

**CODE OF ORDINANCES**  
**TOWN OF**  
**HILLCREST HEIGHTS, FLORIDA**

**Looseleaf Supplement**

This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance No. 2014-01, enacted July 14, 2014.**

See the Code and Land Development Regulations Comparative Table for further information.

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Insert and maintain this instruction sheet in front of this publication. File removed pages for reference.



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SUPPLEMENT NO. 1  
January 2004

**CODE OF ORDINANCES**

**Town of**

**HILLCREST HEIGHTS, FLORIDA**

**Looseleaf Supplement**

This Supplement contains all ordinances deemed advisable to be included at this time through:

**Ordinance No. 99-O-01, passed July 13, 1999.**

See the Code Comparative Table for further information.

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(following Table of Contents)

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Insert and maintain this instruction sheet in front of this publication. File removed pages for reference.

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**CODE OF ORDINANCES**  
TOWN OF  
**HILLCREST HEIGHTS, FLORIDA**

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Published in 1999 by Order of the Town Commission

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OFFICIALS

of the

TOWN OF

HILLCREST HEIGHTS, FLORIDA

AT THE TIME OF THIS CODIFICATION

---

Andrew E. Bryan  
*Mayor*

---

Samuel R. Knight  
Roger G. Bergere  
John A. Schwarze  
Frank Placko  
*Town Commission*

---

Robert L. Williams, Jr.  
*Town Attorney*

---

Larry O. Blackwelder  
*Town Clerk*





## PREFACE

This Code constitutes a complete codification of the general and permanent ordinances of the Town of Hillcrest Heights, Florida.

Source materials used in the preparation of the Code were the ordinances adopted by the town commission. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of any ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

### *Chapter and Section Numbering System*

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

### *Page Numbering System*

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the

left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

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STATE LAW REFERENCE TABLE	SLT:1
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LAND DEVELOPMENT REGULATIONS INDEX	LDRi:1

#### *Indexes*

The indexes have been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the indexes themselves which stand as guideposts to direct the user to the particular item in which the user is interested.

#### *Looseleaf Supplements*

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up-to-date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up-to-date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

### *Acknowledgments*

This publication was under the direct supervision of Alyce A. Whitson, Supervising Editor, and John W. Welch, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to the Honorable Andrew Bryan, Mayor, and Robert Williams, Town Attorney, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the town readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the town's affairs.

### *Copyright*

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Municipal Code Corporation and the Town of Hillcrest Heights, Florida.  
1999.



ADOPTING ORDINANCE

ORDINANCE NO. 99-O-01

AN ORDINANCE RELATING TO THE ADOPTION OF THE CODIFICATION OF THE GENERAL AND PERMANENT ORDINANCES AND LAWS OF THE TOWN OF HILLCREST HEIGHTS, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, for many years the Town of Hillcrest Heights had in force and effect an uncodified collection of its charter, various ordinances and land development regulations making it difficult to conduct and administer the Town's business on a day-to-day basis; and,

WHEREAS, the Town Commission determined it was appropriate and in the best interest of the Town and its residents to engage the Municipal Code Corporation to accumulate its various governing laws into one Code of Ordinances which is a collection or codification of the Town's general and permanent laws; and

WHEREAS, the Town Commission now desires to approve this enacting ordinance to effectuate the adoption of this codification;

NOW, THEREFORE BE IT ENACTED BY THE TOWN COMMISSION OF THE TOWN OF HILLCREST HEIGHTS, FLORIDA:

*Section 1:* The codification of the general and permanent laws and ordinances prepared in the year 1999 by the Municipal Code Corporation is hereby adopted.

*Section 2:* This ordinance shall take effect immediately upon being read in two meetings of the Town Commission of Hillcrest Heights, Florida, its approval and adoption by said Commission and certification as to passage.

PASSED ON FIRST READING July 13, 1999.

PASSED ON SECOND AND FINAL READING AND ADOPTED August 10, 1999.

TOWN OF HILLCREST  
HEIGHTS, FLORIDA

By: \_\_\_\_\_  
ANDREW E. BRYAN,  
Mayor

Attest:

\_\_\_\_\_  
LARRY O. BLACKWELDER, Town Clerk



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## Checklist of Up-to-Date Pages

(This checklist will be updated with the  
printing of each Supplement)

From our experience in publishing Looseleaf Supplements on a page-for-page substitution basis, it has become evident that through usage and supplementation many pages can be inserted and removed in error.

The following listing is included in this Code as a ready guide for the user to determine whether the Code volume properly reflects the latest printing of each page.

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In addition to assisting existing holders of the Code, this list may be used in compiling an up-to-date copy from the original Code and subsequent Supplements.

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## SUPPLEMENT HISTORY TABLE

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In addition, by adding to this table with each supplement, users of this Hillcrest Heights, Florida Code of Ordinances will be able to gain a more complete picture of the code's historical evolution.

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- Sec. 25. Appointment of treasurer.
- Sec. 26. Powers of town commission relating to municipal organization and officers.

**\*Editor's note**—Printed herein is the Charter of the Town of Hillcrest Heights, as adopted by Laws of Fla. ch. 61-2235. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

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### Article V. Mayor

- Sec. 27. Supervision over town officers; suspension of officers and employees; exception.
- Sec. 28. Appointment of chief of police, assistant chief of police and police officers; duties of chief of police, etc.

### Article VI. Municipal Court

### Article VII. Removal of Elected Officials

- Sec. 36. Mayor—Grounds for removal.
- Sec. 37. Same—Procedure.
- Sec. 38. Commissioners—Grounds for removal.
- Sec. 39. Same—Procedure.
- Sec. 40. Alternate procedure for removal of elected officials.

### Article VIII. Bonds

### Article IX. Special Assessments

### Article X. Revenue and Taxation

### Article XI. Streets, Pavements and Town Lots

- Sec. 87. Corporate area declared independent road and bridge district.
- Sec. 88. Commission granted control of streets, roads, etc.
- Sec. 89. Commission to adopt resolution for improvement; notice; content of resolution.
- Sec. 90. Manner work performed; payment of expenses.
- Sec. 91. Assessment resolution; notice of completion; publication.
- Sec. 92. Hearing of complaints.
- Sec. 93. Injunction against collection of assessment.
- Sec. 94. Assessment as lien against land; rate of interest.
- Sec. 95. City [town] improvement lien book.
- Sec. 96. Payment of lien; certificate of indebtedness; manner of paying assessments.
- Sec. 97. Enforcement and collection of lien; attorney's fee and cost of proceedings.
- Sec. 98. Filling low ground; notice to owner; failure to comply; provisions of sections 89 through 97 applicable.
- Sec. 99. Construction or repair of sidewalks, foot-pavements, curbs or gutters; notice to owner; failure to comply; provisions of sections 89 through 97 applicable.
- Sec. 100. Removal of brush, trees, filth, ruins, etc.; notice to owner; failure to comply; provisions of sections 89 through 97 applicable.
- Sec. 101. Other laws for government of Towns applicable.
- Sec. 102. Appropriation prerequisite to expenditure of public money.
- Sec. 103. Injuries for which Town not liable.
- Sec. 104. Suits against Town—Statute of limitations.
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- Sec. 106. Severability of parts of charter.

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- Sec. 107. Certificates of clerk under seal of Town to be evidence of required publication of any notice.
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- Sec. 109. When Charter to take effect.
- Sec. 110. Approval of Governor.



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**ARTICLE I. IN GENERAL**

**Section 1. Abolishment of present municipality.**

That the municipal corporation now existing and known as the Town of Hillcrest Heights, in Polk County, Florida, be and the same is hereby abolished, and a new municipality to be known as Town of Hillcrest Heights, in Polk County, Florida, is hereby created and established to succeed such former municipality of the Town of Hillcrest Heights, Polk County, Florida.

**Section 2. Boundaries.**

The Town of Hillcrest Heights hereby created and established shall embrace and include all that territory situated and being in Polk County, Florida, described as follows, to-wit:

All Government Lot Five (5) and the East Half (E ½) of Government Lot Four (4), of Section 32, Township 30 South, Range 28 East, all situate in Polk County, Florida.

**Section 3. Manner of adding territory.**

**Editor's note**—This section has been editorially deleted as preempted by F.S. ch. 171, relating to procedure for annexation and contraction of municipal boundaries and specifically F.S. § 171.022, which repealed all special act or municipal charter provisions in effect on October 1, 1974.

**Section 4. Title to property reserved to new municipality.**

That the title, rights and ownership of property, uncollected taxes, assessments, dues, claims, licenses, judgments, decrees and choses in action held or owned by the municipality of the Town of Hillcrest Heights shall pass to and be vested in the municipal corporation hereby created and established to succeed such municipality.

**Section 5. Ordinances remain effective.**

That the ordinances of the former Town of Hillcrest Heights shall be and remain the ordinances of the Town hereby created and established, until altered, amended, modified, or repealed by the Commission of said town hereby created and established.

**Section 6. Perpetual succession; powers generally.**

That said corporation shall have perpetual succession.

**Editor's note**—Parts of this section, which have not been amended by referendum after July 1, 1973, and which are not extraterritorial powers, have been editorially deleted as unnecessary as home rule powers of a municipality are derived from the constitution and F.S. ch. 166.

**Section 7. Qualifications of electors.**

**Editor's note**—This section has been editorially deleted as the qualification and registration of electors is superseded by F.S. §§ 97.041, 97.105.

**ARTICLE II. MUNICIPAL POWERS**

**Section 8. Generally.**

The Town Commission shall have the power by ordinance:

- (1) *Taxation.*
- (2) *Codification of ordinances.*
- (3) *Public service.* To buy, sell and distribute, water, electricity or other public service or utility to others for profit, within or beyond the boundaries of the municipality.
- (4) *Misdemeanors.*
- (5) *Appropriations.*
- (6) *Disease control.* To make regulations to prevent the introduction and spread of infectious or contagious diseases into the Town and to make quarantine laws for the purpose and to enforce the same within the Town and without the Town for a distance of four miles from the corporate limits of the Town; provided, however, that this jurisdiction shall not extend over the territory of any other municipality.
- (7) *Nuisance.*
- (8) *Low ground.*
- (9) *Weeds, filth, debris, decayed buildings, etc.*
- (10) *Public utilities.*
- (11) *Fire prevention.*
- (12) *Police force; fines, forfeiture and imprisonment.*
- (13) *Gambling.*
- (14) *Houses of ill fame.*
- (15) *Immoral amusements, pictures and literature.*
- (16) *Noisy manufacturing.*
- (17) *Pollution of waters, streets, etc.*
- (18) *Dangerous weapons, toy pistols, fireworks, etc.*
- (19) *Inflammable, combustible or explosive material.*
- (20) *Lights, wiring, steam pipes, etc.*
- (21) *Public health, morals, welfare or safety.*
- (22) *Food, petroleum products and other commodities.*
- (23) *Markets.*
- (24) *Vagrants and disorderly persons.*

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- (25) *Breakers of peace.*
- (26) *Disorderly assemblies.*
- (27) *Dangerous houses, sidewalks, or other structures.*
- (28) *Animals, fowl and domestic birds.*
- (29) *Traffic control.*
- (30) *Streets and alleys.*
- (31) *Sewers, water disposal system and incinerator plant.* To construct and provide for the construction of sewers or storm sewers or water disposal system and incinerator plant within and without the corporate limits of the Town and without the corporate limits of the Town for a radius of ten miles from the southeast corner of the Town except lands in other incorporated towns; provide for condemnation of property in territory mentioned in building of plants and systems; authorizing the Town to erect and establish said system or systems, permitting the Town to charge a service charge and/or connection charge, and to charge special assessments against property benefited and to issue bonds, general obligation or special assessment, or revenue bonds.
- (32) *Town manager.* To provide for the appointment of a town manager, to prescribe his duties and fix his compensation. The town manager need not be a resident or property holder in the Town, County or State and may be dismissed at the pleasure of the Commission without assigning a reason therefor.
- (33) *Town plan and planning board.*
- (34) *Commercial zoning.*
- (35) *Eminent domain.*
- (36) [*Reserved.*]
- (37) *Filth, dirt, garbage, shells, trash, refuse, etc.* To prohibit the dumping of filth, dirt, garbage, shells, trash, refuse or other things in the canals within or running through said Town or into any other body of water within the Town limits, or within four miles of the Town limits.
- (38) *Houseboats and other vessels.* To license, govern, regulate or prohibit the permanent anchorage of houseboats or other boats or vessels in any of the waters within the Town Limits, or within one-half mile of such Town Limits.
- (39) *Boatways and boatyards, docks, wharves and piers; ferries.* To regulate or prohibit the use of boatways or boatyards within and adjoining the Town Limits and to restrict their use to any portion of said Town on the waterfront thereof; to construct docks, wharves or piers and to control, manage and designate the use of all docks, wharves, or piers within the Town Limits or adjoining same; to license and control ferries landing within the Town and on the waterfront thereof; provided, however, that such construction, control, management and regulation as is in this paragraph provided for, shall not violate the Laws of the State of Florida, nor of the United States of America, as now exist or hereafter may be provided for.

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- (40) *Offenses against public health, decency or morals.* To have and to exercise jurisdiction over the Commission of all offenses against the public health, decency or morals within said Town and within four miles of the corporate limits of the said Town.
- (41) *Weights and measures.*
- (42) *Corporate seal.*
- (43) *Borrowing money; repayment.*
- (44) *Valuation for municipal taxation.*
- (45) *Hospitals, jails, houses of detention and correction.*
- (46) *Lighting of Town.* To provide for the lighting of the Town by electricity, gas or other illuminating material; to sell gas or electricity to others for profit, within or beyond the boundaries of the municipality, and to make appropriations for the lighting of the streets and public buildings.
- (47) *Auditorium; municipal theater.*
- (48) *Publicity fund.*
- (49) *Municipal sovereignty and property, rights and privileges.*
- (50) *General Statutes relating to towns and cities.*
- (51) *Sinking funds; contingent fund.*

**Editor's note**—Subsections (1), (4), (5), (7)—(30), (33)—(35), (41)—(45) and (47)—(51) of this section, which have not been amended by referendum after July 1, 1973, and which are not extraterritorial powers, have been editorially deleted as superseded by state law or are unnecessary as home rule powers of a municipality are derived from the constitution and F.S. ch. 166.

**ARTICLE III. TOWN COMMISSION**

**Section 10. Creation; composition; election; term; vote entitlement.**

That the corporate authority of said municipality shall be vested in a Commission hereby created by this act. Said Commission shall be composed of five (5) commissioners, each of whom shall be elected for a term of two (2) years and each of whom shall be entitled to vote on all matters regardless of whether any or either of the Commissioners shall be acting as Mayor or as Chairman at the time said vote is taken. Each commissioner shall remain in office until his successor is duly elected, and, except as hereinafter provided, the present Mayor shall hold office until the General Election on November 6, 1962, and until his successor is appointed. Each commissioner elected in November, 1962, shall be elected for two years. At each election for the office of commissioner, the persons elected shall be elected for two-year terms unless said person or either of them are candidates to fill an unexpired term. At each annual election, the commissioner shall be elected from the town at large, but the candidates shall be permitted



to file for any group which they prefer to run in. If there are three vacancies to be filled, there shall be three groups, 1, 2 and 3; in other words, there shall be as many groups as there are positions to be filled on the Town Commission.

**Section 11. Appointment of mayor and others; salaries; duties of mayor and vice-mayor.**

The Commission shall, annually, as soon as practicable after the annual election has been held and they have taken the oath of office, appoint from among the Commission a Mayor and a Vice-Mayor, and shall appoint, in addition thereto, either from their own number or outside of the Town Commission, a Town Clerk, Treasurer, Town Attorney and such other officers as said Commission may deem advisable or necessary. The Commission shall fix their own salaries and those appointed by them and should any person serve as Commissioner and as Mayor or Vice-Mayor, or any other office or offices in addition to being Commissioner such fact shall not prevent such officer from receiving additional compensation under and above that paid to him, her or them.

**Editor's note**—The reference in this section to the tax assessor, tax collector and municipal judge has been editorially deleted as obsolete as municipal courts were abolished in 1970, Fla. Const. art. V, § 20(d)(4), and taxes are assessed and collected by the county pursuant to F.S. ch. 192 et seq.

**Section 12. Rules and regulations for electors, candidates and elections.**

The rules and regulations for electors and the qualifications of candidates and the regulation for holding and certifying general and special elections to fill vacancies in the Commission shall be prescribed by ordinance of the said Town, the same not to be in conflict with the Constitution of the State of Florida and its Charter.

**Section 13. Rules of procedure; non-attendance; quorum; meetings.**

**Editor's note**—This section has been editorially transferred to the Code of Ordinances as certain provisions of a Charter adopted prior to July 1, 1973, and not subsequently amended by referendum have been converted to ordinances by operation of F.S. § 166.021(5). This section is section 2-31 in the Code of Ordinances.

**Section 14. Oath of office.**

**Editor's note**—This section has been editorially transferred to the Code of Ordinances as certain provisions of a Charter adopted prior to July 1, 1973, and not subsequently amended by referendum have been converted to ordinances by operation of F.S. § 166.021(5). This section is section 2-32 in the Code of Ordinances.

**Section 15. Vacancies.**

In case of a vacancy in the Commission, the remaining Commissioners (or in case of a vacancy in the office of Mayor, the Commissioners), shall call a special election to fill such vacancy or vacancies, within thirty (30) days after the beginning of such vacancy or vacancies, unless a general election is to be held in said municipality within ninety (90) days after the

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beginning of such vacancy or vacancies, whereupon and in such case the filling of such vacancy shall be at such general election. Such special election shall be held under the same rules and regulations as general elections are held. The officer or officers, whether the same be a Commissioner or Mayor, elected at such special election shall serve only for the unexpired term, provided, however, that nothing herein contained shall prevent or preclude any person eligible for election as Commissioner or Mayor [sic] who is not a qualified elector of the Town of Hillcrest Heights, and a citizen of the State of Florida.

**Editor's note**—The reference to freeholder in the last sentence of this section has been deleted, see *Turner v. Fouche*, 396 U.S. 346(1969).

**Section 16. Ordinance enactment; emergency measures.**

**Editor's note**—This section, which has been converted to an ordinance by operation of F.S. § 166.021(4), (5), has been editorially deleted as superseded and preempted by the uniform minimum mandatory procedures in F.S. § 166.041.

**State law reference**—Uniform minimum mandatory procedure for adoption of ordinances, F.S. § 166.041.

**Section 17. Franchises.**

**Editor's note**—This section has been editorially deleted as all limitations on the exercise of certain home rule powers in a Charter adopted prior to July 1, 1973, and not subsequently amended have been repealed by operation of F.S. § 166.021(4).

**State law reference**—Municipal home rule powers act, repeal of certain limitations, F.S. § 166.021.

**Section 18. Record of ordinances.**

**Editor's note**—This section, which has been converted to an ordinance by operation of F.S. § 166.021(4), (5), has been editorially deleted as superseded and preempted by the uniform procedures in F.S. § 166.041.

**ARTICLE IV. MUNICIPAL ORGANIZATION AND OFFICERS**

**Section 19. Succession to mayorship.**

The Mayor, Councilmen [Commissioners] and City [Town] Clerk now serving shall each continue to perform the duties of his or her respective office until his or her successor is duly elected, appointed and qualified. In the absence or disability to act of the Mayor, the Vice-Mayor shall perform the duties of the office of Mayor, and in the absence or disability of both the Vice-Mayor and the Mayor, the chairman of the Commission shall be designated by ordinance to serve as Mayor and to perform the duties of the office, including its judicial functions during such absence or disability.

**Section 20. Commission authorized to create departments.**

For the purpose of systematically handling the City [Town] Government, the Commission is hereby authorized and empowered to create by ordinance such department or departments as it may deem necessary to efficiently handle the business and government of the Town, and designate the Commissioner who shall have charge of the department so created.

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**Section 21. Duties commissioners authorized to perform; assistants.**

Each of the commissioners is authorized to hold any office or perform any duties or functions necessary for the government of the Town, and shall receive no additional compensation for such service. The commission may, in case of necessity, appoint suitable persons to assist them or to assist it in performing the duties of their respective departments, and the compensation of such person or persons so appointed shall be determined by the Commission.

**Section 22. Salaries of Town officers.**

**Editor's note**—This section has been editorially transferred to the Code of Ordinances as certain provisions of a Charter adopted prior to July 1, 1973, and not subsequently amended by referendum have been converted to ordinances by operation of F.S. § 166.021(5). This section is section 2-33 in the Code of Ordinances.

**Section 23. Disposition of public monies.**

**Editor's note**—Most of this section has been editorially transferred to the Code of Ordinances as certain provisions of a Charter adopted prior to July 1, 1973, and not subsequently amended by referendum have been converted to ordinances by operation of F.S. § 166.021(5). This section is section 2-146 in the Code of Ordinances.

**Section 24. Bonds to be made by responsible surety company.**

**Editor's note**—This section, which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power has been editorially deleted as unnecessary as home rule powers of a municipality are derived from the constitution and F.S. ch. 166.

**Section 25. Appointment of treasurer.**

A Treasurer shall be selected and appointed by the Commission with the approval of the Mayor, and such person so selected may or may not be a member of the Commission, as in the judgment of the Commission is for the best interests of the Town.

**Section 26. Powers of town commission relating to municipal organization and officers.**

All employees, officers, and officials of the Town, unless otherwise herein provided for, shall be appointed by the Commission, shall hold office during the pleasure of the Commission and may be removed from office and discharged by the Commission at any time, without the assignment by the Commission of a reason therefor.

**Editor's note**—Most of this section has been editorially transferred to the Code of Ordinances as certain provisions of a Charter adopted prior to July 1, 1973, and not subsequently amended by referendum have been converted to ordinances by operation of F.S. § 166.021(5). This section is section 2-34 in the Code of Ordinances.

**ARTICLE V. MAYOR**

**Section 27. Supervision over town officers; suspension of officers and employees; exception.**

The Mayor shall have power to suspend any officer or employee of the Town, except Commissioners, for misconduct in office, neglect of duty, reporting his or her action in writing

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with the reasons therefor to the next regular meeting of the Commission for its approval or disapproval. The Mayor shall have general supervision over all Town officers except the action of the Commission, and shall report to the Commission all violations or neglect of duty on the part of the employee of the Town that may come to his or her knowledge.

**Section 28. Appointment of chief of police, assistant chief of police and police officers; duties of chief of police, etc.**

The Town Commissioner in charge of the police department shall have the right and authority to appoint and employ a Chief of Police, an assistant Chief of Police and such police officers as may be necessary, such appointment to be made subject to the approval and consent of a majority of the Commission of said Town; and the Commission shall have the right to prescribe their duties and fix their salaries by ordinance.

**Editor's note**—The reference in this section to arrest powers of police officers has been deleted as superseded by F.S. ch. 901.

**ARTICLE VI. MUNICIPAL COURT\***

**ARTICLE VII. REMOVAL OF ELECTED OFFICIALS**

**Section 36. Mayor—Grounds for removal.**

**Editor's note**—This section has been editorially transferred to the Code of Ordinances as certain provisions of a Charter adopted prior to July 1, 1973, and not subsequently amended by referendum have been converted to ordinances by operation of F.S. § 166.021(5). This section is section 2-56 in the Code of Ordinances.

**Section 37. Same—Procedure.**

**Editor's note**—This section has been editorially transferred to the Code of Ordinances as certain provisions of a Charter adopted prior to July 1, 1973, and not subsequently amended by referendum have been converted to ordinances by operation of F.S. § 166.021(5). This section is section 2-57 in the Code of Ordinances.

**Section 38. Commissioners—Grounds for removal.**

**Editor's note**—This section has been editorially transferred to the Code of Ordinances as certain provisions of a Charter adopted prior to July 1, 1973, and not subsequently amended by referendum have been converted to ordinances by operation of F.S. § 166.021(5). This section is section 2-58 in the Code of Ordinances.

**\*Editor's note**—This article on municipal courts has been editorially deleted as municipal courts were abolished by art. V, § 20, Fla. Const.

**Section 39. Same—Procedure.**

**Editor's note**—This section has been editorially transferred to the Code of Ordinances as certain provisions of a Charter adopted prior to July 1, 1973, and not subsequently amended by referendum have been converted to ordinances by operation of F.S. § 166.021(5). This section is section 2-59 in the Code of Ordinances.

**Section 40. Alternate procedure for removal of elected officials.**

**Editor's note**—This section has been editorially deleted as superseded by the uniform procedure for the recall of municipal officers in F.S. § 100.361.

**ARTICLE VIII. BONDS\***

**ARTICLE IX. SPECIAL ASSESSMENTS†**

**ARTICLE X. REVENUE AND TAXATION‡**

**ARTICLE XI. STREETS, PAVEMENTS AND TOWN LOTS**

**Section 87. Corporate area declared independent road and bridge district.**

**Editor's note**—This section, which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been editorially deleted as unnecessary as home rule powers of a municipality are derived from the constitution and F.S. ch. 166 and an alternate procedure for local improvements is in F.S. ch. 170.

**Section 88. Commission granted control of streets, roads, etc.**

**Editor's note**—This section, which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been editorially deleted as unnecessary as home rule powers of a municipality are derived from the constitution and F.S. ch. 166 and an alternate procedure for local improvements is in F.S. ch. 170.

**\*Editor's note**—This article has been editorially deleted as the full authority for the issuance of bonds is contained in F.S. § 166.101 et seq., and other pertinent sections of Florida Statutes regarding bonds, which are listed in the state law reference to this article.

**State law references**—Municipal borrowing authority, F.S. § 166.101 et seq.; bonds, F.S. §§ 130.01 et seq., 132.01 et seq., 159.01 et seq., 163.385, 215.43, 215.431, 215.84, 218.37—218.385; bond validation, F.S. ch. 75; maximum rate of interest, F.S. § 215.84.

**†Editor's note**—This article, which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been editorially deleted as unnecessary as home rule powers of a municipality are derived from the constitution and F.S. ch. 166 and the alternate procedure for assessments for local improvements contained in state law, F.S. ch. 170.

**‡Editor's note**—This article on revenue and taxation has been editorially deleted as all taxes must be authorized by general law.

**Section 89. Commission to adopt resolution for improvement; notice; content of resolution.**

**Editor's note**—This section, which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been editorially deleted as unnecessary as home rule powers of a municipality are derived from the constitution and F.S. ch. 166 and an alternate procedure for local improvements is in F.S. ch. 170.

**Section 90. Manner work performed; payment of expenses.**

**Editor's note**—This section, which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been editorially deleted as unnecessary as home rule powers of a municipality are derived from the constitution and F.S. ch. 166 and an alternate procedure for local improvements is in F.S. ch. 170.

**Section 91. Assessment resolution; notice of completion; publication.**

**Editor's note**—This section, which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been editorially deleted as unnecessary as home rule powers of a municipality are derived from the constitution and F.S. ch. 166 and an alternate procedure for local improvements is in F.S. ch. 170.

**Section 92. Hearing of complaints.**

**Editor's note**—This section, which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been editorially deleted as unnecessary as home rule powers of a municipality are derived from the constitution and F.S. ch. 166 and an alternate procedure for local improvements is in F.S. ch. 170.

**Section 93. Injunction against collection of assessment.**

**Editor's note**—This section, which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been editorially deleted as unnecessary as home rule powers of a municipality are derived from the constitution and F.S. ch. 166 and an alternate procedure for local improvements is in F.S. ch. 170.

**Section 94. Assessment as lien against land; rate of interest.**

**Editor's note**—This section, which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been editorially deleted as unnecessary as home rule powers of a municipality are derived from the constitution and F.S. ch. 166 and an alternate procedure for local improvements is in F.S. ch. 170.

**Section 95. City [town] improvement lien book.**

**Editor's note**—This section, which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been editorially deleted as unnecessary as home rule powers of a municipality are derived from the constitution and F.S. ch. 166 and an alternate procedure for local improvements is in F.S. ch. 170.

**Section 96. Payment of lien; certificate of indebtedness; manner of paying assessments.**

**Editor's note**—This section, which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been editorially deleted as unnecessary as home rule powers of a municipality are derived from the constitution and F.S. ch. 166 and an alternate procedure for local improvements is in F.S. ch. 170.

**Section 97. Enforcement and collection of lien; attorney's fee and cost of proceedings.**

**Editor's note**—This section, which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been editorially deleted as unnecessary as home rule powers of a municipality are derived from the constitution and F.S. ch. 166 and an alternate procedure for local improvements is in F.S. ch. 170.

**Section 98. Filling low ground; notice to owner; failure to comply; provisions of sections 89 through 97 applicable.**

**Editor's note**—This section has been editorially transferred to the Code of Ordinances as certain provisions of a Charter adopted prior to July 1, 1973, and not subsequently amended by referendum have been converted to ordinances by operation of F.S. § 166.021(5). This section is section 10-1 in the Code of Ordinances.

**Section 99. Construction or repair of sidewalks, foot-pavements, curbs or gutters; notice to owner; failure to comply; provisions of sections 89 through 97 applicable.**

**Editor's note**—This section which has not been amended by referendum after July 1, 1973, and which is not an extraterritorial power, has been editorially deleted as unnecessary as home rule powers of a municipality are derived from the constitution and F.S. ch. 166.

**Section 100. Removal of brush, trees, filth, ruins, etc.; notice to owner; failure to comply; provisions of sections 89 through 97 applicable.**

**Editor's note**—This section has been editorially transferred to the Code of Ordinances as certain provisions of a Charter adopted prior to July 1, 1973, and not subsequently amended by referendum have been converted to ordinances by operation of F.S. § 166.021(5). This section is section 10-31 in the Code of Ordinances.

**Section 101. Other laws for government of Towns applicable.**

All laws now in force for the government of cities and towns, except insofar as they conflict with the provisions of this charter, shall apply to said Town of Hillcrest Heights and the officers thereof.

**Section 102. Appropriation prerequisite to expenditure of public money.**

**Editor's note**—This section has been editorially deleted as superseded by the uniform procedure for adoption of the budget and fixing of the millage in F.S. § 200.065.

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**Section 103. Injuries for which Town not liable.**

**Editor's note**—This section has been editorially deleted as superseded by F.S. § 768.28.

**Section 104. Suits against Town—Statute of limitations.**

**Editor's note**—This section has been editorially deleted as superseded by F.S. § 768.28.

**Section 105. Same—Filing of cause and intention to sue.**

**Editor's note**—This section has been editorially deleted as superseded by F.S. § 768.28.

**Section 106. Severability of parts of charter.**

The fact that any particular provision of this charter shall be declared by any court to be unconstitutional shall not affect the constitutionality of any other provisions of this charter.

**Section 107. Certificates of clerk under seal of Town to be evidence of required publication of any notice.**

The certificates of the clerk under the seal of the Town as to the publication or posting of any notice required under or provided by this charter shall be conclusive evidence as to such publication or posting.

**Section 108. Repeal of conflicting laws.**

All laws and parts of laws in conflict with the provisions of this Act are hereby repealed insofar as the same affects the Town of Hillcrest Heights.

**Section 109. When Charter to take effect.**

This Act shall take effect immediately upon its ratification by a majority of the qualified electors residing in the Town of Hillcrest Heights, voting at a referendum election to be called by the Town Commission. Said election shall be called and held not less than two (2) weeks nor more than sixty (60) days from date of approval as provided in Section 110 hereof. The call for said election shall be by resolution duly adopted by the Town Commission and shall be conducted, notice thereof published and the returns thereof canvassed in the manner provided by law for the holding of elections in said Town. The ballot to be used at said election shall contain in printed form the purpose for which said ballot is used and shall have at the foot thereof on separate lines the following questions: "For adoption of the proposed Charter," "Against adoption of the proposed Charter." Directly opposite said questions shall be appropriate squares printed on said ballots wherein the elector may signify his choice by an "X" or other appropriate mark.



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**Section 110. Approval of Governor.**

Subject to the provisions of the referendum herein contained in Section 109 hereof, this act shall become effective upon its approval by the Governor or upon its becoming a law without such approval.

Became a law without the Governor's approval.

Filed in Office [of] Secretary of State May 25, 1961.



## CHARTER COMPARATIVE TABLE

### ACTS

This table shows the location of the sections of the basic Charter and any amendments thereto.

<b>Laws of Fla. Chapter</b>	<b>Section</b>	<b>Section this Charter</b>
61-2235	13, 14	2-31, 2-32
	22	2-33
	23	2-146
	26	2-34
	36—39	2-56—2-59
	98	10-1
	99	26-31
	100	10-31



## **PART II**

### **CODE OF ORDINANCES**

#### Chapter 1

### **GENERAL PROVISIONS**

- Sec. 1-1. How Code designated and cited.
- Sec. 1-2. Definitions and rules of construction.
- Sec. 1-3. Catchlines of sections.
- Sec. 1-4. References to chapters, articles, divisions or sections.
- Sec. 1-5. History notes.
- Sec. 1-6. References and editor's notes.
- Sec. 1-7. Ordinances not affected by Code.
- Sec. 1-8. Effect of repeal of ordinances.
- Sec. 1-9. Code does not affect prior offenses, rights, etc.
- Sec. 1-10. Amendments to Code; effect of new ordinances; amendatory language.
- Sec. 1-11. Supplementation of Code.
- Sec. 1-12. Severability of parts of Code.
- Sec. 1-13. General penalty; continuing violations.
- Sec. 1-14. Enforcement of Code.



GENERAL PROVISIONS

§ 1-2

**Sec. 1-1. How Code designated and cited.**

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, Town of Hillcrest Heights, Florida," and may be so cited.

**Sec. 1-2. Definitions and rules of construction.**

In the construction of this Code, and of all ordinances, the following definitions and rules of construction shall be observed, unless the context clearly indicates otherwise:

*Charter.* The word "Charter" shall mean the Charter of the Town of Hillcrest Heights as printed in part I of this volume.

*Code.* The term "Code" shall mean the Code of Ordinances, Town of Hillcrest Heights, Florida.

*Computation of time.* In computing any period of time prescribed or allowed by ordinance the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

**State law reference**—Computation of time, Fla. Rules of Civ. Proc., rule 1.090(a).

*County.* The word "county" shall mean the County of Polk in the State of Florida.

**State law reference**—Polk County boundary description, F.S. § 7.6.

*F.S.* Whenever the abbreviation "F.S." is used, it shall refer to the official Florida Statutes and all amendments and supplements adopted by the state legislature.

*Gender.* A word importing the masculine gender only may extend and be applied to females and to firms, partnerships and corporations as well as to males.

*Month.* The word "month" shall mean a calendar month.

*Nontechnical and technical words.* Words and phrases shall be construed according to the common and approved usage of the language; however, technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

*Number.* A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

*Oath.* The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath; and in such cases the word "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

*Officers, boards, committees, etc.* The title of any office, officer, employee, board, committee or commission shall be used as though the words "of Hillcrest Heights" were added. Whenever

§ 1-2

HILLCREST HEIGHTS CODE

a provision appears authorizing or requiring a particular officer or employee of the city to do some act, it shall be construed to authorize such officer or employee to delegate, designate and authorize subordinates to do the act unless the terms of the provisions or section specify otherwise.

*Or, and.* "Or" may be read "and," and "and" may be read "or" if the sense requires it.

*Owner.* The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenants by the entirety, of the whole or of a part of such building or land.

*Person.* The word "person" shall extend and be applied to associations, clubs, societies, firms, partnerships, copartnerships, and bodies politic and corporate as well as to individuals.

*Personal property.* The term "personal property" includes every species of property except real property, as herein defined.

*Preceding, following.* The words "preceding" and "following" shall mean next before and next after, respectively.

*Property.* The word "property" shall include real and personal property.

*Public place.* The term "public place" shall mean any park, cemetery or open space adjacent thereto, all beaches, canals or other waterways.

*Real property.* The term "real property" shall include lands, tenements and hereditaments.

*Shall/may.* The word "shall" is mandatory; the word "may" is permissive.

*Sidewalk.* The word "sidewalk" shall mean any portion of a street between the curblin and the adjacent property line, intended for the use of pedestrians, excluding parkways.

*Signature or subscription.* The word "signature" or "subscription" includes a mark when the person cannot write.

*State.* The word "state" shall be construed to mean the State of Florida.

*Street.* The word "street" shall be construed to include streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public highways in the town.

*Tenant.* The words "tenant" and "occupant," applied to a building or land, shall include any person holding a written or oral lease of or who occupies, the whole or a part of such buildings or land, either alone or with others.

*Tense.* Words used in the past or present tense include the future as well as the past and present.

*Town.* The word "town" shall be construed as if the words "of Hillcrest Heights" followed the word "town" and shall extend to and include its several officers, boards, committees and employees.



GENERAL PROVISIONS

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*Town commission.* The words "town commission" shall mean the Town Commission of the Town of Hillcrest Heights, Florida.

*Week.* The word "week" shall be construed to mean seven days.

*Written; in writing.* The term "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

*Year.* Unless otherwise designated, the word "year" shall mean a calendar year.

**State law reference**—Construction of statutes, F.S. § 1.01 et seq.

**Sec. 1-3. Catchlines of sections.**

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be the titles of such sections, nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

**Sec. 1-4. References to chapters, articles, divisions or sections.**

All references to chapters, articles, divisions or sections are to the chapters, articles, divisions and sections of this Code unless otherwise specified.

**Sec. 1-5. History notes.**

The history notes appearing in parentheses after sections of this Code are not intended to have any legal effect, but are merely intended to indicate the source of matter contained in the section.

**Sec. 1-6. References and editor's notes.**

References and editor's notes following certain sections are inserted as an aid and guide to the reader and are not controlling or meant to have any legal effect.

**Sec. 1-7. Ordinances not affected by Code.**

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance:

- (1) Promising or guaranteeing the payment of money by or to the town, or authorizing the issuance of any bonds of the town or any evidence of the town's indebtedness, or any contract or obligation assumed by the town.
- (2) Appropriating funds or establishing or relating to the annual budget.
- (3) Imposing taxes that are not inconsistent with this Code.
- (4) Establishing positions, classifying employees or setting salaries and any personnel regulations.
- (5) Any right of franchise granted by the town.

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HILLCREST HEIGHTS CODE

- (6) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, or vacating any street or public way.
- (7) Establishing or prescribing street grades.
- (8) Providing for local improvements and assessing taxes therefor.
- (9) Prescribing through streets, parking prohibitions, parking limitations, one-way streets, speed limits, load limits or loading zones not inconsistent with this Code.
- (10) That rezones specific property.
- (11) Dedicating, accepting or rejecting any plat or subdivision.
- (12) Annexing or deannexing property.
- (13) That is special although permanent.
- (14) That is temporary, although general.
- (15) Whose purposes have not been consummated.

All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

**Sec. 1-8. Effect of repeal of ordinances.**

(a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed.

**Sec. 1-9. Code does not affect prior offenses, rights, etc.**

(a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

(b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance of the city in effect on the date of adoption of this Code.

**Sec. 1-10. Amendments to Code; effect of new ordinances; amendatory language.**

(a) All ordinances passed subsequent to this Code of Ordinances that amend, repeal or in any way affect this Code of Ordinances may be numbered in accordance with the numbering system of this Code and printed for inclusion herein. In the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie

evidence of such subsequent ordinances until such time that this Code of Ordinances and subsequent ordinances numbered or omitted are readopted as a new code of ordinances by the town commission.

(b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "Be It Ordained by the Town Commission of the Town of Hillcrest Heights: That section \_\_\_\_\_ of the Code of Ordinances, Town of Hillcrest Heights, Florida, is hereby amended to read as follows: . . . ." The new provisions shall then be set out in full as desired.

(c) If a new section not heretofore existing in the Code is to be added, the following language may be used: "Be It Ordained by the Town Commission of the Town of Hillcrest Heights: That the Code of Ordinances, Town of Hillcrest Heights, Florida, is hereby amended by adding a section, to be numbered \_\_\_\_\_, which said section reads as follows: . . . ." The new section shall then be set out in full as desired.

(d) All sections, articles, chapters or provisions desired to be repealed must be specifically repealed by section, article or chapter number, as the case may be.

**State law reference**—Minimum procedural requirements for adoption of ordinances and resolutions, F.S. § 166.041.

### **Sec. 1-11. Supplementation of Code.**

(a) By contract or by town personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the town. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the town commission or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code and shall also include all amendments to the Charter during the period. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete; and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier, meaning the person, agency or organization authorized to prepare the supplement, may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement and make changes in catchlines, headings and titles;

- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections \_\_\_\_\_ through \_\_\_\_\_"; the inserted section numbers will indicate the sections of the Code that embody the substantive sections of the ordinance incorporated into the Code; and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

**Sec. 1-12. Severability of parts of Code.**

It is hereby declared to be the intention of the town commission that the sections, paragraphs, sentences, clauses and phrases of this Code are severable; and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

**Sec. 1-13. General penalty; continuing violations.**

(a) Whenever in this Code any act is prohibited or is made or declared to be unlawful or an offense, or whenever in this Code the doing of any act is required or the failure to do any act is declared to be unlawful or an offense, where no specific penalty is provided therefor, the violation of any such provision of this Code shall be punished by a fine not exceeding \$500.00 or imprisonment for a term not exceeding 60 days, or by both such fine and imprisonment in the discretion of the court. Each day any violation of any provision of this Code shall continue shall constitute a separate offense.

(b) In addition to the penalties provided in subsection (a), any condition caused or permitted to exist in violation of any of the provisions of this Code shall be deemed a public nuisance and may be, by the town, abated as provided by law; and each day that such condition continues shall be regarded as a new and separate offense.

(Ord. No. 88-2, 6-14-88)

**State law references**—Fines and forfeitures in county court payable to municipality, F.S. § 34.191; municipal ordinance violations, F.S. § 162.22; punishment for misdemeanors, F.S. §§ 775.082, 775.083.

**Sec. 1-14. Enforcement of Code.**

(a) *Authority to administer and enforce; general jurisdiction.* Polk County, Florida is hereby authorized to administer, enforce and prosecute any violation of the town's Code. Polk County, Florida's Code Enforcement Special Magistrate and Appellate Special Magistrate are hereby authorized to have jurisdiction to hear any alleged violation of the town's Code.

(b) *Enforcement procedure.* Enforcement of the town's Code shall be pursuant to those procedures adopted by Polk County, Florida for code enforcement violations. Nothing contained herein shall prohibit the town from enforcing the provisions of the town's Code through any other civil proceeding, including without limitation, seeking injunctive relief in any court having appropriate jurisdiction.

(c) *Administrative fines; cost of remediation and repairs; costs to the county; liens.* Polk County, Florida's Code Enforcement special Magistrate and Appellate Special Magistrate are hereby authorized to order a violator of the town's Code to pay to the county and/or the town, a fine, the cost of remediation and repairs, and/or the county's costs, up to the amount allowed by general law, this Code or by the county's ordinances, whichever is greater. The county is hereby authorized to record a certified copy of an order imposing fines and costs in the public records as allowed by general law and county ordinance which thereafter shall constitute a lien against the land on which the violation occurred and upon any other real or personal property owned by the violator.

(d) *Definitions.* Code enforcement special magistrate and appellate special magistrate shall be those special magistrates authorized by the Polk County Board of County Commissioners to hear any alleged violation of any code or ordinance.

(e) *Severability.* If any clause, section, or provision of this section shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said section shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated therein.

(f) *Conflicts with other ordinances.* That portion of any ordinance which may be in conflict with this section is hereby repealed with the adoption of this section.

(g) *Effective date.* This section shall take effect immediately upon being read in two meetings of the Town Commission of the Town of Hillcrest Heights, and its approval and adoption by the town commission.

(Ord. No. 2012-01, 5-23-12)



## Chapter 2

### ADMINISTRATION\*

#### Article I. In General

- Sec. 2-1. Elector qualifications.  
Secs. 2-2—2-30. Reserved.

#### Article II. Town Commission

##### Division 1. Generally

- Sec. 2-31. Rules of procedure; nonattendance; quorum; meetings.  
Sec. 2-32. Oath of office.  
Sec. 2-33. Salaries.  
Sec. 2-34. Powers of town commission relating to municipal organization and officers.  
Sec. 2-35. Commissioner qualifications.  
Sec. 2-36. Vacancies.  
Sec. 2-37. Vacancies; special elections.  
Sec. 2-38. Qualifying for election.  
Sec. 2-39. Certification of elections.  
Sec. 2-40. Manner of conducting.  
Sec. 2-41. Runoff elections.  
Secs. 2-42—2-55. Reserved.

##### Division 2. Removal from Office

- Sec. 2-56. Mayor—Grounds.  
Sec. 2-57. Same—Procedure.  
Sec. 2-58. Town commissioners—Grounds.  
Sec. 2-59. Same—Procedure.  
Secs. 2-60—2-90. Reserved.

#### Article III. Officers and Employees

##### Division 1. Generally

- Secs. 2-91—2-110. Reserved.

##### Division 2. Town Clerk

- Sec. 2-111. Attendance at meetings; minutes.  
Sec. 2-112. Custodian of records.  
Sec. 2-113. Fiscal responsibilities.  
Sec. 2-114. Expenditures.

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\***Cross references**—Any ordinance establishing positions, classifying employees or setting salaries in any personnel regulations saved from repeal, § 1-7(4); utilities, ch. 30; boards and commissions for land development regulations, pt. III, art. VII.

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Sec. 2-115. Bond.  
Sec. 2-116. Compensation.  
Secs. 2-117—2-145. Reserved.

### **Article IV. Finance**

#### Division 1. Generally

Sec. 2-146. Disposition of public moneys.  
Secs. 2-147—2-165. Reserved.

#### Division 2. Purchases and Contracts

Sec. 2-166. Purchases.



**ARTICLE I. IN GENERAL****Sec. 2-1. Elector qualifications.**

Any person who is a qualified elector of Florida and who resides within the city limits of the town shall be an elector of the town when registered with election officials designated by law.

(Ord. No. 2014-01, § 1, 7-14-14)

**Secs. 2-2—2-30. Reserved.****ARTICLE II. TOWN COMMISSION**

## DIVISION 1. GENERALLY

**Sec. 2-31. Rules of procedure; nonattendance; quorum; meetings.**

(a) The town commission may enact rules of procedure and may prescribe penalties for the nonattendance or disorderly conduct of its members and enforce the same. A majority of the members of the town commission shall be necessary to constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time and under the provisions of the ordinances or rules of procedure may compel the attendance of absent members by the imposition of fines and penalties.

(b) The town commission shall hold at least one regular meeting each month in such building as shall be designated by them, at a fixed day and hour. Special meetings may be held upon the call of the mayor or any two of the commissioners.

(Laws of Fla., ch. 61-2235, § 13)

**Sec. 2-32. Oath of office.**

Each commissioner, including the mayor, before entering upon the discharge of the duties of his office, shall take and subscribe the following oath before some judicial officer of the state, viz: "I do solemnly swear (or affirm) that I will support, protect and defend the constitution and the government of the United States of America, and the State of Florida, against all enemies, domestic or foreign, and that I will bear true faith, loyalty and allegiance to the same; and that I am entitled to hold office under the Constitution of the United States of America and of the State of Florida, and that I will faithfully perform all the duties of the office of \_\_\_\_\_ on which I am about to enter."

(Laws of Fla., ch. 61-2235, § 14)

**State law reference**—Oath, F.S. § 876.05.

**Sec. 2-33. Salaries.**

The salaries of all officers of the town, which are on file in the town clerk's office, shall be fixed by ordinance.

(Laws of Fla., ch. 61-2235, § 22)

**Sec. 2-34. Powers of town commission relating to municipal organization and officers.**

The town commission shall have the power and is hereby authorized to create such offices and to provide by ordinance or resolution for the appointment of all such officers and employees as may in its judgment be necessary for the good government of the town. The town commission shall have the power at any time to abolish any office created by it. All employees, officers, and officials of the town shall hold office at such salaries as may be fixed by the town commission, which are on file in the town clerk's office. The town commission shall have power to prescribe the powers and duties of all officers and employees of the town, except those prescribed by this Code. Employees of the town may be required to give such bond as the town commission may prescribe by ordinance or resolution, and be required to take oath to faithfully discharge their several duties.

(Laws of Fla., ch. 61-2235, § 26)

**Sec. 2-35. Commissioner qualifications.**

Each candidate for the town commission must be a qualified elector of the town at the time of qualification and each elected town commissioner must remain a qualified elector of the town at all times in order to hold the office of town commissioner.

(Ord. No. 2014-01, § 2, 7-14-14)

**Sec. 2-36. Vacancies.**

The office of a town mayor/commissioner shall become vacant upon his/her death, resignation, removal from office in any manner authorized by law or forfeiture of his/her office, such forfeiture to be declared by the remaining members of the town commission.

(Ord. No. 2014-01, § 3, 7-14-14)

**Sec. 2-37. Vacancies; special elections.**

Notwithstanding the provisions of section 15, vacancies, of article III, of the town's Charter, in the case of a vacancy on the town commission, the remaining commissioners (or in case of a vacancy in the office of mayor, the commissioners), shall call a special election to fill such vacancy or vacancies, and if there is no general election to be held in the town within 90 days after the beginning of such vacancy or vacancies, then the town commission may call a special election to fill such vacancy or vacancies to be held in the town on the date of the next statewide or countywide scheduled election.

(Ord. No. 2014-01, § 4, 7-14-14)

**Sec. 2-38. Qualifying for election.**

Each individual seeking to qualify for election to an open town commission seat shall file his/her qualification papers with, and pay the qualifying fee (if required) to, the town clerk at any time after noon of the fiftieth day prior to the election, but not later than noon of the forty-sixth day prior to the election, unless such election is called by the town commission for a time period shorter than 90 days from announcement, in which case each individual seeking to qualify shall file his/her qualification papers with, and pay the qualifying fee (if required) to, the town clerk at any time after noon of the sixteenth day prior to the election but not later than noon of the tenth day prior to the election.

(Ord. No. 2014-01, § 5, 7-14-14)

**Sec. 2-39. Certification of elections.**

The town commission shall certify elections and qualifications of its members. After the town's election returns have been canvassed and the result declared by either the town commission or the local supervisor of elections, the town commission at its next regularly scheduled meeting, shall certify the election and the qualifications of the newly elected commissioner(s) prior to administering the oath of office to the newly elected commissioner(s).

(Ord. No. 2014-01, § 6, 7-14-14)

**Sec. 2-40. Manner of conducting.**

All elections shall be conducted under the same regulations and manner as provided for in state and county elections, except when otherwise provided for by this Code or the town's Charter.

(Ord. No. 2014-01, § 7, 7-14-14)

**Sec. 2-41. Runoff elections.**

If, at any general or special election, there is a tie vote for any office or for any proposal submitted in the election, the mayor shall call a special election to be held within the succeeding 90 days, which election shall be conducted as other elections are conducted.

(Ord. No. 2014-01, § 8, 7-14-14)

**Secs. 2-42—2-55. Reserved.**

## DIVISION 2. REMOVAL FROM OFFICE\*

**Sec. 2-56. Mayor—Grounds.**

The mayor may be removed from office for any one of the following reasons:

- (1) Removal of his residence from the town.

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\***State law references**—Recall of elected municipal officer, F.S. § 100.361; removal from office, F.S. § 112.51.

(2) Misfeasance in office.

(3) Malfeasance.

(4) Nonfeasance in office.

(Laws of Fla., ch. 61-2235, § 36)

**Sec. 2-57. Same—Procedure.**

Any commissioner may bring charges against the mayor; and in case the town commission considers such charges warrant action, they shall call a hearing on the question or questions involved, giving the mayor at least ten days' notice of that meeting and an opportunity to know what the charges are and to present a defense either in person or by an attorney; and the members of the town commission shall sit as a trial body to determine the truth or falsity of the accusations. The charges shall be filed in writing. After those bringing the charges and those opposing the charges have been fully heard, the town commission shall go into executive session and by ballot shall determine whether or not the charges justify the removal of the mayor. A four-fifths vote of the entire membership of the town commission favoring removal shall be necessary to remove the mayor. If the mayor shall have the right of trial de novo before

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the circuit judge, application for such trial shall be made within 15 days to the circuit judge from the date of such final action by the town commission. The action by the circuit judge shall be final.

(Laws of Fla., ch. 61-2235, § 37)

**Sec. 2-58. Town commissioners—Grounds.**

Any commissioner may be removed for any of the following causes:

- (1) Failure to attend meetings of the town commission. The failure to attend five consecutive regular meetings of the town commission without excuse or good cause shall be prima facie evidence of neglect of duty.
- (2) Removal of his residence from the town.
- (3) Misfeasance in office.
- (4) Malfeasance.
- (5) Nonfeasance in office.

(Laws of Fla., ch. 61-2235, § 38)

**Sec. 2-59. Same—Procedure.**

The mayor or any commissioner may bring charges against any commissioner for failure to comply with any of his obligations of office or because of the failure of the commissioner to comply with the requirements of this division. The charges shall be filed in writing, and the commissioners not affected by the charges shall call a meeting to consider the charges. The commissioner against whom charges are preferred shall have at least ten days' notice of any meeting to consider the charges and shall have the right to present witnesses in his favor and to have an attorney to represent him. In case charges are preferred against one commissioner, it shall take a four-fifths vote of the entire membership of the town commission to remove the commissioner. In case charges are brought against two commissioners, it shall take a three-fifths vote of the town commission and also consent of the mayor to obtain the removal of such commissioners. The mayor shall not have any vote in case of a charge against one commissioner. The person or persons against whom final action has been brought shall have 15 days to apply to the circuit judge for a trial de novo; the action of the circuit judge shall be final on the question.

(Laws of Fla., ch. 61-2235, § 39)

**Secs. 2-60—2-90. Reserved.**

**ARTICLE III. OFFICERS AND EMPLOYEES**

**DIVISION 1. GENERALLY**

**Secs. 2-91—2-110. Reserved.**

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DIVISION 2. TOWN CLERK

**Sec. 2-111. Attendance at meetings; minutes.**

The town clerk shall attend all the regular and special meetings of the town commission and shall prepare and keep true and correct minutes of these meetings.

(Ord. No. 24, § 1, 9-7-54)

**Sec. 2-112. Custodian of records.**

The town clerk shall be custodian of all town records and shall prepare and maintain these records in a safe and orderly manner.

(Ord. No. 24, § 2, 9-7-54)

**State law reference**—Public records, F.S. ch. 119.

**Sec. 2-113. Fiscal responsibilities.**

The town clerk shall collect all taxes and fees due to the town and shall deposit all moneys in the town treasury.

(Ord. No. 24, § 4, 9-7-54)

**Sec. 2-114. Expenditures.**

The town clerk shall draw and sign warrants on the town treasury for such expenditures as are authorized by the town commission. He shall keep a proper and correct record of all receipts and disbursements.

(Ord. No. 24, § 5, 9-7-54)

**Sec. 2-115. Bond.**

The town clerk shall be placed under bond for the proper performance of his duties. The amount of the bond shall be determined by the town commission, and the premium on the bond shall be paid from town funds.

(Ord. No. 24, § 6, 9-7-54)

**Sec. 2-116. Compensation.**

The town clerk shall receive an annual salary in an amount fixed by the town commission and shall be paid by warrant drawn on the town treasury.

(Ord. No. 24, § 7, 9-7-54)

**Secs. 2-117—2-145. Reserved.**

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**ARTICLE IV. FINANCE\***

DIVISION 1. GENERALLY

**Sec. 2-146. Disposition of public moneys.**

The treasurer of the town shall receive all the public moneys of the town and deposit the same in a bank or banks designated by the town commission, and he shall give bond, such bond to be approved by the town commission, and to be annually renewed and approved. All public moneys shall be deposited in the name of the town; and all such money shall be disbursed only on a check to be signed by the mayor and the treasurer, and countersigned by at least one other member of the town commission. Any person performing any duties in which he collects, receives or handles any public moneys shall give bond to faithfully account for the same, such bond to be approved by the town commission; however, all moneys derived from the sale of municipal bonds shall be received by the treasurer and kept by him on deposit in a special fund in the name of the town, in a bank to be designated by the town commission, and shall be disbursed only upon resolution and order of the town commission upon checks or drafts to be signed by the mayor and treasurer and a majority in number of the town commission.

(Laws of Fla., ch. 61-2235, § 23)

**State law reference**—Public funds, F.S. § 218.30 et seq.

**Secs. 2-147—2-165. Reserved.**

DIVISION 2. PURCHASES AND CONTRACTS

**Sec. 2-166. Purchases.**

(a) Purchases under \$2,500.00 may be approved by any three commissioners.

(b) Purchases \$2,500.00 or over should be the subject of bids after proper advertisement at least three days prior to the meeting reviewing the bids. The town commission may for good and sufficient reason waive the requirement of obtaining bids by a majority vote.

(Ord. No. 88-1, 6-14-88)

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**\*Cross references**—Any ordinance promising or guaranteeing the payment of money by or to the town, or authorizing the issuance of any bonds of the town or any evidence of the town's indebtedness, or any contract or obligation assumed by the town saved from repeal, § 1-7(1); any ordinance appropriating funds or establishing or relating to the annual budget saved from repeal, § 1-7(2); any ordinance imposing taxes that are not inconsistent with this Code saved from repeal, § 1-7(3); any ordinance providing for local improvements and assessing taxes therefor saved from repeal, § 1-7(8).

**State law reference**—Financial matters, F.S. ch. 218.





Chapters 3—5

**RESERVED**



Chapter 6

**BUILDINGS AND BUILDING REGULATIONS\***

**Article I. In General**

Secs. 6-1—6-30. Reserved.

**Article II. Technical Codes**

Sec. 6-31. Adopted.  
Secs. 6-32—6-60. Reserved.

**Article III. House Numbering**

Sec. 6-61. System established.  
Sec. 6-62. Placement of numbers.

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\***Cross references**—Environment, ch. 10; fire prevention and protection, ch. 14; solid waste, ch. 22; streets, sidewalks and other public places, ch. 26; utilities, ch. 30; land development regulations, pt. III; well field protection, pt. III, land development regulations, art. 6, ch. 5; floodplain management, pt. III, land development regulations, art. 6, ch. 6; subdivision of land and improvements, pt. III, land development regulations, art. 9.

**State law reference**—Construction standards, F.S. ch. 553.



BUILDINGS AND BUILDING REGULATIONS

§ 6-62

**ARTICLE I. IN GENERAL**

**Secs. 6-1—6-30. Reserved.**

**ARTICLE II. TECHNICAL CODES**

**Sec. 6-31. Adopted.**

The technical codes adopted by the board of county commissioners are adopted and enforced in the town by the county.

**Secs. 6-32—6-60. Reserved.**

**ARTICLE III. HOUSE NUMBERING**

**Sec. 6-61. System established.**

The house and building numbering system, which is on file in the town and incorporated herein by reference, is hereby established and adopted as the plan for the town. The town clerk is directed to inform residents of their assigned number and the placement of such number and to make every effort to secure voluntary cooperation of the occupants within the town.

(Ord. No. 81-1, 5-12-81)

**Sec. 6-62. Placement of numbers.**

It shall be the duty of the owners and occupants of every building or house in the town to have in a place readable from the street figures or script at least three inches high, showing the number of the house or building. Any person failing to number any house, building or other structure occupied by him after notice from the town clerk shall be liable for civil penalties not exceeding the amount in section 1-13 each day the violation continues.

(Ord. No. 81-1, 5-12-81)



Chapters 7—9

**RESERVED**





Chapter 10

**ENVIRONMENT\***

**Article I. In General**

- Sec. 10-1. Filling low ground; notice to owner; failure to comply; applicability of state law.  
Secs. 10-2—10-30. Reserved.

**Article II. Nuisances**

- Sec. 10-31. Removal of brush, trees, filth, ruins; notice to owner; failure to comply.  
Sec. 10-32. Written notice to owner.  
Sec. 10-33. Failure to correct nuisance.  
Sec. 10-34. Provisions regarding live animals.  
Secs. 10-35—10-65. Reserved.

**Article III. Hazardous Conditions**

Division 1. Generally

- Secs. 10-66—10-85. Reserved.

Division 2. Trees

- Sec. 10-86. Menace to public safety.  
Sec. 10-87. Failure to abate menace.  
Sec. 10-88. Costs to be reimbursed.

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\***Cross references**—Buildings and building regulations, ch. 6; fire prevention and protection, ch. 14; permits for burning, § 14-33; solid waste, ch. 22; streets, sidewalks and other public places, ch. 26; utilities, ch. 30; land development regulations, pt. III; well field protection, pt. III, land development regulations, art. 6, ch. 5; floodplain management, pt. III, land development regulations, art. 6, ch. 6; subdivision of land and improvements, pt. III, land development regulations, art. 9.



**ARTICLE I. IN GENERAL****Sec. 10-1. Filling low ground; notice to owner; failure to comply; applicability of state law.**

(a) If at any time the town commission shall deem it necessary or expedient for the preservation of the public health or for any other good reason, that any lot, parcel, or tract of vacant land then lying and being within the town, which may be lower than any street, streets, avenue or public way adjoining the same or the grade established therefor, or which may be subject to overflow or ditched or drained, the town commission shall have power to direct and require the owner or owners of the lot, parcel or tract of vacant land to fill in the same to such grade or to ditch or drain the same in such manner as given by a resolution of the town commission, a copy of which shall be served upon the owner or owners of such lot, parcel or tract of vacant land or upon the agent of such owner; or if the owner is a nonresident or cannot be found within the town, and has no known agent with the town, a copy of such resolution shall be published once each week for two weeks in some newspaper circulated in the town. Such posting upon such lot, parcel or tract of vacant land shall be deemed sufficient. If the owner or owners shall not then, within such time as such resolution shall prescribe, fill in, ditch or drain, it shall be lawful for the town commission to cause the same to be done and to pay therefor, and to charge, assess and collect the expenses thereof, against the lot, parcel or tract of vacant land, and against the owner or owners thereof.

(b) The provisions relative to the making of the assessment and proceedings subsequent thereto, notice to hear complaints, and action thereon, and the effect thereof, decrease of amount of assessment, contesting the legality of assessment, acquisition by the town of lien and effect thereof, rate of interest, payment of lien, issuance of certificates of indebtedness, the enforcement and collection of the lien and attorney's fees in the state law shall be applicable to and may be followed in making and enforcing the assessments authorized by this section.

(Laws of Fla., ch. 61-2235, § 98)

**State law reference**—Municipal liens for assessments, F.S. ch. 173.

**Secs. 10-2—10-30. Reserved.**

**ARTICLE II. NUISANCES****Sec. 10-31. Removal of brush, trees, filth, ruins; notice to owner; failure to comply.**

If at any time the town commission shall deem it necessary or expedient for the preservation of the public health or safety, or for the general welfare of the town, or for any other good reason, that any owner of land or riparian rights within the town shall remove therefrom all brush, weeds, palmetto, dead or dying trees, stumps, roots, obnoxious growth or thing of any kind, filth, garbage, trash, debris, decayed or decaying buildings, or structures, ruins of any kind, buildings, docks, walls, or other structures in a falling or dangerous condition, the town commission shall have the power to direct and require the

owner or owners of such land or riparian rights to remove the same from his land or riparian rights. Notice thereof shall be given to the owner of such land or riparian rights, or upon the agent of such owner as provided in section 10-32 before any further action is taken. If the owner is a nonresident or cannot be found within the town and has no known agent within the town, such notice shall be published once each week for two weeks in some newspaper circulated in the town, upon such land or riparian rights, which shall be deemed sufficient notice.

(Laws of Fla., ch. 61-2235, § 100)

**Sec. 10-32. Written notice to owner.**

The town commission shall give or cause to be given written notice to the owner of the property wherein this article is being violated, directing such property owner to correct the nuisance. All notices shall be sent by certified mail, return receipt requested. Except in emergency cases, the property owner shall be given ten days in which to cure the nuisance set forth in the notice.

(Ord. No. 85-6, § 3, 12-3-85)

**Sec. 10-33. Failure to correct nuisance.**

If the property owner shall fail or refuse to correct the nuisance within the time prescribed in the notice referred to in section 10-32 or, in emergency situations without any notice, the town commission shall cause such work to be done as is reasonably necessary to cure the nuisance; and the costs thereof shall constitute a charge and lien against the property to the same extent and character as a lien granted to the town by law for special assessments for the costs of local improvements.

(Ord. No. 85-6, § 4, 12-3-85)

**State law reference**—Municipal liens for special assessments, F.S. ch. 173.

**Sec. 10-34. Provisions regarding live animals.**

(a) It shall be unlawful to keep, possess, maintain, or to permit to roam at large, within the city limits of the Town of Hillcrest Heights, Florida, any live animal, except as follows: dogs and cats may be kept, possessed and maintained as household pets both inside or outside a resident's primary residence; and parrots, parakeets, canaries, rabbits, guinea pigs, hamsters, gerbils and turtles may be kept, possessed and maintained as household pets within a resident's primary residence only; so long as such household pets are kept, possessed and maintained in compliance with the provisions of this Code; and provided, further, that these household pets do not constitute a nuisance to neighbors because of excessive noise or odors. Proper storage and sanitary measures shall be observed and followed at all times in connection with the keeping, maintaining or possessing of such household pets, including, but not limited to the storage of pet supplies and food, so as not to attract rodents and other wild creatures, which may create a nuisance or danger to the public's health, safety, and general welfare.

(b) Any resident desiring to keep, possess or maintain any live animal within the city limits of the town, which is not enumerated in paragraph (a) of this section, may do so only after obtaining the approval of the resident's written request therefor from the town commission who may grant or deny such request after considering the protection of the public's health, safety and welfare.

(Ord. No. 2012-02, § 1, 12-10-12)

**Secs. 10-35—10-65. Reserved.**

### **ARTICLE III. HAZARDOUS CONDITIONS**

#### **DIVISION 1. GENERALLY**

**Secs. 10-66—10-85. Reserved.**

#### **DIVISION 2. TREES**

**Sec. 10-86. Menace to public safety.**

Whenever it shall in the judgment of the town commission be a menace to the public safety for any tree or any branch or limb thereof to stand on or overhang any building, highway, sidewalk or other property within the town, the owner of the property on which the tree is located shall, upon ten days' written notice from the town commission, remove, cut down or trim the tree, or limb thereof, determined by the town commission to be menacing the public safety.

(Ord. No. 85-5, § 1.a, 12-3-85)

**Sec. 10-87. Failure to abate menace.**

If the owner of the property upon which a tree referred to in section 10-86 is located shall fail to comply with the above notice, the town commission shall have the power to authorize its agents or employees to cut down, remove or trim such tree that is determined by the town commission to be menacing the public safety, to the extent such tree constitutes a menace.

(Ord. No. 85-5, § 1.b, 12-3-85)

**Sec. 10-88. Costs to be reimbursed.**

Whenever it shall be necessary for the town commission to have a tree cut down, removed or trimmed, upon failure of the owner to do so, the reasonable costs and expenses incurred by the town shall be paid by the owner of the property on which such tree is located. Upon failure of the owner after receipt of notice to pay such costs and expenses within 15 days after receipt of notice of such costs and expenses, the reasonable costs and expenses shall

constitute a lien against the property and be taxed against such property in the same manner granted to the town by law for special assessments for the costs of local improvements.

(Ord. No. 85-5, § 1.c, 12-3-85)

Chapters 11—13

**RESERVED**





Chapter 14

**FIRE PREVENTION AND PROTECTION\***

**Article I. In General**

Sec. 14-1. Fire limits established.  
Secs. 14-2—14-30. Reserved.

**Article II. Standards**

Sec. 14-31. County regulations adopted.  
Sec. 14-32. Fire protection.  
Sec. 14-33. Permits for burning.  
Secs. 14-34—14-65. Reserved.

**Article III. Fireworks**

Sec. 14-66. Definitions.  
Sec. 14-67. Public displays authorized.  
Sec. 14-68. Application for permit; fee.  
Sec. 14-69. Investigation of applicant; issuance or denial of permit.  
Sec. 14-70. Operators.  
Sec. 14-71. Insurance.  
Sec. 14-72. Storage of materials.  
Sec. 14-73. Attending firefighters.

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\***Cross references**—Buildings and building regulations, ch. 6; environment, ch. 10; water, § 30-31 et seq.

**State law reference**—Fire protection, F.S. ch. 633.



FIRE PREVENTION AND PROTECTION

§ 14-66

**ARTICLE I. IN GENERAL**

**Sec. 14-1. Fire limits established.**

The fire limits of the town are hereby established as the corporate limits of the town.  
(Ord. No. 87-1, § 1, 9-1-87)

**Secs. 14-2—14-30. Reserved.**

**ARTICLE II. STANDARDS\***

**Sec. 14-31. County regulations adopted.**

The fire prevention standards and regulations adopted by the county are enforced and applicable in the town.

**Sec. 14-32. Fire protection.**

The town commission has an agreement for fire protection within the town to be provided by the Babson Park fire department, which is maintained by the county.  
(Ord. No. 87-1, § 3, 9-1-87)

**Sec. 14-33. Permits for burning.**

The state has established guidelines for open burning. Such guidelines will prevail in the town. A burning permit from the appropriate state agency and authorization from the Babson Park fire department shall be required before burning any trash within the fire limits of the town.  
(Ord. No. 87-1, § 2, 9-1-87)

**Cross reference**—Environment, ch. 10.

**Secs. 14-34—14-65. Reserved.**

**ARTICLE III. FIREWORKS†**

**Sec. 14-66. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Fireworks* has the meaning and be subject to the exceptions and exclusions provided in F.S. § 791.01.

**Cross reference**—Definitions generally, § 1-2.

**\*State law references**—Mandatory standards for fire safety, F.S. § 633.022; uniform minimum mandatory fire safety standards, F.S. § 633.025.

**†Cross reference**—Miscellaneous offenses, ch. 18.

**State law reference**—Fireworks, F.S. ch. 791.

§ 14-67

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**Sec. 14-67. Public displays authorized.**

Public displays of fireworks shall be permitted within the town only upon the conditions specified in this article.

**Sec. 14-68. Application for permit; fee.**

Any person planning to make a public display of fireworks shall first make written application for a permit to the town clerk to be approved by the mayor and the chief of the Babson Park fire department at least 30 days in advance of time of the proposed display. Any fee for the permit shall be as established by the Babson Park fire department.

**Sec. 14-69. Investigation of applicant; issuance or denial of permit.**

It shall be the duty of the fire chief to make an investigation as to whether the public display as proposed by the applicant for a permit pursuant to this article is of a character and the display is in a location and the manner of discharge or firing, in the opinion of the fire chief after proper inspection, shall not be hazardous to property or endanger any person. The fire chief shall inform the mayor of the results of his investigation. The fire chief may require the applicant for the permit to make such changes in the character, location and method of discharging and firing as deemed by the fire chief to be in the interest of public safety as a condition to approving the permit application. The permit shall be for a period of time designated on the permit but shall be for not more than the one day intended for the public display or a date to which the display is postponed because of inclement weather conditions. The permit shall be nontransferable. If the application is denied by the fire chief, he shall notify the mayor, who shall notify the applicant of the denial in writing. No public display of fireworks shall be of such a character and so located, discharged or fired as to be hazardous or dangerous to persons or property; and this determination shall be within the sound discretion of the fire chief after proper inspection of the public property.

**Sec. 14-70. Operators.**

The persons handling the display of the fireworks pursuant to this article shall be competent persons over the age of 18 years and experienced pyrotechnic operators approved by the fire chief and the chief of police or the county sheriff's precinct supervisor for the town, as the case may be. No person not approved by the fire chief and chief of police or the county precinct supervisor shall handle fireworks at the public display. The names of the approved operators shall be designated on the permit when issued.

**Sec. 14-71. Insurance.**

The applicant for a public fireworks display permit shall, at the time of making application, furnish proof that the applicant carries worker's compensation insurance for his employees as provided by the laws of the state. The applicant shall file with the town clerk a certificate of insurance evidencing the carrying of public liability insurance in an amount not less than \$1,000,000.00 per occurrence and \$3,000,000.00 aggregate issued by an insurance carrier

FIRE PREVENTION AND PROTECTION

§ 14-73

authorized to transact business in the state for the benefit of the person named therein as insured, and the town shall be named as an additional insured, as evidence of the ability to respond for damages which may result from or be attributable to the public display. The insurance policy shall be approved by the mayor.

**Sec. 14-72. Storage of materials.**

The material to be used for the public display authorized by this article shall not be stored within the town, but shall be brought in on the day of the public display and taken immediately to the place of display.

**Sec. 14-73. Attending firefighters.**

For each public display of fireworks pursuant to this article, not less than one firefighter shall be in attendance during the display. The expense of such firefighter at the display shall be borne by the applicant for the permit and shall be paid in advance at the time of the application for permit based on the average hourly rate of a firefighter and the number of hours specified in the permit.



Chapters 15—17

**RESERVED**





Chapter 18

**MISCELLANEOUS OFFENSES\***

- Sec. 18-1. Misdemeanors adopted.
- Sec. 18-2. Discharge of firearms.

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\***Cross reference**—Fireworks, § 14-66 et seq.



MISCELLANEOUS OFFENSES

§ 18-2

**Sec. 18-1. Misdemeanors adopted.**

(a) It shall be unlawful for any person to commit within the limits of the city any act which is or shall be recognized by the laws of the state as a misdemeanor, and the commission of such acts is hereby forbidden.

(b) Whosoever shall violate the provisions of this section on conviction thereof shall be punished by the same penalty as is therefor provided by the laws of the state, but in no case shall such penalty exceed the punishment provided in section 1-13 of this Code.

**Case law reference**—A municipality may enact an ordinance that creates an offense against municipal law for the same act that constitutes an offense against state law. *Jaramillo v. City of Homestead*, 322 So. 2d 496 (Fla. 1975).

A municipality by ordinance may adopt state misdemeanor statutes by specific reference or by general reference, such as that contained in an ordinance making it unlawful to commit, within city limits, any act which is or shall be recognized by the laws of the state as a misdemeanor. *Id.*

An adoption by general reference of a misdemeanor statute permits subsequent amendments, revisions and repeals of the laws by the state legislature to apply to the municipal ordinances. *Id.*

See also *Hecht v. Shaw*, 112 Fla. 762, 151 So. 333 (1933); *McFarland v. Roberts*, 74 So. 2d 88 (Fla. 1954); and *State v. Smith*, 189 So. 2d 846 (Fla. 4th D.C.A. 1966).

**State law references**—Penalty for violation of misdemeanors, F.S. §§ 775.082, 775.083; discharging firearms in public, F.S. § 790.15. See also Fla. Stats. general index under heading "Fines and Civil Penalties" for listing of state law misdemeanors.

**Sec. 18-2. Discharge of firearms.**

(a) No person shall discharge any firearm within the town.

(b) Subsection (a) of this section shall not prohibit the discharge of firearms:

- (1) By members of the armed forces of the United States or National Guard in the performance of their duty.
- (2) By police officers in the performance of their duty.
- (3) To protect persons or property.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, national veterans' organizations may be permitted to discharge rifles firing blanks upon the mayor's determination that:

- (1) The organization, group or entity seeking permission is a national veterans' organization.
- (2) The permit is sought as part of a ceremony of a national holiday or funeral.
- (3) The organization, group or entity has designated a responsible member, or person, to supervise the discharge of the blank cartridges.
- (4) The time of discharge shall be between the hours of 9:00 a.m. and 9:00 p.m.

§ 18-2

HILLCREST HEIGHTS CODE

- (5) The location of discharge has been provided and persons within 300 feet of the proposed discharge have been notified of the time and place of the ceremony, in writing, return receipt requested.
- (6) The discharge of such blank cartridges is limited to three volleys of not more than seven rifles per volley.

Chapters 19—21

**RESERVED**



Chapter 22

**SOLID WASTE\***

- Sec. 22-1. Assessments and collection.
- Sec. 22-2. Interest penalty on outstanding unpaid bills.

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\***Cross references**—Buildings and building regulations, ch. 6; environment, ch. 10; utilities, ch. 30; consistency and concurrency determinations for land development, pt. III, land development regulations, art. 8.





SOLID WASTE

§ 22-2

**Sec. 22-1. Assessments and collection.**

The town commission will enter into an agreement with a private refuse service for the collection of garbage on behalf of those town residents desiring such service. The rate to be assessed will be determined between the town commission and the refuse service. The charge shall be billed annually. Assessments that remain unpaid shall constitute a lien on the property receiving the service and shall be enforced according to F.S. ch. 173.

**Sec. 22-2. Interest penalty on outstanding unpaid bills.**

An interest penalty established by the town commission shall be levied on unpaid bills for garbage collection or for any other services that are outstanding one month after the date of the invoice issued by the town clerk.



Chapters 23—25

**RESERVED**



Chapter 26

**STREETS, SIDEWALKS AND OTHER PUBLIC PLACES\***

**Article I. In General**

Sec. 26-1. Special events.  
Secs. 26-2—26-30. Reserved.

**Article II. Improvements**

Sec. 26-31. Construction or repair of sidewalks, curbs or gutters; notice to owner; failure to comply; applicability of state law.

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\***Cross references**—Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, or vacating a street or public way saved from repeal, § 1-7(6); any ordinance establishing or prescribing street grades saved from repeal, § 1-7(7); any ordinance prescribing through streets, parking prohibitions, parking limitations, one-way streets, speed limits, load limits or loading zones not inconsistent with this Code saved from repeal, § 1-7(9); buildings and building regulations, ch. 6; environment, ch. 10; utilities, ch. 30; subdivision of land and improvements, land development regulations, pt. III, art. 9.



**ARTICLE I. IN GENERAL****Sec. 26-1. Special events.**

(a) A "special event" is defined as any social, commercial or fraternal gathering where people will gather to be entertained, be instructed, view a sporting event, or any other event that involves the use of, or impact of, public property or requires the use of town services to a degree significantly over and above the level of service the town normally provides under normal circumstances. Events organized or sponsored by a governmental entity are not included in the definition of "special event."

(b) No person, cooperation, partnership or other organization shall advertise, conduct or hold a special event unless said person or entity has obtained a special event permit 21 days in advance of said special event.

(c) Application for a special event permit shall be made to the town clerk by the organizer of the special event. The application form will be made available by the town clerk and will require the organizer of the special event to describe the special event with enough detail to notify the town of the plans for the special event and all arrangements for crowd control, public safety, sanitation and minimizing the impact of the event on residents in the town. Additionally, the organizer shall obtain the approval of the special event with the Polk County Sheriff's Office and the Polk County Fire Department and any other agency deemed appropriate or necessary by the town clerk. The special event organizer shall also detail the plan for parking, public restrooms and litter cleanup.

(d) The special event permit application fee is \$50.00.

(e) The town clerk shall submit the special event permit application to the town commission. The town commission shall determine whether or not to approve the special event permit application after considering the impact of the special event on the health, safety, welfare and best interests of the residents of the town. The town commission may require the special event organized to comply with any condition the council deems necessary to protect the public's health, safety and welfare.

(f) If appropriate, the town commission may require the special event organizer to obtain adequate liability and property insurance. A certificate of insurance shall be provided by the special event organizer, naming the town as an additional insured.

(g) The town may revoke the special event permit if the special event organizer fails to comply with the conditions placed on the approval of the special event permit, if the special event otherwise places persons or property in jeopardy of serious harm or injury.

(h) Any organizer of a special event or property owner on whose land the special event is taking place, who does not obtain the required special event permit shall be considered in violation of this section. Violators of this section shall be subject to being fined up to \$500.00 and any other remedy permitted by law. The town may also seek injunctive relief in court of competent jurisdiction.

(Ord. No. 2009-01, 5-11-09)

**Secs. 26-2—26-30. Reserved.**

**ARTICLE II. IMPROVEMENTS\***

**Sec. 26-31. Construction or repair of sidewalks, curbs or gutters; notice to owner; failure to comply; applicability of state law.**

The town commission may adopt a resolution directing and requiring the owner of any lot, parcel, or tract of land fronting or abutting on any street, avenue, alley, or other public way, to construct, build, or repair a sidewalk, foot-pavement, curb or gutter, or any one or more of such improvements thereon, to be built in front of such abutting property or in front of a lot on a corner, or which lies between two streets and upon a grade and of such materials, width, and other dimensions and in such manner as the town commission shall direct. The resolution shall fix a time within which the work shall be done by the owner, and a copy of the resolution shall be served upon the owner or upon the agent of the owner; or if the owner is a nonresident of the town, or cannot be found within the town, or has no known agent in the town, a copy of such resolution shall be published once each week for two consecutive weeks in some newspaper circulated in the town, and a copy thereof posted upon the lot, parcel, or tract of land; such posting upon the lot, parcel or tract of land shall be deemed sufficient. If the owner or owners shall not, within the time fixed in the resolution, build, construct or repair such sidewalks or foot-pavements, curb or gutter, or either one or more of such improvements, in the manner and as directed in the resolution, the town commission may cause the same to be done and pay therefor, and charge, assess and collect the expenses thereof against such lot, parcel, or tract of land against the owner or owners thereof. The provisions relative to the making of such assessment and proceedings subsequent thereto, notice to hear complaints and action thereon, and the effect thereof, decrease of amount of assessments, contesting legality of assessment, acquisition by the town of lien and effect thereof, rate of interest, payment of lien, issuance of certificates of indebtedness, the enforcement and collection of the lien and attorney's fees in the state law shall be applicable to and may be followed in making and enforcing the assessment authorized by this section. (Laws of Fla., ch. 61-2235, § 99)

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\***State law references**—Procedure for local improvements, F.S. ch. 170; municipal liens for special assessments, F.S. ch. 173.



Chapters 27—29

**RESERVED**



Chapter 30

**UTILITIES\***

**Article I. In General**

Secs. 30-1—30-30. Reserved.

**Article II. Water**

Division 1. Generally

Secs. 30-31—30-50. Reserved.

Division 2. Conservation

- Sec. 30-51. Definitions.
- Sec. 30-52. Application.
- Sec. 30-53. Implementation.
- Sec. 30-54. Enforcement.
- Sec. 30-55. Penalties.
- Sec. 30-56. Exceptions.

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\***Cross references**—Administration, ch. 2; buildings and building regulations, ch. 6; environment, ch. 10; solid waste, ch. 22; streets, sidewalks and other public places, ch 26; consistency and concurrency determinations for land development, pt. III, land development regulations, art. 8.



UTILITIES

§ 30-53

**ARTICLE I. IN GENERAL**

**Secs. 30-1—30-30. Reserved.**

**ARTICLE II. WATER\***

DIVISION 1. GENERALLY

**Secs. 30-31—30-50. Reserved.**

DIVISION 2. CONSERVATION

**Sec. 30-51. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Water* means any water taken from any groundwater system, surface water system or public water supply.

*Water shortage or water shortage emergency* means the declaration of such by the governing board of the Southwest Florida Water Management District pursuant to F.S. ch. 373.  
(Ord. No. 81-3, § 1, 8-11-81)

**Cross reference**—Definitions generally, § 1-2.

**Sec. 30-52. Application.**

The provisions of this division shall apply to all users of water within the corporate limits of the town and all extraterritorial water customers.  
(Ord. No. 81-3, § 2, 8-11-81)

**Sec. 30-53. Implementation.**

(a) *Authority to implement.* The town finds that a water shortage exists within the town when a water shortage or water shortage emergency is declared to exist within the Hillcrest Heights area of Polk County by the Southwest Florida Water Management District.

**\*Cross references**—Fire prevention and protection, ch. 14; consistency and concurrency determinations for land development, pt. III, land development regulations, art. 8; well field protection, pt. III, land development regulations, art. 6, ch. 5; floodplain management, pt. III, land development regulations, art. 6, ch. 6.

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(b) *Restriction or curtailment of water uses.* Certain nonessential uses of water shall be restricted or curtailed during the existence of a water shortage or water shortage emergency. The following uses shall be unlawful:

- (1) Sprinkling, watering or irrigating of shrubbery, trees, lawns, grass, ground covers, plants, vines and gardens shall be limited to the hours of 8:00 p.m. to 8:00 a.m. This section does not apply to irrigation for bona fide commercial agricultural purposes.
- (2) Escape of water through defective plumbing, which means to knowingly allow water to escape through a system that is in disrepair.
- (3) Washing of sidewalks, driveways, porches, exterior of homes, apartments or other outdoor surfaces.
- (4) Washing of business or industrial equipment and machinery, except as required for public health or to avoid direct damage to such equipment or machinery.
- (5) Operation of any outdoor ornamental fountain or other structure using water, with or without a recirculation system.
- (6) Filling of swimming pools and wading pools not using a filter or recirculating system.
- (7) Washing of automobiles, trucks, trailers, railroad cars, mobile homes, campers, boats or any other type of mobile equipment, except at a business enterprise established for such purpose.
- (8) Use of water for dust control, except as required for public health.

(Ord. No. 81-3, § 3, 8-11-81)

**Sec. 30-54. Enforcement.**

The county sheriff shall, in connection with all other duties imposed by law, diligently enforce the provisions of this division.

(Ord. No. 81-3, § 4, 8-11-81)

**Sec. 30-55. Penalties.**

Violation of any provision of this division shall be subject to the following penalties:

- (1) First violation, a written warning.
- (2) Second violation, a monetary fine not to exceed \$200.00.
- (3) Third violation and subsequent violations shall constitute a misdemeanor of the second degree as established by F.S. ch. 775.

(Ord. No. 81-3, § 5, 8-11-81)

**Sec. 30-56. Exceptions.**

Any person aggrieved by the provisions or enforcement of this division shall have the right to request a temporary exception from its terms by applying to the town commission. Such request shall be granted by the town commission only upon a showing by the aggrieved party

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of an emergency situation relating to maintenance of adequate and sanitation standards. If granted, the emergency relief action of the town commission shall be for a one-day period of time and shall be conditioned upon proof of compliance by the aggrieved party with the remaining terms of this division.

(Ord. No. 81-3, § 6, 8-11-81)





## PART III

### LAND DEVELOPMENT REGULATIONS\*

#### Article 1. Authority for the Code

Chapter 1. Legislative Authority

Chapter 2. Title

Chapter 3. Legislative Purpose and Intent

#### Article 2. Legislation

Chapter 1. Inclusion in Code

Chapter 2. Comparable or Conflicting Regulations Repealed

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Chapter 4. Violations and Penalties

Chapter 5. Effective Date

#### Article 3. District Rules and Nonconformities

Chapter 1. Establishment of Districts

Chapter 2. Designation of District Boundaries

Chapter 3. Rules for Interpretation of District Boundaries

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**\*Editor's note**—Printed herein are the land development regulations of the Town of Hillcrest Heights, as adopted by Ordinance No. 91-4 on July 9, 1991. Amendments to the land development regulations are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citation to state statutes and expression of numbers in text has been used to conform to the Code of Ordinances. Additions made for clarity are indicated by brackets.

**Cross references**—Any ordinance that rezones specific property saved from repeal, pt. II, Code of Ordinances, § 1-7(10); any ordinance dedicating, accepting or rejecting any plat or subdivision saved from repeal, pt. II, Code of Ordinances, § 1-7(11); buildings and building regulations, pt. II, Code of Ordinances, ch. 6; environment, pt. II, Code of Ordinances, ch. 10; streets, sidewalks and other public places, pt. II, Code of Ordinances, ch. 26.

## HILLCREST HEIGHTS CODE

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LAND DEVELOPMENT REGULATIONS

Art. 2, Ch. 1

**ARTICLE 1. AUTHORITY FOR THE CODE**

CHAPTER 1. LEGISLATIVE AUTHORITY

These Land Development Regulations are enacted pursuant to F.S. Ch. 163 et seq., and Florida Administrative Code (FAC) Chapter 9J-24.

CHAPTER 2. TITLE

These regulations shall be known and may be cited as the Land Development Regulations of the Town of Hillcrest Heights, Florida.

CHAPTER 3. LEGISLATIVE PURPOSE AND INTENT

The Town Commission of the Town of Hillcrest Heights proposes to regulate the use and development of all land and water bodies now or hereafter within the corporate limits of the town. To this purpose the town commission has adopted a comprehensive plan, hereinafter "the plan," having the full force and effect of law pursuant to F.S. Ch. 163. These regulations are in furtherance of the goals, objectives and policies of the plan, provide development criteria for various land uses within each zoning district, provide for the subdivision of land, all in accordance with the present and future needs of the residents of the Town of Hillcrest Heights. It is further the intent of these regulations to provide for the orderly growth and development of the town by establishing standards and regulations to preserve, protect and promote the health, safety, comfort and appearance of the town for the residents by regulating residential, commercial and industrial development; to provide for efficient and economic review of all development proposals; to provide for adequate public facilities; to provide for convenient, safe and efficient flow of vehicular and pedestrian traffic.

In order to accomplish this stated legislative purpose and intent, these regulations and standards, accompanying maps, charts and exhibits have been prepared and adopted with reasonable consideration for the protection of private property rights, the police powers of the town and the health, safety, welfare and morals of the residents of the Town of Hillcrest Heights.

**ARTICLE 2. LEGISLATION**

CHAPTER 1. INCLUSION IN CODE

It is the intent of the town commission and is hereby resolved that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the Town of Hillcrest Heights, Florida; that the sections of this ordinance may be renumbered or relettered to accomplish such intentions; and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Art. 2, Ch. 2

## HILLCREST HEIGHTS CODE

### CHAPTER 2. COMPARABLE OR CONFLICTING REGULATIONS REPEALED

All comparable or conflicting development codes or regulation in and of the Town of Hillcrest Heights in effect at the time of the effective date of this ordinance, herewith be and the same hereby are repealed. Any preexisting ordinance shall not be considered repealed as to any violation thereof existing at the effective date of this Code unless such violation conforms to the provisions of this Code.

### CHAPTER 3. SEVERABILITY

If any section, part of a section, paragraph, sentence, clause, phrase, or word of this Code is for any reason held or declared to be unconstitutional, inoperative or void, such holding of invalidity shall not affect the remaining portions of this Code. It shall be construed to have been the legislative intent to pass this Code without such unconstitutional, invalid, or inoperative part therein, and the remainder of this Code, after the exclusion of such part or parts, shall be deemed to be held valid as if such part or parts had not been included therein. If this Code or any of the provisions thereof shall be held inapplicable to any person, group of persons, property, kind of property, circumstances, or set of circumstances, such holding shall not affect the applicability thereof to any other person, property, or circumstances.

### CHAPTER 4. VIOLATIONS AND PENALTIES

Any person, firm, corporation or agent who may violate a provision of this Code or fail to comply therewith or with any of the requirements thereof shall be guilty of a violation of municipal ordinance.

Any person, firm, corporation or agent or unit of local government who may violate the provision of this Code shall be subject to the appropriate civil remedies, other than damages, available to the town, including but not limited to injunctive relief, liens against property to secure payment of fines and the like.

Whenever in this Code any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided, the violation of any such provision of this Code shall be punished by a fine not exceeding \$500.00, or imprisonment for a term not exceeding 60 days, or by both a fine and imprisonment. Each day any violation of any provision of this Code shall continue shall constitute a separate offense.

In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this Code shall be deemed a public nuisance and may be, by the town, abated as provided by law, and each day that such condition continues shall be regarded as a new and separate offense.

LAND DEVELOPMENT REGULATIONS

Art. 3, Ch. 3

CHAPTER 5. EFFECTIVE DATE

The provisions of this Code shall become effective ten days after its final adoption, and after all public notice and public hearing requirements have been complied with, as provided for in Florida Statutes and upon being recorded and filed with the clerk of the circuit court for Polk County.

**ARTICLE 3. DISTRICT RULES AND NONCONFORMITIES**

CHAPTER 1. ESTABLISHMENT OF DISTRICTS

In order to classify, regulate and restrict the use of land, water, buildings and structures, to regulate and restrict the height and bulk of buildings, to regulate the area of yards and other open spaces around and about buildings, to regulate the intensity of land use and to promote the orderly growth of the Town of Hillcrest Heights, Florida, the incorporated area of the town is divided into numerous use districts as follows:

- (1) R-1 Residential Estate District
- (2) R-2 Residential Single-Family District
- (3) R-3 Residential Single-Family District
- (4) R-PD Residential Planned Development District
- (5) P Public Use District

CHAPTER 2. DESIGNATION OF DISTRICT BOUNDARIES

The boundaries of each district are designated and established as shown on the Official Zoning Map of the Town of Hillcrest Heights, Florida. The boundaries of the districts shown upon the official zoning map are hereby adopted and approved. The regulations of this Code governing the use of land and water, buildings and structures, the height of buildings, lot areas, setbacks, floor area, lot coverage, parking and loading requirements are hereby declared to be in effect upon all land and water included within the boundaries of each and every district shown upon the official zoning map.

CHAPTER 3. RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

When uncertainty exists as to boundaries of the districts on the official zoning map, the following rules shall apply:

- (1) *Location of district boundary lines.*
  - (a) *Centerlines:* Boundaries indicated as approximately following the centerlines of streets, highways and alleys shall be construed to follow such lines.

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- (b) *Lot, section and tract lines:* Boundaries indicated as approximately following platted lot lines, section or tract lines shall be construed as following such lot, section or tract lines.
- (c) *Political boundaries:* Boundaries indicated as approximately following political boundaries shall be construed as following such political boundaries.
- (d) *Shorelines:* Boundaries indicated as following shorelines shall be construed to follow such shorelines; and in the event of change in the shoreline shall be construed as moving the actual shoreline. Boundaries indicated as approximately following the centerlines of streams, canals, or other bodies of water shall be construed to follow such centerlines.
- (e) *Parallel lines:* Boundaries that are approximately parallel to the centerline or street lines of streets, the centerlines or alley lines of alleys, or the centerline or right-of-way of highways, shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on the zoning map.
- (f) *Bisecting lines:* Boundaries that approximately bisect a block, lot, or tract shall be construed to follow the median lines of such blocks, lots or tracts as indicated by rear property lines or as measured between the centerlines of boundary streets in the absence of rear property lines or in the absence of both of the above, by use of the scale appearing on the zoning map.
- (g) *Uncertainties:* Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in case any other uncertainty exists, the board of adjustment shall interpret the intent of the official zoning map as to the location of district boundaries.
- (h) *Street abandonments:* Where a public road, street or alley is officially vacated or abandoned, the regulations applicable to the property to which it reverted shall apply to such vacated or abandoned road, street, or alley.
- (i) *Excluded areas:* Where parcels of land and water areas have been inadvertently excluded from a zoning district classification in any manner, said parcels shall be classified as P until changed, if at all, by public hearing.

CHAPTER 4. NONCONFORMING LOTS, STRUCTURES, USES, CHARACTERISTICS OF  
USE AND COMBINATIONS THEREOF

It is the purpose and intent of this chapter to permit the continuation of those lots, structures, uses, characteristics of use or combinations thereof which were lawful before the passage of this Code, but which would be prohibited, regulated, or restricted under the terms of this Code or future amendments thereto. For purposes of this chapter, a nonconforming lot, structure, use or characteristic of use is defined as a lot, structure, or use, or combination thereof that does not comply with the property development standards of the zoning district in which the lot, structure, use or characteristic of use or combination thereof is located, but which was legally established and in existence before the effective date of this Code.

LAND DEVELOPMENT REGULATIONS

Art. 3, Ch. 4, 4.02

This chapter is designed to provide reasonable and equitable standards and guidelines for the control of nonconforming lots, structures, uses and characteristics of uses in the regulation of change of use; change in kind or quality of use; change in volume or intensity of use; change in location of use; change of ownership or tenancy of use; accessory or incidental uses to nonconforming lots, structures, uses, or characteristics of uses; changes to more restrictive degrees of use; extensions of use; enlargement of use; replacement of use; addition or expansion of facilities; new activities, products or services connected with the nonconforming lot, structure or use; changes in the volume, intensity or frequency of use; the use of new land connected with the nonconforming lot, structure, or use; the alteration of a nonconforming structure; repair of a nonconforming structure; restoration of a nonconforming structure, and abandonment or discontinuance of a nonconforming structure or use, or any combination thereof.

It is the further purpose and intent of this chapter to allow nonconforming lots, structures, uses and characteristics of uses and combinations thereof to continue subject to specific conditions in order not to interfere with the existing circumstances surrounding property development within the Town of Hillcrest Heights prior to the effective date of this Code more than is necessary for the proper exercise of police powers relating to the general public welfare of the citizens and residents of the town.

**4.01 Nonconforming classifications.**

Within the zoning districts established by this Code, or amendments that may be later adopted to this Code, there may exist:

- (1) Nonconforming lots.
- (2) Nonconforming structures.
- (3) Nonconforming uses.
- (4) Nonconforming characteristics of use.
- (5) Combinations of nonconforming lots, nonconforming structures, nonconforming uses and nonconforming characteristics of use.

These nonconforming classifications are declared to be incompatible with present permitted uses and all or part of the property development standards regulating permitted uses in the zoning district in which the nonconforming classifications are located.

**4.02 Scope.**

In order to avoid undue hardship on the citizens and residents of the town nothing in this chapter shall be deemed to require any change in the plans, construction or designated use of any structure on which actual construction was lawfully done prior to the effective date of adoption of this Code and upon which actual building construction has been carried on diligently. For purposes of this chapter, the term "actual construction" is hereby defined to include the placing of construction materials in permanent position and fastened in a

Art. 3, Ch. 4, 4.02

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permanent manner according to approved plans for the specific improvement. Where excavation or demolition or removal of an existing structure has been substantially begun, preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction provided, however, that work has been and shall be carried on diligently pursuant to a valid building permit.

**4.03 Nonconforming lots of record.**

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on a single lot, tract, or parcel of land of record at the effective date of adoption of this Code notwithstanding limitations imposed by other provisions of this chapter.

Such lot must be in separate ownership and not be of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area, width and/or depth, that are applicable in the zoning district in which the lot, parcel, or tract, is located, provided, however, that required yard and/or area dimensions and requirements other than those property regulations applying to area, width, and/or depth shall conform to the regulations for the zoning district in which such lot is located.

If two or more lots, or combinations of lots, or portions of lots with continuous frontage and single ownership are of record at the time of the passage of this Code, and if all or part of the lots do not meet the requirements established for lot area, width and/or depth, or all the lands involved shall be considered to be an undivided parcel for the purposes of this chapter, and no portion of such parcel shall be used or sold in a manner which diminishes the degree of compliance with lot width, area and depth requirements established by this chapter nor shall any division of any parcel be allowed which creates a lot with area, width or depth, or all, less than the requirements stated in this chapter where such parcel has frontage of three or less times the minimum lot width required for the district, and where a single-family dwelling has been erected in such a manner as to make resubdivision to meet the full requirements of this Code impractical, the area, width and depth requirements of any existing or resubdivision of lots within such parcel may be reduced not to exceed 25 percent upon a finding by the director that:

- (1) Such reduction is necessary to provide not more than three lots; and
- (2) That it will not be necessary to reduce yard requirements at the edges of the parcel below those generally called for in the district; and
- (3) That yards toward the interior of the parcel can be provided with not more than ten percent reduction from general district requirements.

In the event of extreme hardship, yard setback requirements may be the further subject for a petition for variance to the board of appeals and adjustment.

- (1) When two or more adjoining and vacant lots or parcels with continuous frontage and area are under a same ownership at the time of the adoption or after adoption of this

LAND DEVELOPMENT REGULATIONS

Art. 3, Ch. 4, 4.04

Code, such lots shall be considered as one tract so as to create one or more lots or parcels which conform to the minimum frontage and area requirements of the district in which they are located, and as further provided for in chapter 4 of this article.

- (2) When an individual lot or parcel has an area smaller than the requirements of the district in which it is located, but was a lot or parcel of record when this Code was adopted, the permitted uses of the zoning district will be allowed to the person or persons who then held title or beneficial interest in the lot, providing all requirements, other than building site area, are maintained. This paragraph shall not apply where two or more lots or parcels adjoin in such a fashion that should they be considered as one lot or parcel such single lot or parcel would meet all minimum requirements as to area and dimension, provided that all the area so considered is in the same ownership.

**4.04 Nonconforming uses of land.**

The lawful use of land existing at the time of adoption of this Code or an amendment thereto, although such use does not conform to provisions of this Code may be continued subject to the following limitations and restrictions:

- (1) *Change in location of use:* No nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption of this Code.
- (2) *Change of ownership or tenancy:* All rights and obligations associated with a nonconforming use of land run with the land and are not personal to the present owner or tenant of the nonconforming use of land and are not affected by a change in ownership or tenancy, except if abandoned.
- (3) *Accessory or incidental uses:* Uses accessory to a nonconforming use not in existence at the time of the effective date of adoption of this Code are not permitted by this chapter. Only accessory uses and structures associated with permitted uses within the zoning district within which the permitted use is located are allowed under this chapter.
- (4) *Change to a more restrictive degree of use:* A nonconforming use may be changed to a more restrictive degree of nonconforming use if the resulting change minimizes the degree to which the nonconforming use is in noncompliance with the property development standards and use regulations of the zoning district in which it is located.
- (5) *Extension of use:* No nonconforming use shall be increased or extended to occupy a greater area of land than was occupied at the effective date of the adoption of this Code.
- (6) *Enlargement of use:* No such nonconforming use shall be enlarged or increased to occupy a greater area of land than was occupied at the effective date of the adoption of this Code unless such use is changed to a use permitted in the zoning district in which such use is located and complies with all property development regulations of the zoning district.
- (7) *Replacement of use:* In the event that any existing nonconforming use as provided for in this chapter is destroyed by more than 51 percent of its assessed value at the time

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of destruction as determined by the Official Records of Polk County Property Appraiser, by any means, including fire, flood, wind, explosion, act of God, or act of a public enemy, such use shall not be replaced.

If such nonconforming use is destroyed to a level less than 51 percent of its total assessed value at the time of destruction as determined by the Official Records of the Polk County Property Appraiser, it may be replaced except that replacement can only occur in compliance with those building, plumbing, electrical, gas, fire and other construction and safety related regulations of the town in effect at the time of application for a permit to allow replacement. In no event shall the destroyed nonconforming use be replaced to a degree or level greater than the original use as to height, lot coverage, total floor area, bulk, or yard setback requirements.

- (8) *Addition or expansion of facilities:* No additions to or expansions of nonconforming use facilities shall be permitted under this chapter.
- (9) *Change in frequency of use:* A change in frequency of use in nonconforming use classifications shall be permitted under this chapter.
- (10) *Abandonment or discontinuance of use:* The abandonment or discontinuance of a nonconforming use for the period of 90 consecutive days shall render the nonconforming use status of the specific nonconforming use null and void. In the factual determination of whether a nonconforming use has been abandoned or discontinued, the following factors shall be used, but not limited to:
  - (a) An intent to discontinue the nonconforming use through removal of stock in trade or removal of operating equipment.
  - (b) Some overt act or failure to act which carries with it a sufficient implication that the owner neither claims or retains any interest in the abandoned property as is [it] stood before the abandonment has occurred.

**4.05 Nonconforming structures.**

Where a lawful structure exists at the effective date of adoption or amendment of this Code, and it could not be built under the terms of this Code by reason of restrictions on area, lot coverage, height, yards, location on the lot, or other property development standards or requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) *Alteration, extension, enlargement, or expansion of nonconforming structure:* No such alteration, extension, enlargement or expansion of a nonconforming structure shall be permitted in a way which increases its noncompliance with present property development and use standards of the zoning district in which it is located, but any nonconforming structure or portion thereof may be altered to decrease its noncompliance with present property development and use standards of the zoning district in which it is located. Nothing in this subsection shall prohibit the director from ordering the compliance with all applicable building construction and safety related codes.



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- (2) *Replacement, restoration and reconstruction of nonconforming structure:* In the event that any existing nonconforming structure, as provided for in this chapter, is destroyed by any means, including fire, flood, wind, explosion, act of God, or act of a public enemy by less than 51 percent of its total appraised value according to the latest records of the property appraiser of Polk County, such structure shall be permitted to be replaced, restored, or reconstructed according to the property development standards in effect at the time of its original construction except that replacement, restoration and reconstruction can only occur in compliance with those building, plumbing, electrical, gas, fire and other construction and safety regulations of the town in effect at the time of application for a permit to allow replacement, restoration, or reconstruction. In no event shall the destroyed nonconforming structure be replaced to a degree or level greater than the original structure as to height, lot coverage, total floor area, yard setback requirements or other applicable property development regulations at the time of original construction.
- (3) *Repairs and maintenance of nonconforming structures:* Routine repairs and maintenance of nonconforming structures on fixtures, wiring, or plumbing or the repair or replacement of walls shall be permitted.
- (4) *Change in location of nonconforming structure:* Should any nonconforming structure be moved for any reason to any distance whatsoever from its original permitted location, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.
- (5) *Accessory or incidental structures:* Structures normally accessory to or incidental to a permitted structure or permitted use in the zoning district in which the nonconforming structure is located may be permitted as [an] accessory structure to the nonconforming structure.
- (6) *Abandonment or discontinuance of nonconforming structure:* The abandonment or discontinuance of a nonconforming structure for a period of 180 consecutive days shall render the nonconforming structure status of the specific nonconforming structure null and void.

**4.06 Nonconforming characteristics of use.**

For purposes of this chapter, characteristics of use, such as off-street parking, off-street loading and landscape requirements, shall be interpreted to be synonymous with a part of the nonconforming classification of uses and structures legally permitted and existing at the time of the passage of this Code or an amendment thereto, although such characteristics of use do not conform to the provisions of this Code.

**4.07 Nonconforming lots, structures and uses in combination.**

If at the time of the effective date of adoption of this Code a lot of record, structure, use or characteristic of use of land in any combination thereof exists that would not be allowed in the zoning district in which it is located under the terms of this Code, the use may be continued so

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long as it remains otherwise lawful, and provided further that all of the provisions and regulations provided for in section 4.05, subsections (1) through (15) and section 4.06, subsections (1) through (6), of this chapter shall apply to all combinations of nonconforming lots, structures, uses and characteristics of use.

## ARTICLE 4. LANGUAGE AND DEFINITIONS

### CHAPTER 1. RULES FOR CONSTRUCTION OF LANGUAGE

The following rules shall govern the construction of language in this Code and shall apply to the text of this Code:

The particular shall control the general. In case of any difference of meaning or implication between the text of this Code and any caption, illustration, summary table, or illustrative table, the text shall control.

The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.

A "building" or "structure" includes any part thereof. The phrase "used for" includes "arranged for," "designed for," "maintained for" or "occupied for." The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either or," the conjunction shall be interpreted as follows:

- (1) "And" indicates that all the connected items, conditions, provisions, or events shall apply.
- (2) "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
- (3) "Either . . . or" indicates that the connected items, conditions, provisions, or events shall apply singly, but not in combination.

The word "includes" shall not limit a term to the enumerated examples, but is intended to extend its meaning to all other instances or circumstances of like, kind or character.

### CHAPTER 2. DEFINITIONS

*Abandon:* To discontinue an otherwise lawful use for more than 90 days or a structure for more than 180 consecutive days.

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*Accessory use or structure:* A use or a structure subordinate to the principal use or building on the same lot and serving a purpose customarily incidental to the use of the principal building.

*Alcoholic beverage establishment:* Any establishment devoted primarily to the retail sale of alcoholic beverages for consumption on and/or off the premises.

*Alley:* A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

*Alley:* A through public right-of-way less than minimum required street width which affords only a secondary means of access to abutting property.

*Alterations, structural:* Any change in the supporting members of a building such as bearing walls, columns, beams, or girders.

*Applicant:* The owner of land proposed to be subdivided or his representative. Consent shall be required from the legal owner of the premises.

*Bar:* See *Alcoholic beverage establishment*.

*Billboard:* See *Sign—Off-Premises [off-site]*.

*Block:* A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or boundary lines of municipalities.

*Board of appeals and adjustment:* A body authorized to hear administrative appeals and requests for variances from the strict application of the requirements of this Code.

*Boardinghouse:* A building other than a hotel or motel where lodging and meals for three or more persons not of the immediate family is provided for compensation.

*Boat yard and way:* A site or establishment which provides facilities customary to the construction or reconstruction, repair, maintenance or sale of boats, marine engines, marine equipment and marine services of all kinds; including, but not limited to rental of covered or uncovered boat slips, dock space, enclosed dry storage space, marine railways or lifting or launching services.

*Bond:* Any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the town commission. All bonds shall be approved by the town commission.

*Building:* Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, chattels, or property.

*Building height:* The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and the mean height between eaves and ridge for gable, hip and gambrel roofs.

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*Building setback:* The minimum horizontal distance between the front, rear or side lines of the lot and the front, rear or side lines of the building. When two or more lots under one ownership are used, the exterior property lines so grouped shall be used in determining building setback when the interior common lot line is straddled by the principal structure.

*Building site:* That part of a parcel of land designed to be occupied by the principal building and such accessory buildings or uses customarily incidental to it.

*Capital improvements program:* A proposed schedule of all future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project. All major projects requiring the expenditure of public funds, over and above the annual local governments operating expenses, for the purchase, construction, or replacement of the physical assets for the community are included.

*Central sewerage system:* A community sewer system including collection and treatment facilities established by a developer to serve a subdivision in an outlying area.

*Central water system:* A distribution system formed by a developer to serve a new community development in an outlying area. It includes water treatment and distribution facilities.

*Certified survey:* A survey, sketch, plan, map or other exhibit containing a written statement regarding its accuracy or conformity to specified standards certified and signed by the registered surveyor under whose supervision said survey was prepared.

*Clinic, veterinary:* A facility which provides for outpatient care of animals wholly within a soundproof, air conditioned structure and wherein no overnight boarding of animals is accommodated.

*Collector roads:* A road intended to move traffic from local roads to secondary arterials. A collector road serves a neighborhood or large subdivision and should be designed so that no residential properties face onto it.

*Common lot line:* A line dividing one lot or parcel from another.

*Community design review board:* A board established by the town commission to provide technical services to the planning commission in the administration of these regulations.

*Concurrency:* A condition where specified facilities and services have or will have the necessary capacity to meet the adopted level of service standard at the time of impact of the development project.

*Construction plan:* The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the planning commission as a condition of the approval of the plat.

*Continuous transit:* The nonstop movement of a mobile vehicle.

*Cul-de-sac:* A local street with one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

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*Density, gross.* The maximum number of residential dwelling units permitted on a particular lot, when the applicable zoning district minimum lot area for a one dwelling unit is multiplied by the aggregate acreage of said lot. Gross density is always expressed as dwelling units per area (d.u./ac.).

*Developer:* The owner of land proposed to be subdivided or his representative. Consent shall be required from the legal owner of the premises.

*Director:* The chief administrative officer of the town and/or those to whom he has charged the enforcement and interpretation of this Code or selected chapters thereof.

*Dwelling unit:* A single unit providing complete, independent living facilities for one family, including permanent provisions for living, sleeping, eating, cooking and sanitation.

*Dwelling—Multiple-family:* A building or structure containing three or more dwelling units.

*Dwelling—Single-family:* A building or structure containing only one dwelling unit.

*Dwelling—Two-family (duplex)* A building or structure containing two dwelling units.

*Easement:* Authorization by a property owner for the use by another, and for a specified purpose, of any designed part of his property.

*Effluent:* The emission of pollutants from any source.

*Escrow:* A deposit of cash with the local government in lieu of an amount required and still in force on a performance or maintenance bond. Such escrow funds shall be deposited by the building and zoning inspector in a separate account.

*Family:* One or more persons, not more than three of whom are unrelated to each other by birth, adoption or marriage.

*Fence (screen wall):* Any construction of wood, metal, wire mesh, masonry, or other material, erected for the purpose of privacy, protection, or ornamentation.

*Final plat:* The map or plan or record of a subdivision and any accompanying material, as described in these regulations.

*Floodplain:* An area likely to flood or become inundated with point and/or nonpoint source water based upon a calculable frequency of rainfall occurring for a specified duration.

*Floor area (gross):* The horizontal areas of all floors, including penthouses measured from the exterior faces or columns of the exterior walls of a building.

*Floor area ratio:* A mathematical expression determined by dividing the gross floor area of a building by the area of the lot on which it is located, as

$$\frac{\text{Gross Floor Area}}{\text{Lot Area}} = \text{Floor Area Ratio}$$

*Frontage:* The boundary line of a lot bordering on a public road right-of-way, exclusive of alleys. (See *Lot frontage*)

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*Frontage street:* Any street to be constructed by the developer or any existing street in which development shall take place on both sides.

*Garage, private parking:* All accessory building or portion of the principal building designed or used for the storage of vehicles owned and used by the occupants of the principal building to which it is accessory.

*Grade:* The slope of a road, street, or other public way, specified in percentage (%) terms.

*Grade, finished:* The finished elevation of a site after all fill, land balancing or site preparations have been completed.

*Hazardous material wellfield license:* A license issued by the town to a person operating a facility that stores, handles, uses or produces regulated substances.

*Health department:* The local office of the Department of Health and Rehabilitative Services designated to administer the health regulations of the county and state.

*Home occupation:* A use conducted entirely within an enclosed dwelling employing only the inhabitants thereof, which is clearly incidental and secondary to residential occupancy and does not change the character thereof. Specifically excluded is the storage and display of merchandise not produced by such occupation, any activity involving any building alterations, window display, construction features, equipment, machinery or outdoor storage, any of which is visible from outside the lot on which located.

*Improvement:* Any building, structure, place, work or art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment. Certain lot improvements shall be properly bonded as provided in these regulations.

*Individual sewage disposal system:* A septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device.

*Institutional use:* The structure and/or land occupied by a group, cooperative, board, agency, or organization created for the purpose of carrying on functions, such as hospitals, schools, churches, fraternal orders, orphanages and nursing or convalescent homes.

*Joint ownership:* Joint ownership among persons shall be construed as the same owner; "constructive ownership" for the purpose of imposing subdivision regulations.

*Junk:* Inoperative, dilapidated, abandoned or wrecked materials, including, but not limited to automobiles, trucks, tractors, wagons, boats and other kinds of vehicles and parts thereof, scrap materials, scrap building materials, scrap contractors' equipment, tanks, casks, cans, barrels, boxes, drums, piping, bottles, glass, old iron, machinery and the like.

*kennel:* An establishment where five or more domestic animals are bred, boarded, or sold.

*Loading space:* A space which provides for the loading or unloading of service vehicles.

*Local road:* A road intended to provide access to their roads from individual properties and to provide right-of-way beneath it for sewer, water and storm drainage pipes.

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*Lot:* A parcel of land intended for the transfer of ownership or occupancy under the terms of this Code. For the purposes of these regulations, a lot shall have frontage on an improved public street or an officially approved private street. Not more than one principal building and customary accessory use incidental to the principal use shall be located on a lot. For zoning purposes, a lot may consist of:

- (a) A combination of complete lots of records.
- (b) A combination of complete lots of record and portions of lots of record.
- (c) Portions of lots of record, provided that such lots or combinations of lots are of sufficient size to meet the requirements of this chapter for the district in which located and no such portion falls below the average size of the lots of record in the block in question.
- (d) Single lots of record.
- (e) Parcels of land defined by metes and bounds description where such parcels are in conformity with these regulations and other laws of the Town of Hillcrest Heights.

*Lot area:* The horizontal plane area within the lot lines expressed in these regulations in square feet or acres exclusive of public or private dedications.

*Lot frontage:* The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots, all sides of a lot adjacent to street shall be considered frontage, and yards shall be provided as indicated under "Yards" in this section.

*Lot, minimum area of:* The area of a lot is computed exclusive of any portion of the right-of-way of any public or private street.

*Lot of record:* A platted lot which is a part of a subdivision recorded in the office of the clerk of the Circuit Court of Polk County.

*Lot types:* The following illustrates the terminology used in these regulations with reference to corner lots, reversed frontage lots, interior lots and through lots:

Note: All boundaries abutting streets shall be considered front yards and all other boundaries shall be considered side yards.

*Lot, corner:* Corner lot is defined as a lot located at the intersection of two or more intersecting streets. For the purpose of this Code, a lot abutting upon a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees. (See above).

*Reversed frontage:* Reversed frontage lot is a lot in which the frontage is at right angles, or approximately right angles, to the general pattern in the area involved. A reversed frontage lot may also be a corner lot or an interior lot (see above).

*Lot, interior:* Interior lot is a lot other than a corner lot, with only one frontage on a street other than an alley (see above).

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*Through lot:* Through lot is a lot other than a corner lot, with frontage on more than one street other than an alley or limited access street. Through lots with frontage on two streets may be referred to as double-frontage lots (see above).

*Lot coverage:* The area of the lot covered by the ground floor of all principal and accessory uses and structures, including all areas covered by the roof of such uses and structures measured along the exterior faces of the walls or along the foundation wall line or between the exterior faces of supporting columns or from the centerline of walls separating two buildings or as a combination of the foregoing whichever produces the greatest total ground coverage for such uses and structures. Lot coverage shall also include all impervious surfaces such as drives, parking area, walkways, swimming pools, patios, terraces, gravel lawns and the like.

*Lot depth:* The average horizontal distance between the front and rear lot lines.

*Lot line:* The legal boundary line of a lot.

*Lot width:* The horizontal distance between the side lot lines measured along the front building setback line of the lot as determined by the prescribed front yard requirements of the zoning district.

*Major subdivision:* All subdivisions not classified as minor subdivisions, including but not limited to subdivisions of four or more lots, or any size subdivision requiring any new street or extension of the local governmental facilities, or the creation of any public improvements.

*Minor arterial:* A road intended to collect and distribute traffic in a manner similar to primary arterials, except that these roads service minor traffic generating areas such as community-commercial areas, primary and secondary educational plants, hospitals, major recreational areas, churches, and offices, and/or designed to carry traffic from collector streets to the system of primary arterials.

*Minor subdivision:* Any subdivision containing not more than three lots fronting on an existing street, not involving any new street or road, or the extension of municipal facilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property.

*Mobile home:* A manufactured detached, transportable, single-family dwelling unit designed for long-term occupancy and arriving at the site where it is to be occupied as a complete dwelling unit, containing all conveniences and facilities, with plumbing and electrical connections provided for attachment to approved utility systems.

*Mobile home park:* Any lot or parcel which contains two or more rental spaces to be occupied by mobile homes.

*Mobile home site:* A space, or plot of ground within a mobile home park or subdivision designated for the accommodation of not more than one mobile home.

*Mobile home subdivision:* A platted residential subdivision in which the dwelling units consist of mobile homes and accessory residential structures.



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*Motel:* A building or group of buildings in which lodgings are available for rent to the public, which is open to transient guests in which a majority of the rental units have direct entrance from the outside, and in which parking spaces are oriented to rental units in such a manner as to facilitate direct access from such units to the automobile of the renters and where not more than 25 percent of the rental units are equipped with cooking facilities.

*Nonconforming building or structure:* A structure or building existing at the time of adoption of this Code or amendment thereto, which does not conform to the property development regulations of area, height, lot coverage, yard setbacks, lot location, or other like requirements of this Code.

*Nonconforming lots:* A single lot, which was in existence at the time of the adoption of this Code, even though such lot fails to meet the requirements for area, width or depth, but provided that minimum yard dimensions and setbacks of the lot shall conform to the property regulations for nonconforming lots as hereinafter set forth.

*Nonconforming use:* A land use existing at the time of adoption of this Code, or amendment thereto, which does not conform to the provisions, requirements and regulations of this Code.

*Nonresidential activity:* Any activity which occurs in any building, structure or open area which is not used primarily as a private residence or dwelling.

*Nursing home or convalescent home:* A home for the aged or infirm in which three or more persons not of the immediate family are received, reside or are provided with food and shelter or care for compensation, but not including hospitals, clinics, or similar establishments devoted primarily to the diagnosis and treatment of the sick or injured as licensed by the state.

*Off-site:* Any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval.

*Office:* A building, room, or space where clerical or administrative activities are performed or wherein specialized services such as the offices of a doctor, dentist, lawyer, engineer, architect, chiropractor, osteopath, are provided.

*Official zoning map:* The official zoning map of the Town of Hillcrest Heights which depicts the zoning district classifications of this Code. Said map is herewith adopted by reference and shall not be changed except by order of the town commission.

*Open space:* Any portion of a lot or parcel unencumbered by either principal or accessory uses, building and structures and all impervious surfaces.

*Ordinance:* Any legislative action, however denominated, of a local government which has the force of law, including any amendment or repeal of any ordinance.

*Owner:* Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or proprietary interest in the land sought to be subdivided under these regulations.

*Parcel:* A tract of land which may be described by metes and bounds or plat. (See *Lot*).

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*Parking lot:* An area, enclosed or unenclosed, sufficient in size to store one motor vehicle and permitting necessary ingress and egress of a motor vehicle.

*Permitted pumping capacity:* The amount of water authorized by the Southwest Florida Water Management District to be pumped from a well, expressed as gallons per day.

*Permitted use:* The specific purpose(s) for which land(s) or building(s) (is) (are) maintained in accordance with the district regulations.

*Planned unit development (PUD):* A land area under unified control designed and planned to be developed in a single operation or by a series of prescheduled development phases according to an approved final master land use plan which does not necessarily correspond to the property development and regulations of the zoning district in which the development is located.

*Planning commission (board):* The advisory body to the town council [commission] with only those powers established in this Code and as may be granted to it by the town commission.

*Plat of record:* A plat which conforms to all the requirements of the applicable laws of the State of Florida and this Code and has been filed and recorded in the office of the Clerk of the Circuit Court for Polk County.

*Pollutant travel time:* The time required by pollutants to travel from one point to another.

*Potable water:* Water that is satisfactory for drinking, culinary and domestic purposes, meeting current state and federal drinking water standards.

*Preliminary plat:* The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the town commission for approval.

*Property line:* (See *Lot line*)

*Property owners' association:* A nonprofit organization recognized as such under the laws of the State of Florida operated under recorded land agreements through which each owner of a portion of a subdivision, be it a lot, home, property or any other interest, is automatically subject to a charge for a prorated share of expenses either direct or indirect for maintaining common properties within the subdivision, such as roads, parks, recreational areas, common areas or other similar properties.

*Public improvement:* Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established. All such improvements shall be properly bonded.

*Public notice:* The legal advertisement required to be given to an action or proposed action of the town commission as set forth in these regulations or applicable statute of the State of Florida.

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*Public utility:* Any privately-owned, municipally-owned or county-owned system providing water or wastewater service to the public which has at least 15 service connections or regularly serves an average of at least 25 individuals daily for at least 60 days of the year.

*Recreation vehicle:* The following types of vehicles enumerated are deemed recreation vehicles:

- (1) *Travel trailer:* A vehicular, portable structure built on a chassis and towed; designed to be used as a temporary dwelling for travel, recreation and vacation uses; permanently identified "Travel Trailer" by the manufacturer on the trailer; and, when factory equipped for the road, having a body width not exceeding eight feet and a body length not exceeding 32 feet.
- (2) *Pickup coach:* A structure designed to be mounted on a truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreation and vacation uses.
- (3) *Camping trailer:* A collapsible temporary dwelling structure covered with a water repellent fabric, mounted on wheels, and designed for travel, recreation and vacation uses.
- (4) *Auto camper:* A lightweight, collapsible unit that fits on top of an automobile and into the trunk with the cover removed, and designed for travel, recreation and vacation uses.
- (5) *All terrain vehicle:* Dune buggies, swamp buggies and the like shall be considered recreation vehicles whether or not licensed as such by the state.
- (6) *Motor home:* A fully self-propelled vehicle designed for use as both a temporary dwelling and transportation for travel, recreation and vacation uses.

*Regional planning council:* The agency performing A-95 review of all federal grant-in-aid projects required to be reviewed by regional and state planning boards to insure the projects conform to regional and state needs; the planning agency established to carry on regional or metropolitan comprehensive planning.

*Registered engineer:* An engineer properly licensed and registered in the State of Florida.

*Registered land surveyor:* A land surveyor properly licensed and registered in the State of Florida.

*Regulated substances:* Those substances contained in the list of hazardous and toxic substances.

*Resubdivision:* A change in a map of an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved thereon for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

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*Right-of-way:* The area of a highway, road, street, way or parkway or other such strip of land reserved for public use, whether established by prescription, easement, dedication, gift, purchase, eminent domain or any other legal means.

*Road, dead end:* A road or a portion of a street with only one vehicular-traffic outlet.

*Road right-of-way width:* The distance between property lines measured at right angles to the centerline of the street.

*Roominghouse:* A building other than a hotel or motel where lodging, but not meals, is provided for compensation for three or more persons not of the immediate family.

*Sale or lease:* Any immediate or future transfer of ownership or any possessory interest in land, including contract of sale, lease, devise, interstate succession, or transfer, of an interest in a subdivision or part thereof, whether by metes and bounds, deed, contract, plat, map, lease, devise, interstate succession, or other written instrument.

*Same ownership:* Ownership by the same person, corporation, firm, entity, partnership or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stockholder, partner, or associate, or member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated associated [association].

*Setback:* The distance between a building and the street line nearest thereto.

*Sign:* Any outdoor advertising display, billboard, poster, panel, bulletin or placard and all printed, painted, lettered, illuminated or figured devices or structures used for advertising, informational or attention-catching purposes, whether unattached or attached to or painted on any building or structure, to the ground by post, footing or other contrivance. This definition of a sign shall not include any flag, notice badge or insignia of any government or governmental agency, or any legal notice posted by and under governmental authority.

*Sign, ground:* A sign supported by uprights, braces or footings, placed upon the ground and not attached to any building.

*Sign, marquee:* A sign attached to, painted on or hung from a marquee, or any such canopy or covered structure projecting from and supported by a building.

*Sign, off-site:* A sign other than an on-site sign.

*Sign, on-site:* A sign relating in subject matter to the premises on which it is located or to products, accommodations, services, or activities on the premises.

*Sign, roof:* A sign erected upon or which extends above the roof of the building to which it is attached.

*Sign, wall:* A sign attached to or painted on the wall of any building.

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*Sign area:* The total area within the smallest parallelogram, triangle, circle or semi-circle which will completely enclose the outside perimeter of the overall sign, including the border, if any, but excluding supports and minor embellishments. All faces of signs consisting of two or more panels on the same support shall be computed for purpose of sign area.

*Sketch plat:* A sketch preparatory to the preparation of the preliminary plat (or subdivision plat in the case of minor subdivisions) to enable the subdivider to save time and expense in reaching general agreement with the town commission as to the form of the plat and the objectives of these regulations.

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

*Street:* Any public thoroughfare, street, avenue, boulevard, parkway or space which may or may not be dedicated or deeded to the public for public use and which affords the principal means of access to abutting property.

*Street, arterial:* A road intended to move through traffic to and from such major attractors as central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas and similar traffic generators within the governmental unit; and/or as a route for traffic between communities or large areas.

*Street, collector:* Streets penetrating neighborhoods, collecting traffic from local streets in the neighborhoods, and channeling it into the arterial systems.

*Street, local:* A street system not on one of the higher systems and serving primarily to provide direct access to abutting land and access to the higher order systems.

*Street, private:* Any street designed to serve more than one property owner which is dedicated to the public use and accepted for ownership and maintenance by the board of county commissioners; includes any street right-of-way dedicated to the public prior to or at the time of adoption of this Code. Streets controlled by a property owners' association may be retained as private streets by said association as long as said association accepts the obligation for complete control and maintenance. A street designed to serve more than one property owners' association must be public.

*Structure:* Anything constructed, installed, or portable, the use of which required a location on a parcel of land. It includes a movable structure while it is located on land which can be used for housing, business, commercial, agricultural, or office purposes either temporarily or permanently. Structure also includes fences, billboards, swimming pools, poles, pipelines, transmission lines, tracks and advertising signs.

*Subdivider:* Any person who (1), having an interest in land, causes it, directly or indirectly, to be divided into a subdivision or who (2), directly or indirectly, sells, leases, or develops, or offers to sell, lease, or develop, or advertises for sale, lease, or development, any interest, lot, parcel site, unit, or plat in a subdivision, or, who engages directly or through an agent in the

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business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any interest, lot, parcel site, unit, or plat in a subdivision, and who (4) is directly or indirectly controlled by, or under direct, or indirect common control with any of the foregoing.

*Subdivision:* Any land, vacant or improved, which is divided or proposed to be divided into two or more lots, parcels, sites, units, plots, or interests for the purpose of offer, sale, lease, or development, either on the installment plan or open any and all other plans, terms and conditions, including resubdivision. Subdivision includes the division or development of residential and nonresidential zoned land, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument.

*Subdivision:* The division of real property into two or more lots, parcels, tracts, tiers, blocks, sites, units or any other division of land, or if the establishment of new streets and alleys is involved, any division of such parcel. The term includes resubdivisions and, when appropriate to the text, relates to the process of subdividing or to the lands or area subdivided.

*Subdivision agent:* Any person who represents, or acts for or on behalf of a subdivider or developer, in selling, leasing, or developing, or offering to sell, lease, or develop any interest, lot, parcel, unit, site, or plat in a subdivision, except an attorney-at-law whose representation of another person consists solely of rendering legal services.

*Subdivision plat:* The final map or drawing described in these regulations, on which the subdivider's plan of subdivision is presented to the town commission for approval and which, if approved, may be submitted to the Polk County Clerk.

*Temporary improvement:* Improvements built and maintained by a subdivider during construction of the subdivision and prior to release of the performance bond.

*Town attorney:* The licensed attorney designated by the town commission to furnish legal assistance for the administration of these regulations.

*Town engineer:* The licensed engineer designated by the town commission to furnish engineering assistance for the administration of these regulations.

*Travel park:* A lot or parcel of land upon which two or more spaces are occupied or intended for occupancy by recreational vehicles designed for travel, recreation and vacation uses.

*Travel time contour:* The locus of points from which water takes an equal amount of time to reach a given destination such as a well or wellfield.

*Travel time zones:* The areas bounded by travel time contours.

*Use, principal:* (See *Permitted use*.)

*Use, accessory:* (See *Accessory use*.)

*Variance:* A lessening of the area or dimensional requirements of this code where such will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Code would result in unnecessary and undue hardship.

*Vehicle:* A conveyance for persons or materials, as may be licensed by the state.

*Vehicular use areas:* All areas used for the circulation, parking, and/or display of any and all types of vehicles, boats or heavy construction equipment, whether self-propelled or not, and all land upon which vehicles traverse as a function of the primary use. This shall include, but is not limited to, activities of a drive-in nature.

*Well:* Artificial excavation that derives water from the interstices of the rocks or soil which it penetrates.

*Wellfield:* A tract of land which contains a number of existing or proposed wells for supplying water.

*Yard:* An open area between building(s) structure(s) or use(s) and the adjoining lot line unoccupied and unobstructed by any building structure or use from the ground up except as otherwise provided in this Code.

*Yard, required front:* An area bending across the full width of the lot or parcel measured from the front line of the lot or parcel to the building setback.

*Yard, required rear:* A yard bending across the full width of the lot or parcel and measured from the rear line of the lot or parcel to the building setback.

*Yard, required side:* A yard measured from the side lot line and extending across the full depth of the lot or parcel to the building setback.

*Zones of influence:* Areas delineated by iso-travel time contours around existing or proposed wellfields, within which hazardous materials are regulated to protect the quality of the groundwater:

*Zone One:* The land area situated between the well(s) and the ten-day travel time contour.

*Zone Two:* The land area situated between the ten day and the 30-day travel time contours.

*Zone Three:* The land area situated between the 30-day and the 210-day travel time contours, or the 30-day and the one foot drawdown contours, whichever is greater.

## ARTICLE 5. GENERAL PROVISIONS

### CHAPTER 1. SUPPLEMENTAL REGULATIONS

#### *Section 1. Fences, Walls and Hedges*

##### **1.01 Required fences and walls.**

(1) Masonry walls providing visual screening shall be required between all residential use areas and adjacent nonresidential use areas.

(2) All salvage or junk operations shall be screened to form a visual obstruction to a minimum of eight feet in height. Any fence or wall shall be of masonry construction and shall be without openings, except entrance and exit, such opening shall be equipped with gates forming a visual obstruction.

(3) The director may request the board of adjustment to require the screening of any use or condition considered detrimental to the use and enjoyment of adjacent properties. Such screening shall be of a suitable material to screen the objection.

(4) All visual screening using plant or vegetation materials shall comply with these provisions.

**1.02 Prohibited fences, walls and hedges.**

(1) A fence, hedge or wall shall not be erected, constructed, installed or maintained within six feet of a fire hydrant or other emergency apparatus placed by the state, county or town.

(2) For all plots of land within the town, no fences, walls or hedges shall be erected or maintained within the required front or corner yards. A fence, wall or hedge may be erected, as required by all applicable code provisions, along any side plot lines (not extending beyond the front of the house) and rear plot lines. No fence shall exceed six feet in height.

(3) *Allowable types of fences.* Fences and walls constructed within the town shall conform to the following:

Type A:	Wood fences constructed of rot and termite-resistant species of wood or pressure treated wood to resist rot and termite attack.
Type B:	Posts of rot and termite-resistant species of wood or pressure treated wood or corrosion resistant metal and wire fences with a fabric of a minimum of 12½ gauge galvanized or other corrosion resistant metal. Posts must be interior, having the finished and uniform side facing outward from the fenced property.
Type C:	Ornamental metal.
Type D:	Concrete, stone or masonry.
Type E:	Plastic or vinyl.

(4) *Nonconforming fences, walls or hedges.* Nonconforming fences, walls or hedges in place on the date of the passage of this section are permitted to remain until the property owner replaces 50 percent or more of the fence, wall or hedge or 50 percent of the fence, wall or hedge is damaged. Upon reconstruction or repair of said nonconforming fence, wall or hedge, the property owner must comply with the requirements of this section.



(5) *Prohibited fences.*

- a. Barbed wire fences are prohibited in all residential zoning districts.
- b. Electrical fences, in any form, in any zoning district; excluding underground wires, commonly known as "invisible fences" used for the purpose of keeping pets in a yard.
- c. Chicken wire fences and hog wire fences.

(6) A hedge is defined as a boundary formed by a dense row of shrubs or low trees; a living fence that is made up of many plants or bushes, planted in such a way as to prevent or significantly limit ingress and egress between plots of land and/or between the public rights-of-way and private properties.

(7) *Maintenance of fences and walls.* All fences and walls must be kept free of trash and debris and maintained in a manner so as to prevent uncontrolled growth of grass, weeds and trash. Fences and walls must be maintained to originally designed condition. Missing boards, gates, posts and bricks shall be replaced in timely manner with material of the same type and quality of the existing fence.

(Ord. No. 2008-02, § 1, 12-8-08)

## CHAPTER 2. SIGNS

These regulations establish the size, type and location of permitted signs within the town. The character and amenity of residential communities such as the town is enhanced by pleasant community appearance. Advertising and other signs are major factors of community appearance. This regulation is intended to insure [ensure] that signs within the zoning districts are compatible with the development contemplated by within districts.

### *[Section 1. Permits; Exempt and Permitted Signs]*

#### **1.01 Permit required.**

(1) It shall be unlawful for any person to erect or replace any sign, unless specifically exempt, without first securing from the director a written permit to do so.

(2) In addition to complying with the requirements of this Code the building code sets forth structural and other standards regarding the sign construction and erection, electrical wiring and the like.

#### **1.02 Exempt signs.**

The following signs may be erected without a permit, subject, however, to the remaining requirements of these regulations:

1. Professional name plates not exceeding two square feet in area.
2. Bulletin boards and identifications signs for public, nonprofit or religious facilities, located on the premises of said facilities and not exceeding 12 square feet in area.

3. One sign denoting the architect, engineer, contractor or subcontractor on the premises of work under construction, which does not exceed 16 square feet in area.

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4. Occupational signs or directories denoting only the name, street number and business of occupants in a commercial building, public institutional building or dwelling, which do not exceed two square feet in area per business or occupant identified.
5. Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other noncombustible materials.
6. Traffic or other municipal, county, state or federal signs, legal notices, railroad crossing signs, danger signs and such temporary, emergency or nonadvertising signs as may be approved by the director.
7. Signs inside a building.
8. One "For Sale," "For Lease," or "For Rent" sign for each street on which the advertised parcel of property fronts, when such signs have an area per face of not more than four square feet.
9. Identification signs at the entrance drive of residences which do not exceed two square feet in area.
10. Nonadvertising directional signs or symbols (entrance, exit, caution, slow, no trespassing and the like) located on and pertaining to a parcel of private property, none to exceed four square feet in area.

**1.03 Permitted signs.**

Only the following signs are permitted:

1. Exempt signs.
2. One on-site wall sign and one on-site ground sign per street fronted upon each place of business or other establishment in zones.
3. Directional signs, when approved by the town commission.
4. Temporary signs may be authorized by [the] town commission.
5. Subdivision identification signs: One nonilluminated ground or wall sign, not to exceed eight square feet in area, or two nonilluminated ground or wall signs, each not to exceed eight square feet in area to be located at main subdivision entrance.

**1.04—1.07. Reserved.**

**1.08 Limitation on type and size of on-site signs.**

On-site signs shall be limited in type and area as follows:

1. *R-zones*: Ground and wall signs only to a maximum as follows:  
Three or four unit dwellings—Eight square feet  
Five or more unit dwellings—Eight square feet

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2. *Nonresidential zones:* Ground or wall signs only to a maximum of eight square feet. Roof, wall, projecting or marquee signs to a maximum of eight square feet.

*Section 2. Location and Dimensional Requirements*

**2.01 Elevation and setback requirements.**

1. No ground or projecting sign shall be closer than five feet to a street right-of-way line.
2. No ground sign shall be higher than 25 feet above the crown of the adjacent street.

**2.02 Signs not to constitute a traffic hazard or nuisance.**

1. No sign shall be erected or maintained at any location in such a manner as to obstruct free and clear vision at the intersection of any streets or other public ways. No sign shall be erected or maintained at any location where, by reason of the position, illumination, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or devise; nor shall it make use of the words "stop," "look," "danger" or any other word, phrase, symbol or character in such a manner as to interfere with, mislead, or confuse traffic.

2. Any lights used for sign illumination shall be so designed as to concentrate the illumination upon the sign and shall not glare upon the street or upon adjacent property.

3. All visible portions of a sign and its supporting structure shall be maintained in safe condition and neat appearance. If a lighted sign, all lights will be maintained in working order and functioning in a safe manner; if a painted sign, the paint shall be kept in good condition; all signs will be kept in such manner as to constitute a complete sign at all times. The area immediately surrounding ground signs shall be kept clear of all unsightly vegetation or debris.

*Section 3. Prohibited Signs and Sign Removal*

**3.01 Prohibited signs.**

The following types of signs are prohibited:

1. Portable or sandwich type signs.
2. Signs within the public right-of-way.
3. Signs attached to trees or utility poles.
4. Off-site signs other than approved directional or temporary signs.

**3.02 Removal of signs.**

1. Any sign new or hereafter existing which advertises a business no longer conducted, or a product no longer sold, shall be removed by the owner, agent or person having the beneficial use of the building; structure or land upon which the sign is located, within 30 days after written notification from the director.

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2. Lawfully established nonconforming signs may be continued so long as they remain otherwise lawful, but may not be modified to advertise a different business or service than that which they advertised at the time they become nonconforming.

3. Any nonconforming sign which is more than 40 percent destroyed or damaged shall be removed in its entirety, and no sign permit shall be issued for replacement unless permitted under this ordinance.

CHAPTER 3. OFF-STREET PARKING AND LOADING REQUIREMENTS

*Section 1. Parking Requirements*

**1.01 Parking required.**

Every use or structure instituted, constructed, erected or structurally altered shall provide off-street parking facilities for the use of occupants, employees, visitors, or patrons. The number of off-street parking spaces, in conjunction with all land or building uses shall be provided prior to the issuance of a certificate of occupancy. Such off-street parking facilities shall be maintained and continued as long as the use is continued.

**1.02 Parking to conform to use.**

No owner or operator of any structure or use shall discontinue, dispense with, or cause a discontinuance or reduction in the required parking facilities without establishing alternate vehicular parking facilities which meet the requirements of this chapter. When any building or structure is modernized, altered or repaired for any increase in floor area, capacity or use, additional off-street parking shall be provided, and a site plan shall be submitted for review and approval in accordance with chapter 1 of this article.

**1.03 Shared parking.**

Two or more structures or uses may collectively provide the required off-street parking, provided that the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses if computed separately.

**1.04 Prohibitions.**

The storage of merchandise, motor vehicles for sale, or the repair of vehicles is prohibited in any required off-street parking area.

*Section 2. Location of Parking*

**2.01 Proximity of parking to use.**

Off-street parking for all residential uses shall be located on the same lot or parcel of land that they are intended to serve, except as may be allowed in planned unit developments or in

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the urban center districts. Parking for all nonresidential uses may be located on a separate lot, but shall be within 300 feet of the building it is intended to serve as measured from the nearest entrance of the building to the nearest point of the off-street parking space.

**2.02 Driveways as parking.**

Driveways for single-family and two-family dwellings in residential districts may be considered as constituting off-street parking spaces, provided sufficient space is available on such driveways to meet the requirements of this chapter.

*Section 3. Parking Construction Requirements*

**3.01 Drainage.**

All required off-street parking facilities, including parking lot and access ways, shall be provided drainage so that no nuisance will be caused to adjacent or nearby properties or drainage directed toward buildings and to insure [ensure] continued use at all times.

**3.02 Traffic control.**

Traffic control signs and delineation and other pavement markings shall be used as necessary to insure [ensure] safe and efficient traffic operation of parking lots. All parking spaces shall be delineated by painted lines, curbs, or other means to indicate individual spaces. All signs shall comply with the Manual on Uniform Traffic Control Devices.

**3.03 Off-street parking dimensions.**

All off-street parking stalls shall be a minimum of 180 square feet. All parking stalls shall be a minimum of nine feet in width.

**3.04 Lighting.**

All lighting used to illuminate any off-street parking area shall be installed to be confined within and directed onto the parking area only.

*Section 4. Access and Access Ways*

**4.01 Access.**

Except for single-family and two-family uses, access to all off-street parking spaces other than those required for one family and two-family dwellings shall be by means of access drives or aisles located entirely upon the property. Use of a public street or right-of-way, exclusive of alleys, shall not be permitted for direct movement of vehicles into or from individual parking spaces.

#### **4.02 Backing into alleys.**

All off-street parking areas shall be designed so that no vehicle is required to back into a public street or right-of way exclusive of alleys to obtain egress.

#### **4.03 Dimensions.**

Access driveways to off-street parking shall be as follows:

Width Dimension:

One-way:

Minimum: 12 feet

Maximum: 16 feet

Two-way:

Minimum: 24 feet

Maximum: 36 feet

Right Turn Radius (Ingress and Egress):

Minimum: 15 feet

Maximum: 25 feet

#### **4.04 Separation of access.**

There shall be a minimum 50 feet separation of all access drives which provide access to the same lot or use. Such separation shall be measured from inside to inside.

### *Section 5. Site Plan Requirements*

#### **5.01 Site plan required.**

A site plan shall be required for all off-street parking facilities when such facilities are proposed as the principal use of property. When off-street parking for a use or structure is located on property under separate ownership from that of the use or structure which it is intended to serve, an agreement for use shall be submitted with the application in sufficient form to insure [ensure] that the parking will remain available for the life of the use it is intended to serve.

### *Section 6. Minimum Off-Street Parking Requirements*

All uses shall be subject to the following minimum parking requirements unless more restrictive requirements are cited as a condition precedent to securing a special exception.

#### **6.01 Residential.**

(1) *Single-family and duplex.* Two parking spaces for each dwelling unit.

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(2) *Multiple-family*. One and one-half spaces for each dwelling unit.

(3) *Tourist, roominghouse and boardinghouse*. One space for each sleeping unit, plus one parking space for the owner or manager, plus one space for each three employees.

(4) *Mobile homes*. Units in a subdivision or rental park, two spaces for each unity.

**6.02 Commercial and similar uses.**

(1) *Financial institutions*: One space for each 200 square feet of gross floor area, plus sufficient area for eight stacking spaces for the first drive-in window and five stacking spaces for each additional window.

(2) *Medical, dental or veterinary office or clinic*: Five spaces plus one space for each 150 square feet of gross floor area.

(3) *Neighborhood convenience shopping*: One space for each 200 square feet of gross floor area.

(4) *Office*: One space for each 200 square feet of gross floor area.

(5) *Retail sales*: One space for each 200 square feet of gross floor area.

**6.03 Community service facilities.**

(1) *Government offices and service facilities*. One space for each 200 square feet of gross floor area, plus one space for each four seats in any public assembly room or facility, plus one space for each government vehicle.

(2) *Library*. One space for each 400 square feet gross floor area.

(3) *Public swimming pools*. One space for each 50 square feet of pool area surface, plus the spaces required for any permitted accessory uses.

**6.04 Other uses.**

(1) *Church, chapel, temple, synagogue or place of worship*: One space for each four seats in the principal place of worship.

(2) *Country club*: One space for each three members based on maximum anticipated membership.

(3) *Private, civic, fraternal club or lodge*: One space for each three seats of rated capacity in the principal meeting room.

**6.05 Supplemental off-street parking requirements.**

Off-street parking for those uses not specifically mentioned shall be determined on the basis of the similarity of parking requirements with one or more of the uses listed.



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When units of measurements determining the number of required parking spaces result in a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.

In churches and other places of public assembly in which occupants utilize benches, pews, or other similar seating arrangements, each 18 lineal inches of such seating facilities shall be counted as one seat for the purpose of computing off-street parking requirements.

Where off-street parking facilities are specified on the basis of number of employees, such parking shall be increased in ratio to the increase in the number of employees when, after the building is occupied, the number of employees increases.

*Section 7. Parking of Commercial and Recreational Vehicles in Residential Districts*

**7.01 Commercial vehicles.**

One commercial vehicle of not more than three-quarter ton rated capacity may be parked in an off-street location on a lot in a residential district, provided that such commercial vehicle is operated by a permanent resident of the premises. Any such vehicle used as a platform for a compressor, derrick, hoist, ladder rack and similar uses shall be parked in an off-street location in an entirely enclosed garage on a lot in a residential district.

**7.02 Campers and the like.**

Camper truck or recreation vehicles when permitted shall not exceed eight feet in width and shall not be parked or stored for more than 48 hours unless it is located behind the front yard building setback line. A camper or recreational vehicle shall not be occupied either temporarily or permanently while it is parked or stored in any area except in a mobile home park or a recreational campground as authorized by this Code.

**7.03 Travel trailers, travel campers or other vehicles used for dwelling purposes.**

[A. *Permit required.*] No vehicle regularly or intermittently utilized for dwelling purposes, nor travel trailer, travel camper, boat, swamp buggy, or other vehicle shall be parked overnight in the town unless a temporary permit has been granted by the town commission; or unless unoccupied and stored in a garage or carport.

B. *Requirements of temporary permit.* All boats, motor homes, truck campers, camping trailers, recreational and camping equipment in the form of travel and camping trailers, truck trailer and motor travel homes designed and used for temporary dwelling purposes shall meet the following requirements when parked in the open on lots containing a single-family or duplex residence:

1. When parked on such lot, the equipment may be used for living or sleeping quarters, or for housekeeping or storage purposes, and shall not have attached thereto any service connection lines, except as may periodically be required to maintain the equipment appliances.

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2. Parking shall be limited to equipment owned or leased by the occupant-owner or occupant-lessee of the lot or owned or leased by a bonafide out of Polk County house guest of the occupant-owner or occupant-lessee of the lot with the parking of such equipment by the guest not to exceed 14 consecutive days.
3. Such equipment and the area of parking shall be maintained in a clean, neat and presentable manner, and the equipment shall be in a usable condition at all times.
4. Such equipment shall at all times, have attached a current vehicle registration license plate and if required a current inspection sticker.
5. No major repairs or overhaul work on such equipment shall be made or performed on the lot, or any other work performed there on which would constitute a nuisance.
6. In the event of a hurricane, the trailer shall be tied down in accordance with the town building code.
7. Such equipment shall be parked in a safe manner and shall not obstruct traffic visibility.

No more than one such piece of equipment shall be parked on a lot. Such equipment must be parked close to the main structure in the least objectionable location on the premises. Said equipment must not be parked within seven feet from the front lot toward the front of the house and must be parked perpendicular to the front of the house.

*Section 8. Off-Street Loading*

**8.01 Requirements and location.**

At the time of the erection of any principal or accessory use or at the time any principal or accessory use is altered, enlarged or increased in capacity by adding floor area, there shall be space provided and maintained for loading and unloading of materials, goods, or supplies, and for delivery and shipping, so that vehicles for these services may use this space without encroaching on or interfering with the public use of streets and alleys by pedestrians and vehicles.

**8.02 Minimum size and dimension.**

An off-street loading space shall be an area of at least 12 feet wide by 25 feet long with 14½ feet vertical clearance. Each off-street loading space shall be accessible from a street or alley and arranged for convenient and safe ingress and egress by motor truck and/or trailer combination.

**8.03 Combined uses.**

Combined or joint off-street loading for uses in two or more buildings may be collectively provided if off-street loading facilities are equal in size and capacity to the combined requirements of the several buildings or uses and are so located and arranged as to be usable by all.

#### **8.04 Minimum off-street loading requirements.**

(1) For each retail store, storage, wholesale establishment, market, restaurant, rental and service establishment, recreation facilities, amusements and attractions, or similar use which has an aggregate floor area of:

10,000 square feet—30,000 square feet: One loading space.

Each additional 30,000 square feet or major fraction thereof: One additional loading space.

#### **8.05 Off-street loading construction requirements.**

Construction requirements for all off-street loading areas shall comply with the requirements for off-street parking areas as set forth in this chapter.

### CHAPTER 4. DISH ANTENNAE

The placement and installation of dish antennae, also referred to as "satellite dish antenna," within the town is hereby restricted. No dish antenna shall be installed within the town except as follows:

#### **1.01 Location.**

Dish antennas may only be located on developed lots containing a residential structure and shall be located so as to minimize the visibility of the antenna from public view.

All dish antennas shall be located to the rear of the principal building and they shall not encroach into any setbacks.

#### **2.01 Size and number.**

Only one dish antenna shall be permitted on a lot.

On single-family, duplex or townhouse lots and on all other lots 10,000 square feet or less in area—12 feet diameter.

On lots other than single-family, duplex or townhouse lots or lots larger than 10,000 square feet in area—16 feet diameter.

*Maximum height:* The maximum height of the antenna, except for roof mounted antennas, shall not exceed 12 feet. On all other lots. The maximum height of the roof mounted antennas shall not exceed ten feet above the highest point of the roof upon which it is mounted.

#### **3.01 Screening and other provisions.**

*Screening:* For ground mounted dish antennas, a fence, wall, hedge, trees, berm or any combination thereof shall be provided to obscure the view of the antenna from adjacent parcels. Said screen shall be installed at a minimum height of five feet except where such height would interfere with the satellite signals to the extent of causing deterioration in reception quality. When said screen material is provided on a property or otherwise within normal required

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setback areas, the maximum height of the screening, except for trees, shall be six feet. When vegetative material other than trees is provided, the height at time of planting shall be a minimum of four feet and must attain opacity within one year from date of planting under normal growing conditions.

*Number of satellites permitted:* Only one antenna shall be permitted per single-family, duplex or townhouse unit.

*Anchorage:* Dish antennas shall be anchored securely to the ground or building and otherwise installed in conformance with the requirements of the Polk County Building Code.

*Maintenance:* Following installation, dish antennas and related appurtenances shall be maintained in good operable condition and surrounding landscaping shall be maintained in good, healthy condition so as to provide maximum opacity.

CHAPTER 5. COMMUNITY IMPACT STATEMENT

*Section 1. Purpose and Intent*

The town has determined that certain criteria should be established and reviews performed prior to granting approvals for the development of property. The impact of the proposed development is to be identified and alternatives resolved to eliminate any negative or adverse impact on existing and future community systems so that more informed decisions may be reached at the local level of government.

*Section 2. Development Requiring Community Impact Statement*

All proposed rezoning and development or redevelopment of property shall, as a condition to securing any building or land use permit, first submit a community impact statement except as may be qualified under the provisions of this section.

**2.01 Impact statement not required.**

A community impact statement shall not be required in the following instances:

- (1) When a proposed development is required to submit an Application for development approval pursuant to F.S. Ch. 380, as amended and provided further that all the requirements of this chapter have been addressed.
- (2) When the total cost of the proposed development including all on-site and off-site required improvements and buildings is less than \$500,000.00.
- (3) The director may require that a community impact statement be prepared and submitted for review where it is believed to be in the community interest to do so notwithstanding the fact that the \$500,000.00 limits under this section are not exceeded.

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*Section 3. Submittal of Information*

A community impact statement shall address the general effect or impact of the proposed development and specifically as enumerated herein.

**3.01 Preparation of statement.**

A community impact statement shall be prepared by at least three of the following:

- (1) A registered engineer or surveyor; and
- (2) A licensed architect together with;
- (3) A registered landscape architect; and/or
- (4) A land planner who is a member of the American Institute of Certified Planners; and/or
- (5) Other professionals as required to answer questions of demographics, soils, financing and economics and the like.

**3.02 Information required.**

A community impact statement shall be submitted in conjunction with all required site plans. A community impact statement shall provide the following information:

- (1) *Topography and drainage.* A description of the proposed site and existing features including, but not limited to:
  - (a) Topography and relief including existing and proposed contours and their effect on drainage.
  - (b) Identification of all major drainage basins, which traverse the site or affect its development, as shown in the town plan.
  - (c) Identification of the 100-year floodplain and how the proposed development will affect same.
  - (d) Identification of all proposed on-site ponding or retention areas and their affect on aquifer recharge and groundwater requirements.
  - (e) Identification of areas to be excavated or filled and the affect of such operations on water table, vegetation and natural drainage.
- (2) *Soils and vegetation.*
  - (a) Indices of plasticity;
  - (b) Drainage characteristics and depth to seasonally high water table;
  - (c) Corrosiveness;
  - (d) Soil bearing capacity;
  - (e) A recent photograph and a written statement from a botanist, landscape architect, forester or an ecologist qualified by reason of education and/or experience

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explaining clearly vegetation associations, their value, their tolerance to the development as proposed and what steps will be taken to minimize any negative impacts of the development as it relates to the vegetation.

- (3) *Water quality.* A description of the existing on-site water quality and the effect of the proposed development and development operations as it relates to water quality and what procedures will be used to minimize or reduce any adverse effects, including, but not limited to:
  - (a) Sedimentation and siltation from any excavation dredge and/or fill operations;
  - (b) Erosion;
  - (c) Surface runoff.
- (4) *Wildlife.* Description and identification of know [known] wildlife habitats including migratory species found to exist on the site, including any rare, endangered or threatened species and their tolerance to the proposed development.
- (5) *Historically significant aspects.* A description of any known historical or archeological sites found to exist on the site, their importance and what measures will be employed to protect them both during and after construction as evidenced by communications from the State of Florida Department of History, Archives and Records Management or its successor.
- (6) *Demography.* A description of the characteristics of future residents likely to occupy the proposed development, as well as others who may be employed within commercial or industrial areas within the development, including but not limited to:
  - (a) Age;
  - (b) Anticipated median income;
  - (c) Employment characteristics anticipated of the resident and nonresident labor force.
- (7) *Public services and facilities impact.* Description of the impact of the proposed development on municipal services, including, but not limited to:
  - (a) Amount of solid waste to be generated by the development and methods of disposal and resource recovery.
  - (b) The impact of the proposed development on current fire, police and emergency rescue departments and how the proposed development may or may not generate additional need for personnel and equipment.
  - (c) Impact of various age groups upon:
    1. Hospitals;
    2. Churches;
    3. Schools;
    4. Libraries;

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5. Recreation facilities;
6. Cultural attractions such as beaches, parks, museums and the like.
- (d) What methods are proposed to alleviate any burden on [subsections] (7)(a), (b) and (c) above.
- (8) *Water and wastewater impact.* A description of the impact of the proposed development on domestic and nondomestic water and wastewater requirements necessitated by the proposed development and how connection to any municipal system is to be accomplished, including the practicality of such connection. How the treatment of domestic and nondomestic water and wastewater is to be accomplished.
- (9) *Utilities impact.* A description of the impact of the proposed development on added public utility requirements and evidence of the requisite utility companies to accommodate the development, including electricity, telephone, gas and the like.
- (10) *Additional impact.* A description of the impact of the proposed development and measures taken to lessen the negative and augment the positive impacts of initial site preparation activities and ongoing construction related activities.
- (11) *Traffic impact.* A description of the impact of the proposed development on traffic generated by, or drawn to, the development including:
  - (a) Peak hour analysis of all access points to the site.
  - (b) Peak hour intersection analysis of all intersections within at least a one-half mile radius measured at the perimeter of the site.
  - (c) Measures that will be taken to reduce any negative impact of traffic generated by the development within a one-half mile radius.
  - (d) A statement as to the anticipated traffic impact on traffic controlling devices, including but not limited to signalization, channelization and the like and what measures will be taken to alleviate any adverse effects thereon.
- (12) *Other requirements.*
  - (a) A description of how the development is to comply with other pertinent requirements of this Code.
  - (b) Evidence that coordination of the proposed development has been accomplished, or will be prior to development, with other involved and regulatory agencies exercising jurisdiction over the development, including but not limited to:
    1. Polk County School Board;
    2. Polk County Health Department;
    3. Southwest Florida Water Management District;
    4. Florida Department of Environmental Regulation;
    5. Florida Department of Transportation;
    6. Florida Department of Natural Resources;
    7. U.S. Army Corps of Engineers.

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*Section 4. Review of Community Impact Statement*

A community impact statement submitted pursuant to the requirements of this chapter shall be reviewed in accordance with this section.

**4.01 Director's review.**

The number of copies of the community impact statement shall be determined by and submitted to the director for approval. The director shall furnish each department and agency exercising jurisdiction over the proposed development one copy of the community impact statement. The director shall notify all adjacent units of government within a one-half mile radius of the proposed development that a community impact statement has been filed. All comments concerning the review of the statement shall be returned to the director in writing within 45 days from receipt of said statement. When a community impact statement is required for a permitted use or a use subject to special permit, it shall be reviewed administratively by the director.

**4.02 Planning commission review.**

Within 45 days from the date a community impact statement is submitted, the director shall furnish the planning commission a written report summarizing the findings of all reviewing department and agencies. The planning commission shall consider the community impact statement and the director's report at a public meeting. The community impact statement may be considered separately or jointly with any site plan or rezoning petition.

**4.03 Action of planning commission (board).**

The planning commission shall recommend to the town commission within 45 days from receipt of the director's recommendation that the community impact statement be accepted, accepted conditionally or rejected. If the community impact statement is rejected, the commission may request additional information upon which to make a final determination. The planning commission shall summarize the reasons for their findings in their written advisory recommendation.

**4.04 Town commission review.**

The town commission shall consider the community impact statement and the planning commission's written recommendations at a public meeting which shall be publicly noticed and held in accordance with law.

**4.05 Action town commission.**

The town commission may accept, accept conditionally or reject the community impact statement. Any action taken by the commission shall be final. In the event a community impact statement is rejected, the commission shall not consider any community impact statement for the proposed site for a period of at least one year.



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**ARTICLE 6. USE DISTRICTS**

The town commission has established certain districts within which compatible uses of land shall be permitted and are further herein regulated. Such use districts are also intended to permit the establishment of complimentary ancillary and accessory uses normally associated with the principally intended uses of the particular district. These use districts are established to further the goals, objectives and policies of the town's plan particularly policies 1.3 and 2.1 of the land use element of said plan. For ease of identification, the use districts are enumerated herein.

**CHAPTER 1. RESIDENTIAL USE DISTRICTS**

The residential use district is intended to provide for areas within the town wherein the establishment and continuance of residences and residential structures is appropriate.

The town is hereby divided into the following residential use districts:

<i>District</i>	<i>Maximum Density</i>
R-1	One dwelling per acre
R-2	One dwelling per one-half acre
R-3	One dwelling per one-third acre

**CHAPTER 2. OPEN SPACE DISTRICT**

The open space district is hereby established. This district is intended to provide for areas within the town wherein the establishment and continuance of recreational areas and open spaces, serving passive and active recreational functions is appropriate.

**CHAPTER 3. OVERLAY DISTRICTS**

The town commission recognizes that certain uses of land while appropriate within the town limits will require certain higher development standards, or special development reviews by the town. To this purpose, the town commission hereby establishes certain overlay districts. The regulations and standards for development therein shall be excess of and in addition to those regulations of the underlying use district. The following overlay districts are hereby established.

P — Planned Unit Development

W — Wellfield Protection District

F — Floodplain Protection District

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DISTRICT	USES PERMITTED			DIMENSIONAL REQUIREMENTS			BUILDING REQUIREMENTS	
	PRINCIPAL	ACCESSORY	CONDITIONAL	MINIMUM LOT AREA AND WIDTH	FRONT, SIDE AND REAR SETBACKS	MINIMUM FLOOR AREA	MAXIMUM BUILDING HEIGHT	
R-1	Single-family detached dwellings	Greenhouses and garages detached from principal use; Swimming pools and cabanas; Gazebos; Boat docks; Tennis courts	Government service facilities; Churches and religious facilities; Clubs and lodges; Public recreation facilities	1 acre (43,560 sq. ft.); 105 feet	50 feet; 25 feet; 20 feet	1,500 sq. ft. exclusive of garages and carports	28 feet	
R-2	Single-family detached dwellings	Greenhouses and garages detached from principal use; Swimming pools and cabanas; Tennis courts	Government service facilities; Churches and religious facilities; Clubs and lodges; Public recreation facilities	20,000 sq. ft.; 100 feet	50 feet; 20 feet; 15 feet	1,500 sq. ft. exclusive of garages and carports	28 feet	
R-3	Single-family detached dwellings	Greenhouses and garages detached from principal use; Swimming pools and cabanas; Tennis courts	Government service facilities; Churches and religious facilities; Clubs and lodges; Public recreation facilities	15,000 sq. ft.; 95 feet	50 feet; 20 feet; 12 feet	1,500 sq. ft. exclusive of garages and carports	28 feet	
Open Space District	Public and private recreation uses		Government service facilities	1 acre (43,560 sq. ft.)	50 feet; 25 feet; 50 feet	The total gross floor area of all structures shall not exceed 10,000 sq. ft. per acre	28 feet	
<i>OVERLAY DISTRICTS</i>								
Planned Unit Development	Any residential use; Any professional use; Any commercial use	As determined appropriate by the town commission and; Parks, marinas, golf courses	Government service facilities; Churches and religious facilities; Clubs and lodges; Public recreation facilities	5 acres of a development proposed as a PUD; Each individual lot 8,000 sq. ft.; 80 feet	In accordance with the underlying district regulations, unless the commission determines that more restrictive [regulations] would be appropriate and establishes such restrictive regulations by resolution		35 feet	

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<i>DISTRICT</i>	<i>USES PERMITTED</i>			<i>DIMENSIONAL REQUIREMENTS</i>		<i>BUILDING REQUIREMENTS</i>	
	<i>PRINCIPAL</i>	<i>ACCESSORY</i>	<i>CONDITIONAL</i>	<i>MINIMUM LOT AREA AND WIDTH</i>	<i>FRONT, SIDE AND REAR SETBACKS</i>	<i>MINIMUM FLOOR AREA</i>	<i>MAXIMUM BUILDING HEIGHT</i>
Wellfield Protection	Single-family detached dwellings; Multi-family dwellings	Garages detached from principal use; Swimming pools and cabanas; Tennis courts	Government service facilities; Clubs and lodges; Public recreation facilities	Any area within the town limits may be designated for the WFP Overlay upon adoption of a resolution by the town commission in the same manner as a zoning district change	In accordance with the underlying district regulations, unless the commission determines that more restrictive [regulations] would be appropriate and establishes such restrictive regulations by resolution		
Floodplain Management	Single-family detached dwellings; Public recreation uses; Tennis courts; Swimming pools; Cabanas	None	Government service facilities	Any area within the town limits may be designated for the WFP Overlay upon adoption of a resolution by the town commission in the same manner as a zoning district change	In accordance with the underlying district regulations, unless the commission determines that more restrictive [regulations] would be appropriate and establishes such restrictive regulations by resolution	1,500 sq. ft exclusive of garages and carports	

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CHAPTER 4. PLANNED UNIT DEVELOPMENT

The intent of PUD is to permit flexibility in the use and design of structure and land in situations where modification of specific provisions of this Code will not be contrary to its intent and purpose or significantly inconsistent with the planning on which it is based and will not be harmful to the neighborhoods in which they occur.

*Section 1. Permitted Uses*

Within any PUD district, only the following uses shall be permitted:

Single-family dwellings;

Multiple family dwellings;

Accessory uses to serve primarily the district as follows:

- (A) Parks.
- (B) Marinas which provide launching, docking and wet storage of boats primarily for the use of the residents within the district.
- (C) Golf courses, which may be calculated as recreational space as is hereafter required, provided that the clubhouse and other structures are located more than 150 feet from any dwelling structure.
- (D) Public or private utility substations, lift stations and such other uses, provided that there is no storage of trucks or materials on the site.

*Section 2. Minimum Requirements*

The following minimum requirements shall apply to all RFD:

**2.01 Minimum district area.**

The minimum area of a planned unit development (PUD) district shall be five acres.

**2.02 Land coverage.**

The amount of impervious coverage [of] all structures and pavement shall not exceed 40 percent of the gross site area.

**2.03 Recreation space.**

[Recreation space] shall not be less than 20 percent of the total site area. The recreation space is the total amount of open space permanently set aside and designated on the site plan specifically for recreation. No less than one-third of such space must be contained on one location.

**2.04 Density.**

[Density] shall not exceed five units per acre.

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**2.05 Access.**

Every structure containing dwelling units shall have access to a public street directly or via a court, walkway or other area dedicated to public use or owned and maintained by a homes association, but need not front on a road.

**2.06 Buildings heights.**

No structure shall exceed a maximum height of 35 feet measured from the curb level or the crown of the street on which the front or main entrance of the dwelling faces.

**2.07 Trash screens.**

All refuse, trash and garbage containers shall be screened from sight or located in such a manner so as not to be visible from any street.

*Section 3. Homes Association Requirements*

Prior to any occupancy certificate for any residential structure is issued, a homes association shall be required, if other permanent arrangements satisfactory to the town commission have not been made, to improve, operate and maintain common facilities, including streets, drives, service and parking areas and recreation areas. When required, the town commission shall establish criteria for a homes association and the applicant shall submit evidence of compliance with this provision to the town commission prior to the approval of the zone change.

**3.01 Binding approval of plans.**

All approved plans are binding on the developer subsequent developers, the land owner(s) and subsequent land owner(s).

**3.02 Guarantee of completion prior to occupancy.**

Before an occupancy permit for any structure within an PUD is issued, the town commission shall require the completion of 100 percent of the cost of all utilities, roads and drainage improvements of each development phase in the proposed project and a surety bond sufficient to guarantee completion. The town mayor shall approve the surety bond and certify that the necessary utilities and improvements are 100 percent complete before an occupancy certificate is issued.

CHAPTER 5. WELLFIELD PROTECTION\*

In order to protect the soils and the waters of the Town of Hillcrest Heights, town council declares that petroleum products and other toxic and hazardous substances in various

**\*Cross references**—Buildings and building regulations, pt. II, Code of Ordinances, ch. 6; environment, pt. II, Code of Ordinances, ch. 10; solid waste, pt. II, Code of Ordinances, ch. 22; utilities, pt. II, Code of Ordinances, ch. 30.

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materials that are improperly stored, dispensed, or otherwise used, or improperly disposed are a threat to the environment of the town and public health and safety. Their presence in soil or water constitutes pollution and the same is prohibited. The wellfield protection district shall be considered as an overlay district to existing zoning districts. Uses permitted within the underlying districts shall be permitted provided they conform to the requirements of this chapter.

*Section 1. Prohibitions, Restrictions and Licensing*

**1. Zone One.**

a. Within Zone One a nonresidential activity which includes the storage, handling, usage or production of any regulated substances shall not be permitted except as provided herein.

b. Any facility in Zone One which is allowed to continue to store, handle or use regulated substances in accordance with the exemptions set forth shall obtain a hazardous material wellfield license which indicates the special conditions to be instituted and the dates on which those conditions apply. Such facilities shall also comply with all Zone Two prohibitions and restrictions as set forth herein and any of the conditions set forth below at the Zone Two as designated in said license.

**2. Zone Two.**

a. Those facilities in Zone Two which store, handle, use or produce any regulated substances shall do so in accordance with the provisions and exemptions set forth herein upon obtaining a hazardous material wellfield license. Licensed facilities in Zone Two shall be subject to the following conditions.

1. *[Inventory:]* A recorded inventory of all regulated substances shall be maintained on a form provided by the town. The inventory shall list the substances and the quantities [on] the application for the hazardous materials wellfield license. Such inventory shall be updated quarterly and forwarded to the town.
2. *[Containment:]* Containment of hazardous materials shall be of adequate size to provide not less than 100 percent containment for any spill.
3. *Emergency collection devised:* Vacuum suction devices or absorbent scavenger materials shall be present on-site and in sufficient magnitude so as to control and collect the total quantity of hazardous materials present. Emergency containers shall present such capacity as to hold the total quantity of hazardous materials plus absorbent material. The presence of such emergency collection devices shall be confirmed in the hazardous material wellfield license and application.
4. *Emergency plan:* An emergency plan shall be prepared and filed with the hazardous material wellfield license indicating the procedures which will be followed in the event of spillage so as to control and collect all spilled material in such a manner as to prevent it from reaching any storm or sanitary drains or the ground.

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5. *Daily monitoring:* The emergency plan shall designate a responsible person who shall on a daily basis, five times per one week, check for breakage or leakage of any container containing the regulated substances. Daily monitoring records shall be kept and made available to the town at any reasonable time for examination.
6. *Proper and adequate regular maintenance of containment and emergency equipment:* Procedures shall be established for the quarterly in-house inspection and maintenance of containment and emergency equipment. Such procedures shall be in writing; a regular schedule of maintenance shall be established; and a log shall be kept of inspections and maintenance. Such logs and records shall be available for inspection by the town.
7. *Reporting of spills:* Any spill of a regulated substance in an amount greater than that indicated shall be reported to the town by telephone immediately upon discovery of the spill. A full written report including the steps taken to contain the spill shall be submitted to the town within five days of discovery of the spill.
8. *Monitoring for regulated substances in groundwater monitoring wells:* One or more groundwater monitoring wells shall be installed at the expense of the licensed facility in a manner approved by the town. Certified analytical results of the quantity present in each monitoring well of each of the regulated substances listed in the facility's license shall be filed with the town by the 15th day of the month following each quarter.
9. *Alterations and expansion:* The town shall be notified prior to the expansion, alteration or modification of a facility, holding a hazardous material wellfield license.
10. *Reconstruction after catastrophe:* If any structure or building in which there is any activity subject to the provisions of this regulation is damaged by fire, flood, explosion, collapse, wind, war or other catastrophe any reconstruction shall be in conformity with regulations of the town.
11. *[Accumulations:]* In the event that an accumulation of one or more of the regulated substances listed in the hazardous material wellfield license shall appear in a potable water well at any time, then one of the following actions shall become mandatory.
  - a. All persons who engage in non-residential activities within the affected Zone Two who store, handle, use or produce the regulated substance(s) which shows evidence of accumulation shall cease to do so within three days of written notification from the town. If the source of the regulated substances appearing in the potable water well can be identified, then only that facility shall be subject to these actions. If the owner or operator of any facility can present acceptable technical data that substantiates it is not the source of the regulated substances appearing in the potable water well that facility shall not be subject to these actions.
  - b. The affected well(s) shall be reconfigured within three years by change of pumping rate or relocation such that the affected facility is no longer within Zone Two.

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12. *[Issuance of permit prior to completion of requirements:]* If upon the effective date of these regulations, all the requirements for compliance necessary for the issuance of a wellfield protection permit have not been completed, and the applicant had [has] made a diligent effort to do so, a hazardous material wellfield license may be issued contingent on compliance within a time certain.
- a. The raw water from each well designated on the zones of influence maps shall be monitored on a quarterly basis for all the regulated substances listed in the hazardous materials wellfield licenses issued to the facilities in the Zone Two for that particular well. It shall be the responsibility of the public utility to provide for the sampling and analyses and to collect the cost which shall be borne by the licensed facilities. The quarterly analyses submitted to the town shall be incorporated into the wellfield protection program administered under this chapter.
  - b. Certified quarterly reports of the analyses for regulated substances shall be submitted to the town by the utilities for the purpose of determining the accumulation of regulated substances in the potable water wells. These reports will be due by the 30th day of the month following each quarter as specified below:
    - 1st Quarter: January 1 to March 31
    - 2nd Quarter: April 1 to June 30
    - 3rd Quarter: July 1 to September 30
    - 4th Quarter: October 1 to December 30
  - c. The presence of any of the regulated substances in a monitoring well shall be used to ascertain the source of any accumulation appearing in a potable water well. However, the absence of the regulated substances in a monitoring well shall not be used as the basis to exempt any facility from the mandatory actions set forth in section 11.
  - d. The town shall make a determination of the accumulation of each of the regulated substances in each of the potable water wells. Accumulation shall mean an average annual increase of ten percent over the amount of substance present one year earlier.

**3. Zone Three.**

- a. Those facilities storing, handling, producing, using or manufacturing regulated substances in Zone Three shall require a hazardous material license.

*Section 2. Exemptions*

**2.01 Exemption for public utilities.**

Public utilities shall be exempt from Zone One and Zone Two prohibitions as set forth herein.



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**2.02 Exemption for continuous transit.**

The transportation of any regulated substances through Zone One shall be allowed provided the transporting vehicle is in continuous transit.

**2.03 Exemption for vehicular fuel and lubricant use.**

The use of any regulated substances solely as fuel in a vehicle fuel tank or as lubricant in a vehicle shall be exempt from the provisions of these regulations.

**2.04 Exemption for use of certain regulated substances.**

The use of certain of the regulated substances such as pesticides, herbicides and fungicides in recreational, agricultural, pest control and aquatic weed control activities shall be allowed provided that:

- a. In all zones, the use is in strict conformity with the use requirements as set forth in the substances EPA registries and as indicated on the containers in which the substances are sold.
- b. In all zones, the use is in strict conformity with the requirements as set forth in F.S. Chs. 482 and 487 and Florida Administrative Code Chapters 5E-2 and 5E-9.
- c. In Zone One, the use of any of the regulated substances shall be flagged in the records of the certified operator supervising the use. The certified operator shall provide specific notification in writing to the applicators under his supervision that they are working at a site located in a Zone One for which particular care is required. Records shall be kept of the date and amount of regulated substances used at each location.
- d. In Zone One the regulated substances shall not be handled during use in a quantity exceeding 700 gallons of formulation.
- e. All nonresidential uses of regulated substances in Zone One and Zone Two shall comply with all the provisions of section 1. The use of regulated substances on nonresidential landscape areas smaller than 5,000 square feet shall be exempted from the provisions of this regulation. However, commercial or governmental services in all zones shall not be required to obtain individual licenses for every site at which they use the regulated substances, and these services shall be exempt from the provision of this regulation with regard to the sites they serve provided the use is in accordance with [subsections] a., b., c. and d. above. All records for such sites as required by F.S. Ch. 482 and Florida Administrative Code Chapter 10D-55 shall be available for inspection by the town.

**2.05 Exemption for the use of nitrates contained in fertilizers.**

The use of fertilizers containing nitrates shall be allowed in Zone One, Zone Two and Zone Three provided that:

- a. The regulated substances shall not be handled in a quantity exceeding 700 gallons of formulation in Zone One.

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- b. All nonresidential uses of regulated substances in Zone One and Zone Two shall comply with all the provisions of section 1. The use of regulated substances on nonresidential landscape areas smaller than 5,000 square feet shall be exempted from the provisions of this regulation. However, commercial services in all zones shall not be required to obtain individual licenses for every site at which they use the regulated substances, and these services shall be exempted from the provisions of this regulation. However, all records of application for such sites shall be available for inspection by the town.

**2.06 Exemption for laboratory or instrument use in Zone One.**

Regulated substances shall be exempted from the prohibitions of Zone One if they are stored, handled or used in laboratories or instruments in a combines [combined] total quantity not to exceed two gallons or 16 pounds.

**2.07 Exemption for retail sales activities.**

Retail sales establishments in all zones of influence that store and handle regulated substances for resale in their original unopened containers of two gallons or 16 pounds, or less, shall be allowed.

*Section 3. Hazardous Material Wellfield License*

**3.01 [Permit; closure license.]**

In Zone One and Zone Two, prior to the commencement of construction, closure, alteration, replacement or operation of any facility that may cause or be a source of pollution, or that may eliminate, reduce or control pollution of the ground, groundwater or surface water, the owner shall obtain a permit from the town.

- a. *Closure license.* When any activity coming under this regulation is to be or has been permanently terminated the licensee shall perform a closure of the activities that will remove all regulated substances from the site of the activity. Prior to performing a closure of such activity the licensee shall obtain a permit that contains a schedule of events for removal, inspection and certification that all regulated substances have been removed.

**3.02 Application for license.**

Application for a license to construct or operate a facility that stores, processes, uses or manufacturers hazardous materials shall be made on forms provided by the town and be accompanied by the following:

- a. A list of the regulated substances which are stored, handled, used or produced in the activity being permitted including their quantities.

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- b. A detailed description of the activities that involve the storage, handling, use or production of the regulated substances indicating the unit quantities in which the substances are contained or manipulated.
- c. A description of the inventory record that will be instituted to comply with the restrictions required for Zone Two.
- d. A description of the containment and site plan, the emergency collection devices and containers and the emergency plan that will be effected to comply with the restrictions required for Zone Two as set forth above. For Zone Three this particular documentation for a hazardous material wellfield license following any spillage.
- e. A description of the daily monitoring records that will be instituted to comply with the restrictions for Zones Two and Three as set forth above.
- f. A description of the proper and adequate regular maintenance of containment and emergency equipment that will be required for Zone Two as set forth above. For Zone Three this particular documentation will only be required with application for a hazardous material wellfield license following any spillage.
- g. A description of the groundwater monitoring wells that will be installed and the arrangements made for certified quarterly analyses for regulated substances.
- h. Evidence of arrangements made with the cognizant public utility for quarterly sampling analysis of the raw water from the potable water well.

**3.03 License conditions.**

a. Any change in the facility or operating procedures that may affect the potential for discharging hazardous material shall be approved prior to implementation.

b. The license shall specify the hazardous materials to be allowed within the facility and state that any significant additions must have prior approval if said changes could affect the requirements for storage or secondary containment.

c. Any disposed hazardous material including recycled materials shall be reported to the town on a monthly basis by the 15th day of the following month, and be disposed in accordance with EPA and DER requirements.

d. Any discharge of hazardous material shall be reported to the town immediately.

e. The spill contingency plan and emergency plan shall be implemented immediately upon discharge.

f. It is the licensee's responsibility to require that all facility personnel shall successfully complete a program of classroom instructions and/or on the job training that teaches them to perform their duties in a way that insures [ensures] the facility's compliance with the regulations. The training shall include proper handling and storage of all hazardous materials used at the facility. It shall also include training at least one a year in the spill contingency plan

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and each employee and the fact that the person has completed the training shall be kept on file on the premises three years after his last work day or until a facility is closed.

<i>REGULATED SUBSTANCES</i>				
			<i>AMT. REQUIRED FOR REPORTABLE SPILL</i>	
<i>SUBSTANCE</i>	<i>EPA TOXIC POLLUTANT</i>	<i>EPA SIGNAL WORD</i>	<i>Gallons</i>	<i>Pounds</i>
Acenaphthene	*		5	40
Acenaphthylene	*		5	40
Acephate		Caution (III)	25	200
Acrolein	*		5	40
Acrylonitrile	*		5	40
Aldicarb		Danger (I)	5	40
Aldrin	*	Warning (II)	5	40
Allyl alcohol		Warning (II)	5	40
Aluminum phosphide		Danger (I)	5	40
Anthracene	*		5	40
Antimony	*		5	40
Arsenic	*	Danger (I)	5	40
Asbestos (fibrous)	*		5	40
Benzene	*		5	40
Benzidine	*		5	40
Benzo(a) anthracene	*		5	40
Benzo(a) pyrene	*		5	40
3-4Benzofluoranthene	*		5	40
Benzo(ghi) perylene	*		5	40
Benzo(k) fluoranthene	*		5	40
Beryllium (total)	*		5	40
BHC-alpha	*	Warning (II)	5	40
BHC-beta	*		5	40
BHC-delta	*		5	40
BHC(lindane) gamma	*	Warning (II)	5	40
bis(2-chloroethoxy) methane	*		5	40
bis(2-chloroethyl) ether	*		5	40
bis(2-chloroisopropyl) ether	*		5	40
bis(2-Ethylhexyl) phthalate	*		5	40
Bromoform	*		5	40
4-Bromophenyl phenyl ether	*		5	40
Butylbenzyl phthalate	*		5	40
Cadmium (total)	*		5	40

LAND DEVELOPMENT REGULATIONS

Art. 6, Ch. 5, 3.03

<i>REGULATED SUBSTANCES</i>				
<i>SUBSTANCE</i>	<i>EPA TOXIC POLLUTANT</i>	<i>EPA SIGNAL WORD</i>	<i>AMT. REQUIRED FOR REPORTABLE SPILL</i>	
			<i>Gallons</i>	<i>Pounds</i>
Carbaryl		Caution (III), Poison	5	40
Carbofuran		Danger (I)	5	40
Carbon Tetrachloride	*		25	200
Chlordane	*	Warning (I)	5	40
Chlordecone		Warning (II)	5	40
Chlorfenvinphos		Danger (I), Poison	5	40
Chlorobenzene	*		5	40
p-Chloro-m-cresol	*		5	40
Chlorodibromomethane	*		5	40
Chloroethane	*		5	40
2-Chloroethylvinyl ether	*		5	40
Chloroform	*		25	200
2-Chloronapthalene	*		5	40
2-Chlorophenol	*		5	40
4-Chlorophenyl phenyl ether	*		5	40
Chloropicrin		Danger (I)	5	40
Chromium (total)	*		5	40
Chromium (hexavalent)	*		5	40
Chrysene	*		5	40
Clonitralid			5	40
Copper (excluding elemental metal)	*		5	40
Cyanide (total)	*		5	40
Cycloheximide		Danger (I)	5	40
2,4-D		Warning (II)	5	40
4,4'-DDD		Caution (III)	5	40
4,4'-DDE	*		5	40
4,4'-DDT	*	Caution (III)	5	40
Demeton		Danger (I)	5	40
Diazinon		Warning (II)	5	40
Dibenzo(a,h) anthracene			5	40
1,2-Dibromo-3-chloropropane		Warning (II)	5	40
1,2-Dichlorobenzene	*		5	40
1,3-Dichlorobenzene	*		5	40
1,4-Dichlorobenzene	*		5	40

Art. 6, Ch. 5, 3.03

HILLCREST HEIGHTS CODE

<i>REGULATED SUBSTANCES</i>				
<i>SUBSTANCE</i>	<i>EPA TOXIC POLLUTANT</i>	<i>EPA SIGNAL WORD</i>	<i>AMT. REQUIRED FOR REPORTABLE SPILL</i>	
			<i>Gallons</i>	<i>Pounds</i>
3,3'-Dichlorobenzidine	*		5	40
Dichlorobromomethane	*		5	40
1,1-Dichloroethane	*		5	40
1,2-Dichloroethane	*		25	200
1,1-Dichloroethylene	*		25	200
1,2-cis-Dichloroethene			5	40
1,2-Trans-Dichloroethylene	*		5	40
2,4-Dichlorophenol	*		5	40
1,2-Dichloropropane	*		5	40
1,3-Dichloropropylene	*	Danger (I)	5	40
Dicrotophos		Danger (I), Poison	5	40
Dieldrin	*	Warning (II)	5	40
Diethyl phthalate	*		5	40
2,4-Dimethylphenol	*		5	40
Dimethyl phthalate ether	*		5	40
Di-n-butyl phthalate	*		5	40
4,6-Dinitro-o-cresol	*		5	40
2,4-Dinitrophenol	*		5	40
2,4-Dinitrotoluene	*		5	40
2,6-Dinitro totuene	*		5	40
Di-n-octyl phthalate	*		5	40
Dioxathion		Danger (I), Poison	5	40
1,2-Diphenylhydrazine	*		5	40
Disulfoton		Danger (I)	5	40
Enbolsulfan (alpha)	*	Danger (I)	5	40
Endosulfan (beta)	*	most forms, Warning (II)	5	40
Endosulfan sulfate	*		5	40
Endothall(amine formulations)		Warning (II)	5	40
Endrin		Danger (I)	5	40
Endrin aldephyde	*		5	40
EPN		Danger (I)	5	40
Ethoprop		Danger (I)	5	40
Ethyl benzene	*		5	40
Ethylene dibromide			25	200

LAND DEVELOPMENT REGULATIONS

Art. 6, Ch. 5, 3.03

<i>REGULATED SUBSTANCES</i>				
<i>SUBSTANCE</i>	<i>EPA TOXIC POLLUTANT</i>	<i>EPA SIGNAL WORD</i>	<i>AMT. REQUIRED FOR REPORTABLE SPILL</i>	
			<i>Gallons</i>	<i>Pounds</i>
Fenamiphos			5	40
Fensulfothion			5	40
Fenthion		Warning (II)	5	40
Fluoranthene	*		25	200
Fluorene	*		25	200
Fluoracetamide-1081		Danger (I)	5	40
Fonofos		Danger (I)	5	40
Guthion		Danger (I)	5	40
Heptachlor	*	Warning (II)	5	40
Heptachlor epoxide	*		5	40
Hexachlorobenzene	*		5	40
Hexachlorobutadiene	*		5	40
Hexachlorocyclopentodiene	*		5	40
Hexachloroethane	*		5	40
Hydrocyanic Acid			5	40
Indeno (1,2,3-cd)pyrene	*		5	40
Isophorone	*		5	40
Isopropyl benzene			5	40
Lead (total)	*		5	40
Malathion		Caution (III)	5	40
Mercury (total)	*		5	40
Methamidophos		Danger (I), Poison	5	40
Methidathion		Danger (I)	5	40
Methomyl		Danger (I)	5	40
Methoxychlor		Caution (III)	5	40
Methyl bromide	*	Danger (I)	5	40
Methyl chloride	*		5	40
Methyl parathion		Danger (I)	5	40
Methylene chloride	*		5	40
Mevinphos		Danger (I), Poison	5	40
Mirex		Warning (II)	5	40
Monocrotophos		Danger (I), Poison	5	40
Napthalene	*		25	200
Nickel (exc. elem. metal)	*		5	40

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HILLCREST HEIGHTS CODE

<i>REGULATED SUBSTANCES</i>				
<i>SUBSTANCE</i>	<i>EPA TOXIC POLLUTANT</i>	<i>EPA SIGNAL WORD</i>	<i>AMT. REQUIRED FOR REPORTABLE SPILL</i>	
			<i>Gallons</i>	<i>Pounds</i>
Nicotine		Danger (I)	5	40
Nitrates			25	200
Nitrobenzene	*		25	200
2-Nitrophenol	*		5	40
4-Nitrophenol	*		5	40
N-Nitrosodimethylamine	*		5	40
N-Nitrosodi-n-propylamine	*		5	40
N-Nitrosodiphenylamine	*		5	40
Oxamyl		Danger (I)	5	40
Paraquat		Danger (I), Poison	5	40
Parathion		Danger (I)	5	40
PCB-1242	*		5	40
PCB-1254	*		5	40
PCB-1221	*		5	40
PCB-1232	*		5	40
PCB-1248	*		5	40
PCB-1260	*		5	40
PCB-1016	*		5	40
Pentachlorophenol	*	Danger (I)	5	40
Phenanthrene	*		5	40
Phenol	*		25	200
Phenols (total)	*		5	40
Phorate		Danger (I), Poison	5	40
Phosacetim			5	40
Phosphamidon		Danger (I), Poison	5	40
Phosphorous			5	40
Picloram		Warning (II)	5	40
Pyrene	*		5	40
Selenium (total)	*		5	40
Silver (exc. elem. metal)	*		5	40
Silvex		Caution (III)	5	40
Sodium fluoracetate		Danger (I)	5	40
Strychnine		Danger (I)	5	40
Styrene			25	200



LAND DEVELOPMENT REGULATIONS

Art. 6, Ch. 6

<i>REGULATED SUBSTANCES</i>				
<i>SUBSTANCE</i>	<i>EPA TOXIC POLLUTANT</i>	<i>EPA SIGNAL WORD</i>	<i>AMT. REQUIRED FOR REPORTABLE SPILL</i>	
			<i>Gallons</i>	<i>Pounds</i>
Sulfotepp			5	40
TEPP		Danger (I)	5	40
Terbufos		Danger (I), Poison	5	40
1,1,1,2-Tetrachloroethane			5	40
1,1,2,2-Tetrachloroethane	*		5	40
Tetrachloroethylene	*		5	40
Thallium (total)	*		5	40
Toluene	*		25	200
Toxaphene	*	Warning (II)	5	40
1, 2 4-Trichlorobenzene	*		5	40
1,1,1-Trichloroethane	*		5	40
1,1,2-Trichloroethane	*		5	40
Trichloroethylene	*		25	200
2,4,6-Trichlorophenol	*		5	40
Vinyl Chloride	*		5	40
Xylene(s)			5	40
Zinc (exec. elem. metal)	*		5	40
Gasoline	contains *		5	40
Kerosene	contains *		5	40
Microbiological (including total and fecal coliform)				
Petroleum products which are hazardous or toxic			5	40
Radionuclides			5	40

CHAPTER 6. FLOODPLAIN MANAGEMENT DISTRICT\*

*Section 1. Lands to Which this Chapter Applies*

These regulations shall apply to all lands within the jurisdiction of the Town of Hillcrest Heights that are depicted on the official zoning map as being a flood hazard district. The flood hazard district shall be considered as an overlay district to existing zoning districts. Uses permitted within the underlying districts shall be permitted provided they conform to the requirements of this chapter.

\***Cross references**—Buildings and building regulations, pt. II, Code of Ordinances, ch. 6; environment, pt. II, Code of Ordinances, ch. 10; solid waste, pt. II, Code of Ordinances, ch. 22.

Art. 6, Ch. 6, 4.01

HILLCREST HEIGHTS CODE

*Section 2. Interpretation of District Boundaries*

The boundaries of the flood hazard district shall be determined by specific engineering studies prepared by the Federal Insurance Administration and the results thereof shall be plotted on the official zoning map of the town. Boundaries for construction or use restrictions set forth within this Code shall be determined by scaling distances on the official zoning map. Where interpretation is needed in order to allow a surveyor to locate the exact boundaries of the district as shown on the official zoning map, the director shall initially make the necessary interpretation based on flood profile information.

*Section 3. Compliance*

No structure or land shall hereafter be located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations.

*Section 4. Flood Hazard Districts (FHD)*

**4.01 Applicability.**

The provisions of this chapter shall apply to all areas designated as flood hazard districts on the official zoning map.

**4.02 Requirements within a FHD.**

(a) Building permits will be required for all proposed construction or substantial improvement within a FHD.

(b) The director shall review all building permit applications to determine if the proposed construction is designed and anchored to prevent flotation, collapse or lateral movement of the structure.

(c) New or replacement water supply and sanitary sewer systems located within FHD must be floodproofed as specified in section 5.

(d) New construction or substantial improvement of any residential structure within the FHD shall have the lowest habitable floor, including basement, elevated to one foot above the regulatory flood elevation.

Prior to issuance of a certificate of occupancy on any residential structure, a final survey prepared by a land surveyor registered in the State of Florida shall be filed with the director, showing the elevation to MSL Datum of the lowest habitable floor in that structure.

(e) New construction or substantial improvement of any nonresidential structure shall either have the lowest floor including basement elevated to one foot above the level of the regulatory flood elevation or together with attendant utility and sanitary facilities be floodproofed to the level of the regulatory elevation. All floodproofing shall meet the requirements of section 5.

LAND DEVELOPMENT REGULATIONS

Art. 6, Ch. 6, 5.02

Prior to issuance of a certificate of occupancy for any nonresidential structure, a final survey prepared by a land surveyor registered in the State of Florida shall be filed with the building director, showing the elevation to MSL Datum of the lowest habitable floor in that structure.

- (f) Base flood elevation data shall be shown on all plats submitted for approval.

*Section 5. Floodproofing*

**5.01 Minimum floodproofing requirements.**

Whenever any of the provisions of this chapter require that a building be floodproofed or specify that floodproofing may be used as an alternative to elevating a structure above the regulatory flood level, floodproofing shall be deemed to include all the following:

- (a) Wherever possible, the location, construction and installation of all electrical and gas utility systems in such a manner as to assure the continuing functioning of those systems in the event of a regulatory flood.
- (b) The location, construction and installation of all potable water supply systems in such a manner as to prevent contamination from floodwaters during the regulatory flood. No water supply well shall be located within the foundation walls of a building or structure used for human habitation, medical or educational services, food processing or public services.
- (c) Approved backflow preventers or devices shall be installed on main water service lines, at water wells and at all building entry locations to protect the system from backflow or back siphonage of floodwaters or other contaminants.
- (d) Sanitary sewer and storm drainage systems that have openings below the regulatory flood elevation shall be equipped with automatic back water valves or other automatic backflow devices that are installed in each discharge line passing through a building exterior wall.
- (e) Sanitary sewer systems, including septic tank systems, that are required to remain in operation during a flood shall be provided with a sealed holding tank and the necessary isolation and diversion piping, pumps, ejectors and appurtenances required to prevent sewage discharge during a flood. The holding tank shall be sized for storage of at least two days demand.
- (f) A registered professional engineer or architect shall certify that any new construction or substantial improvement has been designed to withstand the flood depths, pressure, velocities, impact and uplift forces associated with the regulatory flood at the location of the building and that the walls below the regulatory flood level are substantially impermeable to the passage of water.

**5.02 Approval of floodproofing.**

Prior to construction, plans for any structure that is required to be floodproofed shall be submitted to the director for approval.

Art. 7

HILLCREST HEIGHTS CODE

**ARTICLE 7. BOARDS AND COMMISSIONS\***

**CHAPTER 1. BOARDS AND COMMISSIONS**

*Section 1. Establishment and Membership of Boards and Commissions*

An advisory planning commission is hereby established which shall consist of not less than three members. In addition, alternate members may be appointed to serve in the absence of regular members.

A board of appeals and adjustment is hereby established which shall consist of not less than three members. In addition, alternate members may be appointed to serve in the absence of regular members.

The town commission may from time to time establish such other boards and commissions [as] it deems appropriate, including, but not limited to:

- (1) A sign review board;
- (2) An environmental review board;
- (3) An historic district review board.

The requirements of subsequent boards and commissions pertaining to membership and procedural technicalities shall be as established by the governing body [town commission].

**1.01 Qualifications of members.**

No member of any commission or board shall hold any other public position or office in the Town of Hillcrest Heights. Members shall be appointed from among the duly qualified voters of the town. Members shall demonstrate by reason of their experience or education their ability to serve on such board or commission.

**1.02 Appointment and terms of office.**

The town shall appoint only those persons whose personal and private interests are not likely to conflict with that of the general public. Term of office shall be as determined by the town.

**1.03 Vacancies.**

Vacancies created on any commission or board shall be filled by the town commission for the unexpired length of the vacancy created. It shall be the duty of the chairman to notify the town commission within ten days in writing of any vacancy which is created. Any vacancy occurring during the unexpired term of office of any members shall be filled by the governing body [town commission] within 30 days of receipt of notice of the existence of the vacancy.

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\***Cross reference**—Administration, pt. II, Code of Ordinances, ch. 2.

LAND DEVELOPMENT REGULATIONS

Art. 7, Ch. 1, 1.05

**1.04 Compensation.**

All members of any commission or board shall serve without compensation except that the town commission may reimburse the members for out of pocket expenses incurred in discharging the responsibilities and duties of their office.

**1.05 Conflict of interest.**

Members of any commission or board shall be subject to removal from office by the governing body [town commission] for nonfeasance, malfeasance, misfeasance, or for other good cause shown to the governing body [town commission].

No member shall have any interest, financial or otherwise, direct or indirect, or engage in any business, transaction, or professional activities or incur any obligation of any nature which is in substantial conflict with the proper discharge of his duties in the public interest. To implement such policy and strengthen the faith and confidence of the people of the governing body [town commission], the members of the commission (board) are directed:

- (1) Not to accept any gift, favor or service that might reasonably tend to improperly influence him in the discharge of his official duties.
- (2) To make known by written or oral disclosure any interest which said member shall have in a pending application or zoning matter prior to the hearing thereof.
- (3) To absolutely desist and abstain from using his official position to secure special privileges or exemptions for himself or others, except as may be otherwise provided by law.
- (4) To refrain from engaging in any business or professional activity which said member might reasonably expect would require or induce him to disclose confidential information acquired by him by reason of his official position.
- (5) To refrain from disclosing confidential information gained by reason of official position and to refrain from using such information for personal gain or benefit.
- (6) To refrain from accepting other employment which might impair his independence of judgement in the performance of his public duties.
- (7) To refrain from accepting or receiving any additional compensation from any source other than the governing body [town commission] for duties performed as a member of the commission except as otherwise provided by law.
- (8) To refrain from transacting any business in the official capacity as a member of the commission with any business entity of which said member is an officer, director, agent or member, or in which he owns a controlling interest.
- (9) To refrain from participation in any zoning matter in which said member shall have a personal investment which will create a substantial conflict between his private interest and the public interest.

Art. 7, Ch. 1, 2.01

HILLCREST HEIGHTS CODE

*Section 2. Conduct of Meeting*

Each commission or board shall adopt rules of procedure necessary to the conduct of its business and provided further that said procedures do not conflict with any requirements of this Code.

**2.01 Meetings.**

The commission or board shall establish the time and place for all meetings and shall meet at least once each month on a predetermined date. The commission or board may in the case of emergencies convene an emergency meeting upon the concurrent approval of the chairman and one additional regular member.

**2.02 Officers and voting.**

The commission or board shall select a chairman and a vice-chairman from among its membership. All members of the commission shall vote in matters before the commission or board except that an alternate member shall only vote when substituting for an absent member.

**2.03 Quorum and minutes.**

The commission or board shall appoint a secretary to keep and accurately maintain the minutes of all its meetings. The commission or board may appoint the director as the secretary. A quorum for the conduct of business shall be not less than three-fifths of the membership not including alternate members.

**2.04 Notice of meeting.**

Notice of a regularly scheduled meeting of the commission or board shall be in accordance with the following:

The town provides for notice as herein described.

- (1) The property for which a petition is brought to the commission or board be prominently posted in the manner herein prescribed: A sign with at least one dimension of four feet and a total area of 16 square feet shall be placed so as to be visible from the adjacent dedicated public road right-of-way.
- (2) The sign shall contain the information required below for property owner's notification.

All property owners within a 300-foot radius of the subject property may receive a courtesy notice by certified mail stating the following:

- (1) Date, time and place of hearing.
- (2) Type of petition to be considered.
- (3) Place and times the petition may be reviewed.

LAND DEVELOPMENT REGULATIONS

Art. 7, Ch. 1, 2.06

The names of the property owners shall be as listed in the most current edition of the Polk County tax rolls.

Failure of a property owner to receive a courtesy notice shall not void any decision reached on the subject matter unless the additional notice requirements of this subsection have not been complied with or were in error.

**2.05 Application denial or withdrawal.**

(1) Upon the final denial of an application in whole or in part, for either a zoning change or special exception or variance, a period of one year shall run prior to the filing of a subsequent application for the same type of requested change affecting the same property or any portion thereof. Such periods of limitation shall not commence to run until the decision has been rendered by the last board to consider the application. Such limitations shall not apply to applications filed by the director. However, said application may be denied without prejudice and in such event, there shall be no bar or prohibition on the filing of a subsequent application.

(2) An application may be withdrawn without prejudice by the applicant as a matter of right; provided the request for withdrawal is in writing and filed with the director. The commission or board may recommend to the governing body [town commission] that they permit withdrawal without prejudice at the time the application is considered by such body. When an application is permitted to be withdrawn without prejudice, the time limitations for reapplication provided herein shall not apply. The applicant shall be entitled to the return of any application fees.

**2.06 Meeting procedures.**

(1) All meetings of the commission or board shall be open to the public.

(2) The director or his authorized representative shall be in attendance at all meetings as an advisor and be permitted to propound questions and give evidence.

(3) The chairman, or acting chairman, may administer oaths and compel the attendance of witnesses in the same manner prescribed in the circuit court.

(4) No action shall be taken on any application unless a quorum of three-fifths of the members are present, and only upon a majority vote of all members present and voting. No member shall be permitted to abstain from voting unless he has a conflict of interest as defined in accordance with F.S. Ch. 112.

(5) Minutes will be kept of all public meetings and proceedings and shall include the vote of each member on each question, and the motion shall state the reason upon which it is made; such reason or reasons being based upon the prescribed guides and standards of good zoning and planning principles. If a member is absent or abstains from voting, the minutes shall so indicate.

Art. 7, Ch. 1, 2.06

HILLCREST HEIGHTS CODE

(6) The commission or board shall keep accurate records of its public hearings which shall be filed, together with its minutes and resolutions, with the town clerk and the same shall be open for public inspection at reasonable times and hours.

(7) All decisions of the commission shall be by motion.

*Section 3. Planning Commission*

Upon securing a recommendation from the director and/or his staff the planning commission shall make an advisory recommendation to the town commission on the following matters:

- (1) Any proposed zoning change, establishment of an overlay district, or amendment to the official zoning map.
- (2) Any proposed change or amendment to the text of this Code.
- (3) Such other responsibilities from time to time as deemed necessary by the governing body [town commission].

Upon receiving a recommendation from the director, the planning commission may make an advisory recommendation to the town commission on the following:

- (a) Special exceptions.
- (b) site plan for development in any overlay district.
- (c) Planed unit development.

**3.01 Standards.**

When reviewing petitions as provided for under section 3, the commission shall apply the standards contained in this subsection as they relate to the petition.

- (1) *Amendment to Code, or zoning change.* The written recommendation to the governing body shall address, but not be limited to the impact of the proposed amendment as it relates to the following:
  - (a) The proposed change is or is not contrary to the established land use pattern.
  - (b) The proposed change would or would not create an isolated district unrelated to adjacent and nearby districts.
  - (c) The proposed change would not alter the population density pattern and thereby adversely impact upon the public facilities such as schools, utilities, streets and the like.
  - (d) Existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.
  - (e) The proposed change would or would not be contrary to the land use plan.
  - (f) Changed or changing conditions make the passage of the proposed amendment necessary.



LAND DEVELOPMENT REGULATIONS

Art. 7, Ch. 1, 3.01

- (g) There are substantial reasons why the property cannot be used in accord with existing zoning.
  - (h) Whether or not the change suggested is out of scale with the needs of the neighborhood or the town.
  - (i) The relationship of the proposed amendment to the purposes and objectives of the town comprehensive planning program and to the adopted plan, with appropriate consideration as to whether or not the proposed change will further the purposes of this and other codes, regulations and actions designed to implement the adopted land use plan.
- (2) *Granting and/or approval of site plan.* When reviewing a site plan and prior to granting approval, the commission shall determine the standards contained herein have been complied with:
- (a) The site plan shall afford adequate protection to adjacent and surrounding properties, provide harmonious internal development, provide (where appropriate) a diversity of well planned uses within the development in accordance with the purposes of this Code, provide adequate parking and adequate and safe circulation and ingress and egress, and shall be so designed that development in accordance therewith will not adversely affect the health, or safety or general welfare of persons residing or working in the neighborhood of the proposed development, will not be detrimental to the public welfare or injurious to the property or improvements in the neighborhood, and will be in accord with the general purpose of this Code and the adopted plan.
  - (b) Fences, walls or vegetative screening shall be provided at the perimeter of the development as required to screen improvements, glare, uses or other influences having an adverse impact either on the development or on adjacent property.
  - (c) Unless where otherwise permitted, commercial uses shall be conducted entirely within enclosed buildings with no outside display of merchandise and shall be designed to maintain and protect the residential character of all neighboring residential areas.
  - (d) Principal vehicular access to the development shall be from streets and roads capable of supporting existing traffic and the traffic that will be generated by the development. Access points shall be designed to provide smooth traffic flow, controlled turning movements, and minimum hazard to vehicular or pedestrian traffic. Acceleration/deceleration lanes and traffic dividers shall be provided where existing or anticipated heavy flows of traffic indicate such need.
  - (e) Pedestrian access shall be arranged so as to provide safe and convenient routes to and from the development. Pedestrian crossings at the perimeter of development shall be marked and controlled, and where pedestrians are exposed to substantial vehicular traffic, fencing or other similar barriers may be required to prevent crossing at other than designated points.

Art. 7, Ch. 1, 3.01

HILLCREST HEIGHTS CODE

- (f) Within the development, streets, roads, driveways and parking, loading and service areas shall be designed so as to provide safe and convenient vehicular access to all uses and facilities. Pedestrian passages over and under vehicular routes may be required.
  - (g) Developed recreation space and other open space intended for pedestrian use and pedestrian oriented structures, such as schools and churches, shall be accessible from related structures, such as dwellings and office buildings, with a minimum of street crossings. Such uses may be interconnected by a common pedestrian system.
  - (h) The planned development shall be located in an area for which public facilities are available and adequate for the uses proposed; provided however, that the applicant may provide such facilities which are not presently available, and written assurances of such provision shall be included as a part of the site plan.
  - (i) Within the development there shall be adequate space to permit accessibility to all structures by firefighting and similar emergency equipment.
  - (j) The development shall have adequate parking for all the uses proposed therein.
  - (k) The developer shall provide for and establish an organization or other legal entity for the perpetual ownership and maintenance of any common open space and other uncovered areas designated on the site plan, including pedestrian ways, play lots, swimming pools, bathhouses, tennis courts, parking lots and roads. Such organization shall be created by covenants running with the land, and such covenants shall be included as a part of the site plan and subject to approval by the town.
  - (l) When the development is to be constructed in stages or phases, a proportionate area of open space to developed land area within a stage or phase shall bear the same proportionate relation that the open space to developed land area exhibits for the entire development.
- (3) *Special exception.* The planning commission when reviewing an application for special exception shall consider the following:
- (a) Compatibility of the use with the existing natural environment of the site and with properties in the neighborhood as outlined in the adopted plan.
  - (b) Substantial detrimental effects of the use on property values in the neighborhood.
  - (c) Adequacy of provisions for water supply and for sanitary sewers and sewerage treatment. The director shall submit a report on the adequacy of such provisions to the commission for their consideration.
  - (d) Adequacy of provisions for public facilities such as schools, parks and utilities.
  - (e) Adequacy of provisions for traffic movement, both vehicular and pedestrian, both internal to the use and in the area which will serve the use. The director shall submit a report on the adequacy of such provisions to the commission for their consideration.

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- (f) Adequacy of proposed drainage systems to service the use with particular attention to the necessity for on-site retention systems to alleviate drainage and pollution problems.
- (g) Adequacy of setbacks, buffering and general amenities in controlling adverse effects of noise, lights, dust, fumes and other nuisances.
- (h) Land area is sufficient, appropriate and adequate for the use and reasonably anticipated operations and expansion thereof.
- (i) The planning commission may stipulate and impose any requirement in granting any application for a special exception for those conditions and safeguards which in its opinion are appropriate to further the intent of this Code and necessary to insure [ensure] the public health, safety and general welfare, including, but not limited to:
  - (1) Reasonable time limits within which the special exception, if granted, shall be established.
  - (2) Limitations on the hours of the conduct of business.
  - (3) Limitations on the maximum numbers of occupants of any structures or buildings at any one time.

*Section 4. Powers, Duties, Authority and Functions of the Board of Appeals and Adjustment*

The board shall have the power:

- (1) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of any provision of this Code.

In exercising its powers, the board of appeals and adjustment may, in conformity with the provisions of this Code, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination made by the director, or by an administrative official, in the enforcement of any provision adopted pursuant to this Code, and make such order, recommendation, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

- (2) In classes of cases or in particular situations as specified in any provision adopted pursuant to this Code, and only in such classes of cases or particular situations, to grant or deny variances to the development regulations of the applicable district subject to appropriate conditions and safeguards.
- (3) The board of appeals and adjustment shall not be empowered or authorized to grant variances to permit a use.

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**4.01 Granting of variance.**

(1) To authorize upon appeal such variance from the terms of this Code as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the code will result in unnecessary and undue hardship. In order to authorize any variance in the terms of the Code, the board of adjustment must and shall find:

- (a) That special condition and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or buildings in the same zoning district.
- (b) That the special conditions and circumstances do not result from the actions of the applicant.
- (c) That granting the variance requested will not confer on the applicant any special privilege that is denied by the Code to the other lands, buildings, or structures in the same zoning district.
- (d) That literal interpretation of the provisions of the Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Code and would work unnecessary and undue hardship on the applicant.
- (e) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.
- (f) That the grant of the variance will be in harmony with the general intent and purpose of the Code.
- (g) That such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

(2) In granting any variance, the board of appeals and adjustment may prescribe appropriate conditions and safeguards in conformity with the Code, 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. The board of appeals and adjustment may also prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed or both.

(3) Under no circumstances shall the board grant a variance to permit a use. No nonconforming use of neighboring lands, structures, or buildings in the same zoning district and no permitted use of lands, structures, or buildings in other zoning districts shall be considered ground for the authorization of a variance. Financial hardship is not to be considered alone as sufficient evidence of a hardship in the grant [granting] of a variance.

(4) A variance granted under the provisions of this Code shall automatically lapse if building construction, in accordance with the plans for which such variance was granted, has not been initiated within one year from the date of granting such variance by the board, or if judicial proceedings to review the boards decision shall be instituted, from the date of entry of the final order in such proceedings, including all appeals.

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**4.02 Granting of appeal from administrative decision.**

(1) An appeal taken from any requirement, decision or determination made by the director or any administrative official charged with the enforcement of any zoning resolution, ordinance or regulation adopted pursuant to this Code shall be filed with the board of adjustment. The appeal shall specify the grounds thereof and shall be filed within such time and in such form as may be prescribed by the board by general rule.

(2) The director or administrative official from whom the appeal is taken shall, upon notification of the filing of the appeal, forthwith transmit to the board all documents, plans and papers constituting the record of the action from which the appeal was taken.

**4.03 Review of board of appeals and adjustment decisions, precedence, costs of actions.**

(1) No person aggrieved by any decision of the board of adjustment may apply to the court for relief unless he has first exhausted the remedies provided for herein and taken all available steps provided by this Code. The decision of the board may be reviewed by the filing of a petition for writ of certiorari in the Circuit Court for Polk County, Florida in accordance with the procedure and within the time provided by court rule for the review of the ruling of any commission or board; and such time shall commence to run from the date of the decision sought to be reviewed.

(2) No change of venue from the area in which the premises affected is located shall be had in any cause arising under the provisions of this section.

(3) Costs shall not be allowed against the board of adjustment unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from.

CHAPTER 2. REQUIREMENT OF APPLICATION

*Section 1. District Boundary Changes*

Every application involving changes in district boundaries shall be submitted to the director and shall include the following information:

- (1) [*Property description.*] Address, location and legal description of the subject property.
- (2) [*Zoning classification.*] Existing and proposed zoning classification of the property.
- (3) [*Statement of interest in property.*] A statement of the petitioner's interest in the property to be rezoned, including a certificate of a duly licensed title or abstract company, or a licensed attorney-at-law showing that each applicant is the present title holder of record. (Warranty deeds, title insurance documents, tax receipts and the like shall not be acceptable proof of ownership).
  - (a) If joint and several ownership, a written consent, to the rezoning petition, by all owners of record.

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- (b) If a contract purchase, statement of all parties to the contract and written consent of the owner.
  - (c) If an authorized agent, a copy of the agency agreement or written consent of the principal/owner.
  - (d) If a corporation or other business entity, the name of the officer or person responsible for the application and written proof that said representative has the delegated authority to represent the corporation or other business entity, or in lieu thereof, written proof that he is, in fact, an officer of the corporation.
  - (e) If initiated by the town, the application may be signed by the director when first authorized by the town commission.
- (4) *Survey.* A boundary sketch including:
- (a) An accurate legal description of the property to be rezoned; and
  - (b) A computation of the total acreage of the tract to the nearest tenth of an acre.
- (5) *Property owner's notice list.* A complete list of all property owners, mailing addresses and legal descriptions for all property within 300 feet of the subject parcel as recorded in the latest official tax rolls in the county courthouse.
- (6) *Statement of use and justification.* A statement of special reasons or justification for the rezoning requested, including the intended use of the property.
- (7) *Filing fee.* Payment of the official filing fee as set by the town.

*Section 2. Conditional Use*

Applications for conditional use shall contain the information required for rezonings and shall comply with all criteria established for special exceptions as applicable.

*Section 3. Variance*

Every application for a variance to the terms and provisions of these regulations shall be submitted to the director. The application shall state the reason for granting such variance and present such other information as would be useful to assist in making a determination of the appropriateness of the variance.

*Section 4. Extensions or Alterations of Nonconforming Lots, Structures, Uses and Combinations Thereof*

Every application for the extension, alteration, restoration, rehabilitation, or other proposed change to a building, structure, or land made nonconforming by the adoption of this Code shall include the information required for conditional uses.

**ARTICLE 8. CONSISTENCY AND CONCURRENCY DETERMINATIONS\***

*Section 1. Purpose*

It is the purpose of this article to describe and stipulate the requirements and procedures for determination of consistency of proposed development projects with the town's comprehensive plan, including compliance with the concurrency requirements of the plan.

**1.01 Determination of consistency.**

All proposed development within the town shall as a condition precedent to approval demonstrate that it is consistent with the adopted comprehensive plan. For the purpose of demonstrating consistency [consistency], and [an] applicant shall set forth in what manner the proposed land use and development conform to the future land use element of the plan, capital improvements element of the plan, levels of service standards of this Code and the physical, areal and dimensional requirements of this Code.

**1.02 Concurrency management system.**

The method of ensuring concurrency described herein may be cited as the concurrency management system (CMSYS). The CMSYS is based upon the town comprehensive plan, particularly the capital improvements element and adopted level of service standards therein. The system is intended to provide that the issuance of a final development order does not result in a degradation of any adopted levels of service for the specified public facilities and services.

**1.03 Adopted levels of service not to be degraded.**

1. All applicants for development approval shall demonstrate that the proposed development does not degrade adopted levels of service in the town.

2. An applicant for a development approval shall demonstrate that the proposed development does not degrade adopted levels of service if there exists no development order under which the permit is sought, and no development order is required prior to the issuance of the permit, e.g., a residence on a parcel of unplatted land.

3. Concurrency is determined at the latest point in the development approval. If no development is required, the latest point to determine concurrency shall be [the] first development permit issued for the site.

**1.04 Exceptions to concurrency.**

Notwithstanding the foregoing, the adopted levels of service may be temporarily degraded during the actual construction of new facilities, provided that upon completion of the new facilities the adopted levels of service will be met.

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\***Cross references**—Environment, pt. II, Code of Ordinances, ch. 10; solid waste, pt. II, Code of Ordinances, ch. 22; utilities, pt. II, Code of Ordinances, ch. 30.

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*Section 2. Determination of Available Capacity*

The available capacity of a facility shall be determined as follows:

A. *Adding together:*

1. The total capacity of existing facilities and the operating level of service; and
2. The total capacity of new facilities, if any, that will become available on or before the date of occupancy of the development. The capacity of new facilities may be counted only if one or more of the following is shown:
  - a. Construction of the new facilities is under way at the time of issuance of the final development order.
  - b. The new facilities are the subject of a binding executed contract for the construction of the facilities or the provision of services at the time of issuance of the final development approval.
  - c. The new facilities are guaranteed in an enforceable development agreement. An enforceable development agreement may include, but is not limited to, development agreements pursuant to F.S. § 163.3220, or an agreement or development order pursuant to F.S. Ch. 380. Such facilities shall be consistent with the capital improvements element of the town comprehensive plan. The agreement must guarantee that the necessary facilities and services will be in place when the impacts of the development occur.

B. *Subtracting from that number the sum of the following:*

1. The demand for the service or facility created by existing development as documented in the town comprehensive plan; and
2. The demand for the service or facility created by the anticipated completion of other approved developments, redevelopment, or other development activity.

**2.01 Action upon failure to show available capacity.**

Where available capacity cannot be demonstrated, the following methods may be used to maintain adopted levels of service:

1. The applicant may provide the necessary improvements to maintain levels of service. In such case the application shall include appropriate plans for improvements, documentation that such improvements are designed to provide the capacity necessary to achieve or maintain the level of service, and recordable instruments guaranteeing the construction, consistent with capacity calculations.
2. The proposed project may be altered such that projected level of service is not less than the adopted level of service.

**2.02 Burden of showing compliance on developer.**

The burden of demonstrating compliance with adopted level of service standard shall be that of the developer. Applicants for development approval shall provide sufficient information demonstrating compliance with these standards prior to development approval.



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*Section 3. Annual Report*

**3.01 Content.**

The town shall prepare an annual report on the CMSYS that includes:

1. A summary of actual development activity, including a tabulation of certificates of occupancy, indicating quantity of development as represented by type and square footage.
2. A tabulation of building permit activity, indicating:
  - a. Those which expired prior to construction;
  - b. Those which are active at the time of the report;
  - c. The quantity of development represented by the outstanding building permits;
  - d. Those which result from final development orders issued prior to the adoption of this Code; and
  - e. Those which result from final development orders issued pursuant to the requirements of this Code.
3. A summary of preliminary development approvals issued, indicating:
  - a. Those which expired prior to subsequent final approval;
  - b. Those which are valid at the time of the report; and
  - c. The phases and quantity of development represented by the outstanding preliminary development orders.
4. A summary of final development approvals issued, indicating:
  - a. Those which expired prior to subsequent building permits;
  - b. Those which were completed during the reporting period;
  - c. Those which are valid at the time of the report but do not have associated building permits or construction activity; and
  - d. The phases and quantity of development represented by all outstanding final development approvals.
5. An evaluation of each facility and corresponding level of service indicating:
  - a. The capacity available for each facility at the beginning of the reporting period and the end of the reporting period;
  - b. The portion of the available capacity maintained or reserved for valid preliminary and final development approvals;
  - c. A comparison of the actual capacity to the calculated capacity resulting from preliminary development approvals and final development approvals;
  - d. A comparison of actual capacity and levels of service to adopted levels of service in the town comprehensive plan;

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- e. A forecast of the capacity for each based upon the most recently updated schedule of capital improvements in the town's capital improvements element of the comprehensive plan.

**3.02 Use of the annual report.**

The CMSYS annual report shall constitute evidence of the capacity and levels of service of public facilities for the propose [purpose] of issuing development approvals during the 12 months following adoption of the report by the town commission.

*Section 4. Adopted Levels of Service*

**4.01 Potable water.**

Development shall not occur unless there is sufficient available capacity to maintain the following levels of service for potable water as established in the potable water sub-element of the town's comprehensive plan:

Minimum design flow 140 gpd/p

**4.02 Wastewater.**

Development shall not occur unless there is sufficient available capacity to maintain the following levels of service for wastewater treatment as established in the sanitary sewer sub-element of the town's comprehensive plan:

<i>Type of Use</i>	<i>Average Flow</i>	<i>Peak Flow</i>
Residential	100 gpd/p	150 gpd/p

**4.03 Transportation system.**

A. *Level of service.* Development shall not occur unless there is sufficient available capacity to maintain the following levels of service for transportation systems as established in the transportation circulation element of the town's comprehensive plan:

<i>Type of Facility</i>	<i>Peak Hour Level of Service</i>
Principle Arterials	C
Minor Arterials	D
Major Collectors	D
Minor Collectors	D

B. *Determination of project traffic impact.* The impact of proposed development activity on existing capacity shall be determined as follows:

- 1. The area of impact of the development shall be determined in consultation with the director. The impact area shall be that area where the primary impact of traffic to and

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from the site occurs. If the town has designated sectors of the jurisdiction for determining development impacts and planning capital improvements, such sectors or planning areas may be used.

2. The projected level of service for roads within the impact area shall be calculated based upon estimated trips to be generated by the project. For purposes of this calculation the Institute of Traffic Engineers Trip Generation Manual (4th Ed.) shall be utilized. Where the development will have access to more than one road the calculations shall show the split in generated traffic and state the assumptions used in the assignment of traffic to each facility.

**4.04 Drainage system.**

Development shall not occur unless there is sufficient available capacity to maintain the following levels of service for the drainage system as established in the drainage sub-element of the town's comprehensive plan:

<i>Types of Use</i>	<i>Level Of Service</i>
Roads and Buildings	At or above the 25-year flood elevation
Drainage Structures	Ability to handle 25-year, 24-hour storm event with 1-foot freeboard and the 5-year, 24-hour storm event with no freeboard at allowed velocity
Stormwater Facilities	25-year, 24-hour storm event at top of bank/berm

**4.05 Solid waste.**

Development shall not occur unless there is sufficient available capacity to maintain the following levels as established in the solid waster sub-element of the town's comprehensive plan:

<i>Types of Use</i>	<i>Level of Service</i>
Residential	5.2 lbs. per capita per day

**4.06 Recreation.**

Development shall not occur unless there is sufficient available capacity to maintain the following levels of service for the recreational facilities as established in the recreation and open space element of the town's comprehensive plan:

<i>Type of Park Facility</i>	<i>Level of Service</i>
Community and Neighborhood	6.76 acres/1,000 population

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**ARTICLE 9. SUBDIVISION OF LAND AND IMPROVEMENTS\***

These rules and regulations are intended to serve the following purposes, among others:

- To protect and promote the health, safety and general welfare of the residents of the town in conformance with the adopted plan.
- To encourage economically sound and stable land development.
- To assure the provision of required streets, utilities and other facilities and services to new land developments in conformance with public improvement plans of the town.
- To assure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in new land developments.
- To assure the provision of needed public open spaces and building sites in new land developments through the dedication or reservation of land for recreational, educational and other public purposes.
- To assure the equitable handling of all subdivision plans by providing uniform procedures and standards for observation both by the subdivider and the planning commission.

**CHAPTER 1. PROVISION FOR PUBLIC SERVICE**

Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace, and shall not be subdivided until available public facilities and improvements exist or have been put in place by the developer and proper provision has been made for drainage; water; sewerage; capital improvements such as schools, parks, recreation facilities, transportation facilities; and other improvements. In those instances where the soils are incapable of structurally supporting the proposed development or providing adequate percolation for septic tanks and drain fields. An applicant for subdivision approval shall be required to demonstrate to the director how the soils deficiencies shall be remediated prior to subdivision approval.

*Section 1. Relationship to Plans and Policies*

The existing and proposed improvements shall conform to and be properly related to the town plan and the capital budget and programs of Hillcrest Heights.

**1.01 Review by planning commission.**

The planning commission shall have the power and authority to review and recommend to the town commission approval, approval with conditions or disapproval of all proposed subdivisions within Hillcrest Heights.

**\*Cross references**—Any ordinance dedicating, accepting or rejecting any plat or subdivision saved from repeal, pt. II, Code of Ordinances, § 1-7(11); buildings and building regulations, pt. II, Code of Ordinances, ch. 6; streets, sidewalks and other public places, pt. II, Code of Ordinances, ch. 26.

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**1.02 Limits of application.**

No land shall be subdivided within Hillcrest Heights or within the extraterritorial plat jurisdiction until:

- The subdivider or his agent has complied with these regulations, and
- The approved plat is filed with the Polk County Clerk of the Circuit Court.
- No building permit or certificate of occupancy shall be issued for any parcel or plat of land which was created by subdivision after the effective date of, and not in conformity with, the provisions of these subdivision regulation, and no excavation of land or construction of any public or private improvements shall take place or commence except in conformity with these regulations.

*Section 2. Interpretation, Conflict and Separability*

In their interpretation and application, the provisions of this Article shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.

**2.01 Conflict with public provisions.**

These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

**2.02 Conflict with private provisions.**

These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction. Where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of these regulations, or the determinations of the planning commission or the town commission in approving a subdivision or in enforcing these regulations, and such private provisions are not inconsistent with these regulations or determinations thereunder then such private provisions shall be operative and supplemental to these regulations and determinations made thereunder.

**2.03 Conditions.**

Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision is a valid exercise of police power delegated by the state to the town. The developer has the duty of compliance with reasonable conditions set forth by the town for design, dedication, improvement, and restrictive use of the land so as to conform to the physical and economical development of the municipality.

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*Section 3. Resubdivision of Land*

For any change in a map of an approved subdivision plat, if such change affects any street layout shown on such map, or area reserved thereon for public use, or any lot line, or if it affects any map or plan legally apposed [opposed] prior to the adoption of any regulations controlling subdivisions, such parcel shall be approved by the town in the same manner as the original subdivision.

Whenever a parcel of land is subdivided and the subdivision plat(s) show one or more lots that might eventually be resubdivided, the town commission may require that such parcel of land allow for the future opening of streets and/or the extension of adjacent streets.

*Section 4. Vacation of Plats*

Any plat or any part of any plat may be vacated by the owner of the premises, at any time before the sale of any lot therein, by a written instrument, to which a copy of such plat shall be attached, declaring the same to be vacated.

**4.01 Approval by the town required.**

Such an instrument shall be approved by the town commission in like manner as plats of subdivisions. The town commission may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, streets, or alleys.

**4.02 Recreation of vacations.**

Such an instrument shall be executed, acknowledged or approved, and recorded or filed, in like manner as plats of subdivisions, and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys and public grounds, and all dedications laid out or described in such plat.

**4.03 Owners of record to be signatories to vacations.**

When lots have been sold, the plat may be vacated in the manner herein provided by all the owners of lots in such plat joining in the execution of such writing.

CHAPTER 2. INTERLOCAL AGREEMENT

*Section 1. Agreement with Polk County*

The Town of Hillcrest Heights entered into an interlocal agreement with the County of Polk on January 21, 1975 which was subsequently extended through June 21, 1978, forming a construction codes enforcement district for the purpose of enforcing and administering the provisions of various construction codes described therein and the Florida State Minimum Building Codes. It is hereby declared to be the intent and desire of the town to continue this agreement until such time as it be in the best interest of the town to discontinue said agreement.

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**1.01 Adoption by reference of portions of Polk County, Florida Regulations.**

The following portions of the Polk County, Florida "Regulations Governing the Subdivision of Land in the Unincorporated Portions of Polk County and Specifications for Construction of Road and Streets in Subdivisions" as adopted by the Polk County Board of County Commissioners on August 10, 1971, et seq., are hereby included in this Code:

Section I,	General Conditions
Section II,	Engineering Plans
Section III,	Construction
Section IV,	Acceptance for Maintenance by County
Section VI,	Width of Right-of-Way
Section VII,	Artificial Navigable Waterways and Lakes
Section X,	Plat Filing Restrictions
Section XI,	Additions to Florida Plat Law
Section XII,	Design Criteria
Section XIII,	Construction
Section XV,	General Requirements
Section XVI,	Materials
Section XVIII,	Final Authority
Supplement —	Typical Sections

CHAPTER 3. SUBDIVISION APPLICATION PROCEDURE AND APPROVAL PROCESS

*Section 1. Classification of Subdivisions*

Whenever any subdivision of land is proposed, before any contract is made for the sale of any part thereof and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdividing owner or his authorized agent, shall apply for and secure approval of such proposed subdivision.

**1.01 Official submission dates.**

For the purpose of these regulations, the date of the regular meeting of the town commission at which the public hearing on final approval of the subdivision plat, including any adjourned date thereof, is closed, shall constitute the official submittal date of the plat and the starting date of the statutory period required for formal approval or disapproval of the plat.

**1.02 Coordination of zoning application with subdivision approval.**

It is the intent of these regulations that subdivision review be carried out simultaneously with the review of zoning applications under the zoning ordinance. The plans required for zoning applications shall be submitted in a form to satisfy the requirements of the subdivision regulations.

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**1.03 Procedure.**

Whenever a zoning application is submitted which involves a subdivision of land as set forth in these regulation, such application shall be submitted first to the town commission and to the director. The application shall be made on the forms required for a sketch plat and shall include all information required. The director shall thereupon refer the application to the town commission presenting the sketch plat for preliminary plat approval. The town commission shall also, when applicable make such reviews of use, density and bulk standards as are required under the zoning regulations.

Referral back for zoning approval. The town commission shall consider the sketch plat for preliminary plat approval conditional approval, or disapproval together with such reviews of use, density and bulk standards as it was required to make under the zoning regulations. No building permits or certificates of occupancy shall be issued for any project until the zoning application has been finally approved and final subdivision plat approval has been given and the subdivision plat is recorded with the Polk County Clerk's Office.

**1.04 Impact assessment statement.**

A community impact statement shall be submitted with all subdivision approval applications.

*Section 2. Sketch Plat Required*

Before preparing the sketch plat for a subdivision, the applicant should discuss with the director the procedure for adoption of a subdivision plat and the requirements as to general layout of streets and for reservations of land, street improvements, drainage, sewerage, fire protection and similar matters, as well as availability of existing services. The director shall also advise the applicant, where appropriate, to discuss the proposed subdivision with those officials who must eventually approve these aspects of the subdivision plat coming within their jurisdiction.

**2.01 Application procedure and requirements.**

Prior to subdividing land, an owner of the land, or his representative, shall file an application for approval of a sketch plat. The application shall:

- (a) Be made on forms available at the director's office.
- (b) Include all contiguous holdings of the owner including land in the "same ownership," as defined herein, with an indication of the portion which is proposed to be subdivided, accompanied by an affidavit of ownership, which shall include the dates the respective holdings of land were acquired, together with the book and page of each conveyance to the present owner as recorded in the office of the Polk County Clerk of the Circuit Court. The affidavit shall advise as to the legal owner of the property, the contract



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owner of the property, the date contract of sale was executed, and, if any corporations are involved, a complete list of all directors, officers and stockholders of each corporation owning more than five percent of any class of stock.

- (c) Be accompanied by a minimum of six copies of the sketch plat as described in these regulations and complying in all respects with these regulations.
- (d) Be presented to the director in duplicate.
- (e) Be accompanied by a fee of \$100.00 per lot.
- (f) The application shall include an address and telephone number of an agent located within the territory of the local government who shall be authorized to receive all notices required by these regulations.

*Section 3. Requirements of Preliminary Plat*

Based upon the approval of the town commission of the sketch plat, the applicant shall file in duplicate an application for approval of a preliminary plat. The application shall:

- (a) Be made on forms available at the office of the director together with a fee of \$10.00 per lot.
- (b) Include all land which the applicant proposes to subdivide and all land immediately adjacent extending 100 feet therefrom, or of that directly opposite thereto, extending 100 feet from the street frontage of such opposite land, with the names of the owners as shown in the assessor's files. This information may be shown on a separate current tax map reproduction from the assessor's office showing the subdivision superimposed thereon.
- (c) Be accompanied by a minimum of ten copies of the preliminary plat as described in these regulations.
- (d) Be accompanied by a minimum of three copies of construction plans as described in these regulations.
- (e) Comply in all respects with the sketch plat as approved.
- (f) Be presented by the director to the planning commission at least four weeks prior to a regular meeting of the commission.
- (g) The director shall refer the proposed preliminary plat to the Polk County Engineer for his review, recommendations and report. Such report shall be submitted in writing to the town commission at the time of the next regular meeting of the commission.

**3.01 Public hearing.**

The town commission shall hold a public hearing on the preliminary plat. Such hearing shall be advertised in the same manner as subsequent public hearing on the final subdivision plat. At the time of the public hearing the applicant shall submit an affidavit stating that he has notified by certified mail return receipt requested, each owner of property adjacent or opposite

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as indicated on the application for subdivision approval at least ten days prior to the public hearing and that the applicant has placed four posters provided to him by the director on the four closest public roads in visible locations surrounding the proposed subdivision property.

**3.02 Preliminary approval.**

After the town commission has reviewed the preliminary plat and construction plans, the report of the director any municipal recommendations and testimony and exhibits submitted at the public hearing the applicant shall be advised of any required changes and/or additions. The commission shall approve, conditionally approve, or disapprove the preliminary plat within 30 days after the date of the regular meeting of the commission at which the public hearing on preliminary approval is closed including adjourned date thereof. One copy of the proposed preliminary plat shall be returned to the developer with the date of approval, conditional approval, or disapproval and the reasons therefor accompanying the plat.

**3.03 Public improvements.**

The town commission may require that all public improvements be installed and dedicated prior to the signing of the subdivision plat by the mayor of the town. If the town commission shall not require that all public improvements be installed and dedicated prior to signing of the subdivision plat by the mayor the amount of the bond shall be established by the town commission based upon the recommendation of the director which bond shall be submitted by the applicant at the time of application for final subdivision plat approval. The town commission shall require the applicant to indicate on the plat all roads and public improvements to be dedicated, all special districts for water, fire and utility improvements which shall be required to be established or extended and any other special requirements deemed necessary by the town commission in order to conform the subdivision plat to any existing plans of Hillcrest Heights.

**3.04 Effective period of preliminary approval.**

The approval of a preliminary plat shall be effective for a period of one year at the end of which time final approval of the subdivision must have been obtained from the town commission, although the plat need not yet be signed and filed. Any plat not receiving final approval within the period of time set forth herein shall be null and void, and the developer shall be required to resubmit a new plat for preliminary approval subject to the then current subdivision regulations.

**3.05 Zoning regulations.**

Every plat shall conform to zoning and subdivision regulations applicable at the time of proposed final approval, except that any plat which has received preliminary approval shall be exempt from any subsequent amendments to this Code rendering the plat nonconforming as to building or use, provided that final approval is obtained within the one-year period.

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**3.06 Grading of site prior to final approval.**

Subsequent to preliminary approval, the developer may apply for a topsoil and excavation permit from the town commission or such other agency or person as the town commission shall direct, and upon receipt of such permit may commence construction to the grades and elevations required by the approved preliminary plat.

CHAPTER 4. FINAL SUBDIVISION PLAT

*Section 1. Application Procedure and Requirements*

Following the approval of the preliminary plat, the applicant, if he wishes to proceed with the subdivision, shall file with the town commission an application for final approval of a subdivision plat. The application shall:

- (a) Be made on forms available at the director's office together with a fee of \$15.00 per lot.
- (b) Include the entire subdivision, or section thereof, which derives access from an existing state, county or [or] local government highway.
- (c) Be accompanied by a minimum of ten copies of the subdivision plat and the construction plans, as described in these regulations.
- (d) Comply in all respects with the sketch plat or preliminary plat, as approved, whichever is applicable, depending upon the classification of the subdivision.
- (e) Be presented to the director at least four weeks prior to a regular meeting of the commission in order that a public hearing may be scheduled and the required 15 days notice given. The date of the regular meeting of the commission at which the public hearing on final approval is closed including any adjourned date thereof, shall constitute the official submittal date of the plat for the purposes of these regulations.
- (f) Be accompanied by all formal irrevocable offers of dedication to the public of all streets, local government uses, utilities, parks and easements, in a form approved by the town attorney; and the subdivision plat shall be marked with a notation indicating the formal offers of dedication as follows:

The owner or his representative, hereby irrevocably offers for dedication to the local government all the streets, local government uses, easements, parks and required utilities shown in the within subdivision plat and construction plans in accordance with an irrevocable offer of dedication dated \_\_\_\_\_ and recorded in the county clerk's office.

By \_\_\_\_\_

Owner or Representative

Date \_\_\_\_\_

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The applicant shall deliver a full covenant and warranty deed to all such lands in proper form for recording together with a title policy for Hillcrest Heights in the sum not less than \$10,000.00, which sum shall be determined by the town attorney before signing of the final subdivision plat.

- (g) Be accompanied by the performance bond, if required, in a form satisfactory to the town attorney and in an amount established by the town commission and shall include a provision that the principal of the bond shall comply with all the terms of the resolution of final subdivision plat approval as determined by the town commission and shall include, but not be limited to the performance of all required subdivision and off-site improvements, and that all improvements and land included in the irrevocable offer of dedication shall be dedicated to the local government free and clear of all liens and encumbrances on the premises.
- (h) Be accompanied by an inspection fee in an amount to be determined on the basis of the provisions of these regulations and by written assurance from the public utility companies and improvement districts that necessary utilities will be installed and proof that the applicant has submitted petitions in writing for the creation or extension of any improvement districts as required by the town commission upon preliminary plat approval. The applicant shall also pay a \$50.00 fee for each street sign shown in the construction plans, which street signs shall be installed by the Town of Hillcrest Heights.

**1.01 Endorsement of health authorities.**

The final subdivision plat shall be properly endorsed by the Polk County Health Department or Department of Environmental Regulation with respect to all sewer and water facilities and that same comply with all rules, regulations and requirements of local government, regional, state and national authorities.

**1.02 Notice of public hearing.**

Upon receipt of formal application and all accompanying material the director shall call a public hearing for the next scheduled meeting of the town commission to be held at least two weeks after the date of the application. The director will submit a notice for publication in one newspaper of general circulation to be published at least 15 days prior to the public hearing and mail notices to all property owners, and will maintain file copies of the plat and construction plans for public review prior to the hearing. The director shall furnish four posters to the applicant to be posted by the applicant on the four closest public roads at visible locations surrounding the proposed subdivision property at least ten days prior to the public hearing.

**1.03 Public hearing and determination.**

At the public hearing the applicant shall furnish an affidavit as to placement of posters required and the town commission will give an opportunity to any interested persons to examine or comment upon the plat and construction plans. After the public hearing the town

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commission shall within 30 days after closing of the public hearing, approve, modify and approve, or disapprove the subdivision application by resolution which shall set forth in detail any conditions in which the approval is subject, or reasons for disapproval. In the final resolution the town commission shall stipulate the period of time when the performance bond shall be filed or the required improvements installed, whichever is applicable. In no event shall a performance bond be submitted later than six months from the date of final resolution, together with all required documents and completion of required procedures. In no event shall the period of time stipulated by the town commission for completion of required improvements exceed two years from the date of the final resolution. One copy of the final subdivision plat shall be returned to the subdivider with the date of approval, conditional approval, or disapproval noted thereon, and the reasons therefor accompanying the plat.

**1.04 Vested rights.**

No vested rights shall accrue to any plat by reason of preliminary or final approval until the actual signing of the plat by the chairman of the town commission. All requirements, conditions, or regulations adopted by the town commission applicable to the subdivision or on all subdivisions generally shall be deemed a condition for any subdivision prior to the time of the signing of the final plat by the chairman of the town commission and director. Where the town commission has required the installation of improvements prior to signing of the final plat, the town commission shall not unreasonably modify the conditions set forth in the final approval.

**ARTICLE 10. REQUIREMENTS FOR IMPROVEMENTS, RESERVATIONS AND DESIGN**

**CHAPTER 1. GENERAL IMPROVEMENTS**

**1.01 Self-imposed restrictions.**

If the owner places restrictions on any of the land contained in the subdivision greater than those required by this Code, such restrictions or reference thereto may be required to be indicated on the subdivision plat. The planning commission may require that restrictive covenants be recorded with the county recorder or [of] deeds in a form to be approved by the town attorney.

**1.02 Plats straddling municipal boundaries.**

Whenever access to the subdivision is required across land in another local government, the town commission may request assurance from the town attorney that access is legally established, and from the director that the access road is adequately improved, or that a performance bond has been duly executed and is sufficient in amount to assure the construction of the access road. In general lot lines should be laid out so as not to cross municipal boundary lines.

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**1.03 Monuments.**

The applicant shall place permanent reference monuments in the subdivision as required herein and as approved by a registered land surveyor.

- (a) Monuments shall be located on street right-of-way lines, at street intersections, angle points of curve and block corners. They shall be spaced so as to be within sight of each other the sight lines being contained wholly within the street limits.
- (b) The external boundaries of a subdivision shall be monumented in the field by monuments of stone or concrete, not less than 30 inches in length, not less than four inches square or five inches in diameter, and marked on top with a cross, brass plug, iron rod, or other durable material securely embedded; or by iron rods or pipes at least 30 inches long and two inches in diameter. These monuments shall be placed not more than 1,400 feet apart in any straight line and at all corners, at each end of all curves, at the point where a curve changes its radius, at all angle points in any line, and at all angle points along the meander line, said points to be not less than 20 feet back from the bank of any river or stream, except that when such corners or points fall within a street, or proposed future street, the monuments shall be placed in the side line of the street.
- (c) All internal boundaries and those corners and points not referred to in the preceding paragraph shall be monumented in the field by like monuments as described above. These monuments shall be placed at all block corners, at each end of all curves, at a point where a river changes its radius, and at all angle points in any line.
- (d) The lines of lots that extend to lakes, rivers or streams shall be monumented in the field by iron pipes at least 30 inches long and seven-eighths-inch in diameter or by round or square iron bars at least 30 inches long. These monuments shall be placed at the point of intersection of the river or stream lot line, with a meander line established not less than 20 feet back from the bank of the lake, river or stream.
- (e) All monuments shall be properly set in the ground and approved by a registered land surveyor prior to the time the town commission recommends approval of the final plat.

**1.04 Character of the land.**

Land which the town commission finds to be unsuitable for subdivision or development due to flooding improper drainage, steep slopes, rock formation, adverse earth formations or topography, utility easements, or other features which will reasonably be harmful to the safety, health and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas, shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the town commission, upon recommendation of the director, to solve the problems created by the unsuitable land conditions. Such land shall be set aside for uses not involving such a danger.

**1.05 Subdivision name.**

The name of the proposed subdivision shall not duplicate, or closely approximate phonetically, the name of any other subdivision in the area. The town commission shall have final authority to designate the name of the subdivision which shall be determined at sketch plat approval.

LAND DEVELOPMENT REGULATIONS

Art. 10, Ch. 2, 2.02

CHAPTER 2. LOT IMPROVEMENTS

*Section 1. Lot Arrangement*

The lot arrangement shall be such that there will be no foreseeable difficulties for reasons of topography or other conditions, is securing building permits to build on all lots in compliance with the zoning ordinance and health regulations and in providing driveway access to buildings on such lots from an approved street.

*Section 2. Lot Dimensions*

Lot dimensions shall comply with the minimum standards of this Code. Where lots are more than double the minimum required area for the use district, the town commission may require that such lots be aligned so as to allow further subdivision and the opening of future streets where they would be necessary to serve such potential lots. In general, side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan. Dimension of corner lots shall be large enough to allow for erection of buildings, observing the minimum front-yard setback from both streets.

**2.01 Double frontage lots and access to lots.**

(a) Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from traffic arterial trafficways or to overcome specific disadvantages of topography and orientation.

(b) Lots shall not, in general, derive access exclusively from a major road or secondary street. Where driveway access from a major road or secondary street may be necessary for several adjoining lots, the town commission may require that such lots be served by a combined access drive in order to limit possible traffic hazard on such street. Where possible, driveways should be designed and aligned so as to avoid requiring vehicles to back in to traffic on major or secondary arterials.

**2.02 Soil preservation, grading and seeding.**

(a) No certificate of occupancy shall be issued until final grading has been completed in accordance with the approved final subdivision plat and the lot precovered with soil with an average depth of at least six inches which shall contain no particles over two inches in diameter over the entire area of the lot, except that portion covered by buildings or included in streets, or where the grade has not been changed or natural vegetation damaged. Topsoil shall not be removed from residential lots or used as spoil but shall be redistributed so as to provide at least six inches of cover on the lots and at least four inches of cover between the sidewalks and curbs, and shall be stabilized by seeding or planting.

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(b) Lots shall be laid out so as to provide positive drainage away from all buildings and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm drainage water from each lot to adjacent lots.

(c) No cut trees, timber debris, earth, rocks, stones, soil, junk, rubbish, or other waste materials of any kind shall be buried in any land, or left or deposited on any lot or street at the time of the issuance of a certificate of occupancy, and removal of same shall be required prior to issuance of any certificate of occupancy on a subdivision. Nor shall any be left or deposited in any area of the subdivision at the time of expiration of the performance bond or dedication of public improvements, whichever is sooner.

(d) Each subdivider and/or developer shall be required to furnish and install fences wherever the town commission determines that a hazardous condition may exist. The fences shall be constructed according to standards established by the director and shall be noted as to height and material on the final plat. No certificate of occupancy shall be issued until said fence improvements have been duly installed.

**2.03 Performance bond to include lot improvement.**

The performance bond shall include an amount to guarantee completion of all requirements contained in these regulations including but not limited to soil preservation, final grading, lot drainage, removal of debris and waste, fencing and all other lot improvements required by the town commission. Whether or not a certificate of occupancy has been issued, at the expiration of the performance bond, the town commission may enforce the provisions of this section or any other applicable law, ordinance, or regulation [that] have not been compiled [complied] with.

CHAPTER 3. WATER FACILITIES

*Section 1. General Requirements*

The applicant shall make provisions for a potable water-supply system capable of providing domestic water use and fire protection.

- (a) The subdivider shall install adequate water facilities (including fire hydrants) subject to the specifications of the state or local authorities. All water mains shall be at least six inches in diameter.
- (b) Water main extensions shall be approved by the Polk County Health Department.
- (c) To facilitate the requirements herein, the location of all fire hydrants, all water supply improvement, and the boundary lines of proposed districts, indicating all improvements proposed to be served, shall be shown on the preliminary plat, and the cost of installing same shall be included in the performance bond to be furnished by the developer.



LAND DEVELOPMENT REGULATIONS

Art. 10, Ch. 4, 1.03

**1.01 Fire hydrants.**

Fire hydrants shall be required for all subdivisions. Fire hydrants shall be located no more than 1,000 feet apart within 500 feet of any structure as shall be approved by the applicable protection unit. To eliminate future street openings, all underground utilities for fire hydrants together with the fire hydrants themselves and all other underground improvements shall be installed before any final paving of a street shown on the subdivision plat.

**1.02 Easements.**

Easements centered on rear lot lines shall be provided for all utilities. Such easements shall be at least ten feet wide. Proper coordination shall be established between the subdivider and the applicable utility companies for the establishment of utility easements established in adjoining properties.

Where topographical or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines, perpetual unobstructed easements at least ten feet in width shall be provided along side lot lines with satisfactory access to the road or rear lot lines. Easements shall be indicated on the plat.

CHAPTER 4. PUBLIC USES

*Section 1. Standards*

The town commission shall require that land be reserved for parks and playgrounds or other recreation purposes in locations designated by them. Each reservation shall be of suitable size, dimension, topography, and general character and shall have adequate road access, for the particular purposes envisioned by the town commission. The area shall be shown and marked on the plat.

**1.02 Alternate procedure.**

In the event the subdivision is too small and/or does not include a park area, the subdivider may be required to pay to the town a sum of money, equal in value to a percentage of the gross area of the subdivision for the lot size indicated, which sum shall be held in escrow and used by the town for the purpose of acquiring parks and playgrounds and shall be used for this purpose and no other. The aforementioned value shall be the value of the land subdivided without improvements and shall be determined jointly by the director and the subdivider. If the director and the subdivider cannot agree on a land value, then the land value shall be established by arbitration. The town commission shall appoint a professional land appraiser and these two shall appoint a third.

**1.03 Recreation sites.**

Land reserved for recreation purposes shall be of a character and location suitable for use as a playground, park-field, or for other recreation purposes, and shall be relatively level and

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dry; and shall be improved by the developer to the standards required by the town commission, which improvement shall be included in the performance bond. A recreational site shall have a total frontage on one or more streets of at least 100 feet. All land to be reserve for a dedication to Hillcrest Heights for park purposes shall have prior approval of the town commission and shall be shown marked on the plat "Reserved for Park and for Recreation Purposes."

**1.04 Other recreation reservations.**

The provisions of this section are minimum standards. None of the paragraphs [sections] above shall be construed as prohibiting a developer from reserving other land for recreation purposes in addition to the requirements of this section.

**1.05 Plat to [be] provided for public uses.**

Whenever a tract to be subdivided includes a school recreation uses in excess of these requirements, or other public use, such space shall be suitably incorporated by the applicant into his sketch plat. After proper determination of its necessity by the town commission the site shall be suitably incorporated by the applicant into preliminary and final plats.

**1.06 Preservation of natural features and amenities.**

Existing features which would add value to a residential development or to the town as a whole, such as trees, watercourses and falls, beaches, historic spots or similar irreplaceable assets, shall be preserved in the design of the subdivision. No trees shall be removed from any subdivision nor change of grade on the land effected until approval of the preliminary plat has been granted. All trees on the plat required to be retained shall be preserved, and all trees where required shall be welled to protect against change of grade. The sketch plat shall show the number and location of existing trees, and shall further indicate all those marked for retention and the location of all proposed shade trees required along the street side of each lot.

**CODE AND LAND DEVELOPMENT REGULATIONS  
COMPARATIVE TABLE**

**ORDINANCES**

This is a numerical listing of the ordinances of the town used in this Code. Repealed or superseded laws at the time of the codification and any omitted materials are not reflected in this table.

<b>Ordinance Number</b>	<b>Date</b>	<b>Section</b>	<b>Section this Code</b>
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81-1	5-12-81		6-61, 6-62
81-3	8-11-81	1—6	30-51—30-56
85-5	12- 3-85	1.a—1.c	10-86—10-88
85-6	12- 3-85	3, 4	10-32, 10-33
87-1	9- 1-87	1 2 3	14-1 14-33 14-32
88-1	6-14-88		2-166
88-2	6-14-88		1-13
91-4	7- 9-91		LDR Arts. 1—10
99-O-01	7-13-99	1, 2	Adopting ord., p. xi
2008-02	12- 8-08	1	LDR, Art. 5, Ch. 1, § 1.02
2009-01	5-11-09		Added 26-1
2012-01	5-23-12		Added 1-14
2012-02	12-10-12	1	Added 10-34
2014-01	7-14-14	1 2—8	Added 2-1 Added 2-35—2-41



**STATE LAW REFERENCE TABLE**

This table shows the location within this Charter and Code, either in the text or notes following the text, of references to Florida Statutes.

<b>F.S. Section</b>	<b>Section this Code</b>	<b>F.S. Section</b>	<b>Section this Code</b>
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7.6	1-2		Char. § 18
34.191	1-13		1-10
ch. 75	Char. Art. VIII	166.101 et seq.	Char. Art. VIII
97.041	Char. § 7	ch. 170	Char. Art. IX
97.105	Char. § 7		Char. § 87—
100.361	Char. § 40		Char. § 97
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	Div. 2	ch. 171	Char. § 3
ch. 112	LDR Art. 7, Ch.	171.022	Char. § 3
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112.51	Ch. 2, Art. II,		10-33
	Div. 2		22-1
ch. 119	2-112		Ch. 26, Art. II
130.01 et seq.	Char. Art. VIII	ch. 192 et seq.	Char. § 11
132.01 et seq.	Char. Art. VIII	200.065	Char. § 102
159.01 et seq.	Char. Art. VIII	215.43	Char. Art. VIII
162.22	1-13	215.431	Char. Art. VIII
ch. 163	LDR Art. 1,	215.84	Char. Art. VIII
	Ch. 1	ch. 218	Ch. 2, Art. IV
163.3220	LDR Art. 8, § 2	218.30 et seq.	2-146
163.385	Char. Art. VIII	218.37—218.385	Char. Art. VIII
ch. 166	Char. § 6	ch. 373	30-51
	Char. § 8, Char.	ch. 380	LDR Art. 5, Ch.
	Art. IX		5, § 2, 2.01
	Char. § 24		LDR Art. 8, § 2
	Char. § 87—	ch. 482	LDR Art. 6, Ch.
	Char. § 97		5, § 2, 2.04
	Char. § 99	chs. 482, 487	LDR Art. 6, Ch.
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	Char. § 18	ch. 553	Ch. 6
166.021(5)	Char. § 13,	ch. 633	Ch. 14
	Char. § 14	633.022	Ch. 14, Art. II
	Char. § 22,	633.025	Ch. 14, Art. II
	Char. § 23	ch. 775	30-55
	Char. § 26	ch. 791	Ch. 14, Art. III
	Char. § 36—	ch. 901	Char. § 28
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