classification of specific roads.

(Ord. No. 241, § 2, 11-27-90; Ord. No. 279, § 4, 7-23-96)

Section 4603. Bufferyards: purpose.

The bufferyard is a unit of yard together with the planting required thereon. Both the amount of land and the type and amount of planting specified for each bufferyard requirement of this ordinance are designed to ameliorate nuisances between adjacent land uses or between a land use and a public road. The planting units required of bufferyards have been calculated to ensure that they do, in fact, function as "buffers."

Bufferyards shall be required to separate different land uses from each other in order to eliminate or minimize potential nuisances such as dirt, litter, noise, glare of lights, signs, and unsightly buildings or parking areas, or to provide spacing to reduce adverse impacts of noise, odor, or danger from fires or explosions.

Section 4604. Location of bufferyards.

Bufferyards shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line. Bufferyards shall not be located on any portion of an existing or dedicated public or private street or right-of-way.

Section 4605. Determination of bufferyard requirements.

A. To determine the type of bufferyard required between two adjacent parcels or between a parcel and a street, the following procedure shall be followed (see appendix for sample calculation):

1. Identify the land use category of the proposed use by referring to sections 4104 through 4108.

2. Identify the use category of the land use(s) adjacent to the proposed use by onsite survey.
3. Identify the land use intensity class of all adjoining land uses by referring to section 4602 (Table of land use intensity class standards). The Town of Havana shall supply this information.
4. Classify any street adjacent to the proposed use by referring to sections 4703 (Street types) and 4707 (Temporary access).
5. Determine the bufferyard required on each boundary (or segment thereof) of the subject parcel by referring to section 4606 (Table of bufferyard requirements).
- B. Section 4606 specifies the bufferyard required between adjacent land uses. The requirements are expressed in terms which are further described and detailed in sections 4606 through 4611 and sections 4800 through 4806 [4804].
- C. Bufferyard specifications are detailed and illustrated in section 4607 (Bufferyard requirements). The bufferyards illustrated constitute the total bufferyard required between the two adjacent land uses. Any of the options contained in section 4607 for the required bufferyard shall satisfy the requirement of buffering between adjacent land uses.
- D. [Responsibility for providing bufferyard.]
1. When a use is the first to develop on two adjacent vacant parcels, this first use shall provide the buffer which section 4606 (Table of bufferyard requirements) requires next to vacant land.
2. The second use to develop shall, at the time it develops, provide all additional plant material and/or land necessary to provide the total bufferyard required between those two uses by section 4606.
- Editor's note—The appendix referred to in section 4605.A is on file in the office of the town clerk.

Section 4606. Table of bufferyard requirements.

The letter designations contained in this table refer to the bufferyard requirements and standards contained in section 4607.

TABLE 4606. TABLE OF BUFFERYARD REQUIREMENTS

<i>Proposed Land Use Intensity Class</i>	<i>Adjacent Existing Intensity Class</i>											<i>Adjacent Vacant¹ Land Use (District)</i>				
	<i>I</i>	<i>II</i>	<i>III</i>	<i>IV</i>	<i>V</i>	<i>VI</i>	<i>VII</i>	<i>VIII</i>	<i>IX</i>	<i>X</i>	<i>XI</i>	<i>NC</i>	<i>DD</i>	<i>UC</i>	<i>HI</i>	
<i>I</i>	*	Ag	Ag	Ag	Ag	Ag	*	*	*	*	F	*	*	*	*	
<i>II</i>	Ag	B	C	D	D	E	G	H	I	J	K	A	B	C	J	
<i>III</i>	Ag	C	B	D	D	E	G	H	I	J	K	B	B	C	J	

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Proposed Land Use Intensity Class	Adjacent Existing Intensity Class									Adjacent Vacant ¹ Land Use (District)					
	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	NC	DD	UC	HI
IV	Ag	D	C	B	D	E	G	H	I	J	K	C	C	A	J
V	Ag	D	D	D	A	A	C	D	E	E	F	C	C	C	D
VI	Ag	E	E	E	A	A	A	C	D	D	E	D	D	D	D
VII	*	G	G	G	C	A	A	A	C	C	D	F	F	F	C
VIII	*	H	H	H	D	C	A	A	A	B	C	G	G	G	C
IX	*	I	I	I	E	D	C	A	A	A	*	H	H	H	B

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<i>Proposed Land Use Intensity Class</i>	<i>Adjacent Existing Intensity Class</i>											<i>Adjacent Vacant¹ Land Use (District)</i>				
	<i>I</i>	<i>II</i>	<i>III</i>	<i>IV</i>	<i>V</i>	<i>VI</i>	<i>VII</i>	<i>VIII</i>	<i>IX</i>	<i>X</i>	<i>XI</i>	<i>NC</i>	<i>DD</i>	<i>UC</i>	<i>HI</i>	
<i>X</i>	*	J	J	J	E	D	C	B	A	*	*	I	I	I	*	
<i>XI</i>	F	K	K	K	F	E	D	C	A	*	*	J	J	J	*	

*No bufferyard required.

¹Includes land used for agricultural purposes.

<i>Proposed Land Use Intensity Class</i>	<i>Collector² Land Use Across Street</i>					<i>Residential Street</i>				
	<i>Expressway³</i>	<i>Arterial</i>	<i>Nonresidential</i>	<i>Vacant</i>	<i>Residential</i>	<i>Residential</i>	<i>Residential</i>	<i>Residential</i>	<i>Residential</i>	<i>Street</i>
<i>I</i>	*	*	*	*	*	*	*	*	*	*
<i>II</i>	<i>F</i>	<i>D</i>	<i>S₁</i>	<i>S₁</i>	<i>S₁</i>	<i>S₁</i>	<i>S₁</i>	<i>S₁</i>	<i>S₁</i>	<i>S₁</i>
<i>III</i>	<i>F</i>	<i>D</i>	<i>S₁</i>	<i>S₁</i>	<i>S₁</i>	<i>S₁</i>	<i>S₁</i>	<i>S₁</i>	<i>S₁</i>	<i>S₁</i>
<i>IV</i>	<i>F</i>	<i>D</i>	<i>S₁</i>	<i>B</i>	<i>B</i>	<i>B</i>	<i>B</i>	<i>B</i>	<i>B</i>	<i>S₂</i>
<i>V</i>	*	<i>B</i>	<i>S₁</i>	<i>B</i>	<i>B</i>	<i>B</i>	<i>B</i>	<i>B</i>	<i>B</i>	<i>C</i>
<i>VI</i>	*	<i>C</i>	<i>S₁</i>	<i>B</i>	<i>B</i>	<i>B</i>	<i>D</i>	<i>D</i>	<i>D</i>	<i>D</i>
<i>VII</i>	*	<i>D</i>	<i>S₁</i>	<i>C</i>	<i>C</i>	<i>C</i>	<i>F</i>	<i>F</i>	<i>F</i>	<i>F</i>
<i>VIII</i>	<i>B</i>	<i>E</i>	<i>S₁</i>	<i>C</i>	<i>C</i>	<i>C</i>	<i>F</i>	<i>F</i>	<i>F</i>	<i>F</i>
<i>IX</i>	<i>C</i>	<i>F</i>	<i>B</i>	<i>D</i>	<i>D</i>	<i>D</i>	<i>G</i>	<i>G</i>	<i>G</i>	<i>G</i>
<i>X</i>	<i>D</i>	<i>G</i>	<i>C</i>	<i>E</i>	<i>E</i>	<i>E</i>	<i>H</i>	<i>H</i>	<i>H</i>	<i>H</i>
<i>XI</i>	<i>E</i>	<i>H</i>	<i>C</i>	<i>F</i>	<i>F</i>	<i>F</i>	<i>I</i>	<i>I</i>	<i>I</i>	<i>I</i>

*No bufferyard required.

²Residential uses shall provide an E bufferyard against a railroad. The buffer between a residential use and an expressway shall provide a chainlink fence as the required structure.

³Includes frontage roads and internal circulation roads.

Section 4607. Bufferyard requirements.

A. The following illustrations graphically indicate the specifications of each bufferyard. Bufferyard requirements are stated in terms of the width of the bufferyard and the number of plant units required per 100 linear feet of bufferyard. The requirements of a bufferyard may be satisfied by any of the options thereof illustrated. The “plant unit multiplier” is a factor by which the basic number of plant materials required for a given bufferyard is determined given a change in the width of that yard. The type and quantity of plant materials required by each

bufferyard, and each bufferyard option, are specified in this section. Sections 4800 through 4803 specify types and size of plant materials.

Commentary: The options within any bufferyard are designed to be equivalent in terms of their effectiveness in eliminating the impact of adjoining uses. Cost equivalence between options was attempted where possible. The following illustrations have mathematically rounded the number of plant units required for each option within a given bufferyard. In actual practice, mathematical rounding would be applied to the total amount of plant material required by a bufferyard, not to each 100 foot length of bufferyard. All of the following illustrations are drawn to scale and depict the bufferyard according to the average projected diameter of plant materials at five years after planting.

B. Each illustration depicts the total bufferyard located between two uses.

C. Whenever a wall, fence, or berm is required within a bufferyard, these are shown as “structure required” in the following illustrations, wherein their respective specifications are also shown. All required structures shall be the responsibility of the higher-intensity use. Whenever a wall is required in addition to a berm, the wall shall be located between the berm and the higher-intensity use, in order to provide maximum sound absorption.

D. The following plant material substitutions shall satisfy the requirements of this section.

- 1. In bufferyards G, H, I, J, and K, evergreen canopy or evergreen understory trees may be substituted for deciduous canopy forest trees without limitation.
- 2. In bufferyards A, B, C, D, E, F, S₁, S₂, and AG, evergreen canopy or evergreen understory trees may be substituted as follows:
 - a. In the case of deciduous canopy forest trees, up to a maximum of 50 percent of the total number of the deciduous canopy trees otherwise required.
 - b. In the case of deciduous understory, without limitation.
- 3. In all bufferyards, evergreen or conifer shrubs may be substituted for deciduous shrubs without limitation.
- 4. In all bufferyards required of public service uses, the public service use may substitute evergreen canopy or evergreen understory plant materials for canopy forest trees and understory plant materials, without limitation.

E. The following structures are equivalent and may be used interchangeably, so long as both structures are specified in the bufferyard illustrations in this section.

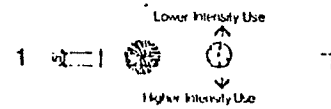
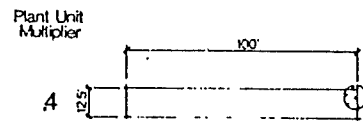
Structure	Equivalent Structure
F ₃	B ₁
F ₄	B ₂
F ₅	B ₃
F ₆	BW ₁

Structure	Equivalent Structure
B ₁	F ₃
B ₂	F ₄
B ₃	F ₅
BW ₁	F ₆
F. If the development on the adjoining use is existing, planned, or deed-restricted for solar access, understory trees must be substituted for canopy trees where canopy trees would destroy solar access.	
G. Any existing plant material which otherwise satisfies the requirements of this section may be counted toward satisfying all such requirements.	
H. The exact placement of required plants and structures shall be the decision of each user except that the following requirements shall be satisfied:	
1. Evergreen (or conifer) class III and IV plant materials shall be planted in clusters rather than singly in order to maximize their chances of survival.	
2. Berms with masonry walls (BW₁, BW₂, and BW₃) required of bufferyard J and K options are intended to buffer more significant nuisances from adjacent uses and, additionally, to break up and absorb noise, which is achieved by the varied heights of plant materials between the masonry wall and the noise source.	
a. When berms with walls are required, the masonry wall shall be closer than the berm to the higher-intensity use.	
b. Within a bufferyard, a planting area at least five feet wide containing 15 percent of the total plant requirements (based on the multiplier = 1) shall be located between [the] masonry wall and the higher-intensity class use. These plants shall be chosen to provide species and sizes to reduce noise in conjunction with the wall.	
I. All bufferyard areas shall be seeded with lawn or native wildflower mix unless cover is already established.	

1526

REQUIRED PLANT UNITS / 100'

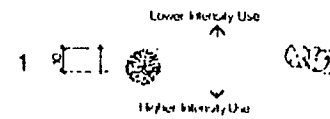
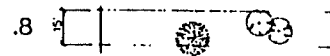
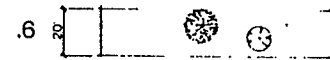
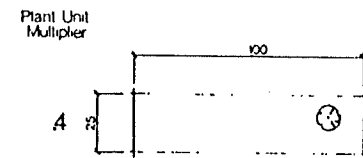
- .6 Canopy Trees
- 1 Understory Trees
- Shrubs
- Evergreens/Conifers



BUFFERYARD A

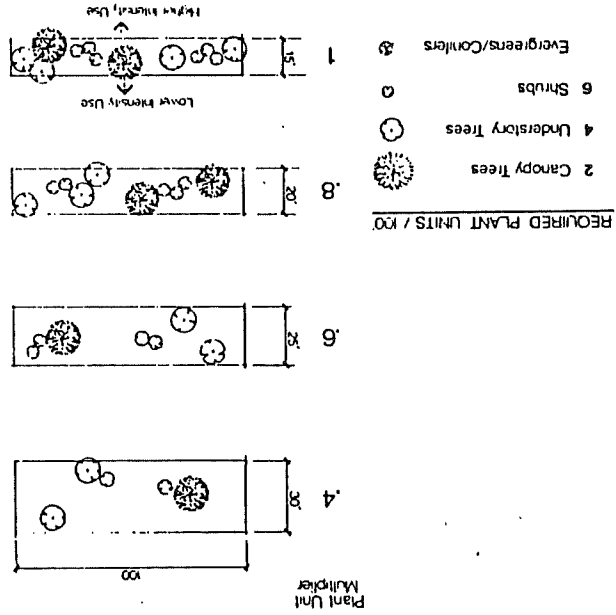
REQUIRED PLANT UNITS / 100'

- 1 Canopy Trees
- 2 Understory Trees
- Shrubs
- Evergreens/Conifers

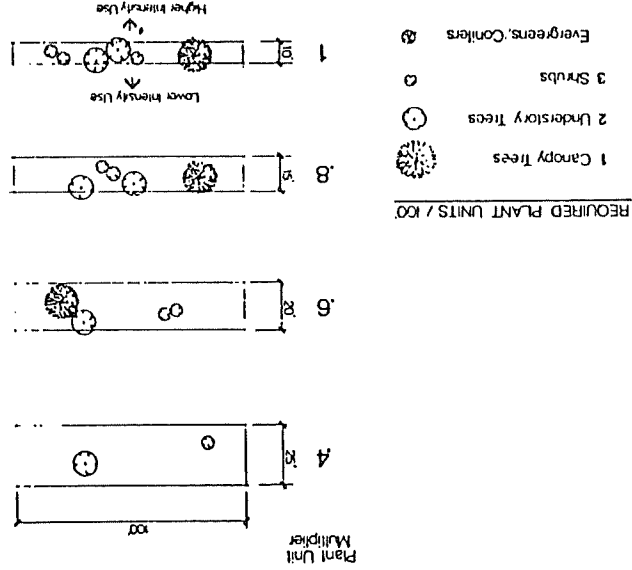


BUFFERYARD B

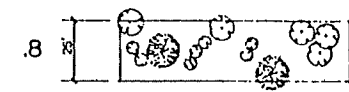
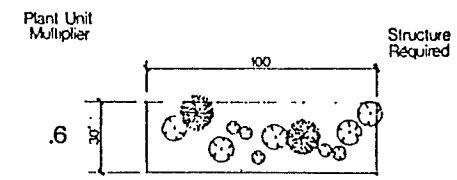
BUFFERYARD D



BUFFERYARD C

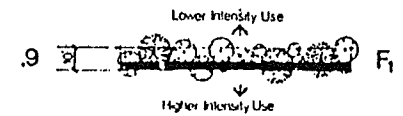
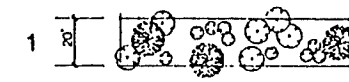


1528



REQUIRED PLANT UNITS / 100'

- 3 Canopy Trees
- 6 Understory Trees
- 9 Shrubs
- Evergreens/Conifers

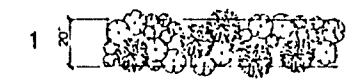
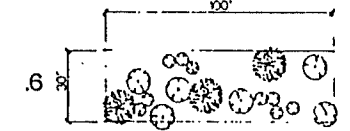


BUFFERYARD E

Plant Unit Multiplier

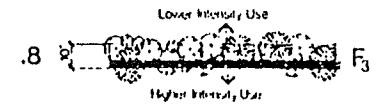
100'

Structure Required

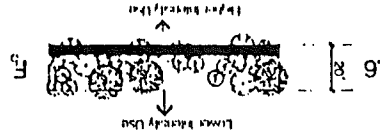
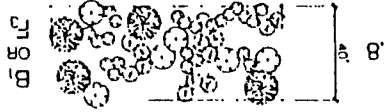
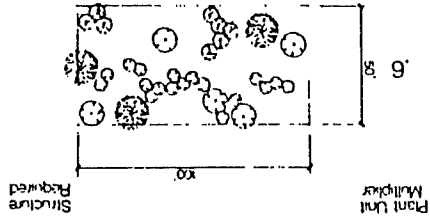


REQUIRED PLANT UNITS / 100'

- 5 Canopy Trees
- 10 Understory Trees
- 15 Shrubs
- Evergreens/Conifers

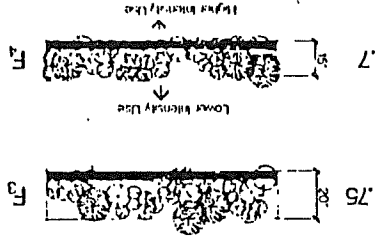
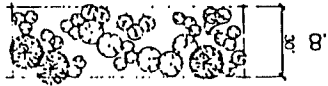
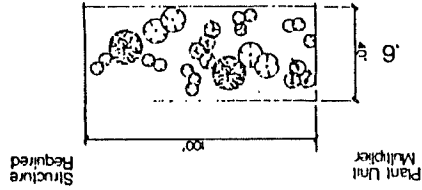


BUFFERYARD F



BUFFERYARD H

REQUIRED PLANT UNITS / 100'	
5	Canopy Trees
7.5	Understory Trees
30	Shrubs
15	Evergreens/Conifers



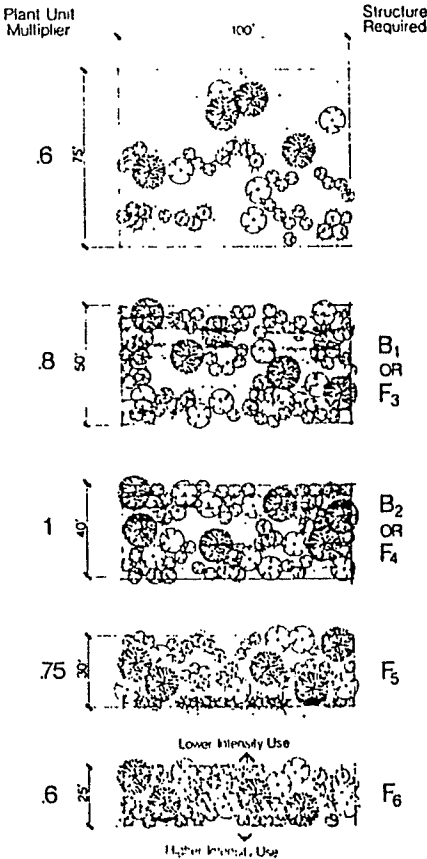
BUFFERYARD G

REQUIRED PLANT UNITS / 100'	
4	Canopy Trees
6	Understory Trees
24	Shrubs
12	Evergreens/Conifers

1530

REQUIRED PLANT UNITS / 100'

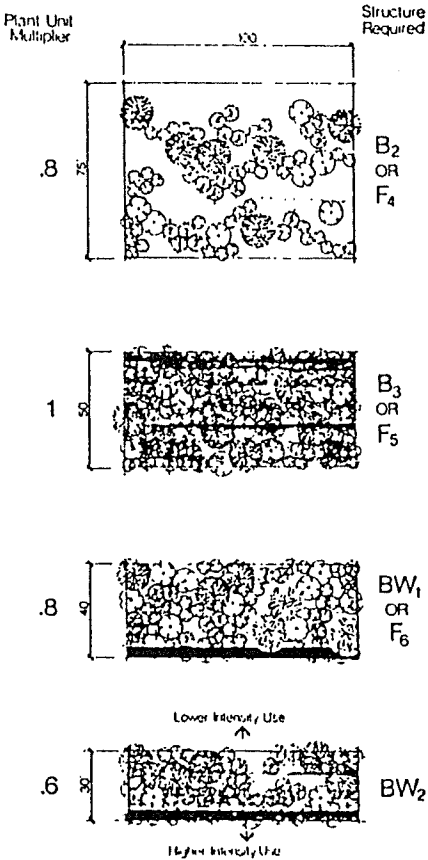
- 6 Canopy Trees
- 9 Understory Trees
- 36 Shrubs
- 18 Evergreens/Conifers



BUFFERYARD I

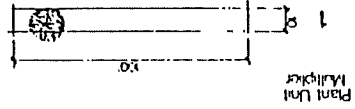
REQUIRED PLANT UNITS / 100'

- 8 Canopy Trees
- 12 Understory Trees
- 48 Shrubs
- 24 Evergreens/Conifers*



BUFFERYARD J

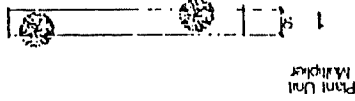
BUFFERYARD S₁



1 Canopy Tree

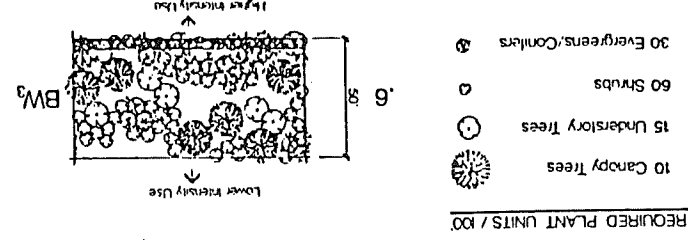
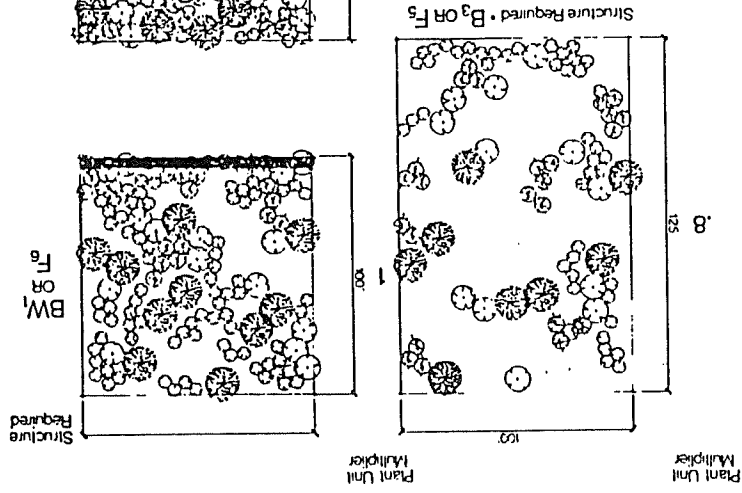
REQUIRED PLANT UNITS / 100

BUFFERYARD S₂



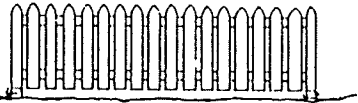
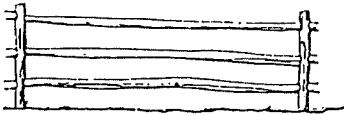
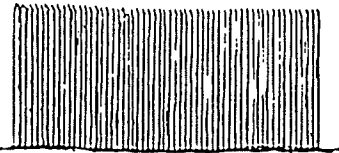
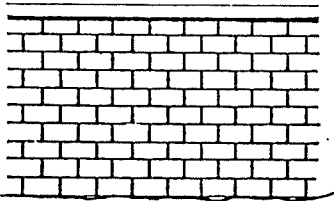
2 Canopy Trees

REQUIRED PLANT UNITS / 100

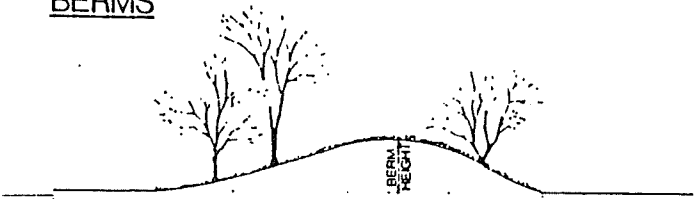


BUFFERYARD K

FENCES

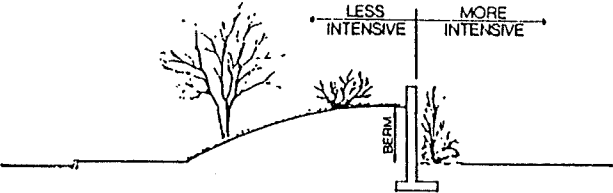
SYMBOL	HEIGHT	MATERIAL
F ₁	44"	 Wood Picket
F ₂	48"	 Wood Rail
F ₃	6'	 Wood Stockade
F ₄	8'	
F ₅	6'	 Masonry Wall (Poured Concrete, Cement Block, Brick, etc.)
F ₆	8'	

BERMS

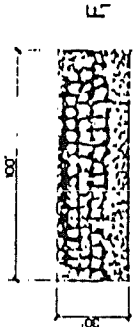


SYMBOL	HEIGHT	MATERIAL
B ₁	4'	EARTH
B ₂	5'	"
B ₃	6'	"

BERM WALLS



SYMBOL	HEIGHT
BW ₁	4' BERM w/ 6' MASONRY WALL
BW ₂	5' BERM w/ 7' MASONRY WALL
BW ₃	6' BERM w/ 8' MASONRY WALL

REQUIRED PLANT UNITS / 100'	Structure Required
76 Raspberry Bushes & Garden Plot	
20 Thorny Understory 38 Thorny Shrubs	
10 Thorny Understory 38 Thorny Shrubs 34 Hedge-row Shrubs	
38 Thorny Shrubs 34 Hedge-row Shrubs	

BUFFERYARD Ag

Note: Required fences and hedges shall be located as close as possible to the property line between the two uses.

Section 4608. Use of bufferyards.

A bufferyard may be used for passive recreation; it may contain pedestrian, bike, or equestrian trails, provided that: (a) no plant material is eliminated, (b) the total width of the bufferyard is maintained, and (c) all other regulations of the ordinance are met. In no event, however, shall the following uses be permitted in bufferyards: playfields, stables, swimming pools, and tennis courts.

Commentary: This section provides flexibility for the use of larger bufferyards. It enables public or private use of bufferyards for limited recreational uses, so long as the total buffer required by the original use is provided.

Section 4609. Ownership of bufferyards.

Bufferyards may remain in the ownership of the original developer (and assigns) of a land use, or they may be subjected to deed restrictions and subsequently be freely conveyed, or they may be transferred to any consenting grantees, such as adjoining landowners, a park or forest preserve district, the Town of Havana, or an open space or conservation group, provided that any such conveyance adequately guarantees the protection of the bufferyards for the purposes of this ordinance.

Section 4610. Excess bufferyard.

Where the bufferyard required between a land use and vacant land turns out to be greater than that bufferyard which is required between the first use and the subsequently developed use, the following options apply:

- A. The subsequent use may provide one-half of the buffer required by sections 4606 and 4607. The existing use may expand its use into the original buffer area, provided that the resulting total bufferyard between the two uses meets the bufferyard requirements of sections 4606 and 4607.
- B. The existing use may enter into agreements with abutting landowners to use its existing buffer to provide some or all of the required bufferyard of both land uses. The total buffer shall equal the requirements of sections 4606 and 4607. Provided that such an agreement can be negotiated, the initial use may provide the second use some or all of its required bufferyard and/or extra land on which it might develop. The existing use may reduce its excess buffer by transferring part or all of the excess buffer to the adjoining landowner to serve as its buffer. Any remaining excess buffer area may be used by the existing use for expansion of that use or for transfer by it to the adjoining landowner to expand that adjoining use.

Commentary: Since vacant land may not be developed for years after the first use is established, this provision attempts to address the inevitable uncertainty about the bufferyard which would ultimately be required. It would not be equitable to require that the second use be responsible for all the buffer needed. This provision makes it possible to require buffering

from the initial use established and, thereafter, if more buffer exists than is required, makes it possible to utilize land originally set aside for bufferyard.

Section 4611. Contractual reduction of bufferyard abutting vacant land.

When a land use is proposed adjacent to vacant land, and the owner of that vacant land enters into a contractual relationship with the owner of the land that is to be developed first, a reduced buffer may be provided for that first use, provided that: the contract contains a statement by the owner of the vacant land of an intent to develop at no greater than a specified land use intensity class; and an agreement by that vacant landowner to assume all responsibility for additional buffer, if needed by the subsequent development of a less intense use than had been agreed upon, is transferred to the owner of the vacant (second in time to be developed) land. This contract must bind subsequent owners, be recorded, and run with the land.

Commentary: This contract mechanism provides a means for avoiding the provision of too large a buffer in areas where the owners of vacant land have relatively firm plans for the ultimate use of their land, which plans do not include land use intensity requiring the greatest bufferyards.

Section 4612. Site design standards.

The land use intensity classification standards (section 4602) regulate landscaping (both onsite and for parking areas), exterior lighting, and signs. The following sections detail the regulations which apply to each of the six standards (R, A, B, C, D, and E) specified in section 4602 (Table of land use intensity class standards).

Commentary: Among nuisances frequently caused by individual uses are too many, too large, or ugly signs, the noise, glare, and unsightliness of parking lots, the massive scale or character of buildings, and the brightness or glare of exterior lighting. It is clear that these nuisance aspects of a use are independent of the use per se: an otherwise tastefully conceived office can be a major nuisance because of large signs, bright lights, and parking areas. Regulatory standards for general landscaping, parking lot landscaping, lighting, and signs are imposed to control adverse impacts on abutting land uses.

Section 4613. General landscaping requirements.

This section details the general landscaping required of particular land uses by section 4602. The number and type of plant units required per 300 linear feet of nonresidential building(s) perimeter comprising the subject land use are specified for standards R, A, B, C, D, and E. The landscaping requirement specified for residential uses (R) is the requirement per ten dwelling units. The definitions of this ordinance (defining plant units) shall be applicable to the terms utilized in this section.

The requirements of this section shall be applied proportionately when the total linear feet of building(s) perimeter varies from 300 feet for nonresidential uses or ten residential dwelling units. All required planting shall be located in areas which do not include any

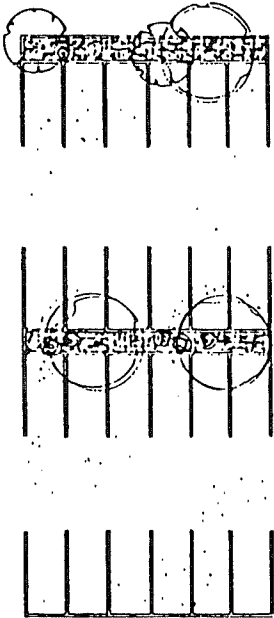
bufferyard or right-of-way. Existing plant materials which meet the requirements of this ordinance may be counted as contributing to the total landscaping required by this section.

The following table specifies the type and number of plant units required by this section. Sections 4800 through 4803 further define the types and size of plant materials which may satisfy the requirements of this section.

<i>Number of Landscaping Units Required (Per 300 Feet or 10 Dwelling Units)</i>			
<i>Landscaping Standard (From Section 4602)</i>	<i>Canopy</i>	<i>Understory</i>	<i>Shrubs</i>
R	5	5	0
A	5	5	25
B	3	3	15
C	2	2	10
D	1	1	5
E	0	0	0

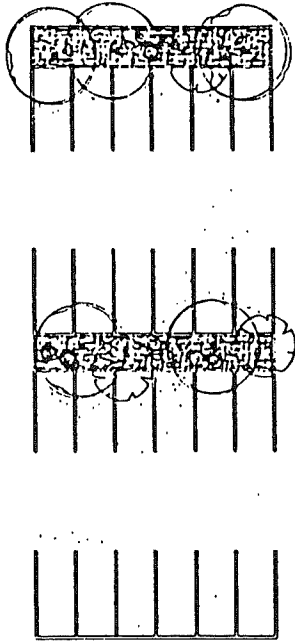
Section 4614. Offstreet parking landscaping requirements.

This section details the landscaping required of all offstreet parking areas exceeding five parking stalls as specified in section 4602 (Table of land use intensity class standards). The number and type of plant units required per 24 automobile spaces is specified for each standard (A, B, C, D, E, or R). Also specified is a minimum area within which the required planting must be provided. Existing plant materials which meet the requirements of this ordinance may be counted as contributing to the total landscaping required by this section. The requirements of this section shall be applied proportionally to any number of spaces other than 24. Sections 4800 through 4804 specify the type and quantity of plant materials which satisfy the requirements of this section.



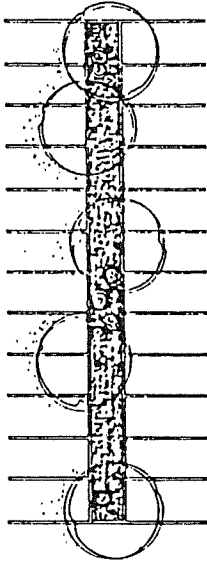
720 S.F./24 Stalls
3 Canopy
2 Understory
6 Shrubs

B



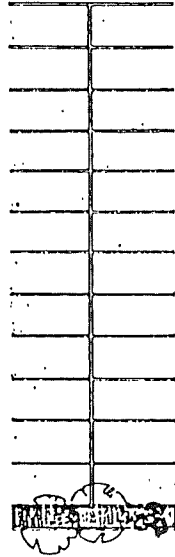
1080 S.F./24 Stalls
5 Canopy
3 Understory
10 Shrubs

A



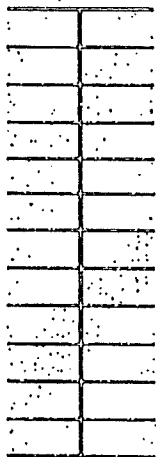
240 S.F./24 Stalls
2 Canopy
3 Shrubs

B



E

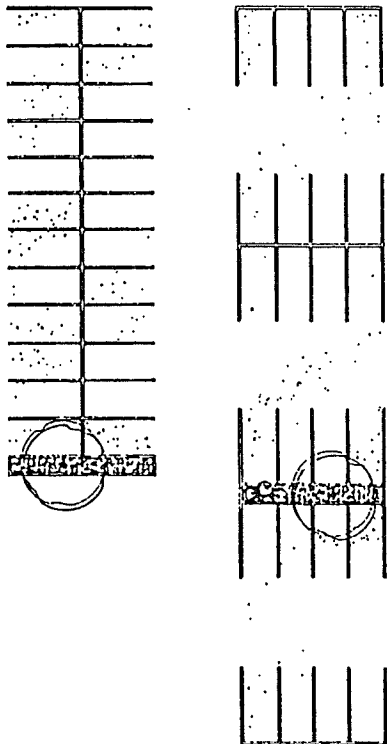
240 S.F./24 Stalls



D

240 S.F./24 Stalls

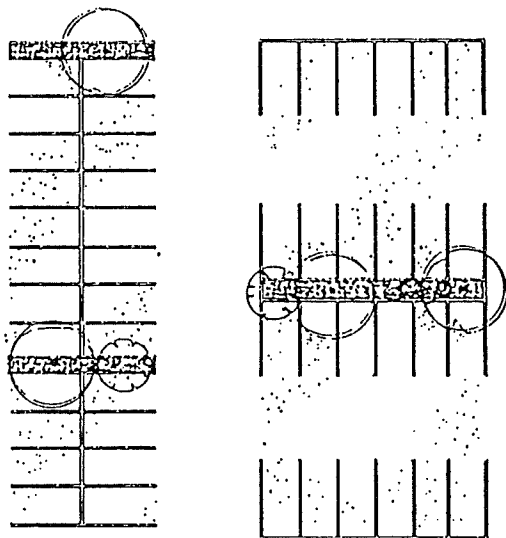
1 Canopy
3 Shrubs



C

360 S.F./24 Stalls

2 Canopy
1 Understory
4 Shrubs



Section 4615. Exterior lighting standards.

A. *Purpose.* This section details the exterior lighting standards specified in section 4602 (Table of land use intensity class standards). The purpose of this section is to regulate the spillover of light and glare on operators of motor vehicles, pedestrians, and land uses in the proximity of the light source. With respect to motor vehicles in particular, safety considerations form the basis of the regulations contained herein. In other cases, both the nuisance and hazard aspects of glare are regulated. This section is not intended to apply to public street lighting. The provisions of this section will not apply to the rural and heavy industrial districts.

B. Definitions.

Candlepower: The amount of light that will illuminate a surface one foot distant from a light source to an intensity of one footcandle. Maximum (peak) candlepower is the largest amount of candlepower emitted by any lamp, light source, or luminaire.

Cutoff: The point at which all light rays emitted by a lamp, light source, or luminaire are completely eliminated (cut off) at a specific angle above the ground.

Cutoff angle: The angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source, above which no light is emitted.

Cutoff type luminaire: A luminaire with elements such as shields, reflectors, or refractor panels which direct and cut off the light at a cutoff angle that is less than 90 degrees.

Footcandle: A unit of illumination produced on a surface, all points of which are one foot from a uniform point source of one candle.

Glare: The brightness of a light source which causes eye discomfort.

Luminaire: A complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts.

Maximum permitted illumination: The maximum illumination measured in footcandles at the interior bufferyard line at ground level in accordance with the standards of subsection (D) [subsection C] below.

C. *[Standards.]* The following standards are required of all exterior lighting except the outdoor recreational uses specifically exempted below. Many uses have the option of providing a lower light post with a non-cutoff type luminaire or a higher pole, up to 60 feet, with a luminaire that totally cuts off light spillover at a cutoff angle smaller than 90 degrees.

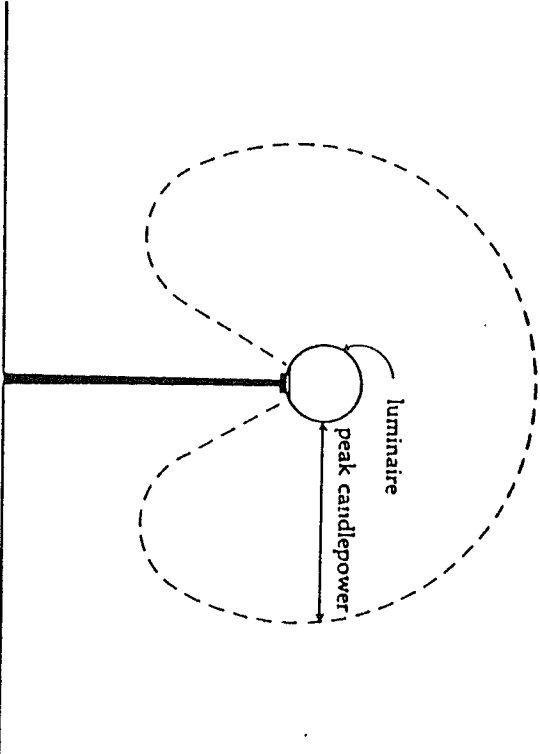
The maximum height light post permitted is dependent on amount of cutoff provided. This is designed as a protection against excessive glare and light spilling over to neighboring properties. The exceptions which are permitted provide adequate protection for neighboring residential property.

Exterior lighting shall meet one of the following standards:

- 1. [No cutoff luminaire.] When light source or luminaire has no cutoff:

<i>Standard</i>	<i>Maximum Permitted Illumination</i>	<i>Maximum Permitted Height of Luminaire (feet)</i>
R	0.20	10
A	0.20	15
B, C, D, E	0.30	20

Illustrations of this type of luminaire are provided below.



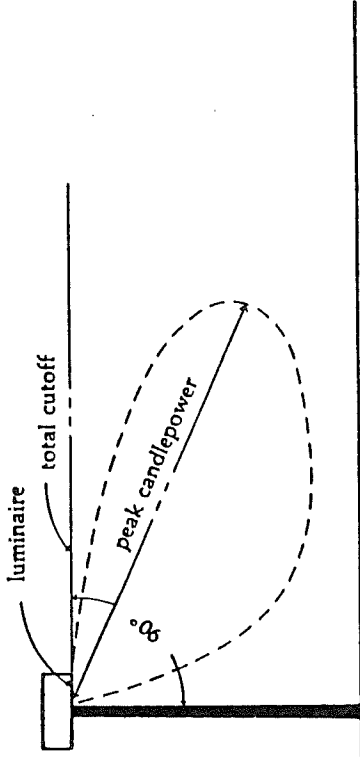
NO CUTOFF LUMINAIRE

Commentary: Exterior lighting fixtures frequently produce unsightly glare. At times, the glare may even result in a safety hazard. The standards imposed by this section are designed to reduce the hazard and nuisance of these fixtures.

2. [Ninety-degree cutoff luminaire.] When a luminaire has total cutoff of an angle greater than 90 degrees, the maximum illumination and the maximum permitted luminaire height shall be:

Standard	Maximum Permitted Illumination	Maximum Permitted Height of Post (feet)
R	0.3	15
A	0.5	20
B	0.75	25
C	1.0	30
D	1.5	35
E	2.0	40

An illustration of this type of luminaire is provided below.



90[DEGREE] CUTOFF LUMINAIRE

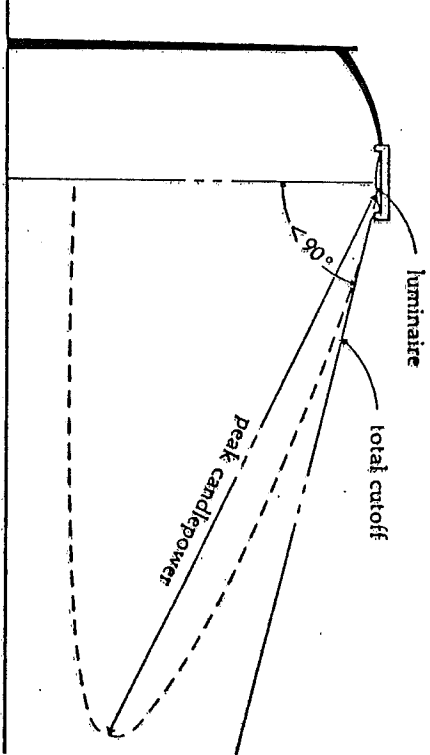
Commentary: This standard is designed to ensure that no light is emitted above a horizontal line parallel to the ground. In order to achieve total cutoff at 90 degrees, such a luminaire shall emit maximum (peak) candlepower at an angle not exceeding 75 degrees. This angle is formed by the line at which maximum candlepower is emitted from the light source and a line perpendicular to the ground from the light source.

3. [Luminaire with less than 90-degree cutoff.] When a luminaire has total cutoff of light at an angle less than 90 degrees and is located so that the bare light bulb, lamp, or light source is completely shielded from the direct view of an observer five feet above

the ground at the point where the cutoff angle intersects the ground, then the maximum permitted illumination and the maximum permitted height of the luminaire shall be:

Standard	Maximum Permitted	
	Illumination	Height of Post (feet)
R	0.5	20
A	1.0	25
B	2.0	30
C	3.0	40
D	4.0	50
E	5.0	60

An illustration of this type of luminaire is provided below.



LUMINAIRE WITH LESS THAN 90[DEGREE] CUTOFF

Commentary: This type of light fixture may be taller and provide greater illumination at the property line than the other two types specified above, because the design of this fixture ensures that its light source will not be directly visible offsite.

- 4. *Exemption for specified outdoor recreational uses.*
 - a. Because of their unique requirements for nighttime visibility and their limited hours of operation (specified in section 4602), ball diamonds, playing fields, and tennis courts are exempted from the exterior lighting standards of subsection (D) [subsection C.] above. These outdoor recreational uses must meet all other requirements of this section and of this ordinance.

- b. The outdoor recreational uses specified above shall not exceed a maximum permitted post height of 80 feet.
- c. The outdoor recreational uses specified above may exceed a total cutoff angle of 90 degrees, provided that the luminaire is shielded to prevent light and glare spillover to adjacent residential property. The maximum permitted illumination at the interior bufferyard line shall not exceed two footcandles.

D. *Additional regulations.* Notwithstanding any other provision of this section to the contrary:

1. No flickering or flashing lights shall be permitted.
2. Light sources or luminaires shall not be located within bufferyard areas except on pedestrian walkways.

E. *Measurement.*

1. *Metering equipment.* Lighting levels shall be measured in footcandles with a direct-reading, portable light meter. The meter shall have a color and cosine-corrected sensor with multiple scales and shall read within an accuracy of plus or minus five percent. It shall have been tested, calibrated, and certified by an independent commercial photometric laboratory or the manufacturer within one year of the date of its use.
2. *Method of measurement.* The meter sensor shall be mounted not more than six inches above ground level in a horizontal position. Readings shall be taken by qualified personnel only after the cell has been exposed long enough to provide a constant reading. Measurements shall be made after dark with the light sources in question on, then with the same sources off. The difference between the two readings shall be compared to the maximum permitted illumination and property line at ground level in section 4602 (Table of land use intensity class standards). This procedure eliminates the effects of moonlight and other ambient light.

F. *Exterior lighting plan.* At the time any exterior lighting is installed or substantially modified, and whenever a zoning certificate is sought, an exterior lighting plan certified by a qualified engineer shall be submitted to [the] Town of Havana in order to determine whether the requirements of this section have been met.

Section 4616. Sign regulations.

A. *Purpose.* The purpose of this section is to establish minimum regulations for the display of signs for each of the standards specified in section 4602 (Table of land use intensity class standards). Every sign permitted by this section must be located on or directly contiguous to the site where the land use to which the sign refers is located. The provisions of this section shall not apply in the heavy industrial districts.

Commentary: There is a significant relationship between the manner in which signs are displayed, on the one hand, and public safety and the value and economic stability of adjoining property, on the other. The reasonable display of signs is necessary as a public service and to

the conduct of competitive commerce and industry. These regulations establish minimum standards for signs which directly relate to the use of property and to the intensity of development.

B. Definitions.

Sign: Any object, device, display, structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. Signs do not include the flag or emblem of any nation, organization of nations, state, city, religious, fraternal, or civic organization; also merchandise and pictures or models of products or services incorporated in a window display, works of art which in no way identify a product, or scoreboards located on athletic fields. Signs indicating hours of operation, open or closed, or giving directions to parking shall not be regulated as signs provided they are less than ten square feet in area. Definitions of particular functional, locational, and structural types of signs are listed in this section.

Arterial sign: A sign which is located on a site which has frontage on an arterial road (as defined by sections 4703 and 4704).

Auxiliary sign: A sign which provides special information such as direction, price, sales information, or warning and which does not include names, brand names, or information regarding product lines or services. Examples of such signs include directories of tenants, "no trespassing" signs, and signs which list prices of gasoline.

Development sign: A sign which, by symbol or name, identifies a development. It may also provide an index of uses (tenants) included in the development.

Freestanding sign: A self-supporting sign resting on or supported by means of poles, standards, or any other type of base on the ground.

Graphic: A sign which is an integral part of a building facade. The sign is painted directly on, carved in, or otherwise permanently embedded in the facade. Signs in shop windows are included unless they qualify as auxiliary signs.

Marquee: The sign of a theater, auditorium, fairground, or museum, which advertises present and scheduled events.

Portable sign: Any sign, whether on its own trailer, wheels, or otherwise, which is designed so that it can be transported from one place to another.

Projecting sign: A sign, other than a wall sign, which is attached to and projects from a structure or building face. The sign face of double-faced projecting signs is calculated by measuring one face of the sign only.

Sign face: That area of a sign which:

1. In the case of freestanding, projecting, and marquee signs consists of the entire surface area of the sign on which copy could be placed. The supporting structure

or bracing of a sign shall not be counted as a part of sign face area unless such structure or bracing is made a part of the sign's message. Where a sign has two display faces back to back, the area of only one face shall be considered the sign face area. Where a sign has more than one display face, all areas which can be viewed simultaneously shall be considered the sign face area.

2. In the case of a sign (other than freestanding, projecting, or marquee) whose message is fabricated together with the background which borders or frames that message, sign face area shall be the total area of the entire background.
3. In the case of a sign (other than freestanding, projecting, or marquee) whose message is applied to a background which provides no border or frame, sign face area shall be the area of the smallest rectangle which can encompass all words, letters, figures, emblems, and other elements of the sign message.

Sign lighting: Methods of illumination which may be divided into several types:

1. *General:* The sign itself neither is lighted internally nor has an external source of light specifically directed at it. Rather, the sign depends on the general illumination of the area (e.g., parking lot, traffic or pedestrian areas) for its illumination.
2. *Internal:* The sign is made of translucent material with internal lights.
3. *Back lite:* The letters are raised beyond the sign's background and the covering lighting sources which illuminate the background.
4. *Spot lite:* The sign is lighted by spotlights specifically directed at it.

Super graphic: A sign consisting of a single word which is an integral and permanent part of the facade and which is distinguished only by relief and the shadows thereby created.

Temporary sign: A sign or advertising display constructed of cloth, canvas, fabric, paper, plywood, or other light material and intended to be displayed for a short period of time (30 consecutive days). Included in this category are retailers' signs temporarily displayed for the purpose of informing the public of a sale or "special" offer.

Use sign: The sign(s) permitted for each land use by section 4618 (Detailed regulations by sign type). The size, height, lighting, and other standards applicable to a use sign are specified in section 4602 (Table of land use intensity class standards) and this section.

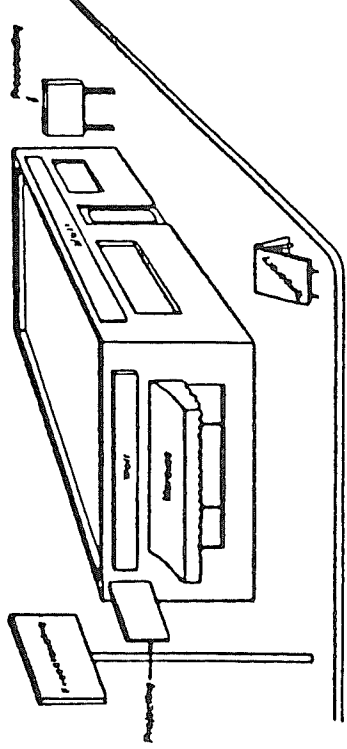
Wall sign: A sign mounted parallel to a building facade or other vertical building surface. Parallel signs shall not extend beyond the edge of any wall or other surface to which they are mounted, nor shall they project more than 18 inches from its surface.

C. General regulations.

1. No person shall erect, alter, or relocate within the Town of Havana any sign without first obtaining a sign permit (see article VIII), with the following exceptions: (a) memorial signs and tablets displayed on public property or in cemeteries, (b) address

- numerals and signs not exceeding three square feet in area and bearing the names of occupants of the premises, (c) legal notices, (d) traffic and parking signs which bear no advertising, (e) temporary signs.
2. The repainting, changing of parts, and preventive maintenance of signs shall not be deemed alterations requiring a sign permit.
 3. Except for time and/or temperature signs, no flashing, fluttering, undulating, swinging, rotating, or otherwise moving signs shall be permitted.
 4. No sign, temporary or otherwise, shall be affixed to a tree or utility pole.
 5. No sign shall violate the corner visibility restrictions of section 4710 (Clear view of intersecting streets).
 6. No signs, including traffic signs and similar regulatory notices, except those of a duly constituted governing body shall be allowed within road right-of-way lines.
 7. Any spotlights permitted to illuminate signs shall be shielded such that their light source cannot be seen from adjoining roads.
 8. Height.
 - a. The height of a freestanding sign shall be measured from the curb level to the top of the sign.
 - b. The height of a projecting sign shall be measured from the base of the sign face to the ground below.
 - c. The height of a wall sign shall be measured from the base of the building below the sign to the top of the sign face. The top of the sign shall be no higher than the maximum permitted building height nor shall it be more than three feet higher than the highest ceiling elevation in the building.
 - d. The height of a graphic or super graphic shall be measured from the base of the ground to the top of the sign face.
 9. A sign shall not be mounted on a roof.
- (Ord. No. 241, § 3, 11-27-90; Ord. No. 279, § 5, 7-23-96)

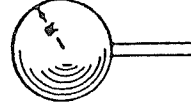
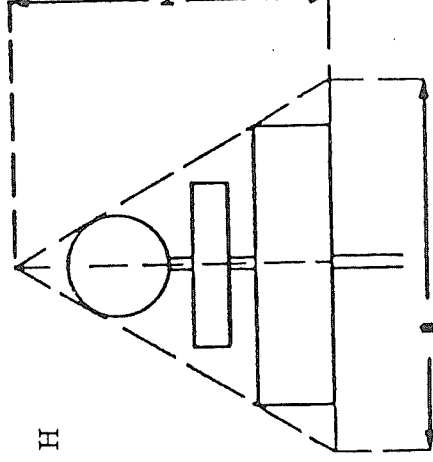
SIGN TYPES



SIGN FACE AREA CALCULATIONS

FREESTANDING

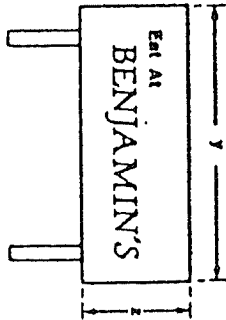
$$\text{SIGN FACE AREA} = \frac{1}{2}B \times H$$



$$\text{SIGN FACE AREA} = 3.14 \times R^2$$

FREESTANDING

AREA = $y \times z$



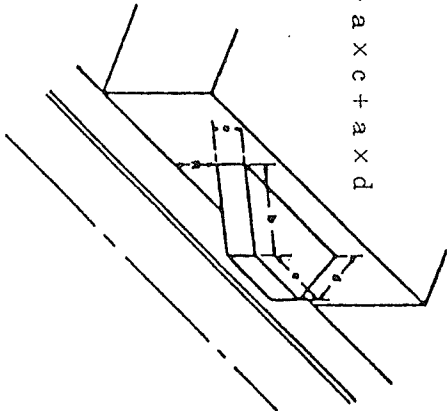
WALL

AREA = $\frac{1}{2}H(B_1 + B_2)$

MARQUEE SIGN

HEIGHT (H) = 8' MINIMUM

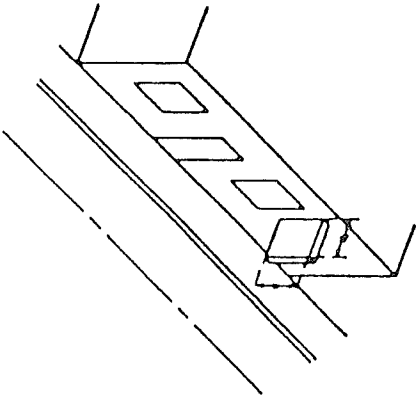
SIGN FACE AREA = 80% of $a \times b + a \times c + a \times d$



PROJECTING SIGN

SIGN FACE AREA = $a \times b$

DOUBLE FACE = $a \times b \times 2$



Section 4617. Table of sign performance standards.

Table 4617 indicates which sign performance standard (R, A, B, C, D, or E, specified in section 4602) applies to a particular land use. Subject to any additional applicable requirements of this section, the following table states the specifications for each of the standards as applied to each of the six sign types permitted by this ordinance. For each sign type, the maximum area of the face of the sign, the maximum permitted height, the permitted lighting source, and any additional requirements or limitations are specified.

TABLE 4617. SIGN PERFORMANCE STANDARDS

	R	A	B	C	D	E
<i>Freestanding</i>						
Maximum area ¹	2 square feet	25 square feet	35 square feet	50 square feet	75 square feet	100 square feet
Maximum height	Note 1	6 feet	8 feet	10 feet	15 feet	20 feet
Lighting	General	Spot	Spot	Spot, internal, back	Spot, internal, back	Spot, internal, back
<i>Projecting</i>						
Maximum area	2 square feet	12 square feet	15 square feet	18 square feet	24 square feet	30 square feet
Maximum height	8 feet	14 feet	15 feet	16 feet	18 feet	18 feet
Lighting	General	General	General	General	General, internal, back	General, internal, back
Other						
<i>Wall</i>						
Maximum area	3 square feet	4 square feet	4 square feet	4 square feet	6 square feet	8 square feet
Max-8 feet minimum height	Maximum height of building	Maximum height of building	Maximum height of building	Maximum height of building	Maximum height of building	
Lighting	General	Spot, back	Spot, back	Spot, internal, back	Spot, back	Spot, back
Other						
<i>Graphics</i>						
Maximum area	6 square feet	12%	16%	20%	28%	38%
Maximum height	6 feet	Maximum height of building	Maximum height of building	Maximum height of building	Maximum height of building	Maximum height of building
Lighting	General	Spot, general	Spot, general	Spot, general	Spot, general	Spot, general
Other						
<i>Super graphics</i>						
Maximum area ²		40%	50%	60%	80%	100%
Maximum height	Not permitted	Maximum height of building	Maximum height of building	Maximum height of building	Maximum height of building	Maximum height of building
Lighting		General	General	General	General	General
Other						
<i>Auxiliary freestanding</i>						
Maximum area ³		10%	10%	10%	15%	15%
Maximum height		4 feet	5 feet	6 feet	8 feet	10 feet
Building area	Not permitted	10%	10%	10%	10%	10%
Window area		5%	7%	10%	20%	30%
Other	In display area—not on window					

¹One foot or mounted on house, garage, or mailbox.

²In square feet or percent of facade area.

³Percent of permissible free standing sign.
(Ord. No. 279, § 6, 7-23-96)

Section 4618. Detailed sign regulations by sign type.

A. Use signs.

1. Each land use shall be permitted any two of the following sign types: freestanding, projecting wall, graphic, supergraphic, auxiliary, as permitted by this section. (Note: Only one freestanding sign per location.)
2. When a use takes pedestrian or vehicular access from more than one street or road, one additional sign shall be permitted for each such road to which it has access.

B. Arterial signs.

1. Each lot which has a minimum of 500 feet of frontage on an arterial road, as designated by section 4704, shall be permitted one arterial sign, in addition to any other sign(s) which may be permitted by this section.
2. An arterial sign shall be a freestanding sign and shall be no more than eight square feet in area for each 250 feet of arterial road frontage of the lot on which it is to be located. An arterial sign shall be no higher than six feet in height, except when the total area of the sign is 100 square feet it may be no more than ten feet in height. Such signs may be internally lighted or lighted by spotlights.
3. When more than one lot is to be subdivided or developed as part of a larger land development, there shall be permitted to that development either:
 - a. No more than one arterial sign for each arterial road upon which it fronts.
 - b. One sign for each 250 feet of frontage on an arterial road, provided that the total sign face area thereof shall not exceed the combined sign face area which would otherwise be permitted by this section.
4. Arterial signs shall be located between the arterial road on which they may be permitted and the bufferyard required by the use on the site.

Commentary: An arterial sign is intended to permit the identification of uses located nearby the road. The regulations imposed by this section ensure that public highway signs are not rendered ineffective. Arterial signs are adequately sized so that motorists can be informed a safe distance prior to exit of the use(s) located at any roadway exit point.

C. Development signs.

1. When a development has in excess of 600 feet of frontage on an arterial road and consists of more than ten acres, one development sign shall be permitted at each point where a development takes access to an arterial road or on the frontage of the arterial as defined by this ordinance. If the development has in excess of 400 feet and consists of more than five acres taking access from a collector road, one development sign per collector road upon which it fronts shall be permitted. Development signs are permitted in addition to any arterial sign(s) permitted.

2. A development sign shall be limited in height to no more than six feet above the natural grade in the area, with the exception that, when the width of the sign is less than 20 percent of its height, the sign may be up to 25 feet in height.
3. All development signs shall be freestanding.
4. Lighting of a development sign may be by internal lighting, back lighting, the general lighting of the area, or by shielded spotlights.
5. The standards below shall apply to all development signs:

<i>Type of Lighting</i>	<i>Maximum Sign Face Area</i>
General	80 square feet plus 10 square feet for every 100 feet of frontage over 500 feet
Backlighting or spotlighting	60 square feet plus 8 square feet for every 100 feet of frontage over 500 feet
Internal lighting	40 square feet plus 5 square feet for every 100 feet of frontage over 500 feet

6. All development signs shall be located between the arterial or collector roads on which they may be permitted and any bufferyard required by the use on the site.

D. Additional regulations.

1. *Marquee signs.* Theaters, museums, auditoriums, and fairgrounds shall be permitted marquee signs up to an additional 100 percent in area beyond that permitted for freestanding signs, provided that the area of other signs to which the theater, museum, auditorium, or fairground may be entitled is reduced. The increase in area permitted the marquee sign shall be equal to the reduction in area of other permitted signs.
2. *Auxiliary signs.* An auxiliary sign may be freestanding, attached to freestanding structures or equipment, or may be attached to the building or windows.
3. *Freestanding signs.* A freestanding sign may be located within any bufferyards required by the use of the site on which it is located provided all planting requirements are met.
4. *Graphic signs.* A graphic sign shall consist of or be constructed of the same material as the facade of which it is an integral part, with the exception that individual letters or symbols which do not project more than one inch from the facade need not be of the same material as the facade. In the case of a painted graphic, the color of graphic symbols may be different from that of the facade upon which it is painted.
5. *Super graphic.* A super graphic shall consist or be constructed of the same material as the facade of which it is an integral part. No difference in material, color, or tone is permitted.

(Ord. No. 279, § 7, 7-23-96)

Section 4619. Temporary signs.

- A. *[Generally.]* Temporary signs must conform to all regulations of this section but shall not be required to obtain a sign permit.

B. *Political signs.* Temporary signs advertising political parties or candidates for election may be erected or displayed and maintained provided that:

1. The size of any such sign is not in excess of four square feet.
2. The signs shall not be erected or displayed earlier than 70 days prior to the election to which they pertain.
3. The erector of such sign or an authorized agent of the political party or candidate deposits with the zoning officer the sum of \$25.00 per each 100 such signs, or fraction thereof, as a guarantee that all such signs will be removed within 20 days after the date of the election to which such signs relate. If such signs are not removed at the end of the 20-day period, the Town of Havana shall have them removed and keep the full sum deposited to reimburse the expenses thereby incurred.

C. *Real estate signs.* A sign pertaining to the sale or lease of all or a portion of the premises on which the sign is located may be displayed for as long as the property is for sale or lease. Real estate signs may be no larger than nine square feet in the neighborhood conservation district. In all other districts, one square foot of additional sign area is allowed over the minimum of nine square feet for every ten feet of lot street frontage over 40 feet. Real estate signs and must be removed no later than one week after the sale or lease of the premises is accomplished.

D. *[Maximum period of use.]* Except as noted in section 4619B and C (above), no temporary sign may be displayed for [more than] 30 days in any six-month period.
(Ord. No. 241, § 4, 11-27-90; Ord. No. 279, § 8, 7-23-96)

Section 4620. Portable signs.

A. A permit may be granted for the erection of one portable sign on the premises of a business or institution provided that the portable sign shall:

1. Be allowed for not more than 30 calendar days in any six-month period;
2. Not exceed 40 square feet in sign surface area;
3. Not utilize flashing illumination;
4. Be set back a minimum of ten feet from a right-of-way line;
5. Not be allowed to be placed in a parking space that is required to meet the minimum parking requirements of the city;
6. Not be allowed in any neighborhood conservation district.

B. Nonconforming portable signs shall be removed or made to conform to this ordinance within six months from the effective date of this ordinance. Any animated component or any component consisting of flashing illumination shall be eliminated within seven days after notification by the zoning administrator.
(Ord. No. 241, § 5, 11-27-90)

Section 4621. Obsolete or nonconforming signs.

A. Any sign advertising a business or event no longer in existence, service no longer offered, or product no longer available shall be removed within 30 days of the date of termination of such business, event, service or product. Permanent signs applicable to a business temporarily suspended because of a change of ownership or management of such business shall not be deemed obsolete unless the property remains vacant for a period of six months or more.

B. Upon notification by the zoning administrator that any sign has been determined to be obsolete and in violation of section 4621, the sign owner or owner or lessee of the property upon which the sign is located shall remove the sign within 30 days. Upon failure to comply with this notice, the town manager may authorize removal of the sign at cost to the owner.

C. The new owner of a business shall not be allowed to maintain a nonconforming sign and, upon change of ownership of the business, all signs shall be brought into compliance with this article.

(Ord. No. 241, § 6, 11-27-90)

Section 4700. Transportation and access standards.

Sections 4701 through 4707 classify the highway system for the purpose of regulating access, street, and right-of-way standards. In the case of development expected to have significant impact on transportation, a transportation impact analysis is required by section 4708 (Transportation impact report) to ensure that these particular land uses do not adversely impact the highway system. This analysis may result in the developer being required to provide specified highway improvements as a precondition to that development's being permitted. Additionally, sections 4709 and 4710 impose regulations addressing access for emergency vehicles and areas of unobstructed view at intersections.

Section 4701. Road classification.

It is the purpose of this section to classify streets and roads on the basis of factors, such as circulation pattern, design speed, and traffic volume, which affect their suitability for particular land uses. There are four basic street types: residential, local, collector, and arterial. Each basic type is then divided into subcategories for which particularized standards are prescribed. The standards applicable to each are designed to minimize safety hazards, traffic congestion, and other negative impacts which can result when land use development is not carefully coordinated with the street and roadway system. In the case of residential streets, the standards are a function of the dwelling-unit density, average lot size, and average frontage of the residential uses located on the streets. This basis allows the accommodation of different volumes of traffic as well as on-street parking. In the case of nonresidential roads, the standards imposed are a function of the average daily traffic and design speed of each such road.

Commentary: This street classification system separates residential streets from all other types. Residential streets carry significant volumes of foot and bicycle traffic and are used by children. Therefore, design speeds and traffic volumes must remain low in order to provide the

necessary safety for residential neighborhoods. Collector roads form barriers between neighborhoods. Their traffic volumes and design speeds are correspondingly greater because their function is to connect major traffic routes. A moderate speed is essential to this function. To control congestion and provide safety, residential properties are not allowed to take direct access to such roads. The arterial roads constitute the highway network upon which most traffic must flow. The efficiency of the system requires that these roads accommodate traffic at high speeds over considerable distances. Whenever these roads become congested, there is pressure to build a bypass to relieve that problem when, in fact, limiting access initially could have prevented congestion.
(Ord. No. 279, § 9, 7-23-96)

Section 4702. Definitions.

For the purposes of this article, the following definitions shall apply:

Average daily traffic shall mean (1) the number of vehicles specified as the average traffic using a stretch of road during a 24-hour period, either as specified by the Florida department of transportation or a count provided by a professional transportation engineer; or (2) the number of vehicles specified as the average traffic generated by a land use as specified by section 4708 (Transportation impact report) or from studies of comparable uses conducted by competent professionals.

Average frontage (average lot frontage) shall mean the average front width of lots measured at the street line. This figure shall be calculated separately for each street section, the end points of which shall be a street intersection. This term is applicable only in the case of single-family detached units.

Cartway shall mean that portion of a road right-of-way which is paved, exclusive of curbs.

Double-loaded shall mean a residential street having dwelling units that take access from both sides of that street.

Freeway shall mean a highway that accommodates heavy traffic at high speeds with full control of access and no at-grade intersections.

Right-of-way shall mean the road width measured at property lines.

Single-loaded shall mean a residential street having dwelling units that take access from only one side of that street. A single-loaded street includes parkways, one-way loops, and eyebrow roads.

Section 4703. Street types.

A. Residential streets.

1. *[Classification.]* Residential streets primarily function to provide access to residential uses. All residential streets are intended to accommodate relatively low traffic volumes at slow speeds in order to minimize the basic incompatibility of vehicles and the pedestrians and children who characterize residential neighborhoods. There are five

different classes of residential streets created and regulated by this ordinance. Residential streets have historically been considered homogeneous. Depending on the type and density of development served by these streets, however, they are more accurately subcategorized as follows. Even within each subcategory of streets, different standards are applicable depending on whether the streets are one-way or two-way and whether they have curbs. The subcategories are:

Lane: A residential street or cul-de-sac which serves a maximum of six dwelling units or has an average daily traffic of fewer than 49 vehicles.

Court: A residential street which provides access for individual units. A court serves fewer than 15 dwelling units or has an average daily traffic of fewer than 113 vehicles (whichever is less). Its design speed is ten miles per hour. Courts may be culs-de-sac, loops, or small cross streets in a block system.

Ways: A way is a residential street which provides access to individual dwelling units. It serves 15 to 30 dwelling units or has an average daily traffic of between 114 and 242 vehicles (whichever is less). The design speed of a way is 15 miles per hour. Ways may be culs-de-sac, loops, or minor cross streets. They do not function as collector roads.

Major residential street: A street to which individual residential units take direct access. It provides access to minor streets, ways, and courts and serves from 115 to 160 dwelling units or has an average daily traffic count of from 927 to 1,218 vehicles. Any street serving more than 160 units is a collector road to which no direct access by single units is permitted.

Minor street: A minor street serves to collect traffic from courts or ways as well as to give access to individual dwelling units. A minor street serves from 31 to 115 dwelling units or has an average daily traffic volume ranging from 243 to 926 vehicles (whichever is less).

2. *Rules for determining number of dwelling units served by residential streets.* The following rules and procedures shall be applied in order to determine the number of dwelling units served by a street. This number shall then be used to determine the residential street subtype and, therefore, the standards which shall be applied.

- a. The standards of section 4705 (Road standards) apply to street segments. A street segment is the length of a street between intersections or between points which define a change in street configuration (e.g., the length of a street which is one-way is a segment separate from the part of that same street which is two-way).
- b. The number of dwelling units served by a street segment includes all units having frontage on that street segment and all units which have frontage on other segments of that street or other streets which contribute to the traffic volume of that segment.
- c. When more than one route of access is available to a dwelling unit, that unit shall be counted as served by the street segments most likely to provide the access

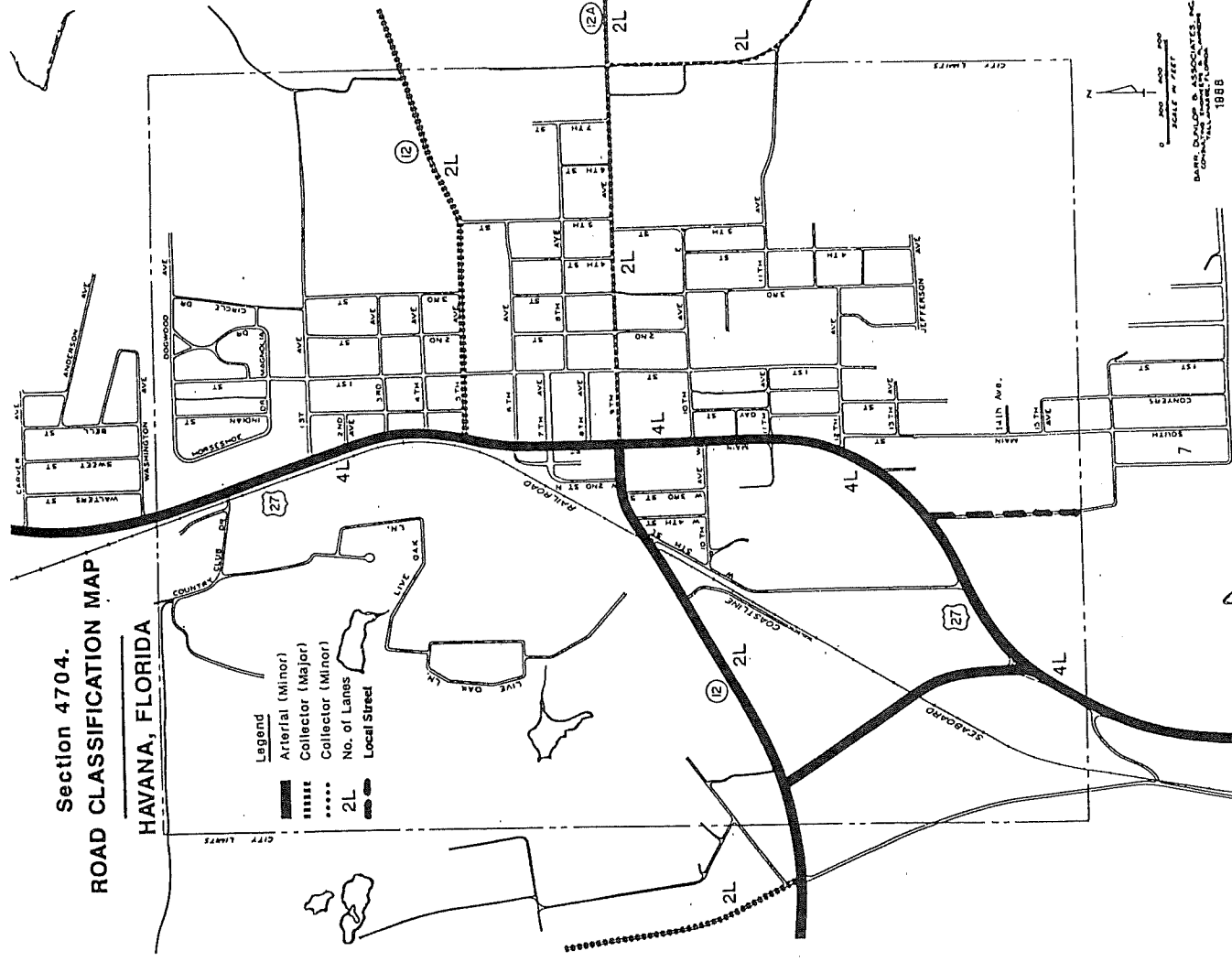
point for that unit. In order to determine this, either of the following methods may be used: (1) a direction preference analysis shall be conducted to determine directional preferences for trips, or (2) the development shall be divided into trip areas based on the shortest exit route, taking into account any directional preferences.

B. *Collector roads.* Collector roads connect residential streets to the highway system's major and high-speed arterial roads or provide access to nonresidential uses and arterial streets. Collector roads form barriers between neighborhoods and are designed for higher speeds and traffic volumes than are residential streets. Because uncongested traffic flow is necessary for their effective functioning, residential uses are prohibited access to collector roads.

C. *Arterial streets.* These roads are intended to provide for high-speed travel between or within communities or to and from collectors and expressways. Access is controlled so that only regionally significant land uses may take direct access to these streets. All arterials are designated on the map in section 4704 (Road classification map).

Section 4704. Road classification map.

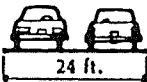
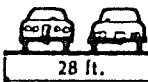
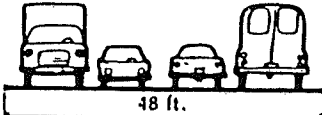
The road classification shall be, for purposes of this article, the only determinant of road classification.



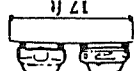
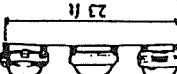
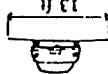
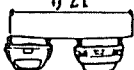
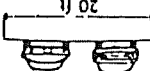
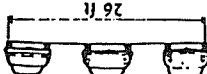
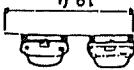
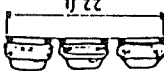
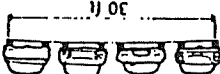
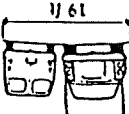
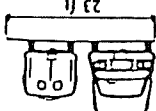
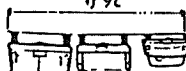
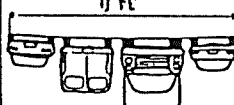
(Ord. No. 279, § 10, 7-23-96)

Section 4705. Road standards.

The six tables starting on page 1559 [following this section] specify the width requirements for residential streets, collector roads, and arterial roads. There are six charts because standards vary depending on whether a street allows one-way or two-way traffic, whether the street has curbs, and whether it is divided. In addition, the width requirements vary according to the average lot frontage and number of dwelling units located on the street.

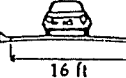
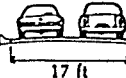
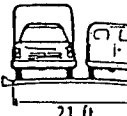
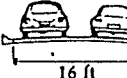
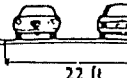
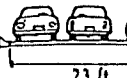
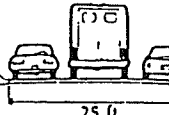
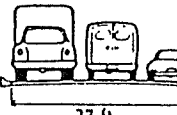
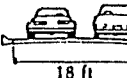
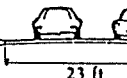
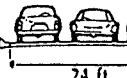
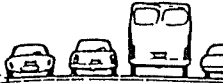
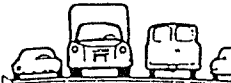
STREET TYPE maximum ADT design speed	COLLECTOR ROADS		
	MINOR COLLECTOR	COLLECTOR	MAJOR COLLECTOR
	3,199 30 mph	3,200-7,000 35 mph	more than 7,000 35 mph
UNDIVIDED	60 ft. R/W  24 ft.	66 ft. R/W  28 ft.	80 ft. R/W  48 ft.
	66 ft. R/W  11 ft. 6 ft. 11 ft.	70 ft. R/W  12 ft. 6 ft. 12 ft.	90 ft. R/W  24 ft. 6 ft. 24 ft.

RESIDENTIAL STREETS

TWO WAY WITHOUT CURBS		60 feet R/W unless otherwise specified									
STREET TYPE	number of dus	design speed	MAJOR STREET	MINOR STREET	WAY	COURT	LANE	90-119 feet	60-89 feet	less than 60 feet	no lots taking direct access
LANE	< 7	10 mph		44 ft R/W	40 ft R/W	40 ft R/W	40 ft R/W				
	7-14	10 mph			40 ft R/W	40 ft R/W	40 ft R/W				
	15-30	15 mph			40 ft R/W	40 ft R/W	40 ft R/W				
	116-160	25 mph	MAJOR STREET								

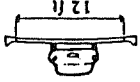
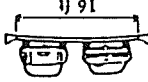
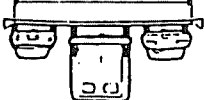
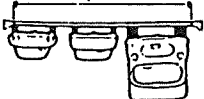
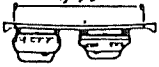
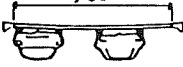
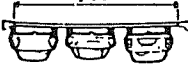
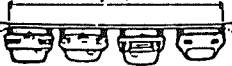
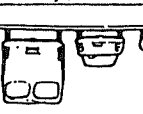
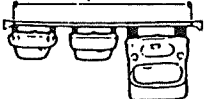
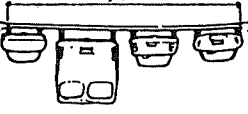
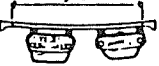
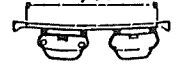
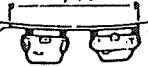
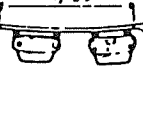
The second number is the required width for the forty feet of these roads from where they intersect with a higher order road.

RESIDENTIAL STREETS

STREET TYPE number of du's design speed	TWO WAY WITH CURBS 60 feet R/W unless otherwise specified				
	LANE < 7 10 mph	COURT 7-14 10 mph	WAY 15-30 15 mph	MINOR STREET 31-115 20 mph	MAJOR STREET 116-160 25 mph
street frontage abutting lots 120 ft or more	40 ft R/W  14 ft	44 ft R/W  16 ft	44 ft R/W  17 ft	 19 ft	 21 ft
90-119 feet	44 ft R/W  16 ft	 22 ft	 23 ft	 25 ft	 27 ft
60-89 feet	 18 ft	 23 ft	 24 ft	 26 ft	 28 ft
less than 60 feet	 26 ft	 31 ft	 32 ft	 34 ft	 36 ft
no lots taking direct access	 16/18 ft*	 18/21 ft*	 19/22 ft*	 20/24 ft*	 21/24 ft*

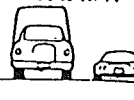
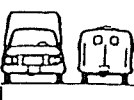
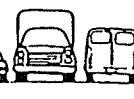
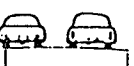
*The second number is the required width for the forty feet of these roads from where they intersect with a higher order road.

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ONE WAY WITH CURBS					
STREET TYPE	number of du's	design speed	street frontage abutting lots	120 ft or more	90-119 feet
	LANE < 7	10 mph	40 ft R/W	12 ft 	14 ft 
	COURT 7-14	10 mph	40 ft R/W	14 ft 	18 ft 
	WAY 15-30	15 mph	44 ft R/W	16 ft 	18 ft 
	MINOR STREET 31-115	20 mph	18 ft 	18 ft 	20 ft 
STREET TYPE	number of du's	design speed	street frontage abutting lots	60-89 feet	less than 60 feet
	LANE < 7	10 mph	40 ft R/W	16 ft 	20 ft 
	COURT 7-14	10 mph	40 ft R/W	19 ft 	23 ft 
	WAY 15-30	15 mph	44 ft R/W	20 ft 	24 ft 
	MINOR STREET 31-115	20 mph	18 ft 	20 ft 	26 ft 
STREET TYPE	number of du's	design speed	street frontage abutting lots	no lots taking direct access	less than 60 feet
	LANE < 7	10 mph	40 ft R/W	12 ft 	20 ft 
	COURT 7-14	10 mph	40 ft R/W	14 ft 	23 ft 
	WAY 15-30	15 mph	44 ft R/W	16 ft 	24 ft 
	MINOR STREET 31-115	20 mph	18 ft 	18 ft 	26 ft 
STREET TYPE	number of du's	design speed	street frontage abutting lots	no lots taking direct access	less than 60 feet
	LANE < 7	10 mph	40 ft R/W	12 ft 	20 ft 
	COURT 7-14	10 mph	40 ft R/W	14 ft 	23 ft 
	WAY 15-30	15 mph	44 ft R/W	16 ft 	24 ft 
	MINOR STREET 31-115	20 mph	18 ft 	18 ft 	26 ft 

RESIDENTIAL STREETS

RESIDENTIAL STREETS

STREET TYPE number of du's design speed	ONE WAY WITHOUT CURBS				
	LANE < 7 10 mph	COURT 7-14 10 mph	WAY 15-30 15 mph	MINOR STREET 31-115 20 mph	MAJOR STREET 116-160 25 mph
street frontage abutting lots 120 ft or more	40 ft R/W  9 ft	40 ft R/W  11 ft	40 ft R/W  14 ft	40 ft R/W  15 ft	44 ft R/W  17 ft
90-119 feet	40 ft R/W  11 ft	40 ft R/W  14 ft	44 ft R/W  16 ft	44 ft R/W  17 ft	44 ft R/W  18 ft
60-89 feet	40 ft R/W  14 ft	44 ft R/W  16 ft	44 ft R/W  18 ft	44 ft R/W  20 ft	44 ft R/W  22 ft
less than 60 feet	44 ft R/W  18 ft	44 ft R/W  20 ft	44 ft R/W  22 ft	44 ft R/W  24 ft	44 ft R/W  26 ft
no lots taking direct access	40 ft R/W  9 ft	40 ft R/W  11 ft	44 ft R/W  14 ft	44 ft R/W  15 ft	44 ft R/W  17 ft

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Section 4706. Roadway access.

No use shall be permitted to take direct access to a street or road except as delineated below.

- A. *Residential streets.* Except in the urban core district, only those nonresidential uses shown in section 4602 (Table of land use intensity class standards) as having road location "I" shall be permitted direct access to residential streets. In the urban core district, all uses may take access to any street, except that Florida department of transportation access management rules will prevail regarding state roads. All residential uses may take direct access to residential streets.
- B. *Local street.* Local streets are intended to provide access to properties in mixed-use areas and convey traffic to the highway systems collector and arterial streets. Local streets are designed to allow access by both residential and lower intensity commercial uses. All residential uses may take direct access to a local street. Only those uses shown in section 4602 (Table of Land Use Intensity Class standards) as having road location III shall be permitted direct access to local streets.
- C. *Collector streets.* No single individual residential dwelling established pursuant to this ordinance shall be permitted direct access to collector streets unless the lot has a street frontage of 100 feet or more. Residential uses gain access to collector roads via residential streets. Only those uses shown in section 4602 (Table of land use intensity class standards) as having road location "II" shall be permitted direct access to collector streets, provided that the following specific criteria are also met. All uses with 100 feet or more of frontage may take direct access to collectors. Uses with less than 100 feet of frontage shall not be permitted to take access directly to minor collectors and shall be required to share a common entrance drive. No use shall be permitted to take direct access to a minor collector at any point which is within 50 feet of any intersection. In the case of a collector which is entirely within a development, any double aisle of parking may take direct access to that collector.
- D. *Arterials.* Collector streets shall be permitted direct access to arterial streets only pursuant to the following criteria.

A street may take direct access to an arterial, provided that the point of such access is more than 600 feet from any intersection or other point of access to that arterial. Whenever access is allowed pursuant to this subsection, it shall be conditioned upon the property (which is permitted access) providing that part of a collector street system required for access to adjoining properties.

Individual residential dwellings may take access to an arterial street only when the lot has a street frontage of 140 feet.

Commentary: This subsection is intended to allow residential streets access to arterial roads in a limited number of places while at the same time requiring planning and provision for the development of a coherent internal street system which will ultimately connect each such point of access to the arterial road system.
(Ord. No. 241, § 8, 11-27-90; Ord. No. 279, § 11, 7-23-96)

Section 4707. Temporary access.

No developer shall be denied a zoning certificate or a building permit for the sole reason that the parcel for which it is sought cannot physically accommodate the requirements of section 4706 (Roadway access) because adjoining segments of a collector road shown on the comprehensive plan's future transportation plan map are not yet constructed. In such an event, the use shall be issued a temporary access permit which shall expire when the access required by section 4706 becomes available to the use.
(Ord. No. 279, § 12, 7-23-96)

Section 4708. Transportation impact report.

A. *Purpose.* The transportation impact report is designed to identify the transportation (traffic) impacts and problems which are likely to be generated by a proposed use and to identify all improvements required to ensure safe ingress to and egress from a proposed development and maintenance of adequate street capacity and elimination of hazardous conditions. The transportation impact analysis required in the application for development approval of a development of regional impact will meet the requirements of this section.

Commentary: The maintenance of a safe and efficient transportation network is important to the public safety and welfare. The need to identify all hazards or problems created by a proposed development or the location for which it is proposed is a first essential step for the protection of the public. The transportation impact report allows the identification of roadway and traffic problems which may result from a particular development.

B. *Applicability.* A transportation impact report shall be required in the following cases:

1. Any development of more than ten dwelling units or 10,000 square feet of other use which proposes to take direct access to any collector or arterial road.
2. Any residential development which proposes to have more than 50 dwelling units.
3. Any use which, according to the most recent volume of Trip Generation by the Institute of Transportation Engineers or according to a qualified traffic engineer or transportation planner is likely to generate in excess of 600 trips per day.

Commentary: All uses which, because of size, density, traffic generation rates, or location, can reasonably be expected to pose a traffic problem are required to submit a transportation impact report so that the nature of any such problem can be ascertained and appropriately regulated.

C. *Contents of transportation impact report.* The transportation impact report shall contain the following data and information:

1. *General site description.* A detailed description of the highway network within one mile of the site, a description of the proposed land uses, the anticipated stages of construction, and the anticipated completion date of the proposed land development shall be provided. This description, which may be in the form of a map, shall include the following items: (a) all major intersections, (b) all proposed and existing ingress

and egress locations, (c) all existing roadway widths and rights-of-way, (d) all existing traffic signals and traffic control devices, (e) all existing and proposed public transportation services and facilities within a one-mile radius of the site.

In addition, any changes to the highway network within one-half mile of the site, proposed by any governmental agency, shall be described. This description shall include the above items as well as any proposed construction project that would alter the width and/or alignment of the present highway. Such information can be obtained from the Town of Havana for city streets, Gadsden County for county roads, or from the Florida department of transportation in the case of state highways (U.S. 27).

2. *Description of existing traffic conditions.* A report based on the following shall be provided. Where counts are available from the Florida department of transportation or local government they may be used, otherwise a 24-hour traffic count shall be conducted for at least one weekday (Monday through Friday) on all roadways which have direct access to a proposed development site. The existing daily traffic volume and the peak hour volume shall be recorded.
3. *Transportation impact of the development.* The average weekday trip generation rates (trip ends) and the highest average hourly weekday trip generation rate between 4:00 p.m. and 6:00 p.m. for the proposed use shall be determined from the most recent volume of Trip Generation published by the Institute of Transportation Engineers or from figures provided by a qualified traffic engineer or transportation planner. A report shall be made detailing the nature and extent of the trip generation expected to result from the proposed development.
4. *Determination of roadway service level.*
 - a. *Calculate service volumes.* Roadway service volumes shall be calculated at level of service C.
 - b. *Calculate whether the roadway is currently operating at the required level of service.* The service volumes should be calculated using the Highway Capacity Manual or updates thereof published by the Highway Research Board. All roadways operating below level of service C shall be identified as congested locations.
5. *Determination of intersection service level.* The 1985 Highway Capacity Manual operational procedure is the preferred technique for calculating intersection capacity.
6. *Analysis of transportation impact.* The projected total future peak hour traffic demand shall be calculated for all roads fronting on a proposed site and all intersections within one-half mile of the site. This demand shall consist of the best estimate of total future traffic at project buildout and the anticipated traffic that will be generated by the proposed development. An analysis shall be undertaken to determine if roadways and intersections will operate at the appropriate level of service following completion of the development given the future peak hour traffic that will be generated by the proposed development.

D. *Maintenance of levels of service C.* Whenever average weekday level of service is determined to be reduced below level C at the time of application or is determined to be reduced below those levels by traffic generated by the development, said development is not permitted unless the developer commits to pay his proportional share of costs to make the roadway or other improvements necessary to attain or maintain level of service C. Proportional share of cost of improvements shall be determined by taking the same percentage of the cost of the improvement as the development's percentage of the total ADT on the roadway link or intersection under consideration.

E. *Traffic control devices.* Whenever, as the result of additional traffic generated by a proposed development, the Manual on Uniform Traffic Control Devices determines the need for a traffic signal or regulatory sign, the developer shall commit to pay his proportional share of the cost of installing all said devices and signs. Proportional share of cost of improvements shall be determined by taking the same percentage of the cost of the improvement as the development's percentage of the total ADT on the roadway link or intersection under consideration.

F. *Large developments (over 250 vehicle trips generated per peak hour).*

1. The impact report for developments which will generate between 250 and 1,000 trips during the peak hour shall, pursuant to section 3. supra [subsection C.3.], involve an analysis of all arterial and collector roadways and all intersections within one mile of the proposed site.
2. The impact report for developments which will generate over 1,000 trips during the peak hour shall involve an analysis of all arterial and collector roadways and all intersections within five miles of the proposed site.

Section 4709. Access for fire vehicles and apparatus.

A. *Purpose.* The purpose of this section is to facilitate rapid and effective extinguishment of fires by ensuring that all premises that a fire department may be called upon to protect in case of a fire shall be readily accessible for effective fire department operations.

B. *[Required access.]* Every nonresidential use permitted by this ordinance shall provide access for fire vehicles and emergency apparatus from a public street as follows:

1. A dead-end access exceeding 300 feet in length shall be provided with a turnaround 90 feet in diameter at the closed end.
2. Except as provided by subsection 4709B, a fire lane shall be required to provide access to any portion of any structure which is more than: (a) 150 feet from the nearest street right-of-way when the structure is 30 feet or less in height; (b) 50 feet from the nearest street right-of-way when the structure exceeds 30 feet in height.
3. When fire vehicles and apparatus are provided access to any portion of a structure more than the distances from a street right-of-way specified in the subsection above, by means of either bufferyard area or adjoining property, the requirements of subsection 4709B.2 shall not apply.

4. In addition to the situations above which require a fire lane, a fire lane to provide access to any part of a building may also be required if the zoning officer determines that the distance of a structure from the nearest hydrant, the configuration of structures on a site, or other special characteristics of the site otherwise inhibit rapid, effective fire extinguishment.

5. The zoning officer may determine that public health and safety require fire lanes in addition to private fire protection facilities required by the Town of Havana building code for any structure classified as a high-hazard use: any structure to be occupied by uses which involve extreme risks of fire, smoke, explosion, or toxic gas, or structures to be used as places of assembly for large congregations of people susceptible to panic.

C. Fire lane standards. A fire lane shall comply with the following standards:

1. The fire lane shall provide clear, unobstructed access for vehicles and apparatus at all times.
2. Signs prohibiting parking or standing of motor vehicles shall be required.
3. Fire lanes shall be 18 feet in width.
4. The fire lane surface shall be an all-weather roadway.

An alley may contribute all or part of a required fire lane if it meets all other requirements of this section.

D. Alternatives to fire access lanes. In lieu of meeting the standards specified above, a developer may substitute alternative means (including but not limited to fire resistant roofs, fire separation walls, space separation, and automatic fire extinguishing systems) of ensuring the access necessary for effective fire department operations. Such alternative means shall suffice to meet the requirements of this section, provided that the chief officer empowered to provide fire service in the Town of Havana agrees.

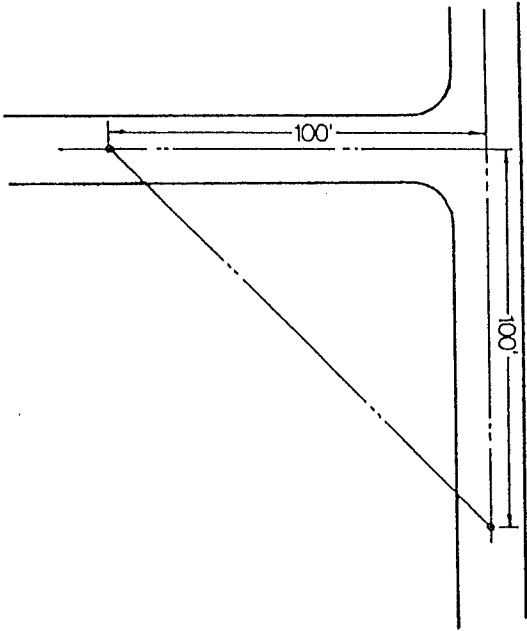
Section 4710. Clear view of intersecting streets.

A. In order to provide a clear view of intersecting streets to the motorist, there shall be a triangular area of clear vision formed by the two intersecting streets. The size of the triangular area is a function of traffic volume and speed.

B. On any portion of a lot that lies within the triangular area described and illustrated below, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of 2.5 feet and ten feet above the grade at the two street centerlines.

C. The triangular area shall be formed by a point on each street centerline located 25, 50, or 100 feet from the intersection of the street centerlines, as indicated below, and a third line connecting the two points.

<i>Road Classification</i>	<i>Distance from Street Centerline Intersection (feet)</i>
Residential, court or way	25
Residential, minor or major; local	50
Collector, arterial	100



(Ord. No. 279, § 13, 7-23-96)

Section 4800. Plant materials.

Sections 4801 through 4803 specify the plant materials and standards which must be met in order to satisfy the requirements of sections 4603 through 4611 (Bufferyards), 4500 (Open space), 4613 (Landscaping), 4614 (Offstreet parking landscaping), and 6007 (Nonconforming bufferyards). Included in these sections are regulations relating to the size of plant materials, the establishment and maintenance of woodlands and preexisting plant materials.

Although these sections do not generally specify the location or spacing of plant material required, all plant materials shall be installed to maximize achieving the purpose(s) for which that planting is required. In the case of bufferyard planting, then, this means that plant materials shall be located so as to achieve the maximum level of protection to the less intense use.

Section 4801. Plant material specifications.

A. *Introduction.* The matrix in section 4802 suggests which plant materials will satisfy the requirements of this ordinance under specified conditions. These plant types correspond to the plant types specified by the sections of this ordinance which require planting.

B. *Minimum plant size.* Unless otherwise specifically indicated elsewhere in this ordinance, all plant materials shall meet the following minimum size standards:

Plant Material Type	Minimum Size			
	Planting in Bufferyards		All Other Plantings	
	Abutting Vacant Lands			
Canopy tree:				
Single stem	1½-inch caliper	2½-inch caliper		
Multi-stem clump	6 feet (height)	10 feet (height)		
Understory tree	4 feet (height)	1½-inch caliper		
Evergreen tree	3 feet (height)	5 feet (height)		
Shrub:				
Deciduous	15 inches (height)	24 inches (height)		
Evergreen	12 inches (height)	18 inches (height)		

Commentary: In order to deal more fairly with the uncertainty and timing of development of vacant land, the plant material sizes required to buffer against it are less than required against an existing use. This substantially reduces cost and is based on the assumption that a period of approximately three years is expected between buffer planting and occupancy of adjoining property. This assumption allows the smaller plant material time to become established and reach a size comparable to that which is ultimately likely to be necessary to provide adequate protection.

C. *Tree planting specifications.*

1. All material should be of high quality, Florida number 1 or better.

All material should be watered well and cared for while waiting to be planted.

2. Planting. Planting holes should be made at least 18 inches to 24 inches larger than the root ball or container. Holes for small material should be dug at least three times the diameter of the root ball, i.e., for a one-gallon, six-inch can, the planting hole should be at least 18 inches in diameter. Depth of the planting hole should be only a few inches deeper than the depth of the root ball and should be backfilled before planting to avoid placing material below grade. Remove burlap from the sides of B & B (balled and burlapped) material whenever possible after the plant has been placed in the planting hole.

Backfill with same soil as removed for planting hole.

Water in as backfill is replaced.

Cover root ball with no more than one inch of soil.

Machine-planted trees are no exception. A hole at least two times the diameter of the root ball should be made to a depth of at least 18 inches. The machine may be used to make the initial hole and then enlarged, [and] the machine should then place and hold the tree in the hole while backfill is watered in around the blades. The blades may then be slowly removed as soil is added. A hole large enough to accommodate the depth of the spade may also be prepared with a backhoe instead of a tree spade. In no case should machine-moved trees be placed directly into a machine-made hole.

Form a shallow well around the planting hole, using excess soil, to hold water.

Fall planting is preferable whenever possible.

Prune only broken or dead branches, or to obtain a desired shape. Do not indiscriminately prune back plants as has become common practice, especially with machine-moved trees.

Water every ten days during dry periods. Do not over-water. Adjust automatic irrigation systems to avoid watering during rainy periods.

Only stake plants that are obviously unsteady and subject to wind throw.

Mulch an area four feet to five feet around trees and proportionately smaller areas around small plants. Cover with three inches to four inches of pine straw, bark mulch, wood chips, or similar organic material. Black plastic mulch is not recommended.

Fertilize with a good slow release fertilizer in the backfill or with a 50 percent slow-release or less fertilizer on the surface.

Section 4802. Vegetation matrix.

The following matrix is designed to guide the land use administrator, planner, developer, etc., in the choice of appropriate landscape plant material for use in bufferyards and other landscaped areas. Since the function and character of buffers will differ, the qualities of plant material will be evaluated according to the expected function or performance of the buffer. The matrix organization allows consideration of various factors to be applied in the context of each intended use.

Of the hundreds of plant species which could be listed here, those which have become commonly used, as well as some which deserve wider use, are considered. This list is not intended to limit plant use and experimentation with other species is encouraged.

Matrix categories definitions.

Stature. This category is applied to trees only.

- O = Overstory tree
- U = Understory tree

Overstory trees are those which commonly attain a large size in nature which allows them to occupy the upper canopy in a forest. These trees usually attain a height greater than 40 feet.

Understory trees are those which do not attain a height in nature which allows them to occupy a place in the forest canopy above overstory trees. These trees commonly attain a height of 30 feet or less.

In the true ecological sense, understory and overstory designations are related to shade tolerance. In this treatment shade tolerance is addressed as a separate category.

Cold damage. In recent years the hardiness of common landscape plants has been reevaluated in the light of two winters, 1984 and 1985, in which severe cold episodes resulted in extensive plant losses. This category presents notes which refer to cold hardiness in terms of a 20-year event or, generally, sustained temperatures of less than ten degrees Fahrenheit.

- A = Seriously damaged or killed
- B = Severe limitation of aesthetic or screening function (i.e., killed to ground and resprout or total defoliation and some dieback)
- T = Tender, even in milder winters

Salt tolerance.

- = Intolerant; must be planted well away from salt spray.
- 0 = Moderate tolerance, may be planted in coastal areas where protected by dunes, structures or other barriers.
- + = Very tolerant. May survive frequent episodes of salt spray.

Fast growth. A relative classification which identifies those plants which usually grow at a faster rate than average. These plants may be desirable when the quickest effect is needed or when longterm slower-growing species are interplanted and designed to reach full potential at a slower rate.

Short-lived. Those species which are known to be relatively short-lived in the North Florida area are noted. These may be subject to disease, insect or environmental stress which commonly limits longevity but may be desirable to perform shortterm functions.

Common pest problems. This category is included to identify those species which should be given special consideration for pest control through a comprehensive and specific maintenance plan.

Good urban plant. Those species indicated have been shown to be especially tolerant of environmental stresses common in the urban environment. Experience in urban environments in the North Florida area has been used as a guide. Many species have not been used extensively in urban environments and sufficient data are unavailable. Local use and evaluation to add species to this classification is encouraged.

Flowering. This category identifies those plants which have showy blooms.

Shade tolerant. Identifies plants which will tolerate some shade and continue to perform their desired function. Most plants will do best in good light.

Water tolerant. These species are known to tolerate extended periods of flooding or wet soils.

Preservation. These plants, because of inability to establish in the environment, because they commonly inhabit harsh environments and thus should be preserved as established plants, due to their relative unavailability in the nursery trade, or because of unique qualities, should be preserved onsite whenever possible.

Screening quality. Plants with characteristically thick dense habits which provide a good visual screen are noted here.

- P = Poor screening quality
- F = Fair screening quality
- G = Good screening quality
- E = Excellent screening quality

Native. Denotes plants which naturally occur in the North Florida area.

Current availability. Refers to availability in the nursery trade. Often plant material is available out of state or out of region, but not locally available. Those plants indicated as having poor availability may increase in availability through informing the local nursery industry of a potential demand for particular species. Demand is the most common factor determining plant availability.

- P = Poor
- F = Fair
- G = Good

Wildlife value. Species which provide food and/or cover for wildlife are noted.

Suitable for coastal areas. These plants may be used in areas protected from direct salt spray.

Suitable for dunes. These plants have been shown to survive the rigorous environment of the shore, where direct salt spray and wind is commonly encountered.

Shade quality. Here, trees considered suitable for shade are noted with a plus sign (+). The letters “D” and “E” denote “deciduous” or “evergreen.” Shade designation must be considered in the context of tree stature. Small or understory trees may have good shade characteristics.

- P = Poor
- F = Fair
- G = Good

Power lines. Those plants noted are suitable for planting under power lines by virtue of short growth or tolerance to pruning. Use of these plants may help to avoid future maintenance costs.

TABLE 4802. VEGETATION MATRIX

TREES

Plant	Stature	Cold Damage	Salt Tolerance	Fast Growth	Short-Lived (Less Than 10 Years)	Common Pest Problems	Good Urban Plant	Flowering	Shade Tolerant	Water Tolerant	Preservation	Screening Quality	Native	Current Availability	Wildlife Value	Suitable for Coastal Areas	Suitable for Dunes	Shade Quality	Power Lines
<i>Oxydendrum arboreum</i> Sourwood	U						o	o				G	o	G				+D	o
<i>Nyssa ogeche</i> Ogeechee-lime	U			o						o		G	o	F-G	o			D	o
<i>Catalpa bignonioides</i> Southern catalpa	O			o			o	o				F-G	o	F-G				+D	o
<i>Ginkgo biloba</i> Ginkgo *Note: Female trees must be removed	O						o					F		G				+D	
<i>Quercus acutissima</i> Sawtooth oak	O			o			o					F		F				+D	
<i>Pinus glabra</i> Spruce pine	O		o				o		o			F-G	o	F				E	
<i>Sabal palmetto</i> Cabbage palm	O		+				o		o	o		F-P	o	G		o	o	E	
<i>Washingtonia robusta</i> Washington palm		B	+				o			o				F		o	o	E	
<i>Phoenix canariensis</i> Canary Island palm	O	A-B	+													o			
<i>Lagerstromia indica</i> Crape myrtle	U		o	o			o	o	o			F		G		o		D	o
<i>Camphora cinnamomum</i> Camphor tree	O	A	o	o					o					F-P		o		E	
<i>Acer saccharinum</i> Silver maple	U			o	o	o								G				D	
<i>Acer rubrum</i> Red maple	U		o				o			o		F	o	G				+D	o
Bottle brush	U	A	+					o						G					
<i>Eucalyptus</i> sp. Silver dollar tree		A		o	o									F				E	
<i>Koelreuteria formosana</i> Formosan goldenrain tree	O	A		o				o				G		F				+D	o
<i>K. paniculata</i> Goldenrain tree	U																	+D	o
<i>Albizia julibrissin</i> Mimosa/silk tree	O			o	o	o		o	o			P		F				D	o
<i>Juniperus virginiana</i> Eastern red cedar	O		+				o					G	o	G		o		E	
<i>Liquidambar styraciflua</i> Sweetgum	O		o	o			o			o		G	o	F-G		o		+D	
<i>Sapium sebiferum</i> Chinese tallow tree	U		+	o			o		o			P		F	o	o		+D	o
<i>Ulmus parvifolia</i> Chinese elm	U		+	o			o					F-G		G		o		+D	o
<i>Ulmus pumila</i> Siberian elm	U		o	o	o							P		G				+D	
<i>Carpinus caroliniana</i> Blue beech	U		-				o			o	o	F	o	P				+D	o
<i>Ostrya virginiana</i> Hop hornbean	U		-				o			o	o	F	o	P				+D	o
<i>Taxodium distichum</i> Bald cypress	O		o	o			o			o	o	F-P	o	G				+D	

Plant	Stature	Cold Damage	Salt Tolerance	Fast Growth	Short-Lived (Less Than 10 Years)	Common Pest Problems	Good Urban Plant	Flowering	Shade Tolerant	Water Tolerant	Preservation	Screening Quality	Native	Current Availability	Wildlife Value	Suitable for Coastal Areas	Suitable for Dunes	Shade Quality	Power Lines
<i>Ulmus alata</i> Winged elm	U		-				o					F	o	F-P				+D	o
<i>Chionanthus virginicus</i> Fringetree	U		o				o	o		o		P	o	G	o			D	o
<i>Platanus occidentalis</i> Sycamore	O		o	o		o	o			o		G	o	G				+D	
<i>Liriodendron tulipifera</i> Tulip poplar	O		o	o			o	o		o		G	o	G				+D	
<i>Pinus clausa</i> Sand pine			+	o								G	o	G	o	o		E	
<i>Pinus elliotii</i> Slash pine	O	B	+	o		o						G		G	o	o		E	
<i>Pinus palustris</i> Longleaf pine	O		+				o					F-P	o	F	o	o		E	
<i>Quercus virginiana</i> Live Oak	O		+				o				o	G	o	G	o	o		+E	
<i>Quercus hemisphaerica</i> Laurel oak	O		+				o					G	o	G	o	o		+E	
<i>Quercus geminata</i> Sand live oak	U	B	+								o	G	o	P		o	o	E	
<i>Quercus myrtifolia</i> Myrtle oak	U		+								o	G	o	P		o	o	E	
<i>Quercus alba</i> White oak	O		-							o	o	F-P	o	F	o			+D	
<i>Quercus talcata</i> Southern red oak	O		-				o				o	F	o	F	o			+D	
<i>Quercus lyrata</i> Overcup oak	O		-				o			o		F	o	P	o			+D	
<i>Quercus phellos</i> Willow oak	O		o	o			o			o	o	F-G	o	F	o			+E	
<i>Quercus prinus</i> Swamp chestnut oak	O		-				o			o	o	F	o	F	o			+D	
<i>Quercus shumardii</i> Shumard oak	O		-				o				o	G	o	G	o			+D	
<i>Broussonetia papyrifera</i> Paper mulberry	U			o	o		o					G		F	o				o
<i>Magnolia ashei</i> Ashe magnolia	U							o	o		o	F	o	F				D	o
<i>Quercus austrina</i> Bluff oak	O		-				o				o	F		F	o			+D	
<i>Quercus laevis</i> Turkey oak	U											F-G	o	P	o			+E	o
<i>Quercus nigra</i> Water oak	O		o	o			o		o	o		G	o	F	o			+E	o
<i>Populus deltoides</i> Cottonwood	O		o	o			o			o		G	o	F				+D	
<i>Salix nigra</i> Black willow	U		o	o			o			o		G	o	F	o			D	o
<i>Juglans nigra</i> Black walnut	O						o			o		F-G	o	G				+D	
<i>Carya aquatica</i> Water hickory	O		-				o			o		F	o	P	o			+D	
<i>Carya glabra</i> Pignut hickory	O		-	o			o		o			F	o	F-P	o			+D	
<i>Carya illinoensis</i> Pecan	O		-				o			o	o	F	o	G	o			+D	
<i>Eriobotrya japonica</i> Loquat/Jap. plum	U	A	o	o			o	o		o		G		G	o	o		E	o

Plant	Stature	Cold Damage	Salt Tolerance	Fast Growth	Short-Lived (Less Than 10 Years)	Common Pest Problems	Good Urban Plant	Flowering	Shade Tolerant	Water Tolerant	Preservation	Screening Quality	Native	Current Availability	Wildlife Value	Suitable for Coastal Areas	Suitable for Dunes	Shade Quality	Power Lines
<i>Magnolia grandiflora</i> Flowering magnolia	O		+				o	o		o	o	G	o	G	o	o		+E	
<i>Magnolia virginiana</i> Sweetbay magnolia	O		+					o		o	o	G	o	F-P		o		E	
<i>Gordonia</i> sp. Loblolly bay			o				o	o		o		G	o	F		o		E	o
<i>Cornus florida</i> Dogwood	U		-				o	o				F	o	G	o			+D	o
<i>Cercis canadensis</i> Eastern redbud	U				o		o	o				P	o	G				D	o
<i>Prunus caroliniana</i> Carolina cherry laurel	U		+	o			o	o		o		G	o	F-G	o	o		+E	o
<i>Parkinsonia</i> sp. Jerusalem thorn	O	A	+		o			o				P		F-G		o	o	D	o
<i>Celtis laevigata</i> Sugarberry	U		+				o					P-F	o	P	o	o		+D	
<i>Betula nigra</i> River birch	O			o			o			o		F-G	o	G				D	
<i>Fagus grandifolia</i> American beech	O						o		o			F-G	o	G				+D	
<i>Morus rubra</i> Red mulberry	U			o			o		o			G	o	G	o	o		D	o
<i>Crataegus</i> sp. Hawthorn	U						o					F	o	F	o				o
<i>Prunus americana</i> American plum	U						o	o	o			G	o	F	o				o
<i>Prunus angustifolia</i> Chickasaw plum	U			o	o		o	o				E	o	F	o	o		D	o
<i>Prunus serotina</i> Black cherry	O			o			o	o	o			G	o	F	o	o		+D	
<i>Allanthus altissima</i> Tree of heaven	U			o	o		o					G		F					o
<i>Zanthoxylum clava-herculis</i> Hercules club	U		o							o		F-G	o	P	o	o	o		o
<i>Melia azedarach</i> Chinaberry	U		o	o	o		o	o				F-G	o	P	o	o		+D	o
<i>Ilex opaca</i> American holly	U		o				o			o	o	G	o	G	o	o		E	o
<i>Nyssa sylvatica</i> Black gum	O						o			o		F-P	o	G	o	o		+D	
<i>Aralia spinosa</i> Devils-walkingstick	U		o	o			o	o		o		G	o	F	o			D	o

SHRUBS

Plant	Cold Damage	Salt Tolerance	Fast Growth	Short-Lived (Less Than 10 Years)	Common Pest Problems	Good Urban Plant	Flowering	Water Tolerant	Preservation	Screening Quality	Native	Current Availability	Wildlife Value	Suitable for Coastal Areas	Suitable for Dunes	Leaf Duration
<i>Callistemon lanceolata</i> Lemon bottlebrush	A	+	o			o	o			G		G				E
<i>Callistemon risidus</i> Stiff bottlebrush	A	+				o	o			P		F-G		o		E
<i>Cheysera japonica</i> Cheysera		+				o	o			F		G		o		E
<i>Fatsia japonica</i> Fatsia	B-A	+	o			o	o			F		G		o		E

Plant	Cold Damage	Salt Tolerance	Fast Growth	Short-Lived (Less Than 10 Years)	Common Pest Problems	Good Urban Plant	Flowering	Water Tolerant	Preservation	Screening Quality	Native	Current Availability	Wildlife Value	Suitable for Coastal Areas	Suitable for Dunes	Leaf Duration
<i>Cortaderia sellowiana</i> Pampas grass	B	+	o			o	o			G		G		o		D
<i>Feijoa japonica</i> Pineapple guava	B	+	o			o				G		G		o		E
<i>Gardenia jasminoides</i> Gardenia	B	+	o		o		o			F		G		o		E
<i>Jasminum mesnyi</i> Frimrose jasmine	A-B	+	o				o			G		G		o		E
<i>Mitchella fuscata</i> Banana shrub	B	+					o			F-G		G		o		E
<i>Photinia serrulata</i> Red top		+	o		o	o				G		G		o		E
<i>Podocarpus</i> sp. Japanese yew	A-B	+				o				G		G		o		E
<i>Myrica cerifera</i> Wax myrtle		+	o			o		o		E	o	G	o	o	o	E
<i>Yucca aloifolia</i> Spanish bayonet		+				o				G		G		o	o	E
<i>Yucca filamentosa</i> Adams needle		+				o				G		G		o	o	E
<i>Yucca gloriosa</i> Gloriosa yucca		+				o				G		G		o	o	E
<i>Sabal minor</i> Dwarf palmetto		+				o		o		G	o	F		o	o	E
<i>Serenoa repens</i> Saw palmetto		+				o		o		G	o	F		o	o	E
<i>Nerium oleander</i> Oleander	B	+	o			o	o	o		G		G		o	o	E
<i>Pittosporum tobira</i> Pittosporum	A-B	+				o				G		G		o	o	E
<i>Raphiolepis indica</i> Indian hawthorn	B	+				o				P		G	o	o	o	E
<i>Ligustrum japonicum</i> Waxley ligustrum	A-B	+	o			o	o	o		E		E		o	o	E
<i>Ilex vomitoria</i> Yaupon		+	o			o		o		G	o	G	o	o	o	E
<i>Baccharis halimifolia</i> Eastern baccharis		+	o	o		o	o	o		F-G	o	P		o	o	E
<i>Pyracantha</i> sp. Firethorn	B	+	o		o	o	o			G		G	o	o		E
<i>Viburnum suspensum</i> Sandankua	A	o				o	o			F		G		o		E
<i>Viburnum odoratissimum</i> Sweet viburnum	A-B	o	o		o	o	o			G		G		o		E
<i>Cassia bicapularis</i> Cassia	A		o			o	o			F		F				D
<i>Elaeagnus pungens</i> Silverthorn		o	o			o				E		G		o		
<i>Ilex cornuta</i> var. Burford holly		+			o	o	o	o		G		G	o	o		E
<i>Ilex cornuta</i> Chinese holly		+			o	o	o			G		G	o	o		E
<i>Lagerstroemia indica</i> Crape myrtle		o	o			o	o			P		G	o	o		D

GROUNDCOVERS

Plant	Cold Damage	Salt Tolerance	Fast Growth	Short-Lived (Less Than 10 Years)	Common Pest Problems	Good Urban Plant	Flowering	Water Tolerant	Preservation	Screening Quality	Native	Current Availability	Wildlife Value	Suitable for Coastal Areas	Suitable for Dunes	Leaf Duration
<i>Juniperus</i> sp. Juniper		+				o				P		G		o		E
<i>Hemerocallis</i> sp. Daylily		+				o	o			P		G		o		E
<i>Gelsemium sempervirens</i> Carolina jessamine		+	o			o	o			P	o	G		o		E
<i>Rosa laevigata</i> Cherokee rose		+	o			o	o			F		G	o	o		D
<i>Lantana</i> sp. Lantana	T	+	o			o	o			P		G	o	o	o	
<i>Liriodaphne</i> sp. Liriodaphne		+	o			o	o			P		G		o	o	E
<i>Ophiopogon japonicus</i> Mondo grass		+								P		G		o	o	E
<i>Lonicera</i> sp. Honeysuckle		+	o							P		G		o	o	E
<i>Uniola paniculata</i> Sea oats		+								P		G		o	o	
<i>Ipomoea littoralis</i> Morning glory		+					o	o	o		o			o	o	
<i>Ipomoea pes-caprae</i> Morning glory		+					o	o	o		o			o	o	
<i>Physalis elliotii</i> Ground cherry		o							o		o			o	o	
<i>Heliotropium curassavicum</i> Coastal heliotrope		o					o		o		o			o		
<i>Verbena maritima</i> Sea verbena		o					o		o		o			o	o	

Section 4803. Existing plant material.

Existing, healthy plant material may be counted as contributing to the total plant material required by this ordinance.

In most cases it is desirable to protect and preserve existing vegetation and trees to perform the required buffering function, reduce planting costs, provide immediate functional benefits, eliminate establishment period, and generally enhance the quality of a development. In cases of adverse environmental conditions, such as wet soils and deep, sandy soils, preservation of existing vegetation is the most effective and practical way to provide suitable plant cover.

The following suggestions and treatments are provided to assist in the evaluation of proposed existing vegetation preservation and help develop preservation plans.

Preserving trees and other vegetation on development sites requires active rather than passive management practices. It is not enough to simply not cut down a tree or remove vegetative cover. Active steps must be taken to protect, enhance and maintain the preserved resources. Every step in the development process from the initial survey and soil testing to the final landscape grading may seriously affect residual vegetation. The following onsite management concerns should be addressed in any preservation plan.

1. Survey crews must be aware of all proposed protection areas to avoid damaging preserved trees.
2. All major trees and preservation areas must be surveyed and included on all site plans and clearly marked onsite.
3. Site clearing must be closely monitored to avoid damage to preservation areas or preserved trees. One or more people should be designated to assume this responsibility.
4. Transplantable trees and shrubs may be removed and stored or relocated prior to, during, or after site clearing.
5. Underground utility placement and overhead utility routes must be reviewed for potential conflict with preserved trees and preservation areas.
6. Grading plans must be reviewed and modified if possible to avoid damage to preserved tree root zones.
7. All landscaping and irrigation plans must be reviewed to assess impact of proposed grade changes and irrigation placement.
8. Trees and preservation areas must be fenced or otherwise marked. All construction personnel should be instructed to observe all fenced areas.
9. The following must be evaluated in terms of possible damage to existing vegetation and located or controlled accordingly:

Construction office placement. This may be under protected trees.

Dirt stockpiling.

Material storage.

All steel make-up areas and other staging areas.

Concrete washout area.

Chemical and fuel storage and use.

Construction parking and traffic movement.

Crane and forklift movement.

Subcontractor personnel education.

Building placement.

Walks, drives, and other pavements.

Lighting layout.

Section 4804. Maintenance of required vegetation.

All plant materials required under this ordinance, i.e., for bufferyards, required landscaping of parking lots, planted open space, etc., must be maintained in good condition. Should the amount of required vegetation for any purpose fall below that required in the zoning ordinance, such vegetation must be replaced with material of a type and size required to bring the site into conformance with the ordinance. Failure to do so within a reasonable time shall be a direct violation of the ordinance.

ARTICLE V. DETAILED USE REGULATIONS

Section 5000. Purpose.

The purpose of this article is to specify the detailed regulations, including bulk, layout, yard size, and lot area, that apply to specific land uses. Standards over and above those imposed by other sections of this ordinance are necessary for certain land uses which, although permitted as of right in certain districts, have characteristics that might have negative impacts on nearby uses without these additional regulations. This article also specifies the regulations applicable to temporary and accessory uses, and it details the offstreet parking and loading requirements of permitted land uses.

Section 5100. Standards applicable to certain permitted uses.

In addition to compliance with other regulations imposed by this ordinance, the following standards are required of the specific uses enumerated below.

A. *Golf driving range.*

1. The site plan required pursuant to article VIII (Administration and Enforcement) shall show the layout of the property and indicate the location of all driving ranges, putting greens, fences and structures.

2. Accessory uses permitted shall be limited to a refreshment stand, a maintenance shed, a miniature golf course, and a pro shop.

B. *Junk, scrap, or salvage yards.*

1. The site plan required pursuant to article VIII (Administration and Enforcement) shall show the location of all buildings and the location of storage areas designed or used for automobiles and other vehicles, parts, lubricants, fuel, and other storage.
2. All lubricant and fuel oil substances which are to be stored on the site shall be stored with all necessary precautions taken to prevent their leakage and/or surface or subsurface drainage into streams, creeks, or other bodies of water. A plan detailing how these materials will be stored in compliance with this requirement shall be submitted with the application for a zoning certificate.
3. All hazardous materials shall be stored in a safe manner and, where required, shall be in receipt of a permit for such storage.

C. *Nursery, with or without retail sales or greenhouses.*

1. No more than 25 percent of the retail stock of a nursery shall be of materials not grown on the premises.
2. No power equipment, such as gas or electric lawn mowers and farm implements, may be sold wholesale or retail.

D. *Public service.* Because of their public necessity, public service uses are permitted in all zoning districts. If the zoning officer determines that the use may cause either a possible hazard to nearby residents or passersby or an interference with the development, use, or enjoyment of surrounding property, the zoning officer may require fencing or screening with densely planted materials to a greater extent than the required bufferyard.

E. *All road service uses.*

1. All activities involving the production, processing, cleaning, servicing, testing, or repair of materials, goods, or products shall conform to all applicable requirements of this ordinance.
2. All repair, painting, and body work activities shall take place within a building.

F. *Mobile home parks.*

1. Each mobile home shall be located on a lot conforming to the standards in the table below.

2. Table of dimensional requirements:

	<i>Length of Mobile Home</i>	
	<i>Less Than 61 Feet</i>	<i>61 Feet or More</i>
Minimum lot area [(square feet)]	3,600	4,500
Minimum lot width at setback line [(feet)]	42	42
Minimum street setback [(feet)]	10	10
Minimum spacing between units [(feet)]	30	30
Offstreet parking spaces	2	2
3. All mobile home parks shall be separated from other residential land uses by a G bufferyard pursuant to section 4607 (Bufferyard requirements).		

G. *Gas stations.*

1. All services except fuel sales shall be performed within a completely enclosed building.
2. When within 75 feet of a residential use, a gas station shall store all refuse and vehicle parts within a completely enclosed building or within an area which is completely visually screened from the view of those residences.

H. *Miscellaneous.*

1. Outdoor structures (bleachers, movie screens, permanent rides) and outdoor seating areas shall be at least 25 feet from any lot line, exclusive of bufferyards.
2. Campsites and recreational vehicle sites are subject to building setback regulations.
3. Any pumps, underground fuel storage tanks, and islands, including any canopies, shall be at least 20 feet from any street or lot line.
4. Chainlink, barbed-wire-topped screening and/or fencing is required for high-voltage transformers and any other utility structures or equipment of potential hazard to residents or passersby.

1. *Exceptions to minimum yard requirements.* The following structures shall be allowed to project into or be constructed on any minimum required yard as follows: awnings and canopies, not to exceed three feet; bay windows, not to exceed two feet; clothes-lines; driveways and their curbs, fences, walls, and hedges may be constructed in minimum yard areas, provided that their installation does not violate any other provision of this ordinance.

(Ord. No. 256, § 4, 9-15-92)

Section 5200. Residential use regulations.

All residential uses must provide for offstreet parking (with the exception of residential uses in the urban core). The connection of the residential driveway to the public street must

be made in such a way as to prevent dirt or other debris from washing into the public street. This requirement may be met in one of the following ways:

1. The driveway may be graded so as to drain away from the street for a distance of at least five feet. The minimum grade must be at least 0.5 percent.
2. The driveway may be paved with asphalt, concrete, brick, cobblestone or other such material as approved in writing by the zoning officer. The paved area must extend a minimum of five feet from the edge of the city street.
3. A mountable barrier may be installed across the access driveway designed so as to channel any runoff of mud or other debris away from the city street. The design of the barrier must be approved by the zoning officer or town manager prior to installation.
4. Other techniques may be implemented provided the zoning officer determines that such technique will provide an adequate solution to the problem of dirt, mud or other debris washing into the city streets.

The remainder of this section specifies the minimum lot dimensions and other requirements for each type of residential unit permitted by this ordinance except in the neighborhood conservation district (see section 5300).

The regulations provide for lot sizes that vary with the number of bedrooms or size of house and with the type of housing. This gives the developer considerable freedom. For example, in areas where the site is best suited to smaller lots or dwellings, these can be accommodated without a zoning change so long as the overall intensity is balanced by the use of larger lots on other portions of the site.

Any type of single-family detached dwelling unit for which particular standards are not specified in this section shall comply with the requirements of a single-family house.

When a lot size exceeds the minimum permitted area, all other standards applicable to the minimum lot area shall nevertheless apply. The figures specified in the tables of this section are expressed in terms of square feet, feet, or a ratio, whichever applies. The offstreet parking figures specify minimum number of offstreet parking spaces. When the offstreet parking is to be provided entirely on a lot and the required number of spaces is not a whole number, the number of required spaces shall be rounded up to the next higher whole number.

Reduction in number of offstreet parking spaces: When a development is specifically designed to be used for senior citizens, all such units shall be required to provide one parking space for each such unit.

- A. *Conventional subdivisions.* A conventional subdivision consists of single-family dwellings on individual lots requiring no public or community open space. Section 4203 (Table of district performance standards) specifies the minimum site area, minimum lot area and density. A conventional subdivision is characterized by division of the entire subject parcel into lots. In no event shall the ratio of average lot width to

average lot depth exceed 1:2.75. The following table specifies the minimum standards for conventional subdivision units.

<i>Minimum Lot Width at Setback Line [[feet]]</i>	<i>Maximum Impervious Surface Ratio</i>	<i>Minimum Yards</i>		
		<i>Street [[feet]]</i>	<i>Side (each) (feet)</i>	<i>Total (feet)</i>
40,000	0.14	35	15	50
30,000	0.17	30	15	48
10,000	0.35	30	8	20
8,500	0.35	30	6	15

B. *Performance subdivision.* Performance subdivisions may contain one or more of the housing types that are specified in this subsection. Such subdivisions shall contain the minimum amount of open space specified in section 4203 (Table of district performance standards). The following subsections specify the standards and requirements for each dwelling type.

1. *Single-family house.* This dwelling type consists of a single-family residence located on a privately owned lot which has private yards on all four sides of the house. The following table specifies the minimum standards for single-family homes in a performance subdivision.

	<i>2 Bedrooms</i>	<i>3 Bedrooms or More</i>
Minimum lot area	6,600 square feet	7,400 square feet
Maximum on-lot impervious	16%	22%
Maximum floor area ratio	0.16	0.24
<i>Minimum yards [[feet]]:</i>		
Street	25	25
Side	8	8
Rear	25	30
Minimum lot width [[feet]]	60	70
Offstreet parking spaces	2	3

2. *Lot line house.* This dwelling type consists of a single-family, fully detached residence located on an individual lot which is set on the lot line. House windows are prohibited in that wall of the house on the lot line. Either a five-foot maintenance easement shall be provided for the neighboring property, or the lot line house may be set back five feet from the line and a recreation, planting, and use

easement may be granted to the adjacent lot owner. In addition, the following table specifies the minimum standards for a lot line house.

	3 Bedrooms or More	
	2 Bedrooms	3 Bedrooms or More
Minimum lot area	5,500 square feet	6,200 square feet
Maximum on-lot impervious	22%	28%
Maximum floor area ratio	0.20	0.27
Minimum yards [(feet)]:		
Street	20	20
Rear	30	30
Side*	28	30
Minimum building spacing [(feet)]**	28	30
Minimum lot width [(feet)]	55	60
Offstreet parking spaces	2	3

*This standard applies when units are located on the lot line.

**This standard applies when units are set back from the lot line and the easement described above is provided.

Commentary: Placing a house against one of the side lot lines makes the side yard usable and requires less total land than when the house is centered on the lot. Privacy to adjacent units is ensured by the prohibition of windows on the wall of the unit closest to the lot line.

3. *Village house.* This dwelling type is a single-family residence which is fully detached from neighboring structures. The village house is distinguished by very small front and side yards. The placement of the unit close to the street requires special landscaping or architectural treatment, specified in detail below. The required landscaping is a definitional element of the unit. The following table and text specify the minimum standards for a village house.

	3 Bedrooms or More	
	2 Bedrooms (1-car garage)	3 Bedrooms or More (2-car garage)
Minimum lot area [(square feet)]	4,200	4,600
Maximum on-lot impervious	23%	23%
Maximum floor area ratio	0.26	0.28
Minimum yards [(feet)]:		
Street	15	15
Side	5	5
Rear	25	30
Minimum lot width [(feet)]	46	50
Offstreet parking spaces	2	3

The yards of village houses that front on streets shall be landscaped or the units built to include the installation of at least two of the following seven landscaping or architectural treatments:

- a. Two canopy trees and three evergreen or understory trees or six evergreen or understory trees.
- b. A porch which is roofed but not enclosed and extends across three-fourths of the front of the house and is at least seven feet in width.
- c. A front yard raised above the grade of the sidewalk by at least 24 inches and four flowering or evergreen shrubs along each street face.
- d. An ornamental fence or wall between 24 and 36 inches in height, and five flowering shrubs or evergreen shrubs per street face.
- e. Twenty flowering or evergreen shrubs or ten flowering or evergreen shrubs, 20 hedge plants, and two understory trees.
- f. A hedge consisting of shrubs planted on 18-inch centers and two understory or evergreen trees.
- g. A berm or raised area averaging 18 inches above the average grade of the rest of the yard and covering 40 percent of such yard, with four understory or evergreen trees and six flowering or evergreen shrubs.

Commentary: The landscaping regulations imposed by this subsection are required because, without them, a feeling of overcrowding results when housing is built on lots as small as those allowed for this housing type. Further, such material shall not be counted towards the requirement of section 4613.

- 4. *Duplex.* This dwelling type consists of a semidetached dwelling for a single family. It has only one dwelling unit from ground to roof and only one wall in common with another dwelling unit. The following table specifies the minimum standards for a duplex.

	Number of Bedrooms				
	1	2	3 (1-Car Garage)	3 (2-Car Garage)	4
Minimum lot area [square feet]	2,700	3,200	3,400	3,900	4,000
Maximum on-lot im- per- vious	33%	33%	32%	40%	41%
Maximum floor area ratio	0.29	0.32	0.32	0.29	0.32
Minimum lot width [(feet)]	36	40	40	45	45
Minimum yards [(feet)]:					
Street	20	25	25	25	25
Side	8	10	10	10	10
Rear	20	20	20	20	20
Offstreet parking spaces	2	2	2	3	3

- 5. *Patio house.* This dwelling type is a detached or semidetached unit, for a single family, with one dwelling unit from ground to roof. Each dwelling unit's lot shall be fully enclosed by a wall located at the lot line, thus creating a private yard between the house and the wall. Side and rear walls shall be seven feet in height,

and the front wall shall average six feet in height. That portion of the yard or patio area comprising “minimum patio area” is this housing type’s minimum yard area. All living spaces, such as living rooms, dens, and bedrooms, shall face into the yard or patio. The following table specifies the minimum standards for a patio house.

	Number of Bedrooms				
	1	2	3	4	5
Minimum lot area [(square feet)]:					
1-story	2,100	2,700	3,300	3,700	4,100
2-story	1,800	2,300	2,700	3,000	3,300
Maximum on-lot impervious:					
1-story	46%	51%	53%	53%	52%
2-story	32%	36%	37%	37%	36%
Maximum floor area ratio:					
1-story	0.39	0.37	0.33	0.36	0.36
2-story	0.47	0.48	0.40	0.44	0.45
Minimum lot width [(feet)]	36	38	40	40	45
Minimum yard width [(feet)]	6	8	8	8	8
Minimum patio area (square feet)	700	750	800	850	900
Minimum patio area width [(feet)]	25	25	25	25	28
Offstreet parking spaces	1.5	2	2	2.5	3
Height [(feet)]:					
1-story	15	15	15	15	15
2-story	25	25	25	25	25

Commentary: The minimum patio area and width requirements are to ensure that a reasonably sized yard area exists to support family recreation activities. The whole yard area does not have to have this minimum width. As long as there is a patio area meeting these requirements, then other areas of the yard need only meet the minimum yard width.

6. *Atrium house.* This dwelling type consists of an attached, one-story unit with private individual access for a single family. Each dwelling unit shall have a private yard(s) or atria. The entire lot area of atria and house shall be enclosed by a wall. The wall shall be at least eight feet in height in the rear or sides of the lot or may average 6.5 feet if located in the front. All living spaces, that is, living

rooms, dens, or bedrooms, shall face an atrium. The following table specifies minimum standards for an atrium house.

	Number of Bedrooms				
	1	2	3	4	5
Minimum lot area [(square feet)]:					
With on-lot parking	1,800	2,050	2,400	2,600	2,900
With off-lot parking	1,550	1,750	2,000	2,25[00]	2,500
On-lot imperious:					
With on-lot parking	65%	65%	65%	65%	65%
With off-lot parking	58%	58%	58%	58%	59%
Maximum floor area ratio:					
With on-lot parking	0.48	0.50	0.48	0.49	0.51
With off-lot parking	0.58	0.58	0.58	0.58	0.59
Minimum lot width [(feet)]	36	38	40	40	45
Minimum atrium area (square feet)	400	500	500	500	600
Minimum atrium width [(feet)]	18	20	20	20	22
Offstreet parking spaces	1.5	2.0	2.0	2.5	3.0

Commentary: If there is more than one atrium, the secondary spaces need only have a minimum width of six feet and a minimum area of 48 square feet.

7. *Weak-link townhouse.* This dwelling type consists of an attached dwelling unit, a single unit from ground to roof, with individual outside access housing a single family. Each unit shall have both a one- and two-story section. The one-story section shall be at least ten feet wide or 30 percent of the lot width, whichever is greater. A group of attached, weak-link townhouses shall average no more than eight dwelling units per group. The following table specifies minimum standards for a weak-link townhouse.

	Number of Bedrooms				
	1	2	3	4	5
Minimum lot area [(square feet)]:					
With 2-car garage	2,400	2,700	2,800	3,000	3,300
With on-lot parking	2,000	2,300	2,400	2,600	2,900
With off-lot parking	1,700	2,000	2,100	2,300	1,600
Minimum on-lot imperious:					
With 2-car garage	51%	51%	51%	51%	50%
With on-lot parking	44%	42%	43%	44%	42%
With off-lot parking	35%	33%	35%	36%	36%
Maximum floor area ratio:					
With 2-car garage	0.36	0.36	0.38	0.42	0.46
With on-lot parking	0.43	0.41	0.45	0.50	0.50

	Number of Bedrooms				
	1	2	3	4	5
With off-lot parking	0.50	0.46	0.51	0.55	0.57
Minimum lot width [(feet)]:					
With 2-car garage	36	38	40	40	45
With on-lot parking	28	30	30	30	32
With off-lot parking	28	28	30	30	32
Minimum yards [(feet)]:					
Front	15	20	20	20	20
Rear	20	20	22	22	24
Offstreet parking spaces	1.5	2.0	2.0	2.5	3.0

8. *Townhouse*. This dwelling type consists of a single-family attached unit, with a single unit going from ground to roof, and with individual outside access. Rows of attached townhouses shall average no more than ten dwelling units. The minimum amount of exterior walls shall be double the minimum lot width. The following table specifies the minimum standards for a townhouse.

	Number of Bedrooms				
	1	2	3	4	5
Minimum lot area [(square feet)]:					
With 2-car garage	1,700	2,000	2,000	2,400	2,600
With on-lot parking	1,400	1,700	1,800	2,300	2,500
With off-lot parking	1,100	1,400	1,500	1,800	2,000
Minimum on-lot impervious:					
With 2-car garage	59%	55%	58%	66%	56%
With on-lot parking	57%	52%	53%	55%	54%
With off-lot parking	45%	42%	43%	41%	42%
Maximum floor area ratio:					
With 2-car garage	0.48	0.50	0.56	0.54	0.59
With on-lot parking	0.57	0.57	0.62	0.58	0.60
With off-lot parking	0.72	0.70	0.73	0.71	0.74
Minimum lot width [(feet)]:					
With 2-car garage	28	28	28	30	32
With on-lot parking	22	22	24	26	26
With off-lot parking	18	20	22	24	24
Minimum yards, front [(feet)]	15	20	20	20	20
Offstreet parking spaces	1.75	2.0	2.0	2.5	3.0

9. *Multiplex*. This dwelling type may be either a single-family attached dwelling or a multiple-family unit. Each unit may take direct access to a private yard or access point, or units may share yards and access. The units may be arranged in

a variety of configurations, including back to back, side to side, or vertically; however, no more than six units shall be attached in any single building.

	Number of Bedrooms				
	Efficiency	1	2	3	4
Minimum lot area [(square feet)]	1,450	1,650	1,700	1,750	2,150
Maximum on-lot impervious	59%	59%	56%	58%	60%
Maximum floor area ratio	0.43	0.52	0.60	0.65	0.61
Minimum lot width (per structure) [(feet)]	60	70	70	75	75
Minimum yards [(feet)]:					
Street	25	25	25	25	25
Side	5	5	5	5	5
Offstreet parking spaces	1.5	2.0	2.0	2.0	2.25

10. *Apartment buildings.* Apartment buildings are buildings comprising multiple dwelling units which share common access to individual units and yards. The yard required shall be the sum of the areas required for each unit within the structure. Apartments shall contain three or more units in a single structure. The following table specifies the minimum standards for apartment buildings.

	Number of Stories				
	2	3	4	5-6	7+
Minimum lot area per dwelling unit (DU) [(square feet)]:					
Efficiency	1,050	1,100	1,050	850	750
1 bedroom	1,450	1,400	1,250	1,000	950
2 bedrooms	1,650	1,550	1,450	1,100	1,050
3 bedrooms	1,850	1,600	1,450	1,150	1,050
4 bedrooms	2,050	1,850	1,600	1,200	1,150
Maximum on-lot impervious surface ratio:					
Efficiency	66%	61%	59%	46%	48%
1 bedroom	65%	63%	59%	47%	45%
2 bedrooms	71%	65%	61%	51%	48%
3 bedrooms	68%	65%	65%	52%	50%
4 bedrooms	69%	65%	67%	55%	53%
Maximum floor area ratio:					
Efficiency	0.49	0.54	0.55	0.73	0.77
1 bedroom	0.50	0.58	0.58	0.78	0.81
2 bedrooms	0.64	0.70	0.71	0.97	0.99
3 bedrooms	0.67	0.77	0.87	1.12	1.15
4 bedrooms	0.69	0.76	0.88	1.17	1.28
Minimum street frontage of lot [(feet)]	100	100	100	100	100

Offstreet parking spaces	Number of bedrooms				
	Efficiency	1	2	3	4
	1.5	1.75	2	3	3.0

(Ord. No. 256, § 5, 9-15-92)

Section 5300. Residential use regulations: neighborhood conservation district.

Table 5300 specifies the lot area, setback, and bulk requirements for residential uses in the neighborhood conservation district.

TABLE 5300. TABLE OF RESIDENTIAL USE REGULATIONS: NEIGHBORHOOD CONSERVATION DISTRICT

Zone*	Lot Size		Setback			Side Yard	Bulk			
	Minimum Lot Area (square feet)	Width (feet)	Front (feet)	Rear (feet)	Total Side (feet)	Minimum Side (feet)	Abutting a Street [(feet)]	Imperious Surface Ratio	Height (feet)	Stories
N ₂₁	21,000	85	30	30	23	10	30	0.20	35	2.5
NC ₁₅	15,000	90	25	30	20	9	30	0.25	35	2.5
NC ₁₃	13,000	65	25	30	17	7	25	0.25	35	2.5
NC _{7.5}	7,500	50	25	20	17	7	25	0.30	35	2.5
NC _{6.5}	6,500	50	25	15	15	6	20	0.30	30	2.0
NC _{5.5}	5,500	50	20	10	14	6	18	0.35	30	2.0

*This column indicates the regulations applicable to the neighborhood conservation district, which has different standards according to the minimum lot size of the particular district. The minimum lot size of a neighborhood conservation district varies and is a function of the character of that district as of the date of enactment of this ordinance. The subscript following the “NC” in each row of this table designates the minimum lot size in thousands of square feet (as the district is designated on the official zoning map). Thus, the minimum lot area in a district designated 5.5 is 5,500 square feet.

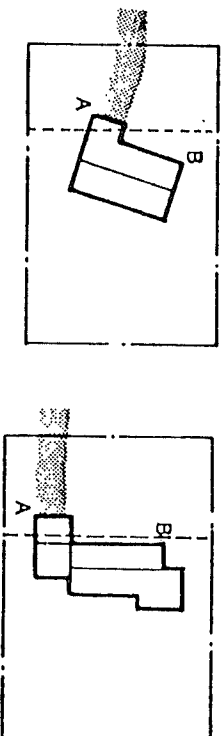
Section 5400. Residential use design deviations.

A. *Purpose.* It is the purpose of this section to provide a means of permitting minor deviations from the standards of sections 5200 and 5300 pursuant to the following criteria and only following review and approval by the planning director pursuant to article VIII (Administration and Enforcement).

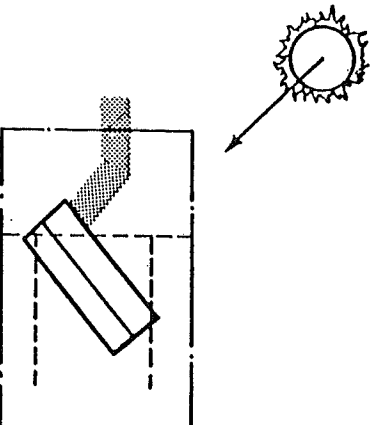
Commentary: The deviations attempt to reconcile the possibly conflicting goals of a zoning ordinance: to prohibit bad planning and design while promoting good design. Too often, the regulations which operate to prohibit such consequences as overcrowding operate by standardizing design and prohibiting innovation, thereby encouraging mediocrity and precluding good design.

B. *Permitted design deviations: yard requirements.*

1. Where a building is placed on a parcel such that its entire front is not parallel to the street, as illustrated below, the minimum yard requirements may be met by averaging the yard width from one end of the building (point A in the illustration) to the other end of the building (point B), provided that the yard at its narrowest point is not less than 80 percent of the minimum yard required by section 5200.

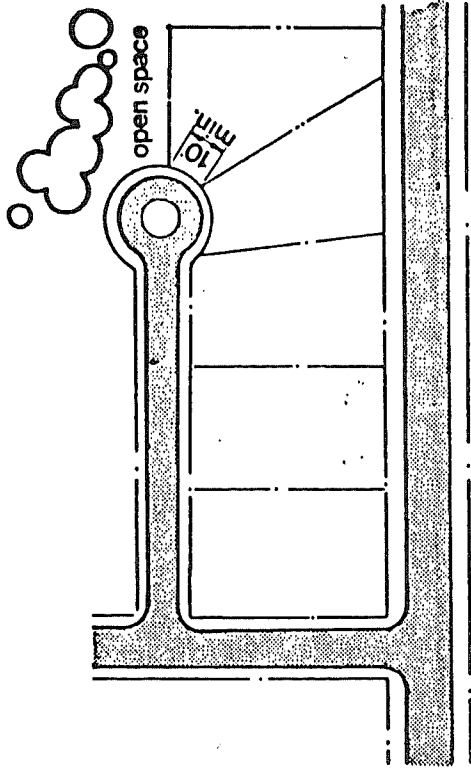


2. Where buildings are aligned to achieve proper solar orientation and units are designed for solar collectors or passive solar heating, the narrowest point of any yard shall not be less than 65 percent of the minimum yard required by section 5200. Further, a shadow plan based on a statement of the degree of solar access to be provided each unit and containing the covenants limiting landscaping shall be submitted.

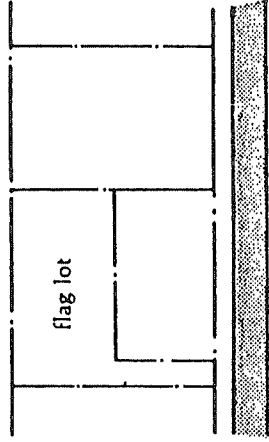


C. Permitted design deviations: *minimum lot width.*

1. *[Dead-end streets.]* Where a street dead-ends, leaving part of a lot fronting on open space (as illustrated below), the lot needs only a frontage of ten feet.



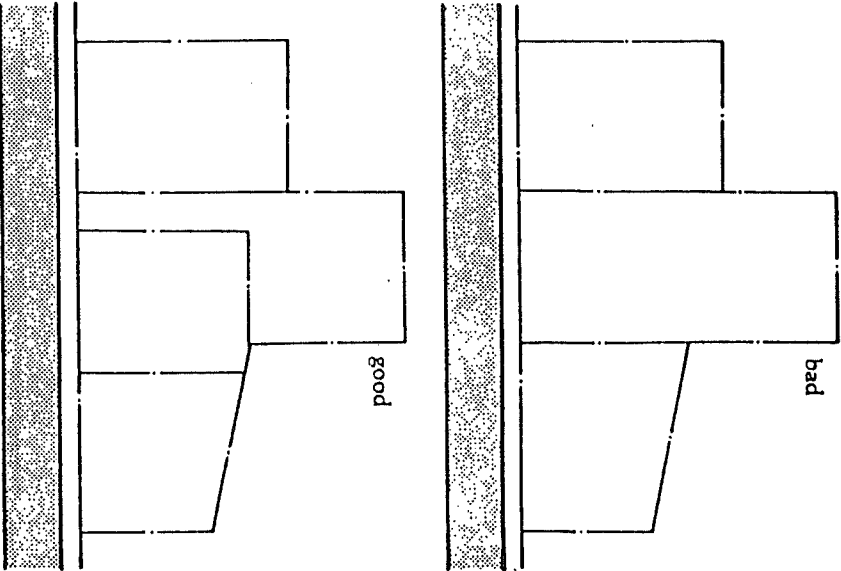
2. *Flag lots.* A flag lot is a lot which has minimum frontage on a public or private street, which is reached via a private drive or lane, and whose width some distance back from the street boundary line meets all ordinance requirements. See the following illustration.



Flag lots shall be permitted, even though they do not meet the minimum lot width requirements at the street boundary line, only in the following instances:

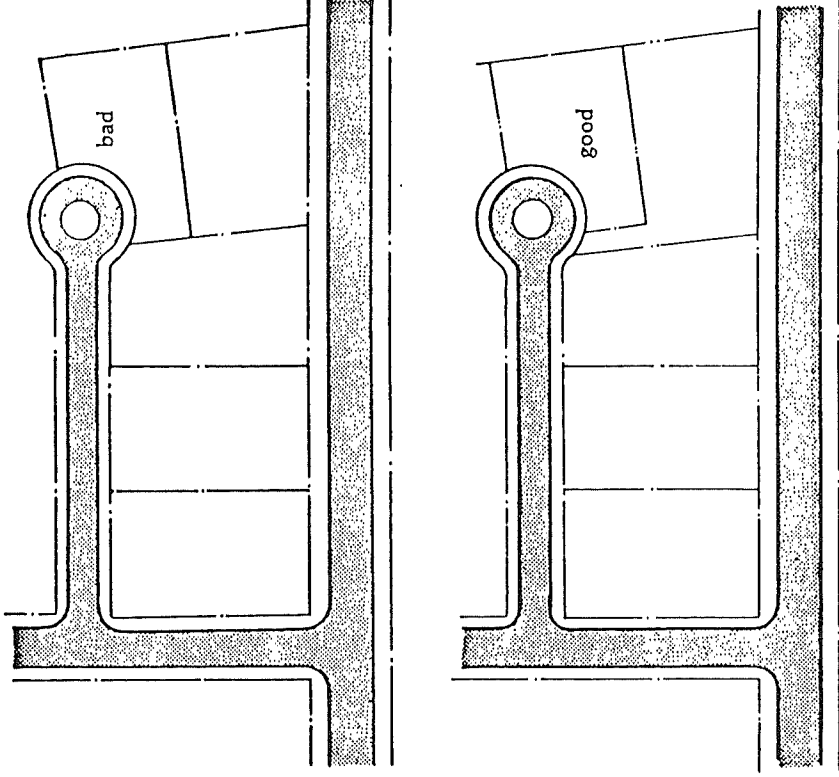
- a. Where the flag lot makes it possible better to utilize irregularly shaped properties or areas with resource limitations.

Commentary: Property irregularities often result in waste of land which could be better utilized through use of the flag lot as illustrated below.



- b. Where the flag lots are used to eliminate any accesses to collector or arterial roads.

Commentary: The use of conventional lots encourages the developer to lose a lot or to seek access to a collector or arterial road. The use of the flag lot may avoid this.



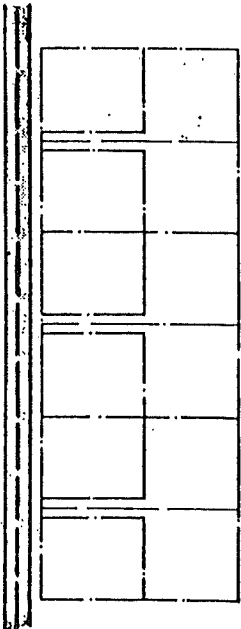
In any event:

- a. No more than ten percent of the lots in a subdivision may be flag lots.
- b. Flag lots shall not be permitted whenever their effect would be to increase the number of lots taking access to a collector or arterial road.

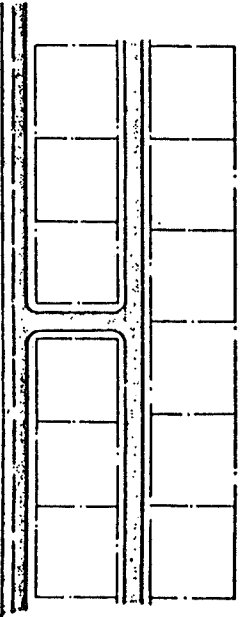
Commentary: This criterion prohibits one of the most common abuses, the use of flag lots to avoid the developmental costs of roads (see illustration below). These

sites are best developed without flag lots, even if the cost of the lots is thereby increased, since controlling access reduces congestion on major roads.

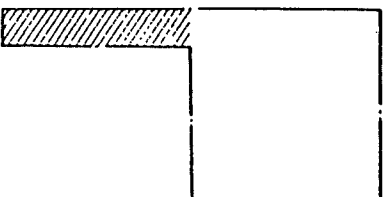
prohibited



permitted



- c. That portion of a flag lot shown as shaded in the following illustration shall not be included as a part of the lot area for the purpose of determining average lot area.



Section 5500. Accessory uses.

A. *Authorization.* Except as otherwise expressly provided or limited by this ordinance, accessory structures and uses are permitted in any zoning district in connection with any principal use lawfully existing within such district. Any question of whether a particular use is permitted as an accessory use by the provisions of this section shall be determined by the zoning officer pursuant to his or her authority to interpret the provisions of this ordinance.

B. *Zoning certificate required.* No accessory use or structure shall be established or constructed unless a zoning certificate evidencing the compliance of such use of structure with the provisions of this section and other applicable provisions of this ordinance shall have first been issued in accordance with article VIII (Administration and Enforcement).

C. *Use limitations.* In addition to complying with all other regulations, no accessory use shall be permitted unless it strictly complies with the following restrictions:

1. The principal use or structure, together with any accessory use or structure, shall not jointly exceed the land use intensity class criteria in any given use class.
2. All signs are subject to the provisions of sections 4616 through 4619.
3. No accessory structure or use shall be constructed or established on any lot prior to the time of the substantial completion of the construction of the principal structure to which it is accessory.
4. No accessory structure or use on any lot shall cause any impervious surface ratio or exterior storage area [to be] more than the maximum permitted on the site by this ordinance.
5. In the case of all commercial and industrial uses: accessory structures shall maintain the same minimum front, side, and rear yard as is required for the principal structure.
6. No accessory structure shall be closer than ten feet to a principal structure or closer than five feet to any other accessory structure, unless it is attached to such principal or other structure.
7. Accessory structures and uses shall comply with all applicable area, bulk, and yard regulations.

The accessory uses and structures specifically mentioned below are subject to the following additional requirements:

D. *Detailed accessory use regulations: home occupations.* It is the intent of this subsection to regulate the operation of home occupations so that the average neighbor, under normal circumstances, will not be aware of their existence other than for a permitted sign.

1. Any resident conducting a home occupation shall apply for and receive a zoning certificate from the zoning officer subject to the following regulations.

2. Any occupation which is customarily, in whole or in part, conducted in a residence may be conducted in any dwelling unit, provided that all of the following criteria are met:
 - a. The occupation must be clearly incidental to the use of the dwelling as a residence.
 - b. No outdoor display or storage of materials, goods, supplies, or equipment used in the home occupation shall be permitted on the premises.
 - c. There shall be no visible evidence that the residence is being operated as a home occupation. The total of all employees inclusive of family members shall not exceed six persons.
 - d. Offstreet parking shall be provided on the premises, as required by sections 4602 and 5700 or as otherwise necessary.
 - e. A home occupation use shall not generate nuisances such as traffic, onstreet parking, noise, vibration, glare, odors, fumes, electrical interference, or hazards to any greater extent than what is usually experienced in the residential neighborhood.
- E. *Detailed accessory use regulations: private stables.*
 1. The minimum lot area shall be 200,000 square feet for two or more "horses" (includes horses, ponies, mules, donkeys, and other animals used for riding). The minimum lot area shall be 100,000 square feet when only one horse is kept.
 - a. When horses are fed by grazing on pasture (at least one season of the year), there shall be 100,000 square feet of pasture per horse if a single pasture is provided or 80,000 square feet of pasture per horse if two pasture areas are rotated.
 - b. When horses are not pastured but are fed indoors or in a dry lot, no minimum pasture area per horse shall be required.
 - c. If horses are kept inside a building, one stall shall be provided for each horse. A tiedown stall shall be a minimum of four feet by eight feet; a box stall shall be a minimum of ten feet by ten feet.
 2. The following minimum setbacks shall be provided:
 - a. Stables, corrals, and piles of manure, feed, and bedding shall be located 75 feet from any street or nonresidential lot line and 100 feet from any residential lot line, in order to minimize odor and nuisance problems. Pasture may extend to the lot line; however, when all of the runoff from a corral or exercise area is controlled and directed over a 200-foot-long grass swale before reaching the property line, the corral or unvegetated exercise area may be located a minimum of 40 feet from any street or lot line.
 - b. Manure piles shall be stored, removed, and/or applied in accordance with Gadsden County health department regulations; however, manure shall not be applied on land that is closer than 100 feet to a residential lot line.
 3. A 100-foot-wide area of vegetation cover, exclusive of pasture area, shall be maintained between any corral, unvegetated exercise area, manure pile, or application

area and any surface water or well, in order to minimize runoff, prevent erosion, and promote quick nitrogen absorption.

4. In areas with a slope of five percent or less, corrals, unvegetated exercise areas, and manure piles shall be 150 feet from a well and 200 feet from any surface water, unless the water is upgraded [upgrade] or there is adequate diking to comply with the Gadsden County health department standards.
5. Corrals, unvegetated exercise areas, manure piles, and manure application are prohibited in areas with slopes greater than five percent, in ten-year floodplains, in waterways, and on soils classified as very poorly drained by the USDA Soil Conservation Service Soil Survey for Gadsden County, Florida.
6. Manure shall not be allowed closer than 75 feet to a well or to any surface water, unless the water is upgraded [upgrade] or there is adequate diking to comply with Gadsden County health department standards.
7. Special events, such as shows, exhibitions, and contests, shall only be permitted when a zoning certificate has been granted; such events are subject to the requirements of section 5600 (Temporary uses).

F. *Detailed accessory use regulations: private swimming pools and tennis courts.*

1. Pools and courts, including but not limited to aprons, walls, and equipment rooms, shall not protrude into any required yard.
2. They shall be fenced or otherwise protected against intrusion.
3. They shall not be operated as a business or a private club.

G. *Detailed accessory use regulations: residence for caretaker or watchman.*

1. One single-family residence for a caretaker, owner, operator, manager, or watchman and his immediate family is permitted as an attached or detached dwelling for any commercial or industrial use, kennel, stable, or veterinary clinic for purposes of security and protection of the principal use.
2. The standards applicable to a caretaker's residence shall not differ from those imposed by this ordinance on any other housing unit of the same type.

Section 5600. Temporary uses.

A. *Authorization.* Temporary uses are permitted only as expressly provided in this section and shall comply with the requirements of article VIII (Administration and Enforcement).

B. *Zoning certificate required.* No temporary use shall be established unless a zoning certificate evidencing the compliance of such use with the provisions of this section and other applicable provisions of this ordinance shall have first been issued, as provided in article VIII (Administration and Enforcement).

C. *Use limitations.*

1. The principal use or structure, together with any temporary uses or structures, shall not jointly exceed the land use intensity class criteria specified in section 4602 or any standard contained in article IV.
 2. No signs in connection with a temporary use shall be permitted except in accordance with the provisions of sections 4616 through 4619.
- D. *Particular temporary uses permitted.* The following are temporary uses which are subject to the following specific regulations and standards, in addition to the other requirements specified in this ordinance.
1. *Carnival or circus.*
 - a. Permitted in any district.
 - b. Maximum length of permit shall be 15 days.
 - c. No structure or equipment within 500 feet of any residential property line.
 2. *Christmas tree sales.*
 - a. Permitted in any district.
 - b. Maximum length of permit for display and open-lot sales shall be 45 days.
 3. *Contractor's office and construction equipment sheds.*
 - a. Permitted in any district where use is incidental to a construction project.
 - b. Maximum length of permit shall be one year.
 - c. Office or shed shall be removed upon completion of construction project.
 4. *Events of public interest.*
 - a. Permitted in any district.
 - b. Events may include but are not limited to outdoor concerts, auctions, etc.
 5. *Real estate sales office.*
 - a. Permitted in any district for any new subdivision approved in accordance with Town of Havana subdivision regulations. A model home may be used as a temporary sales office.
 - b. Maximum length of permit shall be one year.
 - c. Office shall be removed upon completion of the development of the subdivision.
 6. *Religious tent meeting.*
 - a. Permitted in any district.
 - b. Maximum length of permit shall be 30 days.
 7. *Horse show or exhibition.* Permitted for any commercial or private stable for special events, including but not limited to shows, exhibitions, and contests.
 8. *Temporary shelter.*
 - a. When fire or natural disaster has rendered a single-family residence unfit for human habitation, the temporary use of a mobile home located on the single-

family lot during rehabilitation of the original residence or construction of a new residence is permitted subject to the following additional regulations.

- b. Required water and sanitary facilities must be provided.
- c. Maximum length of permit shall be six months, but the zoning office may extend the permit for a period or periods not to exceed 60 days in the event of circumstances beyond the control of the owner. Application for the extension shall be made at least 15 days prior to expiration of the original permit.
- d. The mobile home shall be removed from the property upon issuance of any occupancy permit for the new or rehabilitated residence. The applicant shall be required to provide express consent and authorization to the Town of Havana to remove the shelter at the owner's expense upon termination of the permit.

9. *Tent theater.*

- a. Permitted in any district.
- b. Maximum length of permit shall be five months per calendar year.

[E. Reserved.]

F. *Additional regulations.* A carnival or circus, religious tent meeting, tent theater, horse show or exhibition, and events of public interest shall be subject to the following unless otherwise provided in subsections A through D above.

- 1. Documentation from the Gadsden County health department that adequate arrangement for temporary sanitary facilities has been ensured must be provided.
- 2. No permanent or temporary lighting shall be installed without an electrical permit and inspection.
- 3. All uses shall be confined to the dates specified in the permit.
- 4. Hours of operation shall be confined to those specified in the permit.
- 5. The site shall be cleared of all debris at the end of the special event and cleared of all temporary structures within 30 days after the closing event. A cash bond for a minimum of \$25.00 and not to exceed \$5,000.00 shall be posted or a signed contract with a disposal firm shall be required as a part of the application for a zoning certificate to ensure that the premises will be cleared of all debris during and after the event.
- 6. Public parking for the exclusive use of the facility shall be provided, and a stabilized drive to [the] parking area shall be maintained. It shall be the responsibility of the applicant to guide traffic to these areas and to prevent patrons from unlawful parking.
- 7. Traffic control arrangements required by the Havana police department in the vicinity at major intersections shall be arranged by the applicant.
- 8. A cash bond for a minimum of \$25.00 and not to exceed \$5,000.00 shall be posted with the Town of Havana to ensure the repair [of] the damage resulting to any public right-of-way as a result of the event.

Section 5700. Offstreet parking.

No off-street parking is required for any use in the urban core district.

A. *[Required spaces.]* The following minimum number of parking spaces shall be required of the nonresidential uses specified below (see section 5200 for the offstreet parking required of residential uses).

Reference herein to "employee(s) on the largest work shift" means the maximum number of employees employed at the facility regardless of the time period during which this occurs and regardless of whether any such person is a fulltime employee. The largest work shift may be a particular day of the week or a lunch or dinner period in the case of a restaurant.

The term "capacity" as used herein means the maximum number of persons which may be accommodated by the use as determined by its design or by fire code regulations, whichever is greater.

1. *Agriculture uses:* One space per employee on the largest shift.
2. *Agricultural support uses:* One space per employee on the largest shift, plus one space per 200 square feet of gross floor area provided for customer sales and service operations.
3. *Commercial and entertainment uses, except as specifically designated below:* One space per 150 square feet of gross floor area of customer sales and service, plus one space per 200 square feet of storage and/or office gross floor area, or, if the use has at least 100,000 square feet of gross floor area, 5.5 spaces per 1,000 square feet of gross floor area.

Other commercial and entertainment uses:

Banks: One space per 200 square feet gross floor area, plus five spaces offstreet waiting (loading) spaces per drive-in lane, plus one space per employee on the largest work shift.

Funeral home: One space per four patron seats or 25 spaces per chapel unit, whichever is greater.

Grocery or supermarket: One space per 100 square feet of gross floor area of customer sales and service, plus one space per 200 square feet gross floor area of storage.

Hospital: Two spaces per three patient beds, plus one space per staff doctor and each other employee on the largest work shift.

Hotel or motel: One space per room or suite, plus one space per every three employees on the largest work shift, plus one space per three persons to the maximum capacity of each public meeting and/or banquet room, plus 50 percent of the spaces otherwise required for accessory uses (e.g., restaurants and bars).

Private clubs: One space per three persons to the maximum capacity of the facility.

Repair services: One space per 300 square feet of gross floor area, plus one space per employee on the largest work shift.

Restaurant, standard: One space per three patron seats or one space per 100 square feet of gross floor area, whichever is greater, plus one space per employee on the largest work shift.

School, commercial or trade: One space per three students, plus one space per employee (including faculty) at capacity class attendance period.

Shopping center, regional: Five spaces per 1,000 square feet of gross floor area.

Theaters and auditoriums: One space per three patrons based on maximum capacity. This requirement may be satisfied on a space-by-space basis by a facility's providing written proof that it has the use of a nearby parking lot available to its patrons (e.g., by contractual arrangement).

4. *Commercial/recreational uses:* One space per four patrons to the maximum capacity of facility, plus one space per two employees on the largest work shift.

Other commercial/recreational uses:

Bowling alley: Five spaces per lane, plus one space per employee on the largest work shift.

Golf driving range: One space per tee, plus one space per employee on the largest work shift.

Miniature golf: 1.5 spaces per hole, plus one space per employee on the largest work shift.

Skating rink, ice or roller: One space per 300 square feet of gross floor area.

5. *Heavy industrial uses:* One space per employee on the largest shift, plus one space per company vehicle normally left on the premises.

Other heavy industrial uses:

Truck terminal: One space per employee on the largest shift, plus one space per truck normally parked on the premises, plus one space per three patrons to the maximum capacity.

Junkyards: One space per 10,000 square feet of gross land area, plus one space per employee on the largest work shift.

6. *Institutional, indoor, recreational, and special residential uses:* One per three patrons to the maximum capacity, plus one space per employee on the largest shift.

Other institutional, indoor, recreational, and special residential uses:

Camps, day or youth: One space per employee on the largest shift, plus one space per camp vehicle normally parked on the premises.

Church: One space per four seats of maximum capacity.

Community and recreation center: One space per 250 square feet of gross floor area, or one space per four patrons to the maximum capacity, plus one space per employee on the largest shift.

Day or nursery school: One space per teacher/employee on the largest shift, plus one offstreet loading space per eight students.

Group dwellings: One space per bedroom or sleeping rooms.

Libraries and museums: One space per 250 square feet of floor area or one space per four seats to the maximum capacity, whichever is greater, plus one space per employee on the largest shift.

Nursing homes: One space per six patient beds, plus one space per employee on the largest shift, plus one space per staff member and visiting doctor.

Schools:

- a. *Elementary and junior high:* One space per teacher and staff member, plus one space per two classrooms.
- b. *Senior high:* One space per teacher and staff member on the largest shift, plus one space per five non-bused students.
- c. *College:* One space per staff member on the largest shift, plus one space per two students of the largest class attendance period.

Swimming facility: One space per 75 square feet of gross water area, plus one space per employee on the largest shift.

Tennis, racquetball, handball courts: Four spaces per court, plus one space per employee on the largest shift.

7. *Light industrial uses:* One space per employee on the largest shift, plus one space per company vehicle regularly stored on premises.

Other light industrial uses:

Miniwarehouse: One space per ten storage cubicles, plus two spaces per manager's residence, plus one space per 25 storage cubicles located at the warehouse office.

Veterinary office with enclosed kennels and/or pens: Three spaces per doctor, plus one space per employee on the largest shift.

Warehouse: One space per employee on the largest shift, plus one space per 4,000 square feet of gross floor area.

8. *Nursery uses:* One space per employee on the largest shift, plus one space per 200 square feet of gross floor area of inside sales or display.

9. *Office uses:* One space per 250 square feet of gross floor area.

Other office uses:

Beauty and barber shops: Three spaces per operator or one space per 100 square feet of gross floor area, whichever is larger, plus one space per employee on the largest shift.

Medical offices: Five spaces per doctor.

Personal services: One space per 200 square feet of basement and first floor gross floor area, plus one space per 300 square feet of any additional floor area for customer service, plus one space per employee on the largest shift.

10. *Outdoor recreational uses:* One space per four expected patrons at capacity.

Other outdoor recreational uses:

Golf courses (nine- and 18-hole): 90 spaces per nine holes, plus one space per employee on the largest shift, plus 50 percent of spaces otherwise required for any accessory uses (e.g., bars, restaurants).

Golf, par three: 40 spaces per nine holes, plus one space per employee on the largest shift.

Outdoor swimming pool: One space per 75 square feet of gross water area.

Tennis court: Three spaces per court.

11. *Public service uses:* One space per employee on the largest work shift, plus one space per company vehicle normally stored on the premises.

12. *Recreational rental uses:* 1.5 spaces per site or dwelling unit.

Other recreational rental uses:

Recreational vehicle park: 1.5 spaces per each recreational vehicle site, plus one space per employee on the largest shift.

13. *Road service uses:* One space per 200 square feet of gross floor area, plus one space per employee on the largest shift.

Other road service uses:

Convenience grocery: One space per 100 square feet of gross floor area.

Fast food restaurant: One space per 50 square feet of gross floor area, plus one space per employee on the largest work shift.

Taverns, dancehalls, nightclubs, and lounges: One space per 50 square feet of gross floor area, plus one space per employee on the largest shift.

Vehicle sales and service: One space per 1,500 square feet of gross floor area.

Vehicle repair and maintenance services: One space per 400 square feet of gross floor area, plus one space per employee on the largest work shift.

B. *[Dust control.]* All parking areas shall be kept in a dustfree condition at all times. In the case of unpaved parking areas, this may be accomplished by oiling or spraying with calcium chloride.

C. *Reduction in the number of required offstreet parking spaces for large uses (over 500,000 square feet of gross floor area).* In order to prevent the establishment of a greater number of parking spaces than actually needed to meet the particular needs of those large uses over

500,000 square feet of gross floor area, a reduction in the number of required offstreet parking spaces may be permitted. This reduction shall be permitted subject to the following conditions.

1. A maximum reduction of one parking space per every 1,000 square feet of gross floor area or 20 percent of the total spaces required can be permitted. The land development plan shall indicate the location and dimensions of the parking area provided.
2. Sufficient area must be reserved to provide for the total number of offstreet parking spaces required by section 5700 (Offstreet parking). The purpose of this reservation is to ensure adequate area to meet any future need for additional parking spaces. This reservation shall be provided for by deed-restricting that portion of the site required to provide for the total number of parking spaces on the same property as is being proposed for development. The reserved parking area shall not include areas for required bufferyards, setbacks, or areas which would otherwise be unsuitable for parking spaces due to the physical characteristics of the land or other requirements of this ordinance. The developer shall provide a landscaping plan for the reserved area.
3. The developer shall enter into written agreement with the Town of Havana that the additional parking spaces up to the total spaces required shall be provided at the owner's expense should the zoning officer determine that the total required parking spaces are necessary to satisfy the needs of the particular use pursuant to the standards imposed by this ordinance.

Commentary: Certain large uses, such as regional shopping centers, may need fewer parking spaces than are required by this ordinance since their trip generation per 1,000 square feet of gross floor area is typically less than smaller uses. For example, large industrial users may find, through vanpooling or carpooling practices, that their parking needs are reduced. This section provides a 20 percent maximum reduction in required parking spaces while at the same time requiring that land be reserved to accommodate future parking needs.

D. *[Required handicapped accessible spaces.]* Accessible parking for physically handicapped people must be provided by any commercial facility offering parking for the general public or in any public parking lot or structure serving the general public. The minimum number of handicapped accessible spaces must comply with the following table:

<i>Total Parking in Lot</i>	<i>Required Number of Accessible Spaces</i>
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9

<i>Total Parking in Lot</i>	<i>Required Number of Accessible Spaces</i>
501 to 1,000	2% of total
Over 1,000	20 plus 1 for each 100 over 1,000

Parking spaces designated for physically handicapped people that serve a particular building shall be located on the shortest possible accessible circulation route to an accessible entrance of the building. In separate parking structures or lots that do not serve a particular building, parking spaces for physically handicapped people shall be located on the shortest possible circulation route to an accessible pedestrian entrance of the parking facility.

E. Parking space design standards.

1. *Handicapped accessible parking spaces.*

- a. Parking spaces (diagonal or right angle) shall be a minimum of 12 feet wide.
- b. Parallel parking spaces shall be located either at the beginning or end of a block or adjacent to alley entrances. Curbs adjacent to such spaces shall be of a height which will not interfere with the opening and closing of motor vehicle doors.
- c. All spaces shall have an adjacent access aisle 60 inches wide minimum. Parking access aisles shall be part of the accessible route to the building or facility entrance. Two accessible parking spaces may share a common access aisle. Parked vehicle overhangs shall not reduce the clear width of an accessible circulation route.
- d. All spaces shall have accessible thereto a curb ramp or curb cut, when necessary to allow access to the building served, and shall be located so that users will not be compelled to wheel behind parked vehicles.
- e. Each such parking space shall be conspicuously outlined in blue paint, and shall be posted and maintained with a permanent, above-grade sign bearing the international symbol of accessibility or the caption "PARKING BY DISABLED PERMIT ONLY," or bearing both such symbol and caption. Such signs shall not be obscured by a vehicle parked in the space. All handicapped parking spaces must be signed and marked in accordance with the standards adopted by the Florida department of transportation.

Commentary: The above standards in large part are taken from the Accessibility Requirements Manual published by the Florida department of community affairs. Parking lot designers should ensure that the latest design standards are referenced, since the field of handicapped access is currently evolving at a rapid pace.

2. *Standard parking spaces.* The following minimum dimensions shall be used for the design of standard parking spaces under this ordinance:

<i>Parking Angle</i>	<i>Stall Width (feet)</i>	<i>Curb Length (feet)</i>	<i>Length of Space (feet)</i>	<i>Aisle Width (feet)</i>	<i>Total Width (feet)</i>	<i>Access Drive</i>
90°	9	9	19	24	62	Two-way
60°	9	10.4	21	18	60	One-way
45°	9	12.7	19.8	13	52.6	One-way

F. *Parking lot circulation standards.*

1. Vehicle circulation may be via two-way aisles where 90-degree parking stalls are used. With stall angles less than 90 degrees, one-way aisles must be used.
2. Unless rendered impracticable due to lot size and/or shape, cross aisles should be provided at every 30 parking spaces.

G. Off-street parking facilities minimum standards, as required by section 5700 for nonresidential uses can be appealed to the Parking Standard Committee for review.

A completed application form, as provided by the Town's Zoning Officer must be submitted to the Parking Standards Committee prior to any consideration on the appeal. It is up to the applicant to provide any and all information necessary for the Committee to review the request.

(Ord. No. 256, § 6, 9-15-92; Ord. No. 279, §§ 14, 15, 7-23-96)

Section 5800. Offstreet loading.

Any use with a gross floor area of 6,000 square feet or more which requires deliveries or shipments must provide offstreet loading facilities in accordance with the requirements specified below.

- A. Every retail establishment, industrial or manufacturing use, warehouse, wholesale use, freight terminal, railroad yard, hospital, or sanitarium having an aggregate gross floor area of 6,000 square feet or more shall provide offstreet loading facilities as follows:

<i>Gross Floor Area (square feet)</i>	<i>Number of Berths</i>
6,000—24,999	1
25,000—79,999	2
80,000—127,000 [127,999]	3
128,000—198,999	4
199,000—255,999	5
256,000—319,999	6
320,000—391,999	7

For each additional 72,000 square feet (or fraction thereof) of gross floor area, one additional berth shall be provided.

- B. Every public assembly use, such as auditoriums, convention halls, exhibition halls, stadiums, or sports arenas, office buildings, welfare institutions, funeral homes, consisting of 20 units or more, and restaurants and hotels with a gross area of greater than 30,000 square feet shall provide offstreet berths as follows:

<i>Gross Floor Area (square feet)</i>	<i>Number of Berths</i>
6,000—29,999	1
30,000—119,999	2
120,000—197,999	3
198,000—290,999	4
291,000—389,999	5
390,000—488,999	6
489,000—587,999	7
588,000—689,999	8

For each additional 105,000 square feet (or fraction thereof) of gross floor area, one additional berth shall be provided.

- C. The minimum area for each offstreet loading space, excluding area for maneuvering, shall be 250 square feet.
- D. At no time shall any part of a truck or van be allowed to extend into the right-of-way of a public thoroughfare while the truck or van is being loaded or unloaded.

ARTICLE VI. NONCONFORMITIES

Section 6000. Purpose.

It is the purpose of this article to provide for the regulation of legally nonconforming structures, lots of record, uses, and signs and to specify those circumstances and conditions under which such nonconformities shall be permitted to continue. It is necessary and consistent with the regulations prescribed by this ordinance that those nonconformities which adversely affect orderly development and the value of nearby property not be permitted to continue without restriction.

The zoning regulations established by this ordinance are designed to guide the future use of the Town of Havana's land by encouraging appropriate groupings of compatible and related uses, and thus, to promote and protect the public health, safety, and general welfare. The continued existence of nonconformities is frequently inconsistent with the purposes for which such regulations are established, and thus, the gradual elimination of such nonconformities is generally desirable. With limited exceptions, the regulations of this article permit such nonconformities to continue without specific limitation of time, but are intended to restrict further investments which would make them more permanent.

This article distinguishes major nonconforming uses, minor nonconforming uses, major nonconforming structures, minor nonconforming structures, nonconforming lots of record, and nonconforming signs. Different regulations are made applicable to each of these categories. The degree of restriction made applicable to each separate category is a function of the degree to which that category of nonconformity is a nuisance or incompatible with the purposes and regulations of this ordinance.

Section 6001. Definitions.

A. A legal nonconformity is any land use, structure, lot of record, or sign legally established prior to the effective date of this ordinance or subsequent amendment to it which would not be permitted by or is not in full compliance with the regulations of this ordinance.

B. A nonconforming use is an activity using land, buildings, signs and/or structures for purposes which were legally established prior to the effective date of this ordinance or subsequent amendment to it and which would not be permitted to be established as a new use in a zone in which it is located by the regulations of this ordinance.

- 1. A major nonconforming use is any use listed in the table below for the district in which it is listed (see sections 4104 through 4108 for definitions of each use category).

<i>Zoning District</i>		<i>Major Nonconforming Uses</i>
Development		Extraction, heavy industrial
Urban core		Extraction, heavy industrial
Neighborhood conservation		All industrial uses, road service, commercial recreation
Heavy industrial		None

- 2. A minor nonconforming use is any nonconforming use which is not a major nonconforming use.

C. A nonconforming structure is any building or structure, other than a sign, legally established prior to the effective date of this ordinance or subsequent amendment to it, which does not fully comply with the standards imposed by sections 4203 (District performance standards), 4602 (Land use intensity class), 4603 through 4607 (Bufferyard requirements), 4706 (Roadway access), and article V (Detailed Use Regulations).

- 1. A major nonconforming structure is any nonresidential building or structure located on a parcel which at any point borders a residential use and which exceeds either the maximum floor area or impervious surface ratio standards in the district in which it is located (see section 4203) or does not fully comply with the bufferyard requirements of either sections 4603 through 4607 or the maximum feasible bufferyards provision of section 6007 (Minimum acceptable bufferyards).
- 2. A minor nonconforming structure is any nonconforming building or structure which is not a major nonconforming building or structure.

D. A nonconforming lot of record is any validly recorded lot which at the time it was recorded fully complied with all applicable laws and ordinances but which does not fully comply with the lot requirements of this ordinance concerning minimum area or minimum lot width.

E. A nonconforming sign is any sign legally established prior to the effective date of this ordinance or subsequent amendment to it which is not in full compliance with the regulations of this ordinance.

Section 6002. Authority to continue.

A. Except as otherwise provided in this article, any nonconforming lot, use, sign, or structure lawfully existing on the effective date of this ordinance or subsequent amendment thereto may be continued so long as it remains otherwise lawful. All nonconformities shall be encouraged to convert to conforming status as required by this article.

B. No nonconformity shall be enlarged upon, expanded, or extended (including extension of hours of operation) unless such alteration is in full compliance with all requirements of this ordinance. Normal maintenance and incidental repair of a legal nonconformity shall be permitted, provided that this does not violate any other section of this article.

1. Nothing in this article shall be deemed to prevent the strengthening or restoration to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition, provided that such restoration is not otherwise in violation of the various provisions of this section prohibiting the repair or restoration of partially damaged or destroyed structures or signs.

2. Nothing in this article shall be deemed to prevent an extension for the exclusive purpose of providing required offstreet parking or loading spaces, and involving no structural alteration or enlargement of such structure, subject only to the restrictions of sections 4602, 4614, 5700 and 5800.

C. No nonconformity shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

D. Any other provision of this article to the contrary notwithstanding, no use, structure, or sign which is accessory to a principal nonconforming use or structure shall continue after such principal use of structure shall have ceased or terminated, unless it shall thereafter conform to all regulations of this ordinance.

E. The burden of establishing that any nonconformity is a legal nonconformity as defined by this article shall, in all cases, be upon the owner of such nonconformity and not upon the Town of Havana.

Section 6003. Minor nonconformities.

A. *[Change of use.]* A minor nonconforming use shall not be changed to any use other than a use permitted in the zoning district in which it is located.

B. *Termination of minor nonconformities.*

1. *Termination by damage or destruction.* In the event that any minor nonconforming structure or use is destroyed by any means to the extent of more than 75 percent of the cost of replacement of such structure or use new, said structure or use shall not be rebuilt, restored, or reoccupied for any purpose unless it shall thereafter conform to all regulations of this ordinance. When such a nonconforming structure or use is damaged or destroyed to the extent of 75 percent or less of the replacement cost, no repairs or rebuilding shall be permitted except in conformity with section 6002 (Authority to continue) and other applicable regulations of this ordinance.

2. *Termination required by modification.* Whenever there is a minor nonconformity, which is nonconforming with respect to any of the performance criteria and regulations specified in section 4602 (Land use intensity criteria) or sections 4603 through 4607 (Bufferyard requirements), such use shall be required to do the following as a precondition to its receipt of any Town of Havana building permit, zoning certificate, or other Town of Havana permit:

- a. Whenever the nonconformity is a result of bufferyards, exterior lighting, or landscaping which does not comply with all requirements of this ordinance, upon application for any Town of Havana permit related to the subject property, the nonconformity shall as a precondition to issuance of that permit be required to comply fully with all such requirements.
- b. In the event that the nonconformity is a result of noncompliance with the bufferyards required by this ordinance and when the land area of the subject property precludes provision of the required bufferyards, the nonconformity shall, as a precondition to issuance of that permit, be required to comply fully with the requirements of section 6007 (Minimum acceptable bufferyard).

Section 6004. Major nonconformities.

A. *[Change of use.]* A major nonconforming use shall not be changed to any use other than a use permitted in the zoning district in which it is located.

B. *Termination of major nonconformities.*

1. *Termination by damage or destruction.* In the event that any major nonconforming structure or use is destroyed by any means to the extent of more than 50 percent of the cost of replacement of such structure or use new, [the] same shall not be rebuilt, restored, or reoccupied for any use unless it shall thereafter conform to all regulations of this ordinance. When such a nonconforming structure or use is damaged or destroyed to the extent of 50 percent or less of the replacement cost, no repairs or

rebuilding shall be permitted except in conformity with section 6002 (Authority to continue) and other applicable regulations of this ordinance.

2. *Termination required by modification.*

- a. Upon application for any building permit or other permit related to the subject property, a major nonconforming structure shall as a precondition to issuance of that permit be required to comply fully with all requirements of this ordinance.
- b. In the event that the nonconformity is a result of noncompliance with the bufferyards required by this ordinance and when the land area of the subject property precludes provision of the required bufferyards, the nonconformity shall as a precondition to issuance of that permit be required to comply fully with the requirements of section 6007 (Minimum acceptable bufferyard).

Section 6005. Nonconforming lots of record.

- A. A nonconforming lot of record may be used for any principal use permitted in the zone in which the lot is located, provided that for any use which is to be served by an individual well and/or septic system, the nonconforming lot shall be of a size and design to meet the minimum requirements of the Gadsden County health department regulations for such wells and septic systems.
- B. If the proposed use is to be a single residential dwelling unit of any of the types specified in article V (Detailed Use Regulations), to the extent that the lot is physically unable to provide the open space required by that section, that open space need not be required.
- C. If the use is to be a residential dwelling unit of the type designated “atrium house” by section 5200 (Residential use regulations), the minimum lot width may be reduced to 25 feet, provided that the total minimum lot area shall comply with section 5200.

Section 6006. Nonconforming signs.

- A. *[Alteration.]* No nonconforming sign shall be changed, expanded, or altered in any manner which would increase the degree of its nonconformity, or be structurally altered to prolong its useful life, or be moved in whole or in part to any other location where it would remain nonconforming.

B. *Termination of nonconforming signs.*

1. *Immediate termination.* The following signs or sign features shall be terminated within six months after the effective date of this ordinance, except as otherwise expressly permitted by this ordinance. Termination of the nonconformity shall consist of removal of the sign or its alteration to eliminate fully all nonconforming features: flashing signs, animated and moving signs, signs which obstruct free ingress to or egress from a fire escape, door, window, or other required accessway, signs which by reason of size, location, content, coloring, or manner of illumination obstruct the vision of drivers or obstruct or detract from the visibility or effectiveness of any traffic sign or control device on streets and roads within the Town of Havana, and signs

which advertise a business no longer conducted or a product no longer sold on the premises where such sign is located.

2. *Termination by abandonment.* Any nonconforming sign structure the use of which as a sign is discontinued for a period of 90 days, regardless of any intent to resume or not to abandon such use, shall be presumed to be abandoned and shall not thereafter be reestablished except in full compliance with this ordinance. Any period of such discontinuance caused by government actions, strikes, material shortages, or acts of God, and without any contributing fault by the nonconforming user, shall not be considered in calculating the length of discontinuance for purposes of this subsection.
3. *Termination by change of business.* Any nonconforming sign advertising or relating to a business on the premises on which it is located shall be terminated upon any change in the ownership or control of such business.
4. *Termination by damage or destruction.* Any nonconforming sign damaged or destroyed, by any means, to the extent of one-third of its replacement cost new shall be terminated and shall not be restored.

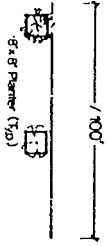
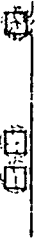
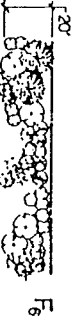
Section 6007. Minimum acceptable bufferyard.

When a nonconformity is a result of noncompliance with the bufferyard required by this ordinance and when that nonconformity makes application for a building permit or other Town of Havana permit related to the subject property, if the property is physically unable, because of its limited land area, to provide the bufferyard otherwise required by this ordinance, the following shall suffice for compliance with sections 6003 and 6004.

- A. If the nonconformity for which a permit is sought is of a higher land use intensity class (see section 4602) than the property adjacent to it, for each such boundary the minimum bufferyard shall be one which meets the following standards.
 1. If the applicant's parcel is able to provide 75 percent or more of the land, then that amount shall be provided along with all required structures and a percentage of the plant material equal to that of the land area provided.
 2. If the applicant's parcel is not able to provide 75 percent or more of the land required for the bufferyard, but the adjacent property owner agrees to an arrangement whereby 75 percent of the required land area can be jointly provided by the applicant and that adjacent owner, the applicant shall:
 - a. Where no structures are required, provide 100 percent of the required plant material.
 - b. Where a structure is required, provide the next more intensive structure (see section 4607) and 75 percent of the required plant material.
 3. If the applicant is unable to comply with either of the above conditions, the minimum acceptable bufferyard specified in section 6007D shall be provided.

- B. If the nonconformity for which a permit is sought is of a lesser land use intensity class (see section 4602) than the property adjacent to it, for each such boundary the minimum bufferyard shall be one which meets the following standards.
1. If the adjoining use has adequate undeveloped land to provide 75 percent of the required buffer, the applicant shall provide 25 percent of the required buffer.
 2. If the adjoining property owner cannot provide 75 percent of the required bufferyard and the applicant and the adjacent property owner agree to an arrangement whereby at least 75 percent of the required land area can be jointly provided, the applicant shall:
 - a. After deducting all land available for buffers on the adjoining property, provide all land available for buffer so as to approach the required bufferyard width as nearly as possible and 25 percent of the required plant material.
 - b. The applicant shall not be required to provide the structures.
 3. If the adjoining property owner can only provide a minimum acceptable bufferyard pursuant to section 6007D, the applicant shall provide a buffer equal to 25 percent of the land and required plant material.
 4. If the applicant is unable to comply with the minimum bufferyard requirements of this section, it shall not be entitled to the Town of Havana permit for which it has made application.
- [C. Reserved.]
- D. Table of minimum acceptable bufferyards for nonconformities. The following table specifies the minimum acceptable bufferyards required by this section.

TABLE VIII-1. MINIMUM BUFFERYARD REQUIREMENTS FOR
NONCONFORMING USES

	Bufferyard					Structure
	Canopy	Understory	Shrubs	Evergreen	Ground Cover	
B	 1	 1	-	-	-	
C	1	2	-	-	-	
D	-	2	-	-	-	
E	3	-	-	-	-	
F	 4	-	-	-	-	
G	1	2	8	3	*	
H	1	2	8	6	*	
I	1	2	8	9	*	
J	1	3	8	12	*	
K	2	4	12	18	*	

BUFFERYARDS B-K

ARTICLE VII. CONDITIONAL USES**Section 7000. Purpose.**

Conditional uses are those uses which have some special impact or uniqueness such that their effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location. At that time, a review of the location, design, configuration, and impact is conducted by comparing the proposed use to fixed standards. This review determines whether the proposed use should be permitted by weighing public need for, and benefit to be derived from, the use against the local impact which it may cause. The review considers the proposal in terms of existing zoning and land use in the vicinity of the use, planned and proposed public and private developments which may be adversely affected by the proposed use, whether and to what extent the proposed use at the particular location for which it is suggested is necessary or desirable to provide a development which is in the interest of the public convenience or which will contribute to the general welfare of the area or Town of Havana, [and] whether and to what extent all steps possible have been taken by the developer to minimize any adverse effects of the proposed use on the immediate vicinity, and on the public health, safety, and welfare in general.

Section 7001. Applicability.

Any use which is permitted as a conditional use by section 4102 of this ordinance shall comply with this article. Any use which involves filling of a floodplain shall also comply with this article (see section 4401).

Section 7002. Procedures.

A. Applications for a conditional use shall be submitted simultaneously with an application for a zoning certificate.

B. Applications for a conditional use permit shall be processed by the planning director as follows:

1. Copies of the application shall be distributed to the town clerk (zoning officer) for distribution.
2. A public hearing shall be held by the planning commission within 30 days of acceptance of the application and after the notice required by law has been provided. Not later than ten days prior to the date set for the hearing on the application, the planning director and each official or consultant to which the application has been referred shall file a written report thereon with the planning commission setting forth the recommendations for changes in the plans as submitted and the conditions for approval, if any, necessary to bring such plan into compliance with any applicable ordinance or regulation or to eliminate any adverse effects of the proposed development on those aspects of the general health, safety, and welfare of the community for which such official or consultant has special responsibility.

3. Within 30 days of the public hearing on the application, unless an extension of this time is agreed to by the applicant, the planning commission shall render to the Town of Havana council its recommendation either to grant the application for a conditional use permit, grant it subject to conditions, or deny it. The failure of the planning commission to act within this time period shall constitute a recommendation by it that the application be approved.
4. At the next possible regularly scheduled meeting the Town of Havana council shall either approve or disapprove the application, and where approved shall establish the specific conditions under which the application is approved. The application shall be denied if the Town of Havana council finds either that the application and record fail to establish compliance with the standards made applicable to the proposed development by the provisions of this ordinance, or if the proposed use, developed in the proposed manner and at the proposed location, will be inconsistent with the standards applicable to it pursuant to the provisions of this ordinance, or if the adverse impacts of the development, after taking into consideration any proposals of the applicant and any conditions that might be imposed by the Town of Havana council pursuant to the provisions of this ordinance to ameliorate them, outweigh any public or private benefits of the proposal and require denial of the conditional use approval in the interest of the overall public health, safety, and welfare.
5. The Town of Havana council may, in approving the application for any conditional use permit, impose such restrictions and conditions on such approval, the proposed use, and the premises to be developed or used pursuant to such approval as it determines are required by the general purposes, goals, and objectives of the comprehensive plan and this ordinance to prevent or minimize adverse effects from the proposed use and development on other properties in the neighborhood and on the general health, safety, and welfare of the Town of Havana. All conditions imposed upon any conditional use permit approval, with the exception of conditions made applicable to such approval by the express terms of this ordinance, shall be expressly set forth in the resolution granting such conditional use permits.
6. In the event a permit for a conditional use is approved or approved subject to conditions, the applicant shall, in writing within ten days following such decision, acknowledge such approval and unconditionally accept and agree to any conditions imposed on the approval. The zoning officer shall then take action to process the application on the zoning certificate for the development to which the conditional use permit applies. In the event such permit is not approved or is approved subject to conditions which are not acceptable to the applicant, the applicant may, within the aforesaid time period, either appeal such decision or abandon the application at the expiration of this ten-day period.

Section 7100. Conditions on conditional use approvals.

Every conditional use permit shall be conditioned upon the proposed development fully complying with all requirements of this ordinance. The violation of any condition contained in a conditional use permit shall be a violation of this ordinance.

Section 7101. General use standards.

No application for a conditional use permit shall be approved unless the Town of Havana board of adjustment shall specifically find the proposed conditional use appropriate in the location for which it is proposed. This finding shall be based on the following criteria:

- A. The proposed use shall be in harmony with the general purpose, goals, objectives, and standards of the Town of Havana comprehensive plan, this ordinance, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the Town of Havana.
- B. The proposed use at the proposed location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, or other matters affecting the public health, safety, and general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of provisions and policies of the comprehensive plan, this ordinance, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the Town of Havana or other governmental agency having jurisdiction to guide growth and development.
- C. The proposed use in the proposed area will be adequately served by and will not impose an undue burden on any of the improvements, facilities, utilities, or services specified in the subsection. Where any such improvements, facilities, utilities or services are not available or adequate to service the proposed use in the proposed location, the applicant shall, as part of the application and as a condition to approval of the proposed conditional use permit, be responsible for establishing ability, willingness, and binding commitment to provide such improvements, facilities, utilities, and services in sufficient time and in a manner consistent with the comprehensive plan, this ordinance, and other plans, programs, maps, and ordinances adopted by the Town of Havana to guide its growth and development. The approval of the conditional use permit shall be conditioned upon such improvements, facilities, utilities, and services being provided and guaranteed by the applicant.

Section 7102. Additional standards for specified conditional uses.

A. *[Generally.]* No application for issuance of a conditional use permit shall be approved unless the planning council shall find that, in addition to complying with each of the general standards enumerated above, each of the following specific standards applicable to the particular uses enumerated below is met.

B. Commercial stables.

1. Commercial stables are included in the general use category of outdoor recreation and are subject to the land intensity class performance criteria (section 4602) applicable to that use category.

2. No commercial stable shall be permitted if its existence would be incompatible with surrounding residential land uses and zoning.
 3. The minimum lot size area shall be 200,000 square feet.
 - a. If any horses (including horses, ponies, mules, donkeys, and other animals used for riding) are kept outside of any building, the maximum number of horses permitted shall be one per 100,000 square feet of property.
 - b. If all horses (and other riding animals) are kept inside a building, the maximum number of horses permitted shall be limited to the building capacity to house, show, and ride said horses. A stall shall be provided for each horse. The minimum dimension of each stall shall be ten feet by ten feet.
 4. The following minimum setbacks shall be provided:
 - a. Stables, corrals, and piles of manure, feed, and bedding shall be located 75 feet from any street or nonresidential lot line and 100 feet from any residential lot line, in order to minimize odor and nuisance problems. Pasture may extend to the lot line.
 5. A vegetative strip at least 50 feet wide shall be maintained between any corral, manure pile, or application area and any surface water or well, in order to minimize runoff, prevent erosion, and promote quick nitrogen absorption.
 6. In areas with a slope of five percent or less, corrals and manure piles shall be 150 feet from a well and 200 feet from any surface water, unless the water is upgrade or there is adequate diking.
 7. Corrals, manure piles, and manure application are prohibited in areas with slopes greater than five percent, in ten-year floodplains, in waterways, and on soils classified as very poorly drained by the Soil Conservation Service.
 8. Manure shall not be applied closer than 75 feet to a well or to any surface water, unless the water is upgraded [upgrade] or there is adequate diking as determined by the Town of Havana.
 9. Parking stalls required are one stall per every two horses (or other riding animals), based on the number of horse stalls or maximum horses allowed on the property, plus one per every employee on the largest shift.
 10. Special events such as shows, exhibitions, and contests shall only be permitted when a zoning certificate has been granted and are subject to the requirements of section 5600 (Temporary uses).
- C. *Filling of Floodplain.* The filling of the floodplain shall be granted only where plans and specifications have been submitted that meet all requirements of section 4401 (Floodplains) and where the following conditions exist which necessitate the filling of the floodplain.
1. The property would otherwise be able to accommodate at least one residential dwelling with a lot meeting all requirements of articles IV and V but cannot, because of the floodplain, accommodate even one single-family unit; or

2. That the location and/or configuration of the buildable land as calculated in sections 4301 through 4305 is such that the intensity of land use permitted by section 4305 (Site capacity) cannot be realized without filling in the floodplain. In no event shall the filling of the floodplain be permitted to increase the buildable area calculated by section 4305.

3. Required permits from [the] Florida department of environmental regulation are obtained and department of environmental regulation rules followed where applicable.

D. *Heavy industrial.* Heavy industrial uses shall be permitted in the development district upon a finding that:

1. The use must be located in a district other than one zoned for heavy industrial purposes, or that no land zoned for heavy industrial use is either available or suitably located.
2. All existing adjoining uses are permitted in a heavy industrial district, or, if existing uses are not permitted in a heavy industrial district, that either physical barriers, such as floodplains, or a combination of such barriers and additional buffers shall be provided.
3. The performance criteria upon which the use shall be conditioned cause no noise, dust, vibration, odor, or other nuisance problems beyond the interior bufferyard line of the use. Data demonstrating this shall constitute a part of the application for the use permit.

E. *Solar access.* The purpose of requiring a conditional use permit for any use which intends to utilize solar access is to ensure that access will be adequately protected by the provisions of this ordinance. Developments planned to permit and protect solar access are in the best interest of the Town of Havana in that they reduce dependence on foreign sources of energy. Thus, such developments fully meet the criteria of sections 7101A. The requirements of section 7101C shall be presumed to have been met by any such development. The minimum yard and lot width requirements of article V (Detailed Use Regulations) may be altered provided that such alteration is necessary solely to provide solar access. In other words, the alterations are the minimum required to provide such access, and they do not decrease either total lot area or total usable yard area. Solar access developments shall be permitted upon a finding that:

1. The use, absent its solar aspects, is permitted in the zone for which it is proposed.
2. The proposed plans for solar access best serve to protect the degree and location of that access and do not, or will not, require the restriction of development on adjoining properties with respect to their existing zoning classification. All such plans shall be made a condition of the use permit.

Section 7200. Amendments to permits for conditional uses.

Following the issuance of a conditional use permit pursuant to the provisions of this ordinance, such permit may be amended, varied, or altered only pursuant to the standards and procedures established by this article for its original approval.

ARTICLE VIII. ADMINISTRATION AND ENFORCEMENT

Section 8000. Purpose.

This article sets forth the procedures required for obtaining zoning certificates, certificates of occupancy, sign permits, and conditional use permits. This article also specifies the requirements for amendments, variances, administrative appeals, and interpretations of this ordinance.

Section 8001. Zoning certificates required.

No development permitted by this ordinance, including accessory and temporary uses, may be established or changed; no structure shall be erected, constructed, reconstructed, altered, razed, or removed; and no building used, occupied, or altered with respect to its use after the effective date of this ordinance until a zoning certificate has been secured from the zoning officer. Nothing herein shall relieve any applicant of the additional responsibility of seeking any permit required by any applicable statute, ordinance, or regulation in compliance with all of the terms of this ordinance.

Section 8002. Sign permits required.

Unless specifically exempted by section 4616, no sign shall be erected, altered, or relocated after the effective date of this ordinance until a sign permit has been secured from the zoning officer. Sign permits shall be renewed prior to their expiration dates as specified below.

Section 8003. Application requirements for zoning certificates.

A. All applications for zoning certificates shall be made in writing by the owner of the property for which it is sought on a form supplied by the Town of Havana and shall be filed with the zoning officer. The application shall include four copies of the following information, except as provided in section 8004.

1. The legal descriptions of the parcel(s) for which the certificate is sought.
2. A map (or maps) of the subject property showing (a) its boundaries; (b) total acreage; (c) contours at one-foot intervals if more than two dwelling units or more than 5,000 square feet of commercial area are involved; (d) location, width, and name of all existing or previously platted street, railroad, and utility rights-of-way; (e) the location of existing sewers, water mains, culverts, and other underground facilities within the tract, indicating pipe sizes, grades, manholes, and location.
3. A statement of the proposed use of each parcel, together with a site plan of the layout of the proposed development drawn to scale showing the location and exterior dimensions of all existing and proposed buildings and uses in relation to parcel and street lines. The following information shall be provided:
 - a. Provisions planned for treatment and disposal of sewage and industrial wastes, water supply, and storm drainage.

- b. A site capacity calculation in conformance with sections 4301 through 4305.
- c. The size and arrangement of all buildings used or intended to be used for dwelling purposes, including the proposed density factor.
- d. An open space plan showing the location, dimensions, and arrangements of all open spaces, yards, and bufferyards, including specification of all plant materials to be utilized in providing the bufferyards and landscaping required by this ordinance and including the specification of any use planned for open space or bufferyard areas.
- e. The location, height, and composition material of all walls, fences, or other structures to be utilized in providing the bufferyards required by this ordinance.
- f. The location and dimension of all existing and proposed vehicular drives, entrances, exits, traffic circulation patterns, acceleration and deceleration lanes.
- g. The location and dimension of all existing and proposed pedestrian entrances, exits, and walkways.
- h. The location, size, arrangement and capacity of all areas to be used for offstreet parking and offstreet loading.
- i. The location, size, height, composition material, illumination, and orientation of all signs.
- j. A certification of compliance with section 4615 (Exterior lighting) signed by the applicant's engineer or plans and specifications of the proposed lighting, if required by section 4615.
- k. Any other data deemed necessary by the zoning officer to determine the compliance of the proposed development with the terms of this ordinance.
- l. If the application relates to property scheduled for phased development, the proposed layout of the total projected development shall be indicated and each phase's projected scope and time period indicated to the extent possible.

B. When a zoning certificate is sought for a development which is a part of a plat of subdivision which has received final plat approval or which has been issued a conditional use permit, the plat or the conditional use permit, together with any covenants, conditions, or other restrictions related thereto, shall be submitted as a part of the application for the zoning certificate.

C. Application for a conditional use permit shall be made at the same time or prior to application for a zoning certificate for the same development.

D. In the case of any development which is required to develop pursuant to a plat of subdivision, said development shall have received and properly recorded a finally approved plat before an application for a zoning certificate will be accepted for processing by the zoning officer. If the development for which a zoning certificate is sought is required by this ordinance to submit to site plan review, the approved site plan shall be made a part of the application for a zoning certificate and shall suffice as the statement of proposed use required by this subsection.

E. A temporary use and an accessory use shall require a zoning certificate as a precondition to their lawful establishment. The zoning officer may establish regulations governing

the application requirements for a zoning certificate in the case of either a temporary or accessory use which is established at any time other than simultaneously with a principal use, in which case all information specified in section 8003A shall be submitted. The purpose of the information required to be submitted is to provide the zoning officer with a sufficient factual basis to determine whether all requirements of this ordinance applicable to temporary and accessory uses have been fully complied with.

F. No application shall be accepted by the zoning officer until it is complete as described above, and until all fees established by the Town of Havana for processing same have been paid in full.

Section 8004. Application requirements for sign permits.

All applications for sign permits shall be made in writing on a form supplied by Town of Havana and shall contain or have attached thereto the following information:

- A. Name, address, and telephone number of applicant.
- B. Location of building, structure, or lot to which or upon which the sign is to be attached or erected.
- C. Two blueprints, photocopies or ink drawings of the plans, specifications, and method of construction and attachment (i.e., either to a building or in the ground) of all proposed signs.
- D. A certified copy of the zoning certificate issued to the use(s) to which the sign is related together with a complete copy of the application required for that zoning certificate. When a sign permit is sought for a use which was existing at the effective date of this ordinance, the zoning officer shall specify the information required to show full compliance with the sign regulations of this ordinance, but in no event shall information not required by this section or an application for a zoning certificate be required.

Section 8005. Procedures.

A. Developments consisting of a single lot of record or a single dwelling unit or a single nonresidential unit shall be reviewed for compliance with this ordinance, and within three days after the application for a zoning certificate has been accepted the zoning officer shall inform the applicant whether the application has been granted.

1. In any case where the application is granted, the zoning officer shall issue a zoning certificate which shall state on its face: "This certificate does not signify building codes review or approval nor subdivision review or approval and is not authorization to undertake any work without such review and approval where either is required. Before any structure to which this certificate is applicable may be occupied or used for any purpose a certificate of occupancy must be obtained."

2. In any case where an application is denied, the zoning officer shall state the specific reasons and shall cite the specific chapters, articles, and sections of this ordinance upon which denial is based. If relief of such denial would be available by conditional use permit, the zoning officer shall so state and shall refer the applicant to the appropriate sections of this ordinance.

B. Development consisting of more lots, uses, or structures than described above shall be reviewed for compliance with this ordinance in as timely a manner as possible. The zoning officer shall inform the applicant whether the application has been granted within 30 days after the application for a zoning certificate has been accepted by the zoning officer.

C. Applications for sign permits shall be reviewed for compliance with this ordinance, and within two days after acceptance of same the zoning officer shall inform the applicant whether the permit has been granted.

Section 8006. Site plan review.

A. Site plan review shall be required, as a precondition to the issuance of a zoning certificate, in the following instances:

1. The establishment of any land uses which will take direct access to a collector or arterial road as determined by section 4706 (Roadway access).
2. The development of any single land use consisting of ten or more acres.
3. The development of any nonresidential land use consisting of two or more such uses.
4. The development of any residential land use consisting of more than two residential units.

B. The planning director shall review and approve all site plans subject to the procedures, standards, and limitations set forth herein, and review or disapprove said plan. No development required to submit to site plan review shall be entitled to a zoning certificate until and unless the planning director has approved said site plan.

Commentary: The site plan review process recognizes that the developments to which it is made applicable, even though generally suitable for location in a particular district or on a particular site, are, because of their nature, size, complexity, or other indicators or probable impact, capable of adversely affecting the purposes for which this ordinance is established unless careful consideration has been given to critical design elements. It is the purpose of this section to ensure that all elements are reviewed for compatibility with the regulations and intent of this ordinance. A preliminary site plan, much like a preliminary or tentative plat of subdivision, is intended to serve as a working document for the developer and the Town of Havana in the initial phases of the site plan review. It shall contain as much of the information required of an application for a zoning certificate as possible and, in any event, shall provide sufficiently detailed information to allow an informed decision concerning the overall acceptability of the proposed development.

Following review of the preliminary site plan, the planning director shall consult with the developer and detail unacceptable and required, but absent, elements. These comments shall be provided to the developer in writing within ten days of said site plan having been submitted to the director.

A final site plan shall be submitted to the Town of Havana following the procedure specified above. Said site plan shall be inclusive of all engineering plans and shall contain all of the information required by section 8003 (Application requirements for zoning certificates) of an application for a zoning certificate. The planning director shall review said plan for compliance with this section and, in particular, for compliance with the report on the preliminary site plan. In the event that the director determines the final site plan, or any element thereof, unacceptable, written notice of this decision, including all reasons for it and instructions for making said items acceptable, shall be provided to the developer within 30 days of said final site plan having been accepted by the director. While this ordinance specifies no precise time limits within which the director shall review and report on the elements of a final site plan which the developer must amend as a precondition to approval of said plan, the planning director shall conduct such a review and report as expeditiously as possible on it; and in no event shall the review of any item of a plan exceed the time period imposed by this section for review of the entire plan.

Section 8007. Conditional use permit.

An application for any conditional use permit required by this ordinance shall be made by following the procedure detailed in section 7002 (Procedures).

Section 8008. Certificate of occupancy.

A. No structure shall be erected, constructed, reconstructed, extended, or moved, and no land or building shall be occupied or used in whole or in part for any use whatsoever after the effective date of this ordinance until the owner, tenants, contract purchaser, or authorized agent thereof has been issued a certificate of occupancy by the zoning officer, indicating that the building or use complies with all zoning requirements of this ordinance.

B. No certificate of occupancy shall be issued until the premises in question have been inspected and found by the zoning officer to comply with the requirements of this ordinance. No fee shall be charged for a certificate of occupancy.

C. No permit for any new use or construction which will involve the onsite disposal of sewage or waste, and no permit for a change in use or an alteration which will result in an increased volume of sewage or waste to be disposed of on the site, or which requires the Gadsden County health department's approval shall be issued until said approval has been issued by the Gadsden County health department.

D. The issuance of a certificate of occupancy in no way relieves any recipient thereof from compliance with all of the terms of this ordinance and all other applicable regulations.

Section 8009. Change of use.

Change or alteration of the use of any building, structure, or land shall not be permitted until a zoning certificate and a certificate of occupancy are obtained pursuant to this article.

Section 8010. Zoning officer: duties and powers.

The zoning officer shall be appointed by the Town of Havana council and shall have the following powers and responsibilities:

- A. Receive and review all applications for zoning certificates required herein.
- B. Process zoning certificate and conditional use permit applications for all permitted uses.
- C. Receive applications for amendments and forward same to the planning commission for action.
- D. Following refusal of a permit, receive applications for interpretation and appeals and forward same to the planning commission for action.
- E. Record and file all applications for zoning certificates with accompanying plans and documents. All applications, plans, and documents shall be a public record.
- F. Revoke any zoning certificate issued under a mistake of fact or contrary to the law or provision of this ordinance.
- G. Conduct inspections and surveys to determine compliance or noncompliance with the terms of this ordinance.
- H. Revoke, by writing, a permit or approval issued contrary to this ordinance or based on a false statement or misrepresentation in the application.
- I. Stop, by written order, work being done contrary to the building permit or to this ordinance. Such written order, posted on the premises involved, shall not be removed except by order of the zoning officer. Removal without such order shall constitute a violation of this ordinance.
- J. Institute any appropriate action or proceedings to prevent unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; restrain, correct, or abate such violation, so as to prevent the occupancy or use of any building, structure, or land; or prevent any illegal act, conduct, business, or use in or about such premises.
- K. Record and file all applications for permits with accompanying plans and documents. All applications, plans, and documents shall be a public record.

Further, if by amendment to this ordinance any zone boundary or any other matter shown on the official zoning map is changed by action of the Town of Havana council, such change shall be promptly indicated on said map by the zoning officer, together with the date of passage

of the amendment and sufficient written description to give a precise understanding of the change. Every such change shall be certified by the Town of Havana clerk.

An up-to-date copy of the official zoning map as amended from time to time shall be available for public inspection in the city hall during its regular business hours.

Section 8011. Building inspection officer: duties and powers.

The building and enforcement officer shall be appointed by the Town of Havana commission and shall have the following powers and responsibilities:

- A. Receive and examine all applications for building permits.
- B. Process all building permit applications.
- C. Issue permits only where there is compliance with the provisions of this ordinance. Permits requiring approval by the Town of Havana council shall be issued only after receipt of a certified copy of approval from the Town of Havana clerk and receipt of a zoning certificate.

Section 8012. Duties of the planning director.

In addition to other assigned duties, the planning director shall receive and review all site plans whose submission is required by section 8003 and review all proposed zoning amendments and prepare a report on them for the zoning board of appeals and the Town of Havana council. The planning director shall be appointed by the Town of Havana council. The planning director may also serve as the zoning officer insofar as the combined workload of both offices reasonably allows.

Section 8013. Zoning board of adjustment: duties and powers.

The zoning board of adjustment of [the] Town of Havana, Florida, is hereby established, and the following rules are set forth to govern its composition and operation:

- A. *Membership.* The board of adjustment shall consist of the council of the Town of Havana, Florida.
- B. *Board of adjustment, powers and duties.* The board of adjustment shall have the following powers and duties:
 1. To hear and decide appeals when it is alleged that there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance or regulation adopted pursuant to this act.
 2. [To authorize conditional uses as follows:]
 - a. To hear and decide such conditional uses as the board of adjustment is specifically authorized to pass on under the terms of the zoning ordinance; to decide such questions as are involved in the determination of when conditional uses should be granted; and to grant conditional uses with appropriate conditions and safeguards or to deny conditional uses when not in harmony

with the purpose and intent of this act or any ordinance enacted under the authority of this act.

- b. In granting any conditional use, the board of adjustment shall find that such grant will not adversely affect the public interest.
- c. In granting any conditional use, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with this act and any ordinance enacted under it. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of the ordinance.
- d. The board of adjustment may prescribe a reasonable time limit within which the action for which the conditional use is required shall be begun or completed or both.
- e. The board of adjustment shall confer with the planning commission in all cases involving requests for conditional uses.

3. [To authorize variances as follows:]

- a. To authorize upon appeal such variance from the terms of the ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary and undue hardship. In order to authorize any variance from the terms of the ordinance, the board of adjustment must find:
 1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
 2. That the special conditions and circumstances do not result from the actions of the applicant;
 3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings, or structures in the same zoning district;
 4. That literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undue hardship on the applicant;
 5. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
 6. That the grant of the variance will be in harmony with the general intent and purpose of the ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
- b. In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with this act and any ordinance enacted under its authority. Violation of such conditions and safeguards,

when made a part of the terms under which the variance is granted, shall be deemed a violation of the ordinance.

c. The board of adjustment may prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed or both.

d. Under no circumstances except as permitted above shall the board of adjustment grant a variance to permit a use not generally or by special exception permitted in the zoning district involved or any use expressly or by implication prohibited by the terms of the ordinance in the zoning district. No nonconforming use of neighboring lands, structures, or buildings in the same zoning district and no permitted use of lands, structures, or buildings in other zoning districts shall be considered grounds for the authorization of a variance.

C. *Board of adjustment; review of administrative orders.* In exercising its powers, the board of adjustment may, upon appeal and in conformity with provisions of this act, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination made by an administrative official in the enforcement of any zoning ordinance or regulation adopted pursuant to this act, and may make any necessary order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of a majority of all the members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official or to decide in favor of the applicant on any matter upon which the board is required to pass under any such ordinance.

D. *Appeals to board of adjustment from decision of administrative official.* Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, board, or bureau of the governing body affected by any decision of an administrative official under the zoning ordinance. Such appeal shall be taken within 30 days after rendition of the order, requirement, decision, or determination appealed from by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The appeal shall be in the form prescribed by the rules of the board. The administrative official from whom the appeal is taken shall, upon notification of the filing of the appeal, forthwith transmit to the board of adjustment all the documents, plans, papers, or other materials constituting the record upon which the action appealed from was taken.

E. *Stay of work and proceedings on appeal.* An appeal to the board of adjustment stays all work on the premises and all proceedings in furtherance of the action appealed from, unless the official from whom the appeal was taken shall certify to the board of adjustment that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings or work shall not be stayed except by a restraining order which may be granted by the board of adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

F. *Board of adjustment; hearing of appeals.* The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the

parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person, by agent, or by attorney. Appellants may be required to assume such reasonable costs in connection with appeals as may be determined by the governing body through action in setting of fees to be charged for appeals. For procedural purposes, an application for a special exception shall be handled by the board of adjustment as for appeals.

G. *Judicial review of decisions of board of adjustment.* Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment, or any officer, department, board, commission, or bureau of the governing body, may apply to the circuit court in the judicial circuit where the board of adjustment is located for judicial relief within 30 days after rendition of the decision by the board of adjustment. Review in the circuit court shall be either by a trial de novo, which shall be governed by the Florida Rules of Civil Procedure, or by petition for writ of certiorari, which shall be governed by the Florida Appellate Rules. The election of remedies shall lie with the appellant.

Section 8014. Interpretations.

A. *Purpose.* The provisions of this section are intended to provide a simple and expeditious method for clarifying ambiguities in the text of this ordinance, the zoning map which it incorporates, and the rules and regulations adopted pursuant to it. It is also intended to provide a simple, yet circumscribed, procedure for overcoming the inadvertent rigidities and limitations inherent in the promulgation of finite use lists in a world characterized by infinite permutations of essential similar uses.

B. *Authority.* The zoning officer may, subject to the procedures, standards, and limitations set forth in this section, render interpretations of any provision of this ordinance or any rule or regulation issued pursuant to it, including interpretations of the various uses in any district not expressly mentioned in this ordinance.

C. Procedure.

1. *Written request for non-use interpretation.* Except as provided below, a request for interpretation of any provision of this ordinance, the zoning map, or any rule or regulation adopted pursuant to this ordinance shall be submitted in writing to the zoning officer. No fee shall be required in connection with any such request. Each such request shall set forth the specific provision or provisions to be interpreted, the facts of the specific situation giving rise to the request for an interpretation, and the precise interpretation claimed by the applicant to be correct. Before rendering any interpretation, the zoning officer shall receive such further facts and information as are in his judgment necessary to a meaningful interpretation of the provision in question.
2. *Application for use interpretation.* Applications for a use interpretation shall be submitted to the zoning officer on a form supplied by the Town of Havana and shall in all instances contain at least the following information and documentation:
 - a. The applicant's name, address, and interest in the subject property.

- [Action by] zoning officer.* Within 30 days following the receipt by the zoning officer of a completed request or application for interpretation, the zoning officer shall mail a written copy of interpretation to the applicant. The zoning officer shall state the specific precedent, reasons, and analysis on which such interpretation is based. The failure of the zoning officer to render an interpretation within such time, or such longer period of time as may be agreed to by the applicant, shall be deemed to be a rejection of the applicant's proposed interpretation. The zoning officer shall keep a copy of each such interpretation on file and shall make a copy of each such filed interpretation available for public inspection during reasonable hours.

5. If the proposed use is more similar to a use permitted only as a conditional use in the district in which it is proposed to be located, then any use interpretation permitting such use shall be conditioned on the issuance of a permit for a conditional use permit pursuant to this article.
6. Any use permitted pursuant to this section shall fully comply with all requirements and standards imposed by this ordinance.

E. *Effect of favorable use interpretation.* No use interpretation finding a particular use to be permitted or conditionally permitted in a specific district shall authorize the establishment of such use or the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits and approvals which may be required by the codes and ordinances of [the] Town of Havana or other governmental agencies having jurisdiction. These permits and approvals include, but are not limited to, zoning certificates, conditional use permits, building permits, and certificates of occupancy.

F. *Limitations on favorable use interpretations.* No use interpretation finding a particular use to be permitted or conditionally permitted in a specified district shall be valid for a period longer than one year from the date of issue unless a building permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion, or a certificate of occupancy is obtained and a use commenced within that period.

A use interpretation finding a particular use to be permitted or conditionally permitted in a specified district shall be deemed to authorize only the particular use at the particular location for which it was issued, and such permit shall not be deemed to authorize any allegedly similar use for which a separate use interpretation has not been issued. Such permit shall automatically expire and cease to be of any force or effect if the particular use for which it was issued shall, for any reason, be discontinued for a period of six consecutive months or more.

G. *Annual report.* The zoning officer shall keep a record of each use interpretation rendered and shall make an annual report of all such interpretations to the Town of Havana commission. The report shall include any recommendations that this ordinance be amended to add new uses to the various use lists established by this ordinance to reflect each use interpretation given pursuant to this section.

Section 8015. Amendments.

Regulations, restrictions, boundaries and other provisions of this zoning code may, from time to time, be amended, supplemented, changed or repealed in the manner herein stated.

1. Amendments to the zoning code or to the zoning map may be initiated by:
 - a. The Town of Havana council.
 - b. The Town of Havana planning commission.

- c. The verified petition of the owner or owners of the property affected by such amendment to the zoning map; provided no petition shall be filed by such owner or owners affecting property which has been involved in a petition before the zoning officer within the preceding 12-month period.
2. All proposed amendments to the textual provisions of this zoning code or to the zoning map shall be submitted to the Town of Havana planning commission on forms prescribed for the purpose of submitting such amendment for study, public hearing and recommendation. The planning department shall place the proposed amendment on the agenda of the Town of Havana planning commission and shall take all steps necessary for the planning commission to hold a public hearing on the proposed amendment.
3. No recommendation for change or amendment shall be considered by the planning commission until due notice has been given of a public hearing. In case of an amendment to the textual provision of this zoning code, due notice of the hearing shall be given at least ten days in advance of the hearing by one publication in a newspaper of regular and general circulation in the Town of Havana.
In case of a request for a change or amendment to the zoning map, due notice of the hearing shall be given at least ten days in advance of the hearing by publication in a newspaper of regular and general circulation in the Town of Havana.
4. After the public hearing the planning commission shall transmit a written report of its findings and its recommendations to the Town of Havana council within 45 days from the date of such public hearing.
5. The Town of Havana council shall act upon the recommendation at the first regular meeting following the receipt of the report from the planning commission.
6. Should the planning commission fail to make its report and recommendation within the time limits prescribed, the Town of Havana council may take such action upon the proposed change or amendment as it deems advisable, based upon the facts available to it.
7. No proposal for zoning change or amendment affecting particular property or properties shall contain conditions, limitations or requirements not applicable to all other property in the district to which the particular property is proposed to be rezoned.
8. Nothing provided in this section shall affect the procedure required by law relating to the public hearing and the publication of notice thereof for any change or amendment to this zoning code.

Sec. 8015A. Parking standards committee.

The town planning commission shall also serve as the town's parking standards committee. There is hereby established a parking standards committee comprised of the town's planning commission. The parking standards committee shall meet on an as-needed basis to approve, approve with conditions, or deny requests and applications for a variance to off-street parking required of nonresidential uses specified in section 5700 in this code.
(Ord. No. 27/9, § 16, 7-23-96)

Section 8016. Form of application.

The verified petition of the owner for a change or amendment to the zoning map shall include the legal description of the property involved prepared by a Florida registered land surveyor and accompanied by a map of the property at a scale of one inch equals 200 feet, or such other scale as may be required by the planning director.

Section 8017. Variances.

A. *Purpose.* The purpose of this section is to empower the zoning board of adjustment to vary or adapt the strict application of any of the requirements of this ordinance. A variance may be appropriate where, by reason of exceptional narrowness, shallowness, or shape or by reason of other exceptional topographic conditions or other extraordinary and exceptional situations or conditions on a piece of property, the strict application of any regulation enacted under this ordinance would result in peculiar, exceptional, and undue hardship on the owner of such property located in the neighborhood conservation district.

Commentary: The use of performance standards contained in this ordinance has, unlike Euclidean zoning ordinances, authorized more mixing of land uses and considerably more flexibility in the planning of use location. As a consequence, the variance opportunity supplied in this ordinance should be used in a much more limited manner than the one provided in most other conventional ordinances. Traditionally, variance provisions are contained in a zoning ordinance to allow relief from the “strict” application of a regulation (such as a minimum yard width or building setback) which will result in an unnecessary hardship, by virtue of the existence of some unique circumstances or physical condition of a particular parcel, usually related to its topography or shape and not generally applicable to land or buildings in the neighborhood. There exist circumstances or conditions such that the strict application of provisions of the ordinance would deprive the applicant of the reasonable use of the land. The performance standards and regulations of this ordinance do not consist of rigid regulations from which a variation could fashion relief. On the contrary, this ordinance builds in both use and design flexibility.

The standards and regulations of this ordinance are designed to allow the maximum possible development consistent with protecting the public health, safety, and welfare. By design and definition, then, few variations beyond the carefully arrived at maximum development standards can be tolerated, because there could be no reasonable basis for such a variation.

It cannot generally be argued that any variation from the standards or regulations will be necessary, because the standards imposed by the ordinance have been carefully planned and constructed specifically to allow the maximum possible freedom to develop without adverse impacts on nearby land.

Inasmuch as performance standards are specifically designed to protect neighbors and the general community from specific adverse byproducts, a contention that there would be no adverse impacts would be unwarranted unless the level of performance was established at an unreasonably low level. If this is the case, a landowner’s recourse is to have the level of performance standards amended and, if that is to no avail, to attack the reasonableness of the standards. The existing legal prerequisites for a variance could seldom be met for a reasonable performance standard and, therefore, variances should be very carefully considered and granted only in rare instances.

B. *Application.* After denial of a permit by the zoning officer or without denial, a property owner of land located in a neighborhood conservation (NC) district may apply to the zoning board for a variation using forms to be obtained from the zoning board.

C. *Standards for variations.* No variance in the strict application of the provisions of this ordinance shall be granted by the zoning board of adjustment unless it finds that the following requirements and standards are satisfied. In general, the power to authorize a variance from the terms of this ordinance shall be sparingly exercised. It is the intent of this ordinance that the variance be used only to overcome some exceptional physical condition of a parcel of land located within the neighborhood conservation district which poses practical difficulty to its development and prevents its owner from using the property as intended by the zoning ordinance. Any variation granted shall be the minimum adjustment necessary for the reasonable use of the land.

The applicant must prove that the variance will not be contrary to the public interest and that practical difficulty and unnecessary hardship will result if it is not granted. In particular, the applicant shall establish and substantiate that the appeal for the variance conforms to the requirements and standards listed below:

1. The granting of the variance shall be in harmony with the general purpose and intent of the regulations imposed by this ordinance on the neighborhood conservation district in which it is located and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.
2. The granting of the variance will not permit the establishment of any use which is not permitted in the neighborhood conservation district.
3. There must be proof of unique circumstances: There must exist special circumstances or conditions, fully described in the findings, applicable to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the neighborhood, and which circumstances or conditions are such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of such land or building.
4. There must be proof of unnecessary hardship. It is not sufficient proof of hardship to show that greater profit would result if the variance were granted. Furthermore, the hardship complained of cannot be self-created; nor can it be established on this basis by one who purchases with or without knowledge of the restrictions; it must result from the application of this ordinance; it must be suffered directly by the property in question; and evidence of variance granted under similar circumstances shall not be considered.
5. That the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the board is the minimum variance that will accomplish this purpose.
6. That the proposed variation will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the adjacent neighborhood.

7. That the granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.

The board may prescribe any safeguard that it deems necessary to secure substantially the objectives of the regulations or provisions to which the variance applies.

D. Public hearing. Upon application, the zoning board of adjustment, after giving notice as required by law, shall hold a public hearing. The zoning board of adjustment shall consider and decide all proposed variations taking into account the standards enumerated above.

After the close of a public hearing and within 30 days the zoning board of adjustment shall render a written decision, setting forth the reasons for such decision, which shall be accompanied by finding of fact(s) specifying the reason(s) for such decision. All such decisions are final and binding on all parties pending judicial review, if necessary.

Section 8018. Fees and charges.

The following fees and charges shall be paid to the local governing body:

1. Application for change or amendment to the zoning map.**
2. Application for variance or conditional use.**
3. Applications for zoning certificates:
 - A. All except those listed below: \$150.00.
 - B. Multifamily: \$150.00 (first six units plus \$10.00 per unit over six).
 - C. Accessory uses less than \$1,000.00 value: \$0.00.

**Fees to be set by town council.

No permit or certificate shall be issued, and no inspection, public notice or other action relative to zoning, petitions for changes in zoning, or appeals shall be instituted until after such fees, costs and charges have been paid. When in accordance with the provisions of this section a fee is paid and application is filed, there shall be no return of any funds so received, regardless of the governing body's determination in the matter involved.
(Ord. No. 256, § 7, 9-15-92)

Section 8019. Validity.

In the event any court of competent jurisdiction should hold that any article, section, clause or provisions of this ordinance to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Section 8020. Violations and penalties.

Any person or persons, firms or corporations, violating the provisions of this ordinance or any part hereof, upon conviction, shall be fined not less than \$50.00 nor more than \$500.00 or

incarcerated in jail for a period not to exceed 30 days, or both, and each day that such violation continues shall constitute a separate offense.

Section 8021. Codification.

It is the intention of the town council of the Town of Havana, Florida, that this ordinance amend the Code of Ordinances of the Town of Havana, Florida, and be codified for inclusion therein.

Section 8022. Effective date.

This ordinance shall take effect immediately upon its passage and approval as provided by law.