

MAY 13 2008 JN/SG/BS

EFFECTIVE DATE

MAY 19 2008

ORDINANCE NO. 2008-06

AN ORDINANCE AFFECTING THE USE OF LAND IN ORANGE COUNTY, FLORIDA, BY AMENDING CHAPTER 30 ("PLANNING AND DEVELOPMENT") AND CHAPTER 38 ("ZONING"); AMENDING SECTION 30-43 ("[BOARD OF ZONING ADJUSTMENT] – POWERS AND DUTIES"); AMENDING SECTION 38-1 ("DEFINITIONS"); AMENDING SECTION 38-46 ("INTENT [REGARDING NONCONFORMING USE PROVISIONS]"); AMENDING SECTION 38-49 ("ALTERATION [OF NONCONFORMING USES]; MAINTENANCE"); AMENDING SECTION 38-51 ("ABANDONMENT [OF NONCONFORMING USES]"); AMENDING SECTION 38-74 ("PERMITTED USES, SPECIAL EXCEPTIONS AND PROHIBITED USES"); AMENDING SECTION 38-77 ("USE TABLE"); AMENDING SECTION 38-78 ("SPECIAL EXCEPTION CRITERIA"); AMENDING SECTION 38-79 ("CONDITIONS FOR PERMITTED USES AND SPECIAL EXCEPTIONS"); REPEALING SECTION 38-482; AMENDING SECTION 38-581 ("R-T-2 COMBINATION MOBILE HOME AND SINGLE FAMILY DWELLING DISTRICT"); AMENDING SECTION 38-932 ("[I-1/I-5] PERFORMANCE STANDARDS"); AMENDING SECTION 38-1208 ("CONTROL OF DEVELOPMENT FOLLOWING APPROVAL [OF DEVELOPMENT PLAN]; AMENDING SECTION 38-1254 ("[PLANNED DEVELOPMENT RESIDENTIAL DEVELOPMENT] SETBACKS"); AMENDING SECTION 38-1258 ("[PLANNED DEVELOPMENT] MULTI-FAMILY DEVELOPMENT COMPATIBILITY"); AMENDING SECTION 38-1289 ("[TOURIST COMMERCIAL PLANNED DEVELOPMENT] PARKING"); AMENDING SECTION 38-1301 ("[TOURIST COMMERCIAL PLANNED DEVELOPMENT] SITE DEVELOPMENT STANDARDS"); AMENDING SECTION 38-1344 ("[CVC] APPROVAL PROCEDURE"); AMENDING SECTION 38-1401 ("SUBSTANDARD LOTS OF RECORD"); AMENDING SECTION 38-1408 ("FENCES AND WALLS"); AMENDING SECTION 38-1415 ("[PROHIBITED AREAS FOR SALE OF ALCOHOLIC BEVERAGES] – DISTANCES FROM CHURCHES, SCHOOLS AND/OR ADULT ENTERTAINMENT ESTABLISHMENTS"); AMENDING SECTION 38-1426 ("ACCESSORY DWELLING UNITS"); AMENDING SECTION 38-1476 ("QUANTITY OF OFF-STREET PARKING"); AMENDING SECTION 38-1477

(“LOCATION OF OFF-STREET PARKING”); AMENDING SECTION 38-1478 (“JOINT USE OF OFF-STREET PARKING SPACE”); AMENDING SECTION 38-1479 (“OFF-STREET PARKING LOT REQUIREMENTS”); AMENDING SECTION 38-1501 (“BASIC [SITE AND] BUILDING REQUIREMENTS”); AMENDING SECTION 38-1508 (“ADMINISTRATIVE WAIVERS FROM PERFORMANCE STANDARDS”); AND PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA:

Section 1. Amendments; In General. Chapter 30 and Chapter 38 of the Orange County Code are hereby amended as set forth in Section 2 through Section 30 of this ordinance, with new wording being indicated by underlines and deleted wording being shown by strike-throughs.

Section 2. Amendment to Section 30-43 (“[Board of Zoning Adjustment] - Powers and duties”). Section 30-43 is amended to read as follows:

Sec. 30-43. Same -- Powers and duties.

The board of zoning adjustment shall have the following powers and duties:

* * *

(3) *Variances.* To recommend to the board of county commissioners upon appeal in specific cases such variance from the zoning ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the zoning ordinances would result in unnecessary hardship. A variance from the terms of the zoning ordinance shall not be recommended by the board of zoning adjustment unless and until:

a. A written application and site plan for a variance is submitted demonstrating 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 district.

b. Literal interpretation of the provisions of the resolutions would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning ordinance.

c. The special conditions and circumstances do not result from the actions of the applicant.

d. Recommending granting the variance requested will not confer on the applicant any special privilege that it denied by the zoning ordinance to other lands, structures or buildings in the same district. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

e. Notice of public hearing shall be given as required by this act for hearing before the board of zoning adjustment.

f. The public hearing shall be held. Any party may appear in person or by agent or by attorney.

g. The board of zoning adjustment shall make findings that the requirements of subsection (3) have been met by the applicant for a variance.

h. The board of zoning adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

i. The board of zoning adjustment shall further make a finding that the granting of the variance shall be in harmony with the general purpose and intent of the zoning ordinance, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In recommending the granting of any variance, the board of zoning adjustment may prescribe appropriate conditions and safeguards in conformity with the zoning regulations. Violation of such conditions and safeguards, when made a part of the terms

under which the variance is granted and adopted by the board of county commissioners, shall be deemed a violation of this article and punishable under section 30-49. Further, variance approvals shall be in accordance with the application and site plan submitted by the applicant, as may be amended or conditioned by the BZA/BCC.

The board of zoning adjustment may prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed, or both. Under no circumstances except as permitted above shall the board of zoning adjustment recommend granting 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 zoning regulations 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 district shall be considered grounds for the authorization of a variance.

A requested variance from the requirements of section 38-1501 which complies with each of the following three (3) criteria shall be processed in accordance with section 34-27 and shall not be heard by the board of zoning adjustment:

a. The requested variance is from a provision of chapter 38, zoning, which is either specifically listed in section 38-1501, site and building requirements, or from the type of standards listed in section 38-1501 as applicable to those properties located in the UR, RCE-2 and RCE-5 districts; and

b. The variance request is made either in combination with the initial preliminary subdivision plan review or as a change to the preliminary subdivision plan conducted in compliance with chapter 34, subdivision regulations, Orange County Code; and

c. The requested variance affects more than one (1) lot and may have an effect on the overall site development of the subdivision.

(4) *Decisions of the board of zoning adjustment.* In exercising the above-mentioned powers, the board of zoning adjustment may, so long as such action is in conformity with the terms of the zoning regulations, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination

as ought to be made, and to that end shall have powers of the planning and/or zoning director(s) from whom the appeal is taken.

Four (4) members of the board of zoning adjustment must be present in order for a quorum to exist. ~~The concurring~~ A majority vote of ~~four (4) members~~ of the board of zoning adjustment shall be necessary to recommend reversal of any order, requirement, decision or determination of the planning and/or zoning director(s), or to recommend in favor of the applicant on any matter upon which it is required to pass under the zoning regulations, or to recommend any variation in the application of the zoning regulations.

The board of zoning adjustment shall submit its recommendations to the board of county commissioners for official action. The board of county commissioners shall then at any regular or special meeting review the recommendations of the board of zoning adjustment and either adopt, reject or modify the recommendations, or schedule a public hearing on any one (1) or more of them; provided, however, that no recommendation shall be rejected or modified unless the board of county commissioners shall first hold a public hearing thereon. No change or amendment shall become effective until fifteen (15) days after the action of the board of county commissioners is filed with the clerk of the board of county commissioners.

In all other respects, Section 30-43 shall remain unchanged.

Section 4. Amendment to Section 38-1 (“Definitions”). Section 38-1 is amended by adding definitions for the terms “dead storage yard,” “short-term rental,” “use variance” and “Zoning Manager,” and revising the definitions of the terms “family day care home,” “guest cottages,” “home occupation,” and “religious institution,” to respectively read as follows:

Sec. 38-1. Definitions.

* * *

Dead storage yard shall mean a site or yard used for the storage of operable materials, vehicles, and equipment. It is not a site or yard with anything that is inoperable or would normally be found in a junkyard or landfill. A site or yard where material, vehicles or equipment are moved on and off site on a daily or frequent basis may be classified under “contractor’s storage yard.”

* * *

Family day care home— *shall mean* as defined in F.S. ~~§Section~~ 402.302(5), ~~shall mean a residence in which child care is regularly provided for no more than ten (10) children. This shall include a maximum number of five (5) preschool children plus the elementary school siblings of the preschool children including the caregiver's own~~ Florida Statutes, as it may be amended from time to time.

* * *

Guest cottages—~~house~~ shall mean living quarters without kitchen facilities within a detached accessory building located on the same lot or parcel of land as the principal building, and to be used exclusively for housing members of the family occupying the principal building and or their nonpaying guests. ~~Such quarters shall have no kitchen facilities and shall not be rented or otherwise used as a separate dwelling.~~

* * *

Home occupation shall mean any use conducted entirely within a dwelling or accessory building and carried on by an occupant thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof; ~~and provided;~~ that all of the following conditions are met:

Only such commodities as are made on the premises may be sold on the premises. However, all such sales of home occupation work or products shall be conducted within a building and there shall be no outdoor display of merchandise or products, nor ~~shall~~ shall there be any display visible from the outside of the building. No person shall be engaged in any such home occupation other than two (2) members of the immediate family residing on the premises. No mechanical equipment shall be used or stored on the premises in connection with the home occupation, except such that is normally used for purely domestic or household purposes. Not over twenty-five (25) percent of the floor area of any one (1) story shall be used for home occupation purposes. Fabrication of articles such as commonly classified under the terms “arts and handicrafts” may be deemed a home occupation, subject to the other terms and conditions of this definition. Home occupations shall not be construed to include uses such as barber shops, beauty parlors, plant nurseries, tearooms, food processing, restaurants, sale of

antiques, commercial kennels, real estate offices, or insurance offices.

* * *

Religious institution shall mean a premises or site which is used primarily or exclusively for religious worship and may include related or attendant religious oriented activities, such as education, recreation, or outreach. A religious institution includes, but is not limited to, a church, mosque, synagogue, or temple.

* * *

Short-term rental shall mean where the length of stay under the rental or lease arrangement is 179 days or less. Examples of non-residential uses requiring “short term rental” include hotels, motels, time-shares, condominium hotels, resort rental, resort residential, resort villa, and transient rental.

* * *

Use variance shall mean a variance granted for a use, building, or structure that is not permitted or that is prohibited in the particular zoning district.

* * *

Zoning Manager, or Zoning Division Manager, shall mean the Manager of the Zoning Division, or his or her authorized designee.

In all other respects, Section 38-1 shall remain unchanged.

Section 5. Amendment to Section 38-46 (“Intent [regarding nonconforming use provisions]”). Section 38-46 is amended to read as follows:

Sec. 38-46. Intent.

(a) It is the intent of this article that the lawful use of any building, structure or land existing at the time of adoption of this chapter or amendments to this chapter may be continued although such use, building or structure does not conform with the provisions of this chapter or amendments thereto, provided the following conditions in the subsequent sections of this article are met.

(b) A nonconforming use determination shall be made by the Zoning Manager in accordance with this article and other regulations as may be applicable. It shall be the applicant's responsibility to submit and provide the Zoning Manager with all documentation and records for such determination to be made.

Section 6. Amendment to Section 38-49 (“Alteration [of nonconforming uses]; maintenance”). Section 38-49 is amended to read as follows:

Sec. 38-49. Alteration; maintenance.

A nonconforming building or structure may be maintained, and repairs and alterations may be made, provided that:

(1) In a building which is nonconforming as to use regulations, no structural alterations shall be made except those required by law; and

(2) The degree of nonconformity is not increased.

(3) Additions to non-conforming residential structures are permitted, provided that:

a. Such additions comply with current building setbacks;

b. The proposed use is permitted by the zoning district;

c. Administrative waivers outlined in Section 38-1508 may apply.

Repairs such as plumbing or the changing of partitions or other interior alterations are permitted.

Section 7. Amendment to Section 38-51 (“Abandonment [of nonconforming uses]”). Section 38-51 is amended to read as follows:

Sec. 38-51. Abandonment.

When a nonconforming use of land, a building or a structure has been discontinued for one hundred eighty (180) days or more, the land, building or structure shall thereafter not be used except in compliance with the regulations of the district in which it

is located. However, for a commercial or industrial building or structure or use only, upon application the nonconforming use may be extended up to an additional ninety (90) days subject to approval by the zoning manager. The applicant for the ~~90-day~~ extension shall submit documentation to the zoning manager which clearly demonstrates that the nonconforming commercial or industrial building or structure has been actively marketed for the nonconforming use or has been undergoing repairs during the majority of the above-referenced 180-day period.

Section 8. Amendment to Section 38-74 (“Permitted uses, special exceptions and prohibited uses”). Section 38-74(b) is amended to read as follows:

Sec. 38-74. Permitted uses, special exceptions and prohibited uses.

* * *

(b) *Use table.*

(1) The permitted uses and special exceptions allowed in the zoning districts identified in the use table set forth in section 38-77 are respectively indicated by the letters "P" and "S" in the cells of the use table. No primary use shall be permitted in a district unless the letter "P" or the letter "S" appears for that use in the appropriate cell.

(2) When a use is a permitted use in a particular zoning district, it is permitted in that district subject to:

a. Compliance with all applicable requirements of chapter 38 and elsewhere in the Orange County Code; and

b. Compliance with all requirements specified in the conditions for permitted uses and special exceptions" set forth in section 38-79 which correlate with the number which may appear within the cell of the use table for that permitted use.

c. A use variance from Section 38-77 (Use Table) and Section 38-79 (Conditions for permitted uses and special exceptions) shall be prohibited.

(3) When a use is permitted as a special exception in a particular zoning district, it is permitted in that zoning district subject to:

- a. Obtaining the special exception;
- b. Compliance with all applicable requirements of chapter 38 and elsewhere in the Orange County Code; and
- c. Compliance with all requirements specified in the special exception criteria set forth in section 38-78 and the conditions for permitted uses and special exceptions set forth in section 38-79 which correlate with the number which may appear within the cell of the use table for that special exception.

In all other respects, Section 38-74 shall remain unchanged.

Section 9. Amendments to Section 38-77 (“Use Table”). Section 38-77 is amended to read as shown on **Appendix “A,”** attached hereto and incorporated herein by this reference. Except as specifically shown thereon, Section 38-77 shall remain unchanged.

Section 10. Amendment to Section 38-78 (“Special exception criteria”). Section 38-78 is amended to read as follows:

Sec. 38-78. Special exception criteria.

Subject to section 38-43 and section 30-43 of this Code, in reviewing any request for a special exception, the following criteria shall be met:

- (1) The use shall be consistent with the comprehensive policy plan.
- (2) The use shall be similar and compatible with the surrounding area and shall be consistent with the pattern of surrounding development.
- (3) The use shall not act as a detrimental intrusion into a surrounding area.
- (4) The use shall meet the performance standards of the district in which the use is permitted.
- (5) The use shall be similar in noise, vibration, dust, odor, glare, heat producing and other characteristics that are associated with the majority of uses currently permitted in the zoning district.

(6) Landscape buffer yards shall be in accordance with section 24-5 of the Orange County Code. Buffer yard types shall track the district in which the use is permitted.

In addition to demonstrating compliance with the above criteria, any applicable conditions set forth in section 38-79 shall be met. Furthermore, the board of zoning adjustment ("BZA") shall prescribe a time limit, subject to the approval of the board of county commissioners ("BCC"), within which the action for which the special exception is required shall be begun or completed, or both. Failure to start or complete such action within the time limits shall void the special exception. An automatic one-year time limit to obtain a building permit shall apply if the BZA fails to prescribe a time limit. A request to extend the time limit shall be made in writing to the zoning manager. The zoning manager may extend the time limit if the applicant provides proper justification for such an extension. Examples of proper justification include, but are not limited to: the project is proceeding in good faith; there is a delay in contract negotiations not attributable to the applicant; and unexpected financial hardships which were not known and could not have been reasonably foreseen by the applicant when the special exception was granted. The zoning manager's determination on a request for an extension of time may be appealed to the BZA and then the BCC.

Special exception approvals shall be in accordance with the applicant's site plan dated "Received [date]," and all other applicable statutes, ordinances, laws, regulations, and rules. Any proposed deviation, change or modification to the site plan or question of interpretation about the site plan is subject, at the outset, to the zoning manager's review. The zoning manager shall do one of the following after reviewing the matter: (a) give his/her prior written approval regarding any nonsubstantial or insignificant proposed deviation or make a determination concerning any minor question of interpretation; or (b) refer the proposed deviation or question of interpretation to the BZA for a discussion between the zoning manager and the BZA as to the BZA's original intent or position; or (c) require the applicant to apply for a special exception request and schedule and advertise a public hearing before the BZA in accordance with sections 30-42 through 30-44 of this Code.

The Zoning Manager shall have the authority and discretion to require an application for a special exception or a variance to be reviewed by the Development Review Committee prior to review by the BZA to properly assess and address its impacts and to make

a recommendation and recommend conditions (if any). In making such a determination, the Zoning Manager shall consider relevant factors, including the size of the project, land use intensity, land use density, traffic impacts, and school impacts.

Section 11. Amendments to Section 38-79 (“Conditions for permitted uses and special exceptions”). Section 38-79 is amended to read as follows:

Sec. 38-79. Conditions for permitted uses and special exceptions.

The following numbered conditions shall correlate with the numbers listed in the use table set forth in section 38-77:

* * *

(4) a. *[Mobile home/recreation vehicle provisions in A-1, A-2, and A-R]* Mobile homes and recreational vehicles may be permitted on individual lots in agricultural A-1, A-2, and A-R districts, subject to the following:

1. A mobile home may be used for residential purposes provided that the property contains a minimum of two (2) acres in the A-1 and A-2 districts. Minimum lot width and setbacks shall be per article XII. Minimum lot size in the A-R district shall be two and one-half (2 1/2) acres. Other site and building requirements shall be per article XIII. Such mobile home use shall require, before the mobile home is located on the property in question, a permit which shall be issued to the recorded property owner by the zoning department.

2. Setbacks from lot lines shall be not less than is required for a site-built dwelling in the district in which it is located.

3. Building height shall be limited to thirty-five (35) feet.

b. *[R-T mobile home park district regulations.]* The following regulations shall apply within the R-T mobile home park district:

1. A use shall be permitted in the R-T district if the use is identified by the letter "P" in the use table set forth in section 38-77. A use shall be prohibited in the R-T district

if the space for that use is blank in the use table set forth in section 38-77. A customary accessory use may include, among other things, the sale of mobile homes on the following conditions:

(i) The mobile home must have all of the facilities and utility connections for use as a dwelling.

(ii) The buyer of a new mobile home which is purchased from a mobile home park owner or operator must be offered a six-month lease with an option to renew for six (6) months for the mobile home space on which the mobile home is located at the time of purchase.

(iii) The seller and buyer of a new mobile home must intend that the buyer live in the mobile home on the space where it is situated at the time of the sale.

(iv) The number of mobile homes for sale shall not exceed ten (10) percent of the total number of approved mobile home spaces in a mobile home park at any one (1) time.

(v) Mobile homes for sale shall be located only on mobile home spaces in the mobile home park and subject to the same setbacks and yard requirements as occupied mobile homes.

2. A land use permit shall be required to establish a mobile home park before building permits are issued. A land use permit application shall include a site plan drawn to scale showing property lines, rights-of-way, locations of buildings, parking areas, curb cuts, driveways, cross section of pavement, a landscape plan, streetlights, fire hydrants and fire extinguishers.

3. The following design standards shall apply to mobile home parks:

(i) Each mobile home park shall contain at least five (5) acres, shall be limited to seven (7) mobile home spaces per gross acre, and shall have not less than ten (10) mobile home spaces completed and available at first occupancy. The park shall have unobstructed access to a publicly-maintained street or road.

(ii) No mobile home space shall contain less than three thousand (3,000) square feet in area.

(iii) Minimum separation between mobile homes shall be fifteen (15) feet. Certain additions to mobile homes are permitted, provided minimum separation between the addition and any other mobile home, or addition thereto, shall be ten (10) feet. Such additions are limited to screened rooms, carports, accessory buildings to store personal items and gardening equipment. Any other addition shall provide a minimum of fifteen (15) feet separation.

(iv) Landscaping, buffering and open space requirements shall be as provided for in chapter 24 of this Code, as it may be amended.

(v) All porches, rooms and additions to a mobile home shall comply with these regulations and the county building department's codes and regulations.

(vi) A recreation area shall be provided equivalent to two hundred (200) square feet of area for each mobile home space; however, in no case shall such recreation area be less than ten thousand (10,000) square feet in area. Such recreation area shall be no longer than twice its width. This area shall remain in a clean and presentable condition, and shall be adequately lighted. Such recreation area shall not be located in an area where such use will adversely affect surrounding property.

(vii) Each mobile home space shall have a minimum of fifteen (15) feet of frontage on a street or lane within the boundary of the park. Such streets or lanes shall have an unobstructed right-of-way thirty (30) feet in width and a hard surface of not less than twenty (20) feet in width for two-way drives, or twenty (20) feet in width and a hard surface of not less than twelve (12) feet in width for one-way drives. Hard surfacing shall consist of a base at least six (6) inches thick of lime rock or soil cement or an equivalent material and a top of at least one (1) inch thick made of asphaltic concrete or an equivalent material. Such streets shall be lighted by a system which consists of a one-hundred-watt mercury light for every one hundred twenty (120) linear feet of roadway or a two-hundred-watt incandescent light for every one hundred twenty (120) linear feet of roadway or shall with some other system supply two-tenths lumen per square foot of roadway.

(viii) There shall be a minimum of two (2) off-street parking spaces for each mobile home space. Each

mobile home space shall be equipped with at least one (1) paved parked space; the remainder of the required spaces may be located either on mobile home spaces or in common parking lots.

(ix) Paved driveways shall be provided to each parking space on each individual mobile home space. Driveways shall be at least nine (9) feet wide. Common driveway may be used to serve more than one (1) mobile home space, but shall serve no more than four (4) mobile home spaces.

(x) Common walks shall be provided around recreation, management, and service areas. Common walks shall be at least four (4) feet wide except where such walks are adjacent to an arterial street, ~~then in which case~~ such walks shall be at least five (5) feet wide. No walk required herein shall be used as a drainage way.

(xi) Each mobile home space shall be provided with a concrete patio at least eight (8) feet wide and ten (10) feet long. Such patio shall conform to the setback provisions outlined in subsection 3.(iii) above. Double-wide mobile homes need not have a patio. Each mobile home space shall be landscaped with turf, shrubs, trees, or other plantings.

(xii) Each mobile home space shall be connected with a water system and sewage treatment and disposal system approved by the county and state health department.

(xiii) It shall be unlawful for any person to maintain or operate a mobile home park within the county without the appropriate permits and licenses.

c. *Dimensions.* Lot size and setback requirements in the R-T-1 district shall be the same as those established for the R-2 single-family dwelling districts.

d. *Site and building requirements.* Site and building requirements for the R-T-2 district are as follows:

1. Minimum lot area shall be twenty-one thousand seven hundred eighty (21,780) square feet (one-half acre).

2. Minimum lot width shall be one hundred (100) feet.

3. Minimum front yard setback shall be thirty-five (35) feet.

4. Minimum rear yard setback shall be fifty (50) feet.

5. Minimum side yard setback shall be ten (10) feet.

6. Single-family dwelling units shall contain a minimum of six hundred (600) square feet of living area.

(5) a. Subject to the following regulations, temporary structures, including mobile homes and travel trailers, may be used as construction field offices and tool sheds when accessory to the development of a subdivision:

1. Such use shall be temporary and shall expire when ninety (90) percent of the buildings within the subdivision are completed or within one (1) year from the date the temporary structure permit is issued, whichever comes first.

2. In the case of temporary and permanent structures being erected on the same parcel of land, such temporary structures shall be removed not later than one hundred eighty (180) days following erection of the temporary structure or not later than ten (10) days after completion of the permanent structure, whichever comes first.

3. Permits for temporary structures shall be obtained from the zoning director. When such permits expire, they may be renewed by the zoning director for a period not to exceed an additional ninety (90) days. Upon expiration of any permit for a temporary structure, such structure shall be removed from the premises.

4. A mobile home or recreational vehicle may be temporarily parked and occupied on a lot or specified tract of land in A-1, A-2, and A-R districts during the construction of a permanent residence or building on such lot or tract of land. A temporary permit for such use will be issued by the county only after a building permit has been secured for the permanent residence or building. The mobile home or recreational vehicle shall be removed within three hundred sixty-five (365) days or ten (10) days after completion of the permanent residence or building, whichever comes first.

b. Temporary structures, including mobile homes and travel trailers, may be used as sales offices for a subdivision in a residential district subject to the following criteria:

1. Such sales offices shall not include sales of real estate outside of the subdivision.

2. Approval shall be for a period of two (2) years or when ninety (90) percent of the subdivision is complete, whichever comes first.

3. Mulch parking shall be allowed.

4. The subdivision plat must be recorded before the sales trailer permit is issued.

c. Temporary structures, including mobile homes and travel trailers, may be used as construction office trailers for road improvement and/or utility development projects in any zoning district subject to the following:

1. The use is limited to the placement of construction/office trailers only.

2. No accessory or storage buildings shall be permitted.

3. Only the parking of passenger vehicles/trucks shall be permitted.

4. Any outdoor staging areas and storage of products and equipment shall require written authorization which may be issued by the zoning manager as part of the temporary structure permit, with or without conditions.

5. All temporary structures shall be removed no later than one hundred eighty (180) days from the date the permit is issued or within ten (10) days after completion of the project, whichever comes first.

6. Permits for temporary structures shall be obtained from the zoning manager. The zoning manager may require a notarized statement of no objection from abutting property owners. When such permits expire, they may be renewed

by the zoning manager for a period not to exceed an additional ninety (90) days.

d. Mobile homes used as offices shall be permitted as a permanent use when accessory to a mobile home sales lot.

e. A mobile home or recreational vehicle may be used as quarters for a night watchman or on-site security on property zoned commercial, or industrial, subject to obtaining special exception approval ~~from the board of zoning adjustment (BZA)~~. Special exception approval is also required for the same use in planned developments approved for commercial and/or industrial uses (unless previously approved by the P-D) and in agricultural districts when used in conjunction with another use approved by a special exception or in conjunction with a non-residential use. Night watchman quarters ~~units~~ shall not be allowed on properties where a tenant dwelling exists.

f. Subject to prior approval by the Zoning Manager, who may impose appropriate conditions (such as a time period not to exceed 18 months), A-a recreational vehicle may be occupied as a temporary shelter when approved by special exception where a single-family residence is located on-site but is uninhabitable and undergoing repairs. For purposes of this provision, the term "uninhabitable" means the on-site single-family residence cannot be occupied because it has been damaged as a result of a natural disaster or accident, such as a hurricane, storm or fire, not that it cannot be occupied for some other reason, including because it is being renovated or enlarged.

g. Mobile homes and recreational vehicles may be located, for an indefinite period of time, at a hunting camp of one hundred (100) acres or more; subject to obtaining all appropriate permits and licenses.

h. Recreational vehicles may be parked in residential and agricultural districts as provided in subsection 38-79(45).

i. Mobile homes and recreational vehicles may be permitted on individual lots in commercial or industrial districts, subject to the following: A mobile home or recreational vehicle may be temporarily parked and occupied on a specified tract of land in commercial or industrial districts, to be used for offices, storage or security purposes, during the construction of permanent building on the tract of land. The mobile home or

recreational vehicle shall be removed after the certificate of occupancy is issued.

* * *

(9) ~~Reserved.~~ Such a use shall not commence without a land use permit.

* * *

(12) A community residential home with six (6) or fewer clients in a single-family residential districts shall not be located within a radius of one thousand (1,000) feet of another community residential home. Distance requirements shall be documented by the applicant and submitted to the Zoning Division with the application. All distance requirements pertaining to community residential homes shall be measured from the nearest point of the existing community residential home or area of single-family zoning to the nearest point of the proposed home. (Notwithstanding the foregoing provisions, any application for a community residential home which has been submitted to the zoning division for distance separation review on or prior to June 18, 1991, shall be deemed consistent with this section provided such application could have met the distance separation requirements in effect upon the date of submission of such application.)

* * *

(14) A community residential home with more than six (6) clients shall not be located within a radius of one thousand two hundred (1,200) feet of another community residential home and shall not be located within five hundred (500) feet of any single-family residential district. Distance requirements shall be documented by the applicant and submitted to the Zoning Division with the application. All distance requirements pertaining to community residential homes shall be from the nearest point of the existing community residential home or area of single-family zoning to the nearest point of the proposed home. (Notwithstanding the foregoing provisions, any application for a community residential home which has been submitted to the zoning division for distance separation review on or prior to June 18, 1991, shall be deemed consistent with this section provided such application could have met the distance separation requirements in effect upon the date of submission of such application.)

* * *

(16) Reserved. A permanent generator shall be permitted as an ancillary use in all zoning districts, subject to the noise control ordinance and the following requirements:

a. Except as provided in subsection g below, the generator shall be located in the rear yard or the rear one-half of the lot or parcel;

b. Maximum height – 5 feet;

c. Rear setback – 5 feet;

d. Side street setback – 15 feet;

e. There are no spacing requirements between the principal building and the generator;

f. In residentially zoned districts, the generator shall be screened from view by a wall, fence or hedge. In non-residentially zoned districts, the generator shall meet commercial site plan requirements; and

g. A generator may be installed in the side yard of a lot, subject to the following:

1. minimum five (5) foot setback when the generator is located in the rear yard of a residential lot;

2. minimum thirty (30) foot setback when the generator is located along the side of the principal residence on a residential lot; or

3. side yard setback shall comply with the applicable zoning district requirements when the generator is located on a non-residential zoned lot.

(17) The construction of more than one (1) dwelling unit on a parcel of land and thereafter the subdivision of such parcel may be permitted as a special exception in the A-1, A-2, A-R, R-CE, R-CE-2, and R-CE-5 zoned districts in rural designated areas, provided the following requirements are met:

a. The parcel is designated rural/agricultural (one (1) unit per ten (10) acres) on the future land use map;

b. The parcel was legally created according to zoning division records as of May 21, 1991, and the applicant was the official owner of record as of the date of the adoption of the County's comprehensive plan on July 1, 1991;

c. Subject to the exceptions specified below, the dwelling unit(s) shall only be for the primary residence of an immediate family member of the fee simple parcel owner, which immediate family member must be living at the time the building permit for such dwelling unit(s) is issued (the phrase "immediate family member" is defined in this subsection as a spouse, sister, brother, lineal ascendant or lineal descendant of the parcel owner or spouse);

d. Adequate documentation must be furnished to the board of county commissioners ("BCC") or its designee evidencing the relationship between the parcel owner and the immediate family member whose primary residence is to be placed or constructed upon the parcel and the intent of the immediate family member to actually construct such residence and reside therein;

e. The density approved shall not exceed one (1) unit per two (2) acres (excluding conservation areas and natural water bodies);

f. In addition to the other special exception requirements, the required site plan shall take into account future subdivision of the parcel consistent with the subdivision regulations;

g. Subject to the exceptions listed below, the parcel which is the subject of the special exception shall only be subsequently subdivided if:

1. A future land use designation is adopted by the board of county commissioners ("BCC") which would permit development at the current residential density of the entire parcel; or

2. A mortgage lender, or its assignee, holding a mortgage on the parcel, or such portion thereof as is the subject matter of the special exception, acquires the portion so encumbered through foreclosure or by deed in lieu of foreclosure

and, thereafter, such lender or its assignee or successor-in-interest and/or title applies for a subdivision of the parcel; or

3. The owner of the portion of the parcel which has been so improved by the construction of a dwelling unit thereon either (a) acquired title thereto by devise or inheritance from the immediate family member for whom the special exception was granted and who has since died or (b) is a bona fide purchaser for value from the estate of such deceased immediate family member; or

4. The subdivision of the property is necessary to secure financing from a mortgage lender or its assignee.

h. Building permits may only be issued to (i) the immediate family member, or the agent of the immediate family member, specified at the time of approval of the special exception, or (ii) such other person or entity which acquires title to the land as provided for in subparagraph g. above.

* * *

(19) A guest cottage house (~~incidental to principal residence only~~) with a ~~maximum of one thousand (1000) square feet~~ may be permitted as a special exception, provided that it shall not exceed one thousand (1,000) square feet, and that it. ~~A guest cottage shall mean living quarters within a detached accessory building located on the same lot or parcel of land as the principal building, to be used exclusively for housing members of the family occupying the principal building and their nonpaying guests. Such quarters shall have no kitchen facilities and shall not be rented or otherwise used as a separate permanent dwelling.~~

(20) A townhouse project or a triplex project or a quadraplex project which is designed, arranged and constructed so that each dwelling unit may be owned by a separate and different owner, shall be a permitted use, subject to the following requirements:

a. Complete plans shall be submitted along with the application for the project. Such plans shall include a subdivision plan which satisfies all of the county subdivision and platting requirements. Furthermore, a site plan shall be submitted indicating the location of buildings, parking spaces, driveways, street, service areas, walkways, and areas which are to be retained

in common ownership. The floor area of the units, the number of parking spaces, the total area of the project, and other pertinent data shall be indicated on the plan.

b. The project shall be in single ownership at the time the application is presented.

c. The maximum density of each project shall be no greater than one (1) dwelling unit for each twenty-seven hundred (2700) square feet of the total project area.

d. The minimum yard requirements of the R-3 residential district may not apply to each individual lot with the project. For the purpose of interpretation, the minimum yard requirements shall apply to the perimeter of the tract on which the project is located.

e. Off-street parking shall be provided at the rate of two (2) spaces per unit. Parking lots, driveways, and streets within the project shall be designed to discourage through traffic. Driveways shall be located at least ten (10) feet from the buildings.

f. Each buildings shall contain not less than three (3) (except for a quadraplex, which shall contain not less than four (4)) nor more than ten (10) dwelling units. For projects equal to or greater than one (1) acre in size, at least seventy-five percent (75%) of the units shall be in buildings containing five (5) or more units. The maximum height of a building shall be two (2) stories or thirty-five (35) feet, whichever is less. Each unit shall contain at least five hundred (500) square feet for one-bedroom units, seven hundred fifty (750) square feet for two-bedroom units, and one thousand (1,000) square feet for three-bedroom units.

g. Each unit shall be self-contained with respect to utilities, heating and air conditioning. Each unit shall have independent entrances, and common stairwells shall be prohibited. Units shall be separated by a two-hour firewall which extends to the roof.

h. Swimming pools, tennis courts, playgrounds and other recreational uses may be permitted within such projects, provided such uses are located in areas retained in common ownership. Adequate provisions shall be made to eliminate problems of noise and lights with respect to dwelling units within the project and with respect to adjacent property. All land within

the projects shall be developed and maintained in a neat and orderly condition.

i. Deed covenants shall be developed to ensure the maintenance and upkeep of areas and facilities retained in common ownership in order to provide a safe, healthful and attractive living environment within these types of projects and to prevent the occurrence of blight and deterioration of the individual units.

j. Minimum distance between buildings, front to front or rear to rear: Sixty (60) feet.

k. Minimum distance between the sides of buildings: Twenty (20) feet.

l. Minimum width of dwelling units: Twenty (20) feet.

m. Outside storage areas for boats, travels trailers and similar equipment should be screened from view of the dwellings within the project and should be screened from adjacent property.

n. When driveways and parking spaces are located adjacent to the perimeter of the project, consideration should be given to the provision of walls or other screening material to avoid the adverse effects of noise and light to adjacent property.

o. Side and rear porches may be installed with a zero (0) foot side setback where the principal building has a zero (0) foot side setback.

p. Front and rear yard building setbacks shall be a minimum of twenty (20) ft.

* * *

(26) a. An adult or child day care home shall comply with the following requirements:

1. *Hours of operation.* A day care home may operate twenty-four (24) hours per day.

2. *Fence.* A fence at least four (4) feet in height shall be placed around all outdoor recreation/play areas or outdoor use areas.

3. *Parking spaces.* At least three (3) paved parking spaces shall be provided.

4. *Recreation.* Outdoor recreation/play areas or outdoor use areas shall be provided.

5. *Separation.* A day care home located in a residential zoning district shall not be located within seven hundred (700) feet of another day care home or one thousand two hundred (1,200) feet of a day care center located in a residential zoning district. Distance requirements shall be documented by the applicant and submitted to the Zoning Division with the application. Distance shall be measured by following the shortest route of ordinary pedestrian travel along the public thoroughfare from the closest property boundary of a day care home to the closest property boundary of another day care home or shelter.

b. An adult or child day care center shall comply with the following requirements:

1. *Hours of operation.* A day care center may operate twenty-four (24) hours per day in nonresidential and R-3 zoning districts. In all other residential zoning districts, a day care center shall open no earlier than 6:00 a.m., and close no later than 7:00 p.m.

2. *Location.* A day care center shall be a permitted use in the R-3, U-V (town center), and any professional office, commercial or industrial zoned district, and shall be a special exception in all other districts except R-T, R-T-1, and-R-T 2.

3. *Parking spaces.* Permanent parking shall be provided in accordance with article XI of Chapter 38, except for centers where there is no pick-up or drop-off area available on the property. In these types of centers, one (1) off-street parking space for each five (5) children shall be required.

4. *Recreation.* Outdoor recreation/play areas or outdoor use areas shall be provided.

5. *Fence.* A fence at least four (4) feet in height shall be placed around all outdoor recreation/play areas or outdoor use areas.

6. *Buffer.* A ten (10) foot wide buffer shall be provided to separate this use from any adjoining residential zoned district. This buffer shall consist of intermittently placed screening at least three (3) feet in height that constitutes thirty (30) percent of the buffer length. The buffer shall consist elsewhere of berms, planted and/or existing vegetation.

7. *Ancillary use.* A day care center may be permitted as a special exception in conjunction with and as an ancillary use to institutional uses which are permitted uses or are allowed as a special exception, such as, but not limited to, religious institutions, schools, and nonprofit institutional uses.

~~8. *Separation.* A day care center located in a residential zoned district shall not be located within a radius of one thousand two hundred (1,200) feet of another day care center or day care home located within a residential zoning district. Distance shall be measured by following the shortest route of ordinary pedestrian travel along the public thoroughfare from the closest property boundary of a child day care center to the closest property boundary of another day care home or center.~~

* * *

(30) Reserved.—At warehouse and self-storage facilities, plumbing shall not be provided to individual storage spaces, and plumbing fixtures such as sinks, toilets, and the like shall not be installed.

* * *

(32) Reserved.—A special exception is required for agriculturally and residentially zoned lands located in a Rural Settlement (RS) designated on the CPP Future Land Use Element Map.

* * *

~~(38) Poultry raising or keeping shall be a permitted use, provided that it is limited to no more than twelve (12) birds, and the lot is located a minimum of one hundred (100) feet from all residential zoned districts, except R CE 5, R CE 2, and R CE~~

~~zoned districts. All pens, enclosures, or waste disposal activities shall not be located any closer than fifty (50) feet from the property line or one hundred (100) feet from a residential dwelling unit. Furthermore, such activity shall not be located in any front yard and shall not be located any closer than fifty (50) feet from the normal high water elevation of any natural water body. ("Poultry" shall mean domestic fowl such as chickens, roosters, turkeys, ducks, geese, pigeons, hens, quails, pheasants and squabs.)~~ A free-standing carwash is a permitted use if all of the following requirements can be met, but if any of the following requirements cannot be met, a special exception is required:

a. Hours of operation shall be limited from 6 a.m. to 10 p.m.;

b. The equipment shall be on timers and shall be shut down before and after the hours of operation listed above;

c. A six (6) foot high masonry wall or PVC fence shall be constructed along any property lines abutting single family residential uses or zoning; and

d. A security system shall be installed to include electronic cameras, with signs posted notifying patrons of the security cameras.

(39) ~~The raising or keeping of poultry shall be a permitted use, provided that it is limited to twelve (12) birds or less, and the lot is located one hundred (100) feet from all residential zoned districts, except R-CE 5, R-CE 2, and R-CE zoned districts. All pens, enclosures and waste disposal activities shall be located no closer than fifty (50) feet from rear or side property line, shall not be located in front of the front setback line, and shall not be located any closer than fifty (50) feet from the normal high water elevation of any natural water body. ("Poultry" shall mean domestic fowl such as chickens, roosters, turkeys, ducks, geese, pigeons, hens, quails, pheasants and squabs.)~~ Residential and agriculturally zoned parcels greater than two acres in size may exceed the size requirements outlined in Section 38-79(114) regarding accessory buildings, subject to obtaining a special exception and complying with all of the following standards:

a. The roofline height of the principal residence shall not exceed 50 feet Roofline appurtenances shall not exceed 10 feet above the roofline;

b. The principal residence and all detached accessory buildings shall have the same or similar architectural style or design;

c. No detached accessory building shall exceed 5,000 square feet in gross floor area and 35 feet in overall height;

d. All detached accessory buildings shall be setback as follows:

i. front – 50 feet

ii. side – 25 feet

iii. rear – 35 feet

iv. normal high water elevation – 50 feet; and

e. a detached accessory building shall not exceed the size of the principal residence.

(40) The raising or keeping of poultry shall be a permitted use, provided that: It is limited to twelve (12) birds or less, and the lot is located a minimum of one hundred (100) feet from all residential zoned districts, except R-CE-5, R-CE-2, and R-CE zoned districts. All ~~animals and livestock~~ pens, enclosures and waste disposal activities shall be located not closer than fifty (50) feet from the rear or side property line, shall not be located in front of the front setback line, shall not be located any closer than fifty (50) feet from the normal high water elevation of any natural water body, and it shall be located a minimum of one hundred (100) feet from a residential zoned district. ("Poultry" shall mean domestic fowl such as chickens, roosters, turkeys, ducks, geese, pigeons, hens, quails, pheasants and squabs.)

* * *

(44) Plant nurseries and greenhouses shall be permitted, provided there is no retailing of products on site. Plant nurseries shall include the production, wholesaling, and distribution of plant materials grown or cultivated on site. Seedlings may be transported to the site. However, ~~all other~~ the majority of plant materials shall be grown on site.

(45) Except as provided in subsections (45)a. through f. for boats and subsections (45)g. through j. for recreational vehicles, no boat, regardless of its length, and no recreational vehicle, may be parked, stored, or otherwise kept on a lot or parcel. For purposes of this subsection (45), a “boat” shall not include a canoe sixteen (16) feet or less in length, a sailboat sixteen (16) feet (16’) or less in length with the mast down, a jon boat sixteen (16) feet or less in length, or a personal watercraft (e.g., a jet ski). Also for purposes of this subsection, the length of a boat shall be measured from the front of the bow to the back of the stern, excluding the motor or propeller.

a. The maximum number of boats permitted to be parked, stored or kept on the lot or parcel shall be calculated as follows depending on the size of the lot or parcel:

1. For a lot or parcel less than or equal to one-quarter acre, the maximum total number is two (2) boats, with a maximum number of one (1) boat in the front yard;

2. For a lot or parcel greater than one-quarter acre and less than or equal to one-half acre, the maximum total number is three (3) boats, with maximum number of one (1) boat in the front yard; and

3. For a lot or parcel greater than one-half acre, the maximum total number is four (4) boats, with a maximum number of one (1) boat in the front yard.

b. The owner of the boat(s) and/or boat trailer(s) shall be the owner or lessee of the principal structure at the lot or parcel.

c. No boat or boat trailer may be parked, stored, or kept wholly or partially within the public or private right-of-way, including the sidewalk.

d. No boat may be occupied or used for storage purposes.

e. A boat less than or equal to twenty-four (24) feet in length may be parked, stored, or kept inside a garage, under a carport, in the driveway, in the front yard on an approved surface, in the side yard, or in the rear half of the lot or parcel. An approved surface situated in the front half of the lot or parcel shall be placed immediately contiguous to the driveway, and not

anywhere else in the front yard or side yard. Such a boat on the rear half of the lot or parcel shall be screened from view from the right of way when it is parked or stored behind the principal structure, and shall be at least ten (10) feet from the side lot lines and at least five (5) feet from the rear lot line. Setbacks may be reduced to zero (0) feet if a six-foot high fence, wall, or vegetative buffer, exists along the lot line. (For purposes of this subsection (45), an “approved surface” shall mean a surface consisting of asphalt, gravel, pavers, or concrete.)

f. A boat greater than twenty-four (24) feet in length may be parked, stored or kept inside a garage, under a carport, or in the rear half of the lot or parcel, but not in the driveway or in the front yard. Such a boat on the rear half of the lot or parcel shall be screened from view from the right of way when it is parked or stored behind the principal structure, and shall be at least ten (10) feet from the side lot lines and at least five (5) feet from the rear lot line. Setbacks may be reduced to zero (0) if a six-foot high fence, wall, or vegetative buffer, exists along the lot line. Furthermore, the owner of such a boat shall obtain a permit from the zoning division in order to park, store or keep the boat at the lot or parcel.

g. Not more than one (1) recreational vehicle may be parked, stored or kept on the lot or parcel.

h. The owner of the recreational vehicle shall be the owner or lessee of the principal structure at the lot or parcel.

i. No recreational vehicle may be occupied while it is parked, stored or kept on the parcel.

j. A recreational vehicle may be parked, stored or kept only on an approved surface in the front half of the lot or parcel (behind the front yard setback) or on an unimproved surface in the rear half of the lot or parcel. The recreational vehicle shall not ~~be visible from the right of way in front~~ obscure the view of the principal structure from the right-of-way adjoining the front of the subject property, and shall be at least ten (10) feet from the side lot lines and at least five (5) feet from the rear lot line. Setbacks may be reduced to zero (0) feet if a six-foot high fence, wall, or vegetative buffer, exists along the lot line. Furthermore, the owner of such a recreational vehicle shall obtain a permit from the zoning division in order to park, store or keep the recreational vehicle at the lot or parcel.

* * *

(54) ~~Veterinary hospitals or dog and cat grooming may be permitted in a completely enclosed, soundproofed building. No outdoor animal runs may be permitted and no animal containment facilities may be located except in a completely enclosed, soundproof structure. All structures and accessory buildings and uses shall be located at least fifty (50) feet from any abutting, residentially zoned property, and a solid concrete block or masonry wall may be required to be erected along those boundary lines upon the property being requested for special exception.~~

(55) Temporary Portable Storage Containers (TPSC) are permitted in a manner that is safe and compatible with adjacent surrounding uses and activities and in compliance with this subsection. A TPSC to be placed on property for less than 180 days requires a zoning permit. A TPSC to be placed on property for 180 days or more requires a zoning permit and a building permit. ~~Veterinary hospitals in a completely enclosed, soundproofed building shall be a permitted use, provided that no outdoor animal runs may be permitted and no animal containment facilities may be located except in a completely enclosed, soundproofed bottom structure. Furthermore, all structures and accessory buildings and uses shall be located at least fifty (50) feet from any abutting residentially zoned property.~~

a. Duration. A TPSC may be placed on residential property for the following periods of time, but the Zoning Manager may authorize a time extension of the applicable duration period if the property owner demonstrates that extenuating circumstances exist to justify the extension. Upon completion of the work permitted, the PTSC shall be removed within seven (7) days.

1. A TPSC placed in conjunction with moving activities may be permitted for a maximum of fourteen (14) days.

2. A TPSC placed for reconstruction and/or remodeling may be permitted for a maximum of thirty (30) days.

3. A TPSC placed for new construction may be permitted for a maximum of 180 days.

b. Location and size.

1. A TPSC shall be located a minimum of five (5) feet from any property line. The TPSC shall be placed on an improved area only, not on grassed or landscaped areas.

2. The maximum allowable size for a TPSC on a residential lot is an aggregate sum of 160 square feet.

3. A TPSC shall not be located in a manner that impairs a motor vehicle operator's view of other vehicles, bicycles or pedestrians utilizing, entering or exiting a right-of-way; or in a manner that obstructs the flow of pedestrian or vehicular traffic.

4. A TPSC shall not be placed within a required landscape or buffer area or areas that are considered environmentally sensitive.

* * *

(58) Materials, vehicles and equipment stored at a dead storage yard and any other ~~The outdoor storage of equipment or commodities shall be screened from public rights-of-way, and single-family residential zoned districts and single-family residences.~~ When such use is located adjacent to residential zoned districts or homes, a Type B opaque buffer as outlined in Chapter 24 ("Landscaping, Buffering and Open Space") of the Orange County Code shall be required. In addition, paved parking is required and all other parking requirements shall be met. All materials, vehicles and equipment stored at a dead storage yard shall be removed from the site at least once every six months, and shall not be bought, sold or maintained there. Also, daily or frequent business activity shall not be conducted at a dead storage yard.

(59) Riding stables, may be permitted as a special exception, provided that no structure, barn, pen or corral housing animals shall be located closer than ~~one hundred (100)~~ fifty (50) feet from any property line, and provided that the density shall not exceed one (1) animal per acre of lot area. This restriction shall not apply to grazing areas.

* * *

(63) ~~Reserved.~~ Such use is subject to the requirements set forth in Ordinance #94-26.

* * *

(75) A barbershop or beauty shop may be permitted, provided that retail sales of beauty or barber products shall be permitted only if ancillary to the beauty or barber shop, and that said such retail sales are permitted occur only within the interior of the shop structure or tenant lease space. ~~When approving a special exception for a barbershop or beauty shop limits on hours of operation may be imposed.~~

* * *

(83) ~~Reserved.~~ A freestanding car wash enclosed on two (2) sides may be permitted as a special exception provided that is operated as a principal use. However, it shall be a permitted use ~~provided that it is ancillary to a convenience store, gas, or automobile service station.~~

* * *

(87) A portable food vendor shall be a permitted use, subject to the ~~following~~ standards in subsections a through f, or it may be permitted as a special exception in a C-1 zoned district pursuant to subsection g, subject to the standards in subsections g and a through e;

- a. No overnight stay;
- b. The operation shall not be located within a public right-of-way, and it shall be setback a minimum of ten (10) feet from any such public right-of-way;
- c. No signage;
- d. The operation shall not be located within any driveway, driving aisle or on any parking spaces required pursuant to Article XI of Chapter 38 of the Orange County Code;
- e. The operation shall not be permitted on any property not containing a licensed and approved business or on any vacant property or vacant building;
- f. In the C-1 zoning district, the operation shall be located under the canopy of the principal ~~use~~ building on-site,

except as may be permitted as a special exception under subsection g;

g. In the C-1 zoned district, an operation may be permitted as a special exception in an area that is not located under the canopy of the principal building on-site, provided the length and width of the mobile trailer are equal to or greater than 7 feet by 14 feet, such an operation satisfies the standards in subsections a through e, and such an operation is situated at least 1,000 feet from any other such operation (the distance being measured from property line to line).

* * *

(114) Location and size requirements of accessory buildings and uses in residential and agricultural areas:

a. When an accessory building is used solely as living space (i.e., dens, bedrooms, family rooms, studies) it may be attached to a principal structure by a fully enclosed passageway, provided the accessory building and the passageway comply with the following standards:

1. A principal structure shall exist onsite;

2. The accessory building and the passageway shall have the same architectural design as the principal structure, including the roof, exterior finish and color;

3. Access via doorways shall be provided at both ends of the passageway;

4. The passageway shall not exceed ~~fifteen (15)~~ twenty (20) feet in length. However, the passageway may exceed twenty (20) feet in length if the addition complies with the size requirements for detached accessory buildings;

5. The accessory building and the passageway shall comply with the principal structure setbacks;

6. Neither the height of the accessory building nor the height of the passageway shall exceed the height of the principal structure;

7. No kitchen facilities shall be allowed in the accessory building; and

8. The accessory building shall be heated and ventilated pursuant to all applicable building codes.

b. If an accessory building used as living space is not attached to the principal structure, then it shall be considered a detached accessory building, and it shall be subject to the size requirements listed in sections g and h below.

c. An accessory building used for nonliving purposes (i.e., storage space, workshops, sheds, enclosed carports, etc.) may be attached to a principal structure by a fully-enclosed or open-sided passageway, provided the accessory building and the passageway comply with the standards set forth in subsections a.1. through a.7. above and the accessory use structure does not exceed five hundred (500) square feet or twenty-five percent (25%) of the living area of the principal structure not to exceed one thousand (1,000) square feet.

d. A detached accessory building shall ~~not~~ be neither closer than five (5) feet to a lot line, nor closer than ten (10) feet to any other detached structure on the same lot.

e. No detached accessory building shall be located in front of the principal building unless it is located in the rear one-half of the lot.

f. No accessory building may be constructed prior to construction of the principal building. However, an existing accessory building may remain on a lot/parcel provided a principal use is erected on the lot/parcel within 12 months (1 year).

g. The cumulative square footage of all detached accessory buildings shall be limited to a maximum of five hundred (500) gross square feet of floor area or to twenty-five percent (25%) of the living area of the principal residence on the property, whichever is greater, but in no event larger than one thousand (1,000) square feet. On agricultural zoned parcels (A-1, A-2, and A-R), equal to or less than one (1) acre in size, the square footage of detached accessory buildings shall be limited to one thousand (1,000) square feet or twenty-five percent (25%) of the size of the principal residence, whichever is greater. Agricultural zoned parcels and the R-CE, R-CE-2, and R-CE-5 zoned parcels greater than one (1) acre but less than or equal to five (5) acres in

size may have detached accessory buildings up to two thousand (2,000) square feet or twenty-five percent (25%) of the size of the principal residence, whichever is greater. Agricultural zoned parcels and R-CE, R-CE-2, and R-CE-5 zoned parcels greater than five(5) acres in size may have detached accessory buildings up to three thousand (3,000) square feet or twenty-five percent (25%) of the size of the principal residence, whichever is greater. Accessory buildings used for agricultural purposes may be located in the front yard provided the minimum tract size is ten (10) acres or greater and the accessory building complies with the principal building setbacks. If the predominant use of the accessory building is to support the agricultural use on the property, then there is no size limitation on the accessory building. If the predominant use of the accessory building is to support the residence on-site, then the size limitation set forth above shall apply. Documentation and evidence may be required to qualify the agricultural use of the accessory building. The square footages referenced herein shall be cumulative square footages.

h. A detached accessory building shall be limited to one (1) story with a maximum overall height of fifteen (15) feet above grade. However, an accessory building with a roof slope greater than 2:12 shall not exceed 20 ft. of overall height.

i. In R-1, R-1A, R-1AA, R-1AAA, R-1AAAA, R-CE, R-CE-2, R-CE-5, R-2, R-3, R-T-1, and R-T-2 zoned districts, an accessory building or structure greater than 150 square feet or greater than ten feet (10') in height (as measured from the finished grade to the top of the structure), shall comply with the following architectural standards: the exterior and roof (if any) shall be comprised of materials commonly used throughout Orange County in single family residential construction, such as stucco, brick, vinyl, aluminum or wood for the siding or walls, and shingles, tiles or corrugated metal for the roof.

j. A detached structure used for unenclosed covered parking in a multi-family project shall be considered a residential accessory use and shall be located a minimum of 5 feet from side and rear property lines.

* * *

(120) A solid waste management facility, including a landfill, shall comply with Chapter 32 of the Orange County Code. A solid waste management facility, including a landfill, transfer station, or incinerator, may be permitted only by special exception.

An applicant seeking a special exception for a solid waste management facility shall receive a recommendation for issuance of a solid waste management permit by the Environmental Protection Officer and the Development Review Committee (DRC) prior to consideration of the special exception by the board of zoning adjustment ("BZA"). Furthermore, an applicant seeking a special exception for a solid waste management facility, must receive a solid waste management permit approval by the board of county commissioners ("BCC") prior to or at the same public hearing at which the special exception is considered.

* * *

(132) Parks and recreation areas owned and operated by nonprofit organizations, may be permitted only by special exception, except for parks and recreation areas (i) approved in conjunction with a preliminary subdivision plan (Chapter 34, Orange County Code), or (ii) located inside a platted residential subdivision and notarized letters of no objection are submitted by the President of the Homeowner's Association (if applicable) and all ~~surrounding~~ abutting property owners.

* * *

In all other respects, Section 38-79 shall remain unchanged.

Section 12. Repeal of Section 38-482 ("Site plan for apartment [R-3] projects").

Section 38-482 is repealed.

Section 13. Amendment to Section 38-581 ("R-T-2 combination mobile home and single family dwelling district"). Section 38-581 is amended to read as follows:

Sec. 38-581. R-T-2 combination mobile home and single family dwelling district.

(a) *Intent and purpose of district.* The intent and purposes of this district are as follows:

(1) To provide areas for the low density development of conventional single-family dwelling units.

(2) To provide areas for the low density development of mobile homes used as single-family dwelling units.

(3) To provide for the combination of two (2) modes of residential living within the same zoning district.

(b) *Uses permitted.* A use shall be permitted in the R-T-2 district if the use is identified by the letter "P" in the use table set forth in section 38-77.

(c) *Special exceptions.* A use shall be permitted as a special exception in the R-T-2 district if the use is identified by the letter "S" in the use table set forth in section 38-77.

(d) *Site and building requirements.* ~~Site requirements for this district are as follows:~~ See Sec. 38-1501.

~~(1) Minimum lot area shall be twenty one thousand seven hundred eighty (21,780) square feet (one-half acre).~~

~~(2) Minimum lot width shall be one hundred (100) feet.~~

~~(3) Minimum front yard setback shall be thirty five (35) feet.~~

~~(4) Minimum rear yard setback shall be fifty (50) feet.~~

~~(5) Minimum side yard setback shall be ten (10) feet.~~

~~(e) *Building requirements.* The building requirements for this district are as follows:~~

~~(1) Single family dwelling units shall contain a minimum of six hundred (600) square feet of living area.~~

~~(2) Mobile homes shall be per sections 38-296 and 38-297.~~

~~(f) *[Prohibited uses.]* A use shall be prohibited in the R-T-2 district if the space for that use is blank in the use table set forth in section 38-77.~~

Section 14. Amendments to Section 38-932 (“[1-1/1-5] performance standards”).

Section 38-932 is amended to read as follows:

Sec. 38-932. Performance standards.

(a) Within each I-1/I-5 industrial district, the minimum yard requirements for each lot are established as follows:

- (1) Floor area ratio (FAR) shall not exceed 0.5.
- (2) Front yards: Thirty-five (35) feet.
- (3) Side yards: Twenty-five (25) feet.
- (4) Rear yards: Twenty-five (25) feet.

(5) The minimum front yards for lots which abut a major street shall be in accordance with article XV (Major Street Setbacks) of chapter 38 of the Orange County Code.

(6) Maximum building height: Fifty (50) feet; but thirty-five (35) feet when within one hundred (100) feet of a residential zoning district or residential designation on the future land use map, and one hundred (100) feet when five hundred (500) feet or more from a residential zoning district or residential designation on the future land use map.

(7) Rear yards and side yards may be reduced to zero (0) feet when the rear or side property lines abut an improved railroad right-of-way, but only in those cases where an adjacent wall or walls of a building or structure are provided with railroad loading and unloading capabilities.

(8) One (1) of the side yards may be reduced to zero (0) feet, provided the other side yard on the lot shall be increased to a minimum building setback of ~~twenty-five (25)~~ fifty (50) feet. This provision cannot be used if the side yard that is reduced is contiguous to a residential district.

(9) An increased setback buffer yard of not less than fifty (50) feet in width shall be provided along each I-1/I-5 district line which abuts any residential zoning district. Specific landscaping within the setback area shall be in accordance with chapter 24 of the Orange County Code. That portion of the setback area that is not required to be landscaped shall not be used for processing activities, buildings or structures other than fences, walls, or off-street parking.

(10) Setbacks shall be a minimum of fifty (50) feet from the normal high water elevation on every natural surface water body.

(11) Driveways, streets, and facilities for routing traffic shall be designed in such a manner that entrances and exits to public streets are not hazardous and that traffic congestion is minimized. Furthermore, no entrances or exits shall direct traffic into adjacent residential areas.

(12) The open storage of equipment or commodities may be permitted, provided such storage shall not be located within any required front buffer yard, as required by chapter 24 of this Code.

(13) The parking of commercial and passenger vehicles may be permitted in any required yard except the front fifty (50) percent of required yard.

(14) Driveways, streets, and facilities for routing traffic shall be designed in such a manner that entrances and exits to public streets are not hazardous and that traffic congestion is minimized. Furthermore, no entrance or exits shall direct traffic into adjacent residential districts.

Section 15. Amendments to Section 38-1208 (“Control of development following approval [of development plan]”). Section 38-1208(a) is amended to read as follows:

Sec. 38-1208. Control of development following approval.

(a) Upon the approval of the development plan or any phase thereof, the use of land and the construction or modification of any buildings or structures within the P-D shall be in accordance with the development plan, ~~rather than with the other provisions of this chapter.~~ However, all other county codes, ordinances, policies and resolutions shall apply.

In all other respects, Section 38-1208 shall remain unchanged.

Section 16. Amendments to Section 38-1254 (“[Planned Development residential development] setbacks”). Section 38-1254 is amended to read as follows:

Sec. 38-1254. Setbacks.

Setbacks from side and rear property lines shall relate to the design height of the structures. The following guidelines shall be utilized to review projects; however, they may vary depending upon conditions and design considerations:

(1) All one- and two-story units should provide a minimum twenty-five-foot setback from all boundaries of the P-D. Structures in excess of two (2) stories should increase this setback to reflect the additional structural height.

(2) Setbacks from street rights-of-way shall meet the following minimum requirements, unless more restrictive requirements are specified in article XV of this chapter.

- a. Collector street . . . 25 feet
- b. Major collector street . . . 35 feet
- c. Arterial street . . . 50 feet
- d. Expressways . . . 75 feet
- e. All other rights-of-way . . . 20 feet

~~(3) Where doors, windows or other openings in the building wall of a living unit back up to a wall of another building with doors, windows or other openings, there shall be a minimum separation of thirty (30) feet for two-story buildings, and forty (40) feet for buildings three (3) stories plus. Separations should increase in proportion to additional structural height. There shall be a minimum of twenty (20) feet between all multifamily, office, commercial and industrial structures for fire protection purposes.~~

Section 17. Amendments to Section 38-1258 (“[Planned Development] multi-family

development compatibility”). Section 38-1258 is amended to read as follows:

Sec. 38-1258. Multi-family development compatibility.

A multi-family development in a PD shall satisfy the following criteria for the benefit of any single-family zoned property located inside or outside the PD, except that, in the event of a conflict in height requirements between this section and any other section in Chapter 38, such other section shall control:

(a) Multi-family buildings located within one hundred (100) feet of single-family zoned property, as measured from the property line of the proposed multi-family development to the nearest property line of the single-family zoned property, shall be restricted to single story in height.

(b) Multi-family buildings located between one hundred plus (100+) feet to one hundred and fifty (150) feet of single-family zoned property shall vary in building height with a maximum of fifty (50) percent of the buildings being three (3) stories (not to exceed forty (40) feet) in height with the remaining buildings being one (1) story or two (2) stories in height.

(c) Multi-family buildings located within one hundred and fifty (150) feet of single-family zoned property shall not exceed three (3) stories (forty (40) feet) in height, except as provided in (d) below.

(d) Multi-family buildings in excess of three (3) stories or forty (40) feet in height may be permitted, subject to approval by the board of county commissioners ("BCC"). The application for these buildings shall include justification for the requested height. A compatibility plan shall be submitted for approval, which includes greater setbacks and increased buffers to protect adjacent properties.

(e) Parking and other paved areas for multi-family development shall be located at least twenty-five (25) feet from any single-family zoned property. A twenty-five (25)-foot landscape buffer shall be provided consistent with Type C landscape buffer requirements, as set forth in Chapter 24 of the Orange County Code.

(f) A six (6)-foot high masonry, brick, or block wall shall be constructed whenever a multi-family development is located adjacent to single-family zoned property. The wall height shall be measured from the finished elevation of the side of the wall which is highest. However, if a right-of-way is located between the multi-family development and the single-family zoned property, such a wall is not required.

(g) A multi-family development shall not directly access any right-of-way serving platted single-family residential development. Access to collector or arterial roads shall be permitted.

(h) Active recreation areas shall be provided within a multi-family development to serve the needs of the residents of the multi-family buildings whenever single-family zoned property is located inside the PD or adjacent to the multi-family development. The recreation areas shall be provided at the ratio of two and one-half (2 1/2) acres per one thousand (1,000) residents (calculated at a rate of two and one-half (2 1/2) residents per unit). The recreation areas shall be located internally away from any single-family zoned property. The multi-family residential population shall not be included in the calculation for determining the recreation requirements for the balance of the PD.

(i) A multi-family development located adjacent to a right-of-way shall be fenced (chain link fences shall not be permitted) and landscaped whenever single-family zoned property is located across the right-of-way.

(j) Where doors, windows or other openings in the wall of a living unit back up to a wall of another building with doors, windows or other openings, there shall be a minimum separation of thirty (30) feet for two-story buildings, and forty (40) feet for buildings three (3) stories. Separations shall increase in proportion to additional structural height. There shall be a minimum of twenty (20) feet between all multifamily, office, commercial and industrial structures for fire protection purposes.

Section 19. Amendments to Section 38-1289. (“[Tourist Commercial Planned Development] Parking”). Section 38-1289 is amended to read as follows:

Sec. 38-1289. Parking.

- (a) Parking facilities shall be provided for each phase or unit of development in a tourist commercial development in accordance with the standards established in article XI of this chapter.
- (b) Consideration will be given to incorporating up to twenty-five (25) percent of the required spaces with parking for compact cars. Such spaces should contain at least one hundred twenty (120) square feet in the configuration of eight (8) feet by ~~fifteen (15)~~ sixteen (16) feet. The placement and distribution of such spaces should not limit the availability of standard parking spaces in high demand areas and should be adequately identified in order to notify patrons of the reduced size.
- (c) Major theme parks or attraction-type developments which experience holiday or special event parking demands may, subject to the approval of the zoning manager, use unpaved parking areas to meet those demands.

Section 19. Amendments to Section 38-1301 (“[Tourist Commercial Planned Development] Site development standards”). Section 38-1301 is amended to read as follows:

Sec. 38-1301. Site development standards.

Office development shall comply with the requirements of PD General Commercial standards or Tourist Commercial standards, when applicable. ~~Section 38-806.~~

Section 20. Amendments to Section 38-1344 (“[CVC] approval procedure”). Section 38-1344(3) is amended to read as follows:

Sec. 38-1344. Approval procedure.

* * *

- (3) *Development plan.*

a. After payment of an application fee to the zoning department, the applicant shall submit to the ~~zoning department~~engineering division fourteen (14) copies of a development plan and support data and information, all of which is consistent with section 38-1347. The development plan may cover all or a portion of the approved land use plan. If the applicant proposes to create a subdivision, a preliminary subdivision plan shall be processed concurrently with the development plan. The ~~zoning department~~engineering division shall review the development plan to determine whether all necessary and appropriate data and information has been provided.

b. The applicant shall then submit fourteen (14) copies of the development plan to the engineering department. The development shall then be scheduled for review by the DRC.

c. The DRC shall review the development plan to determine whether:

1. It is consistent with the approved land use plan;

2. It is consistent with all applicable laws, ordinances, rules and regulations;

3. The development, and any phase thereof, can exist as a stable independent unit; and

4. Existing or proposed utility services and transportation systems are adequate for the uses proposed.

5. It is consistent with CVC provisions requiring a single, unified and integrated development plan.

d. After review by the DRC, the development plan shall be scheduled for a public hearing before the BCC. The BCC shall approve the development plan, approve it subject to conditions, or disapprove it.

In all other respects, Section 38-1344 shall remain unchanged.

Section 21. Amendments to Section 38-1401 (“Substandard lots of record”). Section

38-1401 is amended to read as follows:

Sec. 38-1401. Substandard lots of record.

(a) If two (2) or more adjoining lots with continuous frontage were under single ownership on or after October 7, 1957, and one (1) or more of such adjoining lots has a frontage or lot area less than what is required by the zoning district in which such lot or lots are located, such substandard lot or lots shall be aggregated so as to create one (1) or more new lots, each of which shall conform to the minimum frontage and minimum lot area requirements of the zoning district in which the substandard lot or lots are located, and the lots so aggregated shall be considered one (1) tract.

(b) If a lot or parcel has a frontage or lot area less than what is required by the zoning district in which it is located, but was a lot of record in Orange County, Florida, prior to October 7, 1957, then a principal or accessory use consistent with Section 38-77 may be constructed on such lot, provided the construction of the dwelling and customary accessory structure(s) will not violate the minimum yard requirements, minimum floor area requirements, or height requirements for the zoning district in which the lot is located.

(c) No development permits may be issued for any lot or parcel which has a size or width less than what is required by the zoning district in which such lot or parcel is located, unless the lot or parcel is aggregated with adjacent property so that the required size or width complies with the zoning requirements.

(d) A lot or parcel which contains less than the minimum lot width and lot area required by the zoning district and was not approved by Orange County Subdivision Regulations or is not a lawful nonconforming lot or parcel, shall not be grounds for granting a variance pursuant to Section 30-43, O.C. Code.

Section 22. Amendments to Section 38-1408 (“Fences and walls”). Section 38-1408

is amended to read as follows:

Sec. 38-1408. Fences and walls.

(a) No fence or wall shall be erected so as to encroach into the fifteen (15)-foot for residentially and agriculturally zoned property, or twenty-five (25)-foot for commercially and industrially zoned

property corner triangle at a street intersection unless otherwise approved by the county engineer.

(b) Pillars, columns, and posts may extend up to twenty-four (24) inches above the height limitations provided such pillars and posts are no less than ten (10) feet apart.

(c) No barbed wire, razor wire or electrically charged fence shall be erected in any location on any building site in residential or office districts except for security of public utilities, provided such use is limited to three (3) strands and eighteen (18) inches, a minimum of six (6) feet above the ground. In addition, walls and fences erected in any office or residential district shall not contain any substance such as broken glass, spikes, nails, barbs, or similar materials designed to inflict pain or injury to any person or animal.

(d) (1) ~~Only~~ ~~b~~ Barbed wire or razor wire may be incorporated into or as an extension of the height of permitted walls and fences in commercial and industrial districts provided such use is limited to three (3) strands and eighteen (18) inches, a minimum of six (6) feet above the ground. The maximum height of the wall or fence with the barbed wire or razor wire shall be ten (10) feet.

(2) Barbed wire may be permitted by special exception in residential and office districts as an extension of the height of permitted walls and fences along the property line separating the residential or office district from a commercial or industrial district where it is documented by substantial competent evidence that such an additional security measure is warranted or appropriate. The barbed wire fencing shall be subject to the criteria and dimensions set forth in subsection (d)(1).

(23) Barbed wire and similar field fencing shall be allowed on agriculturally zoned properties only when used for agricultural purposes; i.e., groves, grazing and boarding of animals.

(e) In no event shall barbed wire or razor wire be placed so as to project outward over any sidewalk, street or other public way, or over property of an adjacent owner.

(f) Except in R-CE, R-CE-2, and R-CE-5, fences and walls in residential and office districts may be erected as follows:

(1) Limited to a maximum height of four (4) feet in the front yard setback. However, fences or walls located on arterial and collector roadways are limited to a maximum height of 6 ft. in the front yard setback.

(2) Limited to a maximum height of eight (8) feet in the side and rear yards.

(3) May be increased in height when the property is contiguous to a commercially or industrially zoned property along the common property lines pursuant to the height regulations for commercial and industrial districts.

(g) Fences and walls in agricultural, R-CE, R-CE-2, and R-CE-5 districts may be erected as follows:

(1) Limited to a maximum height of six (6) feet within the front yard setback. However, for chain link type fences on agricultural zoned properties, the maximum height is ten (10) feet;

(2) Limited to a maximum height of eight (8) feet in the side and rear yards. However, on agriculturally zoned properties, the maximum height is ten (10) feet;

(3) In agricultural districts, these regulations shall not apply to agricultural property used for bona fide agricultural purposes.

(h) Fences and walls in commercial and industrial districts may be erected as follows:

(1) Limited to a maximum height of six (6) feet within the front yard setback.

(2) Limited to a maximum height of eight (8) feet in the side and rear yards.

(3) When a lot or parcel abuts two (2) intersecting streets and the rear property line of the lot or parcel abuts the side property line of another lot or parcel, no fence or wall in excess of four (4) feet high along the rear property line shall be allowed within twenty-five (25) feet abutting the street right-of-way line unless the adjacent property owner sharing the common lot line submits a notarized letter stating that he has no objection and there are no site distance visibility concerns.

(i) On any corner lot abutting the side of another lot, no part of any fence located within twenty-five (25) feet of the common lot line shall be nearer the side street lot line than the required front yard of such abutting lot unless the adjacent property owner sharing the common lot line submits a notarized letter stating that he has no objection and there are no site visibility concerns.

(j) On a lakefront lot, a fence or wall within the rear yard setback area shall be limited to a maximum height of four (4) feet, unless notarized letters from adjacent property owners are submitted stating that they have no objections to an increased fence height. However, the increased fence height is still subject to other applicable fence height limitations in the Orange County Code.

Section 23. Amendments to Section 38-1415 (“[Prohibited areas for sale of alcoholic beverages] – Distances from churches, schools and/or adult entertainment establishments”).

Section 38-1415 is amended to read as follows:

Sec. 38-1415. Same--Distances from churches, schools and/or adult entertainment establishments.

(a) Places of business for the sale of alcoholic beverages containing more than three and two-tenths (3.2) percent of alcohol by weight for consumption on or off the premises may be located in the unincorporated areas of the county in accordance with and subject to this chapter and specifically those zoning regulations regulating the location of places of business selling alcoholic beverages containing fourteen (14) percent or more alcohol by weight. No such place of business shall be established within one thousand (1,000) feet of an established church or school; provided this prohibition shall not apply to vendors of beer and wine containing alcohol of more than one (1) percent by weight for consumption off the premises only. No commercial establishment that in any manner sells or dispenses alcohol for on-premises consumption shall be established within two hundred (200) feet of an adult entertainment establishment, as defined in section 38-1.

(b) Distance from a church or school or adult entertainment establishment shall be measured by following the shortest route of ordinary pedestrian travel along the public thoroughfare from the main entrance of the place of business to the main entrance of the church, and, in the case of a school, to the nearest point of the school grounds in use as part of the school facilities.

(c) The location of all existing places of business subject to this section shall not in any manner be impaired by this section, and the distance limitation provided in this section shall not impair any existing licensed location heretofore issued to and held by any such vendor nor shall such vendor's right of renewal be impaired by this section; provided, however, that the location of any such existing license shall not be transferred to a new location in violation of this section.

(d) Distance requirements not applied to renewal, change in name or ownership, or change in certain licenses. The distance requirements set forth above in subsections (a) and (b) shall not be applied to the location of an existing vendor when there is:

- (i) A renewal of an existing license;
- (ii) A transfer in ownership;
- (iii) A change in business name; or

(iv) A change in a state issued 4COP license for an existing package and lounge business to a 3PS license, and any decrease in the numerical designation of a state issued license which is of the same series (type);

provided the physical location of the vendor establishment does not change. No increase in the series (type) of state issued license shall be permitted at or for a location (new or existing) except in compliance with the provisions of sections 38-1414 and 38-1415.

(e) *Subsequent establishment of church or school.* Whenever a vendor of alcoholic beverages has procured a license certificate permitting the sale of alcoholic beverages and, thereafter, a church or school is established within one thousand (1,000) feet of the vendor of alcoholic beverages, the establishment of such church or school shall not be cause for the discontinuance or classification as a nonconforming use of the business as a vendor of alcoholic beverages. Furthermore, in such a situation, an existing vendor licensed for on-site consumption may only increase a 1 COP license (on-site beer consumption) to a 2 COP (on-site beer and wine consumption).

Section 24. Amendments to Section 38-1426 (“Accessory dwelling units”). Section

38-1426 is amended to read as follows:

Sec. 38-1426. Accessory dwelling units.

(a) The intent and purpose of this section is to allow a relative who wishes to reside in close proximity to his or her family an opportunity to do so by providing authorization to seek and obtain a special exception for an accessory dwelling unit, while maintaining the single-family character of the primary single-family dwelling unit and the neighborhood.

(b) An accessory dwelling unit may be allowed on a lot or parcel as a special exception in any residential or agricultural zoning district (including a residential lot or parcel on an existing planned development). The accessory dwelling unit shall be an accessory use to the primary single-family dwelling unit. Only one (1) accessory dwelling unit may be permitted per lot or parcel. The accessory dwelling unit shall not be constructed prior to the construction and occupation of the primary dwelling unit.

(c) (1) An accessory dwelling unit shall be occupied initially only by a relative. For purposes of this section, the term "relative" shall mean a sister, brother, lineal ascendant or lineal descendant of the owner of the lot or parcel on which the primary single-family dwelling unit is located (or the owner's spouse).

(2) Subject to subsection (c)(3), ~~A~~an accessory dwelling unit may be occupied by a non-relative, provided:

a. The accessory dwelling unit was occupied initially only by a relative and at least three (3) years have passed since the issuance of the certificate of occupancy for the accessory dwelling unit; or

b. The accessory dwelling unit was occupied initially only by a relative, and the relative has died.

(3) The BZA/BCC may impose a condition prohibiting the accessory dwelling unit from being leased, rented or otherwise used or occupied by a non-relative.

(d) In addition to what is normally required for an application for a special exception, an application for a special exception for

an accessory dwelling unit shall contain or be accompanied by the following information and documentation:

(1) An affidavit attesting that the owner of the lot or parcel understands and agrees that the provisions of this section shall be complied with, that he shall be responsible to the county for ensuring that the provisions are complied with, and that he shall be responsible for any failure to comply with the provisions;

(2) Documentation evidencing that the person who is to inhabit the accessory dwelling unit is a relative;

(3) A site plan prepared in compliance with Section ~~103.2.5~~106.1.2 of the ~~1991 edition of the Standard~~Florida Building Code, as amended by ~~s~~Section 9-1039-33 of the Orange County Code;

(4) An exterior elevation drawing of the proposed accessory dwelling unit, regardless of whether it is proposed to be attached or detached;

(5) A photograph and exterior elevation drawing of the primary single-family dwelling unit; and

(e) In order to approve a special exception for an accessory dwelling unit, the county shall determine that the proposed accessory dwelling unit is designed to be similar and compatible with the primary single-family dwelling unit and that it will be compatible with the character of the neighborhood. A manufactured home constructed pursuant to United States Department of Housing and Urban Development standards or a mobile home may not be used as an accessory dwelling unit in any single family residential zoned district.

(f) After an application for a special exception for an accessory dwelling unit is approved, the accessory dwelling unit shall be subject to the following performance standards and requirements:

(1) *Ownership.* The primary single-family dwelling unit and the accessory dwelling unit shall be under single ownership at all times. Also, either the primary dwelling unit or the accessory dwelling unit shall be occupied by the owner at all times. Approval of an accessory dwelling unit shall not constitute approval for separate ownership or the division of the lot or parcel. Any request to divide the lot or parcel shall comply with and be

subject to applicable laws, ordinances and regulations, including zoning regulations and access requirements.

(2) *Change in occupancy.* The owner shall notify the zoning department in writing whenever there is a change in occupancy of the accessory dwelling unit and inform the zoning department whether the new occupant is a relative or a non-relative.

(3) *Living area.* The minimum living area of an accessory dwelling unit shall be four hundred (400) square feet. However, the maximum living area of an accessory dwelling unit shall not exceed forty-five (45) percent of the living area of the primary dwelling unit or one thousand (1,000) square feet, whichever is less, and shall not contain more than two (2) bedrooms. For lots/parcels equal to or greater than two (2) acres, the maximum living area shall be 1,500 sq. ft.

(4) *Lot or parcel size.* The size of the lot or parcel shall be equal to or greater than the minimum lot area required for a single-family dwelling unit in the zoning district. An attached accessory dwelling unit may only be constructed on a lot or parcel whose area is equal to or greater than the minimum lot area required in the zoning district. A detached accessory dwelling unit may only be constructed on a lot or parcel whose area is at least one-and-one-half (1 1/2) times the minimum lot area required in the zoning district.

(5) *Open space.* An accessory dwelling unit shall be treated as part of the impervious surface area of a lot or parcel. The open space requirements for a single-family lot or parcel shall be met notwithstanding the construction of an accessory dwelling unit.

(6) *Setbacks.* The setbacks for an attached accessory dwelling unit shall be the same as those required for the primary dwelling unit. In addition, a detached accessory dwelling unit shall be located only to the side or rear of the primary dwelling unit and shall be separated from the primary dwelling unit by at least ten (10) feet, and the distance separation shall not be less than the distance required under Section 610 ("Buildings Located on the Same Lot") and Table 600 of the 1991 edition of the Standard Building Code, as it may be amended from time to time. Moreover, a one-story detached accessory dwelling unit shall be setback a minimum of ten (10) feet from the rear property line and shall meet the minimum side setbacks for a primary structure in the zoning

district. A two-story detached accessory dwelling unit located above a detached garage shall meet the setbacks for the primary structure in the zoning district.

(7) *Entrance.* An attached accessory dwelling unit may either share a common entrance with the primary dwelling unit or use a separate entrance. However, a separate entrance shall be located only to the side or rear of the structure.

(8) *Parking.* One (1) additional off-street parking space shall be required for an accessory dwelling unit. The additional space requirement may be met by using the garage, carport or driveway of the primary dwelling unit.

(9) *Water and sewer.* Adequate water and wastewater capacity shall exist for an accessory dwelling unit. Approval of a special exception for an accessory dwelling unit shall not constitute approval for use of a septic system and/or a well. If a septic system and/or a well must be utilized, applicable laws, ordinances and regulations shall control. The owner of an accessory dwelling unit may apply for and obtain a separate water meter subject to the unit connecting to Orange County's water system.

(10) *Electrical.* The owner of an accessory dwelling unit may apply for and obtain a separate power meter subject to the approval of the utility company and complying with all applicable laws, ordinances and regulations.

(11) *Impact fees and capital fees.* The impact fees for an accessory dwelling unit shall be assessed at the multi-family rate. Water and wastewater capital fees for the accessory dwelling unit shall be assessed at the multi-family rate.

(12) *Other laws, ordinances, and regulations.* All other applicable laws, ordinances and regulations shall apply to the primary dwelling unit and the accessory dwelling unit.

~~(g) After an application for a special exception for an accessory dwelling unit is approved, but before any development permits to construct the accessory dwelling unit are issued, the affidavit required under subsection (d)(1) of this section shall be recorded in the Official Records of Orange County at the owner's expense.~~

Section 25. Amendments to Section 38-1476 (“Quantity of off-street parking”).

Section 38-1476 is amended to read as follows:

Sec. 38-1476. Quantity of off-street parking.

(a) Off-street parking spaces shall be provided for any use hereafter established or at the time of the erection of any main building or structure or at the time any main building, structure or occupational use is enlarged or increased in capacity by adding dwelling units, guest rooms, floor area, seats, or by increasing employment, according to the following minimum requirements: If the use is not listed below, the parking requirements shall be determined by the Zoning Manager by adopting or utilizing the parking requirements for the listed use that the Zoning Manager determines is most similar.

* * *

In all other respects, Section 38-1476 shall remain unchanged.

Section 26. Amendments to Section 38-1477 (“Location of off-street parking”).

Section 38-1477 is amended to read as follows:

Sec. 38-1477. Location of off-street parking.

The parking spaces provided for herein shall be provided on the same lot where the principal use is located or within three hundred (300) feet from the principal entrance as measured along the most direct pedestrian route. For purposes of this section, a unified development (for example, a shopping center) shall be considered “on the same lot.”

Section 27. Amendments to Section 38-1478 (“Joint use of off-street parking”).

Section 38-1478 is amended to read as follows:

Sec. 38-1478. Joint use of off-street parking.

No part of an off-street parking area required for any building or use for the purpose of complying with the provisions of this chapter shall be included as part off an off-street parking area similarly required for another building or use, except in the case where the parking demands of different uses occur at different

times or where the uses are part of a unified development (for example, a shopping center). The following requirements must be satisfied in order to comply with this exception:

* * *

In all other respects, Section 38-1478 shall remain unchanged.

Section 28. Amendments to Section 38-1479 (“Off-street parking lot requirements”).

Section 38-1479(b) is amended to read as follows:

Sec. 38-1479. Off-street parking lot requirements.

* * *

(b) ~~Each off street parking area shall include one hundred eighty (180) square feet, in addition to parking space, for access drives and aisles. The minimum width of each space shall be nine (9) feet.~~ Regular parking space sizes shall be a minimum of 180 square feet (either 9’ x 20’ or 10’ x 18’). Spaces within parking garages may be a minimum of 8½’ x 18’. Off-street turning and maneuvering space shall be provided for each lot so that no vehicle shall be required to back onto or from any public street. Suggested parking lot design standards are contained in Exhibit I on file and available for reference in the office of the county engineer.

In all other respects, Section 38-1479 shall remain unchanged.

Section 29. Amendments to Section 38-1501 (“Basic [site and building] requirements”). Section 38-1501 is amended to read as follows:

Sec. 38-1501. Basic requirements.

The basic site and building requirements for each agricultural, residential and commercial zoning districts are established as follows (and industrial site and building requirements are set forth elsewhere in this chapter:

TABLE INSET:

District	Min. lot area (sq. ft.) ^{zzz}	Min. living area (sq. ft.)	Min. lot width (ft.)	*Min. front yard (ft.)	*Min. rear yard (ft.)	Min. side yard (ft.)	Max. building height (ft.)	Lake setback (ft.)
* * *								

R-L-D	N/A	N/A	N/A	10 for side entry garage, 20 for front entry garage	15	0 to 10	35***	*
R-T	<u>7 spaces per gross acre</u>	<u>Park size min. 5 acres</u>	<u>Min. mobile home size 8 ft. x 35 ft.</u>	<u>7.5</u>	<u>7.5</u>	<u>7.5</u>	<u>N/A</u>	<u>*</u>
R-T-1								
SFR	<u>4,500*****</u>	<u>45*****</u>	<u>1,000</u>	<u>25/20^{††}</u>	<u>25/20^{††}</u>	<u>5</u>	<u>35</u>	<u>*</u>
Mobile home	<u>4,500*****</u>	<u>45*****</u>	<u>Min. mobile home size 8 ft. x 35 ft.</u>	<u>25/20^{††}</u>	<u>25/20^{††}</u>	<u>5</u>	<u>35</u>	<u>*</u>
R-T-2								
(prior to 1/29/73)	<u>6,000</u>	<u>60</u>	<u>SFR 500 Min. mobile home size 8 ft. x 35 ft.</u>	<u>25</u>	<u>25</u>	<u>6</u>	<u>N/A</u>	<u>*</u>
(after 1/29/73)	<u>21,780 1/2 acre</u>	<u>100</u>	<u>SFR 600 Min. mobile home size 8 ft. x 35 ft.</u>	<u>35</u>	<u>50</u>	<u>10</u>	<u>N/A</u>	<u>*</u>

* * *

- † Attached units only. If units are detached, each unit shall be placed on the equivalent of a lot 45 feet in width and each unit must contain at least 1,000 square feet of living area. Each detached unit must have a separation from any other unit on site of at least 10 feet.
- †† Maximum impervious surface ratio shall be 70%, except for townhouses, nonresidential, and mixed use development, which shall have a maximum impervious surface ratio of 80%.
- ††† Based on gross square feet.

In all other respects, Section 38-1501 shall remain unchanged.

Section 30. Amendments to Section 38-1508 (“Administrative waivers from performance standards”). Section 38-1508 is amended to read as follows:

Sec. 38-1508. Administrative waivers from performance standards for existing improvements.

(a) Except as provided in subsection (b), the zoning manager shall have the authority to grant administrative waivers from the performance standards set forth in Section 38-1501 and the performance standards for industrial zoning districts, provided that no such administrative waiver shall exceed three percent (3%) of the applicable requirement for the side yards and six percent (6%) for the front or rear yards for existing improvements.

(b) The zoning manager shall not have the authority to grant administrative waivers from lake setbacks or for vacant land.

Section 31. Effective date. This ordinance shall become effective pursuant to general law.

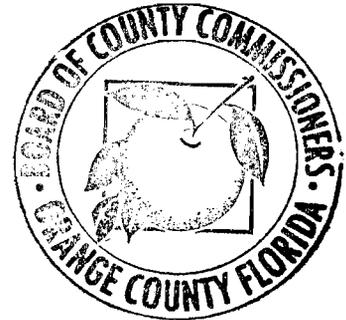
ADOPTED THIS 13th DAY OF MAY, 2008.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: *Richard T. Crotty*
Richard T. Crotty
County Mayor

ATTEST: Martha O. Haynie, County Comptroller
As Clerk of the Board of County Commissioners

By: *Martha O. Haynie*
Deputy Clerk



USE TABLE 2

Uses Per Zoning Code	SIC Group	Land Use	A-1	A-2	A-R	RCE-5	RCE-2	RCE	R-1AAAA	R-1AAA	R-1AA	R-1A	R-1	R-2	R-3	Cluster	RT	RT-1	RT-2	P-O	C-1	C-2	C-3	I-1A	I-1, I-5	I-2, I-3	I-4	U-V (see 29)	R-L-D	UR-3	NC	NAC	NR	Conditions		
Poultry raising or keeping	025	Poultry & Eggs	50 S 36 P	50 S 36 P	37 P	40 P	40 P	40 P																												
Breeding, keeping and raising of farm animals (ex. goats, swine, potbellied pigs, etc.) for domestic purposes only		Breeding, keeping and raising of farm animals (ex. goats, swine, potbellied pigs, etc.) for domestic purposes only	49 P	49 P	52 P	52 P																														
Veterinary service with no outdoor runs or compound	0742	Veterinary services	S	S																P	54 112 P	54 112 P	54 112 P		P	P	P	54 55 P								
Indoor Storage of products, furniture, household & commercial goods, machinery, equipment storage of building materials	42	WAREHOUSING	P	P																	30 111 P	30 111 P	30 111 P		30 111 P	30 111 P	30 111 P									
Warehousing	422	Warehousing & storage																						107 111 P	58 P	30 P	30 P	30 P								
Dead storage yard		Dead storage yard																							P	P	P									
Self-storage facility	4225	General warehousing & storage																			30 60 P	30 111 P	30 111 P		P	P	P									
Metal and/or commercial Temporary portable storage containers			55 P	55 P	55 P	55 P	55 P	55 P	55 P	55 P	55 P	55 P	55 P	55 P	55 P	55 P	55 P	55 P	55 P	55 P	55 P	55 P	55 P	55 P	55 P	55 P	55 P	55 P	55 P	55 P	55 P	55 P	55 P	55 P	*	
Power plants, household-waste transfer stations refuse storage sites, wastewater and water plants, septic disposal sites, lime stabilization and dewater, septage and wastewater sludges	49	Power plants, household-waste transfer stations, refuse storage sites, wastewater and water plants, septic disposal sites, lime stabilization and dewater, septage and wastewater sludges	S	S																					S	S	S									
Transfer stations other than household-waste transfer station	4953	Transfer stations Refuse systems (Incinerators)	113 S	113 S																			443 S	113 S	113 S	113 S										

USE TABLE-SECTION 38-77

Uses Per Zoning Code	SIC Group	Land Use	A-1	A-2	A-R	RCE-5	RCE-2	RCE	R-1AAAA	R-1AAA	R-1AA	R-1A	R-1	R-2	R-3	Cluster	RT	RT-1	RT-2	P-O	C-1	C-2	C-3	I-1A	I-1, I-5	I-2, I-3	I-4	U-V (see 29)	R-L-D	UR-3	NC	NAC	NR	Conditions		
Testing and research of incinerators		Testing and research of incinerators																						S	S	S										
Aluminum recycling collection drop-off sites		Aluminum recycling collection drop-off sites	113 S	113 S																			S	P/S	P	P	P								*	
Junk, salvage or wrecking yards, sales & storage of wrecked cars	5093	Junk yards (scrap & waste)																								S	63 P								*	
Portable food and drink vendors (including hot dog stands)		Portable food and drink vendors (including hot dog stands)																			87 S	87 P	87 P	87 P	87 P	87 P									*	
Bottle clubs	5813	Drinking places																				S	S		S	S	S									
Beauty shops, beauty salons	7231	Beauty shops, beauty salons																			75 P	S	P	P		P	P	P				P	P		*	
Barber shops, hair stylists	7241	Barber shops																			75 P	S	P	P		P	P	P				P	P		*	
Carwashes	7542	Carwashes																			83 38 S/P	P	P		P	P	P								*	
Indoor clubs, bowling clubs, private indoor clubs, bridge clubs, indoor recreational uses	7997	Membership Sports & Recreation Clubs (Indoor uses)	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	P S	P	P		107 P/S	P	P	P				P	P		*	
Outdoor clubs, golf and country clubs, private outdoor clubs, tennis clubs, swimming clubs, non-profit parks and recreation areas, outdoor recreation areas, private recreation areas for a single family development	7997	Membership Sports & Recreation Clubs (Outdoor uses)	132 S	132 S	132 S	132 S	132 S	132 S	132 S	132 S	132 S	132 S	132 S	132 S	132 S	132 S	132 S	132 P	132 P	107 P/S	P	P	P				132 S	132 S	132 S	*						
Outdoor gun ranges/ private clubs, shooting galleries and ranges	7997	Membership Sports & Recreation Clubs (Outdoor uses)	136 S	136 S																					136 P	136 P	136 P									*

USE TABLE-SECTION 38-77

Uses Per Zoning Code	SIC Group	Land Use	A-1	A-2	A-R	RCE-5	RCE-2	RCE	R-1AAAA	R-1AAA	R-1AA	R-1A	R-1	R-2	R-3	Cluster	RT	RT-1	RT-2	P-O	C-1	C-2	C-3	I-1A	I-1, I-5	I-2, I-3	I-4	U-V (see 29)	R-L-D	UR-3	NC	NAC	NR	Conditions
Golf driving ranges, Golf cart rentals, ski instruction, swimming pools, tennis courts, little league and softball fields, outdoor skating rinks, amusement rides, paintball operations, day camps, rodeos, and go-cart raceway	7999	Amusement & Recreation (Outdoor Uses)	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	85 S	85 P	85 P	P	P	P	P	P	S		S	S		.
Crisis center, Juvenile correction home, training schools for delinquents, drug rehab center and juvenile group homes, childrens homes, alcohol rehab centers, halfway homes for delinquents	8361	Residential Care																			S P	S P	S P		P	P	P							.
Churches, mosques, synagogues, temples and other religious use-organizations institutions with or without attendant schools, educational buildings and/or recreational facilities	8661	Religious organizations-institutions	<u>32</u> S P	<u>32</u> S P	S	S	S	S	S	S	S	S	S	S	<u>32</u> P	S	S	S	S	S	P	P	P	<u>32</u> P	P	P	P	S			P	P	S	.