

# Land Development Code

## Article 1 Administration

### Division 1 General Provisions

- Sec. 1.1.1** Short Title. This Code shall be known as the Marion County Land Development Code (LDC) and may be referred to herein as the "Code."
- Sec. 1.1.2** Authority and purpose.
- A. This Code is adopted under the general authority of Ch. 125 FS and the requirements of § 163.3161 FS.
  - B. This Code is adopted to protect the public health, safety, and general welfare while allowing, encouraging, and promoting flexibility, economy, and ingenuity in the layout and design of land development.
  - C. This Code shall be administered to ensure orderly growth and development, and shall serve to implement the Marion County Comprehensive Plan, consistent with the provisions of § 163.3202 FS and other applicable and related policies as established by the Board.
- Sec. 1.1.3** Jurisdiction and effective date.
- A. The provisions in this Code shall be applicable to all lands in unincorporated Marion County unless exempted herein.
  - B. The original Marion County Land Development Code became effective on June 18, 1992.
  - C. This Code shall become effective on **October 12, 2013** and supersedes previous versions of this Code.
- Sec. 1.1.4** Fee authority. Reasonable fees sufficient to recover costs incurred in the administration and enforcement of this Code may be established by Resolution of the Board of County Commissioners.
- Sec. 1.1.5** Enforcement.
- A. It shall be the duty of the Marion County Administrator, or his designee, to enforce the provisions of this Code.
  - B. A violation of this Code shall be deemed a non-criminal violation, punishable as provided by law, and each day such violation continues it will constitute a separate offense. The Code Enforcement Board, as established by Chapter 2, Article 5 of the County Code of Ordinances, may use any remedies or penalties authorized by Ch. 162 FS that it deems necessary to bring about compliance with the provisions of this Code. Code Enforcement officers are authorized to issue civil citations for code violations.
  - C. It is a violation of this Code if a development, improvement, or infrastructure facility, subject to the provisions of this Code, is altered, modified, or not used in accordance with the intent of the permit without prior permission by the County. It is also a violation of this Code to alter or expand a use that was made non-conforming by the adoption of the prior version of this Code on June 18, 1992.
- Sec. 1.1.6** Interpretation, conflict, and separability.
- A. The provisions of this Code shall be interpreted to be the minimum requirements.
  - B. Where a condition imposed by any provision of this Code is more restrictive than conditions imposed by any other provisions of this Code or of any other applicable law, code, ordinance, resolution, rule, or regulation of any kind, the more restrictive or higher standard condition shall govern.
  - C. The provisions of this Code are separable. If an article, division, section, sentence, clause, or phrase of this Code is adjudged by a court of competent jurisdiction to be invalid, the decision shall not

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invalidate the remaining portions of this Code.

- D. Pronouns of feminine instead of masculine gender and of plural instead of singular number are to be substituted herein wherever the context so requires.
- E. The words "shall" and "will" are mandatory; "may" and "should" are permissive.

**Division 2 Definitions.** Unless otherwise expressly stated, for the purposes of this Code, the following terms shall have the meaning indicated herein.

**ABANDONED WELL.** A well which has its use permanently discontinued, is in such disrepair that its continued use for obtaining groundwater is impractical, has been left uncompleted, is a threat to groundwater resources, or otherwise is or may be a health or safety hazard.

**ABROGATION.** To close, vacate, or abandon a right-of-way.

**ACCESSORY BUILDING OR STRUCTURE (APPURTENANT STRUCTURE).** A subordinate building or structure on the same lot, or parcel, or on a contiguous parcel which is occupied by, or devoted to, an accessory use. As it relates to the Flood Plain Overlay Zone, accessory structures should constitute a minimal investment and should be designed to have minimal flood damage potential (examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds).

**ACCESSORY USE.** A use naturally and normally incidental and subordinate to the principal use of a structure or land and located on the same lot, or parcel or on a parcel contiguous to the principal use to which it relates.

**ACTIVE RECREATION.** Recreational activities that occur in areas that require substantial structural development and investment, such as playing fields, courts or other facilities. Examples of active recreation include soccer, baseball, swimming in a pool, tennis and basketball. Active recreation differs from passive recreation primarily by the facilities that are required to undertake an activity.

**ADDITION.** An extension or increase in floor area or height of a building or structure.

**ADULT BOOKSTORE OR FILM STORE.** An establishment having as a substantial portion of its stock in trade books, magazines, other periodicals, films, video tapes, video disks, or similar items which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

**ADULT BOOTH.** A small enclosed or partitioned area inside an adult entertainment establishment that is:

- A. Designed or used for the viewing of adult material by one or more persons; and
- B. Accessible to all persons, regardless of whether a fee is charged for access.

The term "adult booth" includes but is not limited to a "peep show" booth, or other booth used to view "adult material." The term "adult booth" does not include a foyer through which a person can enter or exit the establishment, or a rest room.

**ADULT CABARET.** A bar, lounge, club, or other establishment which may sell alcoholic or non-alcoholic beverages or food and which features as part of the regular entertainment topless or bottomless dancers, strippers, whether male or female, or similar entertainers whose acts are characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas." This definition shall include Adult Encounter Parlor, Adult Lounge, Adult Novelties, Adult Entertainment, and Adult Modeling Studio.

**ADULT THEATER OR MINI-MOTION PICTURE THEATER OR DRIVE-IN.** An enclosed building or drive-in with a capacity for fewer than 50 persons in which a substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

**ADULT THEATER OR MOTION PICTURE THEATER OR DRIVE-IN.** An enclosed building or drive-in with a capacity of 50 or more persons in which a substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

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**ADVERTISING.** Sign copy or materials intended to directly or indirectly promote the sale or use of a product, service, commodity, entertainment, or real or personal property.

**AGRICULTURAL USES.** Those uses of land which involve the science and art of production of plants and animals useful to man including to a variable extent, the preparation of these products for man's use and their disposal by marketing or otherwise. These shall include horticulture, floriculture, viticulture, aquaculture, forestry, dairy, livestock, including the breeding and/or training of horses, poultry, bees, ratites, and any and all forms of farm products and farm production.

**AIR GAP.** A physical separation between the free flowing discharge and an open or non-pressure receiving vessel.

**ALTERATION.** Any change in size, shape, character, or use of a building or structure.

**ANIMAL FEEDING OPERATION.** As defined in § 62-670.200 FAC.

**ANIMAL UNIT.** As defined in § 62-670.200 FAC.

**ANTENNA.** Any exterior apparatus designed to transmit or receive communications as authorized by the Federal Communication Commission (FCC). The term "antenna" shall not include satellite earth stations used to receive direct-to-home satellite services as defined in 47 USC § 303(v). An array of antennas, installed at one time and designed as a single, integrated system, shall be considered to be a single antenna.

**ANTENNA SUPPORT STRUCTURE.** Any building or other structure other than a tower, which can be used for the location of an antenna. An antenna support structure shall be referred to as a "utilized antenna support structure" if it is or has been used for the location of an antenna.

**ANTIQUATED SUBDIVISION.** A subdivision, subdivision series, or any portion of a subdivision or subdivision series, identified by the Board in which further or continued development of that subdivision is deemed undesirable consistent with the provisions of § 163.3164 FS.

**APPEAL.** The process of seeking a higher authority's determination as established by this Code when a specific decision or determination made by designated staff, committee, or board is disputed.

**APPLICANT.** The property owner, the duly authorized representative of the property owner, or the lessee or occupant of said property who submits a County service or development application to and for said property and who can be bound to all legal obligations related to such request.

**AQUACULTURE.** The commercial production of fin fish and shellfish, such as crustaceans and mollusks, within a confined space and under controlled feeding, sanitation, and harvesting procedures.

**AREA OF SHALLOW FLOODING.** A designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**AS-BUILT/RECORD SURVEY.** A record of completed construction drawings documenting the actual construction work as it exists in the field, including any changes made from the originally approved plans, meeting the requirements as set forth in § 5J-17.52(1) FAC, and signed, sealed, and dated by a Professional Surveyor and Mapper licensed by the State of Florida.

**AUTOMOBILE WRECKING YARD.** Premises used for the dismantling or disassembling of two or more used motor vehicles or trailers, or the business of storage, sale, or dumping of dismantled, obsolete or wrecked vehicles, trailers or their parts; a junk yard.

**AUXILIARY WATER SUPPLY SYSTEM.** A pressurized or pumping-ready water supply system other than a public potable water system which is located on or available to the customer's property whether or not connected to a distribution system within the property. Such auxiliary systems include but are not limited to reclaimed water systems and private wells, as further defined in AWWA M-14 most current edition.

**AVAILABLE CAPACITY.** An existing central water or sewer system shall be deemed to have "available capacity," if: (a) as to a central water or sewer system, it is capable of providing central service concurrently with the

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proposed build-out schedule of the project without the applicant having to expand the facility providing treatment for the water to and/or the wastewater from the project; provided, however, if it is necessary for the Marion County Utility Department to so expand the treatment facility, the applicant may be required to prepay capital charges imposed for such facility; and (b) as to a central water or sewer system, its existing water or sewer lines are of sufficient size and capacity to accommodate the water or sewer requirements of the project without the applicant having to reconstruct the existing lines. This requirement concerns existing lines, only, and does not excuse an applicant from having to construct new lines from its project to the point of connection to the central water or sewer system. Further, if it is necessary to replace the existing lines, the County may require the applicant to pay to reconstruct existing lines, within the applicant's required connection distance, in an amount equal to what it would have cost the applicant to originally construct such lines of sufficient size and capacity to accommodate the applicant's project. This does not preclude the County from requiring the developer to upsize the lines in exchange for additional Equivalent Residential Connection credits.

**AVIARY.** A place for keeping birds confined, including but not limited to a large enclosure where birds fly free, a structure where birds are confined in cages, or large cages where birds are confined. A residential structure containing nine or more birds shall be considered an aviary.

**BACKFLOW PREVENTION ASSEMBLY.** A mechanical assembly which is supplied with properly located resilient-seated shut-off valves at each end of the assembly and properly located test cocks, and meets the standards of the University of Southern California's Foundation for Cross-Connection Control and Hydraulic Research and complies with the standard listed in the Florida Building Code as adopted by Marion County.

**BACKFLOW PREVENTION DEVICE.** A mechanical device or plumbing configuration which is designed to prevent backflow.

**BAR.** Any place devoted primarily to the retail sale and on premises consumption of malt, vinous, or other alcoholic beverages; a tavern.

**BASE FLOOD.** The flood having a one percent chance of being equaled or exceeded in any given year (also called the "one percent annual chance flood," "100-year flood" and the "regulatory flood").

**BASE FLOOD ELEVATION.** The water-surface elevation associated with the base flood.

**BASEMENT.** That portion of a building having its floor sub-grade (below ground level) on all sides.

**BED AND BREAKFAST INN.** A building, or part thereof, other than a motel or hotel, where sleeping accommodations are provided for transient guests, and may also serve as the residence of the owner or manager.

**BEEKEEPING.** The keeping or raising of bees for commercial purposes.

**BERM.** A mound of soil, either natural or manmade.

**BIORETENTION FACILITY.** An area which provides retention of stormwater through the use of vegetated depressions of approximately four to nine inches in depth with landscaping and engineered soil matrix, designed to collect, store, and infiltrate stormwater runoff. The invert of a bioretention facility is the bottom of the engineered soil matrix.

**BOARD.** The Marion County Board of County Commissioners.

**BOAT YARD.** A lot, tract, or parcel where facilities for the construction, reconstruction, major repair, maintenance, or sale of boats, marine engines, equipment, and services of all kinds are provided including marine railways, lifting, or launching services and marinas.

**BOTTLE CLUB.** A commercial premises to which any alcoholic beverage is brought for consumption on the premises.

**BREAKAWAY WALL.** A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

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**BUFFER.** An area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, buffer walls, buffer fences, or berms, designed to limit continuously the view of or sound from the site to adjacent sites, properties, or water bodies.

**BUFFER FENCE.** A permanent opaque vertical structure providing a barrier with a finished height of six feet measured from the adjacent grade or at a height as required otherwise.

**BUFFER WALL.** A permanent opaque vertical structure with concrete components including, but not limited to pillars, panels, block or brick, used within a buffer meeting the requirements of the Florida Building Code, and providing a barrier (whether for sound, wind, or, views) with a finished height of six feet measured from the adjacent grade or at a height as required otherwise.

**BUILDABLE AREA.** As it relates to hamlets, Rural Village District, and Rural Town, the remaining land area eligible for development purposes once areas of open space and open water are subtracted from the gross development lot/parcel/site.

**BUILDING.** Any structure designed for the habitation of persons or animals or for shelter of property.

**BUILDING PERMIT.** A permit issued by Marion County pursuant to the provisions of Article 2 of the Marion County Code of Ordinances, consistent with the provisions of the Florida Building Code as established by the State of Florida.

**BUILDING SIGN.** A sign displayed upon or attached to any part of the exterior of a building, including walls, windows, doors, parapets, marquees, and roof slopes of 45 degrees or steeper.

**BUSINESS OR PROFESSIONAL OFFICE.** A space within a building where commercial service activity is primarily conducted which may involve the sale of goods or commodities purely incidental to business services provided.

**CAMOUFLAGED ANTENNA AND/OR TOWER.** A wireless communication antenna and/or tower designed to unobtrusively blend into the existing surroundings and be disguised to not have the appearance of a wireless communication antenna and/or tower. Camouflaged antennas and/or towers on buildings must be disguised to appear as an accessory structure or feature that is normally associated with the principal use occupying the property. Camouflaged antennas and/or towers must be disguised to blend in with other facilities on the property or existing vegetation, such as a tower constructed in the form and shape of a tree to be part of a forested area, or an antenna and/or tower constructed to be a component of a bell, clock, or water tower on sites with compatible buildings, or a component of a church steeple on sites with churches. Surface finish, paint and/or markings alone are insufficient to qualify for a determination as a camouflaged antenna and/or tower.

**CAPACITY.** Supply of public facility:

- A. Available - capacity of public facility after subtracting demand and reserved capacity.
- B. Design - capacity that public facility was designed for.
- C. Programmed - capacity to be added to public facility by improvement.
- D. Reserved - capacity that has been reserved for a specific development project.

**CAPACITY RESERVATION FEE.** Fee required which reserves facility capacity. Fee is credited towards applicable impact fees.

**CAPITAL IMPROVEMENT.** A physical asset constructed or purchased to provide, increase the capacity of, or replace a public facility.

**CARPOR.** A garage not completely enclosed by walls and doors.

**CENTRALIZED SYSTEM.** A water withdrawal, treatment, and distribution system (including fire hydrants) or a wastewater collection, treatment, and dispersal system that serves the needs of one or more residential or non-residential development projects. Centralized systems are generally owned, operated, and maintained by Marion County, a city, or a Public Service Commission-certificated entity. Types of facilities and systems not

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covered by the foregoing general definition are found in § 367.022 FS.

**CHANGE OF USE.** A discontinuance of an existing use and the substitution of a use of a different kind or class.

**CLEAN DEBRIS.** Any solid waste material that is virtually inert, that is not a pollution threat to ground or surface waters, that is not a fire hazard, and that is likely to retain its chemical and physical structure under expected conditions of disposal or use. The term includes earth, brick, glass, ceramics, and uncontaminated concrete including embedded pipe or steel, and other wastes designated by the FDEP.

**CLEAN FILL.** Granular soil free of roots, other vegetative material, and debris typically represented by an AASHTO Soil Classification A-3. Other AASHTO soil classifications may satisfy a requirement for "clean fill" if they meet industry specifications for various fill operations as accepted by FDOT or the Florida Building Code.

**CLEARING.** The uprooting or removal of vegetation in connection with development. This term does not include yard maintenance operations or other such routine property clean-up activities.

**CLOSED BASIN.** An internally drained watershed in which the runoff does not have a surface outfall up to and including the 100-year flood elevation.

**CLUSTER DEVELOPMENT.** A development design technique that concentrates buildings and infrastructure in specific areas on a site to allow the remaining land to be used for open space, preservation of environmentally sensitive areas, or agriculture.

**CLUSTERING.** The grouping together of principal structures and infrastructure on a portion or portions of a development site.

**COLLOCATION.** As it relates to antennas, the process of locating two or more antennas on an existing or proposed tower or antenna support structure.

**COMMERCIAL VEHICLE.** Any vehicle designed or used for the transport of people, livestock, goods, or things. This does not include private passenger vehicles and/or trailers used for private nonprofit transport of goods.

**COMMERCIALLY DEVELOPED PARCEL.** A parcel of property on which there is at least one walled and roofed structure used, or designed to be used, for purposes other than residential or agricultural.

**COMMUNITY CENTER.** A building designed and used as a meeting or recreation area to accommodate and serve the community in which it is located.

**COMMUNITY RESIDENTIAL HOMES.** Group homes or adult foster care facilities in which no more than 14 persons excluding staff reside and where program size and content is structured to meet the individual needs of the residents in these homes.

**COMPLETELY ENCLOSED BUILDING.** A building having a complete, permanent roof and continuous walls on all sides, either party walls or exterior walls, including windows and doors.

**COMPREHENSIVE PLAN.** The Marion County Comprehensive Plan as adopted by the Board pursuant to Ch. 163 FS.

**CONCENTRATED ANIMAL FEEDING OPERATION.** As defined in § 62-670.200 FAC.

**CONCURRENCY MANAGEMENT SYSTEM.** The policies, procedures, standards, and criteria that Marion County will utilize to assure that development orders and permits are not issued unless the necessary facilities and services are available concurrent with the impacts of development.

**CONSERVATION EASEMENT:** An easement established under § 704.06 FS, as amended, creating a right or interest in the real property in favor of the entity named in the easement.

**CONSTRUCTION AND DEMOLITION DEBRIS (C&DD) DISPOSAL FACILITY.** A facility for the disposal of "construction and demolition debris," as that term is defined in § 403.703(6) FS; also referred to as Construction and Demolition (C&D) Landfill.

**CONSTRUCTION, EXISTING.** As it relates to flood plain management, structures for which the "start of construction" commenced before January 19, 1983. This term may also be referred to as "existing structures."

**CONSTRUCTION, NEW.** As it relates to flood plain management, any structure for which the "start of

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construction" commenced on or after January 19, 1983. The term also includes any subsequent improvements to such structures.

**CONSTRUCTION PERMIT.** The permit issued by the Office of the County Engineer for construction of all required improvements including construction in private and public rights-of-way.

**CONTIGUOUS PARCELS.** Those parcels of land with at least one common property line.

**CONTINUING IN GOOD FAITH.** As it relates to vested rights, shall mean the final local development order for a project has been issued and has not expired, and no period of 180 consecutive days, or a previously approved time frame as agreed to by the County, has passed without the occurrence of development activity which significantly moves the proposed development toward completion; unless the developer establishes that such 180 day lapse or previously approved time frame lapse in development activity was due to factors beyond the developer's control; or unless development activity authorized by a final local development order has been substantially completed on a significant portion of the development subject to said final development order and has significantly moved the entire development toward completion.

**CONTRACTOR.** The person, firm, or corporation with whom the contract for work has been made by the owner, the developer, or the County in accordance with any applicable State laws.

**COVENANTS, CONDITIONS AND RESTRICTIONS (CCR).** Declaration of Covenants, Conditions and Restrictions, recorded in the public records for a development project.

**CONVENIENCE STORE.** Any retail establishment offering for sale food products, household, and sundry items, beverages, gasoline, and other similar goods, but not including sales of prescription drugs, alcoholic beverages for on-premises consumption, or any form of used merchandise sales, personal services, repair services, or any outdoor sales, service, storage, or display other than approved accessory gasoline pumps.

**COPY.** As it relates to signs, the linguistic or graphic content of a sign.

**COUNTY.** The government of Marion County as a political subdivision of the State of Florida; or the physical jurisdictional limits of Marion County as those boundaries described in § 7.42 FS.

**COUNTY ENGINEER.** The professional engineer retained by the Board of County Commissioners in the capacity of administering the Office of the County Engineer. The County Engineer may appoint designees to specific management and operation functions as appropriate .

**CROSS-CONNECTION.** Any physical arrangement whereby a Public Potable Water System is connected directly or indirectly with any other water supply system, sewer, drain, conduit, pool, storage reservoir (other than for storage of Potable Water by a Utility), plumbing fixture, or other device which contains or may contain contaminated water, wastewater or other waste, or liquid of unknown or unsafe quality which may be capable of imparting contamination to the Public Potable Water System as the result of Backflow. By-pass arrangements, jumper connections, removable sections, swivel or changeable devices, and other temporary or permanent devices through which or because of which Backflow could occur are considered to be Cross-Connections.

**CROSS CONNECTION CONTROL COORDINATOR (CCC).** Utility Department Employee who is responsible for implementation of cross connection control directives.

**DECENTRALIZED SYSTEM.** A water withdrawal, treatment, and distribution system (including fire hydrants) or wastewater collection, treatment and dispersal system that is designed to serve the needs of a single residential development project or non-residential development project. Decentralized systems are, further: (1) usually located within the boundaries of the development project; (2) not typically owned, operated, and maintained by Marion County, a city, CDD, or Public Service Commission-certificated entity; and (3) considered as temporary facilities until a centralized system is available to serve the development project.

**DEDICATION.** An act of conveyance and acceptance of an interest in or use of property to a public or private entity. See Sections 177.031(6), (16); 177.081; and 177.085, Fla. Stat. (2012), for statutory requirements related to dedications. Mortgagees are required to join in dedications.

**DEMAND.** Quantifiable use of a public facility. See Capacity.

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**DEVELOPABLE AREA.** The portion of a project area that lies outside sovereign submerged lands.

**DEVELOPER.** The person, firm, entity, or corporation engaged in developing or improving real estate for use or occupancy.

**DEVELOPMENT.** All structures and other modifications of the natural landscape above or below ground or water, on a particular site including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of materials or equipment. As it relates to vested rights, shall mean the particular development activity authorized by unexpired final local development order issued for a specific project is continuing in good faith. Also see § 163.3164(14) FS, § 163.3221(4) FS, and § 380.04 FS.

**DEVELOPMENT AGREEMENT.** An agreement between Marion County and additional parties specifying requirements of the parties in relation to a development application. Development Agreements are authorized by the "Florida Local Government Development Agreement Act," §§ 163.3220-163.3243 FS and are subject to the applicable provisions of those sections.

**DEVELOPMENT AREA.** See project area.

**DEVELOPMENT ORDER.** An official action granting, granting with conditions, or denying an application for a development permit consistent with this Code, § 163.3164 FS and Ch. 380 FS.

**DIAMETER AT BREAST HEIGHT (DBH).** The diameter of a tree trunk measured at 4.5 feet above adjacent grade elevation.

**DIVIDER MEDIAN.** A continual landscaped island located between lineal rows of parking which face head-to-head.

**DOMESTIC WASTEWATER RESIDUALS.** A domestic wastewater treatment by-product resulting from the biological treatment process and which is disposed of by application for agricultural or land reclamation purposes. Domestic wastewater residuals shall have the same meaning as "biosolids," as defined in rule § 62-640.200 FAC.

**DOUBLE CHECK VALVE ASSEMBLY.** A backflow prevention assembly which includes two internally loaded, independently operating spring loaded check valves, which are installed as a unit between two tightly closing resilient-seated shutoff valves and fittings with properly located test cocks.

**DRAFT HYDRANTS.** Draft hydrants are standard fire hydrants but are supplied by a static water source. Normally these hydrants are not supplemented by a fire pump and rely on a fire department engine to draft from the source. These draft hydrants have little to no pressure and function similar to a dry hydrant tank.

**DRAINAGE DETENTION AREA (DDA).** See water detention area.

**DRAINAGE RETENTION AREA (DRA).** See water retention area.

**DRIPLINE.** An imaginary line on the ground defined by vertical lines extending from the outermost tips of tree to the ground or the area within a radius of one foot for each one inch DBH of the tree, whichever is greater.

**DRIVEWAY APRON.** That portion of a driveway lying between the street right-of-way line and the edge of the travel lane of the street.

**DROUGHT TOLERANT VEGETATION.** Plants which have the ability to survive without supplemental irrigation through periods of drought characteristic of the north-central Florida region, excluding invasive plant species.

**DRYLINE PERMIT.** A construction permit for sewer lines issued with certain special conditions applied.

**DUCTILE IRON PIPE RESEARCH ASSOCIATION (DIPRA).** Any reference to DIPRA Standards shall be taken to mean the most recently published revision unless otherwise specified.

**DUDE RANCH.** A vacation resort offering activities typical of western ranches such as horseback riding.

**DUE PUBLIC NOTICE.** Publication of notice of the date, time, and place of a required public hearing; the title or titles of proposed ordinances, and the place within the County where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the public hearing and be heard with respect to the proposed ordinance. Publication of notice shall be given at least ten days



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prior to said public hearing in a newspaper of general circulation in the County. Due public notice for public hearings of the Planning and Zoning Commission and the Board for land use permits shall include mailed written notice to all owners of property, within 300 feet of the boundaries of the property subject to the land use change, whose address is known by reference to the latest ad valorem tax records and to all parties of interest who timely request such notice in writing to the Growth Services Director or designee. The mailed notice shall include a brief explanation of the land use permit request and a location map identifying the property under consideration and shall notify the person of the time, date and location of all public hearings. Notices shall also be posted in a conspicuous place or places on or around such lots, parcels, or tracts of lands requesting the land use change. Affidavit proof of the required publication, mailing and posting of the notice shall be presented at the hearing by the Growth Services Director, or designee, to the Clerk of the Court. For land use changes initiated by the County, and for ordinances that change the actual lists of permitted, conditional or prohibited uses within a zoning category, the provisions of §125.66(4) FS shall apply.

**DWELLING UNIT.** Any structure or portion thereof which is designed for or used for residential purposes as a self-sufficient or individual unit by one family or other social association of persons.

**ELECTRIC SUBSTATION.** An electric substation which takes electricity from the transmission grid and converts it to a lower voltage so it can be distributed to customers in the local area on the local distribution grid through one or more distribution lines less than 69 kilovolts in size.

**ELEVATED BUILDING.** A non-basement building built to have the lowest floor elevated above the ground level by foundation walls, posts, piers, columns, pilings, or shear walls.

**ELEVATION.** The vertical height or heights relative to a defined datum.

**EMPHASIS.** As it relates to the adult entertainment business, "emphasis" or "emphasis on" means that the type of matter specified is the apparent matter upon which the particular work or exhibition is based, or that the matter specified is a substantial portion of such work or exhibition.

**ENCROACHMENT.** As it relates to the Flood Plain Overlay Zone, the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a flood plain, which may impede or alter the flow capacity of a flood plain.

**ENVIRONMENTALLY SENSITIVE LANDS.** Lands or areas which include environmental or other natural features and/or characteristics as identified by Comprehensive Plan Conservation Element Policy 1.1.1.

**EQUINE CENTER.** A facility identified and designated by the Board as a unique and specialized destination for regional, state, and national equine interests and activities that further the County's equine identity as "The Horse Capital of the World."

**EQUIVALENT RESIDENTIAL CONNECTION (ERC).** A unit of measurement representing capacity demand of 300 gallons per day for wastewater or 350 gallons per day for water.

**ERECT A SIGN.** To construct, reconstruct, build, relocate, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish a sign. It shall not include any of the foregoing activities when performed as an incident to a change of message or routine maintenance.

**ESTABLISHED CHURCH.** Established place of meeting or worship at which non-profit religious services are regularly conducted and carried on.

**EXCEPTION.** As it relates to vested rights, shall mean an exception to the densities required in the Future Land Use Element for parcels of record as of January 1, 1992 for the construction of one residential unit. Exceptions apply to density only and do not exempt parcels from any other requirement of the Comprehensive Plan.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**EXTRACTION OR RESOURCE EXTRACTION.** The removal of resources from their location so as to make them suitable for commercial, industrial, or construction use, but does not include excavation solely in aid of on-site

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farming or on-site construction, nor the process of searching, prospecting, exploring, or investigating for resources by drilling.

**FAILING.** As defined in § 64E-6.002 FAC and periodically amended: a condition existing within an onsite sewage treatment and disposal system which prohibits the system from functioning in a sanitary manner and which results in the discharge of untreated or partially treated wastewater onto ground surface, into surface water, into ground water, or which results in the failure of building plumbing to discharge properly.

**FAMILY.** One or more persons occupying the whole or part of a dwelling unit and living as a single, housekeeping unit provided that a group of four or more persons who are not within the second degree of kinship shall not be deemed to constitute a family, except as set forth in Title VIII of the Civil Rights Act of 1968 and as subsequently amended by the Fair Housing Amendments Act of 1988.

**FAMILY/GUEST COTTAGE/APARTMENT.** A small detached dwelling unit for use by immediate family members or guests which is an accessory use to a single-family dwelling. The cottage may be a removable, modular structure, or a conventionally constructed structure, and shall be compatible with the existing dwelling. It shall be designed as an independent living unit smaller than the primary structure.

**FEEDLOT.** A confined area or structure, pen or corral, used to fatten livestock for a period of at least 30 days prior to final shipment.

**FENCE.** A vertical structure used to provide a physical division between areas.

**FIRE LINE.** Piping from the water main to point of delivery exclusively providing fire protection.

**FISH HATCHERY.** Establishments primarily engaged in hatching fish, not including fish or farm ponds.

**FLAG LOT.** A parcel of land shaped like a flag with a narrow strip providing access; the bulk of the property contains no frontage.

### **FLOOD OR FLOODING.**

- A. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (1) The overflow of inland or tidal waters.
  - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
  - (3) Mudslides (i.e., mudflows) which are proximately caused by flooding as the unusual and rapid accumulation or runoff of surface waters from any source and are akin to a river of liquid and flowing mud on the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- B. The collapse or subsidence of land along a shore of a lake or other body of water as the result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge or by some similarly unusual and unforeseeable event which results in flooding from the overflow of inland or tidal waters.

**FLOOD INSURANCE RATE MAP (FIRM).** An official map of the community, issued by FEMA, which delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY (FIS).** The official hydraulic & hydrologic report provided by FEMA. The study contains an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and other flood-related erosion hazards. The study may also contain flood profiles, as well as the FIRM, FHBM (where applicable), and other related data and information.

**FLOOD PLAIN ADMINISTRATOR.** The individual duly appointed to administer and enforce the flood plain management regulations of the community.

**FLOOD PLAIN ELEVATIONS.** The elevations established along waterbodies and in closed drainage basins which

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represent the hydraulic gradients for the predicted 25 Year and 100 Year Flood Plains. The 100 Year flood plain is shown on the adopted Marion County Flood Insurance Rate Maps. The elevations may be established by the Flood Plain Administrator or designee; by a Florida Licensed Surveyor and Mapper and approved by the Flood Plain Administrator or along the Rainbow River as established by Southwest Florida Water Management District Profiles dated July 13, 1973.

**FLOOD PLAIN MANAGEMENT.** The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the flood plain, including but not limited to emergency preparedness plans, flood control works, flood plain management regulations, and open space plans.

**FLOOD PLAIN MANAGEMENT REGULATIONS.** This term describes Federal, State of Florida, or local regulations in any combination thereof and other applications of police power which control development in flood-prone areas, which provide standards for preventing and reducing flood loss and damage.

**FLOODPROOFING.** Any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**FLOODWAY FRINGE.** That area of the flood plain on either side of the regulatory floodway where encroachment may be permitted without additional hydraulic and/or hydrologic analysis.

**FLOOR AREA.** Area of all floors of buildings or structures, measured to the outside of the exterior walls.

**FLOOR AREA RATIO (FAR).** The gross floor area of all buildings or structures on a lot divided by the total lot area.

**FOOD SERVICE FACILITIES.** Any commercial facility that generates wastewater through the processing and preparation of food, including restaurants and other commercial facility where food is processed or prepared. It does not include facilities that only sell pre-processed or pre-packaged foods.

**FREEBOARD.** The additional height, usually expressed as a factor of safety in feet, above a flood level for purposes of flood plain management. Freeboard tends to compensate for many unknown factors, such as wave action, bridge openings and hydrological effect of urbanization of the watershed that could contribute to flood heights greater than the height calculated for a selected frequency flood and floodway conditions.

**FRONT BUILDING LINE.** A line measured between side lot lines no closer than the front setback and equal to the minimum lot width.

**FUNCTIONALLY DEPENDENT USE.** As it relates to the flood plain overlay zone, a use that cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

**GREEN SPACE.** A parcel or area of land which is developed, planted, and maintained with trees, shrubs, groundcovers or turfgrass or a combination thereof, and is reserved for a yard area, landscape area, public or private park or recreation area, drainage retention areas and other similar areas.

**GROUND SIGN.** A sign that is supported by one or more columns, upright poles, or braces extended from the ground or from an object on the ground, or that is erected on the ground, where no part of the sign is attached to any part of a building.

**GROWTH SERVICES DIRECTOR.** Growth Services Director or his designee.

**HARDSHIP.** As it relates to flood plain management and variances to the flood plain overlay zone, the exceptional hardship associated with the land that would result from a failure to grant the requested variance. The community requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical

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handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

**HAZARD.** A cross-connection or potential cross-connection which involves an actual or potential threat to the quality and/or potability of the water supplied by a public potable water system. The degree of hazard associated with any private water system shall be determined from an evaluation of the conditions existing within that system.

**HEALTH HAZARD.** A hazard involving any substance that could, if introduced into the public potable water system, cause death or illness, spread disease, or have a high probability of causing such effects.

**HEAVY MACHINERY OR EQUIPMENT.** Machinery used primarily by the construction, mining, well drilling, oil and gas industries and including overhead traveling cranes, hoists, and monorail systems for installation in factories, warehouses, marinas, and other industrial and commercial establishments.

**HEIGHT OF BUILDING.** The vertical distance from the established grade at the center of the front of the building to the highest point of the roof surface for a flat roof, to the deck line for a mansard roof and the height of the ridge for gable, hip, and gambrel roofs.

**HIGH VOLUME IRRIGATION.** An irrigation system (or zone) which utilizes heads or emitters with application rates higher than 0.5 gpm.

**HIGHEST ADJACENT GRADE.** The highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

**HISTORIC STRUCTURE.** Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on the Florida Division of Historical Resources, Master Site File; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) By a program approved by the Florida Division of Historical Resources, or
  - (2) Directly by the Secretary of the Interior.

**HOME OCCUPATION.** Any business or commercial activity that is:

- A. Conducted within a single family dwelling unit in a residential zoning classification and is incidental to the principal residential use of the premises, or
- B. Conducted on the same tract with the principal structure in an agricultural zoning classification, and
- C. Which is a permitted use within the agricultural zoning classification and conducted without significantly adverse impact on the surrounding area.

**HORIZONTAL DATUM.** An accepted current coordinate system used to describe a point on the earth's surface pre-approved by the Office of the County Engineer.

**HOUSE OF WORSHIP.** A structure whose principal use is public assembly for worship and teaching of religious concepts.

**HOUSEHOLD PET.** All animals which are normally considered as household pets and which can be maintained and cared for within the living space of a residence or outside the residence. Such animals may include but are not limited to dogs, cats, small reptiles, small rodents, fish, small birds such as parrots and parakeets, and

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other similar animals.

**ILLUMINATED SIGN.** A sign which contains a source of light or which is designed or arranged to reflect light from an artificial source including indirect lighting, neon, incandescent lights and backlighting.

**IMPERVIOUS SURFACES.** Those surfaces which do not absorb water including but not limited to, buildings, paved parking areas, driveways, roads, sidewalks, patios and any areas covered by brick, concrete, concrete pavers, or asphalt paving materials.

**INDUSTRIAL/COMMERCIAL PARK.** A tract of land that is planned, developed, and operated as an integrated facility for a number of individual industrial or commercial or mixed uses.

**INFRASTRUCTURE.** Facilities and services needed to sustain residential, commercial, and industrial activities. Infrastructure includes, but is not limited to, water and sewer, streets, street signage, drainage, parks and open space, and other public facilities.

**INSTITUTIONAL USE.** A nonprofit, religious, or public use, such as a church, library, public or private school, hospital, community home, convalescent home, adult congregate living facility, or government owned or operated building, structure, or land used for public purpose or benefit.

**INTENSIVE RECREATIONAL AREAS.** Sites which provide location for uses such as football, baseball, softball, soccer, and golf courses excluding such areas as secondary and tertiary roughs and out-of-bound areas. Only such sports related fields shall fit this definition while common areas and open spaces between such fields shall not be exempt from irrigation design standards or watering restrictions.

**IRRIGATION.** The application of water by man-made means to plant material and turfgrass.

**JUNK.** Used and discarded machinery, scrap, iron, steel, other ferrous and non-ferrous metals, inoperative vehicles, tools, implements or portions thereof, glass, plastic, cordage, building materials, or other waste.

**JUNK YARD.** A parcel of land on which junk is collected, stored, salvaged or sold, including automobile recycling facilities.

**KARST FEATURE.** A landform that has been modified by dissolution of soluble rock, including limestone or dolostone. These include springs, spring runs, sinkholes, solution pipes, swallets and swallow holes. A directly or indirectly connected karst feature is one where no confining layer of sediment exists to prevent runoff from directly or indirectly entering the Floridan Aquifer system.

**KENNEL.** Any place or premises where four or more dogs or cats, over four months of age are groomed, bred, raised, boarded, or trained for compensation or income.

**LANDSCAPABLE AREA.** The entire parcel less the building footprint, natural water features, surfaced and un-surfaced driveways and parking areas, road rights-of way, hardscapes such as decks and patios, and other non-planted areas. Landscapable area excludes golf course play areas, other intensive recreation areas (e.g. soccer fields, ball diamonds, etc.) and any part of a constructed stormwater management system that has a design stage or storage depth three feet or greater.

**LANDSCAPE ARCHITECT.** The County's Landscape Architect or his designee.

**LANDSCAPE ISLAND.** A raised area, usually curbed, placed to guide traffic and separate lanes, and used for landscaping, signage, or lighting.

**LEASABLE/INTERIOR AREA.** The area of open floor space within a structure's exterior walls and excluding the interior walls.

**LEVEL OF SERVICE.** An indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of the facility. Level of service indicates the capacity per unit of demand for each public facility.

**LEVEL OF SERVICE STANDARD.** The level of service a facility is not to exceed as established in the Comprehensive Plan.

**LISTED SPECIES.** Those species identified by the USFWS and/or FWC as endangered, threatened, or special concern.

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**LIVESTOCK.** Includes, but is not limited to, all animals of the equine, ratite, bovine, or swine class, including goats, sheep, mules, horses, llamas, alpacas, hogs, cattle, poultry, emus, ostriches, and other grazing animals. The term livestock shall specifically exclude specialty animals.

**LOCALLY SIGNIFICANT NATURAL RESOURCES.** Lands or areas which include environmentally sensitive lands or other features and/or characteristics as identified by Comprehensive Plan Conservation Element Policy 1.1.2.

**LOT.** A designated parcel, tract, or area of land established by a plat or otherwise as permitted by law and to be used, developed, or built upon as a unit.

**LOT AREA.** The size of a lot measured within the lot lines and expressed in terms of acres or square feet.

**LOT DEPTH.** The dimension from the center of the front of the lot to the center of the rear of the lot.

**LOT LINE.** The boundary line of a lot.

- A. LOT LINE, FRONT. The line abutting the street right-of-way or point of access which for corner lots shall be determined by the property owner.
- B. LOT LINE, REAR. The lot line opposite to and most closely paralleling the front lot line.
- C. LOT LINE, SIDE. Any lot line other than a front or rear lot line.

**LOT WIDTH.** The horizontal distance between the side lot lines measured at the front property line. For lots located on a curve, it shall be the chord distance of the curve at the front property line.

**LOW VOLUME IRRIGATION.** Irrigation by a system which utilizes devices that irrigate at rates of 0.5 gpm or less, allowing water to be placed with a high degree of efficiency at the root zone of each plant.

**LOWEST ADJACENT GRADE.** The lowest elevation, after the completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

**LOWEST FLOOR.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than basement area, is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the non-elevation design requirements of the Flood Plain Overlay Zone in Article 5.

**MANUFACTURED BUILDING.** A structure bearing a seal issued by the Florida Department of Community Affairs certifying that it is built in compliance with the requirements of the Florida Manufactured Building Act of 1979.

**MANUFACTURED HOME.** A structure bearing a label certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards (24 CFR 3280) HUD Code.

**MANUFACTURED HOME/MOBILE HOME PARK OR SUBDIVISION.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING.** As it relates to the Flood Plain Overlay Zone, a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before January 19, 1983.

**MANUFACTURED HOME PARK OR SUBDIVISION, NEW.** As it relates to the Flood Plain Overlay Zone, a manufactured home park, or subdivision, for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) and was completed on or after January 19, 1983.

**MANUFACTURING.** A commercial or industrial activity involved in the research, development, assembly, production, testing, or processing of goods, materials, components, devices, equipment, or systems.

**MARINA.** A premises located adjacent to water bodies, canals, or water ways providing wet or dry storage and all accessory facilities.

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**MARION-FRIENDLY LANDSCAPING.** The use of plants (and non-plant materials such as mulch) and landscape designs and practices that are compatible with the natural environment and climate of Marion County. Marion-Friendly Landscaping minimizes the use of turfgrass that is irrigated and fertilized, and maximizes the use of plants that tolerate sandy soils and drought conditions characteristic of north-central Florida.

**MARION-FRIENDLY LANDSCAPING AREA (MFLA).** That portion of a new or expanded development that through the approved development plans, documents, and deed restrictions, is identified to be maintained as Marion-Friendly Landscaping and where the use of high volume irrigation, non-drought tolerant plants, and lawn chemicals (fertilizers and pesticides) on turfgrass is prohibited.

**MARKET VALUE.** As it relates to Flood Plain Overlay Zone, the building value, which is the property value excluding the land value and that of the detached accessory structures and other improvements on site (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by an independent certified appraisal (other than a limited or curbside appraisal, or one based on income approach), actual cash value (replacement cost depreciated for age and quality of construction of building), or adjusted tax-assessed values.

**MARQUEE.** A structure projecting from and supported by a building which extends beyond the building line or property line and fully or partially covers a sidewalk, public entrance, or other pedestrian way.

**MCUD DIRECTOR.** Marion County Utilities Department Director, or his designee.

**MINI-WAREHOUSE (SELF-SERVICE STORAGE FACILITY).** A building, or group of buildings, consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods or contractors supplies.

**MOBILE HOME.** A transportable structure designed to be:

- A. Used as a year-round residential dwelling, built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards, which became effective for all manufactured home construction on June 15, 1976, and
- B. Any vehicle without independent motive power which is designed for housing accommodations and transportation over the highways on a chassis under carriage, which is an integral part thereof, but does not include travel trailers or recreational units as defined by § 320.01 FS. This definition shall include any unit which meets the criteria above and is certified by the Department of Safety and Motor Vehicles as meeting requirements of as defined in Ch. 320 FS.

**MODEL HOME.** A single-family dwelling unit, or units, used by a home builder to illustrate the features available to a potential purchaser of a dwelling unit when constructed on a different lot, parcel, or tract.

**MODEL HOME SALES LOT OR MODEL HOME COMPLEX.** Model homes designed in a cluster to create a sales facility.

**MODIFY.** Regarding towers, modify shall include all structural changes to a tower other than routine maintenance, including, without limitation, structural modifications, rebuilding, or relocating on the same parcel. Modify does not include adding additional or different antennas, or deleting or removing antennas.

**MONOPOLE TOWER.** A tower consisting of a single pole, or spine, self supported by a permanent foundation, and constructed without guy wires and ground anchors.

**MULTI-FAMILY.** Any residential development project that consists of more than two dwelling units per building, or eight dwelling units or more per gross acre.

**MULTI-DWELLING.** A structure which contains three or more dwelling units.

**MULTIPLE OCCUPANCY COMPLEX.** A commercial occupancy (i.e. any occupancy other than residential or agricultural) consisting of a parcel of property, or parcel of contiguous properties, existing as a unified or coordinated project, with a building or buildings housing more than one occupant, or more than one business under one ownership.

**NATIVE TREE.** A self-supporting woody plant which normally grows to a height of ten feet or more and which is

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classified as native vegetation.

**NATIVE VEGETATION.** Those species occurring within the state boundaries prior to European contact, according to the best available scientific and historical documentation. It includes those species understood as indigenous, occurring in natural associations and habitats that exist prior to significant human impacts.

**NATURAL AREA.** Undeveloped lands considered to be in, or maintained in, an undisturbed or unmodified condition which provide habitat or natural open space.

**NIGHTCLUB.** A bar or similar establishment providing food, refreshments, or alcoholic beverages wherein dancing is permitted or paid entertainment is provided.

**NONCONFORMING LOT.** A lot of record which does not conform to the current minimum requirements for a lot in the zoning classification in which it is located.

**NONCONFORMING STRUCTURE.** A building or structure which does not conform to the current minimum requirements for such structure in the zoning classification in which it is located.

**NONCONFORMING USE.** A use which is not a permitted use, or special use, in a current zoning classification.

**NON-CONTIGUOUS PARCELS.** Those parcels that do not have any common property lines, or which are separated by platted or unplatted roads, streets, or alleys which have been dedicated for public use, or prescriptive easements for road right-of-way purposes.

**NORTH AMERICAN VERTICAL DATUM (NAVD) OF 1988.** The vertical control datum of orthometric height established for vertical control surveying in the United States of America based upon the General Adjustment of the North American Datum of 1988.

**OCCUPANT (OCCUPANCY).** One who has certain legal rights to or control over the premises he occupies; the state of being an occupant.

**OFF-SITE SIGN.** A sign that identifies or communicates a commercial or non-commercial message related to an activity conducted, or service rendered, or a commodity sold at a location or on a parcel other than where the sign is located.

**ON-SITE SIGN.** A sign that identifies or communicates a commercial or non-commercial message related to an activity conducted, service rendered, or a commodity sold, at the location where the sign is installed.

**ON-SITE SEWAGE TREATMENT AND DISPOSAL SYSTEM (OSTDS).** Also referred to as a septic system.

**OPEN BASIN.** All watersheds not meeting the definition for Closed Basin.

**OPEN SPACE.** Land area restricted or not developed depending on its designation as natural open space or improved open space consistent with the provisions of Section 6.6.6.

**ORDINARY HIGH WATER LINE (OHWL).** The highest reach of a navigable, nontidal waterbody as it usually exists when in its ordinary condition and is not the highest reach of such waterbody during the high water season or in times of freshets. The term also includes the terms "ordinary high-water line" and "line of ordinary high water."

**OUTSIDE STORAGE.** The storage or display, outside of a completely enclosed building, of merchandise offered for sale or rent as a permitted use or of equipment, machinery, and materials used in the ordinary course of a permitted use.

**OWNER.** The person, firm, corporation, or governmental unit holding title of the real estate upon which construction is to take place.

**PACKAGE STORE.** A premises in which alcoholic beverages are sold for off-premises consumption.

**PARCEL.** A continuous quantity of land in the possession of or owned by, or recorded as the property of the same person or persons. A parcel may consist of contiguous platted lots.

**PARCEL OF RECORD.** A designated parcel, tract, or area of land established by plat, metes and bounds description, or otherwise permitted by law, to be used, developed or built upon as a unit, which complies with the applicable building codes and zoning regulations, and which existed on or before January 1, 1992, and



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under one ownership as of August 11, 1993.

**PARK.** Land which is used for active or passive recreational purposes, whether dedicated public or private.

**PARK MODEL.** A transportable unit which has a body width not exceeding 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures or appliances or; a park trailer constructed to ANSI A-119.5 standards which does not exceed 400 square feet gross floor area or; a park trailer constructed to U.S. Department of Housing and Urban Development Standards which does not exceed 500 square feet gross floor area.

**PARKING AREA.** An open area, other than a street or other public way, used for the parking of motor vehicles.

**PARKING LANE.** A lane located on the side of a street, designed to provide on-street parking of a motor vehicle.

**PARKING SPACE.** An area provided for the parking of a motor vehicle.

**PASSIVE RECREATION.** Those recreational activities afforded by such natural resources as the native flora, fauna, and aesthetic appeal of a natural setting and requiring minimal development to utilize and enjoy such resources. These activities include hiking, nature watching, unstructured play, picnicking, horseback riding and bicycle riding.

**PERMEABILITY.** The capacity of a porous medium for transmitting water.

**PLANNED UNIT DEVELOPMENT (PUD).** A designated contiguous area of property for the comprehensive development of a single use or of mixed uses.

**PLANNING/ZONING MANAGER.** Planning /Zoning Manager or designee.

**PLAT.** A map, or delineated representation of the subdivision of lands, being a complete exact representation of the subdivision and complying with this Code and Ch. 177 FS.

**PLAYGROUND.** Properties and facilities owned and operated by any governmental agency, or owned and operated by any private agency, including day care centers, which are open for recreational or child care purposes.

**POINT OF CONNECTION.** The outlet side of the meter designated to serve the customer.

**PORTABLE SIGN.** Any sign which is designed to be transported by trailer or on its own wheels, including such signs whose wheels have been removed and the remaining chassis or support structure converted to an A- or T- frame sign and anchored temporarily to the ground.

**POTABLE WATER.** Water that is suitable for human consumption.

**POTENTIOMETRIC SURFACE (POTENTIOMETRIC HEAD).** The level to which water would rise in a tightly cased well penetrating an aquifer. The water table and artesian pressure surfaces are particular potentiometric surfaces.

**PRESSURE VACUUM BREAKER ASSEMBLY:** A backflow prevention assembly which includes an independently operating, internally loaded check valve; an independently operating, loaded air inlet valve located on the discharge side of the check valve; and properly located test cocks and tightly closing resilient-seated shut-off valves attached at each end of the Assembly. This assembly shall not be used if back pressure could develop in the downstream piping.

**PRINCIPAL STRUCTURE.** A structure on a lot or parcel which is used, arranged, adapted or designed for the predominant or primary use for which the lot or parcel is or may be used.

**PRINCIPAL USE.** The primary or predominant use of a lot, parcel, structure, or structure and land in combination.

**PRIVATE CLUB.** A premises used for meetings or activities of persons in which use is restricted to members and guests.

**PRIVATE PERFORMANCE.** As it relates to the adult entertainment business, modeling, posing or the display or exposure of any specified anatomical area by an employee or independent contractor using the premises

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under a contract or lease, of an adult entertainment establishment to a person other than an employee while the person is in an area within the establishment not accessible during such display to all other persons in the establishment, or while the person is in an area in which the person is totally or partially screened or partitioned during such display from the view of all persons within the establishment.

**PROGRAM DEFICIENCY.** As it relates to the flood plain overlay zone, a defect in the community's flood plain management regulations or administrative procedures that impairs effective implementation of those flood plain management regulations or of the standards required by the National Flood Insurance Program.

**PROHIBITED CONNECTION.** Any connection of an unsafe system to a safe system as deemed by the MCUD.

**PROJECT AREA.** The limits of the land area identified on a plan where project improvements and features are proposed.

**PUBLIC ACCESS REUSE.** The application of reclaimed water to an area that is intended to be accessible to the general public; such as golf courses, cemeteries, parks, landscape areas, hotels, motels, and highway medians. Public access areas include private property that is not open to the public at large, but is intended for frequent use by many persons. Public access areas also include residential dwellings. Presence of authorized farm personnel or other authorized treatment plant, utilities system, or reuse system personnel does not constitute public access. Irrigation of exercise areas and other landscape areas accessible to prisoners at penal institutions shall be considered as irrigation of public access areas.

**PUBLIC AREAS.** Areas such as parks, playgrounds, trails, paths and other recreation areas and open spaces; scenic and historic sites; schools and other properties, buildings and structures which have been or will be conveyed or dedicated to the County or other public body.

**PUBLIC FACILITIES.** Transportation systems or facilities, sewer systems or facilities, solid waste systems or facilities, drainage systems or facilities, potable water systems or facilities, schools, and parks and recreation systems or facilities. This includes privately operated sewer and water systems that are classified as public systems.

**PUBLIC POTABLE WATER SUPPLY SYSTEMS.** Wells, treatment systems, disinfection systems, reservoirs or other storage and high service pumps, pipes, lines, valves, meters, water mains, laterals, and services, used or having the present capacity for future use in connection with the obtaining and supplying of potable water for domestic consumption, fire protection, irrigation, consumption by business, or consumption by industry. Without limiting the generality of the foregoing definition, the system shall embrace all necessary appurtenances and equipment and shall include all property, rights, easements and franchises relative to any such system and deemed necessary or convenient for the operation thereof.

**PUBLIC SAFETY AND NUISANCE.** As it relates to the flood plain overlay zone, anything which is injurious to safety or health of the entire community or a neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

**QUALIFYING NATURAL AREA/COMMUNITY.** Those lands identified by the FDEP and the Florida Natural Areas Inventory (FNAI) produced by FDEP as significant areas which are relatively undisturbed and include flora or fauna that reflect the conditions of the area at the time colonial settlement occurred in Florida and Marion County.

**RAPID-RATE LAND APPLICATION (RRLA).** The use of percolation ponds or rapid infiltration basins (RIBs) or subsurface absorption fields, as described in Ch. 62 FAC.

**RECEIVING AREA.** Lands designated by one or more of Marion County's Transfer of Rights Programs (TRPs) as eligible to receive Transferrable Credits (TDCs) for use in adding residential dwelling units in conjunction with or in addition to other permitted development activity on the designated lands wherein the lands are depicted on Marion County Comprehensive Plan Future Land Use map Series Map 1, *Marion County 2035 Future Land Use Map*, or Map 13, *Transfer of Rights*.

**RECLAIMED WATER.** Water that has received at least advanced secondary treatment and high level

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disinfection. Water receiving additional treatment may be used in public access areas, when in compliance with the FDEP requirements pursuant to § 62-610 FAC.

**RECORDED SUBDIVISION.** A platted subdivision of lands, approved by the Board of County Commissioners, which has a final plat recorded in the public records of Marion County consistent with this Code and Ch. 177 FS.

**RECREATION VEHICLE PARK.** A tract of ground upon which three or more single-family camp cottages, tents or recreational vehicles are located or maintained for accommodation of transients whether or not a charge is made.

**RECREATIONAL FACILITY.** Any public or private structure or facility used for active recreational pursuits, including such facilities as golf courses, tennis courts, racquetball courts, handball courts, baseball fields, soccer fields, football fields, basketball courts, swimming pools, jogging or exercise trails, and similar facilities.

**RECREATIONAL VEHICLE.** Any vehicle-type unit, primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. Said vehicles shall include travel trailer and fifth wheel travel trailer, camping trailer, truck camper, motor home van conversion and the park trailer as defined by USDOT.

**REDUCED-PRESSURE PRINCIPLE ASSEMBLY.** A Backflow Prevention Assembly which includes two independently acting check valves; a hydraulically operating, mechanically independent pressure differential relief valve located both between the check valves and below the first check valve; and properly located test cocks and tightly closing resilient-seated shut-off valves attached at each end of the Assembly.

**REGISTERED DIVISIONS OF LAND.** A map or survey of divisions of land three acres or larger in size, including "flag lots" as that term is commonly known in Marion County, and which was filed and accepted by Marion County prior to January 1, 1992.

**REGULATED USES OR ADULT AND SEXUALLY-ORIENTED BUSINESS.** Uses such as but not limited to adult book store or film store, adult booth, adult cabaret, and adult theater or mini-motion theater or drive-in.

**REGULATORY FLOODWAY.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**REMEDY A DEFICIENCY OR VIOLATION.** As it relates to the flood plain overlay zone, to bring the regulation, procedure, structure or other development into compliance with State of Florida, Federal or local flood plain management regulations; or if this is not possible, to reduce the impacts of its noncompliance. Ways the impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the Flood Plain Overlay Zone in Article 5 or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

**REMODELING.** Any change, partial removal, partial replacement, or addition to buildings.

**RESIDENTIAL DUAL CHECK.** A compact, mechanical Backflow Prevention Device manufactured with two independently acting, spring actuated check valves.

**RESIDENTIAL SERVICE ADDRESS.** A metered residential address whose private water systems serve only residential dwellings the total of which is designed to house no more than four families.

**RESIDENTIAL USES.** One-family dwellings, two-family dwellings, and multi-family dwellings.

**RESIDUALS.** Biosolids from a permitted wastewater treatment or water reuse facility and septage from an OSTDS.

**RETAIL SALES.** Any business activity, and related services, customarily selling goods and commodities for profit.

**RETAINING WALL.** A structure erected between lands of different elevation to protect structures or to prevent the loss of earth from the upper slope level.

**RIVERINE.** Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

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**ROOF LINE.** A horizontal line intersecting the highest point or points of a roof.

**ROOF SIGN.** A sign placed above the roof line of a building or on or against a roof slope of less than 45 degrees as measured from the vertical plane.

**RUNOFF.** The surface flow of stormwater.

**RURAL AREA.** Lands located outside the Urban Growth Boundary (UGB) as designated by the Comprehensive Plan Future Land Use Map Series Map 1 *Marion County 2035 Future Land Use Map* excluding those lands bearing an Urban Area land use designation as specified in Comprehensive Plan Future Land Use Element Appendix A, Table A-1 *Land Use Classifications and Standards*.

**SAFE YIELD.** The average annual amount of groundwater that could be extracted from a groundwater basin (or reservoir) over a long period of time without causing a long term reduction of groundwater quantity, quality, or other undesirable impacts.

**SCHOOL.** A public or private educational institution offering students an academic curriculum, including kindergartens, elementary schools, middle schools, high schools, colleges and universities. Such term shall also include all adjacent properties owned and used by such schools for education, research, maintenance, or recreational purposes.

**SCREEN.** A structure or planting consisting of fencing, walls, berms, trees, or shrubs which provides sight obstruction within or to a site or property.

**SEMICONFINED AQUIFER.** An aquifer that receives recharge in the form of leakage through underlying or overlying semipermeable formations (aquitards).

**SENDING AREA.** Lands designated by one or more of Marion County's Transfer of Rights Programs (TRPs) as eligible to obtain Transferrable Credits (TDCs) which may be transferred or conveyed to a site within a designated Receiving Area where the TDCs may be used for development.

**SETBACK (OR SETBACK LINE).** An area defined by a lot line, street centerline, wetland line, water boundary setback line of an open body of water, or right-of-way line and a line on a lot parallel to, and a specified distance from said lines in which area no structure may be located and into which no part of any structure shall project, unless specifically permitted in this Land Development Code. Setbacks shall be measured from lot lines unless specifically stated otherwise or unless the context in which the term is used implies another intended meaning.

- A. **FRONT SETBACK.** That area defined by the front lot line and a parallel line on the lot a specified distance from such front lot line.
- B. **SIDE SETBACK.** An area located between a front yard setback and a rear yard setback, defined by a side lot line and a parallel line on the lot a specified distance from such side lot line.
- C. **REAR SETBACK.** That area defined by the rear lot line and a parallel line on the lot a specified distance from such rear lot line.

**SIGHT TRIANGLE.** A triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists approaching or at the intersection.

**SIGN.** Any structure, or part thereof, or any device attached to a structure or applied to any surface or object, for visual communication, embodying letters, numerals, symbols, figures, flag, banner, pendant or designs in the nature of an announcement, direction, or advertisement, directing attention to an object, products, place, activity, service, person, institution, organization, or business and which is visible from any public street, alley, waterway, or public place. This definition of a sign shall not include any flag, notice badge, or ensign of any government or governmental agency, or any legal notice posted by and under governmental authority.

**SIGN FACE AREA OR SIGN AREA.** The area of any regular geometric shape which contains the entire surface area of a sign upon which copy may be placed.

**SIGN STRUCTURE.** Any construction used or designed to exclusively support a sign.

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**SINKHOLE.** A landform created by subsidence of soil, sediment or rock as underlying strata are dissolved by ground water. Sinkholes may be directly or indirectly connected to the aquifer or disconnected by the presence of a confining layer of soil (clay) or rock that no longer allows water to permeate below this layer. The later may be expressed as a relic sinkhole or lake, depression in the land surface, or loose soils in the subsurface.

**SLOW-RATE LAND APPLICATION (SRLA).** The application of reclaimed water to a vegetated land surface using an overhead or spray, or subsurface drip, Irrigation system, as defined in §§ 62-610.400 and 62-610.450 FAC.

**SOLUTION PIPE.** A naturally occurring vertical cylindrical hole attributable to dissolution, often without surface expression and much narrower circumference than a sinkhole.

**SPECIAL FLOOD HAZARD AREA (SFHA).** The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

**SPECIAL USE.** A use that would not be appropriate generally or without restriction throughout the particular zoning classification but which, if controlled as to number, area, location, or compatibility with the surrounding area, would not adversely affect the public health, safety, and general welfare.

**SPECIAL USE PERMIT (SUP).** A permit for a use that would not be appropriate generally or without restriction throughout the particular zoning classification but which, if controlled as to number, area, location, or compatibility with the surrounding area, would not adversely affect the public health, safety, and general welfare.

**SPECIALTY ANIMALS.** All animals including native and imported animals which have been, removed from the wild or, animals being bred, raised or kept for research, food, fur, skins, or for the production of income and/or, animals requiring a permit or license from the State Fish and Wildlife Conservation Commission or the U.S. Fish and Wildlife Service shall be regulated by Special Use Permit. Large reptiles are included in this category. Where nine or more animals are being kept as household pets, and do not meet the above listed requirements or the below listed exclusions, they shall be treated as specialty animals and regulated by Special Use Permit. Specialty animals shall not include livestock, dogs, cats or homing/racing pigeons meeting the requirements of Article 4.

**SPECIFIC CAPACITY.** The ratio of well discharge to the drawdown produced, measured inside the well (gpm/ft of drawdown).

**SPECIFIED ANATOMICAL AREAS.** As it relates to the adult entertainment business:

- A. Less than completely and opaquely covered:
  - (1) Human genitals;
  - (2) Pubic region;
  - (3) Buttock; or
  - (4) Female breast below a point immediately above the top of the areola; or
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES.** As it relates to the adult entertainment business:

- A. Human genitals in a state of sexual stimulation or arousal;
- B. Acts of human masturbation, sexual intercourse or sodomy; and
- C. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

**SPRINGS PROTECTION ZONE (SPZ).** An area surrounding designated springs within Marion County establishing design and development criteria intended to maintain and support the continued existence and quality of the designated springs, and divided into Primary and Secondary areas pursuant to Article 5.

**START OF CONSTRUCTION.** As it relates to the flood plain overlay zone, for other than new construction or substantial improvements under the Coastal Barrier Resources Act P. L. 97-348, includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction,

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repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main building. For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**STATIC LEVEL.** The stabilized water level in a nonpumped well.

**STOCKPILE.** As it relates to the springs protection zone, animal manure, including droppings, urine, and soiled bedding material, that is piled, spread, or otherwise allowed to accumulate to such depth and/or volume in excess of three cubic yards that it: a) prevents or substantially hinders the growth of grass or other vegetation, and/or b) generates leachate that can potentially contaminate ground or surface water. Manure that is spread on pasture or cropland areas in accordance with normal agronomic practices following UF/IFAS recommendations and this Section is not considered stockpiling.

**STORAGE COEFFICIENT.** The volume of water that an aquifer releases from or takes into storage per unit surface area of aquifer per unit change in the component of head normal to that surface. In a water table aquifer the storage coefficient is essentially the same as its porosity.

**STORM CELLAR.** A place below grade used to accommodate occupants of the structure and emergency supplies as a means of temporary shelter against severe tornadoes or similar windstorm activity.

**STREET.** A public or private travelway used or intended to be used, for passage or travel by vehicles.

**STREET FRONTAGE.** The distance along the property line at the right-of-way or easement of the street providing primary access and exposure to the existing or proposed development.

**STRUCTURE.** Anything constructed or built which is located on or under land. For flood plain management purposes, a walled and roofed building, including gas or liquid storage tank that is principally above ground, as well as a manufactured home.

**STUB STREET.** A portion of a street for which an extension has been proposed and approved. May be permitted when development is phased over a period of time, but only if the street in its entirety has been approved in the preliminary plan.

**SUBDIVISION.** The division of land into three or more lots, tracts, parcels, tiers, blocks, sites, units or any other division of land; and may include establishment of new streets and alleys, additions, and re-subdivisions or replats; and, when appropriate to the context, relates to the process of subdividing or to the lands or area subdivided.

**SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL DEVELOPMENT.** As it relates to vested rights, shall mean that required permits for commencement of construction have been obtained; and permitted clearing and grading has commenced on any significant portion of the development subject to a single final local development order; and the actual construction of water and sewer lines, or streets, or the stormwater management system, on said portion of the development is substantially complete or is progressing in a manner that significantly moves the entire development toward completion.

**SUBSTANTIAL IMPROVEMENT.** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred

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"substantial damage" regardless of the actual repair work performed. This term does not, however, include any repair or improvement of a structure to correct existing violations of State of Florida or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official prior to the application for permit for improvement, and which are the minimum necessary to assure safe living conditions.

**SWALLET OR SWALLOW HOLE.** A place where water disappears underground in a limestone fissure or opening at or near the surface. A swallow hole generally implies water loss in a closed depression or sinkhole, whereas a swallet may refer to water loss from a disappearing stream or streambed, even though there may be no depression.

**TEST WELL.** Completed well for pumping used to obtain information on capacity, groundwater quality, geologic and hydrologic conditions, and related information.

**TOTAL NITROGEN (TN).** As a measurement of wastewater effluent quality, Total Nitrogen is the total content of the nitrogen species of organic nitrogen, ammonia, nitrate and nitrite expressed as elemental nitrogen, N, as determined using approved methods.

**TOWER.** A lattice, guyed or monopole structure constructed from grade which supports antennas. The term "tower" shall not include the singular use as a amateur radio operator's equipment, as licensed by the FCC, or antenna support structures and/or towers which are less than 50 feet in height and are used only to support antennas which receive, but do not transmit television signals.

**TOWER CLUSTERING.** The location of two or more towers on a parcel of property.

**TRANSFER OF RIGHTS PROGRAM (TRP).** A program which awards or grants to a property owner Transferrable Development Credits (TDCs) which may then be transferred or conveyed to a party that may use the TDCs for the development of lands deemed eligible by Marion County.

**TRANSFERRABLE DEVELOPMENT CREDIT (TDC).** A residential unit equivalent which may be granted to lands within eligible Sending Areas for subsequent transfer/sale between parties wherein the TDC is used by the receiving party to provide for additional residential development on lands eligible for use in a designated Receiving Area.

**TRANSMITTER TOWER.** A structure designed, constructed or used for the sole purpose of broadcasting or retransmitting any form of radio, television, radar, microwave, or other type of electronic wave, or impulse.

**TREE.** Any self-supporting woody plant which has at least one main trunk, and is normally grown to an overall height of a minimum of ten feet.

**TREE REMOVAL.** To physically remove a tree, including the performance of any act by a property owner or his designated agent, on a particular parcel of record which causes the death of a tree, or the effective removal of a tree through damage.

**TURFGRASS.** A mat layer of monocotyledonous plants, including but not limited to Bahia, Bermuda, Centipede, Paspalum, St. Augustine, and Zoysia grasses.

**TWO-FAMILY DWELLING.** A structure containing two dwelling units.

**UNIT.** That part of a multiple occupancy complex housing one occupant or use.

**UNRECORDED SUBDIVISION.** A platted subdivision of lands which has been accepted by the Board of County Commissioners for filing only by the Clerk of the Court in the public records of Marion County. Said plats were prepared and filed prior to August 14, 1970, in the public records of Marion County in record books entitled "Unrecorded Subdivisions."

**URBAN AREA.** Lands located within the Urban Growth Boundary (UGB) as designated by the Comprehensive Plan Future Land Use Map Series Map 1 Marion County 2035 Future Land Use Map or those lands located in the Rural Area bearing an Urban Area land use designation as specified in Comprehensive Plan Future Land Use Element Appendix A, Table A-1 Land Use Classifications and Standards.

**URBAN GROWTH BOUNDARY (UGB).** The boundary established by Marion County Comprehensive Plan Future

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Land Use map Series Map 1, Marion County 2035 Future Land Use Map, which identifies the geographic area wherein higher density and intensity development and full urban services are intended to be concentrated.

**UTILITY.** The individuals and/or legal entities which own and are responsible for the operation and maintenance of public or private utility services such as potable water, wastewater, phone, cable, electric, etc.

**VARIANCE.** As it relates to the zoning requirements of this Code, a grant of relief to a particular property owner because of the practical difficulties or unnecessary hardship that would be imposed by the strict application of that zoning provision of the Code.

**VEHICLE SIGN.** Any sign affixed to a vehicle.

**VERTICAL DATUM.** An accepted reference or basis for elevations pre-approved by the Office of the County Engineer.

**VESTED RIGHTS.** The authorization to improve and/or develop properties meeting the conditions established in Division 1.7.

**VIOLATION.** The failure of a structure or other development to be fully compliant with the requirements of a specific provision of this Code.

**WAIVER.** A grant of relief from compliance with a specific provision of this Code, not zoning related, granted to a particular property owner because of financial hardship or alternate design concept.

**WASTEWATER.** Any substance that contains any of the waste products, excrement, or other discharge from the bodies of human beings or animals as well as such other wastes as normally emanate from dwelling houses.

**WASTEWATER SERVICE LATERAL.** Those service laterals or force mains from the customer's property line to the wastewater main and all appurtenances.

**WASTEWATER SYSTEM.** A centralized or decentralized system for the collection and treatment of domestic wastewater and disposal of reclaimed effluent. A wastewater system includes without limitation the collection lines, wastewater treatment facility, pumping stations, intercepting sewers, force mains, and all necessary appurtenances and equipment and shall include all property, rights, easements, and franchises relating to any such system and deemed necessary or convenient for the operation thereof.

**WASTEWATER TREATMENT FACILITY (WWTF).** The facility at which the raw wastewater is collected and treated.

**WATER BOUNDARY SETBACK LINE (WBSL).** Unless previously established by Board action, the Water Boundary Setback Line is the normal or average reach of a water body during the high water season. However, on low, flat-banked water bodies where there is no well-defined mark, the boundary is located at the point up to which the presence and action of the water is so continuous that the cultivation of ordinary agricultural crops is prevented.

**WATERCOURSE.** A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

**WATER DETENTION AREA (WDA).** A manmade or natural facility which collects surface or subsurface water and which impedes its flow and releases the same gradually at a rate not greater than that prior to the development of the property, into natural or manmade outlets.

**WATER FRONTAGE OR WATER FRONT.** That side of a lot, parcel or tract abutting on a water body and which may be considered as the front for setback requirements.

**WATER METER.** That device, with all appurtenances, which registers water flow to a customer.

**WATER RETENTION AREA (WRA).** A manmade or natural facility which collects and retains surface water and allows gradual ground infiltration.

**WATER SERVICE CONNECTION.** The point of connection to the public potable water system (metered or non-metered) where the Utility loses jurisdiction and sanitary control over the potable water delivered to that



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point. Included within this definition are connections for fire hydrants and other temporary or emergency water service. For metered connections, the point of connection is the downstream end of the water meter.

**WATER SERVICE LATERAL.** The pipe from the water main to the point of connection.

**WATER SURFACE ELEVATION.** The height, in relation to an accepted vertical datum, of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

**WATER SYSTEM.** A water supply distribution system consisting of all water mains, valves, service laterals, fire hydrants, meter boxes, etc. used to deliver water from the WTP to the consumer.

**WATER TREATMENT PLANT (WTP).** Includes all wells, pumps, tanks, valves, piping, treatment and disinfection facilities required to withdraw, treat, and disinfect water suitable for public consumption.

**WETLANDS.** Those land areas featuring unique environmental and/or hydrogeologic characteristics which qualifies as wetlands pursuant to § 373.019(25) FS and § 62-340.200 FAC as determined and delineated by the appropriate jurisdictional agency

**WETTEST SEASON.** As defined in § 64E-6.002 FAC, that period of time each year in which the ground water table elevation can normally be expected to be at its highest elevation.

**WILDLAND URBAN INTERFACE/INTERMIX ZONES:** Locations which the Marion County Fire Rescue (MCFR) determines that topographical features, vegetation fuel types, local weather conditions, and prevailing winds may result in the potential for ignition of the structures from flames and firebrands of a wildland fire. A wildfire hazard severity analysis shall be provided for review and approval by MCFR.

### Division 3 Acronyms.

AASHTO. American Association of State Highway and Transportation Officials

ACLF. Adult Congregate Living Facility

ADF. Average Daily Flow

AMOA. Acknowledgement of Military Operating Area

ANSI. American National Standards Institute

API. American Petroleum Institute

ASME. American Society of Mechanical Engineers

ASTM. American Society for Testing Materials

AWWA. American Water Works Association

BMP. Best Management Practice(s)

C&D. Construction and Demolition

CCR. Covenants, Conditions, and Restrictions

CDD. Community Development District

CESQG. Conditionally Exempt Small Quantity Generators

CFR. Code of Federal Regulations

CPAA. Comprehensive Plan Amendment Application

CWS. Community Water System

DADF. Designed Average Daily Flow, in gallons.

DBH. Diameter at Breast Height

DEM. Florida Division of Emergency Management or equivalent

DEO. Florida Department of Economic Opportunity

DIP. Ductile Iron Pipe

DIPRA. Ductile Iron Pipe Research Association

DOH. Florida Department of Health, local, regional or state, as applicable

EALS. Environmental Assessment for Listed Species

EALS-ER. Environmental Assessment for Listed Species Exemption Request

ECSD. Equine Commercial Support District

EPA. United States Environmental Protection Agency

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ERC. Equivalent Residential Connection  
FAA. Federal Aviation Administration  
FAC. Florida Administrative Code  
FAR. Floor Area Ratio  
FBC. Florida Building Code  
FCC. Federal Communications Commission  
FDC. Fire Department Connection  
FDEP. Florida Department of Environmental Protection  
FDOF. Florida Division of Forestry  
FDOT. Florida Department of Transportation  
FEMA. Federal Emergency Management Agency  
FFL. Florida Friendly Landscaping  
FFPC. Florida Fire Prevention Code  
FGCC. Federal Geodetic Control Committee  
FHBM. Flood Hazard Base Map  
FIRM. Flood Insurance Rate Map  
FIS. Flood Insurance Study  
FLUCCS. Land Use, Cover and Forms Classification System: A Technical Manual, State of Florida Department of Transportation  
FNAI. Florida Natural Areas Inventory  
FPS. Feet Per Second  
FS. Florida Statute  
FWC. Florida Fish and Wildlife Conservation Commission  
GFA. Gross Floor Area  
GLA. Gross Leasable Area  
GPD. Gallons Per Day  
GPM. Gallons Per Minute  
GRPA. Groundwater Recharge Preservation Area  
HOA. Home Owners Association  
HUD. Housing and Urban Development  
IES. Illuminating Engineering Society  
IOS. Improved Open Space  
ITE. Institute of Transportation Engineers  
LBR. Limerock Bearing Ratio  
LDC. Land Development Code  
LDRC. Land Development Regulation Commission  
LID. Low Impact Development  
LOS. Level of Service  
LOSS. Level of Service Standard  
LPA. Local Planning Agency  
LPDS. Low Pressure Dosing System  
MCAVA. Marion County Aquifer Vulnerability Assessment  
MCFR. Marion County Fire Rescue  
MCHD. Marion County Health Department  
MCOR. Marion County Official Records  
MCUD. Marion County Utility Department  
MFLA. Marion Friendly Landscaping Area  
MGD. Million Gallons per Day  
MTS. Minimum Technical Standards  
MUTCD. Manual on Uniform Traffic Control Devices

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NAVD. North American Vertical Datum  
NEC. National Electric Code  
NFPA. National Fire Protection Association  
NGVD. National Geodetic Vertical Datum  
NEMA. National Electrical Manufacturers Association  
NPDES. National Pollutant Discharge Elimination System  
NRCS. Natural Resources Conservation Service  
NSF. National Sanitation Laboratory Foundation  
OHWL. Ordinary High Water Line  
OSHA. The Federal Occupational Safety and Health Administration  
OSTDS. On-site Sewage Treatment and Disposal System  
P&Z. Planning and Zoning Commission  
PAR. Public Access Reuse  
PBTS. Performance Based Treatment System  
PSC. Florida Public Service Commission  
PUD. Planned Unit Development  
QNA. Qualified Natural Area  
RIB. Rapid Infiltration Basin  
RPZ. Reduced Pressure Zone  
RRLA. Rapid Rate Land Application System  
RV. Recreational Vehicle  
RVD. Rural Village District  
SFHA. Special Flood Hazard Area  
SIC. Standard Industrial Classification  
SJRWMD. St Johns River Water Management District  
SPZ. Springs Protection Zone  
SRA. Scenic Roads Area  
SRAA. Scenic Roads Amendment Application  
SRLA. Slow Rate Land Application System  
SUP. Special Use Permit  
SWFWMD. Southwest Florida Water Management District  
TDC. Transferrable Development Credit  
TDCA. Transfer of Development Credits Application  
TDR. Transferrable Development Rights  
TN. Total Nitrogen  
TPO. Transportation Planning Organization  
TRP. Transfer of Rights Program  
TVR. Transfer of Vested Rights  
UF/IFAS. University of Florida, Institute of Food and Agriculture Science  
UND. Urban Neighborhood District  
USDA. United States Department of Agriculture  
USDA-NRSC. United States Department of Agriculture-Natural Resources Conservation Service  
USDOT. United States Department of Transportation  
USFS. United States Forest Service  
USFWS. United States Fish and Wildlife Service  
UGB. Urban Growth Boundary  
USGS. United States Geological Survey  
V/C. Volume to Capacity Ratio  
WBSL. Water Boundary Setback Line  
WTP. Water Treatment Plant

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WWTF. Wastewater Treatment Facility

## **Division 4 Planning and Zoning Commission (P&Z) and the Land Development Regulation Commission (LDRC)**

- Sec. 1.4.1** General Provisions. The following shall apply to the P&Z, SRAC, and LDRC. For the purposes of this division, the term “commission” shall respectively represent each commission generally or as specifically referenced.
- A. Membership, appointment, removal, terms, officers, and vacancies.
- (1) Each commission shall be composed of seven members to be appointed by the Board. Two alternate members may be appointed by the Board. All members shall be residents of Marion County. No member shall be an employee of the County. Employees of other governmental entities are eligible to be members provided they are not elected officials, in positions to establish policy for their employer, or department heads or higher.
  - (2) Ex-officio members shall be:
    - (a) Representative of the Marion County School Board,
    - (b) Representative of the US Military Operating Area,
    - (c) Department of Health,
    - (d) Fire Rescue.
  - (3) Members may be compensated as determined by the Board.
  - (4) All members shall serve a term of four years, except that three members of each commission shall be appointed for an initial term of two years. No member shall serve more than three consecutive terms. Each member shall hold office until a successor is appointed.
  - (5) The members of each commission shall elect one of their members as chair and one as vice-chair. Each year thereafter, new elections shall be held. In the absence of the chair, the vice-chair shall act as chair and shall have all powers of the chair. No member shall serve as chair for more than two consecutive years.
  - (6) The presiding chair of any commission meeting may administer oaths, shall be in charge of all proceedings, and shall take such action as necessary to preserve order and the integrity of all proceedings.
- B. Members may be removed by the Board, with or without cause, upon ten days written notice of intent to remove. Vacancies due to resignation, removal, or death shall be filled by Board appointment for the unexpired term.
- C. Meetings and procedures.
- (1) Meetings may be held to conduct workshops, regular business, or public hearings.
  - (2) All meetings shall be open to the public, and advertised consistent with Board or Florida Statutes requirements, as applicable.
  - (3) Regular meetings of the commission shall be held at least once per calendar year. All regular meetings shall be held after 5:00 p.m.
  - (4) Special meetings may be called by the Chair of the Board, a majority of the members of the Board, the Chair of the Commission, or a majority of the members of the commission. Special meetings may be held at any time.
  - (5) Quorum and necessary vote. No meeting of any commission shall be called to order, nor shall any business be transacted, without a quorum, except to reschedule a meeting. A quorum shall consist of four members and/or alternates. The chair shall be considered and counted as a member. Action shall be taken by a majority vote of those members present and constituting a quorum.

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### D. General commission duties.

- (1) To make its special knowledge and expertise available, upon reasonable written request and authorization of the Board, to any Official, Department, Board, Commission, or Agency of the County, State, or Federal Government.
- (2) To adopt rules of procedure, consistent with law and this Code, for the administration and governance of its proceedings.
- (3) To perform such other functions, duties and responsibilities as may be assigned to it by the Board or by general or special law.

### E. Staff Support.

- (1) The Growth Services Director or designee is hereby appointed as staff liaison to each commission.
- (2) The Growth Services Director shall appoint a recording secretary to serve each commission. The secretary shall keep minutes of all proceedings, which minutes shall be a summary of all proceedings before the commission, attested to by the secretary, and which shall include the vote of each member upon every question. The secretary shall notify all members and interested parties of the meetings. The minutes shall be approved by a majority of the members of the commission.

### Sec. 1.4.2 Planning and Zoning Commission (P&Z).

A. The P&Z is hereby established pursuant to Ch. 125 FS and §163.3161 FS, as amended, to act as an advisory commission to the Board regarding comprehensive planning and zoning matters as set forth in this Section.

### B. Comprehensive Plan related duties.

- (1) To serve as the Local Planning Agency (LPA) pursuant to §163.3161 FS, as amended.
- (2) To review and consider the recommendations of the Growth Services staff on all elements of the Comprehensive Plan and any proposed amendments thereto, consistent with Articles 2 and 3.
- (3) To hold duly noticed public hearings regarding amendments.
- (4) To make recommendations to the Board regarding all elements of the Comprehensive Plan and any proposed amendments thereto, consistent with Articles 2 and 3.
- (5) To monitor and oversee the effectiveness and status of the Comprehensive Plan and recommend to the Board such changes as may, from time to time, be required.
- (6) To assist the Growth Services Department in preparing periodic reports required by §163.3191 FS to assess and evaluate the Comprehensive Plan, or any element or portion thereof, which shall contain appropriate statements (using words, maps, illustrations or other forms) related to:
  - (a) The major problems of development, physical deterioration, and the location of land uses and the social and economic effects of such uses in the area.
  - (b) The condition of each element in the Comprehensive Plan at the date of adoption and at the date of report.
  - (c) The Comprehensive Plan objectives as compared with actual results at the date of report.
  - (d) The extent to which unanticipated and unforeseen problems and opportunities occurred between the date of adoption and the date of report.
  - (e) Suggested changes needed to update the Comprehensive Plan, elements, or portions thereof, including reformulated objectives, policies, and standards.

### C. Zoning related duties.

- (1) To review and consider the recommendations of the Growth Services staff on Zoning Change and Special Use Permit Applications, consistent with Articles 2 and 4.

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- (2) To hold public hearings regarding Zoning Change and Special Use Permit applications as required by law and this Code.
- (3) To make recommendations to the Board regarding Zoning Change and Special Use Permit applications, consistent with Articles 2 and 4.

### Sec. 1.4.3 Land Development Regulation Commission (LDRC).

- A. The Land Development Regulation Commission is established pursuant to Ch. 125 FS and § 163.3161 FS, as amended, to act as an advisory commission to the Board in regards to the following:
  - (1) The Marion County Land Development Code and its land development regulations as set forth in this Section;
  - (2) The Marion County's Scenic Roads Program as set forth in this Section and Section 5.6.
- B. Land Development Code Duties.
  - (1) To review, revise, and consider the recommendations of the county staff with regard to proposed land development regulations and amendments thereto, consistent with Article 2.
  - (2) To hold duly noticed public hearings regarding land development regulations and amendments thereto, as required by law and this Code.
  - (3) To make recommendations to the Board regarding consistency of proposed land development regulations or amendments with the County's approved and adopted Comprehensive Plan.
  - (4) To make recommendations to the Board regarding proposed land development regulations or amendments thereto, consistent with Article 2.
- C. Scenic Roads Duties
  - (1) To review and consider the recommendations of the Growth Services staff in regards to the Scenic Roads Master Plan (SRMP) and amendments thereto, and Scenic Road Amendment Applications (SRAAs), consistent with Articles 2 and 5.
  - (2) To hold duly noticed public hearings regarding the SRMP and amendments thereto, as required by law and this Code.
  - (3) To make recommendations to the Board regarding proposed SRMP amendments and SRAAs, consistent with Articles 2 and 5.
  - (4) To monitor and oversee the effectiveness and status of the SRMP and recommend to the Board such changes in the SRMP as may be required.
  - (5) To recommend and/or prepare nominations for Board consideration designating Scenic Routes for the State and Federal Scenic Byways Programs.

## Division 5 Board of Adjustment

### Sec. 1.5.1 A Board of Adjustment is established with the following powers and duties:

- A. Duties of the Board of Adjustment:
  - (1) To authorize such variances from the terms of these regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations would result in unnecessary and undue hardship. A variance from the terms of these regulations shall not be granted by the Board of Adjustment unless a written petition for a variance is submitted demonstrating that:
    - (a) 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 with the same zoning classification and land use area.
    - (b) The special conditions and circumstances did not result from the actions of the applicant.
    - (c) Literal interpretation of the provisions of applicable regulations would deprive the applicant

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- of rights commonly enjoyed by other properties with the same zoning classification and land use area under the terms of said regulations and would work unnecessary and undue hardship on the applicant.
- (d) The variance, if granted, is the minimum variance that will allow the reasonable use of the land, building or structure.
  - (e) Granting the variance requested will not confer on the applicant any special privilege that is denied by these regulations to other lands, buildings or structures in the same zoning classification and land use area.
  - (f) The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- (2) Appeals to the Board of Adjustment concerning interpretation of the zoning requirements of this Code by the Planning/Zoning Manager may be taken by any aggrieved party or by any officer, agency or department of Marion County affected by such decision, determination or requirement.
- (a) Such appeals shall be taken within 30 days from the date of the written determination by filing with the Growth Services Department a Notice of Appeal, specifying the ground therefore. The Growth Services Director or designee shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. The Board of Adjustment shall fix a reasonable time for the hearing on the appeal and shall give notice to all parties of the date, time and place of said appeal hearing. At the hearing, any party may appear in person, by authorized agent, or by an attorney.
  - (b) All appeals shall be approved or denied by a majority vote of the Board of Adjustment members present and voting at the meeting where the appeal is heard. **If the vote of the Board of Adjustment results in a tie vote, the tie vote shall operate as a deferral of the appeal to the next meeting of the Board of Adjustment. Appeal of a Board of Adjustment's final written order on an appeal shall conform to Section 4.11.**
  - (c) Decision on appeal. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as it deems just and proper.
- B. Notice of public hearing. Due public notice as defined in Section 2.2 shall be given prior to public hearings held by the Board of Adjustment. Said notices shall also inform the recipient that actions of the Board of Adjustment are final.
- C. Public hearing. The public hearing shall be held by the Board of Adjustment and any party may appear in person, by authorized agent, or by an attorney.
- D. Findings. The Board of Adjustment shall make findings that the requirements of this section have or have not been demonstrated by the applicant for a variance.
- E. Conditions and safeguards. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with these regulations, including, but not limited to, reasonable time limits within which the action for said variance is required to begin or be completed, or both. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of the Code.
- F. The Board of Adjustment shall have the authority to revoke a variance previously granted upon the submission of facts supporting noncompliance with conditions and safeguards presented by the Board of Adjustment in granting the variance. The Growth Services Director or designee shall provide written notice by "registered" mail to the property owner at least 15 days prior to consideration of revocation by the Board of Adjustment, and such written notice shall specify the time, date and meeting place of the Board of Adjustment and the reasons supporting revocation. The Board of

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Adjustment shall conduct an informal hearing on such revocation and shall adopt findings of fact supporting such revocation. Appeals of revocation ordered by the Board of Adjustment shall be to the Circuit Court by Writ of Certiorari.

- G. Limitation on power to grant variances. Under no circumstances shall the Board of Adjustment grant a variance to permit a use not permitted under the terms of these regulations in the zoning classification involved, or any use expressly or by implication prohibited by the terms of these regulations in the said zoning classification. No non-conforming use of neighboring lands, structures or buildings in the same zoning classification and no permitted use of lands, structures or buildings in any other classification shall be considered grounds for the granting of a variance. No Special Use Permits shall be granted by the Board of Adjustment.
- H. Limitation of variances. When the Board of Adjustment has denied an application for a variance, no applicant shall submit an application for the same variance for a period of 12 months from the date of denial.
- I. Request for continuance. At the request of an applicant and for good cause shown, the Board of Adjustment may continue the public hearing on an application for a variance. The applicant shall be required to pay an additional application fee to cover the cost of re-advertising and re-notifying the adjacent property owners. The Board of Adjustment shall not grant an applicant's request for continuance when the application is the result of a notice of code violation and the variance is necessary to cure such violation. The applicant will not be required to pay an additional application fee if the continuance is granted by the Board of Adjustment on their own initiative.
- J. Staff liaison. The Growth Services Director or designee is hereby appointed as staff liaison to the Board of Adjustment.

### **Sec. 1.5.2** Membership, appointment, removal, terms, officers, and vacancies.

- A. The Board of Adjustment shall be composed of seven members to be appointed by the Board of County Commissioners, each for a term of three years, and two alternate members, designated as such, each for a term of three years. Such alternate members may act in the temporary absence or disability of any regular member or may act when a regular member is otherwise disqualified in a particular case that may be presented to the Board of Adjustment.
- B. Qualifications. No member or alternate shall hold any other public position or office in any municipality or County government in Marion County. Members or alternates of the Board of Adjustment shall be residents of the County.
- C. Removal. Members or alternates may be removed by the Board of County Commissioners with or without cause upon ten days written notice of intent to remove.
- D. Vacancies. Vacancies due to resignation, removal or death shall be filled by Board of County Commissioners' appointment for the unexpired term.
- E. Compensation. Members may be compensated as determined by the Board.
- F. Procedures.
  - (1) The Board of Adjustment shall select a chair and vice-chair from among its members. All regular members of the Board of Adjustment and alternates sitting on the Board of Adjustment shall be entitled to vote on matters before the Board of Adjustment.
  - (2) The Board of Adjustment shall adopt rules for transaction of its business and shall keep a record of its resolutions, transactions, findings and determinations which record shall be a public record.
  - (3) Meetings shall be held at least once every quarter and at such other times as the Board of Adjustment may determine.
  - (4) The Board of Adjustment shall keep minutes of its proceedings showing the vote of each



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member or alternate (including the chair and vice-chair) or if absent or failing to vote, indicating such fact. A quorum for the transaction of business shall consist of four members or alternates.

- (5) If any member or alternate of the Board of Adjustment has a voting conflict as defined by §112.3143 FS, he shall disqualify himself from all participation in that case.
- (6) The Board of County Commissioners may appropriate funds for expenses necessary in the conduct of the work of the Board of Adjustment. The Board of Adjustment may expend all sums so appropriated for the purposes and activities authorized by this Code.

**Sec. 1.5.3** Appeals. Appeals of a Board of Adjustment action/determination shall be made to the Circuit Court for appropriate relief (e.g., Writ of Certiorari, etc.).

### Division 6 Development Review Committee

**Sec. 1.6.1** A Development Review Committee is hereby established pursuant to Ch. 163 FS and amendments thereto.

**Sec. 1.6.2** Membership. The Development Review Committee is hereby established and shall consist of five voting members. The following County employees shall constitute the committee: Growth Services Director, County Engineer, Utilities Director, Fire Marshal, and Planning/Zoning Manager. Any committee member's alternate shall be approved by the chair of the DRC.

**Sec. 1.6.3** Purpose. The purpose of the Development Review Committee is to review, comment, make recommendations and/or approve development applications and plans. This committee will perform other duties conferred on it by the Board.

**Sec. 1.6.4** Rules of Procedures.

- A. Rules. The Development Review Committee shall adopt rules for transaction of its business.
- B. Records and minutes. The committee shall keep minutes of its transactions, findings and determinations.
- C. Meetings. Meetings shall be held at least every other week and at such other times as the committee may determine necessary. Variations in the meeting schedule are permissible to accommodate holidays and other circumstances.
- D. Quorum. A quorum for the transaction of business shall consist of three members.
- E. Chairmanship structure. A chair and vice chair shall be appointed by the County Administrator.

**Sec. 1.6.5** Appeal. In case of disagreement between the applicant and the Development Review Committee, the decision of the Development Review Committee may be appealed to the Board of County Commissioners or other authority as established by this Code.

### Division 7 Vested Rights.

**Sec. 1.7.1** Intent and purpose. This division establishes the administrative procedures and standards by which a property owner may demonstrate that private property rights have been vested from the provisions of the adopted Comprehensive Plan. Said administrative procedures shall provide determinations if a development is vested from the requirements of the adopted Comprehensive Plan and to what extent. The Marion County Comprehensive Plan provides objectives and policies relating to vesting and exceptions from density requirement for the unincorporated area of Marion County.

**Sec. 1.7.2** Vested development rights.

- A. A property owner shall have vested rights to complete any development where:
  - (1) the development has been authorized as a Development of Regional Impact pursuant to Ch. 380 FS; or

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- (2) the development has been authorized as a Florida Quality Development pursuant to Ch. 380 FS, or
  - (3) the development has been issued a final local development order by Marion County and development has commenced and is continuing in good faith; or
  - (4) the property owner or developer has requested and secured a vested rights determination consistent with the provisions of this Division.
- B. The property owner may qualify for an exception to the densities required in the Comprehensive Plan for construction of one residential unit.

### Sec. 1.7.3 Presumptive, statutory, and common law vesting.

- A. Presumptive Vesting. The following categories shall be presumptively vested for the purposes of consistency with the Comprehensive Plan as specified in the Comprehensive Plan and shall not be required to file an application to preserve their vested rights status:
- (1) All active and valid building permits issued prior to June 11, 1992 where development has commenced and is continuing in good faith before expiration of such permits.
  - (2) Any structure on which construction has been completed and a certificate of occupancy issued if a certificate of occupancy was required at time of permitting.
- B. Presumptive Exceptions to Densities. Recorded and unrecorded subdivisions that may be allowed density exceptions or that may be required to aggregate contiguous lots are as follows:
- Parcels within a phase of a recorded or unrecorded subdivision which have met the applicable conditions set forth below prior to January 1, 1992 shall be permitted to develop at the density established for that subdivision, provided that all § 10D-6 FAC requirements and all other requirements of the Comprehensive Plan are met. Those recorded or unrecorded subdivisions not meeting the requirements listed below will be required to aggregate parcels to meet the density requirements of this Comprehensive Plan as provided herein.
- (1) Subdivisions that have direct access to a County paved road and in which all parcels front on a continually maintained, paved, or stabilized road that meets the standards established by Marion County; and
  - (2) Parcels within subdivisions in which all parcels are served by a stormwater management system that functions at the standards established by Marion County; and
  - (3) Parcels within subdivisions in which the sale of individual lots to persons by the original subdivider has occurred at the following rates prior to August 11, 1993:
    - (a) At least 85 percent of the total number of lots are sold if the subdivision was created in 1982 or before; or
    - (b) At least 60 percent of the total number of lots are sold if the subdivision was created from 1983 to 1987 inclusive; or
    - (c) For subdivisions created after 1987 the following conditions apply in order for no aggregation requirements to be placed upon contiguous lots within the subdivision:
      1. At least 50 percent of the total number of lots are sold by 1993 if the subdivision was created in 1988; or
      2. At least 50 percent of the total number of lots are sold by 1994 if the subdivision was created in 1989; or
      3. At least 50 percent of the total number of lots are sold by 1995 if the subdivision was created in 1990; or
      4. At least 50 percent of the total number of lots are sold by 1996 if the subdivision was created in 1991; or

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5. At least 50 percent of the total number of lots are sold by 1997 if the subdivision was created in 1992.

The percentage of lots sold is meant to reflect the sale of individual lots to many individuals and not the transfer of large number of contiguous lots to investors. The County shall deny this exception if the sale of lots as indicated above does not reflect this intent.

- C. The Growth Services Director or designee shall notify developers or owners, upon their request, of recorded and unrecorded subdivisions, in writing, of parcels in the subdivision subject to aggregation under this section. A developer or owner may appeal the determination of the Growth Services Director to the Development Review Committee provided such an appeal is filed within 90 days of the issuance of the determination. Failure of the developer or owner to submit an appeal within the 90 day period shall constitute a waiver of any right to appeal. The written determination of the Growth Services Director or designee that contiguous lots are subject to aggregation shall control the issuance of building permits on such lots. A decision on appeal may be appealed to a Hearing Officer in accordance with this division.
- D. Statutory Vesting. The following categories will be statutorily vested for the purposes of consistency with the Comprehensive Plan and shall not be required to file an application to preserve their vested rights status. The Growth Services Department shall maintain a listing of such developments.
  - (1) Development Orders issued prior to the effective date of this Division authorizing a Development of Regional Impact (DRI) or a Florida Quality Development (FQD) pursuant to Ch. 380 FS or any successor statute to said Chapter to the extent such development order specifically addresses vested rights to complete such development.
    - (a) Developments shall be vested to the extent that vested development rights are set forth in a valid, unexpired binding letter and any subsequent binding letter of modification pursuant to §§ 380.06(4) and 380.06(20) FS or any successor statute to said Sections.
  - (2) Developments failing to comply with this Division shall be required to apply for a determination of vested development rights and possible requirements for consistency with the adopted Comprehensive Plan prior to commencement or continuation of development. The right to develop or to continue the development of the property shall be found to exist if a valid and unexpired final local development order was issued by the County prior to the effective date of this Division and development has commenced and is continuing in good faith.
- E. Common Law Vesting.
  - (1) An application for a vested rights determination shall be approved if the applicant has demonstrated all of the following or otherwise been accorded vested rights status by a court of competent jurisdiction after the applicant has complied with the administrative appeal rights set forth in this Division.
    - (a) There was a valid, unexpired act of an agency or authority of Marion County which the applicant reasonably relied upon in good faith; and
    - (b) The applicant, in reliance upon the valid, unexpired act of Marion County, has made a substantial change in position or has incurred extensive obligations or expenses; and
    - (c) It would be inequitable, unjust or fundamentally unfair to deny the development rights acquired by the applicant. In making this determination, Marion County shall consider a number of factors including but not limited to:
      1. Whether construction or other development activity has commenced and is continuing in good faith.
      2. Whether the expenses or obligations incurred have been substantially utilized for a development permitted by the Marion County Comprehensive Plan and Land Development Regulations in effect at the time of the expenditure.

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- (2) The following are not considered development expenditures or obligations in and of themselves:
    - (a) Expenditures for legal and other professional services that are not related to the design or construction of improvements;
    - (b) Taxes paid;
    - (c) Expenditure for acquisition or the financing costs of the land.
  - (3) The mere existence of zoning, standing alone, which may be contrary to the Future Land Use Element, or any other element of the Comprehensive Plan shall not be determinative of vested rights.
- F. Time Limitations.
- (1) The owner shall request a determination of vested rights pursuant to this Division by filing a technically complete, sworn application and the application fee with the Growth Services Department, on or before the dates set forth below.
    - (a) Application for Vested Right Determination from the Policies of the Comprehensive Plan adopted January 29, 1992 shall be filed on or before December 31, 1992.
    - (b) Application for Vested Right Determination from the Remedial Amendments to the Comprehensive Plan adopted August 11, 1993 shall be filed on or before June 10, 1994.
    - (c) Application for Vested Right Determination from future amendments to the Comprehensive Plan shall be filed within 180 days of the adoption date of such future amendments to the Comprehensive Plan.

### Sec. 1.7.4 Application procedures.

- A. Application for vested rights determination pursuant to this Division shall be submitted to the Marion County Growth Services Department and shall include the following information:
- (1) The name and address of the applicant, who is the owner(s) or a person authorized in writing to apply on behalf of the owner(s). If the property is owned by more than one person, any owner or an authorized agent of the owner(s) may apply;
  - (2) A legal description and survey of the property which is the subject of the application;
  - (3) The name and address of each owner of the property;
  - (4) A site or development plan or plat for the property;
  - (5) Identification by specific reference to any ordinance, resolution, or other action of the County, or failure to act by the County upon which the applicant relied and which the applicant believes supports the owner's vested rights claim notwithstanding an apparent conflict with the adopted Comprehensive Plan;
  - (6) Such other relevant information that staff may request.
- B. Failure to timely file an application requesting a determination within the prescribed time limits shall constitute a waiver of any vested rights claim by the owner of the property.
- C. The Board shall establish an application fee by resolution and said application fee shall be included with the application for a determination of vested rights.
- D. At any time during or after the application period, the Board may waive the maximum response time set forth in this Division to a date certain. Said waiver may be applicable to any step in the vested rights determination procedure upon the determination by the Board that the volume of applications received exceeds the capacity of the staff to process those applications within the stated time limits or upon the applicant's reasonable request.
- E. Review for completeness. The Growth Services Director or designee shall review the submitted application within ten working days after receipt to determine if the request is technically complete. If not technically complete, it will be returned to the applicant immediately with written notification

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of deficient items as required by this Division. Within 20 additional working days from the date the application was returned to the applicant, the applicant shall correct the deficient items and resubmit the application. If the applicant does not resubmit in this time period, the application will become void unless granted an extension by the Development Review Committee (DRC) based on applicant's request. Extension shall be for one time only and shall not exceed 45 calendar days.

- F. Vesting determination. After an application is determined technically complete by the Growth Services Director, it shall be reviewed by staff for recommendations and scheduled for DRC's consideration. Final status determination shall be provided within 40 working days. The staff recommendation report and the application shall be presented as part of the DRC agenda. The applicant shall be notified in writing of the date and time of the DRC meeting a minimum of five working days prior to the meeting date.
- G. DRC shall provide the applicant with written notification of the determination of vested status including findings of fact supporting such determination, within ten working days after making said determination.
- H. Upon receipt of the written notification, an applicant may appeal DRC's determination to a Hearing Officer. A request to appeal shall be submitted in writing to the Growth Services Director with the appropriate fees. Once the request to appeal is received and determined valid, the Growth Services Director shall notify the Hearing Officer who will set a date, time, and place for the hearing. A report based on the information considered and discussed by DRC will be prepared by staff and presented to the Hearing Officer. A copy of this report will be made available to the applicant prior to the hearing.

### Sec. 1.7.5 Appeals to the Hearing Officer.

- A. Purpose. It is the purpose of this section to provide an administrative process for appealing decisions rendered by DRC prior to any available recourse in a court of law. In particular, it is intended that such administrative relief be provided in the most professional, objective, and equitable manner possible through the appointment of a Hearing Officer to adjudicate matters as provided herein. No party shall be deemed to have exhausted his or her administrative remedies for the purpose of seeking judicial review unless the party first obtains review of DRC's decision by the Hearing Officer as provided herein.
- B. Hearing. The Hearing Officer shall conduct a de novo administrative hearing in order to render a vested rights determination consistent with the provisions of this chapter.
- C. Appeal. After a DRC vesting determination, the Hearing Officer "appeal" process provided in this section is designed to allow for an appeal of DRC action after a full and complete hearing. This "appeal" is not intended to mean an appeal in the traditional sense, that is, only a review of the DRC record of their determination. The Hearing Officer "appeal" shall be construed in its broadest, nontechnical sense, which is merely an application to a higher authority for a review of the DRC action taken.
- D. Record on Appeal. If the DRC record of their determination is full and complete, the Hearing Officer may determine that the record is the only evidence that is necessary. However, the Hearing Officer may determine that additional evidence and oral or written testimony, including cross-examination, is necessary to properly evaluate DRC's action. The Hearing Officer shall have the authority to determine the need for additional evidence and/or testimony.
- E. Applicability. The property owner may appeal to the Hearing Officer a decision rendered by DRC on an application for a vesting determination.
- F. Filing for appeal. The procedure for filing an appeal shall be as follows:
  - (1) Appeals shall be commenced by filing a notice of appeal with the Growth Services Department within 30 calendar days of the date the decision of DRC is rendered.

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- (2) The notice of appeal shall set forth in detail the basis of the appeal.
  - (3) The County shall accurately and completely preserve all testimony in the proceeding and, on the request of any party, it shall make a full or partial transcript or existing hearing record available at no more than actual cost.
  - (4) In any case where a notice of appeal has been filed, the decision of DRC shall be stayed pending the final decision of the Hearing Officer.
  - (5) Following the hearing, the Hearing Officer shall prepare the written findings and decision. Copies of the findings and decision shall be mailed by the Hearing Officer to each party to the appeal and to the Growth Services Department, with a copy provided to DRC.
- G. Conduct of the hearing. Conduct of the hearing before the Hearing Officer shall be as follows:
- (1) The Hearing Officer shall set forth at the outset of the hearing the order of the proceedings and the rules under which the hearing will be conducted.
  - (2) The order of presumption at the hearing shall be as follows:
    - (a) Receipt of the transcript, minutes and exhibits from DRC, if any.
    - (b) Opening statements by the parties.
    - (c) Appellant's case.
    - (d) Respondent's case.
    - (e) Rebuttal by appellant.
    - (f) Summation by respondent.
    - (g) Summation by appellant.
    - (h) Conclusion of the hearing by the Hearing Officer.
  - (3) The record of DRC's hearing and decision, including all exhibits, shall be received and constitute a part of the record.
  - (4) The Hearing Officer shall have the authority to determine the applicability and relevance of all materials, exhibits, and testimony and to exclude irrelevant, immaterial, or repetitious matter.
  - (5) The Hearing Officer is authorized to administer oaths to witnesses.
  - (6) A reasonable amount of cross-examination of witnesses shall be permitted at the discretion of the Hearing Officer.
  - (7) The time for presentation of a case shall be determined by the Hearing Officer.
  - (8) The Hearing Officer may allow the parties to submit proposed written findings of fact and conclusions of law following the hearing, and shall advise the parties of the timetable for so doing if allowed.
- H. Decision. The decision of the Hearing Officer shall be based upon the following criteria and rendered as follows:
- (1) The Hearing Officer shall review the record and testimony presented at the hearing before DRC. Although additional evidence may be brought before the Hearing Officer, the record before DRC shall be incorporated into the record before the Hearing Officer, supplemented by such additional evidence as may be brought before the Hearing Officer.
  - (2) The Hearing Officer shall be guided by the previously adopted Comprehensive Plan, the currently adopted Comprehensive Plan, the Land Development Regulations, this Division, and established case law.
  - (3) The burden shall be upon the property owner to show that the decision of DRC is not supported by a preponderance of the evidence or the DRC decision departs from the essential requirements of law.

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- (4) The Hearing Officer's determination shall include appropriate findings of fact, conclusions of law, and decision in the matter of the appeal. The Hearing Officer may affirm, affirm with conditions, or reverse the decision of DRC.
  - (5) The Hearing Officer shall file his written determination on each appeal with the Growth Services Director within 30 calendar days of the date of the appeal hearing and a copy shall be provided to DRC and the applicant.
  - (6) The decision of the Hearing Officer shall be final, subject to judicial review.
- I. Judicial Review. Judicial review of the Hearing Officer's decision is available to the property owner and the County and shall be by common-law certiorari to the Circuit Court subject to the Florida Rules of Appellate Procedure. A notice of appeal must be filed within 30 days of rendition of the Hearing Officer's decision. In any case where judicial review is sought, the decision of the Hearing Officer shall be stayed pending the final determination by the Circuit Court.

### Sec. 1.7.6 Appointment and qualifications of Hearing Officer.

- A. The Board shall provide a Hearing Officer to conduct hearings and shall pay all costs of the Hearing Officer.
- B. A person appointed as Hearing Officer shall possess the requisite knowledge of Florida land use practices and relevant land use, vesting, statutory and case law.
- C. No Hearing Officer shall act as agent or attorney or be otherwise involved with any associated land development matter which may come before the Hearing Officer on appeal. The Hearing Officer shall refuse to handle or shall excuse himself from all appeals which involve a conflict of interest. Further, no Hearing Officer shall initiate or consider ex parte or other communication with any party of interest to the hearing concerning the substance of any proceeding to be heard by the Hearing Officer except such expert advice as the Hearing Officer may determine appropriate and solicit.

### Sec. 1.7.7 Limitations on determinations of vested rights.

- A. Presumptive vested rights determinations do not have an expiration date unless specified in other ordinances, building permits, statutory limitations and limitations contained within approved development orders.
- B. Common law vested rights determinations shall remain valid for a period up to five years from the date the determination was made unless otherwise specified by the vesting authority. An extension may be requested and granted by the Board. The request for an extension must be made no less than 90 days prior to the expiration of the determination.
- C. All development subject to a vested rights determination must be consistent with the terms of the development approval upon which the determination was based. Any substantial deviation from a prior approval, except as required by governmental action, shall cause the development involved to be subject to the policies, regulations and implementing decisions set forth in the Comprehensive Plan for such deviation only. Vested projects wishing to amend or change their Master Development Plans and schedules shall request consideration by DRC which shall make a recommendation to the Board if the proposed amendment or change constitutes a substantial deviation from the vested project. DRC shall make recommendations to the Board concerning requirements necessary to mitigate the deviation.  
Changes in a vested development that do not create additional impact by the development will not be considered a substantial deviation from the vesting order.
- D. A vested rights determination shall apply to the land and is therefore transferable from owner to owner.
- E. If the development order expires prior to development and extensions permitted in this Code are not pursued, the vesting status of the property will become null and void.

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- F. Development orders issued after May 1, 1992, will be required to be in full compliance with the Comprehensive Plan and the Land Development Code.
- G. Persons or entities granted a county development order vested under the provisions of this Code shall be vested to complete their development in accordance with the terms of their development order as approved in writing or shown on accompanying plans.

**Sec. 1.7.8** Nothing in this division or in any final vested rights determination made pursuant to this division shall impair the authority of the County to defer exercise of development rights in circumstances where such deferral is necessary to the public health, safety and welfare and is otherwise authorized by law.

### **Division 8 Concurrency Management**

**Sec. 1.8.1** Purpose and contents.

- A. This division establishes the County's "Concurrency Management System" to evaluate level of service impacts to ensure public facilities will not be degraded below their respective level of service standard as adopted in the Marion County Comprehensive Plan and/or the Inter-Local Agreement between the Board and the Marion County School Board, consistent with the provisions of § 163.3180 FS.
- B. No final development order shall be approved, except for development identified as exempt or vested by this division, unless it is determined that the necessary public facilities will be available concurrent with the impacts of the proposed development consistent with the provisions of this division, the Marion County Comprehensive Plan, and § 163.3180 FS. The burden of meeting concurrency requirements is on the applicant requesting a final development order, consistent with the provisions of this division.

**Sec. 1.8.2** Applicability.

- A. The following facilities are subject to concurrency review and approval, consistent with § 163.3180 FS:
  - (1) Potable water,
  - (2) Sanitary Sewer,
  - (3) Solid Waste,
  - (4) Stormwater,
  - (5) Schools, and
  - (6) Roadway transportation facilities.
- B. The following facilities are not subject to concurrency review and approval:
  - (1) Parks and recreation, and
  - (2) Mass transit.
- C. The following development applications shall be classified as a final development order subject to facility concurrency review and approval consistent with the provisions of this division and Article 2; however items (2) through (8) shall be eligible to elect concurrency deferral as provided in Section 1.8.2.F:
  - (1) Development of Regional Impact/Florida Quality Development,
  - (2) Rezoning,
  - (3) Master Plan,
  - (4) Preliminary Plat,
  - (5) Improvement Plan,



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- (6) Final Plat,
  - (7) Major Site Plan,
  - (8) Minor Site Plan, and
  - (9) Building Permit which will result in enabling or conducting a use which is new and/or an increase in intensity of a previously existing/operating use.
- D. The following development applications shall be classified as a preliminary development order subject only to facility concurrency review. However, concurrency approval is not required as a part or function of the development application's review consistent with Article 2:
- (1) Comprehensive Plan Amendment,
  - (2) Land Development Code Amendment,
  - (3) Special Use Permit, and
  - (4) Conceptual Plan.
- E. Applications for development orders or permits meeting the following shall be exempt from this Division:
- (1) Vested development.
    - (a) The following vested development types, except as noted or consistent with Item (b):
      1. Vested rights. A project granted vested status and issued a Vesting Order consistent with the provisions of Division 1.7 unless a reference(s) to meeting concurrency is specified in the vested project's vesting determination.
      2. Vested development order. A DRI or FQD subject to a Development Order issued prior to June 18, 1992, unless a reference(s) to meeting concurrency is specified in the DRI or FQD's Development Order.
      3. Vested building permits. Building permits issued prior to June 18, 1992.
    - (b) Vested development proposed to be modified shall be subject to concurrency review if the modification creates additional development units, density, and/or intensity. However, only the net increase or expansion shall be subject to concurrency review and approval.
  - (2) The following development types and related development orders or permits which are not creating or increasing density or intensity of use are exempt from this Section:
    - (a) Existing buildings to be modified, altered, repaired or replaced unless the modification will increase the number of units in a residential building or increase and/or change the square footage and/or intensity of the use for a non-residential building. Where such modifications will increase the number of dwelling units or increase and/or change square footage and/or intensity of the use for non-residential projects, only the net increase or expansion shall be subject to concurrency review and approval.
    - (b) Accessory buildings and structures for residential uses which do not include any living units or allow for new and/or additional non-residential site uses, such as barns, sheds, garages, towers, storage tanks, and swimming pools.
    - (c) Development applications in Article 2 that do not authorize increases in density or intensity.
    - (d) Fire stations, utility plants (potable water, sanitary sewer) not including office space.
    - (e) A building permit for one individual single family residence shall be exempt from concurrency review and approval, subject to compliance with this Code.

### F. Concurrency Deferral

An owner may elect to defer required concurrency review and approval for a development application identified in Section 1.8.2.A to a subsequent development application review stage by executing the following "Concurrency Deferral Statement" on the development application

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plan, or in a separate sworn and notarized affidavit, a copy of which shall be provided to Growth Services and the original shall be recorded in Marion County's Public Records, as applicable:

"This project has not been granted concurrency approval and/or granted and/or reserved any public facility capacities. Future rights to develop the resulting property(ies) are subject to a deferred concurrency determination, and final approval to develop the property has not been obtained. The completion of concurrency review and/or approval has been deferred to later development review stages, such as, but not limited to, [list subsequent applications expected pursuant to Section 1.8.2.C as applicable]."

### Sec. 1.8.3 Level of Service Standards (LOSS).

The level of service standards herein shall be used to evaluate development demand for concurrency review, evaluation, and/or approval, consistent with the Comprehensive Plan, Ch. 163 FS, and the following provisions:

- A. Potable water.
  - (1) Residential land uses - 150 gallons per person per day.
  - (2) Non-residential land uses – 2,750 gallons per acre.
- B. Sanitary sewer.
  - (1) Residential land uses - 110 gallons per person per day.
  - (2) Non-residential land uses - 2,000 gallons per acre per day.
- C. Solid waste.
  - (1) Residential land uses - 6.2 pounds of solid waste generation per person per day.
  - (2) Non-residential land uses - non-residential uses are exempt from solid waste concurrency review and approval, subject to compliance with applicable local, regional, state, and federal hazardous waste management and other applicable solid waste removal requirements and regulations.
- D. Stormwater.
  - (1) Closed basin stormwater systems shall be designed for a minimum 100-year frequency, 24-hour duration design storm.
  - (2) Open basin stormwater systems shall be designed for a minimum 25-year frequency, 24-hour duration design storm.
  - (3) Other best available data may be presented for review and approval consideration subject to approval by the County Engineer, or designee.
- E. Schools.
  - (1) LOSS shall be based on school type and its respective design capacity as follows:
    - (a) Elementary – 105 percent of the school's design capacity.
    - (b) Middle – 105 percent of the school's design capacity.
    - (c) High – 100 percent of the school's design capacity.
  - (2) The final demand and capacity determination shall be made by the Growth Services Director in consultation with the Marion County School Board. The appeal of any such determination shall be made to DRC which may consider input provided by the Marion County School Board.
- F. Traffic/roads LOSS shall comply with the following:
  - (1) State Roadways Not Exceeding Capacity: LOSS shall comply with FDOT Procedure No. 525-000-006, Level of Service Standards and Highway Capacity Analysis for the State Highway System, as amended,
  - (2) State Roadways Exceeding Capacity: LOSS shall comply with FDOT Procedure No. 525-000-006 and the LOSS provided in Table 1.8-1: State Roads Exceeding Capacity, until such time FDOT and/or Marion County can secure committed funding for the creation of additional roadway capacity.
  - (3) Marion County Specific Roadways: LOSS shall comply with Table 1.8-2 Minimum Peak Hour LOSS

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for Specific Functionally Classified County Roads.

- (4) Marion County Non-specified Roadways: LOSS shall comply with Table 1.8-3 Minimum Peak Hour LOSS for Non-Specified Functionally Classified County Roads NOT specified in Table 1.8-2.

**Table 1.8-1 State Roads Exceeding Capacity**

Road	From	To	Roadway Class	LOSS
SR 40	NE 64th Avenue	SR 326	Rural Principal Arterial	D
SR 40	SR 326	CR 314	Rural Principal Arterial	D

**Table 1.8-2 Minimum Peak Hour LOSS for Specific Functionally Classified County Roads**

Road Segment	From	To	LOSS
CR 320	Levy C.L.	I-75	B
CR 320	I-75	US 441	B
CR 318	Levy C.L.	CR 225	B
CR 318	CR 225	US 441	D
CR 318	US 441	US 301	C
CR 316	Levy C.L.	I-75	B
CR 316	I-75	CR 200 A	C
CR 326	Levy C.L.	CR 225 A	C
CR 326	CR 225 A	NW 44 <sup>th</sup> AVE	D
CR 464 B	Levy C.L.	US 27	C
CR 329	Alachua C.L.	CR 320	B
CR 329	CR 320	CR 316	B
CR 329	CR 316	I-75	C
CR 329	I-75	US 441	C
CR 329	US 441	CR 200 A	C
NW 110th Ave	US 27	SR 40	C
CR 225 A	CR 329	CR 326	C
CR 225 A	CR 326	US 27	D
CR 225	CR 318	CR 326	B
CR 225	CR 326	US 27	B
CR 25 A	US 441	CR 329	D
CR 25 A	CR 329	CR 326	D
CR 328	US 41	SR 40	D
SW 66th St	CR 475 A	CR 475	C
SE 80th St	CR 475 A	US 441	C
SE 80th St	US 441	SE 41st Ct	C
CR 475 A	CR 475 B	CR 484	C
CR 475 A	CR 484	CR 475	C
CR 475 A	CR 475	US 301	C
CR 475	SE 52nd St	SE 80th St	C
CR 475	SE 80th St	CR 484	C
W Anthony Rd	SR 326	North Terminus	C
NE 58th Ave	SR 326	NE 97th St Rd	C

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Road Segment	From	To	LOSS
NE 97th St Rd	NE 36th Ave	NE 90th St Rd	C
NE 90th St Rd	NE 97th St Rd	CR 315	C

**Table 1.8-3 Minimum Peak Hour LOSS for all Non-specific Functionally Classified County Roads NOT specified in Table 1.8-2**

Roadway Type	Urban	Rural
Freeways	D	C
Principle Arterial	D	C
Minor Arterial	E	D
Major Collector	E	D
Minor Collector	E	D

- (5) Measures such as access control, intersection improvements, improvements to alternative routes, and other transportation system management and transportation demand management strategies shall be implemented as a part of the strategy to "maintain and improve" the existing operating level of service.

**G. Parks and recreation.**

- (1) Residential land uses – Two acres land per 1,000 population. For use in development review, 0.002 acres per person shall be used.
- (2) Non-residential – non-residential uses are exempt.

**Sec. 1.8.4 Concurrency applications and requirements.**

**A. Applications types:**

- (1) The submission of a development application, as provided in Section 1.8.2(c) and Article 2, shall be deemed an application for concurrency review and approval.
- (2) No application for concurrency review and approval, as a request to reserve public facility capacity, may be submitted.

**B. Application requirements.**

- (1) The development application serving as the concurrency application shall comply with the submission requirements of that application type and include a complete listing of all public facility improvements, both on-site and off-site, to be provided by the applicant.
- (2) Utility Certification - If potable water or sanitary sewer is to be provided by an entity other than Marion County Utilities, the development application serving as the concurrency application shall be accompanied by a certificate from that entity that adequate capacity is available and reserved to satisfy the LOS Standard for water and/or sanitary sewer, consistent with the provisions of Section 1.8.3, as applicable.

**C.** All applications shall be reviewed for completeness. If adequate information to evaluate the application is not included, the applicant will be notified of the details of the incompleteness within the same time frame as specified by the corresponding development application.

**D.** Concurrency review shall follow the same development review process and time frames as the corresponding development application, based on the date the application was deemed complete.

**E.** All concurrency applications will be evaluated in the order in which they are deemed complete.

**Sec. 1.8.5 Concurrency Evaluation.**

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- A. Concurrency evaluation determines if there is adequate available capacity of each public facility types in Section 1.8.3.A through F to serve a proposed development project.
- B. The demand for facility impacts shall be calculated as follows:
  - (1) For residential land uses, demand shall be based on the number of persons per dwelling unit type based on the most recent United States Decennial Census data as published by the United States Commerce Department, Bureau of the Census. A development application may recommend alternative person per unit densities based on actual conditions of specific area supported by data and analysis, subject to approval by the Growth Services Director in consultation with the Director for the related public facility; appeal of such a determination shall be made to DRC.
  - (2) For non-residential land uses, demand shall be based on acreage or other capacity standards where/when they are identified for specific land-uses in this Code (e.g., equivalent residential unit conversions, etc.). A development application may recommend alternative capacity standards for use, subject to approval by the Growth Services Director in consultation with the Director for the related public facility; appeal of such a determination shall be made to DRC.
- C. The concurrency requirements for each of the facility types in Section 1.8.3.A through F shall be considered to be met if one of the following is satisfied for that facility type:
  - (1) The necessary facility is in place at the time a final development order is issued; or,
  - (2) The necessary facility is under construction at the time a final development order is issued and will be in place at the time the impacts of the development occur; or
  - (3) A final development order is issued subject to a development order condition that the necessary facility will be in place at the time the impacts of the development occur;
  - (4) The necessary facility is fully funded in the County's Five Year Capital Improvements Plan as approved by the Board consistent Ch. 163 FS, or,
  - (5) Provision of the necessary facility is guaranteed in an enforceable development agreement. An enforceable development agreement may include, but is not limited to, development agreements pursuant to § 163.3220 FS, or an agreement or development order issued pursuant to Ch. 380 FS. The agreement must guarantee that the necessary facility will be in place at the time impacts of the development occur.
- D. The concurrency requirements for transportation shall be considered to be met if one of the provisions in Section 1.8.5.C (1) through (3) above is applicable. Also, the concurrency requirement for transportation may be satisfied by assuring that one of the following provisions is met:
  - (1) The construction of necessary road improvements to provide the capacity necessary to maintain the adopted level of service standard have been included in the first three years of the applicable Florida Department of Transportation Five Year Work Program for State roads; or
  - (2) The construction of necessary road improvements to provide the capacity necessary to maintain the adopted level of service standard have been included in the first three years of the County's Five Year Capital Improvements Program.
- E. In determining the availability of services or facilities, a developer may propose and the County may approve developments in stages or phases so that the facilities and services needed for each phase will be available in accordance with the standards required by Sections 1.8.5.A and B above.
- F. Intergovernmental coordination. The concurrency evaluation and minimum requirements shall only apply to those facilities within the unincorporated area of or under the jurisdiction of Marion County. If part of the applicable service area or Traffic Impact Area lies within an adjacent County or a local government within Marion County, the adopted level of service standard for those facilities lying within the adjacent County or local government shall be those adopted by such County or local government. A certification from the adjacent County or local government that the issuance of the

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final development order will not cause a reduction in the level of service standards for those facilities lying within the adjacent County or local government shall be required prior to granting a final development order approval and/or affirmative concurrency approval.

### Sec. 1.8.6 Concurrency determination.

A. The concurrency determination cumulatively applies changes in demand (development) and supply (facility improvement) to the current available capacity of public facility, consistent with § 163.3180 FS, as follows:

- (1) Identify and determine each applicable facility and its available facility capacity;
- (2) Determine development units (e.g., residential dwelling units, non-residential use square feet/acreage) by land use type from the development application;
- (3) Apply/multiply development units by the demand multiplier provided in Item (B) below to determine the development application demand; and
- (4) Subtract application demand from available facility capacity to determine if adequate facility capacity exists for proposed development.
- (5) Result of the procedure is as follows:

$$\begin{aligned} \text{Capacity} - \text{Demand} = \text{Surplus} &= \text{Adequate Capacity Determination (Approval)} \\ &\text{or} \\ \text{Capacity} - \text{Demand} = \text{Deficit} &= \text{Inadequate Capacity Determination (Denial)} \end{aligned}$$

B. Demand multiplier for each public facility for evaluation of impacts:

- (1) Potable water. The multiplier shall be the applicable LOSS standard provided in Section 1.8.3.A. If a non-Marion County potable water system will be serving a proposed development, the applicant shall submit a certification from that entity that adequate capacity is available and reserved to satisfy the level of service standard for potable water. A proposed development authorized to use an individual on-site potable water source to be permitted by the DOH shall be deemed to have adequate facility capacity.
- (2) Sanitary sewer. The multiplier shall be the applicable LOSS standard provided in Section 1.8.3.B. If a non-Marion County sanitary sewer system will be serving a proposed development, the applicant shall submit a certification from that entity that adequate capacity is available and reserved to satisfy the level of service standard for sanitary sewer. A proposed development authorized to use individual OSTDS or non-centralized system to be permitted by the DOH and/or DEP shall be deemed to have an adequate facility capacity.
- (3) Solid waste. The multiplier shall be the applicable LOSS standard provided in Section 1.8.3.C. If the Solid Waste Department has stated in the Annual Facility Capacity Statement that adequate facility capacity exists for all projected needs for the following year then this statement will serve as a finding of concurrency for all development orders issued through the year.
- (4) Drainage. Concurrency evaluation for drainage is done on a site specific basis. The level of service standard is applied directly to the proposed development site. The evaluation is done in accordance with the Marion County Land Development Code and the applicable Water Management District requirements.
- (5) Traffic - roads.
  - (a) Trip generation shall be based on the Marion County Traffic Impact Fee data and analysis, as amended; however; if the land use impact fee types are not applicable to the development then the following may be proposed by the applicant, subject to Growth Services Director and County Engineer approval, with appeal to DRC:

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1. Rates from the latest available Institute of Transportation Engineers (ITE) Trip Generation Manual, or
  2. Locally derived trip generation rates based on studies performed, or approved and verified by the County.
- (b) Trip distribution analysis shall be provided by the applicant to determine the amount of traffic added to impacted roads segments. For projects generating less than 100 average daily trips, trips may be assigned by County staff.
  - (c) Impacted roads shall be determined by using the average trip length as specified in the Marion County Traffic Impact Fee data and analysis, as amended plus those road segments operating at LOS A, B, C or D which the development application would add five percent or more of the LOS D service volume to the peak hour; or, those road segments operating at LOS E or F which the development application would add two percent or more of the LOS D service volume to the peak hour, peak direction.
  - (d) The amount of traffic added to each impacted road segment will be subtracted from that road segment's available capacity to determine concurrency.
- C. Adequate capacity determination. When there is adequate capacity in all public facilities for a final development order, the following shall apply:
- (1) The appropriate capacity reservation fees shall be paid by the owner within 15 working days following DRC approval of the development application.
    - (a) In the event the owner fails to provide the required capacity reservation fees, the DRC's development application approval is void.
    - (b) The concurrency approval granted in conjunction with a development application, based upon the details of the application, shall run with the land and be valid for the time period of the corresponding development application. A reservation of capacity provided by the concurrency approval shall expire with the corresponding development application. In the event that a time extension is granted for a development application, then the concurrency approval shall be automatically renewed for the length of the time extension.
    - (c) Any modifications made to the development application may require another concurrency review and approval. In the case of a staged or phased project where only a portion of a prior or preceding plan is submitted for final development order approval, the concurrency approval applies only to that part of the project which is attaining final approval with the concurrent development application.
    - (d) Concurrency approval is specifically limited to the details of the corresponding development application and its final development order and any development conditions, including phasing. In these cases, the final development application shall be reviewed to ensure compliance with any applicable previously granted concurrency approval.
    - (e) If the land use, density, or intensity of the development project changes, another concurrency review and approval will be required.
  - (2) The reserving of capacity shall occur on a first-come, first-serve basis. However, a functional concurrency review application, either development application or independent application, can supersede an application ahead of it, only if sufficient capacity is available to serve the current and prior applications.
  - (3) If applicable, any final concurrency approval will specify any improvements to be made and include a schedule for their completion. For concurrency approval related to a development application, such improvements may be specified on the development application. For an independent concurrency application approval, such improvements may be specified in a developer agreement pursuant to county Code.

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- (4) Concurrency approval does not relieve an owner and/or applicant from complying with all requirements necessary to obtain a final development order and does not vest an owner and/or applicant with the right to obtain subsequent development orders for the same development project.
  - (5) The capacity reservation fee, or portion thereof, can be refunded if the development application does not proceed only if the County and any other provider of capacity has not expended or obligated the money for pre-construction costs or construction of public facilities. A refunding of the capacity reservation fee will result in withdrawal of concurrency approval for the development application or independent concurrency application; however an owner/applicant is not precluded from applying for a new/updated concurrency review and approval.
- D. Inadequate capacity determination. When the concurrency evaluation system determines there is not adequate available capacity in one or more of the public facilities, the following shall apply:
- (1) The applicant will be notified as part of the DRC development application review process, or receive specific comments in response to a submitted independent concurrency application.
  - (2) The applicant shall elect one of the following actions in regards to the inadequate facility:
    - (a) Mitigate the deficiency by:
      1. Altering the design or size of the development in order that all capacities will be adequate;
      2. Break the project into several smaller projects or phases and obtain approvals for each as a separate project;
      3. Propose that the applicant enter into a development agreement with the appropriate party responsible for each deficient public facility, wherein the Agreement specifies the methods to provide the development's proportionate share of additional capacity via proportionate share payment and/or improvements which eliminate and/or mitigate the development's proportionate share of deficiencies prior to the development project's impact, consistent with Ch. 163 FS. In the case of road segment deficiencies, the use of access control, intersection improvements, and improvements to alternative routes and other transportation system management and transportation demand management strategies may be accepted by the County as methods to increase facility capacity.
      4. Submit alternate data demonstrating greater capacity or less impact than has been calculated by the County or other entity responsible for the public facility, using a methodology acceptable to the County and/or responsible entity. In the case of road segment deficiencies, the applicant may prepare a more detailed capacity analysis using methods acceptable to the County; or
    - (b) Delay the project until capacity is available; or
    - (c) Accept denial and withdraw the development application.
  - (3) The applicant has 10 working days to submit one of the above options in response to a deficiency determination. The pending demand status of either application type may be extended an additional 30 calendar days to complete a mitigation alternative. In the case of mitigation, the mitigation plan shall be forwarded to DRC for review and recommendation either along with the accompanying development application or as an independent application, and then on to the Board or applicable public facility controlling entity.
  - (4) Development Agreement. Development agreements shall follow the procedures and requirements of the county Code, as applicable.
- E. Capacity Reservation Fee
- (1) Capacity reservation fees shall be calculated in the same manner as provided in the corresponding Marion County fee ordinances as follows:



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- (a) Transportation – Marion County Impact Fee Ordinance for Transportation Facilities;
  - (b) Utilities – Marion County Utilities Capital Charges, or if for a non-Marion County provider of the facility, as set forth in that provider’s capital charge standards;
  - (c) Schools – Marion County Impact Fee Ordinance for Education Facilities.
- (2) The form of payment shall be established by the Board, or the non-Marion County provider as applicable. Improvements or contributions made for off-site improvements, particularly road improvements, shall be credited to capacity reservation fees.
- (3) The timing of payment shall be divided into two (2) stages which, at a minimum, comply with the following schedule:
- (a) Fifty percent (50%) at concurrency approval.
  - (b) Fifty percent (50%) at issuance of Certificate of Occupancy, or equivalent.
- (4) Capacity reservation fees provided to obtain concurrency approval shall be credited to their respective facility impact fee and/or capacity charge, unless said fees were refunded to the applicant as provided in this Section.

### Sec. 1.8.7 Off-site improvements.

- A. The purpose of this section is to insure that new development contributes its pro-rata share allocation of the costs for off-site improvements. As a condition of approval for a development application or an independent concurrency application, the County may require an applicant to pay a proportionate share of the cost of providing reasonable and necessary public facilities, including land and easements, located off-site of the property limits of the development, but necessitated or required by the development. Necessary improvements are those clearly and substantially related to the development in question. The County shall provide in its approval, the basis of the required improvements. The capacity and design of the proposed improvements shall be based upon the level of service standards adopted in the Comprehensive Plan. The proportionate amount of the cost of such facilities within a related or common area shall be based on the criteria in Section B below.
- B. Cost allocation.
- (1) Full Allocation. In cases where off-site improvements are necessitated by the proposed development, and where no other property owner receives a benefit thereby, the applicant may be required at his sole expense and as a condition of approval, to provide and install such improvements.
- (2) Proportionate Allocation. Where it is determined through the use of design criteria specified in Article 6 that properties outside the proposed development will also be benefitted by the off-site improvement(s), the following criteria shall be utilized in determining the proportionate share of the cost of such improvements to be borne by the developer:
- (a) Roads. The applicant's proportionate share of street improvements, widening, alignment, channelization, barriers, new or improved traffic signalization, signs, curbs, sidewalks, utility improvements not covered elsewhere, the construction or reconstruction of new or existing streets, and other associated street or traffic improvements shall be as follows:
    - 1. The County shall provide the applicant with the existing and reasonably anticipated future peak hour traffic flows for the off-site improvements.
    - 2. If the existing system does not have adequate capacity as defined above, the pro-rata share shall be computed as follows:  $\text{Developer's Cost} = \text{Total Cost of Improvement} \times \text{Development Peak Hour Traffic to be accommodated by Improvement} \div \text{Peak Hour Capacity of Improvement}$ .
  - (b) Sanitary Sewer. The applicant's proportionate share of collection facilities including the installation, relocation, or replacement of collector, trunk and interceptor sewers, treatment

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and disposal facilities and associated appurtenances, shall be computed as follows:

1. The capacity and the design of the sanitary sewer system shall be based on the standards specified in Article 6 of this Code.
  2. For a Marion County facility, the County Utilities Director shall provide the applicant with the existing and reasonably anticipated peak hour flows as well as capacity limits of the affected sanitary sewer system. For a non-Marion County facility, the utility provider shall provide the applicant with the existing and reasonably anticipated peak hour flows as well as capacity limits of the affected sanitary sewer system.
  3. If the existing sanitary sewer system does not have adequate capacity to accommodate the applicant's flow given existing and reasonably anticipated peak hour flows, the pro-rata share shall be computed as follows:  $\text{Developer's Cost} = \text{Total Cost of Improvement} \times \text{Development Generated GPD to be accommodated by improvement} \div \text{Capacity of Improvement (GPD)}$ .
- (c) Water Supply. The applicant's proportionate share of water supply and distribution facilities including the drilling of wells, installation of pumps, construction of storage tanks, the installation, relocation or replacement of water mains, fire hydrants, valves and associated appurtenances shall be computed as follows:
1. The capacity and the design of the water supply system shall be based on the standards specified in Article 6 of this Code.
  2. For a Marion County facility, the County Utilities Director, shall provide the applicant with the existing and reasonably anticipated capacity limits of the affected water supply system in terms of average demand, peak demand, and fire demand. For a non-Marion County facility, the utility provider shall provide the applicant with the existing and reasonably anticipated capacity limits of the affected water supply system in terms of average demand, peak demand, and fire demand.
  3. If the existing water system does not have adequate capacity as defined above to accommodate the applicant's needs, the pro-rata share shall be computed as follows:  $\text{Developer's Cost} = \text{Total Cost of Improvement} \times \text{Development Generated GPD to be accommodated by Improvement} \div \text{Capacity of Improvement (GPD)}$
- (d) Drainage Improvements. The applicant's proportionate share of storm water and drainage improvements including the installation, relocation, or replacement of storm drains, culverts, catch basins, manholes, riprap, improved drainage ditches and appurtenances, and relocation or replacement of other storm drainage facilities, or appurtenances shall be determined as follows:
1. The capacity and the design of the drainage system to accommodate storm water runoff shall be based on the standards specified in Article 6 of this Code, computed by the developer's engineer and approved by the County Engineer.
  2. The capacity of the enlarged, extended, or improved system required for the subdivision and areas outside of the developer's tributary to the drainage system shall be determined by the developer's engineer subject to approval of the County Engineer. The plans for the improved system shall be prepared by the developer's engineer and the estimated cost of the enlarged system calculated by the County Engineer. The pro-rata share for the proposed improvement shall be computed as follows:  $\text{Developer's Cost} = \text{Total Cost of Improvement} \times \text{Development Generated Peak Rate of runoff expressed in cubic feet per second to be accommodated by the Improvement} \div \text{Capacity of Improvement (Capacity expressed in cubic feet per second)}$ .
- (e) Other Improvements. The applicant's proportionate share of other capital improvements

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shall be computed as follows:

1. Developer's Cost = Total Cost of Improvement x Development Share of Improvement ÷ Capacity of Improvement.
- C. Escrow accounts. Where the proposed off-site improvement is to be undertaken at some future date, the monies required for the improvement shall be deposited in a separate interest-bearing account to the credit of the County until such time as the improvement is constructed.